Title 23. Public Utilities and Regulated Industries
Chapter VIII. Arkansas Racing Commission, Department of Finance and Administration
Subchapter A. Generally
Part 358. Casino Gaming Rules

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"1.010 Promulgation, amendment, modification and repeal. The following Rules are issued pursuant to the Amendment. The Commission will, from time to time, promulgate, amend and repeal such Rules, consistent with the policy, objects and purposes of the Arkansas Racing Commission, as it may deem necessary or desirable in carrying out the policy and provisions of the Amendment.

1.020 Construction. Nothing contained in these Rules shall be so construed as to conflict with any provision of the Amendment or of any other applicable law.

1.030 Severability. If any provision of these Rules be held invalid, it shall not be construed to invalidate any of the other provisions of these Rules."

Subpart 1. Generally

23 CAR § 358-101. Amendment definitions, words, and terms — Tense, number, and gender.

The provisions of The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, relating to definitions, tense, number, and gender apply and govern the interpretation of this part, except when otherwise plainly declared or clearly apparent from the context.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-102. Definitions.

As used in this part:

(1) "Amendment" means The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100;

(2) "Automated teller machine" or "ATM" means an automated bank teller machine capable of dispensing cash;

(3) "Card game" means a game in which the licensee is not party to wagers and from which the licensee receives compensation in the form of a rake-off, a time buy-in, or other fee or payment from a player for the privilege of playing, and includes but is not limited to the following:

(A) Poker;

(B) Bridge;

(C) Whist;

(D) Solo; and

(E) Panguingui;

(4) "Cashable credits" means wagering credits that are redeemable for cash;

(5) "Casino" means a facility where casino gaming is conducted as authorized by The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100;

(6)(A) "Casino applicant" means any individual, corporation, partnership, association, trust, or other entity applying for a license to conduct casino gaming at a casino in Pope County or Jefferson County, Arkansas, pursuant to The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, § 4.

(B) Franchise holders shall be exempt from this definition pursuant to The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, § 4;

(7)(A) "Casino gaming" means dealing, operating, carrying on, conducting, maintaining, or exposing for play any game played with cards, dice, equipment, or any

mechanical, electromechanical, or electronic device or machine for:

(i) Money;

(ii) Property;

(iii) Checks;

(iv) Credit; or

(v) Any representative value.

(B) Casino gaming shall also be defined to include accepting wagers on sporting events;

(8) "Casino gaming" does not include lotteries conducted pursuant to Arkansas Constitution, Amendment 87 and/or the Arkansas Scholarship Lottery Act, Arkansas Code § 23-115-101 et seq.;

(9) "Casino gaming receipts" means gross receipts from casino gaming;

(10) "Casino license" means a license issued by the Arkansas Racing Commission to conduct casino gaming at a casino;

(11) "Casino licensee" means any individual, corporation, partnership, association, trust, or other entity holding a license issued by the Arkansas Racing Commission to conduct casino gaming at a casino;

(12) "Commission" means the Arkansas Racing Commission;

(13) "Commission rules" means:

(A) Rules Governing Horse Racing in Arkansas, 23 CAR pt. 356;

(B) Rules Governing Greyhound Racing in Arkansas, 23 CAR pt. 357;

(C) Arkansas Rules for Franchise Holders Operating Electronic Games of Skill, 23 CAR pt. 355; and

(D) This part;

(14)(A) "Counter game" means a game in which the licensee is party to wagers and wherein the licensee documents all wagering activity.

(B) The term includes, but is not limited to:

(i) Bingo;

(ii) Keno;

(iii) Race books; and

(iv) Sports pools.

(C) The term does not include:

(i) Table games;

(ii) Card games; and

(iii) Slot machines;

(15) "Counter games payout" means the total amount of money, chips, wagering vouchers, payout receipts, and electronic money transfers made from a counter game through the use of a cashless wagering system that are distributed to a patron as the result of a legitimate wager;

(16) "Counter games write" means the total amount of money, guaranteed drafts, chips, wagering vouchers, unpaid winning tickets, and electronic money transfers made to a counter game through the use of a cashless wagering system that are accepted from a patron as a legitimate wager;

(17)(A) "Debit instrument" means a card, code, or other device with which a person may initiate an electronic funds transfer or a wagering account transfer.

(B) The term includes, without limitation, a prepaid access instrument;

(18) "Department of Finance and Administration" or "DF&A" means the Department of Finance and Administration;

(19) "Drop" means:

(A) For table games, the total amount of money, guaranteed drafts, chips, and wagering vouchers contained in the drop boxes and any electronic money transfers made to the game through the use of a cashless wagering system; and

(B) For slot machines, the total amount of money, and wagering vouchers contained in the drop box, and any electronic money transfers made to the slot machine through the use of a cashless wagering system;

(20) "Drop box" means:

(A)(i) For table games, a locked container permanently marked with the game, shift, and a number corresponding to a permanent number on the table.

(ii) All markings must be clearly visible from a distance of at least twenty feet (20').

(iii) The container must be locked to the table, separately keyed from the container itself.

(iv) All currency exchanged for chips or credit instruments at the table and all other items or documents pertaining to transactions at the table must be put into the container;

(B) For slot machines, a container in a locked portion of the machine or its cabinet used to collect the money retained by the machine that is not used to make automatic payouts from the machine;

(21)(A) "Electronic money transfer" means the transfer to or from a game or gaming device of a patron's cashable credits, through the use of a cashless wagering system, that have either been provided to the patron by the licensee, or for which the licensee or its affiliates have received cash through a wagering account.

(B) The term also includes electronic funds transferred from a financial institution to a game or gaming device as a result of an electronic funds transfer through a cashless wagering system;

(22) "Establishment" means any premises where business is conducted, and includes all buildings, improvements, equipment, and facilities used or maintained in connection with such business;

(23) "Funds" means money or any other thing of value;

(24) "Franchise holder" is defined as any individual, corporation, partnership, association, trust, or other entity holding a franchise to conduct horse racing under the Arkansas Horse Racing Law, Arkansas Code § 23-110-101 et seq., or greyhound racing under the Arkansas Greyhound Racing Law, Arkansas Code § 23-111-101 et seq., as of December 31, 2017;

(25) "Game" or "gambling game" means any game played with cards, dice, or equipment, any mechanical, electromechanical, or electronic device or machine for money, property, checks, or credit, or any representative of value, including, without limiting the generality of the foregoing:

(A) Faro;

(B) Monte;

(C) Roulette;

(D) Keno;

(E) Bingo;

(F) Fan-tan;

(G) Twenty-one;

(H) Blackjack;

(I) Seven-and-a-half;

(J) Big injun;

(K) Klondike;

(L) Craps;

(M) Poker;

(N) Chuck-a-luck;

(O) Chinese chuck-a-luck (dai shu);

(P) Wheel of fortune;

(Q) Chemin de fer;

(R) Baccarat;

(S) Pai gow;

(T) Beat the banker;

(U) Panguingui;

(V) Slot machine;

(W) Any banking or percentage game; or

(X) Any other game or device approved by the Arkansas Racing Commission;

(26)(A) "Guaranteed draft" means a draft or check accepted by a licensee for gaming purposes whose drawer is a patron and whose drawee unconditionally guarantees payment provided that all required issuance and acceptance procedures are adhered to by the drawee and the licensee.

(B) The term includes, but is not limited to, traveler's checks.

(C) The term does not include personal checks;

(27) "Independent accountant" means a certified public accountant licensed by

this state or another state or territory of the United States, who is qualified to practice public accounting in Arkansas;

(28) "Intoxicating liquor" means any beverage containing more than one-half of one percent (0.5%) of alcohol by weight;

(29) "Jackpot payout" means money, payout receipts, wagering vouchers, electronic money transfers made from a slot machine through the use of a cashless wagering system, and the actual cost to the licensee of personal property, other than travel expenses, food, refreshments, lodging, or services distributed to a slot machine player as a result of a legitimate wager;

(30) "Net casino gaming receipts" means:

(A) Gross receipts from casino gaming; less

(B) Amounts paid out or reserved as winnings to casino patrons;

(31) "Net casino gaming receipts tax" means a tax on net casino gaming receipts;

(32) "Payout receipt" means an instrument that is redeemable for cash and is either issued by a game or gaming device, or as a result of a communication from a game or gaming device to associated equipment that cannot be used for wagering purposes;

(33) "Premises" means land together with all buildings, improvements, and personal property located thereon;

(34)(A) "Prepaid access instrument" means a card, code, electronic serial number, mobile identification number, personal identification number, or similar device that allows patron access to funds that have been paid in advance and can be retrieved or transferred at some point in the future through such a device.

(B) To transfer funds for gaming purposes, a prepaid access instrument must be used in conjunction with:

(i) An approved cashless wagering system;

(ii) A race book or sports pool wagering account; or

(iii) An interactive gaming account;

(35)(A) "Progressive keno game" means a game with a payoff limit that

increases by predetermined amount as the game is played, which limit is at all times exhibited on an indicator visible to the public.

(B) "Progressive keno game" does not include video progressive keno devices;

(36) "Rake-off" means a percentage of the total amount anted and wagered by players during a hand in a card game;

(37) "Registration" means:

(A) A final order of the Arkansas Gaming Commission which authorizes a corporation, firm, partnership, limited partnership, association, limited liability company, trust, or other form of business organization not a natural person to be a holding company; or

(B) A registration of a person, including individuals, with the commission;

(38) "Rules" means rules adopted by the Arkansas Racing Commission;

(39) "Rim credit" means all extensions of credit in exchange for chips not evidenced by the immediate preparation of a credit instrument;

(40) "System-based game" or "system-based gaming device" means a gaming device comprised of a server or system part and client stations that, together, form a single integrated device where the system portion of the game determines the outcomes of the individual games conducted on the client stations and the client stations cannot operate independently from the system;

(41)(A) "System-supported game" or "system-supported gaming device" means a gaming device comprised of a collection of conventional gaming devices or client stations connected to a system for the purpose of downloading control programs and other software resources to the conventional gaming device or client station on an intermittent basis.

(B) The client stations connected to the system are capable of operating independently from the system once the downloading process has been completed.

(C) This configuration encompasses cases where the system may take control of peripheral devices or associated equipment typically considered part of a conventional gaming device such as a bill validator or a printer.

(D) In a system-supported game, game outcome is determined by the conventional gaming devices or client stations connected to the system and not by the system itself;

(42) "Table game bankroll" means the inventory of:

(A) Chips and coinage at a table game that is used to:

(i) Make change;

(ii) Extend credit; and

(iii) Pay winning wagers; and

(B) Unpaid credit at a table game, including credit instruments not yet transferred to the cage and outstanding rim credit;

(43) "Wagering voucher" means a printed wagering instrument, or digital representation thereof, used in a cashless wagering system that has a fixed dollar wagering value and is redeemable for cash or cash equivalents; and

(44) "Wholesaler" means any person who holds a permit under any alcoholic beverage control law of the State of Arkansas to:

(A) Purchase controlled beverages from a manufacturer, importer, or domestic wine or brandy producer only; and

(B) Sell such controlled beverages to retailers only.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

Subpart 2. Application for Casino Gaming License and Renewal

Codification Notes. This subpart as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"AUTHORITY OF THE COMMISSION

2.01 These Rules Governing the Application For, Issuance, and Renewal of Licenses to Conduct Casino Gaming at a Casino in Arkansas are duly adopted and promulgated by the Arkansas Racing Commission pursuant to Amendment No. 100 of the Constitution

of the State of Arkansas of 1874, The Arkansas Casino Gaming Amendment of 2018."

23 CAR § 358-201. Scope and purpose.

(a) This part governs the application procedures for the issuance and renewal of licenses to conduct casino gaming at a casino in Arkansas.

(b) This part also governs the selection methods to be used and the criteria to be considered by the Arkansas Racing Commission in awarding licenses to conduct casino gaming at a casino in Arkansas.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-202. Definitions.

As used in this subpart:

(1) "Amendment" means The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100;

(2) "Casino" means a facility where casino gaming is conducted as authorized by Amendment 100;

(3)(A) "Casino applicant" means any individual, corporation, partnership, association, trust, or other entity, other than a franchise holder, applying for a license to conduct casino gaming at a casino.

(B) Pursuant to Amendment 100, a franchise holder is not a casino applicant and is not required to submit an application for a casino license under this part;

(4)(A) "Casino gaming" means dealing, operating, carrying on, conducting, maintaining, or exposing for play any game played with cards, dice, equipment, or any mechanical, electromechanical, or electronic device or machine for:

(i) Money;

(ii) Property;

(iii) Checks;

(iv) Credit; or

(v) Any representative value.

(B) "Casino gaming" shall also be defined to include accepting wagers on sporting events;

(C) "Casino gaming" does not include lotteries conducted pursuant to Arkansas Constitution, Amendment 87 and/or the Arkansas Scholarship Lottery Act, Arkansas Code § 23-115-101 et seq.;

(5) "Casino license" means a license issued by the Arkansas Racing Commission to conduct casino gaming at a casino;

(6) "Casino licensee" means any individual, corporation, partnership, association, trust, or other entity holding a license issued by the Arkansas Racing Commission to conduct casino gaming at a casino;

(7) "Commission" means the Arkansas Racing Commission;

(8) "EGS Law" means the Local Option Horse Racing and Greyhound Racing Electronic Games of Skill Act, Arkansas Code § 23-113-101 et seq., as amended;

(9) "Franchise holder" means any individual, corporation, partnership, association, trust, or other entity holding a franchise to conduct horse racing under the Arkansas Horse Racing Law, Arkansas Code § 23-110-101 et seq., or greyhound racing under the Arkansas Greyhound Racing Law, Arkansas Code § 23-111-101 et seq., as of December 31, 2017; and

(10)(A) "Disqualifying felony offense" means a felony offense as determined by the applicable state or federal law where the felony offense occurred, and a felony offense which the Arkansas Gaming Commission has by rule or order determined to be a disqualifying felony offense for the issuance of a casino license, employee license, or for the owners, shareholders, board members, or officers of any casino applicant or casino license holder.

(B)(i) However, the following offenses shall not be considered a disqualifying felony:

(a) An offense that has been sealed by a court or for which a pardon has been granted; or

(b) An offense whose sentence, including any term of probation,

incarceration, or supervised release was completed ten (10) or more years earlier.

(ii) "Sealed" means expunge, remove, sequester, and treat as confidential the record or records of a felony offense.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-203. License required.

(a) No individual, corporation, partnership, association, trust, or other entity shall conduct casino gaming at a casino or at any other location within the State of Arkansas, unless the individual, corporation, partnership, association, trust, or other entity has a casino license issued by the Arkansas Racing Commission pursuant to this part.

(b) Each license to conduct casino gaming at a casino shall specify:

(1) The name of the individual, corporation, partnership, association, trust, or other entity who holds the license;

(2) The address of the individual, corporation, partnership, association, trust, or other entity who holds the license;

(3) The effective dates of the license; and

(4) The address of the licensed casino.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-204. Licenses available.

(a) The Arkansas Racing Commission shall issue four (4) licenses to conduct casino gaming at casinos, as follows:

(1) The commission shall issue a casino license, as provided in The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, to a franchise holder located in Crittenden County, there being only one (1), to conduct casino gaming at a casino to be located at or adjacent to the franchise holder's greyhound racing track and gaming facility as of December 31, 2017, in Crittenden County;

(2)(A) The commission shall also issue a casino license, as provided in Amendment 100, to a franchise holder located in Garland County, there being only one (1), to conduct casino gaming at a casino to be located at or adjacent to the franchise holder's horse racing track and gaming facility as of December 31, 2017, in Garland County.

(B) Casino licenses to be issued to franchise holders shall be issued upon:

(i) Adoption by the commission of rules necessary to carry out the purposes of Amendment 100; and

(ii) Initial laws and appropriations required by Amendment 100 being in full force and effect;

(3) The commission shall award a casino license to a casino applicant for a casino to be located in Pope County within two (2) miles of the city limits of the county seat; and

(4) The commission shall also award a casino license to a casino applicant for a casino to be located in Jefferson County within two (2) miles of the city limits of the county seat.

(b) No individual, corporation, partnership, association, trust, or other entity may hold more than one (1) casino license in Arkansas.

(c)(1) Franchise holders at Oaklawn and Southland are not required to submit applications for casino licenses under this part.

(2) Each franchise holder shall submit to the commission a proposed date for the franchise holder to convert from operating under the Local Option Horse Racing and Greyhound Racing Electronic Games of Skill Act, Arkansas Code § 23-113-101 et seq., to operating under Amendment 100 and the rules adopted by the commission regulating casino gaming, and subject to the provisions of Amendment 100, such date shall be subject to approval by the commission.

(3) If Amendment 100 is amended or repealed in a manner that would restrict or preclude a franchise holder from operating casino gaming thereunder, the franchise holder may by written notice to the commission elect, subject to approval by the commission, to convert all or part of its facility and electronic games of skill back to

operating under the Local Option Horse Racing and Greyhound Racing Electronic Games of Skill Act and the rules of the commission thereunder.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-205. Non-franchise-holder application process.

(a)(1) An application for a casino license as set forth in this part shall be submitted to the Arkansas Racing Commission on a form and in a manner prescribed by the commission.

(2) The provisions of this section apply to applications for nonfranchise-holder casino licenses.

(b)(1) Applications for a casino license will be accepted by the commission for a period of thirty (30) days, beginning on the date established by the commission, and the notice of open application is published as a legal notice by the commission.

(2) No applications will be accepted after the thirty-day period.

(c) Applications that have been received and verified by the commission will be considered based upon the selection processes set out in this part.

(d) If no application is received by the commission for the casino licenses in Pope County and/or Jefferson County, then the commission shall reopen the application process in compliance with subsections (a) – (c) of this section upon receipt of a written request by a casino applicant.

(e) If no casino license is awarded at the conclusion of the application process, the commission shall open a new application period in compliance with subsections (a) – (c) of this section.

(f) If a casino license is not renewed by a casino licensee, is surrendered by the casino licensee, is revoked by the commission, or is voided by a court, the commission shall open a new application period in compliance with subsections (a) – (c) of this section.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-206. Minimum qualifications for nonfranchisor applicant.

(a) All casino applicants for a casino license in Pope County and Jefferson County are required to demonstrate experience conducting casino gaming.

(b)(1) All casino applicants for a casino license in Pope County and Jefferson County are required to submit either a letter of support from the county judge or a resolution from the quorum court in the county where the proposed casino is to be located and, if the proposed casino is to be located within a city or town, are also required to submit a letter of support from the mayor in the city or town where the casino applicant is proposing the casino to be located.

(2) All letters of support or resolutions by the quorum court, required by this part and The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, shall be dated and signed by the county judge, quorum court members, or mayor holding office at the time of the submission of an application for a casino gaming license.

(c) Prior to the submission of an application for a casino license, the owners, shareholders, board members, or officers of the casino applicant:

(1) If an individual, shall not have been convicted of a disqualifying felony offense;

(2) Shall not have previously had a casino license in any state revoked;

(3) If an individual, shall not be under twenty-one (21) years of age; and

(4) If an individual, shall not be a county judge or mayor that provides a letter of support, or a quorum court member that votes in favor of a letter of support as identified in Amendment 100.

(d) Casino applicants shall provide a complete application with responses for each required item.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-207. Documentation and information for nonfranchisor

casino applicant.

(a) The application for nonfranchisor casino licenses shall include without limitation the following:

(1) The application fee;

(2) The legal name of the casino applicant;

(3) The physical address of the casino applicant;

(4) The physical address of the proposed casino;

(5) The name, address, and date of birth of each officer and owner of the casino applicant;

(6) If the city, town, or county in which the casino would be located has enacted zoning restrictions, a sworn statement certifying that the casino will operate in compliance with the restrictions;

(7) To establish proof of no felony convictions, all owners, shareholders, board members, or officers of the casino applicant shall provide consent to a background check, including fingerprinting, except those exempt from suitability requirements as contemplated in this part;

(8) A photocopy of a valid, unexpired driver's license or valid, unexpired United States passport for each of the casino applicant's owners, board members, and officers evidencing that they are over the age of twenty-one (21); and

(9) Consents for criminal background checks for each owner, shareholder, board member, and officer of the casino applicant, except those exempt from suitability requirements as contemplated in this part.

(b) The information and documents shall be submitted in a method prescribed by the Arkansas Racing Commission in the notice of open application.

(c)(1) All information contained in applications for casino licenses shall remain confidential until after the deadline for submission of applications.

(2) After the closing date for submission of applications for casino licenses, the commission will release, upon request, any information submitted by a casino applicant not otherwise protected as confidential or proprietary under Arkansas law.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-208. Background checks.

(a)(1) The following are subject to background checks conducted by the Arkansas Racing Commission or its designee in considering an application for a casino license.

(2) All owners, shareholders, officers, and board members of a casino applicant, except those exempt from suitability requirements as contemplated in this part.

(b) A person subject to background checks as provided in this part shall be disqualified from being an owner, shareholder, officer, or board member of a casino and be prohibited from having any responsibility for operating a casino if the person has been convicted of a disqualifying felony offense.

(c)(1) Each person undergoing a background check shall provide written consent and all applicable processing fees to the commission or its designee to conduct the background check.

(2) Each person shall use Arkansas State Police Form 122, which can be found at the following link: https://static.ark.org/asp/pdf/asp_122.pdf.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-209. Application fee.

(a)(1) Each application for a casino license shall include an application fee of up to two hundred fifty thousand dollars ($250,000) by cash or certified funds.

(2) Certified checks or cashier's checks shall be made payable to the State of Arkansas, delivered or mailed by certified mail, return receipt requested, to the address specified in the notice of open application.

(b) In the event a casino applicant is not successful, one-half (1/2) of the initial application fee shall be refunded to the casino applicant.

(c) An application is not complete and will not be considered unless all required information, documentation, and the application fee are timely received by the Arkansas

Racing Commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-210. Selection process and criteria based on merit selection.

(a)(1) In addition to documentation establishing minimum qualifications, the casino applicant shall submit responses to the Arkansas Racing Commission's merit criteria in a form and manner prescribed by the commission.

(2) Criterion shall be published with the notice of open application.

(3) In addition, representatives of the casino applicant shall appear before the commission and the commission's consultant for an interview regarding the casino applicant's qualifications and proposal for operating a casino in Arkansas.

(b) The commission shall consider the following criteria based on merit to evaluate applications:

(1) Experience conducting casino gaming;

(2) Timeline for opening a casino;

(3) Proof of financial stability and access to financial resources, including but not limited to legal sources of finances immediately available to begin operating a casino; and

(4) Detailed summary of proposed casino including hotel, amenities, projected number of employees, and any other information the casino applicant deems relevant.

(c) Each merit criterion will be worth a number of points announced by the commission in the notice of open application period.

(d)(1) The commission shall evaluate the applications and award points for each merit criterion.

(2) The points shall be totaled for each application and the applications ranked from the highest total score to the lowest total score.

(3) The commission shall notify in writing each of the casino applicants of their respective score and their respective ranking among all casino applicants.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-211. Issuance of license.

(a) The Arkansas Racing Commission shall award and issue a casino license within thirty (30) business days from the date the commission announces that the application process has concluded.

(b) Upon issuance of a casino license, the casino licensee may begin operations.

(c) The casino licensee shall visibly post a copy of its license at the casino covered under the license.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-212. License term.

A casino license shall expire ten (10) years after it is issued and is renewable at any time before expiration, unless the license is:

(1) Suspended or revoked by the Arkansas Racing Commission; or

(2) Surrendered by the casino licensee.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-213. Denial of a casino application.

(a) The Arkansas Racing Commission may deny an application for or renewal of a license for any of the following reasons:

(1) Failure to provide the information required in this part;

(2) Failure to meet the requirements set forth in this part;

(3) Providing misleading, incorrect, false, or fraudulent information with the intent to deceive; or

(4) Receipt of an application evaluation score lower than the successful casino applicants for a license in the application period for which the casino applicant applied.

(b) If the commission denies an application for or renewal of a license, the commission shall notify the casino applicant in writing of the commission decision, including the reason for the denial.

(c) A casino applicant denied a casino license by a decision made pursuant to this section is entitled to a hearing before the commission and may appeal the commission's decision pursuant to 23 CAR § 358-219.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-214. License renewal process and fee.

(a) A casino license may be renewed if the casino licensee:

(1) Submits to the Arkansas Racing Commission a renewal application on a form and in a manner prescribed by the commission at least six (6) months prior to the expiration date on the license;

(2) Is in good standing with the Secretary of State's office;

(3) Continues to be in good standing with the Department of Finance and Administration; and

(4) Continues to meet all the requirements set out in this part.

(b) Before renewing a license, the commission may require further information and documentation and may conduct additional background checks to determine that the licensee continues to meet the requirements of this part.

(c)(1) Within seven (7) days of receiving written notice from the commission that its renewal application has been approved, the casino licensee shall pay the ten-year renewal fee of ten thousand dollars ($10,000) in certified funds.

(2) Any certified or cashier's check shall be payable to the State of Arkansas.

(d) A casino licensee whose license is not renewed shall cease all casino gaming immediately upon expiration of the license and return the license to the commission.

(e)(1) Upon the determination that a casino licensee has not met the requirements for renewal, the commission shall provide written notice by certified mail or personal delivery to the casino licensee.

(2) The notice shall provide an explanation for the denial of the renewal application.

(3) The casino licensee whose license is not renewed pursuant to this section is entitled to a hearing before the commission and may appeal the commission's decision pursuant to 23 CAR § 358-219.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-215. Surrender of license.

(a) A casino licensee may voluntarily surrender its license to the Arkansas Racing Commission at any time.

(b) If a casino licensee surrenders its license, the casino licensee shall:

(1) Return the license to the commission;

(2) Submit a report to the commission including:

(A) The reason for surrendering the license;

(B) Contact information following the close of business;

(C) Person or persons responsible for the close of the business; and

(D) Where business records will be retained.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-216. Change in information.

(a) The casino licensee shall notify the Arkansas Racing Commission of any changes in contact information.

(b)(1) The casino licensee shall:

(A) Notify the commission in writing no fewer than fourteen (14) days in advance of any change that may affect the licensee's qualifications for licensure; and

(B) Submit to the commission supporting documentation to prove the casino licensee continues to be qualified.

(2) In the event of a change for which a casino licensee does not have prior

notice, the licensee shall notify the commission immediately upon learning of the change.

(c) Pursuant to subsection (b) of this section, the licensee shall notify the commission of the following:

(1) The arrest or conviction for any felony of any individual listed in an application or subsequently identified as a casino applicant, licensee, or individual with a financial interest;

(2) The temporary closure of the casino for any reason for longer than fifteen (15) days;

(3) The permanent closure of the business; and

(4) Any other change that may affect the licensee's qualification for licensure.

(d) If the commission determines that the change has the potential to disqualify a licensee, the commission shall conduct a hearing governed by the terms of the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-217. Transfer of license.

(a) Casino licenses shall only be effective for the individual, corporation, partnership, association, trust, or other entity identified in the original application.

(b) A casino licensee may sell, transfer, or otherwise dispose of its license to another person or entity who demonstrates casino gaming experience upon approval from the Arkansas Racing Commission.

(c) A casino licensee shall not make any modification to the board members or officers as designated in the initial application without prior approval from the commission.

(d) A casino licensee's failure to obtain approval from the commission before engaging in ownership changes described in subsections (b) and (c) of this section may result in the commission's revocation of that license.

(e) In order to obtain approval to transfer ownership of a casino license, the casino

licensee shall submit to the commission an application for license transferal on a form and in a manner prescribed by the commission.

(f)(1) If the commission denies an application for transfer of license, the commission shall provide written notice by certified mail or personal delivery to the licensee.

(2) The notice shall provide an explanation for the denial of the application.

(3) The casino licensee whose application for transfer is denied may request a hearing before the commission and may appeal the commission's decision pursuant to 23 CAR § 358-219.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-218. Transfer of location.

(a) A casino license shall only be valid at the location for which it was originally issued by the Arkansas Racing Commission.

(b) A casino licensee shall not relocate a casino without prior approval by the commission.

(c) In order to obtain approval to transfer a casino license to another location, a casino licensee shall submit to the commission an application for license transferal on a form and in a manner prescribed by the commission.

(d)(1) If the commission denies an application for transfer of location, the commission shall provide written notice by certified mail or personal delivery to the licensee.

(2) The notice shall provide an explanation for the denial of the application.

(3) The casino licensee whose application for transfer of location is denied may request a hearing before the commission and may appeal the commission's decision pursuant to 23 CAR § 358-219.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-219. Appellate procedure following denial of application for license, renewal, transfer of license, or location.

(a) **Denial of application for license.**

(1) If the Arkansas Racing Commission denies an application for a casino license, the casino applicant is entitled to a hearing before the commission by filing a written request no later than fifteen (15) days from receipt of the notice of denial from the commission.

(2) The commission's decision may be appealed to the Pulaski County Circuit Court.

(3) Appeals shall be governed by the terms of the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

(b) **Denial of application for renewal of license, transfer of license, or transfer of location.**

(1) If the Arkansas Racing Commission denies an application for the renewal of a casino license, the transfer of a casino license, or the transfer of the location for a casino license, the casino licensee is entitled to a hearing before the commission by filing a written request no later than fifteen (15) days from receipt of the notice of denial from the commission.

(2)(A) The commission shall conduct a hearing no later than sixty (60) days from the receipt of the request for hearing.

(B) The commission shall provide notice of the hearing to all interested parties, conduct the hearing, and issue a decision in accordance with the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

(3)(A) The commission's decision may be appealed to the circuit court of the county in which the casino is situated or the Pulaski County Circuit Court.

(B) Appeals shall be governed by the terms of the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

Subpart 3. Service Industry License and Service Industry Employee License

23 CAR § 358-301. Definitions.

The following words and terms, when used in this subpart, shall have the following meanings unless the context clearly indicates otherwise:

(1)(A) "Commission" means the Arkansas Racing Commission or its successor having jurisdiction over casino gaming in this state.

(B) The Arkansas Racing Commission is responsible for all licensing, adjudication of fines, certification of casino games, appeals/rulings, and approval of all casino gaming plans;

(2)(A) "Distributor" means any person that sells, leases, or offers, or otherwise provides, distributes, or services any casino gaming or associated equipment for use or play of casino gaming in a casino licensee's facility.

(B) A manufacturer may be a distributor;

(3)(A) "Casino Gaming Section" means the Office of Field Audit within the Revenue Division of the Arkansas Racing Commission.

(B) The Casino Gaming Section is assigned responsibility for auditing and review of internal controls and the day-to-day operations of casino gaming.

(C) This would include full administrative regulatory jurisdiction and exercise of the duties, powers, and responsibilities over casino gaming as authorized by The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100;

(4) "Casino licensee" means any person holding a license to conduct casino gaming pursuant to Amendment 100;

(5) "Gaming floor" means the designated area where casino gaming activities occur;

(6) "Gaming operator" means a casino licensee that is conducting the operation of casino gaming;

(7)(A) "Identification credential" means a valid driver's license, passport, or other document generally accepted in business as a form of identification which

contains, at a minimum, the person's signature.

(B) A personal reference does not constitute an identification credential;

(8)(A) "Incompatible function" means a function for accounting control purposes that places any person employed by or department established by the casino licensee in a position to both perpetrate and conceal errors or irregularities in the normal course of their duties.

(B) Anyone recording transactions and having access to assets ordinarily is in a position to perpetrate errors or irregularities.

(C) Persons may have incompatible functions if such persons are members of departments which have supervisors not independent of each other;

(9) "Intermediary company" means a corporation, firm, association, partnership, trust, or any other form of business organization other than a natural person which is a holding company with respect to a corporation which holds or applied for a gaming license, and is a subsidiary with respect to any holding company;

(10)(A) "Manufacturer" means any person who manufactures, builds, rebuilds, fabricates, assembles, produces, programs, designs, or otherwise makes modifications to any casino gaming or associated equipment for casino gaming purposes.

(B) A manufacturer may be a distributor, as approved by the commission;

(11) "Surveillance system" means any facility, not controlled by the Arkansas Racing Commission employees, that has been approved by the commission to receive transmissions from the surveillance department's security system, including without limitation:

(A) System monitoring rooms;

(B) Surveillance department offices;

(C) System repair areas; and

(D) System emergency facilities;

(12) "Transaction" includes deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or redemption of gaming instruments, or any other payment, transfer, or delivery to a casino licensee, by whatever means effected; and

(13) "Wager" means a sum of money or thing of value bet on casino gaming.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-302. Restriction of doing business.

(a) No entity shall manufacture, sell or lease, distribute, repair, or provide casino gaming maintenance services of casino gaming equipment to a casino licensee for its casino gaming operations in the State of Arkansas unless it holds a current Service Industry License issued by the Arkansas Racing Commission in accordance with this part.

(b) No entity shall provide management or operational services to a casino licensee for its casino gaming operations in the State of Arkansas unless it holds a current Service Industry License issued by the commission in accordance with this part.

(c)(1) Service Industry Licenses issued pursuant to Rules for Franchise Holders Operating Electronic Games of Skill, 23 CAR pt. 355, shall also be valid Service Industry Licenses for Casino Gaming and shall be subject to the requirements of this part.

(2) Such Service Industry Licenses shall expire and be subject to renewal three (3) years from the date of issuance of such license for electronic games of skill.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-303. Determining the need for a Service Industry License.

Any entity which satisfies one (1) or more of the following criteria shall, unless it is otherwise set forth in this part, obtain a Service Industry License to carry out business with a casino licensee in the State of Arkansas:

(1) The entity manufactures, sells or leases, supplies, or distributes devices, machines, equipment, accessories, objects, or articles which:

(A) Are designed specifically for use in casino gaming operations of the casino licensee;

(B) Are needed to carry out the activities of an authorized game;

(C) Have the capacity to affect the result of the play of an authorized game; or

(D) Have the capacity to affect the calculation, storage, collection, or control of the gross revenues;

(2) The entity provides maintenance services or repairs gaming equipment for casino gaming of the casino licensee;

(3) The entity provides management or operational services to a casino licensee for its casino gaming operations;

(4)(A) All other suppliers of materials, maintenance, supplies, management, or operational services.

(B) This would include security systems, gaming devices, and money handling/storage devices; or

(5) The entity is conducting more than one hundred fifty thousand dollars ($150,000) in business with one (1) casino licensee.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-304. General parameters of granting a Service Industry License.

An applicant for a Service Industry License shall submit to the Arkansas Racing Commission the information, documentation, and guarantees necessary to establish through clear and convincing evidence:

(1) The stability, integrity, and economic responsibility of the applicant;

(2) The good character (if an individual), honesty, and integrity of the applicant;

(3) That the owners, administrative and supervisory personnel, principal employees, and sales representatives of the applicant comply with the parameters provided in 23 CAR § 358-311, qualifying as a Person Related with a Service Industry License;

(4) The integrity of the investors, mortgage creditors, guarantors, and holders

of bonds, notes, and other evidences of debt which are in any way related to the entity; and

(5) The integrity of all the officers, directors, and trustees of applicant.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-305. Initial application for a Service Industry License.

(a)(1) The initial application for a Service Industry License shall consist of an original and a copy of the following documents:

(A) Arkansas Racing Commission Business Entity Disclosure Form for Service Industry Licensee, to be completed by the applicant and by each company, individual, or entity holding an interest in applicant;

(B) Arkansas Racing Commission Personal History Disclosure and Supplemental form of Persons Related with Service Industries, to be completed by each natural person who must be qualified for a license by the Arkansas Racing Commission in accordance with this part; and

(C) The fees to be paid to the commission, as provided in this part.

(2) The commission shall not evaluate an initial Service Industry License application unless same is accompanied by all the information required in this part, including all the documents requested in subsection (a)(1) of this section, provided that any incomplete application filed with the commission shall be deemed to be as if same had not been filed.

(b) **Burden of proof.** It shall be the responsibility of the service industry applicant and its principals to provide information and or documentation and to demonstrate their qualifications by clear and convincing evidence relative to the character, honesty, and integrity of its directors, officers, stockholders, and principal employees, to the commission.

(c) No person may sell or otherwise supply casino gaming related equipment or services to a casino licensee for the conduct of casino gaming as authorized in this subpart unless the person has demonstrated to the satisfaction of the commission that

the person has the capability and qualifications necessary to reasonably furnish the equipment and perform the services to be provided by the supplier.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-306. Duration of Service Industry License.

(a) Every Service Industry License shall be issued by the Arkansas Racing Commission for a period of three (3) years.

(b) Notwithstanding the provisions of subsection (a) of this section, the commission may, as it may deem necessary:

(1) Issue any Service Industry License for a shorter period; or

(2) At any time, void the Service Industry License for reasonable cause.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-307. Service Industry License renewal application.

(a) Every Service Industry License renewal application shall be filed no later than ninety (90) days prior to the expiration date of said license.

(b) The Service Industry License renewal application shall include a duly completed original and a photocopy of:

(1) An Arkansas Racing Commission Business Entity Disclosure form Service Industry Application, which shall contain all the information that has changed from the date of the application for the initial Service Industry License or of the last renewal, to be completed by the applicant and by each holding company of applicant;

(2) A commission:

(A) Personal History Disclosure and Supplemental form of Persons Related with Service Industry Licensees to be completed by each natural person who must be licensed in accordance with this part, and who has not been licensed by the commission; and

(B) Personal History Disclosure form and Supplemental Personal History

Disclosure form of Persons Related with Service Industry Licensee-Renewal to be completed by any natural person required to be licensed in accordance with this part and who has already been licensed by the commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-308. Service Industry License fees.

(a)(1) The fees to be paid for the initial or renewal application for a Service Industry License shall be determined by the Arkansas Racing Commission and published on the commission website.

(2) This does not include the actual cost of the investigation or investigations which is to be billed to and paid by the applicant to the commission.

(b) The fees to be paid for the initial application shall cover administrative costs related to the processing of the application.

(c) The renewal application fee in the amount determined by the commission shall be made payable to the commission and submitted with the Service Industry License Renewal Form.

(d) The license will not be approved until the fees, including the investigative costs, have been paid by the applicant.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-309. Service industry disqualification.

(a) The Arkansas Racing Commission may deny a Service Industry License to any applicant which, in the opinion of the commission:

(1) Has not proved through clear and convincing evidence that the applicant and any of the persons required to be licensed in accordance with this part are in fact duly qualified;

(2) Has violated any of the provisions of this part; or

(3) Has failed to provide information or documentation requested in writing by

the commission in a timely manner, which shall not exceed (30) business days from the date of request by the commission without reasonable justification and an extension granted by the commission.

(b) The commission shall deny a Service Industry License to any applicant who does not satisfy the standards for entity licensing in this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-310. Qualification requirements — Service Industry License.

(a)(1) The Arkansas Racing Commission shall not issue a Service Industry License to any entity unless the applicant has established the individual qualifications of each one of the following entities or persons if applicable:

(A) The entity;

(B) The holding company or companies of the entity;

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

(D) Every owner of a holding company of the entity which the commission deems necessary to promote the purposes of this part;

(E) Any director of the entity, except such director who, in the opinion of the commission, is not significantly involved in or related with the administration of the entity;

(F) Every officer of the entity who is significantly involved in or who has authority over the manner in which the business dealing with the activities of the casino licensee and any officer who the commission considers necessary to protect the good character, honesty, and integrity of the entity;

(G) Any officer of the holding company of the entity who the commission considers necessary to protect the good character, honesty, and integrity of the entity;

(H) Any employee who supervises the regional or local office which employs the sales representatives who shall solicit business from, or negotiate directly

with, a casino licensee;

(I) Any employee who shall function as a sales representative or who shall be regularly dedicated to soliciting business from any casino licensee in the State of Arkansas; and

(J) Any other person connected to an entity who the commission considers should be licensed.

(2) This part does not apply to an institutional investor (as defined by the federal Securities Exchange Act of 1934, 15 U.S.C. § 78a et seq., as amended) that acquires or will acquire ten percent (10%) or less of the equity securities of an applicant or licensee that is a publicly traded corporation if those holdings were purchased for investment purposes only and the institutional investor files with the commission a certified statement that it has no intention of influencing or affecting, directly or indirectly, the affairs of the licensee, the investor will be permitted to vote on matters put to the vote of the outstanding security holders.

(b) In order to establish the individual qualifications, the persons specified in subdivisions (a)(1)(A) and (B) of this section shall complete an Arkansas Racing Commission Business Entity Disclosure.

(c) In order to establish the individual qualifications, the persons specified in subdivisions (a)(1)(C) – (J) of this section shall complete an Arkansas Racing Commission Personal History Disclosure form of Persons Related with Service Industry Licensee.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-311. Qualifying as a Person Related with a Service Industry License.

(a) Any natural person who is required to be licensed because of his or her relationship with a Service Industry License applicant shall provide to the Arkansas Racing Commission the information, documentation, and assurances necessary to establish through clear and convincing evidence:

(1) His or her relationship with the entity;

(2)(A) That he or she is twenty-one (21) years of age.

(B) This only applies to those employees who service gaming machines or work on the gaming floor who have access to the machines or games;

(3) That he or she is of good character and reputation, in addition to being honest and having integrity; and

(4) That he or she has not been convicted, including nolo contendere and withheld adjudication, by any state or federal court in the country for:

(A) Committing, intending to commit, or conspiring to commit a crime of moral turpitude, illegal appropriation of funds or robbery, or any violation of a law related to games of chance or skill, or a crime which is contrary to the declared policy of the commission with respect to the gaming industry; or

(B) Committing, intending to commit, or conspiring to commit a crime which is a felony in the State of Arkansas or a misdemeanor in another jurisdiction which would be a felony if committed in the State of Arkansas.

(b) Not satisfying any one (1) of the requirements established in subsection (a) of this section shall be sufficient reason for the commission to deny a Service Industry License.

(c) The commission shall deny any person required to qualify in conjunction with a Service Industry License that does not satisfy the standards set forth within this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-312. Investigations — Supplementary approval of change.

(a) The Arkansas Racing Commission or its representatives may, at their discretion, conduct any investigation with respect to an applicant or any person related with an applicant who it deems pertinent, either at the time of the initial application or at any subsequent time.

(b) It shall be the continuous duty of any applicant or holder of a Service Industry License to fully cooperate with the Arkansas Racing Commission or its representatives

during any investigation and provide any supplementary information that the Arkansas Racing Commission or its representatives request.

(c)(1) It shall be the duty of any applicant or holder of a Service Industry License to notify the Arkansas Racing Commission within ten (10) business days of any proposed changes in the ownership of the applicant or licensee.

(2) If the applicant or holder of a Service Industry License is a publicly traded company, it does not have to report changes in ownership unless the change represents five percent (5%) or more of the total shares issued and outstanding or ten percent (10%) or more of the total shares issued and outstanding if the change is the result of an institutional investor.

(3) In such cases, the licensee shall provide the Arkansas Racing Commission with copies of the most recent notice filed with the Securities and Exchange Commission.

(4) All proposed new owners shall submit to the Arkansas Racing Commission or its representatives an initial Service Industry License application, which must be approved by the Arkansas Racing Commission.

(5) Any failure to comply with this part shall be grounds for revocation of an existing license or denial of an application for a license.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-313. Suspension, denial of renewal, or revocation of a Service Industry License.

(a) Any of the following reasons shall be considered sufficient cause for the suspension, denial of renewal, or revocation of a Service Industry License:

(1) Violation of any provision of this part;

(2) Conduct which would disqualify the applicant or any other person required to be licensed by the Arkansas Racing Commission;

(3) Failure to comply with any applicable law, state or federal rule or regulation, or county or municipal ordinance; or

(4) The material misstatement made in the application for the Service Industry License.

(b) Notwithstanding the provisions of subsection (a) of this section, any other cause that the commission deems reasonable shall be considered sufficient cause for the suspension, denial of renewal, or revocation of a Service Industry License.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-314. Commercial transaction in the absence of a Service Industry License.

(a) The Arkansas Racing Commission, at its discretion, may permit any Service Industry License applicant to carry out a commercial transaction with a casino licensee before said service industry entity has obtained the Service Industry License required as long as:

(1) The applicant has filed with the commission a completed application for a Service Industry License;

(2) At least thirty (30) days have passed since the filing of said completed application with the commission; and

(3) The casino licensee submits to the commission a petition for special authorization to carry out a commercial transaction in the absence of a Service Industry License which contains:

(A) Sufficient reasons to convince the commission to grant the special authorization to the applicant; and

(B) A description of the commercial transaction that it desires to carry out.

(b) The commission shall evaluate said petition for special authorization to carry out a commercial transaction in the absence of a Service Industry License and shall notify the casino licensee of its decision in writing within a reasonable period.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-315. Exemption to Service Industry License.

(a) The Arkansas Racing Commission may exempt an entity from the requirement of obtaining a Service Industry License if the commission determines that said entity is not operating its business in a regular and continuous manner as defined in subsection (d) of this section.

(b) Any entity which is interested in obtaining an exemption from the requirement of obtaining a Service Industry License in accordance with this section shall apply in writing to the commission for said exemption.

(c) The exemption application shall contain the following information:

(1) Name, address, and detailed description of the service offered by the entity;

(2) Name of the owners, directors, officers, and managerial employees of the entity;

(3) The casino licensee to whom they will provide services and a description of the service to be provided, including the quantity and cost of the services;

(4) Number and frequency of the transactions;

(5) Dollar amount of the transaction; and

(6) Sufficient reasons to convince the commission as to why granting the entity a license is not necessary to protect the public interest or advance the commission's policies relating to gaming.

(d) The commission may determine that an entity is not operating its business in a regular and continuous manner if the applicant demonstrates, to the satisfaction of the commission, that the goods or services provided by the entity are in minimal or insignificant amounts, and that granting the same a Service Industry License is not necessary to protect the public interest or advance the policies established by the commission relating to gaming.

(e) In order to determine if an entity operates or will operate in a regular or continuous manner, the commission may take the following factors into consideration, among others:

(1) Number of transactions;

(2) Frequency of the transactions;

(3) Dollar amount of transactions;

(4) Nature of the equipment or services rendered or business carried out;

(5) Maximum period of time necessary to provide the equipment, carry out the services, or complete in its entirety the business subject of the transaction; and

(6) The public interest and the policy established by the commission relating to casino gaming.

(f) Any entity which has been exempt by the commission from the requirement of obtaining a Service Industry License in accordance with this section shall notify the commission before carrying out any commercial contract or business transaction with a casino licensee.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-316. Records requirements for service industry licensee.

(a)(1) Any service industry entity authorized by the Arkansas Racing 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 in case the commission requests them.

(2) Said records shall include:

(A) Any correspondence with the commission and other governmental agencies at a local, state, and federal level;

(B) Any correspondence related to the business with a casino licensee, whether proposed or existing;

(C) Copies of any publicity and promotional materials;

(D) The personnel files for every employee of the authorized service industry entity, including those for the sales representatives; and

(E) The financial records for all the transactions related to the business with a casino licensee, whether proposed or existing.

(b) The records listed in subsection (a) of this section shall at least be kept for a

period of five (5) years.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-317. Business entity disclosure for service applicant forms.

Arkansas Racing Commission business entity disclosure form shall be completed in the format provided by the commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-318. Personal History Disclosure form.

The Arkansas Racing Commission may require a commission Personal History Disclosure form from all those natural persons required under 23 CAR § 358-310, to fill out the same.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-319. Obligation for payment of fees — No refund of fees paid.

(a) Any obligation for payment of fees arising from this part shall be paid in full to the Arkansas Racing Commission, even when the entity withdraws its application for a Service Industry License or the license is denied.

(b) No amounts paid for Service Industry License fees shall be refundable.

(c) Any failure to pay fees when due shall result in a late fee penalty established by the commission, denial or revocation of a license.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-320. Responsibility of the casino licensee.

(a) Any casino licensee that will be receiving a service shall be responsible for

confirming that the entity with which it will carry out the business holds a Service Industry License or has obtained a special authorization in accordance with this part, or an exemption in accordance with this part.

(b) Any violation of subsection (a) of this section shall be sufficient cause for sanctions by the Arkansas Racing Commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-321. Transitory provisions.

Any entity which manufactures, sells or leases, distributes or repairs, or provides maintenance services or any other service to a casino licensee with respect to casino gaming shall comply with the provisions of this part beginning on the effective date of the same.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-322. Vendor's lists.

(a)(1) The Arkansas Racing Commission or its representatives shall also maintain a Prohibited Vendor List, which shall include all vendors who are prohibited from conducting business with a casino licensee.

(2) The commission shall provide this list to the casino licensees.

(b) Engaging in business with a vendor on the Prohibited Vendor List by the casino licensee may result in monetary fines not to exceed five thousand dollars ($5,000).

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-323. Temporary service industry licensing.

(a) If an applicant for a manufacturer, distributor, or entity providing services to a casino licensee holds a similar license in another jurisdiction in the United States, the applicant may submit a written request with its application for the Arkansas Racing

Commission to grant a temporary Service Industry License.

(b) The commission may use the temporary licensing process if:

(1) The commission determines, after investigation, that the licensing standards in a jurisdiction in which the applicant is licensed are similarly comprehensive, thorough, and provide equal, if not greater, safeguards as provided in The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, or this part and that granting the request is in the public interest;

(2) A completed application has been filed by the applicant;

(3) The applicant has provided current, updated information to the commission associated with the similar license in the other jurisdiction related to its financial viability and suitability;

(4) The applicant has no administrative or enforcement actions pending in another jurisdiction or the applicant has adequately disclosed and explained the action to the satisfaction of the commission; and

(5) There are no pending or ongoing investigations of possible material violations by the applicant in another jurisdiction or the applicant has adequately disclosed and explained the investigation to the satisfaction of the commission.

(c) This section shall not be construed to waive fees associated with obtaining a license through the application process in this state.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-324. Independent Casino Gaming Testing Laboratory License.

(a) **Testing Laboratory License.**

(1)(A) All casino gaming and associated equipment must be tested by a laboratory licensed by the Arkansas Racing Commission to ensure that the games and equipment comply with Arkansas law and the rules of the Arkansas Racing Commission.

(B) No casino licensee shall operate or allow wagering on any casino gaming equipment that has not been tested by a licensed laboratory, and the Arkansas

Racing Commission must approve the test results from the licensed laboratory prior to the casino licensee allowing wagering on the casino gaming equipment.

(2)(A) EGS Testing Laboratory Licenses issued pursuant to Rules for Franchise Holders Operating Electronic Games of Skill, 23 CAR pt. 355, shall also be valid Casino Gaming Testing Licenses for casino gaming and shall be subject to the requirements of this part.

(B) Such Casino Gaming Testing Laboratory Licenses shall expire and be subject to renewal three (3) years from the date of issuance of such license for electronic games of skill.

(b) **Independent status of laboratory.** To qualify for a Casino Gaming Testing Laboratory License, the applicant must be independent from any manufacturer, distributor, or operator of any game, gaming device, associated equipment, cashless wagering system, intercasino-linked system, mobile gaming system, or interactive gaming system, or any component thereof or modification thereto, regardless of whether or not such person or entity is licensed, registered, or otherwise does business in Arkansas.

(c) To be considered independent from a manufacturer, distributor, or operator under this part, the independent testing laboratory, including its employees, management, directors, owners, compliance committee members, and gaming regulatory advisors, with the exception of the independent testing laboratory's external accountants and attorneys, must not have a financial or other interest, direct or otherwise, in a manufacturer, distributor, or operator of any game, gaming device, associated equipment, cashless wagering system, intercasino-linked system, mobile gaming system, or interactive gaming system, or any component thereof or modification thereto, regardless of whether or not the person or entity is licensed, registered, or otherwise does business in Arkansas.

(d) **General parameters of granting a Casino Gaming Testing Laboratory License**. An applicant for a Casino Gaming Testing Laboratory License shall submit to the Arkansas Racing Commission the information, documentation, and guarantees necessary to establish, through clear and convincing evidence, the following:

(1) The stability, integrity, and economic responsibility of the applicant;

(2) The good character (if an individual), honesty, and integrity of the applicant;

(3) That the owners, administrative and supervisory personnel, principal employees, and sales representatives of the applicant comply with the parameters provided in subsection (k) of this section;

(4) The integrity of all the officers, directors, and trustees of applicant;

(5) Be accredited in accordance with ISO/IEC 1 7025 by an accreditation body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Agreement, unless the independent testing laboratory is only seeking registration for the inspection and certification of games and game variations;

(6) Demonstrate it is technically competent in testing the category of game, device, or system in which it is seeking registration, and that the applicant has a minimum of five (5) years of experience in testing gaming devices;

(7) Demonstrate it is technically competent to test compliance with the applicable Arkansas statutes, rules, standards, and policies;

(8) Detailed description of the testing facilities;

(9) Detailed description of available testing staff and staff qualifications, including education, training, experience, and skill levels;

(10) Detailed description of available testing equipment;

(11) Copies of documented policies, systems, programs, procedures, and instructions to ensure the quality of test results; and

(12) Copies of all test scripts to be used for testing against the applicable Arkansas statutes, rules, standards, and policies.

(e) **Initial application for a Casino Gaming Testing Laboratory License.**

(1) The initial application for a Casino Gaming Testing Laboratory License shall consist of an original and a copy of the following documents:

(A) Arkansas Racing Commission Business Entity Disclosure Form for Casino Gaming Testing Laboratory Licensee, to be completed by the applicant and by each company, individual, or entity holding an interest in applicant;

(B) Arkansas Racing Commission Personal History Disclosure and Supplemental form of Persons Related with Casino Gaming Testing Laboratories, to be completed by each natural person who must be qualified for a license by the Arkansas Racing Commission in accordance with this part; and

(C) The fees to be paid to the Arkansas Racing Commission, as provided in this part.

(2) The Arkansas Racing Commission shall not evaluate an initial Casino Gaming Testing Laboratory License application unless same is accompanied by all the information required in this part, including all the documents requested in subsection (a) of this section, provided that any incomplete application filed with the Arkansas Racing Commission shall be deemed to be as if same had not been filed.

(3) **Burden of proof.** It shall be the responsibility of the casino gaming testing laboratory applicant and its principals to provide information and or documentation and to demonstrate their qualifications by clear and convincing evidence relative to the character, honesty, and integrity of its directors, officers, stockholders, and principal employees, to the Arkansas Racing Commission.

(4) No person may test casino gaming equipment for a manufacturer to be used by a casino licensee for the conduct of wagering thereon as authorized in this subpart unless the person has demonstrated to the satisfaction of the Arkansas Racing Commission that the person has the capability and qualifications necessary to competently test the equipment to ensure compliance with Arkansas law.

(f) **Duration of Casino Gaming Testing Laboratory License.**

(1) Every Casino Gaming Testing Laboratory License shall be issued by the Arkansas Racing Commission for a period of three (3) years.

(2) Notwithstanding the provisions of subsection (a) of this section, the Arkansas Racing Commission may, as it may deem necessary:

(A) Issue a Casino Gaming Testing Laboratory License for a shorter period; and

(B) At any time, void the Casino Gaming Testing Laboratory License for reasonable cause.

(g) **Casino Gaming Testing Laboratory License Renewal Application.**

(1) Every Casino Gaming Testing Laboratory License renewal application shall be filed no later than ninety (90) days prior to the expiration date of said license.

(2) The Casino Gaming Testing Laboratory License renewal application shall include a duly completed original and a photocopy of:

(A) An Arkansas Racing Commission Business Entity Disclosure form Casino Gaming Testing Laboratory Application, which shall contain all the information that has changed from the date of the application for the initial Casino Gaming Testing Laboratory License or of the last renewal, to be completed by the applicant and by each holding company of applicant; and

(B) An Arkansas Racing Commission:

(i) Personal History Disclosure and Supplemental form of Persons Related with Casino Gaming Testing Laboratory licensees to be completed by each natural person who must be licensed in accordance with this part, and who has not been licensed by the Arkansas Racing Commission; and

(ii) Personal History Disclosure form and Supplemental Personal History Disclosure form of Persons Related with Casino Gaming Testing Laboratory Licensee-Renewal to be completed by any natural person required to be licensed in accordance with this part and who has already been licensed by the Arkansas Racing Commission.

(h) **Casino Gaming Testing Laboratory License fees.**

(1)(A) The fees to be paid for the initial or renewal application for a Casino Gaming Testing Laboratory License shall be determined by the Arkansas Racing Commission, provided that the application fee shall not be more than one thousand dollars ($1,000) a year.

(B) This does not include the actual cost of the investigation or investigations which is to be billed to and paid by the applicant to the Arkansas Racing Commission.

(2) The fees to be paid for the initial application shall cover administrative costs related to the processing of the application.

(3) The renewal application fee shall not be more than one thousand dollars ($1,000), payable to the Arkansas Racing Commission and submitted with the Casino Gaming Testing Laboratory License Renewal Form.

(4) The license will not be approved until the fees, including the investigative costs, have been paid by the applicant.

(i) **Casino gaming testing laboratory disqualification criteria.**

(1) The Arkansas Racing Commission may deny a Casino Gaming Testing Laboratory License to any applicant which, in the opinion of the Arkansas Racing Commission:

(A) Has not proved through clear and convincing evidence that the applicant and any of the persons required to be licensed in accordance with this part are in fact duly qualified;

(B) Has violated any of the provisions of this part; or

(C) Has failed to provide information or documentation requested in writing by the Arkansas Racing Commission in a timely manner, which shall not exceed (30) business days from the date of request by the Arkansas Racing Commission without reasonable justification and an extension granted by the Arkansas Racing Commission.

(2) The Arkansas Racing Commission shall deny a Casino Gaming Testing Laboratory License to any applicant who does not satisfy the standards for entity licensing in this part.

(j) **Qualification requirements —Casino Gaming Testing Laboratory License.**

(1) The Arkansas Racing Commission shall not issue a Casino Gaming Testing Laboratory License to any entity unless the applicant has established the individual qualifications of each one of the following entities or persons if applicable:

(A) The entity;

(B) The holding company or companies of the entity;

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

(D) Every owner of a holding company of the entity which the Arkansas Racing Commission deems necessary to promote the purposes of this part;

(E) Any director of the entity, except such director who, in the opinion of the Arkansas Racing Commission, is not significantly involved in or related with the administration of the entity;

(F) Every officer of the entity who is significantly involved in or who has authority over the manner in which the business dealing with the activities of the casino licensee and any officer who the Arkansas Racing Commission considers necessary to protect the good character, honesty, and integrity of the entity;

(G) Any officer of the holding company of the entity who the Arkansas Racing Commission considers necessary to protect the good character, honesty, and integrity of the entity;

(H) Any employee who supervises the regional or local office which employs the sales representatives who shall solicit business from or negotiate directly with a casino gaming manufacturer;

(I) Any employee who shall function as a sales representative or who shall be regularly dedicated to soliciting business from any casino gaming manufacturer in the State of Arkansas; and

(J) Any other person connected to an entity who the Arkansas Racing Commission considers should be licensed.

(2) This part does not apply to an institutional investor, as defined by the federal Securities Exchange Act of 1934, 15 U.S.C. § 78a et seq., that acquires or will acquire ten percent (10%) or less of the equity securities of an applicant or licensee that is a publicly traded corporation if those holdings were purchased for investment purposes only and the institutional investor files with the Arkansas Racing Commission a certified statement that it has no intention of influencing or affecting, directly or indirectly, the affairs of the licensee, the investor will be permitted to vote on matters put to the vote of the outstanding security holders.

(3) In order to establish the individual qualifications, the persons specified in subdivisions (a)(1) and (2) of this section shall complete an Arkansas Racing

Commission Business Entity Disclosure.

(4) In order to establish the individual qualifications, the persons specified in this subsection shall complete an Arkansas Racing Commission Personal History Disclosure form of Persons Related with Casino Gaming Testing Laboratory Licensee.

(k) **Qualifying as a person related with a casino gaming testing laboratory.**

(1) Any natural person who is required to be licensed, because of his or her relationship with a Casino Gaming Testing Laboratory License applicant, shall provide to the Arkansas Racing Commission the information, documentation, and assurances necessary to establish through clear and convincing evidence:

(A) His or her relationship with the entity;

(B)(i) That he or she is twenty-one (21) years of age.

(ii) This only applies to those employees who service gaming machines or work on the gaming floor who have access to the machines;

(C) That he or she is of good character and reputation, in addition to being honest and having integrity; and

(D) That he or she has not been convicted, including nolo contendere and withheld adjudication, by any state or federal court in the country for:

(i) Committing, intending to commit, or conspiring to commit a crime of moral turpitude, illegal appropriation of funds or robbery, or any violation of a law related to games of chance or skill, or a crime which is contrary to the declared policy of the Arkansas Racing Commission with respect to the gaming industry; or

(ii) Committing, intending to commit, or conspiring to commit a crime which is a felony in the State of Arkansas or a misdemeanor in another jurisdiction which would be a felony if committed in the State of Arkansas.

(2) Not satisfying any one of the requirements established in subsection (a) of this section shall be sufficient reason for the Arkansas Racing Commission to deny a Casino Gaming Testing Laboratory License.

(3) The Arkansas Racing Commission shall deny any person required to qualify in conjunction with a Casino Gaming Testing Laboratory License that does not satisfy

the standards set forth within this part.

(l) **Investigations— Supplementary approval of change.**

(1) The Arkansas Racing Commission or its representatives may, at their discretion, conduct any investigation with respect to an applicant or any person related to an applicant who they deem pertinent, either at the time of the initial application or at any subsequent time.

(2) It shall be the continuous duty of any applicant or holder of a Casino Gaming Testing Laboratory License to fully cooperate with the Arkansas Racing Commission or its representatives during any investigation and provide any supplementary information that the Arkansas Racing Commission or its representatives request.

(3)(A) It shall be the duty of any applicant or holder of a Casino Gaming Testing Laboratory License to notify the Arkansas Racing Commission within ten (10) business days of any proposed changes in the ownership of the applicant or licensee.

(B) If the applicant or holder of a Casino Gaming Testing Laboratory License is a publicly traded company, it does not have to report changes in ownership unless the change represents five percent (5%) or more of the total shares issued and outstanding or ten percent (10%) or more of the total shares issued and outstanding if the change is the result of an institutional investor.

(C) In such cases, the licensee shall provide the Arkansas Racing Commission with copies of the most recent notice filed with the Securities and Exchange Commission.

(D) All proposed new owners shall submit to the Arkansas Racing Commission or its representatives an initial Casino Gaming Testing Laboratory License application, which must be approved by the Arkansas Racing Commission.

(E) Any failure to comply with this part shall be grounds for revocation of an existing license or denial of an application for a license.

(m) **Suspension, denial of renewal, or revocation of a Casino Gaming Testing Laboratory License**

(1) Any of the following reasons shall be considered sufficient cause for the

suspension, denial of renewal, or revocation of a Casino Gaming Testing Laboratory License:

(A) Violation of any provision of this part;

(B) Conduct which would disqualify the applicant or any other person required to be licensed by the Arkansas Racing Commission;

(C) Failure to comply with any applicable law, state or federal rule or regulation, or county or municipal ordinance; or

(D) A material misstatement made in the application for the Casino Gaming Testing Laboratory License.

(2) Notwithstanding the provisions of subsection (a) of this section, any other cause that the Arkansas Racing Commission deems reasonable shall be considered sufficient cause for the suspension, denial of renewal, or revocation of a Casino Gaming Testing Laboratory License.

(n) **Business entity disclosure for casino gaming testing laboratory applicant forms.** Arkansas Racing Commission Business Entity Disclosure form shall be completed in the format provided by the Arkansas Racing Commission.

(o) **Personal History Disclosure form.** The Arkansas Racing Commission may require an Arkansas Racing Commission Personal History Disclosure form from all those natural persons required under 23 CAR § 358-311 to fill out the same.

(p) **Obligation for payment of fees — No refund of fees paid.**

(1) Any obligation for payment of fees arising from this part shall be paid in full to the Arkansas Racing Commission, even when the entity withdraws its application for a Casino Gaming Testing Laboratory License or the license is denied.

(2) No amounts paid for Casino Gaming Testing Laboratory License fees shall be refundable.

(3) Any failure to pay fees when due shall result in a late fee penalty established by the Arkansas Racing Commission, denial or revocation of a license.

(q) **Subcontractors.**

(1) A licensed casino gaming testing laboratory shall not perform any testing services for a casino licensee by using subcontractors and independent contractors.

(2) All testing must be performed by employees of the licensed testing labs, unless specifically approved by the Arkansas Racing Commission.

(r) **Testing laboratory fees.**

(1) The manufacturer shall be solely responsible for the payment of any fees imposed by the independent testing laboratory for its services.

(2) The fees to be charged shall be determined solely between the manufacturer and the independent testing laboratory.

(s) **Additional requirements for independent testing laboratories.**

(1) All documents, data, reports, and correspondence prepared, furnished, or completed by the independent testing laboratory for or on behalf of the Arkansas Racing Commission shall be retained until its disposal is approved in writing by the Arkansas Racing Commission.

(2) The independent testing laboratory shall provide the Arkansas Racing Commission with step-by-step verification procedures for each tool, device, or mechanism used to assign the unique identification codes or signatures.

(3)(A) The independent testing laboratory shall provide to the Arkansas Racing Commission, at no charge, in quantities determined by the Arkansas Racing Commission, any verification tool, device, or mechanism that is required for Arkansas Racing Commission agents to verify the code or signature of any approved critical program storage media.

(B) The independent testing laboratory may charge the supplier for expenses associated with such verification tools.

(4) The independent testing laboratory shall develop and maintain a database, acceptable to the Arkansas Racing Commission, of all gaming equipment certified by the independent testing laboratory for the State of Arkansas.

(5) The database and report or reports must be current as of the end of the previous business day, and in an Arkansas Racing Commission-approved format.

(6)(A) The independent testing laboratory shall provide, free of charge to the Arkansas Racing Commission, technical and regulatory compliance support.

(B) The independent testing laboratory shall provide responses and

follow-up as directed by the Arkansas Racing Commission.

(C) In instances where the independent testing laboratory providing the support is also conducting the testing for the device, the time allocated for support will be considered part of the testing process and the independent testing laboratory may bill the manufacturer for the cost of the technical support.

(D) In instances where the independent testing laboratory providing the support is not conducting the testing for the device, the Arkansas Racing Commission may require the manufacturer of the device to reimburse the independent testing laboratory at the rate the independent testing laboratory charges manufacturers for such support.

(7)(A) The independent testing laboratory shall provide, free of charge to the Arkansas Racing Commission, additional consulting services for Arkansas Racing Commission personnel on an as-needed basis.

(B) Such additional services at a minimum shall include, but not be limited to providing training to Arkansas Racing Commission employees on:

(i) Gaming equipment testing;

(ii) New technology; and

(iii) Auditing procedures.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

Codification Notes. "EGS" means electronic games of skill.

23 CAR § 358-325. Employee Licenses and registration — Key Employee and General Employee Licenses.

(a)(1) Except in cases of emergency and/or unavoidable temporary incidental entry, no person may work or provide services to the casino gaming operations of a casino licensee in the State of Arkansas unless the person has a current Key Employee License or a General Employee License issued by the Arkansas Racing Commission, as provided in this part.

(2) The Key Employee License or General Employee License requirements apply to persons who have direct access to the casino gaming:

(A) Equipment;

(B) Games;

(C) Surveillance; or

(D) Computer systems.

(b)(1) Employees who perform duties in the racing industry of a casino licensee must have a Racing License.

(2) In the event the employee is assigned to work in both the racing and casino gaming areas, the employee must obtain both a General Employee License and a Racing License.

(c) Key Employee Licenses and General Employee Licenses are issued for three-year periods.

(d) Qualifications for a Key Employee License or General Employee License must meet the same qualifications as stated in 23 CAR § 358-311, qualifying as a Person Related with a Service Industry License.

(e)(1) Key Employee Licenses or General Employee Licenses issued pursuant to Rules for Franchise Holders Operating Electronic Games of Skill, 23 CAR pt. 355, shall also be valid Key Employee Licenses or General Employee Licenses for casino gaming and shall be subject to the requirements of this part.

(2) Such Key Employee Licenses or General Employee Licenses shall expire and be subject to renewal three (3) years from the date of issuance of such license for electronic games of skill.

(f)(1) Employees that are not involved in casino gaming operations and not subject to the provisions of 23 CAR § 358-328 or 23 CAR § 358-329, shall not be registered with the commission and the registration shall be treated the same as employees' licenses for the purpose of 23 CAR §§ 358-334, 358-339, 358-340, and 358-345.

(2) The registration fees shall be deposited pursuant to the provisions of 23 CAR § 358-603(f).

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-326. Initial application for an Employee License.

(a) Every initial application for an Employee License shall include:

(1) A duly completed original and a photocopy of the Arkansas Racing Commission Personal History Disclosure form in accordance with this part;

(2) The documents to identify applicant, as provided in this part;

(3) A photo identification card shall be submitted by the applicant to the commission with the filing of the license application, which will be stapled to the Arkansas Racing Commission Personal History Disclosure form in addition to submission of fingerprinting of the applicant by commission staff or their designees, which will be submitted for state and federal regulatory inquiry purposes for criminal and financial background checks; and

(4) The fees to be paid as provided in this part including late fees for late filings.

(b) Each initial application shall be filed at or mailed to the commission at the address of the commission as provided on the application itself.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-327. Persons or entities who must obtain a Key Employee License.

(a) Except as otherwise approved by the Arkansas Racing Commission, any person or entity who carries out or will carry out, or has or will have any of the functions mentioned in 23 CAR §§ 358-328 and 358-329 shall obtain a Key Employee License, or who carries out functions specified in Section 14.5 shall obtain a General Employee License before commencing work with a casino licensee.

(b) The lists contained in this part are not all-inclusive but illustrative.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-328. Key employee job functions.

(a) Any person or entity who is going to be employed by the casino licensee in a position which includes any of the following responsibilities or powers, independently of the title, shall obtain a Key Employee License.

(b) Where they have authority to develop or administer policy or long-range plans or to make discretionary decisions related to the operation of the casino licensee, they shall be considered a Key Employee Licensee and shall include, but not be limited to, any person or entity who:

(1) Functions as an officer of the casino licensee;

(2) Functions as a facility manager for a casino licensee;

(3) Functions as casino gaming department manager;

(4) Functions as director of surveillance;

(5) Functions as director of security;

(6) Functions as controller;

(7) Functions as an audit department executive;

(8) Functions as the manager of the MIS ("Management Information Systems") Department or of any information system of a similar nature;

(9) Manages a marketing department;

(10) Functions as assistant manager;

(11) Manages the casino gaming administrative operations;

(12) Functions as a general manager;

(13) Functions as chief financial officer of the casino licensee; and

(14)(A) Any other person who has the ability to direct, control, or manage the operations or who has discretionary authority over the casino licensee's decision-making.

(B) Notwithstanding the above, individuals working exclusively for pari-mutuel operations in horse or greyhound racing at a casino licensee's facility would not be covered by this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-329. General employee job functions.

(a) Any natural person who is going to be employed by the casino licensee in a position which includes any of the following responsibilities related to the operations of the casino licensee, or whose responsibilities predominantly involve the maintenance or the operation of casino gaming activities or equipment and assets associated with the same, or who is required to work regularly in restricted casino gaming areas shall obtain a General Employee License.

(b) Said persons shall include, but not be limited to, any person who:

(1) Conducts surveillance investigations and operations in a casino gaming area;

(2) Repairs and maintains casino gaming equipment, including, but not limited to, casino gaming and bill acceptors;

(3) Assists in the operation of casino gaming and bill acceptors, including, but not limited to, persons who participate in the payment of jackpots, or who supervise said persons;

(4) Processes currency and patrons' checks or cash equivalents in the casino gaming area;

(5) Repairs or maintains the surveillance system equipment as an employee of the surveillance department of the casino licensee;

(6) Provides physical security in a casino gaming area;

(7) Controls or maintains the casino gaming inventory, including replacement parts, equipment, and tools used to maintain the same;

(8) Has responsibilities associated with the installation, maintenance, or operation of computer hardware for the casino licensee's computer system; and

(9) Does not perform the job functions of a key employee as outlined within this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-330. Scope and applicability of employee licensing of natural persons.

(a) In determining whether a natural person who provides services to a casino licensee is an employee of the casino licensee for purposes of this part, it shall be presumed that such person is an employee if the services provided by that person are characterized by any of the following factors, these being indicative that an employment relationship exists:

(1) The natural person will, for a period of time unrelated to any specific project or for an indefinite period of time, directly supervise one (1) or more employees of the casino licensee;

(2) The casino licensee will withhold local and federal taxes or make regular deductions for Social Security, or other deductions required by law from the payments made to the natural person;

(3) The natural person will be given the opportunity to participate in any benefit plan offered by the casino licensee to its employees, including, but not limited to:

(A) Health insurance plans;

(B) Life insurance plans; or

(C) Pension plans; or

(4) The natural person has an Employee License application pending with the Arkansas Racing Commission or will submit such an application during the time the services are being rendered to the casino licensee, and the cost of the license has been or will be paid for or reimbursed by the casino licensee.

(b) The commission may, after considering the factors in subsection (a) of this section and any other applicable information, require that the natural person obtain an Employee License before providing or continuing to provide any service to a casino licensee even if an agreement to the contrary exists between the casino licensee and the natural person.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-331. General criteria for granting of a Key Employee License.

(a) Each applicant for an Employee License shall provide the Arkansas Racing Commission with the necessary information, documentation, and guarantees which establish through clear and convincing evidence that the applicant:

(1) Is older than twenty-one (21) years of age;

(2) 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;

(3) Possesses good character and reputation, in addition to being honest and having integrity; and

(4) Has no physical or mental condition that prohibits the applicant from performing the essential functions of his job for which there is no reasonable accommodation.

(b) Failure to comply with one (1) of the criteria established in subsection (a) of this section may be sufficient cause for the commission to deny an application for an Employee License.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-332. Personal information required for a Key Employee License.

Every applicant for a Key Employee License who will work in a managerial or supervision position for a casino licensee of the type described in this part shall submit:

(1) Any affiliation of applicant with a casino licensee or with companies controlling the casino licensee and the position he or she occupies with the same or his or her interest in said entity; and

(2) Any affiliation of applicant with a service industry entity or with companies controlling the service industry entity and the position that he or she occupies with or

his or her interest in said entity.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-333. Processing of the initial application for a Key Employee License.

(a)(1) The Arkansas Racing Commission shall determine if the initial application complies with all the requirements provided in this part and if any deficiency is found, it shall notify the applicant of the deficiency or deficiencies within twenty (20) days following the filing of the initial application with the commission.

(2) The commission shall not evaluate an incomplete initial application.

(b) Once the commission has determined that the initial application filed is complete, the commission shall:

(1) Accept the application and initiate the procedure for considering the same;

(2)(A) Notify in writing the applicant or his or her representative, if any, that the application has been accepted for consideration.

(B) Said notice shall also include:

(i) The date of said acceptance;

(ii) The file number of the application; and

(iii) A caution to the applicant that the fact that the application has been accepted for consideration does not mean that the applicant has complied with the requirements of this part to issue the license;

(3) Analyze and evaluate the information offered in the application and any other information necessary to determine if the requested license should be granted;

(4) Make a decision with respect to the requested license; and

(5)(A) Notify the applicant of its decision.

(B) If the decision consists of a denial of the license, the commission shall inform the applicant of the reason or reasons for the denial and of his or her right to request a reconsideration of the decision of the commission following the adjudicative procedures provided in this part.

(C) For purposes of this part, a denial of a license application shall be considered a final order of the commission, after the adjudication process.

(c) The commission, at any time, may request from an applicant for an Employee License any other information it may deem necessary in order to make a decision with respect to the application.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-334. Duration of the Employee License.

(a) Every Employee License shall be issued by the Arkansas Racing Commission for a period of three (3) years.

(b) Notwithstanding the provisions of subsection (a) of this section, the commission may, as it deems necessary:

(1) Issue any license for a shorter period of time; and

(2) At any time, void an Employee License for reasonable cause.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-335. Date of filing for renewal of a Key or General Employee License.

(a) Any holder of an Employee License shall renew his or her license by filing with the
Arkansas Racing Commission an application for renewal of his or her Employee License.

(b) The completed renewal application shall be filed with the commission no later than sixty (60) days prior to expiration of the license.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-336. Application for renewal of a Key or General Employee License.

(a) The application for renewal of an Employee License shall include:

(1) A duly completed original and a photocopy of the Arkansas Racing Commission Personal History Disclosure form which shall contain all the information which has changed since the date of the initial Employee License application or of the last renewal;

(2) The documents which identify the applicant, as provided in this rule;

(3) A photograph of the applicant furnished by the applicant or casino gaming license holder shall be stapled to the Arkansas Racing Commission Personal History Disclosure form and the submission of fingerprints of the applicant, which shall be taken by the Arkansas Racing Commission and submitted to state and federal authorities for relevant checks; and

(4) The fees to be paid as provided in this part.

(b) Any renewal application shall be filed with or mailed to the commission to the address of the commission, as provided on the application.

(c) Any person who fails to submit a completed renewal application in accordance with this section or in accordance with the provisions of this part shall be considered as not having filed a renewal application with the commission and the license shall be cancelled on the expiration date.

(d) Any person whose current Employee License is cancelled in accordance with this section may, before the date of expiration of the current license, or at any time after the expiration, apply for an Employee License, provided that the application, for all purposes of this part, shall be considered an initial Employee License application and shall comply with this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-337. Processing of the Application for Renewal of Key or General Employee License.

(a)(1) The Arkansas Racing Commission shall determine if the renewal application filed complies with all the requirements provided in this part and if any deficiency is

found, it shall notify the applicant of the deficiency or deficiencies within twenty (20) days following the filing of the renewal application with the commission, provided that the commission may, at its discretion and depending on the magnitude of the deficiency or deficiencies, grant an opportunity for the applicant to cure any deficiency within the period and under the conditions determined by the commission at said time.

(2) Any application where a deficiency has been cured in accordance with the above shall be deemed to have been filed within the period required by this part.

(b) Upon receipt of an application for renewal of an Employee License duly completed and filed within the period required by this part, the commission or its representatives shall carry out the investigation they deem necessary.

(c) The commission shall make a decision with respect to each completed license renewal application which has been submitted.

(d)(1) The commission shall notify the applicant of the decision made.

(2) If the decision consists of a denial of the renewal of the license, the commission shall inform the applicant of the reason or reasons for the denial and of his or her right to request a reconsideration of the decision of the commission following the adjudicative procedures provided in this part.

(3) For purposes of this part, a denial of a license application shall be considered a final order of the commission, after the adjudication process.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-338. Responsibility for establishing qualifications and to disclose and cooperate.

(a) Each applicant shall be responsible for providing the information, documentation, and assurances required for establishing through clear and convincing evidence that his or her qualifications meet the requirements of this part.

(b)(1) It shall be the continuing responsibility of every applicant or holder of an Employee License to provide all the information, documentation, and assurances that may be required by the Arkansas Racing Commission pertaining to the qualifications,

and to cooperate with the commission.

(2) Any refusal or failure of an applicant to comply with a formal request for information, evidence, or testimony from the commission shall be sufficient cause for a denial or revocation of the license.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-339. Identification of the applicant.

Every applicant for an Employee License shall establish his or her identity with reasonable certainty by providing the necessary identification credentials.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-340. Fees payable.

(a) The fees payable for the initial or renewal application for Employee Licenses shall be determined by the Arkansas Racing Commission.

(b) Applications for an initial license and every third year after initial license will be required to pay to the commission a fee to cover the costs related to obtaining background investigations and reports.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-341. Employees working without an Employee License.

No employee with an expired license shall work in a position or shall exercise functions for which such license is required, with the understanding that if such employee is found working without a current and valid license, the employee, as well as the casino licensee or person or entity employing the employee, shall be subject to sanctions as established by the Arkansas Racing Commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-342. Payment of fees, regulatory sanctions — No refunds of payments.

(a)(1) No application shall be accepted for filing or processed by the Arkansas Racing Commission except upon full payment of all required fees, civil penalties, or regulatory sanctions.

(2) Any portion of a fee which is incurred or determined after the filing of the application or any civil penalty imposed by the commission shall be payable upon demand to the commission.

(b) Any payment of monetary obligation arising from this part shall be paid in full even when the person withdraws his Employee License application.

(c)(1) No amounts required to be paid to the commission for licensure.

(2) Civil penalties or regulatory sanctions shall be refunded.

(d) Any fees, civil penalties, or regulatory sanctions not paid by the due date shall be subject to penalty in an amount to be determined by the commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-343. Miscellaneous administrative charges.

(a) Any lost Key Employee License shall be replaced by the Arkansas Racing Commission at a cost to be determined by the commission.

(b) Any change to the Employee License requested by the employee which was not caused by an omission or negligence of the commission shall carry a charge to be determined by the commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-344. Change of position of place of work.

(a) Any natural person who carries out any of the functions described in this part, general employee job functions of this part, or one which is similar in nature to said

functions and for any reasons the person's functions change to any of the functions which are described in this part or one that is similar in nature to these shall file a new application with the Arkansas Racing Commission in accordance with the provisions of this part, Application for Renewal of Key Employee License of this part within the twenty (20) days following the change of the person's position.

(b)(1) A license setting forth more than one (1) position may be issued to any licensed employee by the commission upon application by the licensed employee or the casino licensee.

(2) Said request would be reviewed by the commission to ensure that their dual license status would not be deemed an incompatible function.

(3) The review will be conducted in a timely manner and the commission's decision shall be provided to the applicant in writing.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-345. Carrying of licenses and credentials.

(a) All employee licenses, or an approved casino licensee's identification badge, must be worn and displayed in a visible and conspicuous manner at all times when on the premises of the casino license holder.

(b) No casino licensee shall permit a person to work in its licensed premises without said person carrying his or her Employee License, or a casino licensee identification badge, as provided in subsection (a) of this section.

(c) An employee that wears a casino licensee's identification badge visibly in lieu of an Employee License shall keep the license on their person at all times while on the licensed premises.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-346. Authority of commission — Licensing.

Nothing provided in this part shall be interpreted as limiting authority and powers

of the Arkansas Racing Commission to at any time:

(1) Investigate the qualifications of any holder of an Employee License; and

(2) The commission may suspend, revoke, or refuse to issue a license to any person who:

(A) Failed to disclose or misstated information or otherwise attempted to mislead the commission with respect to any material fact contained in the application for license as a gaming employee;

(B) Violated commission rules, or has been suspended or had a license revoked by another gaming jurisdiction;

(C)(i) Has been convicted of a felony in the last ten (10) years.

(ii) Persons with felony convictions that are more than ten (10) years ago may be licensed at the discretion of the commission;

(D) Has been identified in the published reports of any federal or state legislative or executive body as being a member or associate of organized crime, or as being of notorious and unsavory reputation;

(E) Is on probation, parole, or remains in the constructive custody of any federal, state, or municipal law enforcement authority;

(F) Had license as a gaming employee revoked or committed any act which is a ground for the revocation of license as a gaming employee or would have been a ground for revoking license as a gaming employee if the applicant had then been registered as a gaming employee;

(G) Has been employed in the last two (2) years by the accounting firm that has conducted the annual independent audit on behalf of a casino licensee or the Casino Gaming Section; or

(H) Has been employed by the Casino Gaming Section within the last two (2) years.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-347. Transitory provisions.

(a) Any person who on the effective date of this part who in accordance with the provisions of this part would need an Employee License, shall file an initial application within the thirty (30) days following the effective date of this part.

(b) All persons to whom this part would apply shall comply with all the provisions of this part from the effective date of this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-348. Sanctions.

(a) The Arkansas Racing Commission may initiate regulatory enforcement actions against any person licensed under this part.

(b) Any person who willfully fails to report, pay or truthfully account for and pay any license application fee, investigative fee, or any other fees imposed by this part, or willfully attempts in any manner to evade or defeat any such fee or payment thereof shall be subject to suspension or revocation of their license and shall be liable for the imposition of a penalty, as determined by the commission.

(c) Any person who, without obtaining the requisite license as provided for by this part works or is employed in a position whose duties would require licensing under the provision of this part shall be liable for the imposition of sanctions and subject to a fine of not more than one thousand dollars ($1,000), suspension or revocation of license, or both.

(d) In addition to any monetary sanction, the commission shall, after appropriate hearing and factual determinations, have the authority to impose the following sanctions upon any person licensed pursuant to this part:

(1) Revoke the license of any person convicted of any criminal offense for which disqualification as set forth in this part would result;

(2) Suspend the license of any person pending a hearing and determination in any case in which license revocation could result;

(3) Suspend or revoke the license for violation of any provisions of this part relating to casino licensees;

(4) Assess sanctions as may be necessary to punish misconduct and to deter future violations, which such penalties may not exceed five thousand dollars ($5,000) in the case of any individual licensee and in the case of the casino licensee, the penalty may not exceed ten thousand dollars ($10,000) for each violation;

(5) Issue warning letters or letters of reprimand or censure, which letters shall be made a permanent part of the file of each licensee so sanctioned.

(e)(1) In considering appropriate sanctions in a particular case, the commission shall consider:

(A) The risk to the public and to the integrity of the casino licensee created by the conduct of the person facing sanctions;

(B) The seriousness of the conduct and whether the conduct was purposeful and with knowledge that it was in contravention of this part;

(C) Any justification or excuse for such conduct;

(D) The prior history of the licensee with respect to compliance with this part;

(E) The corrective action taken by the licensee to prevent future misconduct of a like nature from occurring; and

(F)(i) In the case of a civil penalty, the amount of the penalty in relation to the severity of the misconduct.

(ii) The commission may impose any schedule or terms of payment of such penalty, as it may deem appropriate.

(2)(A) It shall be no defense to any regulatory enforcement or disciplinary action before the commission that the applicant or licensee inadvertently, unintentionally, or unknowingly violated a provision of this part.

(B) Such factors shall only go to the degree of the civil penalty to be imposed by the commission.

(f)(1) A violation of any provision of this part, which is an offense of a continuing nature, shall be deemed to be a separate offense on each day during which it occurs.

(2) Nothing herein shall be deemed to preclude the commission from enforcing multiple violations within the same day of those provisions of this part which establish

offenses consisting of separate and distinct acts.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

Subpart 4. Operation of Gaming Establishments

23 CAR § 358-401. Methods of operation.

(a) It is the policy of the Arkansas Racing Commission to require that all establishments wherein gaming is conducted in this state be operated in a manner suitable to protect the public health, safety, morals, good order, and general welfare of the inhabitants of the State of Arkansas.

(b) Responsibility for the employment and maintenance of suitable methods of operation rests with the licensee, and willful or persistent use or toleration of methods of operation deemed unsuitable will constitute grounds for license revocation or other disciplinary action.

(c)(1) In the case of a franchise holder and other casino licensees with previous gaming experience, the commission shall be authorized to approve certain system, network, operational, and other standards necessary to implement casino gaming on a temporary and immediate basis as long as a deadline for full compliance with permanent standards is provided at the time of approval.

(2) Extensions may be approved by the commission if justification is provided to show that such additional time in the temporary environment is reasonably necessary.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-402. Grounds for disciplinary action.

(a) The Arkansas Racing Commission may deem any activity on the part of any licensee or the licensee's agents or employees that is inimical to the public health, safety, morals, good order, and general welfare of the people of the State of Arkansas,

or that would reflect or tend to reflect discredit upon the State of Arkansas or the gaming industry, to be an unsuitable method of operation and shall be grounds for disciplinary action by the commission in accordance with The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, and the rules of the commission.

(b) Without limiting the generality of the foregoing, the following acts or omissions may be determined to be unsuitable methods of operation:

(1) Failure to exercise discretion and sound judgment to prevent incidents which might reflect on the repute of the State of Arkansas and act as a detriment to the development of the industry;

(2) Permitting persons who are visibly impaired by alcohol or any other drug to participate in gaming activity;

(3) Complimentary service of intoxicating beverages in the casino area to persons who are visibly impaired by alcohol or any other drug;

(4) Failure to conduct advertising and public relations activities in accordance with decency, dignity, good taste, honesty, and inoffensiveness, including, but not limited to, advertising that is false or materially misleading;

(5) Catering to, assisting, employing, or associating with, either socially or in business affairs, persons of notorious or unsavory reputation or who have extensive police records, or persons who have defied congressional investigative committees, or other officially constituted bodies acting on behalf of the United States, or any state, or persons who are associated with or support subversive movements, or the employing either directly or through a contract, or any other means, of any firm or individual in any capacity where the repute of the State of Arkansas or the gaming industry is liable to be damaged because of the unsuitability of the firm or individual or because of the unethical methods of operation of the firm or individual;

(6) Employing in a position for which the individual could be required to be licensed as a key employee pursuant to the provisions of this part, any person who has been denied a state casino license on the grounds of unsuitability or who has failed or refused to apply for licensing as a key employee when so requested by the commission;

(7) Employing in any gaming operation any person whom the commission or any court has found guilty of cheating or using any improper device in connection with any game, whether as a licensee, dealer, or player at a licensed game or device, as well as any person whose conduct of a licensed game as a dealer or other employee of a licensee resulted in revocation or suspension of the license of such licensee;

(8)(A) Failure to comply with or make provision for compliance with all federal, state, and local laws and rules and with all commission-approved conditions and limitations pertaining to the operations of a licensed establishment including, without limiting, the generality of the foregoing, payment of all license fees, withholding any payroll taxes, liquor and entertainment taxes, and antitrust and monopoly statutes.

(B)(i) The commission in the exercise of its sound discretion can make its own determination of whether or not the licensee has failed to comply with the aforementioned, but any such determination shall make use of the established precedents in interpreting the language of the applicable statutes.

(ii) Nothing in this section shall be deemed to affect any right to judicial review;

(9) Possessing or permitting to remain in or upon any licensed premises any cards, dice, mechanical device, or any other cheating device whatever, the use of which is prohibited by statute or ordinance;

(10) Conducting, carrying on, operating, or dealing any cheating or thieving game or device on the premises, either knowingly or unknowingly, which may have in any manner been marked, tampered with, or otherwise placed in a condition, or operated in a manner, which tends to deceive the public or which might make the game more liable to win or lose, or which tends to alter the normal random selection of criteria which determine the results of the game;

(11) Failure to conduct gaming operations in accordance with proper standards of custom, decorum, and decency, or permit any type of conduct in the gaming establishment which reflects or tends to reflect on the repute of the State of Arkansas and act as a detriment to the gaming industry;

(12) Whenever a licensed game or a slot machine, as defined in Amendment

100, is available for play by the public:

(A) At a casino location, failure to have an employee of the licensee present on the premises to supervise the operation of the game or machine; or

(B) At a restricted location, failure to have a responsible person who is at least twenty-one (21) years of age present on the premises to supervise the operation of the game or machine;

(13) Except as provided in this part and except as to transfers of interest under this part, the sale or assignment of any gaming credit instrument by a licensee, unless the sale is to a publicly traded or other bona fide financial institution pursuant to a written contract, and the transaction and the terms of the contract, including but not limited to the discount rate, are reported to the commission for approval pursuant to this part;

(14)(A) Issuing credit to a patron to enable the patron to satisfy a debt owed to another licensee or person, including an affiliate of the licensee.

(B) This subdivision shall not prohibit a licensee from collecting a debt owed to an affiliate of the licensee; or

(15) Denying any commission member or agent, upon proper and lawful demand, access to or inspection or disclosure of any portion or aspect of a gaming establishment as authorized by applicable statutes and rules.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-403. Criminal convictions as grounds for revocation or suspension.

The Arkansas Racing Commission may revoke or suspend the casino license or finding of suitability of a person who is convicted of a crime, even though the convicted person's post-conviction rights and remedies have not been exhausted, if the crime or conviction discredits or tends to discredit the State of Arkansas or the gaming industry.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-404. Operation of keno games.

(a) As used in this subpart, "commission" means the Arkansas Racing Commission or the commission's designee.

(b) A licensee authorized to operate a keno game shall not increase the limits of winning tickets or the value of a keno game or a progressive keno game to an amount exceeding the total maximum sum of two hundred fifty thousand dollars ($250,000) on any one (1) game unless the licensee installs and uses a computerized keno system that satisfied the specification approved by the commission.

(c) A licensee shall not operate a keno game or progressive keno game with limits on winning tickets or the value of the keno game exceeding the total maximum sum of two hundred fifty thousand dollars ($250,000) on any one (1) game without the prior written approval of the commission.

(d) The commission may:

(1) Require that a limit be imposed on a progressive keno game, or that the limits of winning tickets or the value of a keno game or a progressive keno game be decreased, if such a limit or decrease is deemed necessary for the licensee to maintain sufficient minimum bankroll requirements pursuant to this part; or

(2)(A) Require the licensee to at all times maintain a reserve in the form of cash, cash equivalent, a bond, or a combination thereof in an amount determined by the commission.

(B) Subject to the discretion of the commission, the reserve provided for by subdivision (d)(2) of this section must be created and maintained in the same manner as a reserve required by this part.

(e) Progressive keno is further subject to the provisions of this part governing progressive payoff schedules.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-405. Violation of law or rules.

(a) Violation of any provision of The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, or of this part by a licensee or the licensee's agent or employee shall be deemed contrary to the public health, safety, morals, good order, and general welfare of the inhabitants of the State of Arkansas and grounds for suspension or revocation of a license and a fine in an amount of up to one hundred thousand dollars ($100,000).

(b) Acceptance of a state casino license or renewal thereof by a licensee constitutes an agreement on the part of the licensee to be bound by all of the rules of the Arkansas Racing Commission as the same now are or may hereafter be amended or promulgated.

(c) It is the responsibility of the licensee to keep informed of the content of all such rules, and ignorance thereof will not excuse violations.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-406. Investigation of conduct of licensees, generally.

(a) A Casino license is a revocable privilege, and no holder thereof shall be deemed to have acquired any vested rights therein or thereunder.

(b) The burden of proving his or her qualifications to hold any license rests at all times on the licensee.

(c) The Arkansas Racing Commission is charged by law with the duty of observing the conduct of all licensees to the end that licenses shall not be held by unqualified or disqualified persons or unsuitable persons or persons whose operations are conducted in an unsuitable manner.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-407. Compliance review and reporting system.

(a) Whenever the Arkansas Racing Commission is acting upon any application of a licensee, and if the commission determines that special circumstances exist which

require additional management review by a licensee, the commission may impose a condition upon any license or order of registration to require implementation of a compliance review and reporting system by the licensee.

(b) The terms of the condition may include, but shall not be limited to:

(1) That the condition shall expire on a certain date or after a designated period of time without commission action;

(2) That the condition may be administratively removed by the commission should a specified activity cease or a specified event occur; or

(3) That a periodic review shall be conducted by the commission and upon such review, the commission may remove or continue to require the condition.

(c) The compliance review and reporting system shall be created for the purpose of monitoring activities relating to the licensee's continuing qualifications under the provisions of The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, and rules of the commission in accordance with a written plan to be approved by the commission administratively or as otherwise ordered by the commission.

(d)(1) The written plan must provide for the operation of the compliance review and reporting system and must designate who shall be responsible for said system.

(2) The plan must provide for involvement of at least one (1) person knowledgeable of the provisions of Amendment 100 and the rules of the commission.

(3) The plan must require periodic reports to senior management of the licensee.

(4) Such reports shall be advisory and the licensee shall maintain responsibility for compliance with Amendment 100 and rules of the commission.

(5) Copies of the reports must be provided to the commission.

(e)(1) The activities to be monitored must be set forth in the written plan and must be determined by the circumstances applicable to the licensee.

(2) Without limitation, the activities that may be required to be monitored pursuant to the compliance review and reporting system include the following:

(A) Associations with persons denied licensing or other related approvals

by the commission or who may be deemed to be unsuitable to be associated with a licensee;

(B) Business practices or procedures that may constitute grounds for denial of a casino license or registration;

(C) Compliance with other special conditions that may be imposed by the commission upon the licensee;

(D) Review of reports submitted pursuant to Amendment 100 and rules of the commission;

(E) Compliance with the laws, regulations, or orders of duly constituted governmental agencies or entities having jurisdiction over the gaming affairs, or such other business activities which the commission may deem necessary or proper, of the licensee, registrant, or its affiliates; and

(F) Review of such other activities determined by the commission as being relevant to the licensee's continuing qualifications under the provisions of Amendment 100 and the rules of the commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-408. Information to be furnished by licensees.

(a) Every licensee shall report to the Arkansas Racing Commission annually the full name and address of every person, including lending agencies, who has any right to share in the profits of such licensed games, whether as an owner, assignee, landlord, or otherwise, or to whom any interest or share in the profits of any licensed game has been pledged or hypothecated as security for a debt or deposited as a security for the performance of any act or to secure the performance of a contract of sale.

(b) Such report shall be submitted concurrently with application for renewal of license.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-409. Reports of violations and of felony convictions.

(a) Each licensee shall immediately notify the on-site Department of Finance and Administration representatives by means acceptable to the Arkansas Racing Commission of the discovery of any violation or suspected violation of any gaming law regarding which the licensee has notified the local police or sheriff.

(b) Each licensee, as relevant, shall immediately notify the on-site department representatives by means acceptable to the commission or, for reports pursuant to this part, by telephone or via email, of:

(1) The discovery of any violation of any gaming law;

(2) The discovery of any suspected theft, larceny, embezzlement, or other crime involving property, if such crime has been committed against a licensee or club venue operator or patron of a licensee or while on the premises of a licensee, by a gaming employee, a person required to be registered pursuant to this part, or any other person who has received an approval from the commission, and the person allegedly committing the crime has been separated from employment or whose business relationship with the licensee has been terminated, regardless of whether such crime is a misdemeanor, gross misdemeanor, or felony;

(3) The discovery of any suspected unlawful possession, sale, or use of a controlled substance on the premises of the licensee, if such possession, sale, or use was committed by a gaming employee, a person required to be registered pursuant to this part, or any other person who has received an approval from the commission, and the person allegedly committing the crime has been separated from employment or whose business relationship with the licensee has been terminated; and

(4) Any suspected violation of any gaming law regarding which the licensee has notified the local police or sheriff.

(c) Any person holding a license, registration, or finding of suitability that is convicted of a felony in this state or is convicted of an offense in another state or jurisdiction which would be a felony if committed in this state shall notify the on-site department representatives in writing within ten (10) business days of such conviction.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-410. Access to premises and production of records.

(a) No applicant, licensee, or enrolled person shall neglect or refuse to produce records or evidence or to give information upon proper and lawful demand by the Arkansas Racing Commission, or shall otherwise interfere, or attempt to interfere, with any proper and lawful efforts by the commission to produce such information.

(b)(1) Each casino licensee, licensed manufacturer, and licensed distributor or seller shall immediately make available for inspection by the commission all papers, books, and records produced by any gaming business and all portions of the premises where gaming is conducted or where gambling devices or equipment are manufactured, sold, or distributed.

(2) The commission shall be given immediate access to any portion of the premises of any casino licensee, licensed manufacturer, or licensed distributor or seller for the purpose of inspecting or examining any records or documents required to be kept by such licensee under the rules of the commission, and any gaming device or equipment or the conduct of any gaming activity.

(c) Access to the areas and records may be inspected or examined by the commission shall be granted upon request by the commission to any commission member or agent who the commission designates.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-411. Summoning of licensee.

(a) The Arkansas Racing Commission may summon any licensee or the licensee's agents or employees to appear to testify before it or its agents with regard to the conduct of any licensee or the agents or employees of any licensee.

(b) All such testimony shall be under oath and may embrace any matters which the commission or its agents may deem relevant to the discharge of its official duties.

(c) Any person so summoned to appear shall have the right to be represented by

counsel.

(d) Any testimony so taken may be used by the commission as evidence in any proceeding or matter then before it or the commission or which may later come before it or the commission.

(e) Failure to so appear and testify fully at the time and place designated, unless excused, shall constitute grounds for the revocation or suspension of any license held by the person summoned or his or her principal or employer.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-412. Unauthorized games.

No licensee shall permit any game other than those specifically authorized by the Arkansas Racing Commission's rules to be operated without first applying for and receiving permission from the commission to operate such game.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-413. Unlicensed games or devices.

(a) No unlicensed gambling games shall be operated upon the premises of a licensee.

(b)(1) Whenever a licensee desires to temporarily remove or suspend a game from a licensed status, the licensee shall provide advanced written notice to the Arkansas Racing Commission stating the type and number of games sought to be suspended, the initial date and duration of the proposed suspension, and in addition to such notice, the licensee shall thereafter physically remove the gaming device from any area exposed to the public, provided, however, a gaming device may remain in a public area while in an unlicensed status if the licensee, in addition to the foregoing written notification, removes from the gaming device all detachable fixtures such as drop boxes, chip racks, wheelheads, cages, and other similar removable items, and also covers any nondetachable chip rack and any chip rack space with a device capable of being locked

and sealed in place.

(2) Thereafter, the gaming device shall be inspected and sealed by the commission and allowed to remain in a public area.

(c) Before any game or gaming device suspended from a licensed status in accordance with the foregoing procedure may be reactivated and placed into play, the licensee shall advise the on-site Department of Finance and Administration representatives in writing of its intention and date to reactivate such game, and pay all fees and taxes applicable to said game, and upon the on-site department representative's reinspection of any gaming device previously sealed, the game may be exposed to play.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-414. In-house progressive payoff schedules.

(a) As used in this section:

(1) "Base amount" means the amount of a progressive payoff schedule initially offered before it increases;

(2) "Commission" means the Arkansas Racing Commission or the commission's designee;

(3) "Incremental amount" means the difference between the amount of a progressive payoff schedule and its base amount; and

(4) "Progressive payoff schedule" means a game or machine payoff schedule, including those associated with contests, tournaments, or promotions, that increases automatically over time or as the game or games or machine or machines are played.

(b)(1) The amount of a progressive payoff schedule shall be conspicuously displayed at or near the games or machines to which the payoff schedule applies.

(2) Each licensee shall record the base amount of each progressive payoff schedule when first exposed for play and subsequent to each payoff.

(3) At least once a month, each licensee shall log the amount of each progressive payoff schedule at the licensee's establishment except for those that can be

paid directly from a slot machine's hopper or those offered in conjunction with an intercasino-linked system.

(4) Explanations for reading decreases shall be maintained with the progressive logs.

(5) When the reduction is attributable to a payoff, the licensee shall record the payoff form number on the log or have the number reasonably available.

(c) A licensee may change the rate of progression of any progressive payoff schedule provided that records of such changes are created.

(d)(1) A licensee may limit a progressive payoff schedule to an amount that is equal to or greater than the amount of the payoff schedule when the limit is imposed.

(2) The licensee shall post a conspicuous notice of the limit at or near the game or games or machine or machines to which the limit applies.

(e) A licensee shall not reduce the amount of a progressive payoff schedule or otherwise eliminate a progressive payoff schedule unless:

(1) A player wins the progressive payoff schedule;

(2) The licensee adjusts the progressive payoff schedule to correct a malfunction or to prevent the display of an amount greater than a limit imposed pursuant to subsection (d) of this section, and the licensee documents the adjustment and the reasons for it;

(3) The licensee distributes the entire incremental amount to another progressive payoff schedule on similar game or games or machine or machines at the licensee's establishment or any other contest, tournament, or promotion and:

(A) The licensee documents the distribution;

(B) Any game or slot machine offering the payoff schedule to which the licensee distributes the incremental amount does not require that more money be played on a single play to win the payoff schedule than the game or slot machine from which the incremental amount is distributed unless the incremental amount distributed is increased in proportion to the increase in the amount of the wager required to win the payoff schedule;

(C) If from a slot machine, any slot machine offering the payoff schedule

to which the incremental amount is distributed complies with the minimum theoretical payout requirement of this part; and

(D) The distribution is completed within one hundred eighty (180) days after the progressive payoff schedule is removed from play or within such longer period as the commission may for good cause approve;

(4) For games other than slot machines, the incremental amount may be distributed within one hundred eighty (180) days of removal through a concluding contest, tournament, or promotion and the contest, tournament, or promotion is conducted with a game or games similar to the game or games from which the amounts are distributed; or

(5) The commission, upon a showing of exceptional circumstances, approves a reduction, elimination, distribution, or procedure not otherwise described in this subsection, which approval is confirmed in writing.

(f) A progressive payoff schedule may be temporarily removed for a period of up to thirty (30) days to allow for the remodeling of the licensed gaming establishment, or for such longer period or other good cause as the commission may approve.

(g) Except as otherwise provided by this section, the incremental amount of a progressive payoff schedule is an obligation to the licensee's patrons, and it shall be the responsibility of the licensee if the licensee ceases operation of the progressive game or slot machine for any reason, including a transfer of ownership of the licensed gaming establishment, to arrange for satisfaction of that obligation in a manner approved by the commission.

(h) Licensees shall maintain the records required by this section for at least five (5) years after they are made unless the commission approves otherwise in writing.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-415. Intercasino-linked payoff schedules.

(a) As used in this section:

(1) "Base amount" means the amount of a progressive payoff schedule initially

offered before it increases;

(2) "Commission" means the Arkansas Racing Commission or the commission's designee;

(3) "Fixed payoff schedule" means a payoff schedule determined prior to the time the intercasino-linked system is offered to the public for play that does not increase automatically over time or as the intercasino-linked system is played;

(4) "Incremental amount" means the difference between the amount of a progressive payoff schedule and its base amount;

(5) "Operator" means any person or entity holding a license to operate a casino that operates an intercasino-linked system for affiliates;

(6) "Progressive payoff schedule" means a payoff schedule that increases automatically over time or as the intercasino-linked system is played; and

(7) "Reset fund" means monies collected pursuant to a contribution schedule set by an operator that are intended to be used for the funding of future progressive payoff schedules.

(b) Intercasino-linked systems shall have signs or award cards which conspicuously display:

(1) The fixed payoff schedules at or near each game and on each machine;

(2) The current progressive payoff schedules at or near all games or machines; and

(3) Rules and, if applicable, the specific qualifying and final round date or dates for tournaments or contests at or near all games or machines.

(c)(1) Each operator shall record the base amount of each progressive payoff schedule when first exposed for play and subsequent to each payoff.

(2) At least once each day, the operator must record on a log the amount of the progressive payoff schedule.

(3) Explanations for decreases in the payoff schedule shall be maintained with the progressive logs.

(d)(1) Subject to compliance with the minimum rate of progression requirements set forth in this part, an operator may change the rate of progression, including those

between multiple progressive payoff schedules and reset funds, provided that records of such changes are created and maintained.

(2) The operator, upon request, shall provide such information to the commission and participating locations.

(e)(1) An operator may limit the amount of the progressive payoff schedule to an amount that is equal to or greater than the amount of the progressive payoff schedule when the limit is imposed.

(2) The operator shall post a conspicuous notice of the limit at or near each game or machine to which the limit applies.

(3) An operator shall notify the commission and the participating locations of such limitation, in writing, contemporaneously with the imposition of such limitation.

(f) An operator, including an operator that ceases operations, shall not reduce the amount of a progressive payoff schedule or otherwise eliminate a progressive payoff schedule unless:

(1) A player wins the progressive payoff schedule and any reset fund;

(2) For games other than slot machines, the incremental amount of the progressive payoff schedule or schedules and any reset fund may be distributed within one hundred eighty (180) days of removal through a concluding contest, tournament, or promotion and the contest, tournament, or promotion is conducted with a game or games similar to the game or games from which the amounts are distributed;

(3) The progressive payoff schedule is adjusted to correct a malfunction or to prevent the display of an amount greater than a limit imposed by this part, and the operator documents the adjustment and the reasons for it;

(4) The operator distributes the entire incremental amount and any reset fund to another single intercasino-linked payoff schedule and reset fund, whether progressive or not, on similar games or machines at substantially the same locations, and:

(A) The operator documents the distribution;

(B) Any game or slot machine offering the payoff schedule to which the operator distributes the incremental amount or reset fund does not require that more

money be played on a single play to win the payoff schedule than the game or slot machine from which the incremental amount or reset fund is distributed unless the incremental amount distributed is increased in proportion to the increase in the amount of the wager required to win the payoff schedule;

(C) If from a slot machine, any slot machine offering the payoff schedule to which the incremental amount or reset fund is distributed complies with the minimum theoretical payout requirement of this part; and

(D) The distribution is completed within thirty (30) days after the progressive payoff schedule or reset fund is removed from play or within such longer period as the commission may for good cause approve; or

(5) The commission, upon a showing of exceptional circumstances, approves a reduction, elimination, distribution, or procedure not otherwise described in this subsection, which approval is confirmed in writing.

(g) An operator may remove from a licensee's premises games or machines with progressive payoff schedules which are part of an intercasino-linked system if the payoff schedule is otherwise available for play in the same city, or such other geographic area as may be determined by the commission.

(h) Operators shall maintain the records required by this section for at least five (5) years after the records are made unless the commission approves otherwise in writing.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-416. Periodic payments.

(a) Except as provided in this part, a licensee shall remit the total prizes awarded to a patron as the result of conducting any game, including a race book or sports pool, tournament, contest, or promotional activity (hereinafter collectively referred to as "gaming or promotional activity") conducted in Arkansas or arising from the operation of a multi-jurisdictional progressive prize system upon validation of the prize payout.

(b) As used in this section of the rule:

(1) "Approved funding sources" means cash or United States Treasury

securities that are used for the funding of a trust pursuant to this part or the reserve method of funding periodic payments pursuant to this part;

(2) "Brokerage firm" means an entity that:

(A) Is both a broker-dealer and an investment adviser;

(B) Has one (1) or more classes of its equity securities listed on the New York Stock Exchange or American Stock Exchange, or is a wholly owned subsidiary of such an entity; and

(C) Has assets under management in an amount of ten billion dollars ($10,000,000,000) or more as reported in its most recent report on Form 10-K or Form 10-Q filed with the Securities and Exchange Commission, or is a wholly owned subsidiary of such an entity;

(3) "Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for the person's own account and:

(A) Is licensed as a broker-dealer with the State Securities Department; or

(B) Is exempt from licensing and is registered as a broker-dealer with the Securities and Exchange Commission and the National Association of Securities Dealers pursuant to 15 U.S.C. § 780, as amended;

(4) "Commission" means the Arkansas Racing Commission or the commission's designee;

(5) "Date of calculation" means the last day for which a discount rate was obtained prior to the conclusion of the validation period;

(6)(A) "Discount rate" means the current prime rate as published in the Wall Street Journal.

(B) For those licensees using the reserve method of funding pursuant to this part, "discount rate" means either:

(i) The aforementioned current prime rate; or

(ii) A blended rate computed from the various United States Treasury securities selected by the licensee for which quotes are obtained at least three (3) times a month;

(7) "Independent financial institution" means an institution that is not affiliated

through common ownership with the licensee and is either:

(A) A bank or national banking association that is authorized to do business in this state, a banking corporation formed or regulated under the laws of this state, or a wholly owned subsidiary of such a banking association or corporation that is formed or regulated under the laws of this state or a national bank with an office in Arkansas; or

(B) An insurance company admitted to transact insurance in the State of Arkansas with an A.M. Best Insurance rating of at least "A+" or such other equivalent rating;

(8) "Investment adviser" means any person who, for compensation, engages in the business of advising others as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities and is registered as an investment adviser with the:

(A) State Securities Department; or

(B) Securities and Exchange Commission pursuant to 15 U.S.C. § 80b–3a, as amended;

(9) "Periodic payments", for purposes of this subpart only, means a series of payments that are paid at least annually for prizes awarded through gaming or promotional activity;

(10) "Present value" means the current value of a future payment or series of payments, discounted using the discount rate;

(11) "Qualified prize" means the sum of periodic payments, awarded to a patron as a result of any gaming or promotional activity, payable over a period of at least ten (10) years;

(12) "Qualified prize option" means an option that entitles a patron to receive from a licensee a single cash payment in lieu of receiving a qualified prize, or any remaining portion thereof, which shall be exercised no later than sixty (60) days after validation of the qualified prize;

(13)(A) "Reserve" means a restricted account consisting of approved funding

sources used exclusively to satisfy periodic payments of prizes arising from all gaming or promotional activity conducted in Arkansas, including such prizes arising from the operation of a multijurisdictional progressive prize system, and includes any existing funding methods previously approved by the Arkansas Racing Commission.

(B) The reserve shall not be less than the sum of the following:

(i)*(a)* The present value of the aggregate remaining balances owed on all prizes awarded to patrons who are receiving periodic payments.

(b) For balances previously funded using United States Treasury securities, the discount rate on the date of funding shall be used for calculating the present value of the reserve;

(ii) An amount sufficient to pay the single cash payments offered in conjunction with qualified prize options for prizes previously awarded for which elections have not been made by the patrons;

(iii) An amount sufficient to fully fund the present value of all prizes currently on public display for which periodic payments are offered;

(iv) If cash is used as the approved funding source, an amount equal to satisfy the current liabilities to all patrons receiving periodic payments due and payable within twelve (12) months; and

(v)*(a)* Any additional amounts administratively required by the commission.

(b) As used in subdivision (b)(13)(B)(v) of this section, the term "multijurisdictional progressive prize system" shall have the meaning ascribed by this part;

(14) "Restricted account" means an account with an independent financial institution described in this part, or a brokerage firm, which is to be exclusively used for the reserve method of funding of gaming or promotional activity as provided in this part;

(15) "Single cash payment" means a single discounted, lump-sum cash payment in the amount of the present value of the total periodic payments otherwise due and owing for a qualified prize, less the amount of any partial payment of such

qualified prize previously made by the licensee to a patron;

(16) "Trust" means an irrevocable fiduciary relationship in which one (1) person is the holder of the title to the property subject to an equitable obligation to keep or use the property for the benefit of another;

(17) "United States Treasury securities" means a negotiable debt obligation issued and guaranteed by the United States government; and

(18)(A) "Validation period" means the period of time between when a patron has met the conditions required to receive a prize, and when the prize payout is validated.

(B) The validation period shall not exceed seventy-two (72) hours, unless otherwise extended by the Arkansas Racing Commission.

(c) Periodic payments of prizes awarded to a patron as a result of conducting any gaming or promotional activity may be made if the method of funding the periodic payments provides such payments to a patron through the establishment of any one (1) of the following funding methods:

(1)(A) An irrevocable surety bond or an irrevocable letter of credit with an independent financial institution which will provide for either the periodic payments or a single cash payment for the remaining periodic payments should the licensee default on paying the scheduled periodic payments for any reason.

(B) The form of the written agreement establishing an irrevocable surety bond or the irrevocable letter of credit, and a written commitment to execute such bond or letter from the financial institution, shall be submitted to the commission for approval no fewer than forty-five (45) days prior to the commencement of the gaming or promotional activity;

(2)(A) An irrevocable trust with an independent financial institution in accordance with a written trust agreement, the form of which shall be submitted to the commission for approval at least forty-five (45) days prior to the commencement of any new gaming or promotional activity, and which provides periodic payments from an unallocated pool of assets to a group of patrons and which shall expressly prohibit the patron from encumbering, assigning, or otherwise transferring in any way the patron's

right to receive the deferred portion of the prizes except to the patron's estate.

(B) The assets of the trust shall consist of approved funding sources in an amount sufficient to meet the periodic payments as required;

(3)(A) A reserve maintained at all times by a licensee, together with the continuing satisfaction of and compliance with certain financial ratios and tests, and monitoring and reporting procedures related thereto.

(B) The conditions under which a reserve method may be used shall be prescribed by the commission in a written notice distributed to licensees and all interested persons.

(C) Licensees shall notify the commission in writing at least forty-five (45) days prior to the commencement of any new gaming or promotional activity for which periodic payments may be used.

(D) Unless otherwise informed within such time period in writing by the commission and assuming a stop order has not been issued during such period, the use of a reserve method for funding periodic payments shall be deemed approved; or

(4)(A) Another method of providing the periodic payments to a patron consistent with the purpose of this subpart and which is approved by the commission prior to the commencement of the gaming or promotional activity.

(B) Proposed modifications to a periodic payment plan previously approved by the commission shall be submitted to the commission for review at least forty-five (45) days prior to the effective date of the change.

(C) The commission, after whatever investigation or review the commission deems necessary, may administratively approve the modification or require the licensee to submit the requested modification to the commission for review and approval.

(d)(1) The funding of periodic payment plans shall be completed within thirty (30) days of the conclusion of the validation period, or where a qualified prize option is offered for such prize payout, within thirty (30) days of the date the patron makes an election thereunder.

(2) Where a single cash payment is elected, the licensee shall pay to the

patron in cash, certified check, or wire transfer the full amount less any prior payment or payments within fifteen (15) days after receiving the patron's written notification of such election.

(e)(1) Periodic payments shall not be used for prize payouts of one hundred thousand dollars ($100,000) or less.

(2) Periodic payments for total amounts won greater than one hundred thousand dollars ($100,000) shall be paid as follows:

(A) For amounts won greater than one hundred thousand dollars ($100,000), but less than two hundred thousand dollars ($200,000), payments shall be at least ten thousand dollars ($10,000) annually;

(B) For amounts won greater than two hundred thousand dollars ($200,000) or more, payments shall be no less than one-twentieth (1/20) of the total amount annually;

(C) For amounts won equal to or in excess of five million dollars ($5,000,000), payments shall be made in the manner set forth in subdivision (e)(2)(B) of this section or in such manner as approved by the commission upon application by the licensee; and

(D)(i) The first installment payment shall be made upon the conclusion of the validation period, notwithstanding that a qualified prize option may be offered to the patron.

(ii) In the event that a qualified prize option is offered to a patron, it shall not be construed as a requirement that the patron shall receive a single cash payment instead of periodic payments.

(iii) Waivers of subdivisions (e)(2)(A) – (C) of this section that have been previously granted by the commission shall remain in full force and effect pursuant to the current terms and provisions of such waivers.

(f) The licensee shall provide the commission with an appropriate, signed legal document, prior to the commencement of any gaming or promotional activity for which periodic payments are to be offered, that shall irrevocably and unconditionally remise, release, indemnify, and forever discharge the State of Arkansas, the commission, and

their members, employees, agents, and representatives, including those of the Attorney General's office, of and from any and all claims, actions, causes of action, losses, damages, liabilities, costs, expenses, and suits of any nature whatsoever, in law or equity, including reasonable attorney's fees, arising from any act or omission of the commission and its members, employees, agents, and representatives.

(g) For any gaming or promotional activity for which periodic payments are used, the licensee shall provide a notice on each gaming device or, if no gaming device is used, then in each gaming or promotional area specifically setting forth the terms of the periodic payment plan, and include in all radio, television, other electronic media, or print advertising that such prizes will be awarded using periodic payments.

(h)(1) Notwithstanding any other rule to the contrary, if a licensee offers a qualified prize option to a patron who is awarded a qualified prize, the licensee shall provide the option to the patron in writing within five (5) days after the conclusion of the validation period.

(2) Such written option shall:

(A) Explain the method used to compute the single cash payment, including the discount rate as of the date of calculation; and

(B) State that the patron is under no obligation to accept the offer of a single cash payment and may nevertheless elect to receive periodic payments for the qualified prize.

(i) The licensee shall maintain the following amounts, as applicable, related to each gaming or promotional activity that uses periodic payments in calculating its minimum bankroll requirement for the purpose of complying with this part:

(1) For periodic payment plans approved in accordance with this part, the installment payments due within the next twelve-month period for all amounts won or on public display for which the licensee will be making periodic payments;

(2) For periodic payment plans approved in accordance with this part, the first installment payment, if not yet paid, and the present value of all future payments:

(A) For amounts won or awarded but for which the funding has not been completed; and

(B) For all prizes which have not been won or awarded but are on public display, including a progressive meter; and

(3) An alternative amount and/or method required by the commission to satisfy the minimum bankroll requirement for other approved funding plans used for periodic payments.

(j)(1) At all times the licensee is responsible for the payment of all prizes resulting from any gaming or promotional activity upon conclusion of the validation period, regardless of the method used to fund the periodic payments allowed under this subpart.

(2) In the event of a default by any financial institution with which the licensee has contracted to guarantee or make periodic payments, the licensee will be liable for the periodic payments owed to patrons.

(k)(1) At least annually, the licensee shall verify that the independent financial institution and brokerage firm being used to guarantee or remit periodic payments to patrons or to hold approved funding sources related thereto continues to meet the applicable qualifications required by this part.

(2) In the event that such entities are found to no longer meet the defined requirements, the licensee shall immediately notify the commission of the change in status and within thirty (30) days provide a written plan to comply with these requirements.

(l)(1) At least sixty (60) days prior to the cessation of operations, a licensee responsible for remitting periodic payments to patrons shall submit a plan to satisfy the liability for approval.

(2) The commission, after whatever investigation or review the commission deems necessary, may approve the plan.

(m)(1) Copies of the related contracts and agreements executed pursuant to this part shall be submitted to the commission within thirty (30) days after execution.

(2) For all methods of funding periodic payments, the licensee must maintain documents, executed contracts, and agreements for a period no less than the duration of the periodic payments plus five (5) years thereafter.

(n) Where a licensee is found to be in noncompliance with the funding requirements provided in this subpart, the commission may require the licensee to immediately cease offering any gaming or promotional activity for which periodic payments are used or the commission may require other corrective action.

(o)(1) Any failure of the licensee to maintain full compliance with each and every provision set forth in this subpart, including the commission's requirements established pursuant to this part, or any failure of the licensee to immediately notify the commission of any noncompliance thereof, shall constitute an unsuitable method of operation.

(2) Such noncompliance may subject the licensee to disciplinary action.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-417. Finder's fees.

(a) Except as limited by subsection (b) of this section, the term "finder's fee" means any compensation in money in excess of the sum of ten thousand dollars ($10,000), or real or personal property valued in excess of the sum of ten thousand dollars ($10,000), which is paid or transferred or agreed to be paid or transferred to any person in consideration for the arranging or negotiation of an extension of credit to a licensee, a registered company, or applicant for licensing if the proceeds of such extension of credit are intended to be used for any of the following purposes:

(1) The acquisition of an interest in a gaming establishment or registered company; or

(2) To finance the gaming operations of a licensed gaming establishment.

(b) The term "finder's fee" shall not include:

(1) Compensation to the person who extends the credit;

(2) Normal and customary payments to employees of the person to whom the credit is extended if the arranging or negotiation of credit is part of their normal duties;

(3) Normal and customary payments for bona fide professional services rendered by:

(A) Lawyers;

(B) Accountants;

(C) Engineers; and

(D) Appraisers; or

(4) Underwriting discounts paid to a member of the National Association of Securities Dealers, Inc.

(c)(1) It is an unsuitable method of operation for any licensee, registered company, or applicant for licensing or registration to pay any finder's fee without the prior approval of the Arkansas Racing Commission, acting upon a recommendation of the commission.

(2) An application for approval of payment of a finder's fee shall make a full disclosure of all material facts.

(3) The commission may disapprove any such application if the person to whom the finder's fee is proposed to be paid does not demonstrate that he or she is suitable to hold a state casino license.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-418. Collection of gaming credit.

(a) Only bonded, duly licensed collection agencies, or a licensee's employees, junket representatives, attorneys, or affiliated or wholly owned corporations and their employees, may collect, on the licensee's behalf and for any consideration, gaming credit extended by the licensee.

(b) Notwithstanding the provisions of subsection (a) of this section, no licensee shall permit any person who has been found unsuitable, who has been denied a casino license or work permit, or who has had a work permit revoked, to collect, on the licensee's behalf and for any consideration, gaming credit extended by the licensee.

(c) Each licensee shall maintain for the Arkansas Racing Commission's inspection records that describe credit collection arrangements and that include any written contracts entered into with the persons described in subsection (a) of this section,

unless such persons are the licensee's key employees or junket representatives.

(d) **Devices prohibited under 5.104(4)(a)(ii) — Exceptions.**

(1) It shall not be a violation of this part for a person to:

(A) Make and refer to handwritten records of the cards played at baccarat;

(B) Make and refer to handwritten records of roulette results; or

(C) Refer to records of the cards played at faro, where the records are made by the licensee in the manner traditional to that game.

(2)(A) The commission, in the commission's sole and absolute discretion, may approve the use of devices not described in subsection (a) of this section upon the written request of a licensee, subject to such conditions as the commission may impose.

(B) No approval shall be effective unless it is in writing.

(C) It shall not be a violation of this part for a person to possess or use, in accordance with the terms of the approval, a device approved pursuant to this subsection.

(D) As used in this subsection, "commission" means the Arkansas Racing Commission or the commission's designee.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

Codification Notes. Section 5.104(4)(a)(ii), which is referenced in this section, did not exist in the rule prior to codification into the Code of Arkansas Rules.

23 CAR § 358-419. Surveillance systems.

(a) As used in this section:

(1) "Applicant" means a person or entity having a pending application to become a licensee;

(2) "Commission" means the Arkansas Racing Commission or the commission's designee;

(3) "Licensed establishment" means the establishment of a licensee; and

(4)(A) "Licensee" means a person or entity licensed to conduct a casino operation.

(B) The term does not include a person or entity licensed as a holder of a security or other ownership interest in the operation, or as an officer, director, or key employee of the operation, or due to any other relationship or involvement with the operation.

(b)(1) The commission shall adopt standards for the installation, maintenance, and operation of casino surveillance systems at all licensed establishments.

(2) The purposes of a casino surveillance system are to assist the licensee and the state in safeguarding the licensee's assets, in deterring, detecting, and prosecuting criminal acts, and in maintaining public confidence and trust that licensed gaming is conducted honestly and free of criminal elements and activity.

(c) At least thirty (30) days before adopting any casino surveillance standards or revisions, the commission shall:

(1) Publish notice of the proposed adoption or revision, together with the effective date thereof, by posting the proposed change or revision on the commission's website;

(2) Provide notice of the posting of the proposed casino surveillance standards or revisions on the commission's website, together with the effective date thereof, to each licensee and every other person who has filed a request therefor with the commission; and

(3) Provide a copy of the proposed casino surveillance standards or revisions and the effective date to the commission.

(d)(1) Any licensee may object to the proposed casino surveillance standards or revisions by filing a request for a review of the commission's administrative decision.

(2) If any licensee files a request for review, then the effective date of the proposed casino surveillance standards or revisions will be stayed pending action by the commission.

(3) If no requests for review are filed with the commission, then the casino surveillance standards or revisions shall become effective on the date set by the

commission.

(e)(1) Any licensee may propose the repeal or revision of any existing casino surveillance standard or the adoption and approval of any new casino surveillance standard by submitting a request to the commission, who shall consider the request at the commission's discretion.

(2) If such a request is approved by the commission, then the proposed repeal, revision, or adoption must be processed in accordance with subsections (c) and (d) of this section.

(3) If such a request is denied by the commission, then the licensee may file the request for a review as an administrative approval decision with the commission.

(f)(1) Except as otherwise provided in subsections (h) and (i) of this section, each licensee shall install, maintain, and operate a casino surveillance system in accordance with the casino surveillance standards adopted by the commission.

(2) The failure of a licensee to comply with this section and the casino surveillance standards adopted by the commission or any variation to the casino surveillance standards approved pursuant to subsection (h) of this section is an unsuitable method of operation.

(g)(1) Neither this section nor any casino surveillance standard adopted pursuant to it alters, amends, supersedes, or removes any condition of any licensee or approval imposed on any licensee by the commission.

(2) However, a licensee shall be deemed to have complied with a condition requiring the commission's approval of a surveillance system if the licensee complies with subsection (f) of this section.

(h)(1) Upon request and at the commission's discretion, the commission may exempt a licensee from compliance with any casino surveillance standard.

(2) All requests for exemption must be in writing and state the reasons for the request and the alternative measures, if any, the licensee will undertake to accomplish the objectives of the casino surveillance standard.

(3) The licensee must comply with the casino surveillance standard while the request for exemption is pending.

(4) Any request for exemption that is not granted, in writing, within ninety (90) days after it is received by the commission will be deemed denied.

(i) If, after reviewing the licensee's written casino surveillance system plan, the commission determines the plan does not comply with this subsection, the commission shall notify the licensee in writing, and the licensee shall revise the plan to comply with this subsection and submit the revised plan within thirty (30) days after receipt of the commission's written notice.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-420. Programs to address problem gambling. [Reserved].

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-421. Operation of an intercasino-linked system.

(a) **Definitions.** As used in this section:

(1) "Commission" means the Arkansas Racing Commission or the commission's designee;

(2) "Licensed establishment" means the gaming establishment of a licensee;

(3)(A) "Licensee" means a person or entity licensed to conduct a casino gaming operation.

(B) The term does not include a person or entity licensed as a holder of a security or other ownership interest in the operation, or as an officer, director, or key employee of the operation, or due to any other relationship or involvement with the operation;

(4) "Operator" means any casino gaming operation that operates an intercasino-linked system for affiliates; and

(5) "System" means an intercasino-linked system.

(b) In addition to any other requirements set forth in this part, all operators of systems and licensed establishments shall comply with the following requirements:

(1)(A) All systems shall be connected only to gaming devices or games that have been approved by the commission, that comply with this part, and that are operated in licensed gaming establishments.

(B) The exposure for play of games or devices that are part of a system shall be limited as follows:

(i) In the case of systems with fixed payoff schedules that exceed two hundred fifty thousand dollars ($250,000) or in the case of systems with progressive payoff schedules that are expected to exceed two hundred fifty thousand dollars ($250,000), installations are limited to casino gaming operations having gross revenue of one million dollars ($1,000,000) or more for the twelve (12) months ended June 30 each year; or

(ii) In the case of systems with fixed payoff schedules of two hundred fifty thousand dollars ($250,000) or less, systems with progressive payoff schedules that are expected to be two hundred fifty thousand dollars ($250,000) or less, or systems without payoff schedules, installations are permitted at any casino gaming operation.

(C)(i) Notwithstanding the foregoing, any games or machines connected to an intercasino-linked system at the time this subpart is adopted may continue to be operated as part of the intercasino-linked system.

(ii) Additionally, upon a showing of adequate surveillance and internal control procedures by a licensee, the commission may waive the provisions of this subsection, provided that such waiver is not inconsistent with any license conditions placed on the operator or licensee and that such waiver is confirmed in writing;

(2)(A) The operator or licensee, whichever may be liable for payment of the amount in dispute, shall be responsible for any patron dispute arising at the licensed establishment with respect to any system and the gaming devices or games connected thereto.

(B) This fact shall be disclosed to the patron at the time of the dispute.

(C) Licensees and operators shall cooperate in the resolution of patron disputes arising at the licensee’s establishment;

(3) Operators of systems featuring progressive payoff schedules shall, upon request, disclose to the commission and all licensees who have contracted to use their systems, on a confidential basis, the rate of progression of all progressive payoff schedules and, if applicable, any reset funds of their systems;

(4) Operators shall provide the commission prior to commencing operations of the system a list of all persons who may access the main computer or data communications components of their systems, and any changes to that list shall be provided within ten (10) days to the commission;

(5) At the request of the commission, an operator shall provide and maintain, at its sole expense and at such location as the commission may designate, a terminal and printer for the purpose of monitoring information regarding the system, including but not limited to:

(A) The current progressive payoff schedules;

(B) Reset funds;

(C) The real-time date and time;

(D) The number and location of gaming devices and games connected to the system;

(E) The names of persons accessing the main computer or data communication components of the system;

(F) The identification of functions being performed by such persons;

(G) The audible notification of any progressive payoff schedule won; and

(H) The identification of the:

(i) Location;

(ii) Machine number; and

(iii) Amount of any progressive payoff schedule won;

(6) The operator shall provide in writing to each participating licensed establishment its method for determining the pro rata share of a system payout for purposes of gross revenue deductibility; and

(7) Operators shall retain and provide commission agents, upon request, all records pertaining to their intercasino-linked systems including, without limitation, all:

(A) Progressive payoff schedule payout verification documents;

(B) Exception reports;

(C) End-of-day reports;

(D) Progressive payoff schedule reports;

(E) Computer room visitors' logs;

(F) Machine performance reports;

(G) Weekly reconciliation reports;

(H) Contribution to progressive payoff schedule reports; and

(I) Tax-sharing methodology.

(c) Failure to comply with any of the requirements set forth in subsection (b) of this section shall be an unsuitable method of operation.

(d) The commission may, upon request of an operator or an applicant for licensing as an operator, and for good cause, waive any of the requirements set forth in this subpart.

(e) Operators shall maintain the records required by this section for at least five (5) years after they are made unless the commission approves otherwise in writing.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-422. Aggregate payout limits for gambling games.

(a) As used within this section, "aggregate payout limit" means a maximum payoff amount that will be paid by a licensee to two (2) or more patrons as the result of winning wagers resulting from any single call of the game or hand of play.

(b)(1) Except as otherwise provided herein, a licensee may establish an aggregate payout limit on any game, as well as on a separate bonus feature requiring a separate wager made in conjunction with or in association with the game.

(2) Aggregate payout limits may not be combined for different types of wagers.

(c) Each separate aggregate payout limit established for the game or bonus feature may not be an amount which is less than the highest award with the minimum wager

required to play the game or bonus feature.

(d) All aggregate payout limits must be prominently displayed on the table layout or on a sign placed on the table, which is unobstructed and clearly visible from all player positions, using language approved by the Arkansas Racing Commission.

(e)(1) Aggregate payout limits may not be imposed upon payouts from slot machines, race books, sports pools, or any game where the highest payoff odds on a winning wager are less than fifty to one , unless otherwise allowed by rules of the commission.

(2) This section does not apply to bingo or keno.

(f) The commission may, in the commission's sole and absolute discretion, waive one (1) or more of the provisions of this section, subject to such conditions as the commission may impose.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-423. Operation of a system-supported or system-based gaming device.

(a) **Definitions.** As used in this section:

(1) "Commission" means the Arkansas Racing Commission or the commission's designee;

(2)(A) "Licensee" means a person or entity licensed to conduct a casino gaming operation.

(B) The term does not include a person or entity licensed as a holder of a security or other ownership interest in the operation, or as an officer, director, or key employee of the operation, or due to any other relationship or involvement with the operation;

(3) "Operator" means any licensee that operates a system-supported or system-based gaming device on the premises where its gaming operation is located; and

(4) "System" means a system-supported or system-based gaming device.

(b) In addition to any other requirements set forth in The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, or this part, all operators of a system shall comply with the following requirements:

(1)(A) Prior to commencing operations of its system, an operator shall provide the Arkansas Racing Commission with a list of all persons who may access the main computer or data communications components of its system.

(B) The list shall describe the role or roles assigned to each person on the list.

(C) Any changes to the list in a particular month shall be provided to the commission on or before the fifteenth day of the following month;

(2) At the request of the commission, an operator shall provide and maintain, at its sole expense and at such location as the commission may designate, networked equipment for the purpose of monitoring information regarding the system including, but not limited to, the names of persons accessing the main computer or data communications components of the system, the identification of functions being performed by such persons, gaming application authentication information, and any other information required to be logged by the system in accordance with this part; and

(3) An operator shall retain and provide commission agents, upon request, all records pertaining to its system, including, without limitation, computer room visitor logs and system transaction logs.

(c) Failure to comply with any of the requirements set forth in subsection (b) of this section shall be an unsuitable method of operation.

(d) The commission may, upon request of an operator or an applicant for licensing as an operator, and for good cause, waive any of the requirements set forth in this subpart.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-424. Operation of a mobile gaming system.

(a) **Definitions.** As used in this section:

(1) "Director" means the Director of the Arkansas Racing Commission or the commission's designee;

(2) "Communications technology" means the methods used and the components employed to facilitate the transmission of information, including but not limited to:

(A) Transmission and reception systems based on:

(i) Wire;

(ii) Cable;

(iii) Radio;

(iv) Microwave;

(v) Light;

(vi) Optics;

(vii) Cellular data; or

(viii) Computer data networks; and

(B) The internet;

(3) "Equipment associated with mobile gaming" means associated equipment, which will be approved as associated equipment;

(4) "Licensed gaming establishment" means the establishment of a licensee, which includes all land, together with all buildings and improvements located thereon;

(5)(A) "Licensee" means a person or entity licensed to conduct casino gaming operations, who at all times exposes to the public for play one hundred (100) or more slot machines and at least one (1) table game within its licensed gaming establishment.

(B) The term does not include a person or entity licensed as a holder of a security or other ownership interest in the licensee, or as an officer, director, or key employee of the licensee, or due to any other relationship or involvement with the licensee or gaming operation;

(6) "Mobile communications device" means a device which displays information relating to the game to a participant in the game as part of a system;

(7) "Mobile gaming system" or "system" means a system that allows for the conduct of sports wagering through mobile communications devices operated by the

use of communications technology that allows a patron to bet or wager, and corresponding information related to the display of the:

(A) Game;

(B) Gaming outcomes; or

(C) Other similar information;

(8) "Operator of a mobile gaming system" or "operator" means a person or entity who under any agreement whereby consideration is paid or payable for the right to place a mobile gaming system engages in the business of placing and operating a mobile gaming system and who is authorized to share in the revenue from the mobile gaming system without having been individually licensed to conduct gaming at the establishment; and

(9) All mobile gaming systems must be approved by the commission.

(b) Mobile gaming systems may be exposed for play as follows:

(1) A system may only be exposed for play to the public by an operator licensed by the commission and approved by the commission; and

(2)(A) A licensee or an operator may submit a request to the commission for approval to expose a system for play at a licensed gaming establishment.

(B) Such a request must specify at a minimum:

(i) How the operator intends to:

(a) Adequately monitor play of the system; and

(b) Reasonably ensure only players of lawful age will operate the mobile communications devices; and

(ii) Such additional information as the commission may require.

(C) A licensee or an operator aggrieved by a decision of the commission may request a hearing before the commission and may appeal any decision by the commission under the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

(c) In addition to any other requirements set forth in this part, the operator and licensee where a system is operated shall comply with the following requirements:

(1) Only a system that has been approved by the commission may be exposed

for play within a licensed gaming establishment;

(2) The licensee shall be responsible for all payouts from each system operated within its licensed gaming establishment;

(3) Systems that expose games with fixed payoff schedules that exceed two hundred fifty thousand dollars ($250,000), or in the case of systems that expose games with progressive payoff schedules that are expected to exceed two hundred fifty thousand dollars ($250,000), are limited to casino gaming operations;

(4)(A) At the request of the commission, an operator shall deposit with the commission and thereafter maintain a revolving fund in an amount of twenty thousand dollars ($20,000) unless a lower amount is approved by the commission, which shall be used to ensure compliance of the system with applicable laws, rules, and regulations.

(B) Upon surrendering its operator's license, the commission may refund the balance remaining in the revolving fund;

(5)(A) All revenue received from the system, regardless of whether any portion of the revenue is shared with the operator, must be attributed to the licensee of the licensed gaming establishment and counted as part of the gross revenue of the licensee.

(B) The operator, if receiving a share of the revenue from a system, is liable to the licensee for the operator's proportionate share of the license fees paid by the licensee;

(6) Each separate mobile communications device is subject to the same fees and taxes made applicable to all other casino gaming receipts; and

(7) Operators shall retain and provide commission agents, upon request, all records pertaining to their mobile gaming systems including, without limitation, all revenue and cash records, end-of-day reports, computer room visitors' logs, details of any patron disputes, device or game performance reports, weekly reports, and any other financial or nonfinancial records or reports required to be provided by the commission.

(d) Failure to comply with any of the requirements set forth in subsection (c) of this section shall be an unsuitable method of operation.

(e) Except for subdivisions (c)(6) and (7) of this section, the commission may, for good cause shown, waive any of the requirements set forth in this subpart.

(f) Operators shall maintain the records required by this section for at least five (5) years after the records are made unless the commission approves otherwise in writing.

(g) Before a wager may be made on a system, a wagering account must be established in accordance with this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-425. Wagering accounts.

(a) **Definitions.** As used in this section:

(1) "Director" means the Director of the Arkansas Racing Commission or the commission's designee;

(2) "Licensee" means any person to whom a valid casino license has been issued;

(3) "Secure personal identification" means a method of uniquely identifying a patron through which the licensee may verify access to, or use of, a wagering account; and

(4) "Wagering account" means an electronic ledger operated and maintained by a licensee for a patron in connection with the patron's use and play of any or all authorized games and gaming devices, including, but not limited to, race books and sports pools, wherein information relative to such use and play is recorded on behalf of the patron including, but not limited to, the following types of transactions:

(A) Deposits;

(B) Withdrawals;

(C) Debits;

(D) Credits;

(E) Service or other transaction-related charges authorized by the patron; and

(F) Adjustments to the wagering account.

(b) Except as otherwise specified in this part, as applicable, a licensee shall comply with the provisions of this section for the creation and use of wagering accounts for all forms of wagering.

(c) Prior to the registration of a patron for a wagering account, the following requirements shall be met:

(1)(A) Only persons twenty-one (21) years of age or above may register for a wagering account under this part.

(B) Any person that submits a birth date that indicates they are underage shall be denied the ability to register for a wagering account;

(2)(A)(i) Identity verification shall be undertaken before a player is allowed to place a wager.

(ii) Third-party service providers may be used for identity verification as allowed by the commission.

(B) Identity verification shall authenticate the legal name, physical address, and age of the individual at a minimum as required by the commission.

(C) Identity verification shall also confirm that the person is not on any exclusion lists held by the licensee or the commission to the extent disclosed to the licensee by the commission or prohibited from establishing or maintaining a wagering account for any other reason under this part.

(D) Details of identity verification shall be kept in a secure manner;

(3) The wagering account can only become active once age and identity verification are successfully completed, the patron is determined to not be on any exclusion lists as provided in this part or prohibited from establishing or maintaining an account for any other reason under this part, the patron has acknowledged the necessary privacy policies and terms and conditions, and the wagering account registration is complete;

(4) A patron shall only be permitted to have one active player account at a time unless specifically authorized by the commission; and

(5)(A) The system shall allow the ability to update passwords, registration information, and the account used for financial transactions for each patron.

(B) A multifactor authentication process may be employed for these purposes.

(d)(1) A player accesses their wagering account using a username (or similar) and a password or a secure alternative means for the patron to perform authentication to log in to the wagering account.

(2) Authentication methods are subject to the discretion of the commission as necessary.

(3)(A) The requirement does not prohibit the option for more than one (1) method of authentication being available for a patron to access their wagering account.

(B) If the system does not recognize the username and/or password when entered, an explanatory message shall be displayed to the patron which prompts the patron to re-enter the information.

(C) Where a patron has forgotten their username and/or password, a multifactor authentication process may be employed for the retrieval of the username/resetting of the password.

(D) Current account balance information and transaction options shall be available to the patron once authenticated.

(E)(i) The wagering account shall support a mechanism that allows for an account to be locked in the event that suspicious activity is detected (e.g., too many failed attempts for login).

(ii) A multifactor authentication process may be employed for the account to be unlocked.

(e) Franchise holders may operate ADW accounts for patrons wagering on horse and greyhound races pursuant to Arkansas Code §§ 23-111-508(e)(1) and 23-110-405(e)(1) and the rules promulgated by the commission thereunder, and not this part.

(f) **Scope of use of wagering accounts.**

(1) Subject to subdivision (f)(2) of this section, a licensee may establish and allow the use of wagering accounts for patrons' sports wagering activity with any licensed gaming establishment of the licensee.

(2) Before a licensee allows its wagering accounts to be used by patrons in

connection with placing any wagers on sports events, the licensee must:

(A) Submit to the commission a written proposal for implementation of such wagering accounts that addresses the following:

(i) The proper reporting of revenue;

(ii) How minimum bankroll requirements will be satisfied;

(iii) How the reserve requirements of this section will be satisfied;

(iv) Compliance with the commission's minimum internal control procedures adopted pursuant to this part; and

(v) Any additional items or information as the commission may require; and

(B) Obtain the written administrative approval from the commission subject to such conditions or limitations that the commission may impose.

(g) **Operation and maintenance of wagering accounts by third parties.**

(1) A licensee may use a licensed cash access and wagering instrument service provider or a licensed manufacturer to operate and maintain wagering accounts on behalf of the licensee, provided such wagering accounts are used only for purposes of accepting wagers under this part from patrons physically present within the State of Arkansas when initiating the wager.

(2) A licensed cash access and wagering instrument service provider or a licensed manufacturer that acts on behalf of a licensee to operate and maintain wagering accounts shall be subject to the provisions of this section applicable to such services to the same extent as the licensee.

(3) A licensee continues to have an obligation to ensure, and remains responsible for compliance with, this subpart, The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, and all other rules of the commission regardless of its use of a licensed cash access and wagering instrument service provider or a licensed manufacturer to operate and maintain wagering accounts on its behalf.

(4) A licensed cash access and wagering instrument service provider or a licensed manufacturer acting on behalf of a licensee, and with the consent of the licensee and the patron, may use a patron's personal identification information to

administer all other wagering accounts created for that patron on behalf of additional licensees.

(h) A licensee may create a wagering account for a patron only after it has registered the patron, either remotely or in person, as follows:

(1) Obtained, recorded, and verified:

(A) The identity of the patron;

(B) The patron's date of birth;

(C) The patron's physical address; and

(D) The patron's Social Security number, ITIN, or equivalent means of identification acceptable to the commission;

(2) Have the patron affirm:

(A) That the information provided by the patron to the licensee to open the wagering account is accurate;

(B) That the patron has reviewed and acknowledged the rules and procedures established by the licensee for use of the wagering account;

(C) That the patron has been informed of and acknowledged that they are prohibited from allowing any other person not assigned to the wagering account access to or use of their wagering account; and

(D) That the patron consents to the monitoring and recording by the licensee and the commission of the use of the wagering account; and

(3) Determined that the patron is not on the list of excluded persons.

(i) Once a wagering account is created, a secure personal identification for the patron authorized to use the wagering account shall be implemented by the licensee that is reasonably designed to prevent the unauthorized access to, or use of, the wagering account by any person other than the patron for whom the wagering account is established.

(j)(1) A licensee shall not allow a wagering account to be created anonymously or in a fictitious name.

(2) Patrons may, while using or playing a game or gaming device, represent themselves using a name other than their actual name or may remain anonymous.

(k) Funds may be deposited by a patron into the patron's wagering account as follows:

(1) Cash deposits made directly with the licensee;

(2) Personal checks, cashier's checks, wire transfer, and money order deposits made directly or mailed to the licensee;

(3) Transfers from a patron's safekeeping or front money accounts otherwise held by the licensee;

(4) Debits from the patron's:

(A) Debit instrument;

(B) Prepaid access instrument; or

(C) Credit card;

(5) Transfers from another account verified to be controlled by the patron through the automated clearinghouse or another mechanism designed to facilitate electronic commerce transactions;

(6) Funds derived from the extension of credit to the patron by the licensee; or

(7) Any other means approved by the commission.

(l) Funds may be withdrawn by a patron from their wagering account as follows:

(1) Issuance of cash directly to the patron by the licensee;

(2) Issuance of a personal check, cashier's check, money order, or wire transfer by the licensee made payable to the patron and issued directly or mailed to the patron;

(3) Transfers to the patron's safekeeping or front money accounts held by the licensee;

(4) Credits to the patron's:

(A) Debit instrument;

(B) Prepaid access instrument; or

(C) Credit card;

(5) Transfers to another account verified to be controlled by the patron through the automated clearinghouse or another mechanism designed to facilitate electronic commerce transactions;

(6) As repayment of outstanding credit owed by the patron to the licensee; or

(7) Any other means approved by the commission.

(m) Credits to a wagering account may be made by the following means:

(1) Deposits;

(2) Amounts won by the patron;

(3) Transfers from a game or gaming device;

(4) Promotional credits or bonus credits provided by the licensee and subject to the terms of use established by the licensee and as long as such credits are clearly identified as such;

(5) Adjustments made by the licensee following the resolution of a dispute; or

(6) Any other means approved by the commission.

(n) Debits to a wagering account may be made by the following means:

(1) Withdrawals;

(2) Amounts wagered by the patron;

(3) Transfers to a game or gaming device;

(4) Adjustments made by the licensee following the resolution of a dispute;

(5) Service or other transaction-related charges authorized by the patron; or

(6) Any other means approved by the commission.

(o) Unless there is a pending unresolved player dispute or investigation, a licensee shall comply with a request for a withdrawal of funds by a patron from the patron's wagering account in accordance with the terms of the wagering account agreement between the licensee and its patron.

(p) A licensee shall not allow a patron to electronically transfer funds from their wagering account to any other patron's wagering account.

(q) A licensee shall not allow a wagering account to be overdrawn unless caused by payment processing issues outside the control of the licensee.

(r)(1) A licensee shall suspend a wagering account if the wagering account has not been used to make any wagers for a consecutive sixteen-month period.

(2) The licensee may reactivate a suspended wagering account only after reverifying the information required by this subpart and upon the patron presenting a

current government-issued picture identification credential.

(s) A licensee shall record and maintain, for a period of at least five (5) years after creation, the following in relation to a wagering account:

(1) All information used by the licensee to register a patron and create the wagering account pursuant to this subpart;

(2) The method used to verify the information provided by a patron to establish the wagering account, including a description of the identification credential provided by a patron to confirm their identity and its date of expiration;

(3) The date and time the wagering account is opened and terminated;

(4) The date and time the wagering account is accessed by any person, including the patron or the licensee;

(5) All deposits, withdrawals, credits, and debits; and

(6) The patron's account number.

(t) **Responsible gambling**.

(1) Licensees shall ensure that its patrons have the ability to select responsible gambling options associated with their wagering account that include deposit limits establishing the amount of total deposits a patron can make to their wagering account within a specified period of time.

(2)(A) Licensees shall conspicuously display and make available to patrons, upon access to their wagering account, the following responsible gambling message: "[Licensee's name] encourages you to gamble responsibly. If you or someone you know has a gambling problem, assistance is available by calling or texting 1-800-522-4700, chatting online via http://www.ncpgambling.org/help-treatment/chat/ or visiting the National Council on Problem Gambling Services website at http://www.ncpgambling.org".

(B) The licensee may modify the foregoing message by inserting any other problem gambling hotline number and/or website approved for such purpose by the Arkansas Racing Commission.

(C) If either the helpline number or website address changes, the commission may administratively approve the use of an alternative helpline number or

website address.

(u)(1) Each licensee that offers wagering accounts shall adopt, conspicuously display, make available, and adhere to written, comprehensive rules governing wagering account transactions.

(2) Such rules must include, at a minimum, the following:

(A) That the licensee's house rules apply to wagering accounts, as applicable;

(B)(i) That the licensee shall provide each patron, upon reasonable request and consistent with its internal control policies, with a statement of account showing each wagering account deposit, withdrawal, credit, and debit made during the time period reported by the account statement.

(ii) The patron may dispute any transaction in accordance with this part;

(C)(i) That for all wagers, the licensee is required to make a voice, print, electronic, or other approved record of the entire transaction and shall not accept any such wager if the recording system is inoperable.

(ii) The licensee's record of a patron's confirmation of all wagers shall be deemed to be the transaction of record.

(iii) Such records are made available to the commission upon request;

(D) That the licensee has the right to:

(i) Refuse to establish a wagering account for what it deems good and sufficient reason;

(ii) Refuse deposits to wagering accounts for what it deems good and sufficient reason;

(iii) Refuse to accept all or part of any wager for what it deems good and sufficient reason;

(iv) Declare that any or all wagers will no longer be received; and

(v) Unless there is a pending commission investigation or patron dispute, suspend or close any wagering account at any time pursuant to the terms of the agreement between the licensee and the patron, provided, however, when a

wagering account is closed, the licensee shall immediately return the balance of the wagering account at the time of said action, subject to compliance with this part, the licensee's house rules, and federal and state laws, rules, and regulations, by sending a check to the patron's address of record or as otherwise provided pursuant to the terms of the wagering account agreement; and

(E) That the licensee shall keep confidential, except from the commission, except from financial institutions participating in a program established in accordance with Section 314(b) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, except as required by state or federal law, except from the licensee's service providers, or except as otherwise authorized by the patron, the following:

(i) The amount of money credited to, debited from, or present in any particular patron's wagering account;

(ii) The amount of money wagered by a particular patron on any game or gaming device;

(iii) The account number and secure personal identification method that identifies the patron;

(iv) The identities of particular entries on which a patron is wagering or has wagered; and

(v) The name, address, and other information in the possession of the licensee that would identify the patron to anyone other than the commission or the licensee; and

(F)(i) That the licensee shall disclose its policy regarding the acceptance of personal checks, cashier's checks, wire transfers, money orders, debit instruments, credit cards, and electronic transfers of money to the patron.

(ii) Prior to adopting or amending such wagering account rules, a licensee shall submit them to the commission for approval.

(v) **Reserve requirements for licensees.**

(1)(A) A licensee shall maintain a reserve in the form of cash, cash equivalents, an irrevocable letter of credit, a bond, or a combination thereof for the

benefit and protection of patrons' funds held in wagering accounts.

(B) The reserve may be maintained by a licensee's holding company and may be combined as a single amount for all patrons' funds held in wagering accounts maintained by the licensee and its affiliate licensees.

(2)(A) The amount of the reserve shall be not less than the greater of twenty-five thousand dollars ($25,000) or the sum of all patrons' funds held in the wagering accounts.

(B) Amounts available to patrons for play that is not redeemable for cash may be excluded from the reserve requirement.

(C) In calculating the sum of all patrons' funds held in wagering accounts when such wagering accounts are used for multiple types of wagering, this part, as applicable, shall not be construed to require the tallying of such patrons' funds more than once.

(3)(A) If a reserve is maintained in the form of cash, cash equivalent, or an irrevocable letter of credit, it must be held or issued, as applicable, by a federally insured financial institution.

(B) If the reserve is maintained in the form of a bond, it must be written by a bona
fide insurance carrier.

(C) The reserve must be established pursuant to a written agreement between the licensee and the financial institution or insurance carrier, but the licensee may engage an intermediary company or agent acceptable to the commission to deal with the financial institution or insurance carrier, in which event the reserve may be established pursuant to written agreements between the licensee and the intermediary and between the intermediary and the financial institution or insurance carrier.

(4) The agreements described in subdivision (g)(1) of this section must reasonably protect the reserve against claims of the licensee's creditors other than the patrons for whose benefit and protection the reserve is established, and must provide that:

(A) The reserve is established and held in trust for the benefit and

protection of patrons to the extent the licensee holds money in wagering accounts for such patrons;

(B)(i) The reserve must not be released, in whole or in part, except to the commission on the written demand of the commission or to the licensee on the written instruction of the commission.

(ii) The reserve must be available within sixty (60) days of the written demand or written notice.

(iii) The licensee may receive income accruing on the reserve unless the commission instructs otherwise pursuant to subdivision (k)(2) of this section;

(C) The licensee has no interest in or title to the reserve or income accruing on the reserve except to the extent expressly allowed in this subsection;

(D) Arkansas law and this subsection govern the agreements and the licensee's interest in the reserve and income accruing on the reserve;

(E) The agreements are not effective until the commission's approval has been obtained pursuant to subdivision (g)(3) of this section; and

(F) The agreements may be amended only with the prior, written approval of the commission.

(5)(A) Each licensee shall submit to the commission all information and copies of all documents relating to its proposed reserve arrangement, including copies of the agreements described in subdivision (g)(1) and (2) of this section, and must obtain the commission's approval of the agreements and of the reserve arrangements generally.

(B) The commission shall determine whether the agreements and arrangements satisfy the purposes and requirements of this subsection, may require appropriate changes or withhold approval if they do not, and shall notify the licensee of the determination.

(C) Amendments to reserve agreements or arrangements must be approved in the same manner.

(6)(A) A licensee must calculate its reserve requirements each day.

(B) In the event a licensee determines that its reserve is not sufficient to cover the calculated requirement, the licensee must, within twenty-four (24) hours,

notify the commission of this fact in writing and must also indicate the steps the licensee has taken to remedy the deficiency.

(7)(A) Each licensee must engage an independent certified public accountant to examine the pertinent records relating to the reserve each month and determine the reserve amounts required by this subsection for each day of the previous month and the reserve amounts actually maintained by the licensee on the corresponding days.

(B) The licensee shall make available to the accountant whatever records are necessary to make this determination.

(C) The accountant shall report the findings with respect to each day of the month under review in writing to the commission and the licensee no later than the fifteenth day of the next month.

(D) The report shall include the licensee's statement addressing each day of noncompliance and the corrective measures taken.

(8)(A) The report described in subdivision (h)(1) of this section may be prepared by an employee of the licensee that is independent of the gaming operations if written approval has been received from the commission.

(B) The report must contain the signature of an employee attesting to the accuracy of the submitted information.

(9)(A) If the commission is notified pursuant to subdivision (g)(4) of this section, or the report described in subdivision (h)(1) of this section indicates that at any time during the month under review the amount of the reserve did not meet the requirements of this section, the commission may instruct the book to either increase the reserve accordingly or cease accepting wagers and money for the accounts of patrons until such time as the reserve meets the requirements of this subsection and is confirmed to the commission's satisfaction.

(B) The commission may demand that this reserve be increased to correct any deficiency or for good cause to protect patrons.

(10) If the reserve exceeds the requirements of this subsection, the commission shall, upon the licensee's written request, authorize the release of the excess.

(11)(A) When a licensee ceases operating and its license lapses, is surrendered, or is revoked, the commission may demand payment of the reserve, any income accruing on the reserve after operations cease, and, if instructions from the commission that income accruing on the reserve not be paid to the licensee are in effect when operations cease, any income accruing since the instructions took effect.

(B) The commission may interplead the funds in state district court for distribution to the patrons for whose protection and benefit the reserve was established and to such other persons as the court determines are entitled thereto, or shall take such other steps as are necessary to effect the proper distribution of the funds, or may do both.

(12) As used in this subsection, "month" means a calendar month unless the commission requires or approves a different monthly period to be used for purposes of this subsection, in which case "month" means the monthly period so required or approved.

(w)(1) Upon written request and good cause shown, the commission may waive one (1) or more of the requirements of this section.

(2) If a waiver is granted, the commission may impose alternative requirements.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-426. Hosting center — Registration required.

(a)(1) Before certain parts of any game, gaming device, cashless wagering system, or race book or sports pool operation can be operated at a hosting center, the hosting center, along with all owners and operators of the hosting center, and persons having significant involvement with the hosting center as determined by the Arkansas Racing Commission, including but not limited to key employees, must register with the commission pursuant to this section.

(2) Such registration does not become effective until the registration is approved by the commission in writing.

(3) Any person or entity whose request for registration is not approved by the commission may appeal the decision using the administrative appeal process found under this part.

(b)(1) Registration required by subsection (a) of this section shall be made, processed, and determined using such forms as the commission may require or approve and must be accompanied and supplemented by such documents and information as may be specified or required.

(2) The information requested shall include, but not be limited to, the following:

(A) For the registration of natural persons:

(i) Full name, including aliases, past and present;

(ii) Residential address or addresses for the last five (5) years;

(iii) Contact information, including phone numbers and email addresses;

(iv) Employment history, both current and for the past ten (10) years;

(v) Date and place of birth;

(vi) Social Security number;

(vii) Full legal name of the hosting center to which the person's registration relates;

(viii) Description of the person's relationship with the relevant hosting center, and the person's duties or responsibilities under that relationship;

(ix) List and description of any professional licenses that the person has held, past and present, and any past or current disciplinary action against those licenses;

(x) List and description of any arrests or convictions of the person by law enforcement involving a felony or crime of moral turpitude; and

(xi) List and description of any incidents in which the person has, either individually or as part of a group, been refused a gaming license or otherwise been found unsuitable by a regulatory body;

(B) For the registration of business organizations or associations:

(i) Legal name, address, and contact information of every business organization or association under which the entity does business;

(ii) Date and jurisdiction under which each business organization or association provided under subdivision (b)(2)(B)(i) of this section is registered as a legal entity;

(iii) Tax identification number of each business organization or association provided under subdivision (b)(2)(B)(i) of this section;

(iv) List of all affiliates of the business organization or association;

(v) Organization chart depicting the business organization's or association's management structure;

(vi) Organization chart depicting the business organization's or association's ownership structure, including, but not limited to any parent and affiliated entities;

(vii) List of the names of all officers, directors, managers, and key employees of the business organization or association;

(viii) Where the business organization or association is not the hosting center itself, a description of the business organization's or association's relationship to the relevant hosting center, and of what duties or responsibilities it will have under that relationship;

(ix) List and description of any professional licenses that the business organization or association has held, past and present, and any past or current disciplinary action against those licenses;

(x) List and description of any criminal charges brought against the business organization or association involving a felony or crime of moral turpitude; and

(xi) List and description of any incidents where the business organization or association has, either individually or as part of a group, been refused a gaming license or otherwise been found unsuitable by a regulatory body; and

(C)(i) For each hosting center, provide a description of the facility and services available.

(ii) The following descriptions must be provided:

(a) Location description including:

(1) Floor plan;

(2) Reliability of power and telecommunications;

(3) Bandwidth availability;

(4) Compliance of server room to international standards;

(5) Redundancy of power and telecommunications feeds;

(6) Offline power capabilities, e.g., UPS and generator power;

(7) Refueling requirements of generators and fuel acquisition arrangements;

(8) Fire suppression system or systems;

(9) Temperature and humidity control system or systems; and

(10) Procedures for switching to offline power;

(b) Security description including:

(1) Perimeter boundary fences;

(2) Use of security guards (employees or contracted);

(3) Access controls;

(4) Alarm systems;

(5) Video surveillance coverage and storage;

(6) Monitoring of personnel access to sensitive areas;

(7) Antisurveillance measures;

(8) Tenants; and

(9) Contractors in use for services such as cleaning and maintenance;

(c) Disaster recovery capabilities, testing, and auditing; and

(d) Internal control procedures including:

(1) Visitor access procedures and controls;

(2) Maintenance and audit of access logs;

(3) Alarm procedures for technical and security response;

(4) Due diligence performed on contractors, tenants, and staff;

(5) Emergency access procedures; and

(6) Any other relevant procedures.

(c) Any request for registration pursuant to subsection (a) of this section shall contain a statement subscribed by the applicant for registration that:

(1) The information being provided to the commission is accurate and complete;

(2) That the applicant for registration agrees to cooperate with requests, inquiries, or investigations of the commission; and

(3) The applicant for registration acknowledges that the commission may demand the person or entity to submit an application for finding of suitability, and that a failure to submit such an application within thirty (30) days of the demand may constitute grounds for a finding of unsuitability by the commission.

(d) Any applications for registration required under this section shall be prepared and submitted by the relevant hosting center.

(e)(1) By the fifteenth day of each January, each registered hosting center shall inform the commission in writing of any changes in the information provided in its application for registration, and the applications for registration of any owner, operator, or person having significant involvement with the hosting center, or provide the commission with an affirmative statement indicating that there have been no changes to that information.

(2) If such information or statement is not provided to the commission within ninety (90) days of January 15 of each year, the hosting center's registration, and the registrations of each owner, operator, and person having significant involvement with the hosting center will lapse.

(3) If any registrations lapse pursuant to this subsection, the applicable registrants must reapply for registration with the commission in order to reinstate the person's or entity's registered status.

(f) The commission, in its sole and absolute discretion may, upon receipt of a

written request:

(1) Waive the registration requirements of subdivisions (b)(2)(A) and (B) of this section for an individual or entity that currently holds a nonrestricted gaming license, or an affiliate thereof that has been registered or found suitable by the commission; or

(2) Waive the registration requirements of subdivision (b)(2)(C) of this section if the hosting center can demonstrate, to the commission's satisfaction, that the disclosure to the commission of certain information required under that subsection would hinder operations or pose a hardship due to contractual obligations.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-427. Hosting center — Access to premises.

(a) The premises on which a registered hosting center is located are subject to the power and authority of the Arkansas Racing Commission, as though the premises are where gaming is conducted and as if the hosting center is a gaming licensee.

(b) The commission may waive this requirement for portions of the hosting center premises if the hosting center can demonstrate to the commission's satisfaction that:

(1) Such portions do not host certain parts of any:

(A) Game;

(B) Gaming device;

(C) Cashless wagering system; or

(D) Race book or sports pool operation; and

(2) Access to such portions of the premises causes undue hardship on the hosting center or its tenants.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-428. Hosting center — Determination of suitability.

(a) The Arkansas Racing Commission may, upon recommendation of the

commission, require a person or entity owning, operating, or having a significant involvement with a hosting center to file an application for finding of suitability to be associated with licensed gaming, including race book or sports book operations.

(b)(1) The commission shall give written notice to a person or entity of its decision to require the filing of an application for a finding of suitability under subsection (a) of this section.

(2) Unless otherwise stated by the commission in its written notice, a person or entity that has been ordered to file an application for a finding of suitability may continue to own, operate, or otherwise be involved with a hosting center unless and until the commission finds the person unsuitable.

(c) If the commission finds any person or entity to be unsuitable under this section:

(1) The registration of such person or entity is thereupon cancelled; and

(2) All registered hosting centers and gaming licensees shall, upon written notification from the commission, terminate any existing relationship, direct or indirect, with such person.

(d) Failure of a gaming licensee to terminate any association or agreement, direct or indirect, with a person or entity found unsuitable under this section upon receiving written notice of the determination of unsuitability constitutes an unsuitable method of operation.

(e) Failure of a registered hosting center to terminate any association or agreement with a person or entity found unsuitable under this section upon receiving written notice of the determination of unsuitability shall constitute grounds for the revocation of the hosting center's registration.

(f) The commission retains jurisdiction to determine the suitability of a person or entity described in subsection (a) of this section regardless of whether or not that person or entity has severed any relationship with a registered hosting center or gaming licensee.

(g) Failure on the part of a person or entity described in subsection (a) of this section to submit an application for a finding of suitability within thirty (30) days of being demanded to do so by the commission shall constitute grounds for a finding of

unsuitability of that person or entity.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-429. Hosting center — Requirements on licensees utilizing hosting centers— Limitations on operations at hosting centers.

(a) Gaming licensees may only operate parts of any game, gaming device, cashless wagering system, or race book or sports pool operation at hosting centers that have an active registration with the Arkansas Racing Commission pursuant to this part.

(b)(1) A gaming licensee must report in writing to the commission the name of any registered hosting center it intends to utilize along with a description of what operations will take place at the hosting center.

(2) A gaming licensee must inform the commission in writing should any operations at the hosting center change or if the gaming licensee ceases operations at the hosting center altogether.

(c) The parts of the operation of any game, gaming device, cashless wagering system, or race book or sports pool operation that involve the physical acceptance of a wager from a patron or payout of winnings to a patron cannot occur at the hosting center, but rather must only occur in such manner and location as allowed under The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, or the rules adopted thereunder.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-430. Service providers.

(a) **Findings.** The Arkansas Racing Commission hereby finds that service providers are secure and reliable, that service providers do not pose a threat to the integrity of gaming, and that service providers are consistent with the public policy of this state.

(b) **Definitions.** As used in this section:

(1) "Commission" means the Arkansas Racing Commission or the commission's

designee;

(2) "Assumes responsibility" means to acquire control over, or ownership of, a person, or to acquire the authority, by contract or otherwise, to direct a person to make corrections, modifications, or changes to any aspect of the service or services provided by the person, including corrections, modifications, or changes to software or hardware;

(3)(A) "Geolocation service provider" means a person who identifies, or provides information for the identification of, the geographic location of individuals to a licensed operator of interactive gaming, licensed interactive gaming service provider, or licensed manufacturer of interactive gaming systems for purposes of interactive gaming.

(B) This definition does not include:

(i) A person who otherwise generally provides such information for purposes other than interactive gaming;

(ii) A licensed operator of interactive gaming who obtains such information for its own use;

(iii) A licensed interactive gaming service provider, or licensed manufacturer of interactive gaming systems who provides such information; or

(iv) A person who provides such information to a licensed operator of interactive gaming, licensed interactive gaming service provider, or licensed manufacturer of interactive gaming systems so long as the licensed operator of interactive gaming, licensed interactive gaming service provider, or licensed manufacturer of interactive gaming systems assumes responsibility for the information provided;

(4) "Information technology service provider" means a person who, on behalf of another licensee, provides management, support, security, or disaster recovery services for commission-regulated hardware or software;

(5)(A) "Patron identification service provider" means a person who verifies, or provides information for the verification of, the identification of individuals to a licensed operator of interactive gaming, licensed interactive gaming service provider, or licensed manufacturer of interactive gaming systems for purposes of interactive gaming.

(B) This definition does not include:

(i) A person who otherwise generally provides such information for purposes other than interactive gaming;

(ii) A licensed operator of interactive gaming who obtains such information for its own use;

(iii) A licensed interactive gaming service provider, or licensed manufacturer of interactive gaming systems who provides such information; or

(iv) A person who provides such information to a licensed operator of interactive gaming, licensed interactive gaming service provider, or licensed manufacturer of interactive gaming systems so long as the licensed operator of interactive gaming, licensed interactive gaming service provider, or licensed manufacturer of interactive gaming systems assumes responsibility for the information provided;

(6)(A) "Payment processing service provider" means a person who directly facilitates the depositing of funds into or withdrawing of funds from interactive gaming accounts for a licensed operator of interactive gaming or licensed interactive gaming service provider.

(B) This definition does not include:

(i) A licensed operator of interactive gaming who provides such services for its patrons;

(ii) A licensed interactive gaming service provider who provides such services; or

(iii) A person who provides such services to a licensed operator of interactive gaming or licensed interactive gaming service provider, so long as the licensed operator of interactive gaming or licensed interactive gaming service provider assumes responsibility for the service provided; and

(7) "Service provider" means a person who:

(A) Acts on behalf of another licensed person who conducts casino gaming operations, and who assists, manages, administers, or controls wagers or games, or maintains or operates the software or hardware of games on behalf of such a

licensed person, and is authorized to share in the revenue from games without being licensed to conduct gaming at an establishment;

(B) Is an interactive gaming service provider as defined pursuant to this part;

(C) Is a cash access and wagering instrument service provider;

(D) Is an information technology service provider;

(E) Acts on behalf of another licensed person who conducts casino gaming operations where the services provided include those functions that fall within the definition of "gaming employee";

(F) Is a geolocation service provider;

(G) Is a patron identification service provider; or

(H) Is a payment processing service provider.

(c) **Service provider investigation classifications.**

(1) The level of investigation conducted by the commission of a service provider applicant is classified based on the significance of the activities to be provided on behalf of a licensee and regulatory risk of the service provider.

(2) The investigation classifications are as follows:

(A) The following service providers are subject to a class 1 investigation:

(i) Any interactive gaming service provider;

(ii) Any service provider who receives payments based on earnings or profits from any gambling game; or

(iii)*(a)* Any other applicant for a service provider license who, upon a determination of the commission, should be subject to a class 1 investigation.

(b) Such determination shall be based on the policy set forth in this subsection; and

(B) Any service provider other than those identified in subdivision (c)(2)(A) of this section is subject to a class 2 investigation.

(d) A licensee may only use a service provider that is licensed as such by the commission.

(e) A licensee continues to have an obligation to ensure, and remains responsible

for, compliance with this part, The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, and all other rules of the commission regardless of its use of a service provider.

(f)(1) A person may act as a service provider only if that person holds a license authorizing the person to act as a service provider and subject to any further conditions, limitations, and restrictions imposed by the commission.

(2) Once licensed, a service provider may act on behalf of one (1) or more casino licensees.

(g) **Licensing.**

(1) Applications for a service provider license that is subject to a class 1 investigation shall be made, processed, and determined in the same manner as applications for casino licenses, using such forms as the commission may require or approve.

(2)(A) Applications for a service provider license that is subject to a class 2 investigation shall be made, processed, and determined using such forms as the commission may require or approve and must be accompanied and supplemented by such documents and information as may be specified or required.

(B) Such service providers shall be subject to an investigation and review by the commission as deemed necessary by the commission based on the regulatory risk and the intended activities of the service provider but that is at a level less than a class 1 investigation.

(3) Before receiving a license, a service provider must meet the qualifications for licensing.

(4)(A) Nothing in this subpart shall be construed to limit or prevent the commission from conducting such supplementary or expanded investigations of any applicant for a service provider license as determined necessary by the commission.

(B) The commission may require an applicant for a service provider license to pay any supplementary investigative fees and costs in accordance with this part.

(h) An applicant for a service provider license shall have the burden of showing

that its operations are secure and reliable.

(i) Applications for a service provider license shall be subject to the application and investigative fees established pursuant to this part.

(j)(1) The premises on which a service provider conducts its operations is subject to the power and authority of the commission.

(2) It shall be an unsuitable method of operation for a service provider holding a license issued by the commission to deny any commission member or agent, upon proper and lawful demand, access to, inspection, or disclosure of any portion or aspect of their operations.

(k) A service provider shall be liable to the licensee on whose behalf the service provider acts for the service provider's proportionate share of the fees and taxes paid by the licensee.

(l) **Employees of service provider.** Any employee of a service provider who is connected directly with the operations of the service provider or who, on behalf of a licensee or on behalf of the service provider, performs the duties of a gaming employee is a gaming employee subject to the provisions of this part.

(m) **License fees.**

(1) Before the commission issues an initial license or renews a license for a service provider, the service provider shall pay a license fee of one thousand dollars ($1,000).

(2) All service provider licenses shall be issued for the calendar year beginning on January 1 and expiring on December 31.

(3) If the operation as a service provider is continuing, the fee prescribed by subdivision (m)(1) of this section shall be due on or before December 31 of the ensuing calendar year.

(4) Regardless of the date of application or issuance of the license, the fee charged and collected under this section is the full annual fee.

(n) Any provisions of 23 CAR § 358-501 et seq. specifically applicable to interactive gaming service providers shall control over this subpart.

(o) **Grounds for disciplinary action.**

(1) Failure to comply with the provisions of this subpart shall be an unsuitable method of operation and grounds for disciplinary action.

(2) The commission may limit, condition, suspend, revoke, or fine any license, registration, finding of suitability, or approval given or granted under this subpart on the same grounds as it may take such action with respect to any other license, registration, finding of suitability, or approval.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

Subpart 5. Operation of Interactive Gaming

23 CAR § 358-501. Scope.

This subpart shall govern the operation of interactive gaming.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-502. Definitions.

As used in this subpart:

(1) "Authorized player" means a person who has registered with the operator of interactive gaming to engage in interactive gaming;

(2) "Commission" means the Arkansas Racing Commission or the commission's designee;

(3) "Interactive gaming account" means a wagering account as that term is defined in this subpart;

(4) "Interactive gaming service provider" means a person who acts on behalf of an operator of interactive gaming and:

(A) Manages, administers, or controls wagers that are initiated, received, or made on an interactive gaming system;

(B) Manages, administers, or controls the games with which wagers that are initiated, received, or made on an interactive gaming system are associated;

(C) Maintains or operates the software or hardware of an interactive gaming system; or

(D) Provides products, services, information, or assets to an operator of interactive gaming and receives therefor a percentage of gaming revenue from the establishment's interactive gaming system;

(5) "Interactive gaming system" shall have the same meaning as provided in this part;

(6) "Inter-operator poker network" means a pool of authorized players from two (2) or more operators collected together to play the game of poker on one (1) interactive gaming system;

(7) "Operate interactive gaming" means to operate, carry on, conduct, maintain, or expose for play in or from the State of Arkansas interactive gaming on an interactive gaming system;

(8)(A) "Operator of interactive gaming" or "operator" means a person who operates interactive gaming.

(B) An operator of interactive gaming who is granted a license by the Arkansas Racing Commission is a licensee;

(9)(A) "Poker" means the traditional game of poker, and any derivative of the game of poker as approved by the Arkansas Racing Commission wherein two (2) or more players play against each other and wager on the value of their hands.

(B) For purposes of interactive gaming, poker is not a banking game; and

(10) "Wagering communication" means the transmission of a wager between a point of origin and a point of reception through communications technologies.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-503. License required — Applications.

(a) A person may act as an operator of interactive gaming only if that person holds a license specifically permitting the person to act as an operator of interactive gaming.

(b) Applications for an operator of an interactive casino license shall be made,

processed, and determined in the same manner as applications for casino licenses, using such forms as the Arkansas Racing Commission may require or approve.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-504. Initial and renewal license fees.

Before the Arkansas Racing Commission issues an initial license or renews a license for an operator of interactive gaming, the operator of interactive gaming shall pay the license fees.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-505. Investigative fees.

Applications for an operator of an interactive casino license shall be subject to the application and investigative fees established pursuant to this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-506. Interactive gaming systems.

(a) An operator shall not operate a new interactive gaming system in this state unless the interactive gaming system has been approved by the Arkansas Racing Commission.

(b) Operators shall provide the commission, prior to commencing operations of their interactive gaming system, with a list of all persons who may access the main computer or data communications components of their interactive gaming system and any changes to that list shall be provided to the commission within ten (10) days.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-507. Internal controls for operators of interactive gaming.

(a) Each operator shall establish, maintain, implement, and comply with standards that the Arkansas Racing Commission shall adopt and publish pursuant to the provisions of this part.

(b) Such minimum standards shall include internal controls for:

(1) As specified under this part, administrative, accounting, and audit procedures for the purpose of determining the licensee's liability for taxes and fees under The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, and for the purpose of exercising effective control over the licensee's internal affairs;

(2) Maintenance of all aspects of security of the interactive gaming system;

(3) Registering authorized players to engage in interactive gaming;

(4)(A) Identification and verification of authorized players to prevent those who are not authorized players from engaging in interactive gaming.

(B) The procedures and controls must incorporate robust and redundant identification methods and measures in order to manage and mitigate the risks of non-face-to-face transactions inherent in interactive gaming;

(5) Protecting and ensuring confidentiality of authorized players' interactive gaming accounts;

(6) Reasonably ensuring that interactive gaming is engaged in between human individuals only;

(7) Reasonably ensuring that interactive gaming is conducted fairly and honestly, including the prevention of collusion between authorized players;

(8) Testing the integrity of the interactive gaming system on an ongoing basis;

(9)(A) Promoting responsible interactive gaming and preventing individuals who have self-excluded from engaging in interactive gaming.

(B) Such internal controls shall include provisions for substantial compliance with this part; and

(10) Protecting an authorized player's personally identifiable information, including, but not limited to:

(A) The designation and identification of one (1) or more senior company

officials having primary responsibility for the design, implementation, and ongoing evaluation of such procedures and controls;

(B) The procedures to be used to determine the nature and scope of all personally identifiable information collected, the locations in which such information is stored, and the devices or media on which such information may be recorded for purposes of storage or transfer;

(C) The policies to be utilized to protect personally identifiable information from unauthorized access by employees, business partners, and persons unaffiliated with the company;

(D) Notification to authorized players of privacy policies;

(E) Procedures to be used in the event the operator determines that a breach of data security has occurred, including required notification to the on-site Department of Finance and Administration representatives; and

(F) Provision for compliance with all local, state, and federal laws concerning privacy and security of personally identifiable information.

(c) "Personally identifiable information" means any information about an individual maintained by an operator including:

(1) Any information that can be used to distinguish or trace an individual's identity, such as:

(A) Name;

(B) Social Security number;

(C) Date and place of birth;

(D) Mother's maiden name; or

(E) Biometric records; and

(2) Any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information.

(d)(1) The commission may determine additional areas that require internal controls having minimum standards.

(2) The commission shall adopt and publish any such additional internal controls and the minimum standards pursuant to the provisions of the Arkansas

Administrative Procedure Act, Arkansas Code § 25-15-201 et seq., and this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-508. Detection and prevention of criminal activities.

Each operator shall implement procedures that are designed to detect and prevent transactions that may be associated with money laundering, fraud, and other criminal activities and to ensure compliance with all federal laws related to money laundering.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-509. Access to premises and production of records.

(a) Operators holding a license issued by the Arkansas Racing Commission are subject to the inspection provisions of this part.

(b) It shall be an unsuitable method of operation for an operator holding a license issued by the commission to deny any commission member or agent, upon proper and lawful demand, access to or inspection or disclosure of any portion or aspect of their operations.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-510. House rules.

(a) Each operator shall adopt and adhere to written, comprehensive house rules governing wagering transactions by and between authorized players that are available for review at all times by authorized players through a conspicuously displayed link.

(b) Such house rules shall include, but not be limited to, specifying the following:

(1) Clear and concise explanation of all fees;

(2) The rules of play of a game;

(3) Any monetary wagering limits; and

(4) Any time limits pertaining to the play of a game.

(c) Prior to adopting or amending such house rules, an operator shall submit such rules to the Arkansas Racing Commission for the commission's approval.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-511. Registration of authorized player.

(a) Before allowing or accepting any wagering communication from an individual to engage in interactive gaming, an operator must register the individual as an authorized player and create an interactive gaming account for the individual in accordance with this section.

(b) An operator may register an individual as an authorized player only if the individual provides the operator with the following information:

(1) The identity of the individual;

(2) The individual's date of birth showing that the individual is twenty-one (21) years of age or older;

(3) The physical address where the individual resides;

(4) The Social Security number for the individual, if a United States resident;

(5) That the individual had not previously self-excluded with the operator and otherwise remains on the operator's self-exclusion list; and

(6) That the individual is not on the list of excluded persons established pursuant to this part.

(c) Before registering an individual as an authorized player, the operator must have the individual affirm the following:

(1) That the information provided to the operator by the individual to register is accurate;

(2) That the individual has reviewed and acknowledged access to the house rules for interactive gaming;

(3) That the individual has been informed and has acknowledged that, as an authorized player, the individual is prohibited from allowing any other person access to or use of his or her interactive gaming account;

(4) That the individual has been informed and has acknowledged that, as an authorized player, the individual is prohibited from engaging in interactive gaming from a state or foreign jurisdiction in which interactive gaming is illegal and that the operator is prohibited from allowing such interactive gaming;

(5) That the individual has been informed and has acknowledged that, if the operator is unable to verify the information provided by the individual pursuant to subsection (b) of this section within thirty (30) days of registration, any winnings attributable to the individual will be retained by the operator and the individual shall have no right to such winnings;

(6) Consents to the monitoring and recording by the operator and the Arkansas Racing Commission of any wagering communications; and

(7) Consents to the jurisdiction of the State of Arkansas to resolve disputes arising out of interactive gaming.

(d) An operator may allow an individual to register as an authorized player either remotely or in person.

(e)(1) Within thirty (30) days of the registration of the authorized player, the operator shall verify the information provided by the individual pursuant to subsection (b) of this section.

(2) Until such verification has occurred:

(A) The authorized player may not deposit more than five thousand dollars ($5,000) in his or her interactive gaming account; and

(B) The authorized player may not withdraw any funds from his or her interactive gaming account.

(f) If verification of the information provided pursuant to subsection (b) of this section has not occurred within thirty (30) days, the operator shall:

(1) Immediately suspend the interactive gaming account and not allow any further interactive gaming;

(2) Retain any winnings attributable to the authorized player; and

(3) Refund the balance of deposits made to the interactive gaming account to the source of such deposit or by issuance of a check and then permanently close the

account.

(g) Any winnings due to an authorized player prior to completion of the verification process shall be credited to the authorized player's interactive gaming account immediately upon successful verification.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-512. Interactive gaming accounts.

In addition to the requirements established pursuant to this part, an operator shall comply with the following for interactive gaming accounts:

(1) An operator shall record and maintain the physical location, by state or foreign jurisdiction, of the authorized player while logged in to the interactive gaming account;

(2) An operator shall ensure the following:

(A) That an individual registered as an authorized player holds only one (1) interactive gaming account with the operator; and

(B) That no authorized player shall occupy more than one (1) position at a game at any given time;

(3)(A) Notwithstanding 23 CAR § 358-425(i), an operator shall neither extend credit to an authorized player for use in interactive gaming nor allow the deposit of funds into an interactive gaming account for use in interactive gaming that are derived from the extension of credit by affiliates or agents of the operator.

(B) For purposes of this subsection, credit shall not be deemed to have been extended where, although funds have been deposited into an interactive gaming account, the operator is awaiting actual receipt of such funds in the ordinary course of business;

(4) An operator shall ensure that an authorized player has the ability, through the authorized player's interactive gaming account, to select responsible gambling options that include without limitation:

(A) Loss limits establishing the net loss that can occur within a specified

period of time;

(B) Deposit limits establishing the amount of total deposits an authorized player can make to his or her interactive gaming account within a specified period of time;

(C) Tournament limits establishing the total dollar amount of tournament entries a patron can purchase within a specified period of time;

(D) Buy-in limit establishing the total amount of funds an authorized player can allocate for the play of poker within a specified period of time, exclusive of tournament entries purchased;

(E) Play time limits establishing the total amount of time available for play during a specified period of time; and

(F) Time-based exclusion from gambling settings; and

(5) An operator shall not allow the use of an interactive gaming account established pursuant to this part for forms of wagering other than interactive gaming unless:

(A) The establishment and use of the wagering account otherwise meets all of the requirements of this part; and

(B) Administrative approval has been granted by the Arkansas Racing Commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-513. Reserve requirements.

In addition to the reserve required by this part, and other requirements that may be imposed by this part, the operator shall maintain cash in the sum of the following:

(1) Twenty-five percent (25%) of the total amount of authorized players' funds held in interactive gaming accounts, excluding those funds that are not redeemable for cash; and

(2) The full amount of any progressive jackpots related to interactive gaming.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-514. Self-exclusion.

(a)(1) Operators must have and put into effect policies and procedures for self-exclusion and take all reasonable steps to immediately refuse service to or to otherwise prevent an individual who has self-excluded from participating in interactive gaming.

(2) These policies and procedures include without limitation the following:

(A) The maintenance of a register of those individuals who have self-excluded that includes the name, address, and account details of self-excluded individuals;

(B) The closing of the interactive gaming account held by the individual who has self-excluded;

(C) Employee training to ensure enforcement of these policies and procedures; and

(D) Provisions precluding an individual who has self-excluded from being allowed to again engage in interactive gaming until a reasonable amount of time of not fewer than thirty (30) days has passed since the individual self-excluded.

(b) Operators must take all reasonable steps to prevent any marketing material from being sent to an individual who has self-excluded.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-515. Compensation.

Any compensation received by an operator for conducting any game in which the operator is not party to a wager shall be no more than ten percent (10%) of all sums wagered in each hand.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-516. Acceptance of wagers.

(a) Operators shall not accept or facilitate a wager:

(1) On any game other than the game of poker and its derivatives as approved by the Arkansas Racing Commission and published on the commission's website;

(2) On any game which the operator knows or reasonably should know is not between individuals;

(3) On any game which the operator knows or reasonably should know is made by a person on the self-exclusion list;

(4) From a person who the operator knows or reasonably should know is placing the wager in violation of state or federal law;

(5) Using an interoperator poker network except as otherwise allowed by the commissioner;

(6) From any officer, director, owner, or key employee of such an operator or its affiliates; or

(7) Except as provided in subsection (b) of this section, from:

(A) Stakes players;

(B) Proposition players; or

(C) Shills.

(b)(1) Operators may use a celebrity player for marketing purposes to attract authorized players if the operator clearly identifies the celebrity player to the authorized players and does not profit beyond the rake.

(2) For purposes of this subsection, a "celebrity player" is an authorized player under agreement with the operator whereby the celebrity player is paid a fixed sum by the operator to engage in interactive gaming and who may or may not use their own funds to engage in interactive gaming.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-517. Progressive payoff schedules.

(a) As used in this section:

(1) "Base amount" means the amount of a progressive payoff schedule initially

offered before it increases;

(2) "Incremental amount" means the difference between the amount of a progressive payoff schedule and its base amount; and

(3) "Progressive payoff schedule" means any payoff schedule associated with a game played on an interactive gaming system, including those associated with contests, tournaments, or promotions, that increases automatically over time or as the game or games or machine or machines are played.

(b) To the extent an operator offers any progressive payoff schedule, the operator shall comply with this section.

(c)(1) The amount of a progressive payoff schedule shall be conspicuously displayed during an authorized player's play of a game to which the payoff schedule applies.

(2) Each operator shall record the base amount of each progressive payoff schedule when first exposed for play and subsequent to each payoff.

(3) Explanations for reading decreases shall be maintained with the progressive logs.

(4) When the reduction is attributable to a payoff, the operator shall record the payoff form number on the log or have the number reasonably available.

(d) An operator may change the rate of progression of any progressive payoff schedule provided that records of such changes are created.

(e)(1) An operator may limit a progressive payoff schedule to an amount that is equal to or greater than the amount of the payoff schedule when the limit is imposed.

(2) The operator shall conspicuously provide notice of the limit during an authorized player's play of a game to which the limit applies.

(f) An operator shall not reduce the amount of a progressive payoff schedule or otherwise eliminate a progressive payoff schedule unless:

(1) An authorized player wins the progressive payoff schedule;

(2) The operator adjusts the progressive payoff schedule to correct a malfunction or to prevent the display of an amount greater than a limit imposed pursuant to subsection (e) of this section, and the operator documents the adjustment

and the reasons for it; or

(3) The Arkansas Racing Commission, upon a showing of exceptional circumstances, approves a reduction, elimination, distribution, or procedure not otherwise described in this subsection, which approval is confirmed in writing.

(g) Except as otherwise provided by this section, the incremental amount of a progressive payoff schedule is an obligation to the operator's authorized players, and it shall be the responsibility of the operator, if the operator ceases operation of the progressive game, to arrange satisfaction of that obligation to the satisfaction of the commission.

(h) Distribution of progressive payoffs shall only be made to authorized players.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-518. Information displayed on website.

Operators must provide for the prominent display of the following information on a page which, by virtue of the construction of the website, authorized players must access before beginning a gambling session:

(1) The full name of the operator and address from which it carries on business;

(2) A statement that the operator is licensed and regulated by the Arkansas Racing Commission;

(3) The operator's license number;

(4) A statement that persons under the age of twenty-one (21) years of age are not permitted to engage in interactive gaming;

(5) A statement that persons located in a jurisdiction where interactive gaming is not legal are not permitted to engage in interactive gaming; and

(6) Active links to the following:

(A) Information explaining how disputes are resolved;

(B) A problem gambling website that is designed to offer information pertaining to responsible gaming;

(C) The commission's website;

(D) A website that allows for an authorized player to choose to be excluded from engaging in interactive gaming; and

(E) A link to the house rules adopted by the operator.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-519. Advertising and promotions.

(a) An operator, including its employees or agents, shall be truthful and nondeceptive in all aspects of its interactive gaming advertising and promotions.

(b) An operator which engages in any promotion related to interactive gaming shall clearly and concisely explain the terms of the promotion and adhere to such terms.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-520. Suspicious Wagering Report.

(a) As used in this section, "suspicious wagering activity" means a wager which an operator licensee knows or in the judgment of it or its directors, officers, employees, and agents has reason to suspect is being attempted or was placed:

(1) In violation of or as part of a plan to violate or evade any federal, state, or local law, rule, or regulation; and

(2) Has no business or apparent lawful purpose or is not the sort of wager which the particular authorized player would normally be expected to place, and the licensee knows of no reasonable explanation for the wager after examining the available facts, including the background of the wager.

(b) An operator shall file a report of any suspicious wagering activity, regardless of the amount, if the operator believes it is relevant to the possible violation of any law, rule, or regulation.

(c)(1) The report in subsection (b) of this section shall be filed no later than seven (7) calendar days after the initial detection by the licensee of facts that may constitute

a basis for filing such a report.

(2) If no suspect was identified on the date of the detection of the incident requiring the filing of the report, an operator may delay filing a report for an additional seven (7) calendar days to identify a suspect.

(3) In no case shall reporting be delayed more than fourteen (14) calendar days after the date of initial detection of a reportable transaction.

(4) In situations involving violations that require immediate attention, the operator shall immediately notify, by telephone, the Arkansas Racing Commission in addition to timely filing a report.

(d)(1) An operator shall maintain a copy of any report filed and the original or business record equivalent of any supporting documentation for a period of five (5) years from the date of filing the report.

(2) Supporting documentation shall be identified, and maintained by the operator as such, and
shall be deemed to have been filed with the report.

(3) An operator shall make all supporting documentation available to the commission and any appropriate law enforcement agencies upon request.

(e) An operator and its directors, officers, employees, or agents who file a report pursuant to this subpart shall not notify any person involved in the transaction that the transaction has been reported.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-521. Gross revenue license fees, attribution, liability, and computations for interactive gaming.

(a) Gross revenue received by an establishment from the operation of interactive gaming is subject to the same license fee provisions as the games and gaming devices of the establishment, unless federal law otherwise provides for a similar fee or tax.

(b) For a casino licensee granted an operator of interactive casino license pursuant to this part, gross revenue received from the operation of interactive gaming shall be

attributed to the casino licensee and counted as part of the gross revenue of the casino licensee for the purpose of computing the license fee.

(c)(1) For an affiliate of a casino licensee granted an operator of interactive gaming license in compliance with any qualifications established by federal law regulating the licensure of interactive gaming, gross revenue received from the operation of interactive gaming by the affiliate is subject to the same licensee fee provisions as the games and gaming devices of the affiliated casino licensee and shall be attributed to the affiliated casino licensee and counted as part of the gross revenue of the affiliated casino licensee for the purpose of computing the license fee, unless federal law otherwise provides for a similar fee or tax.

(2) The operator, if receiving all or a share of the revenue from interactive gaming, is liable to the affiliated casino licensee for the operator's proportionate share of the license fees paid by the affiliated casino licensee.

(d) For each game in which the operator is not a party to the wager, gross revenue equals all money received by the operator as compensation for conducting the game, or for conducting any contest or tournament in conjunction with interactive gaming.

(e) The casino licensee holding an operator of interactive casino license or the casino licensee affiliated with an operator of interactive casino licensee is responsible for reporting all gross revenue derived through interactive gaming.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-522. **Records**.

(a) In addition to any other record required to be maintained pursuant to this part, each operator shall maintain complete and accurate records of all matters related to their interactive gaming activity, including without limitation the following:

(1) The identity of all current and prior authorized players;

(2) All information used to register an authorized player;

(3) A record of any changes made to an interactive gaming account;

(4) A record and summary of all person-to-person contact, by telephone or

otherwise, with an authorized player;

(5) All deposits and withdrawals to an interactive gaming account;

(6) A complete game history for every game played including the:

(A) Identification of all authorized players who participate in a game;

(B) Date and time a game begins and ends;

(C) Outcome of every game;

(D) Amounts wagered; and

(E) Amounts won or lost by each authorized player; and

(7) Disputes arising between authorized players.

(b)(1) Operators shall preserve the records required by this subpart for at least five (5) years after they are made.

(2) Such records may be stored by electronic means, but must be maintained on the premises of the operator or must otherwise be immediately available for inspection.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-523. Grounds for disciplinary action.

(a) Failure to comply with the provisions of this subpart shall be an unsuitable method of operation and grounds for disciplinary action.

(b) The Arkansas Racing Commission may limit, condition, suspend, revoke, or fine any license, registration, finding of suitability, or approval given or granted under this subpart on the same grounds as it may take such action with respect to any other license, registration, finding of suitability, or approval.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-524. Power of commission and commission.

(a) The Arkansas Racing Commission shall have the power to issue an interlocutory stop order to an operator suspending the operation of its interactive gaming system to

allow for examination and inspection of the interactive gaming system by commission agents.

(b) An operator that is the subject of an interlocutory stop order issued by the commission shall immediately cease the operation of its interactive gaming system until the interlocutory stop order is lifted.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-525. Interactive gaming service providers.

(a)(1) An interactive gaming service provider that acts on behalf of an operator to perform the services of an interactive gaming service provider shall be subject to the provisions of this subpart applicable to such services to the same extent as the operator.

(2) An operator continues to have an obligation to ensure, and remains responsible for, compliance with this subpart regardless of its use of an interactive gaming service provider.

(b)(1) A person may act as an interactive gaming service provider only if that person holds a license specifically permitting the person to act as an interactive gaming service provider.

(2) Once licensed, an interactive gaming service provider may act on behalf of one (1) or more operators.

(c) An operator may only use the services of a service provider that is licensed by the Arkansas Racing Commission as an interactive gaming service provider.

(d) **License fees.**

(1) Before the commission issues an initial license or renews a license for an interactive gaming service provider, the interactive gaming service provider shall pay a license fee of one thousand dollars ($1,000).

(2)(A) All interactive gaming service provider licenses shall be issued for the calendar year beginning on January 1 and expiring on December 31.

(B) If the operation is continuing, the fee prescribed by subdivision (d)(1)

of this section shall be due on or before December 31 of the ensuing calendar year.

(C) Regardless of the date of application or issuance of the license, the fee charged and collected under this section is the full annual fee.

(e) Any employee of an interactive gaming service provider whose duties include the operational or supervisory control of the interactive gaming system or the games that are part of the interactive gaming system are subject to the provisions of this part to the same extent as gaming employees.

(f) It shall be an unsuitable method of operation for an interactive gaming service provider holding a license issued by the commission to deny any commission member or agent, upon proper and lawful demand, access to or inspection or disclosure of any portion or aspect of their operations.

(g) An interactive gaming service provider shall be liable to the licensee on whose behalf the services are provided for the interactive gaming service provider's proportionate share of the fees and taxes paid by the licensee.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-526. Waiver of requirements of rules.

(a) Upon written request and good cause shown, the Arkansas Racing Commission may waive one (1) or more of the requirements of the rules in this subpart.

(b) If a waiver is granted, the commission may impose alternative requirements.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

Subpart 6. Accounting Rules

23 CAR § 358-601. Definitions.

As used in this subpart:

(1) "Affiliate" means business companies, organizations, or individuals are affiliates of each other if, directly or indirectly, either one has the power to control the

other, or a third party controls or has the power to control both;

(2) Unless otherwise specified, "commission" means the Arkansas Racing Commission or the commission's designee;

(3) "Business year" means the annual period used by a licensee for internal accounting purposes;

(4) "CGS" means the Casino Gaming Section, also referred to as the Gaming Audit Division, of the Department of Finance and Administration;

(5) "DF&A" means the Department of Finance and Administration;

(6) "Electronic transfer" means the transmission of money or data via an electronic terminal, a telephone, a magnetic tape, or a computer and a modem to the Arkansas Racing Commission;

(7) "Fiscal year" means a period beginning on July 1 and ending June 30 of the following year;

(8) "Gaming device" means any mechanical, electromechanical, or electronic device or machine for money, property, checks, credit, or any representative of value, including, without limiting the generality of the foregoing:

(A) Faro;

(B) Monte;

(C) Roulette;

(D) Keno;

(E) Bingo;

(F) Fan-tan;

(G) Twenty-one;

(H) Blackjack;

(I) Seven-and-a-half;

(J) Big injun;

(K) Klondike;

(L) Craps;

(M) Poker;

(N) Chuck-a-luck;

(O) Chinese chuck-a-luck (dai shu);

(P) Wheel of fortune;

(Q) Chemin de fer;

(R) Baccarat;

(S) Pai gow;

(T) Beat the banker;

(U) Panguingui;

(V) Slot machine;

(W) Any banking or percentage game; or

(X) Any other game or device approved by the Arkansas Racing Commission;

(9)(A) "Gross wagering revenue" means the total value of currency, coupons, gaming tickets, and electronic credits invested by a patron in casino gaming.

(B) However, "gross wagering revenues" shall not include promotional coupons or promotional electronic credits provided by a licensee to a patron at no cost to the patron, which are used by the patron to make a wager;

(10)(A) "Net casino gaming receipts" means gross receipts from casino gaming less amounts paid out or reserved as winnings to casino patrons.

(B) However, gross receipts from casino gaming shall not include promotional coupons or promotional electronic credits provided by a licensee to a patron at no cost to the patron, which are used by the patron to make a wager;

(11) "Net casino gaming receipts tax" means a tax on net casino gaming receipts;

(12) "Operator" means any person or entity holding a license to operate an intercasino-linked system in Arkansas, or a person or entity holding a license to operate a casino gaming operation that operates an intercasino-linked system for affiliates;

(13) "Statements on auditing standards" means the auditing standards and procedures published by the American Institute of Certified Public Accountants;

(14) "Statements on standards for accounting and review services" means the standards and procedures published by the American Institute of Certified Public

Accountants;

(15) "Statistical drop" means the dollar amount of cash wagered by a patron that is placed in the drop box plus the dollar amount of chips issued at a table to a patron for currency, credit instruments, or rim credit; and

(16) "Statistical win" means the dollar amount won by the licensee through table play.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-602. Commission audit procedures.

(a)(1) The CGS of the Office of Field Audit shall act at the direction of the Arkansas Racing Commission pursuant to the authority granted to the commission under The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100.

(2) It is also recognized that duties regarding the collection and administration of other state tax laws are likewise delegated to the Secretary of the Department of Finance and Administration.

(3) In the course of fulfilling its duties under this subpart, the CGS shall exercise the following powers, duties, and responsibilities:

(A) Audit income received by a licensee from casino gaming; and

(B) Review the operation, financial data, and program information relating to casino gaming through a central computer that will allow the CGS to:

(i) Audit the gaming operation of a licensee; and

(ii) Monitor wagering patterns, payouts, privilege fee payments, and other matters related to the payment of net gaming receipts tax or any other state tax administered by the Department of Finance and Administration;

(C)(i) Require a licensee to maintain specific records and submit any information, records, or reports required for the administration of net gaming receipts tax or other state taxes.

(ii) The CGS may also make recommendations to the commission that a licensee be required to maintain specified records and submit information, records, or

reports required under Amendment 100 and this part as determined by the commission to be necessary for the proper implementation and enforcement of those provisions of Amendment 100 unrelated to the collection of net gaming receipts tax or other state taxes;

(D)(i) The CGS shall investigate, audit, or review other operations of the licensee unrelated to the collection of net gaming receipts tax or other state taxes, as directed by the commission to fulfill the commission's responsibilities under Amendment 100.

(ii) The commission shall direct and supervise the CGS in exercising the statutory duties of the commission as authorized under Amendment 100 and this part, except with regard to activities of the CGS related to the collection and administration of net gaming receipts tax or other state taxes; and

(E)(i) In addition to the duties related to collection of net gaming receipts tax, all day-to-day operational duties related to enforcement of the casino gaming rules adopted by the commission shall be conducted by the CGS under authority of a resolution duly adopted by the commission as recorded in the minutes of the commission delegating such authority.

(ii) Any and all subsequent limitations of such regulation shall be made in the form of a commission resolution.

(b) **Additional responsibilities.**

(1) The CGS shall have unrestricted access to the gaming floor and facility at all times and shall require that each licensee strictly comply with Amendment 100 and the commission's rules relating to the operation of casino gaming.

(2) The CGS shall:

(A) Inspect and examine facilities where casino gaming is offered for play;

(B) Inspect casino gaming and any other equipment or supplies used in conjunction with or in any way related to casino gaming;

(C) Collect any assessments, fees, penalties, or other charges arising from the operation of casino gaming for which a licensee is liable to the State of Arkansas; and

(D)(i) Receive and investigate complaints concerning the operation of casino gaming by licensees.

(ii) Complaints that cannot be resolved shall be forwarded by the CGS to the commission for review and adjudication by the commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-603. Procedure for reporting, using, and paying gaming taxes and fees.

(a) Licensees conducting casino gambling under The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, shall pay the net gaming receipts tax:

(1) Thirteen percent (13%) on the first one hundred fifty million dollars ($150,000,000) of net casino gaming receipts or any part thereof; and

(2) Twenty percent (20%) on net casino gaming receipts exceeding one hundred fifty million and one dollars ($150,000,001) or any part thereof.

(b)(1) The net gaming receipts tax shall be reported under oath and paid on a monthly basis on or before the twentieth day of each month to the Secretary of the Department of Finance and Administration.

(2) Reporting forms will be prescribed and furnished by the secretary and shall show the total net gaming receipts from casino gaming during the preceding calendar month.

(c) The net gaming receipts tax levied by this section is in lieu of any state or local gross receipts, sales, or other similar taxes, and to this end the Arkansas Gross Receipts Act of 1941, Arkansas Code § 26-52-101 et seq., shall not be applicable to gross receipts derived by licensees from casino gaming.

(d)(1) The net gaming casino receipts tax payable to the secretary under subdivision (a)(1) of this section shall be administered by the secretary pursuant to the Arkansas Tax Procedure Act, Arkansas Code § 26-18-101 et seq.

(2) However, regulatory authority over licensing and other matters under this

part not relating to the administration, payment, and collection of the net gaming receipts tax shall remain with the Arkansas Racing Commission.

(e) In accordance with Arkansas law, all net gaming receipts tax received by the secretary required by this part and Amendment 100 shall be deposited with the State Treasurer.

(f) Effective for licensure years beginning on or after January 1, 2022, the commission shall deposit all license fees and license renewal fees of any type imposed under this part in the Arkansas Racing Commission Cash Fund, except the following, which shall be deposited into the State Treasury as general revenue:

(1) The initial application fee imposed by 23 CAR § 358-209;

(2) The ten-year renewal fee imposed by 23 CAR § 358-214; and

(3) Any fines or penalties imposed by the commission.

(g) Effective for licensure years beginning on or after January 1, 2022, if the commission collects investigative fees and costs, those fees and costs shall be deposited in the fund that incurred the cost of the investigation.

(h) All fees and costs deposited in the Arkansas Racing Commission Cash Fund shall be used by the commission in its discretion for the regulation of casino gaming or racing in the State of Arkansas or any other activity over which it has authority.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-604. Accounting records.

(a) Each licensee shall maintain complete, accurate, and legible records of all transactions pertaining to the revenues and costs for each establishment.

(b)(1)(A) General accounting records shall be maintained on a double-entry system of accounting with transactions recorded on the accrual basis.

(B) Detailed, supporting, subsidiary records sufficient to meet the requirements of subsection (c) of this section shall also be maintained in accordance with the requirements of this section.

(2) The licensee will submit to the Arkansas Racing Commission for its

approval a chart of accounts and accounting classification in order to ensure consistency, comparability, and effective disclosure of financial information.

(3) The chart of accounts shall provide the classifications necessary to prepare the standard financial statements required by 23 CAR § 358-609.

(4) The prescribed chart of accounts shall be the minimum level of detail to be maintained for each accounting classification by the licensee.

(5)(A) The licensee shall use the prescribed chart of accounts but may, with the permission of the Arkansas Racing Commission, expand the level of detail for some or all accounting classifications and/or alter the account numbering system.

(B) In such instances, the licensee shall provide to the Arkansas Racing Commission, upon request, a cross-reference from the prescribed chart of accounts.

(c) The detailed, supporting, and subsidiary records shall include, but not necessarily be limited to:

(1) Records supporting the accumulation of the costs and number of persons, by category of service, for regulated complimentary services;

(2) Records of all investments, advances, loans, and receivable balances due to the establishment;

(3) Records related to investments in property and equipment;

(4) Records which identify the gross wagering revenue, payout, win amounts, and percentages will be reported daily, and theoretical win amounts and percentages and differences between theoretical and actual win amounts and percentages for each casino gaming periodically, monthly, or as requested by the Arkansas Racing Commission;

(5) Records of all loans and other amounts payable by the establishment; and

(6) Records provided for in the system of internal accounting controls submitted to the Arkansas Racing Commission.

(d) Each licensee, unless specifically exempted by the Arkansas Racing Commission, shall, at its own expense, cause its annual financial statements to be audited in accordance with generally accepted auditing standards by an independent certified public accountant licensed to practice in the State of Arkansas.

(e) The annual financial statements shall be prepared for the current year and shall present financial position and results of operations in conformity with generally accepted accounting principles.

(f)(1) The financial statements required by this section shall include a footnote reconciling and explaining any differences between the financial statements included in the licensee's annual report, filed in conformity with this part, and the audited financial statements.

(2) Such footnote shall, at a minimum, disclose the effect of such adjustments on:

(A) Revenues from casino gaming;

(B) Revenues net of complimentary services;

(C) Total costs and expenses;

(D) Income before extraordinary items; and

(E) Net income.

(g) Two (2) copies of the annual audited financial statements, together with the report thereon of the licensee's independent certified public accountant, shall be filed with the Arkansas Racing Commission not later than June 1 following the end of the calendar year.

(h) Each licensee shall require its independent certified public accountant to render the following additional reports:

(1)(A) Report on material weaknesses in internal accounting control.

(B) Whenever in the opinion of the independent certified public accountant there exist no material weaknesses in internal accounting control, the report shall so state;

(2) Whenever in the opinion of the independent certified public accountant the licensee has materially deviated from the system of internal accounting control approved by the Arkansas Racing Commission or the accounts, records, and control procedures examined are not maintained by the licensee in accordance with this part, the report shall enumerate such deviations and such areas of the system no longer considered effective, and shall make recommendations regarding improvements in the

system of internal accounting control; and

(3)(A) The licensee shall prepare a written response to the independent certified public accountant's reports required by subdivisions (h)(1) and (2) of this section.

(B) The response shall indicate, in detail, the corrective actions taken.

(C) Such response shall be submitted to the Arkansas Racing Commission within ninety (90) days from receipt of the independent certified public accountant's reports.

(i) Two (2) copies of the reports required by subsection (h) of this section, and two (2) copies of any other reports on internal accounting control, administrative controls, or other matters relative to the licensee's accounting or operating procedures rendered by the licensee's independent certified public accountant shall be filed with the Arkansas Racing Commission by the licensee by June 1 following the end of the calendar year or upon receipt, whichever is earlier.

(j) If the licensee or any of its affiliates is publicly held, the Arkansas Racing Commission may require the affiliate to submit five (5) copies to the Arkansas Racing Commission of any report, including but not limited to forms S-1, 8-K, 10-Q, and 10-K, proxy or information statements, and all registration statements required to be filed by such licensee or affiliates with the Securities and Exchange Commission or other domestic or foreign securities regulatory agency, at the time of filing with such agency.

(k) If an independent certified public accountant who was previously engaged as the principal accountant to audit the licensee's financial statements resigns or is dismissed as the licensee's principal accountant, or another independent certified public accountant is engaged as principal accountant, the licensee shall file a report with the Arkansas Racing Commission within ten (10) days following the end of the month in which such event occurs, setting forth the following:

(1) The date of such:

(A) Resignation;

(B) Dismissal; or

(C) Engagement;

(2)(A) Whether in connection with the audits of the two (2) most recent years preceding such resignation, dismissal, or engagement there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which disagreements if not resolved to the satisfaction of the former accountant would have caused him or her to make reference in connection with his report to the subject matter of the disagreement, including a description of each such disagreement.

(B) The disagreements to be reported include those resolved and those not resolved;

(3)(A) Whether the principal accountant's report on the financial statements for any of the past two (2) years contained an adverse opinion or a disclaimer of opinion or was qualified.

(B) The nature of such adverse opinion, disclaimer of opinion, or qualification shall be described; and

(4)(A) The licensee shall request the former accountant to furnish to the licensee a letter addressed to the Arkansas Racing Commission stating whether he or she agrees with the statements made by the licensee in response to subsection (i) of this section.

(B) Such letter shall be filed with the Arkansas Racing Commission as an exhibit to the report required by subsection (i) of this section.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-605. Online slot metering systems.

(a)(1) Casino gaming must at a minimum utilize an online monitoring system that maintains all financial and security data.

(2) The rules outlined within this section apply to all critical systems (systems that have an effect on the integrity of casino gaming).

(b) **Phases of system testing.** All critical systems must endure the following phases of tests:

(1) Phase I — Within the laboratory setting; and

(2) Phase II — On-site following the initial install of the system to ensure proper configuration of the equipment and installation of the security applications.

(c) **Interface elements.**

(1) An interface element, where applicable, is any component within a system that is external to the operations of the casino gaming that assists in the collection and processing of data that is sent to a system.

(2) All critical interface elements shall:

(A) Be installed in a secure area, which may be inside the gaming devices;

(B) The interface element setup/configuration menu or menus must not be available unless using an authorized access method;

(C)(i) When not directly communicating with gaming device meters, the interface element must maintain separate electronic meters, of sufficient length, to preclude the loss of information from meter rollovers, or a means to identify multiple rollovers, as provided for in the connected gaming device.

(ii) These electronic meters should be capable of being reviewed on demand at the interface element level via an authorized access method;

(D)(i) The interface element must retain the required information after a power loss for a minimum of thirty (30) days.

(ii) If this data is stored in volatile RAM, a battery backup must be installed within the interface element;

(E)(i) If unable to communicate the required information to the online monitoring system, the interface element must provide a means to preserve all mandatory meter and significant event information until at such time as it can be communicated to the online monitoring system.

(ii) Gaming device operation may continue until critical data is overwritten and lost.

(iii) There must be a method to check for corruption of the above data storage locations;

(F)(i) The interface element must allow for the association of a unique

identification number to be used in conjunction with a gaming device file on the online monitoring system.

(ii) This identification number will be used by the online monitoring system to track all mandatory information of the associated gaming device.

(iii) Additionally, the online monitoring system should not allow for a duplicate gaming device file entry of this identification number; and

(G)(i) An online monitoring system may possess a front end processor that gathers and relays all data from the connected data collectors to the associated database or databases.

(ii) The data collectors, in turn, collect all data from connected gaming devices.

(iii) Communication between components must be a defined communication protocol or protocols and function as indicated by the communication protocol or protocols.

(iv) An online monitoring system must provide for the following:

(a) All critical data communication shall be protocol-based and/or incorporate an error detection and correction scheme to ensure an accuracy of ninety-nine percent (99%) or better of messages received; and

(b)(1) All critical data communication that may affect revenue and is unsecured either in transmission or implementation shall employ encryption.

(2) The encryption algorithm shall employ variable keys or similar methodology to preserve secure communication.

(d)(1) System server or servers networked system or systems or distributed system or systems that direct the overall operation and an associated database or databases that store all entered and collected system information, is considered the "server".

(2)(A) In addition, the server shall maintain an internal clock that reflects the current time in twenty-four-hour format and data that shall be used to provide for the following:

(i) Time stamping of significant events;

(ii) Reference clock for reporting; and

(iii) Time stamping of configuration changes.

(B) If multiple clocks are supported, the online monitoring system shall have a facility whereby it is able to update those clocks in online monitoring system components where conflicting information could occur.

(e) **Remote access requirements.** If supported, system or systems may utilize password-controlled remote access, provided the following requirements are met:

(1) A remote access user activity log is maintained depicting logon name, time/date, duration, and activity while logged in;

(2) No unauthorized remote user administration functionality (adding users, changing permissions, etc.);

(3) No unauthorized access to the database other than information retrieval using existing functions;

(4) No unauthorized access to the operating system; and

(5) If remote access is to be on a continuous basis then a network filter (firewall) should be installed to protect access.

(f) **Security access control.**

(1) The online monitoring system must support either a hierarchical role structure whereby user and password define program or individual menu item access or logon program/device security based strictly on user and password or PIN.

(2) In addition, the online monitoring system shall not permit the alteration of any significant log information communicated from the gaming device.

(3) Additionally, there should be a provision for system administrator notification and user lockout or audit trail entry, after a set number of unsuccessful login attempts.

(g) **Data alteration.**

(1) The online monitoring system shall not permit the alteration of any accounting or significant event log information that was properly communicated from the gaming device without supervised access controls.

(2) In the event financial data is changed, an audit log must be capable of being produced to document:

(A) Data element altered;

(B) Data element value prior to alteration;

(C) Data element value after alteration;

(D) Time and date of alteration; and

(E) Personnel that performed alteration (user login).

(h) **System backup.**

(1) The system or systems shall have sufficient redundancy and modularity so that if any single component or part of a component fails, gaming can continue.

(2) There shall be redundant copies of each log file or system database or both, with open support for backups and restoration.

(i) **Recovery requirements.** In the event of a catastrophic failure when the system or systems cannot be restarted in any other way, it shall be possible to reload the system from the last viable backup point and fully recover the contents of that backup, recommended to consist of at least the following information:

(1) Significant events;

(2) Accounting information;

(3) Auditing information; and

(4) Specific site information such as device file, employee file, progressive set-up, etc.

(j) **Downloading of interface element control.** If supported, a system may utilize writable program storage technology to update interface element software if all of the following requirements are met:

(1)(A) Writable program storage functionality must be, at a minimum, password-protected, and should be at a supervisor level.

(B) The system can continue to locate and verify versions currently running but it cannot load code that is not currently running on the system without user intervention;

(2)(A) A nonalterable audit log must record the time/date of a writable program storage download and some provision must be made to associate this log with which version or versions of code were downloaded, and the user who initiated the

download.

(B) A separate Download Audit Log Report would be ideal;

(3)(A) All modifications to the download executable or other file or files must be submitted to the test laboratory for approval.

(B) The laboratory will assign signatures to any relevant executable code and file or files that should be verified by a regulator in the field.

(C) Additionally, all downloadable files must be available to a regulator to verify the signature; and

(4)(A) The system must have the ability to verify the program on demand for regulatory audit purposes.

(B) The above refers to loading of new system executable code only.

(C) Other program parameters may be updated as long as the process is securely controlled and subject to audit.

(D) The parameters will have to be reviewed on an individual basis.

(k) **Self-monitoring of gaming system servers.** The systems must implement self-monitoring of all critical interface elements (e.g., central hosts, network devices, firewalls, links to third parties, etc.) and shall have the ability to effectively notify the system administrator of the condition, provided the condition is not catastrophic.

(l) **Online monitoring system requirements.**

(1)(A) The online monitoring system shall communicate to all gaming devices for the purpose of gathering all financial data and security events.

(B) The online monitoring system may perform this sole function or may also incorporate other system functions that are addressed within this part.

(C) For systems that serve multiple purposes, each of the relevant sections herein shall apply.

(2) **Required online monitoring system functionality.** At a minimum, an online monitoring system shall provide for the following security and audit ability requirements:

(A)(i) An interrogation program that enables online comprehensive searching of the significant event log for the present and for the previous fourteen (14)

days through archived data or restoration from backup where maintaining such data on a live database is deemed inappropriate.

(ii) The interrogation program shall have the ability to perform a search based at least on the following:

(a) Date and time range;

(b) Unique interface element/gaming device identification number; and

(c) Significant event number/identifier;

(B)(i) An online monitoring system must have a master gaming device file which is a database of every gaming device in operation, including at minimum the following information for each entry.

(ii) If the online monitoring system retrieves any of these parameters directly from the gaming device, sufficient controls must be in place to ensure accuracy of the information.

(iii) Unique interface element/location identification number.

(iv) Gaming device identification number as assigned by the licensee.

(v)*(a)* Denomination of the gaming device.

(b) Please note that the denomination may reflect an alternative value, in the case of a multidenomination game.

(vi) Theoretical hold of the gaming device.

(vii) Control program or programs identification number within the gaming device; and

(C)(i) Significant events are generated by a gaming device and sent via the interface element to the online monitoring system utilizing an approved communication protocol.

(ii) Each event must be stored in a database or databases which includes the following:

(a) Date and time on which the event occurred;

(b) Identity of the gaming device that generated the event;

(c) A unique number/code that defines the event; or

(d) A brief text that describes the event in the local language.

(3) **Stored accounting meters.**

(A) Metering information is generated on a gaming device and collected by the interface element and sent to the online monitoring system via a communication protocol.

(B) This information may be either read directly from the gaming device or relayed using a delta function.

(C) The online monitoring system must collect and store the following meter information from each gaming device:

(i) Total in (credits-in);

(ii) Total out (credits-out);

(iii) Total dropped (total value of all bills, tickets, and other approved notes in the cash box or drop);

(iv) Hand paid (handpays);

(v) Cancelled credits, if supported on the gaming device;

(vi) Bills in (total monetary value of all bills accepted);

(vii) Individual bill meters (total number of each bill accepted per denomination);

(viii) Games-played;

(ix) Cabinet door (instance meter which may be based on online monitoring system count of this event);

(x) Drop door or doors (instance meter which may be based on online monitoring system count of this event);

(xi) Tickets in (total monetary value of all tickets accepted); and

(xii) Tickets out (total monetary value of all tickets produced).

(D) Please refer to 23 CAR § 358-621 for more detailed descriptions of the above meters.

(4) **Required reports.**

(A) Reports will be generated on a schedule determined by the Arkansas Racing Commission which typically consists of daily, monthly, yearly period, and life to

date reports generated from stored database information.

(B) These reports at minimum will consist of the following:

(i) Net Win/Revenue Report for each gaming device;

(ii) Drop Comparison Reports for each medium dropped (examples = tickets, bills) with dollar and percent variances for each medium and aggregate for each type;

(iii) Metered vs. Actual Jackpot Comparison Report with the dollar and percent variances for each and aggregate;

(iv) Theoretical hold vs. actual hold comparison with variances;

(v) Significant event log for each gaming device; and

(vi)*(a)* Other reports, as required by individual jurisdictions.

(b) It is acceptable to combine reporting data where appropriate (e.g., revenue, theoretical/actual comparison).

(5) **Jackpot functionality.** An online monitoring system must have an application or facility that captures and processes every handpay message from each gaming device and meets the following rules:

(A) Handpay messages must be created for single wins (jackpots), progressive jackpots, and accumulated credit cash outs (canceled credits), which result in handpay;

(B)(i) For every single win event that is equal to or greater than the applicable Internal Revenue Service tax reporting threshold, as established from time to time by the Internal Revenue Service, the online monitoring system user must be advised of the need for a W2G or 1042-S Form, as required by the Internal Revenue Service, which is to be processed either via the online monitoring system or manually.

(ii) This option must not be capable of being overridden.

(iii) The keyed reset ability to return winnings from a taxable event to a gaming device should require user intervention to void the original jackpot slip that is generated; and

(C) The following information is required for all jackpot slips generated with some/all fields to be completed by the online monitoring system:

(i) Numeric slip identifier (which increments per event);

(ii) Date and time (shift if required);

(iii) Gaming device number;

(iv) Denomination;

(v) Amounts of:

(a) Jackpot;

(b) Accumulated credit; and

(c) Additional pay;

(vi) W2G indication, if applicable;

(vii) Additional payout, if applicable;

(viii) Total before taxes and taxes withheld, if applicable;

(ix) Amount to patron; and

(x) Total credits played and game outcome of award.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

Codification Notes. "RAM" means random-access memory.

23 CAR § 358-606. Records of ownership.

(a)(1) In addition to other records and information required by this subpart, each licensee shall maintain the following records regarding the equity structure and owners.

(2) If a corporation:

(A) A certified copy of articles of incorporation and any amendments thereto;

(B) A copy of by-laws and amendments thereto;

(C) A current list of officers and directors;

(D) Minutes of all meetings of stockholders and directors;

(E) A current list of all stockholders and stockholders of affiliates, including their names and the names of beneficial owners of shares held in street or other name where any beneficial owner has a beneficial interest in two percent (2%) or

more of the outstanding shares of any class, addresses and the number of shares held by each, and the date acquired; and

(F) A complete record of all transfers of stock.

(b) All records regarding ownership shall be located on the premises of the establishment, unless a specific exemption is allowed to the licensee by the Arkansas Racing Commission.

(c) Each licensee or applicant shall, upon request by the commission, provide a list of all record holders of any or all classes of publicly traded securities issued by any holding company or by any other affiliated entity which is required to qualify as a financial source.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-607. Record retention — Noncompliance.

(a) All original books, records, and documents pertaining to the licensee's operations shall be:

(1) Prepared and maintained in a complete, accurate, and legible form;

(2) Retained on-site or at another secure location approved for the time period specified in subsection (c) of this section;

(3) Held immediately available for inspection by agents of the Arkansas Racing Commission during all hours of operation;

(4) Organized and indexed in such a manner so as to provide immediate accessibility to agents of the commission; and

(5) Destroyed only after:

(A) Expiration of the minimum retention period specified in subsection (c) of this section, except that the commission may, upon the written petition of any licensee and for good cause shown, permit such destruction at an earlier date;

(B) Written notice has been received by the commission;

(C) In conformance with Arkansas Code § 19-4-1108, the records, as outlined within subsection (b) of this section, of the licensees must be kept a minimum

of three (3) years after the review and filing of audits by the legislative joint auditing committee of the records of the racing divisions and the gaming section, however, they may not be destroyed without concurrence from the commission's Gaming Section.

(b)(1) For the purposes of this section, "books, records, and documents" shall be defined as any book, record, or document pertaining to, prepared in, or generated by the operation of the licensee including, but not limited to, all:

(A) Forms;

(B) Reports;

(C) Accounting records;

(D) Ledgers;

(E) Subsidiary records;

(F) Computer-generated data;

(G) Internal audit records; and

(H) Correspondence and personnel records.

(2) This definition shall apply without regard to the medium through which the record is generated or maintained, for example, paper, magnetic media, or encoded disk.

(c)(1) All original books, records, and documents shall be retained by a licensee in accordance with the following schedules.

(2) For purposes of this subsection, "original books, records, or documents" shall not include copies of originals, except for copies which contain original comments or notations or parts of multipart forms.

(3) The following original books, records, and documents shall be retained indefinitely unless destruction is requested by the licensee and approved by the commission:

(A) Corporate records required by this part;

(B) Records of corporate investigations and due diligence procedures;

(C) Current employee personnel files; and

(D) A record of any original book, record, or document destroyed, identifying the:

(i) Particular book, record, or document;

(ii) Period of retention; and

(iii) Date of destruction.

(4) All other original books, records, and documents shall be retained by a licensee for a minimum of five (5) years unless destruction is requested by the licensee and approved by the commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-608. Standard financial statements.

(a)(1) Each licensee, unless specifically exempted by the Arkansas Racing Commission, shall file annual reports of financial and statistical data as required by the commission.

(2) The data may be used by the commission to evaluate the financial position and operating performance of individual licensees and compile information regarding the performance and trends of the industry in the State of Arkansas.

(b) The commission shall periodically prescribe a set of standard reporting forms and instructions to be used by each licensee in filing the reports.

(c)(1) Each report to the CGS shall be received or postmarked no later than the required filing date unless specific approval for an extension is granted to the licensee.

(2) Requests for a filing extension must be submitted to the CGS in writing prior to the required filing date.

(3) Annual reports shall be due not later than June 1 of the following year.

(4) Licensee shall report to the commission essential details of any loans, borrowings, significant installment contracts with a value of over twenty-five thousand dollars ($25,000) per year, guarantees, leases, or capital contributions at least annually.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-609. Audited financial statements.

(a) Each licensee, unless specifically exempted by the Arkansas Racing Commission, shall, at its own expense, cause its annual financial statements to be audited in accordance with generally accepted auditing standards by an independent certified public accountant licensed to practice in the State of Arkansas.

(b) The annual financial statements shall be prepared for the current year and shall present financial position and results of operations in conformity with generally accepted accounting principles.

(c)(1) The financial statements required by this section shall include a footnote reconciling and explaining any differences between the financial statements included in the licensee's annual report, filed in conformity with 23 CAR § 358-604, and the audited financial statements.

(2) Such footnote shall, at a minimum, disclose the effect of such adjustments on:

(A) Revenues from the casino gaming;

(B) Revenues net of complimentary services;

(C) Total costs and expenses;

(D) Income before extraordinary items; and

(E) Net income.

(d) Two (2) copies of the annual audited financial statements, together with the report thereon of the licensee's independent certified public accountant, shall be filed with the Arkansas Racing Commission, no later than June 1 following the end of the calendar year.

(e) Each licensee shall require its independent certified public accountant to render the following additional reports:

(1)(A) Report on material weaknesses in internal accounting control.

(B) Whenever in the opinion of the independent certified public accountant there exists no material weaknesses in internal accounting control, the report shall so state;

(2) Whenever, in the opinion of the independent certified public accountant, the licensee has materially deviated from the system of internal accounting control

approved by the Arkansas Racing Commission or the accounts, records, and control procedures examined are not maintained by the licensee in accordance with this part, the report shall enumerate such deviations and such areas of the system no longer considered effective, and shall make recommendations regarding improvements in the system of internal accounting control; and

(3)(A) The licensee shall prepare a written response to the independent certified public accountant's reports required by subdivisions (e)(1) and (2) of this section.

(B) The response shall indicate, in detail, the corrective actions taken.

(C) Such response shall be submitted to the Arkansas Racing Commission within ninety (90) days from receipt of the independent certified public accountant's reports.

(f) Two (2) copies of the reports required by subsection (e) of this section, and two (2) copies of any other reports on internal accounting control, administrative controls, or other matters relative to the licensee's accounting or operating procedures rendered by the licensee's independent certified public accountant, shall be filed with the Arkansas Racing Commission by the licensee by June 1 following the end of the calendar year or upon receipt, whichever is earlier.

(g) If the licensee or any of its affiliates is publicly held, the Arkansas Racing Commission may require the affiliate to submit five (5) copies to the Arkansas Racing Commission of any report, including but not limited to forms S-1, 8-K, 10-Q, and 10-K, proxy or information statements and all registration statements required to be filed by such licensee or affiliates with the Securities and Exchange Commission or other domestic or foreign securities regulatory agency at the time of filing with such agency.

(h) If an independent certified public accountant who was previously engaged as the principal accountant to audit the licensee's financial statements resigns or is dismissed as the licensee's principal accountant, or another independent certified public accountant is engaged as principal accountant, the licensee shall file a report with the Arkansas Racing Commission within ten (10) days following the end of the month in which such event occurs, setting forth the following:

(1) The date of such resignation, dismissal, or engagement.;

(2)(A) Whether in connection with the audits of the two (2) most recent years preceding such resignation, dismissal, or engagement there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which disagreements if not resolved to the satisfaction of the former accountant would have caused him or her to make reference in connection with his or her report to the subject matter of the disagreement, including a description of each such disagreement.

(B) The disagreements to be reported include those resolved and those not resolved;

(3)(A) Whether the principal accountant's report on the financial statements for any of the past two (2) years contained an adverse opinion or a disclaimer of opinion or was qualified.

(B) The nature of such adverse opinion, disclaimer of opinion, or qualification shall be described; and

(4)(A) The licensee shall request the former accountant to furnish to the licensee a letter addressed to the Arkansas Racing Commission, stating whether he or she agrees with the statements made by the licensee in response to subdivision (h)(1) of this section.

(B) Such letter shall be filed with the Arkansas Racing Commission as an exhibit to the report required by subdivision (h)(1) of this section.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-610. Internal control for licensees.

(a)(1) Each licensee shall submit to the Arkansas Racing Commission and to the CGS a narrative description of its system of internal procedures and administrative and accounting controls (internal controls), or modifications to previously approved internal controls, at least thirty (30) days before the licensee's casino gaming operations are to commence, unless otherwise directed by the commission.

(2) Each submission shall be accompanied by a certification by the licensee's chief financial officer or equivalent that the submitted internal controls are adequate, effective, and establish a consistent overall system of internal controls and conform to generally accepted accounting principles.

(3) The initial submission shall be accompanied by a report of an independent certified public accountant licensed to practice in Arkansas or other state acceptable by the commission, stating that the submitted system conforms in all respects to the standards of internal control set forth in the commission's rules or in what respects the system does not conform.

(4) Except as otherwise provided in this section, a licensee may, upon submission to the commission of a narrative description of a change in its system of internal controls and the two (2) original signed certifications described above, implement the change on the sixteenth calendar day following the completed submission.

(5) Any submission received by the commission after 3:00 p.m. shall be considered to have been submitted on the next business day.

(6) Each submission by a licensee or applicant shall include, as applicable and without limitation, the following:

(A) Administrative controls which include, without limitation, the procedures and records that are concerned with the decision-making processes leading to management's authorization of transactions;

(B) Accounting controls which have as their primary objectives the safeguarding of assets and the reliability of financial records and are consequently designed to provide reasonable assurance that:

(i) Transactions are executed in accordance with management's general and specific authorization;

(ii) Transactions are recorded to permit preparation of financial statements in conformity with generally accepted accounting principles and 23 CAR § 358-604, and to maintain accountability for assets; and

(iii) Access to assets is permitted only in accordance with

management authorization;

(C) The recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any differences;

(D)(i) A list of persons assigned to the repairing and maintenance of gaming machines and bill acceptors, participating in the filling of payout reserve containers and payment of jackpots or any other job duty involving the operation of the casino gaming.

(ii) This information does not have to be submitted to the commission, however, must be available for auditing by the CGS.

(iii) Nothing in this section shall be construed to limit a licensee from utilizing personnel in addition to those described herein nor shall anything in this section be construed to limit the discretion of the commission to order the utilization of additional personnel by the licensee necessary for the proper conduct and effective supervision of gaming in an establishment;

(E) Records regarding licensee ownership;

(F) Procedures for patron signature files used for identifying a person or validity of a signature, if applicable;

(G)(i) Maintain internal controls for the authorization and issuance of complimentary services and items, including cash and noncash gifts.

(ii) Such internal controls shall include, without limitation, the procedures by which the licensee delegates to its employees the authority to approve the issuance of complimentary services and items for casino gaming patrons and the procedures by which conditions or limits, if any, which may apply to such authority are established and modified, including limits based on relationships between the authorizer and recipient, and shall further include effective provisions for audit purposes;

(H) Procedures on overall reconciliation of all documents including jackpot payout slips, ticket redemption terminal fills, receipts generated by cashiers, change persons, and attendants, along with the conforming soft count room receipt;

(I) Develop a plan that defines handling of the receipt of chips from the

manufacturer, inventory of chips at the licensee, and the destruction of the chips by the licensee, where applicable; and

(J) Develop a written procedure for determining the gross receipts from casino gaming and gross wagering revenue for each type of casino gaming offered.

(b)(1) The commission shall review a submission made pursuant to subsection (a) of this section and information made available to the commission pursuant to subsection (a) of this section and determine whether the internal controls conform to the requirements of the commission and provides adequate and effective controls for the operations of the licensee.

(2) No applicant for a license shall commence wagering on casino gaming until the licensee's system of internal controls is approved by the commission.

(c) If, during its review of a licensee's internal controls the commission determines that a procedure in the internal controls contains a substantial and material insufficiency likely to have a direct and materially adverse impact on the integrity of gaming or the control of gross revenue, the commission, by written notice to the licensee, shall:

(1) Specify the precise nature of the insufficiency and when possible, an acceptable alternative procedure;

(2) Schedule a hearing before the commission no later than fifteen (15) calendar days after the date of such written notice to determine whether the internal controls are insufficient; and

(3) Direct that any internal controls in issue not be implemented until approved by the commission.

(d) Examples of procedures that the commission may, under appropriate circumstances, determine to contain a substantial and material insufficiency likely to have a direct and materially adverse impact on the integrity of gaming or the control of gross revenue shall include, without limitation, the following:

(1) Procedures that fail to provide an adequate audit trail that would permit the review of the licensee's casino gaming operations or the reconstruction of gross revenue of transactions;

(2) Procedures that fail to provide for the segregation of incompatible

functions so that no employee is in a position both to commit an error or to perpetrate a fraud and to conceal the error or fraud in the normal course of his or her duties;

(3) Procedures that do not include forms or other materials referenced in the submission or required by the rules that are essential elements of the internal controls and prevent a meaningful review of the submission;

(4) Procedures that would implement accounting procedures not yet authorized by the rules of the commission; and

(5) Procedures that are dependent upon the use of equipment or related devices or software not yet approved by the commission, unless such procedures are required as part of an authorized test of the equipment or related device or software.

(e) If a licensee is notified pursuant to subsection (c) of this section that a particular internal control procedure contains a substantial and material insufficiency and that a hearing on the procedure has been scheduled before the commission on a specific date, the twenty-day review period for any revision to those internal control procedures after receipt of the commission's notice shall not commence unless the revision is accompanied by the two (2) certifications required in subsection (a) of this section.

(f)(1)(A) A current version of the internal controls of a licensee shall be maintained in, or made available through secure computer access to, the accounting department and surveillance department of the licensee.

(B) The licensee shall also maintain a copy of any superseded changes to its internal control procedures and the two (2) certifications required for each change for a minimum of five (5) years in a location approved by the commission.

(C) Each page of the internal controls shall indicate, as applicable, the date on which it was submitted to the commission and the date on which it was either approved by the commission or implemented pursuant to subsection (a) of this section or immediate changes to internal controls which shall include the date on which it was filed internally and implemented by the licensee.

(2) Notwithstanding any other provision of this section to the contrary, the two (2) certifications otherwise required by subsection (a) of this section shall not be

required for changes to the jobs compendium of a licensee other than the licensed categories, job codes, job functions, reporting lines (including but not limited to new positions and deleted positions) or job titles as provided within the organizational structure.

(g)(1) Nothing contained herein would preclude any licensee from implementing procedures which constitute an acceptable alternative to the specific standards set forth herein.

(2) Any such alternative procedure would have to be submitted to the commission in accordance with the procedures set forth in this section and would have to be reviewed and approved by the commission.

(h) **Licensee's system of internal controls not required to be submitted to the commission.**

(1) Each licensee offering gaming operations shall make available to the commission and to the CGS for inspection and approval, which are not required to be submitted to the commission, as applicable and without limitation, the following:

(A)(i) An organizational structure which is designed to preserve the integrity of the licensee.

(ii) This information does not have to be submitted to the commission, however, must be available for auditing by the CGS;

(B)(i) The design, construction, location, and security of the count room, currency vault, cashier booths, and cashier cages.

(ii) This information does not have to be submitted to the commission, however, must be available for auditing by the CGS;

(C)(i) The names of persons possessing access to the currency bank, security keys, and those that are authorized to access the alarm system.

(ii) This information does not have to be submitted to the commission, however, must be available for auditing by the CGS;

(D)(i) Removal, transportation, and count of cash storage boxes including the signature procedures.

(ii) This information does not have to be submitted to the

commission, however, must be available for auditing by the CGS;

(E)(i) The licensee's surveillance system plan, including the surveillance system location or locations.

(ii) This information does not have to be submitted to the commission, however, must be available for auditing by the CGS; and

(F)(i) Policies and procedures that allow and track those individuals who request to be excluded from the facility that are voluntarily agreeing to be excluded from all casino gaming activities and to be prohibited from collecting any winnings or recovering any losses at all eligible facilities.

(ii) This information does not have to be submitted to the commission, however, must be available for auditing by the CGS.

(2) This information will be assessed by the commission in conjunction with the submitted system of internal controls, as outlined in this part to ensure the licensee is operating with adequate and effective controls.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-611. Internal control for operators of intercasino-linked systems and mobile gaming systems.

(a)(1) Each operator shall prepare and submit a written internal control system describing the operation of the intercasino-linked system or mobile gaming system, in accordance with this section.

(2) Each operator shall, if required by the Arkansas Racing Commission, amend the written system to comply with any requirements consistent with this section that the commission deems appropriate.

(b) Each operator and each licensee participating in each operator's intercasino-linked system or mobile gaming system shall comply with the internal control system and all amendments to such internal control system as have been approved by the commission.

(c)(1) Unless the commission approves otherwise in writing, each operator shall

direct an independent accountant engaged by the operator to perform observations and document examinations and inquiries of employees to determine compliance with the operator's internal control system using procedures approved by the commission.

(2) The independent accountant engaged by the operator will submit to the operator two (2) copies of a written report of its compliance with the internal control system approved by the commission.

(3) Not later than one hundred fifty (150) days after the end of the operator's business year, the operator shall submit two (2) copies of the independent accountant's report summarizing all instances of noncompliance or any other correspondence directly relating to the operator's system of internal control to the commission, accompanied by the operator's statement addressing each item of noncompliance noted by the independent accountant and describing the corrective measures taken.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-612. Gross revenue computations.

(a)(1) If the licensee provides periodic payments to satisfy a payout resulting from a wager, the initial installment payment when paid and the actual cost of a payment plan approved pursuant to this part and funded by the licensee may be deducted from winnings.

(2) For any funding method which merely guarantees the licensee's performance and under which the licensee makes payments directly out of cash flow (e.g., irrevocable letters of credits, surety bonds, or other similar methods), the licensee may only deduct such payments when paid to the patron.

(b) For payouts by intercasino-linked system operators, a licensee may deduct from winnings its pro rata share of an intercasino-linked system payout, except for a payout made in conjunction with a card game under the provisions of its contract with the operator of the system and in accordance with the requirements stated herein.

(c) A licensee shall not exclude money paid out on wagers that are knowingly accepted by the licensee in violation of the rules of the Arkansas Racing Commission

from gross revenue.

(d) If in any month the amount of gross revenue is less than zero, the licensee may deduct the excess in the succeeding months, until the loss is fully offset against gross revenue.

(e)(1) Beginning January 1, 2019, and continuing on each January 1 annually thereafter, all casino gaming tickets/vouchers that are more than one (1) year old as of such January 1 and have not been presented for payment or otherwise redeemed prior to such January 1 shall become void at 12:01 a.m. on such January 1 of each year.

(2) All tickets/vouchers declared void under this section shall become part of the net win and thus net wagering revenues from casino gaming and net gaming receipts for the purposes of net gaming receipts tax on such January 1.

(3)(A) Licensee each quarter shall report and remit to the Department of Finance and Administration all winnings withheld from patrons who are determined to be less than twenty-one (21) years of age or excluded persons.

(B) Any excluded person who has engaged in gaming activity at a licensee's premises prior to detection and whose gaming has resulted in a win by the excluded patron, shall forfeit all winnings immediately upon detection of the excluded person by the licensee or commission.

(C) A licensee shall not reimburse the excluded person for any losses incurred while the excluded person engaged in gaming activity.

(D) All winnings remitted to the department under this subsection shall be paid to general revenue.

(4)(A) Licensee each quarter shall report and remit to the department all jackpots that have not been claimed within one (1) year.

(B) All winnings remitted to the department under this subsection shall be paid to general revenue.

(5)(A) While under no legal obligation to do so, a licensee may allow a patron to redeem a payout receipt or wagering voucher that has been deemed expired pursuant to this section.

(B) In such cases:

(i) If any portion of the redemption value of the expired payout receipt or wagering voucher had been included in reported gross revenue, the licensee shall deduct that amount from reported gross revenue for the month the receipt or voucher was redeemed;

(ii) If redeemed in the same quarter it expired, no portion of the redemption value of the payout receipt or wagering voucher is to be remitted to the commission, nor is any portion of the redemption value to be included in the quarterly report to the commission; or

(iii)*(a)* If any portion of the redemption value of the expired payout receipt or wagering voucher was previously remitted to the commission, the licensee shall deduct that amount from the next quarterly payment due the commission up to the total amount due for that quarter.

(b) Any remaining amount shall be deducted in the same manner from amounts due in subsequent quarters until the amount has been fully deducted.

(6) A record of all expired payout receipts and wagering vouchers shall be created and maintained in accordance with the recordkeeping requirements set forth in this part.

(7) For purposes of this section, the term "slot machine" means a gaming device for which gross revenue is calculated pursuant to the method described herein.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-613. Uncollected baccarat commissions.

(a) If a licensee does not collect baccarat commissions due from a patron at the conclusion of play and elects to waive payment, such action must be authorized and documented in accordance with this part.

(b) Concurrently with the decision to not collect the baccarat commission, the licensee must record, in such manner and using such preprinted, prenumbered forms as the Arkansas Racing Commission has approved:

(1) Date, shift, and time the licensee determined to not collect the baccarat

commission;

(2) The amount of the baccarat commission not collected;

(3) The baccarat table number;

(4) Patron name, if known;

(5) The dealer's signature; and

(6) A baccarat supervisor's signature.

(c)(1) Such forms shall be sent to the accounting department at least every twenty-four (24) hours and reconciled numerically to account for all forms.

(2)(A) A form may be used to record more than one (1) transaction.

(B) However, each transaction must indicate all of the above required signatures.

(3) Descriptions of the forms and procedures utilized must be included in the licensee's submitted system of internal control.

(d) An uncollected baccarat commission that is not waived in accordance with this section shall be documented by a credit instrument that clearly indicates it represents an uncollected baccarat commission, and that conforms to all documentation and procedural requirements of the licensee's submitted system of internal control.

(e) Failure to comply with this part is an unsuitable method of operation, but shall not subject the licensee to any payment of taxes or fees on any baccarat commission not collected.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-614. Mandatory disclosure provisions for credit applications and credit instruments.

(a)(1) Each credit application must contain a statement approved by the Arkansas Racing Commission, separately signed by the patron, and in a font size of not less than nine (9) points, acknowledging the patron's understanding, that under Arkansas law a credit instrument is the same as a personal check, and knowingly writing a credit instrument with insufficient funds in the account upon which it is drawn, or with intent

to defraud, is a criminal act in the State of Arkansas which may result in criminal prosecution.

(2) The following language, if used on a credit application, is deemed approved:

> Warning: For the purposes of Arkansas law, a credit instrument is identical to a personal check and may be deposited in or presented for payment to a bank or other financial institution on which the credit instrument is drawn. Willfully drawing or passing a credit instrument with the intent to defraud, including knowing that there are insufficient funds in an account upon which it may be drawn, is a crime in the State of Arkansas which may result in criminal prosecution in addition to civil proceedings to collect the outstanding debt.

(b)(1) Each credit instrument must contain a notification, approved by the commission, permanently and legibly printed on the face of the original credit instrument, in a font size of not less than six (6) points, that notifies the patron of the requirements of Arkansas law regarding personal checks.

(2) The following language, if used on a credit instrument, is deemed approved:

> A credit instrument is identical to a personal check. Willfully drawing or passing a credit instrument knowing there are insufficient funds in an account upon which it may be drawn, or with the intent to defraud, is a crime in the State of Arkansas which may result in criminal prosecution.

(c) All documents created pursuant to this section must be retained in accordance with the requirements of this part.

(d)(1) Credit applications and credit instruments issued by licensees to patrons after the effective date of this section must contain the required wording.

(2) Such documentation issued by licensees to patrons before the effective date need not include the required disclosures.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-615. Treatment of credit for purposes of computing gross revenue.

(a)(1) Gross revenue does not include credit extended or collected by the licensee for purposes other than gaming.

(2) Gross revenue includes the amount of gaming credit extended to a patron that is not documented in a credit instrument.

(b) Each licensee shall:

(1) Document, prior to extending credit, that it:

(A) Has received information from a bona fide credit reporting agency that the patron has an established credit history that is not entirely derogatory;

(B) Has received information from a legal business that has extended credit to the patron that the patron has an established credit history that is not entirely derogatory;

(C) Has received information from a financial institution at which the patron maintains an account that the patron has an established credit history that is not entirely derogatory;

(D) Has examined records of its previous credit transactions with the patron showing that the patron has paid substantially all of the patron's credit instruments and otherwise documents that it has a reasonable basis for placing the amount or sum placed at the patron's disposal;

(E) Was informed by another licensee that extended gaming credit to the patron that the patron has previously paid substantially all of the debt to the other licensee and the licensee otherwise documents that it has a reasonable basis for placing

the amount or sum placed at the patron's disposal;

(F) If no credit information was available from any of the sources listed in subdivisions (b)(1)(A) – (E) of this section or a patron who is not a resident of the United States, the licensee has received, in writing, information from an agent or employee of the licensee who has personal knowledge of the patron's credit reputation or financial resources that there is a reasonable basis for extending credit in the amount or sum placed at the patron's disposal;

(G) In the case of personal checks, has examined and has recorded the patron's valid driver's license or, if a driver's license cannot be obtained, some other document normally acceptable as a means of identification when cashing checks, and has recorded a bank check guarantee card number or credit card number or has documented one of the credit checks set forth in subdivisions (b)(1)(A) – (F) of this section;

(H) In the case of third-party checks for which cash or chips have been issued to the patron or which were accepted in payment of another credit instrument, has examined and has recorded the patron's valid driver's license, or if a driver's license cannot be obtained, some other document normally acceptable as a means of identification when cashing checks and has, for the check's maker or drawer, performed and documented one (1) of the credit checks set forth in subdivisions (b)(1)(A) – (F) of this section; or

(I) In the case of guaranteed drafts, has complied with the issuance and acceptance procedures prescribed by the issuer;

(2) Ensure that the patron to whom the credit is extended either signs the credit instrument when credit is extended or, unless the requirements of this part have been met, acknowledges the debt and the instrument's validity in a signed, written statement within thirty (30) days of the audit division's request; and

(3) Obtain and record the patron's address before extending the credit or, unless the requirements of this part have been met, furnish the patron's current address within thirty (30) days of the audit division's request.

(c) A licensee, after extending credit, shall:

(1) Document that it has:

(A)(i) Attempted to collect payment from the patron once every ninety (90) days from the date:

(a) The credit is extended; or

(b) Upon which the licensee and patron agree that the debt will become due and payable.

(ii) An agreement by the licensee and the patron to extend the date the debt becomes due and payable beyond ninety (90) days from the date the credit was extended must be documented.

(iii) If the agreement is not documented, collection attempts must be made as provided in this subsection, until the agreement is documented.

(iv) Notwithstanding the forgoing, the licensee must commence collection efforts within ninety (90) days after the date which is eighteen (18) months after the date on which the credit is extended regardless of any agreement to extend the due date;

(B) Attempted to collect payment from the patron by requesting payment in letters sent to the patron's last-known address, or via facsimile transmission or electronic mail, or in personal or telephone conversations with the patron, or by presenting the credit instrument to the patron's bank for collection, or by a collection method or methods which the Arkansas Racing Commission determines to constitute good faith efforts to collect the full amount of the debt;

(2)(A) Furnish the credit instrument to the commission within thirty (30) days after the audit division's request, unless the:

(i) Licensee has independent, written, and reliable verification that the credit instrument:

(a) Is in the possession of a court, governmental agency, or financial institution;

(b) Has been returned to the patron upon partial payment of the instrument;

(c) Has been returned to the patron upon the licensee's good

faith belief that it had entered into a valid settlement and the licensee provides a copy of the original credit instrument and a document created contemporaneously with the settlement that contains the information required by this part; or

(d) Has been stolen and the licensee has made a written report of the theft to an appropriate law enforcement agency, other than the commission, having jurisdiction to investigate the theft; or

(ii) Commission waives the requirements of this subsection because the credit instrument cannot be produced because of any other circumstances beyond the licensee's control.

(B)(i) Theft reports made pursuant to this subsection must be made within thirty (30) days of the licensee's discovery of the theft and must include:

(a) General information about the alleged crime;

(b) The amount of financial loss sustained;

(c) The date of the alleged theft; and

(d) The names of employees or agents of the licensee who may be contacted for further information.

(ii) Each licensee shall furnish to the audit division a copy of theft reports made pursuant to this subdivision (c)(2)(B) within thirty (30) days of its request.

(C) If the licensee has returned a credit instrument upon partial payment, consolidation, or redemption of the debt, it shall issue a new substituted credit instrument in place of the original and shall furnish the substituted credit instrument to the audit division within thirty (30) days of its request, unless the licensee has independent, written, and reliable verification that the substituted credit instrument cannot be produced because it is in the possession of a court, governmental agency, or financial institution, has been stolen and the licensee has made a written report of the theft to an appropriate law enforcement agency other than the commission having jurisdiction to investigate the theft, or the commission waives the requirements of this subdivision (c)(2)(C) because the substituted credit instrument cannot be produced because of any other circumstances beyond the licensee's control;

(3)(A) Submit a written report of a forgery, if any, of the patron's signature on the instrument to an appropriate law enforcement agency, other than the commission, having jurisdiction to investigate the forgery.

(B) The report must include:

(i) General information about the alleged crime;

(ii) The amount of financial loss sustained;

(iii) The date of the alleged forgery; and

(iv) Identification of employees or agents of the licensee who may be contacted for further information.

(C) Each licensee shall furnish a copy of forgery reports made pursuant to this subdivision (c)(3) to the audit division within thirty (30) days of its request;

(4) Permit the audit division within thirty (30) days of its request to confirm in writing with the patron the existence of the debt, the amount of the original credit instrument, and the unpaid balance, if any; and

(5) Retain all documents showing, and otherwise make detailed records of, compliance with this subsection, and furnish them to the audit division within thirty (30) days after its request.

(d) Each licensee shall include in gross revenue all or any portion of an unpaid balance on any credit instrument if the commission determines that, with respect to that credit instrument, the licensee has failed to comply with the requirements of this part.

(e)(1)(A) A licensee need not include in gross revenue the unpaid balance of a credit instrument even if the commission determines that a licensee has failed to comply with this part if the requirements of this part and one (1) or more of the following subdivisions are satisfied, and the licensee documents or otherwise keeps detailed records of compliance with this subsection and furnishes them to the audit division within thirty (30) days after its request.

(B) In the case in which the debts of several patrons are consolidated for purposes of settlement, the licensee shall document that the consolidation of the accounts of several patrons is not for the purpose of avoiding an adverse determination

under this part.

(2)(A) The licensee settles the debt for less than its full amount to induce the patron to make a partial payment.

(B) This subdivision (e)(2) is satisfied only if the licensee first requests payment of the debt in full from the patron, the patron fails to respond to the request or refuses to pay the debt in full, and the patron then makes a partial payment in consideration for settlement of the debt for less than the full amount.

(3) The licensee settles the debt for less than its full amount to compromise a genuine dispute between the patron and the licensee regarding the existence or amount of the debt.

(4) The licensee settles the debt for less than its full amount because the licensee in good faith believes, and records the basis for its belief, that the patron's business will be retained in the future, or the patron's business is in fact retained.

(5)(A) The licensee settles the debt for less than its full amount to obtain a patron's business and to induce timely payment of the credit instrument.

(B) This subdivision (e)(5) is only satisfied if the percentage of the discount off the face value of the credit instrument is reasonable as compared to the prevailing practice in the industry at the time the credit instrument was issued.

(f) Each licensee shall ensure:

(1)(A) That a debt settled pursuant to this part is settled either with the patron to whom the credit was initially extended or the patron's personal representative.

(B) For purposes of this section, a personal representative is an individual who has been authorized by the patron to make a settlement on the patron's behalf.

(C) The licensee shall document its reasonable basis for its belief that the patron has authorized the individual to settle the patron's debt; and

(2) That the settlement is authorized by persons designated to do so in the licensee's system of internal control, and the settlement agreement is reflected in a single document prepared within thirty (30) days of the agreement and the document includes:

(A) The patron's name;

(B) The original amount of the credit instrument;

(C) The amount of the settlement stated in words;

(D) The date of the agreement;

(E) The reason for the settlement;

(F) The signatures of the licensee's employees who authorized the settlement; and

(G)(i) The patron's signature or in cases in which the patron's signature is not on the settlement document, confirmation from the patron acknowledging the debt, the settlement, and its terms and circumstances in a signed, written statement received by the audit division within thirty (30) days of its request.

(ii) If confirmation from the patron is not available because of circumstances beyond the licensee's control, the licensee shall provide such other information regarding the settlement as the commission determines is necessary to confirm the debt and settlement.

(g) If the commission determines that it is necessary to independently verify the existence or the amount of a settlement made pursuant to this part, the licensee shall allow the audit division to confirm the settlement and its terms and circumstances with the patron to whom the credit was initially extended.

(h) A licensee shall include in gross revenue all money, and the net fair market value of property or services received by the licensee, its agent or employee, or a person controlling, controlled by, or under common control with the licensee in payment of credit instruments.

(i) A licensee may exclude money received in payment of credit instruments from gross revenue if the licensee notifies the commission in writing within thirty (30) days of the licensee's discovery of the alleged criminal misappropriation of the money by an agent or employee of the licensee or by a person controlling, controlled by, or under common control with the licensee where the agent, employee, or person was involved in the collection process, and if the licensee:

(1) Files a written report with an appropriate law enforcement agency other than the commission alleging criminal misappropriation of the money and furnishes a

copy of such report to the commission within thirty (30) days of the audit division's request;

(2) Files and prosecutes a civil action against the agent, employee, or person for recovery of the misappropriated money and furnishes copies of legal pleadings to the commission within thirty (30) days of the audit division's request; or

(3) Otherwise demonstrates to the commission's satisfaction, within the time limits set by the commission, that the money was in fact criminally misappropriated and not merely retained by the agent, employee, or person as payment for services or costs.

(j) If the licensee recovers any money, previously excluded from gross revenue pursuant to this part, the licensee shall include the money in gross revenue for the month in which the money is recovered.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-616. Mandatory count procedure.

(a)(1) The cash storage box shall be removed at a time designated by the licensee and accepted by the Arkansas Racing Commission and CGS.

(2) However, a licensee may, with prior CGS approval, establish a less frequent schedule for the removal of cash storage boxes from those gaming devices connected to an approved gaming device ticket system.

(b) No cash storage box shall be emptied or removed from its compartment at other than the times specified on such schedule except with the express notification to the commission.

(c) Prior to emptying or removing any cash storage box, a licensee shall notify security and the surveillance department of the transportation route that will be utilized.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-617. Handling of cash.

Each gaming employee, owner, or licensee who receives currency of the United States (other than tips or gratuities) from a patron in the gaming area of a gaming establishment shall promptly place the currency in the locked box in the table or, in the case of a cashier, in the appropriate place in the cashier's cage, or on those games which do not have a locked box or on card game tables, in an appropriate place on the table, in the cash register, or other repository approved by the Arkansas Racing Commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-618. Net gaming receipts tax.

The net gaming receipts tax shall be governed by the Arkansas Tax Procedure Act, Arkansas Code § 26-18-101 et seq.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-619. On-site CGS offices.

(a) There shall be, for the exclusive use of the CGS agents, office space at each licensee's licensed premises for monitoring and recording purposes.

(b) The designation of the CGS office shall be approved by the Arkansas Racing Commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-620. Significant events.

(a) The following are the events that gaming devices must immediately report to the central monitoring system, in real-time:

(1) Power resets or power failure;

(2) Handpay conditions (amount needs to be sent to the system):

(A) Gaming device jackpot (an award in excess of the single win limit of

the gaming device);

(B) Cancelled credit handpay; and

(C) Progressive jackpot (as per gaming device jackpot, above);

(3)(A) Door openings (any external door that accesses a critical area on the gaming device).

(B) Door switches (discrete inputs to the interface elements) are acceptable if their operation does not result in redundant or confusing messaging;

(4) Bill acceptor errors (subdivisions (a)(4)(A) and (B) of this section should each be sent as a unique message, if supported by the communication protocol):

(A) Stacker full (if supported); and

(B) Bill (item) jam;

(5) Gaming device low RAM battery error;

(6) Reel spin errors (if applicable with individual reel number identified);

(7) Printer errors (if printer supported):

(A) Printer empty/paper low; and

(B) Printer disconnect/failure; and

(8) The following priority events must be conveyed to the online monitoring system where a mechanism must exist for timely notification:

(A) Loss of communication with interface element;

(B) Loss of communication with a gaming device;

(C) Memory corruption of the interface element, if storing critical information; and

(D) RAM corruption of the gaming device.

(b) All accounting and occurrence meters and error conditions as defined within this part that are not listed below must also be communicated to the central monitoring system although, not in real-time unless requested by the system itself.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

Codification Notes. "RAM" means random-access memory.

23 CAR § 358-621. Electronic accounting and occurrence meters.

(a)(1) Electronic accounting meters shall be at least seven (7) digits in length.

(2) If the meter is being used in dollars and cents, at least nine (9) digits must be used for the dollar amount.

(3) The meter must roll over to zero (0) upon the next occurrence any time the meter is seven (7) digits or higher and after nine million nine hundred ninety-nine thousand nine hundred ninety-nine (9,999,999) has been reached or any other value that is logical.

(4) Occurrence meters shall be at least three (3) digits in length and roll over to zero (0) upon the next occurrence any time the meter is higher than the maximum number of digits for that meter.

(b) The required electronic meters are as follows (accounting meters are designated with an asterisk):

(1) The amounts wagered* (or cash in) meter shall cumulatively count the total amounts wagered during game play, except credits that are won during the game that are subsequently risked in a double-up mode;

(2)(A) The amounts won* (or credit out) meter shall cumulatively count all amounts won by the player at the end of the game that were not paid by an attendant, including amounts paid by a ticket printer.

(B) This meter must not increment for bills inserted and cashed out (used as a change machine);

(3) The drop* meter shall maintain a cumulative credit value of all bills and tickets/coupons inserted into the bill acceptor for play;

(4) The handpays* meter shall reflect the cumulative amounts paid by an attendant for progressive and nonprogressive wins;

(5) The games-played meter shall display the cumulative number of games played since the last RAM clear;

(6) A cabinet door meter shall display the number of times the front cabinet door was opened since the last RAM clear;

(7) The drop door meter shall display the number of times the drop door and the bill acceptor door was opened since the last RAM clear;

(8)(A) The cancelled credit* meter shall reflect the cumulative amounts paid by an attendant that are in excess of the credit limit and residual credits that are collected.

(B) **Note.** Printer games do not require a cancelled credit meter unless a printer limit option exists on the game; and

(9) The progressive occurrence meter shall count the number of times each progressive meter is activated.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

Codification Notes. "RAM" means random-access memory.

Subpart 7. Transfer of Ownership — Loans

23 CAR § 358-701. General.

(a) No person shall sell, purchase, assign, lease, grant, or foreclose a security interest, hypothecate, or otherwise transfer, convey, or acquire in any manner whatsoever any interest of any sort whatever in or to any licensed gaming operation or any portions thereof, or enter into or create a voting trust agreement or any other agreement of any sort in connection with any licensed gaming operation or any portion thereof, except in accordance with law and this part.

(b) No licensee shall permit any person to make any investment whatever in, or in any manner whatever participate in the profits of, any licensed gaming operations, or any portion thereof, except in accordance with law and this part.

(c)(1) No person shall transfer or convey in any manner whatsoever any interest of any sort whatever in or to any licensed gaming operation, or any portion thereof, to, or permit any investment therein or participation in the profits thereof by, any person acting as agent, trustee or in any other representative capacity whatever for or on

behalf of another person without first having fully disclosed all facts pertaining to such representation to the Arkansas Racing Commission.

(2) No person acting in any such representative capacity shall hold or acquire any such interest or so invest or participate without first having fully disclosed all facts pertaining to such representation to the commission and obtained written permission of the commission to so act.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-702. Transfer of interest among licensees.

(a)(1) If a person who is the owner of an interest in a licensed gaming operation proposes to transfer any portion of his or her interest to a person who is then the owner of an interest in such licensed gaming operation, both parties shall give written notice of such proposed transfer to the Arkansas Racing Commission, including the names and addresses of the parties, the extent of the interest proposed to be transferred, and the consideration therefor.

(2) In addition, the proposed transferee shall furnish to the commission:

(A) A sworn statement setting forth the source of funds to be used by the proposed transferee in acquiring such interest; and

(B) Such further information as it or the commission may require.

(b)(1) The commission shall conduct such investigation pertaining to the transaction as it or the commission may deem appropriate and shall report the results thereof to the commission.

(2) If the commission does not give notice of disapproval of the proposed transfer of interest within thirty (30) days after the receipt by it of the report of the commission, the proposed transfer of interest will be deemed approved and the transfer of interest may then be effected in accordance with the terms of transfer as submitted to the commission.

(c) The parties shall immediately notify the commission when the transfer of interest is actually affected.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-703. Transfer of interest to stranger to license.

(a) Except as and to the extent provided in this part pertaining to emergency situations, no individual who is the owner of any interest in a licensed gaming operation shall in any manner whatsoever transfer any interest therein to any person, firm, or corporation not then an owner of an interest therein, and no such transfer shall become effective for any purpose until the proposed transferee or transferees shall have made application for and obtained all licenses required by The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, and this part, or have been found to be individually qualified to be licensed, as appropriate.

(b) Applications for a transfer of interest to a stranger to the license, except the granting of a possessory security interest in equity securities of a licensee or of a holding company subject to this part, shall be made by the transferee applying for licensing or registration under the rules thereunder as appropriate, as provided in this part.

(c)(1) Evidence of the transferor's agreement to transfer the interest applied for must accompany the application.

(2) Licensing or registration of the transferee shall be deemed to constitute approval of the transfer by the Arkansas Racing Commission.

(d)(1) Applications for approval of the granting of a possessory security interest shall be made in writing to the commission.

(2) The application shall set forth all material facts relating to the transaction and be accompanied by copies of the documents evidencing the transaction.

(3) An application will not ordinarily be granted unless such documents include the following:

(A) The physical location of the certificates evidencing the transaction shall at all times remain within the territorial boundaries of the State of Arkansas; and

(B)(i) The holder of said certificates shall not surrender possession of the

securities without the prior approval of the commission.

(ii) An approval of the granting of a possessory security interest shall be deemed to constitute approval of the transfer by the commission.

(iii) No such approval, however, shall constitute permission to foreclose without a further order of the commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-704. Duties of corporations and agents.

No licensee or holding company, or officer, director, or transfer agent thereof, shall cause or permit any stock certificate or other evidence of beneficial interest therein to be registered in its books or records in the name of any nominee, agent, trustee, or any other person other than the true and lawful owner of the beneficial interest therein without written permission of the Arkansas Racing Commission to do so.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-705. Escrow required.

(a) Except as and to the extent provided in this part pertaining to emergency situations, no money or other thing of value constituting any part of the consideration for the transfer or acquisition of any interest in a licensed gaming operation, in a licensee, or in a holding company shall be paid over, received, or used until complete compliance has been had with all prerequisites set forth in the law and this part for the consummation of such transaction, but such funds may be placed in escrow pending completion of the transaction.

(b) Any loan, pledge, or other transaction between the parties or with other parties may be deemed an attempt to evade the requirements of this subpart and, as such, in violation of this subpart.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-706. Participation in operations.

(a) Except as provided in this part pertaining to emergency situations or on approval of the Arkansas Racing Commission, no person who proposes to acquire an interest in any licensed gaming operation, in a licensee, or in a holding company shall take any part whatsoever, as an employee or otherwise, in the conduct of such gaming operations or in the operation of the establishment at which such gaming operations are conducted while the person's application for a license or for approval to acquire such interest is pending.

(b) An employee subject to this part may be employed at the licensed gaming operation, licensee, or holding company pending the commission's decision on the employee's application for a license or for approval to acquire an interest in the licensed gaming operation, licensee, or holding company if, when the employee files his or her application or becomes so employed, the employee requests permission from the commission to continue to be so employed pending commission action on the employee's application.

(c)(1) The commission may grant, deny, limit, restrict, or condition a request for administrative approval pursuant to this section for any cause the commission deems reasonable, or refer the request for administrative approval to the full commission for consideration.

(2) If the commission, acting in the commission's sole and absolute discretion, does not within thirty (30) days deny the request to continue employment, or provide written notification to the employee that the request is being referred to the full commission for consideration, the employee's request to participate shall be deemed approved.

(d) An employee's employment by a licensed gaming operation, licensee, or holding company, pursuant to this part, is limited to observing and learning the operations of the licensed location, licensee, or holding company, unless otherwise specified by the commission, and the employee is prohibited from exerting or taking control of a licensed gaming operation, licensee, or holding company until approved by

the commission unless the employee has otherwise been licensed or found suitable to do so.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-707. Emergency situations.

If a transfer of an interest in a licensed gaming operation, in a licensee, or in a holding company is contemplated and, in the opinion of the Arkansas Racing Commission, the exigencies of the situation require that the proposed transferee or transferees be permitted to take part in the conduct of gaming operations or in the operation of the establishment wherein such gaming operations are conducted, or to make available funds or credit for use in connection with such licensed gaming operation or establishment during the pendency of an application for license or to be permitted to acquire such interest, the commission or any three (3) members thereof may waive the requirements of 23 CAR § 358-705 and § 358-706, or either of them, in accordance with the procedures hereinafter set forth.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-708. Application for permission to participate.

(a) A proposed transferee of an interest who desires to participate in any manner, whether financially or otherwise, in the operation of the licensed establishment or games prior to actual completion of the transfer of interest in accordance with the foregoing rules shall make written application to the Arkansas Racing Commission for permission to so participate, setting forth, under oath, facts showing the necessity of such participation, together with the following information to be given under oath:

(1) The extent to which and the manner in which the proposed transferee desires to participate pending completion of the proposed transfer;

(2) A complete financial statement and a statement showing sources of all funds to be used in connection with the proposed transfer of interest and in the

participation prior to transfer;

(3) A full and complete statement of the proposed plan for effecting the proposed transfer of interest, including:

(A) The extent of the interest to be transferred;

(B) The date on which it is desired to complete the transfer;

(C) The total consideration to be paid and the time and manner of payment thereof;

(D) Details of any other financial arrangements between all parties involved; and

(E) Details of all other pertinent arrangements between the parties;

(4) Full, true, and correct copies of all documents pertaining to the proposed transaction or transactions, including all agreements between the parties, leases, notes, mortgages, or deeds of trusts, and pertinent agreements or other documents with or involving third parties;

(5) The names and addresses of all persons with whom the proposed transferee expects to be associated in connection with the operation of the licensed games or establishment, or both, both as to the period pending completion of the transfer and thereafter; and

(6) A full and complete statement of any proposed changes in manner or method of operation of the licensed establishment and any proposed changes of or additions to supervisory personnel, both as to the period pending completion of the transfer and thereafter.

(b) If two (2) or more individuals desire to participate in the operation of a licensed establishment or games as a group, whether as individuals or as stockholders, officers, or directors of a corporation or other business entity, joint application may be made in accordance with this part.

(c) If the emergency requiring immediate participation consists of the actual or threatened insolvency of a licensee or holding company, and the interest to be transferred or issued is a financial participation, the application will not be granted unless the applicant demonstrates the immediate and unqualified availability of

sufficient funds and credit to cure such emergency to the same extent that such funds and credit would be required in connection with an application for licensing or registration not involving actual or threatened insolvency.

(d) The commission may require an applicant for permission to participate to furnish such additional information as it may desire before acting on the application.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-709. Permission to participate.

After receipt of a proper application for permission to participate and such additional information as the Arkansas Racing Commission may require, and after such investigation as the commission deems necessary, the commission or any three (3) members thereof may grant emergency permission for a proposed transferee to participate in the operation of the licensed games or establishment, licensee, or holding company, subject to joint management with the existing licensee or licensees or managing officers of a corporate licensee or holding company.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-710. Extent of participation permitted.

(a) Pending final action on the application of a proposed transferee, the existing licensee or licensees will be held responsible for the conduct of the licensed games or establishment, for all license fees payable, and for all acts or omissions of proposed transferees participating in the operation.

(b)(1) Except as hereinafter provided, no proposed transferee who has been granted such emergency permission to participate shall be permitted to withdraw or receive any portion of the profits of such establishment or licensee or holding company derived for gaming until final approval of the proposed transfer of interest has been granted by the Arkansas Racing Commission.

(2) If granted, such approval shall be retroactive to the date of emergency

permission to participate.

(c) A proposed transferee who has been granted emergency permission to participate and who actually renders services may be paid a salary or otherwise be compensated for such actual services, but such salary or other compensation shall not exceed the usual and customary compensation in the industry for similar services.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-711. Application for license.

Any proposed transferee to whom emergency permission to participate has been granted shall, within ten (10) days thereafter if the transferee has not already done so, make formal application for licensing, registration, or approval as required by law and this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-712. Effect of permission to participate — Withdrawal.

(a)(1) The granting of emergency permission to participate is a revocable privilege, and is not to be a finding on the part of the Arkansas Racing Commission that the proposed transferee is qualified or suitable to hold a state casino license or to be registered or to be approved.

(2) Such permission will be without prejudice to any action that the commission may take with respect to any application for final approval of the proposed transfer of interest.

(b) Emergency permission to participate may be withdrawn summarily at any time in the uncontrolled discretion of the commission, without notice or hearing or other proceedings of any kind.

(c)(1) Upon receipt of notice that emergency permission to participate has been withdrawn, the proposed transferee shall be immediately disassociated from any participation whatever in the operation of the licensed establishment, licensee, or

holding company.

(2) Any money or other thing of value which may have been invested or made use of in the operation of the licensed establishment, licensee, or holding company shall be forthwith returned to the proposed transferee or deposited in escrow in compliance with this part.

(3) Any participation whatever on the part of a proposed transferee after notice of withdrawal of emergency permission to participate may be deemed to be in violation of law and this part and, as such, grounds for denial of the application of the proposed transferee and also grounds for revocation or suspension of the existing license, registration, or approval.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-713. Transaction reports.

(a)(1) As used in this section, "licensee" means any person to whom a valid casino license, mobile gaming system, or an intercasino-linked system, manufacturer's, distributor's, or disseminator's license, or a service provider license has been issued.

(2) The term does not include a person licensed solely as a holder of a security or other ownership interest in, as an officer, director, or key employee of, or due to any other relationship with, a licensed operation.

(b)(1) Any licensee that receives, accepts, or makes use of any cash, property, credit, guaranty, benefit, or any form of security loaned to, leased to, or provided for or on behalf of the licensee or an officer, director, agent, employee, or stockholder of the licensee, in a transaction required to be reported under this part, must report the transaction to the Arkansas Racing Commission in the manner required by this part within thirty (30) days after the end of the calendar quarter in which the transaction is consummated.

(2) A transaction is considered consummated the earlier of the contract date or the date the cash, property, credit, guaranty, benefit, or security is received.

(c) Except as provided in this part, each of the following transactions must be reported to the commission, if the dollar amount of the transaction or the fair market value of the assets involved exceeds three hundred thousand dollars ($300,000) or the average monthly payment exceeds thirty thousand dollars ($30,000):

(1) Leases, including leaseback transactions and capital leases;

(2) Deposits received by the licensee pursuant to an arrangement for use of space at the licensee's establishment;

(3) Installment purchase contracts; and

(4) Property donated to the licensee.

(d) Except as provided in this part, each of the following transactions must be reported to the commission if the dollar amount of the transaction exceeds thirty thousand dollars ($30,000):

(1) Loans, mortgages, and trust deeds;

(2) Capital contributions and loans by a person who is a stockholder, partner, or proprietor of the licensee;

(3) Safekeeping deposits which:

(A) Are made by an individual beneficially owning, directly or indirectly, a ten-percent or greater interest in the licensee;

(B) Are commingled with the licensee's funds;

(C) Are left for more than ten (10) days; and

(D) At any time during that period, aggregate to an amount greater than twenty-five percent (25%) of cash in the cage;

(4) Lines of credit;

(5) Accounts payable and accrued expenses due to unaffiliated persons where the payment terms or actual length of payments exceed twelve (12) months;

(6) Conversions of accounts payable, accrued expenses, or other liabilities to notes payable;

(7) Debts forgiven by a lender;

(8) Guaranties received by the licensee; and

(9) Accruals of salary due to an individual directly or indirectly owning an interest in the licensee where the accrual period exceeds ninety (90) days.

(e) Those transactions specified in this part which occur no more than seven (7) days apart from a single source shall be considered a single transaction if they exceed the dollar amounts specified in this part.

(f) The following transactions need not be reported to the commission regardless of the dollar amount of the transaction, fair market value of the assets involved, or average monthly payment:

(1) Draws against a previously reported extension of credit;

(2) Except for items specifically described in this part, goods or services that are exchanged for other goods or services of an affiliate of the licensee;

(3) Short-term cash loans which have a payback period of fewer than seven (7) days and are provided to the licensee on a regularly recurring basis, provided the terms and conditions of the arrangement have not changed, and provided the initial loan or financing arrangement has been reported;

(4) Loans and other financing activities that were reviewed during an investigation which resulted in commission action, provided the terms and conditions of the arrangements have not changed;

(5) Financing of gaming devices or associated equipment installed and used during a trial period authorized pursuant to this part;

(6) Funds received by the licensee in satisfaction of accounts or notes receivable;

(7) Purchases or leases of gaming devices and associated equipment where the seller or lessor is a licensed manufacturer or distributor, and the financing is not provided by a third party;

(8)(A) Cash, property, credit, services, guaranty, benefit, or any form of security loaned to or provided for or on behalf of the licensee by a licensed affiliate, licensed subsidiary, or registered parent of the licensee.

(B) However, such financing from a stockholder, partner, unlicensed affiliate, or proprietor of the licensed operation must be reported;

(9) Assessments for property taxes or other improvements by, or accruals for taxes due to, a government entity;

(10) Payments of gaming winnings over time to patrons;

(11) Deposits or payments received by the licensee in conjunction with a convention or similar event;

(12) Leases, including leaseback transactions and capital leases, where the lease term, including any extensions or renewals, does not exceed ninety (90) days; and

(13) Financing activity that has been filed and administratively approved by the commission pursuant to this part.

(g) All renewals, changes, or modifications to the terms or conditions of transactions previously reported under this section must be reported.

(h)(1) The report to the commission required by this section must include:

(A) The names and addresses of all parties to the transaction;

(B) The amount and source of the funds, property, or credit received or applied;

(C) The nature and amount of security provided by or on behalf of the licensee;

(D) The purpose of the transaction; and

(E) Any additional information the commission may require.

(2) For transactions reported pursuant to requirements of this part, the report must also identify the dates of each loan or contribution.

(3) The report must be:

(A) Made on a form provided or approved by the commission;

(B) Accompanied by a fully executed copy of the financing agreement; and

(C) Signed by an owner or key employee as defined in this part.

(i) In the event a party to any transaction reportable pursuant to this part is a person other than the reporting licensee or a financial institution or related subsidiary,

or a publicly traded company, the report must be accompanied by a supplemental filing which must include that person's:

(1) Federal tax identification number or Social Security number;

(2) Date of birth;

(3) Banking references;

(4) Source of funds; and

(5) Any additional information the commission may require.

(j) If, after such investigation as the commission deems appropriate, the commission finds that a reported transaction is inimical to the public health, safety, morals, good order, or general welfare of the people of the State of Arkansas, or would reflect, or tend to reflect, discredit upon the State of Arkansas or the gaming industry, it may order the transaction rescinded within such time and upon such terms and conditions as it deems appropriate.

(k) A bankruptcy filing by a licensee does not relieve that licensee of the reporting requirements of this subpart.

(l) The commission or the commission's designee may waive one (1) or more of the provisions of this section or require a report of a transaction not otherwise addressed in this section or a supplemental filing, upon a finding that the waiver, reporting requirement, or supplemental filing is consistent with the public policy of the State of Arkansas.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-714. Finding of suitability of a person holding an option to acquire an interest in a general partnership licensee.

(a) No person shall acquire or be granted an option to purchase an interest in a general partnership licensee without first notifying the Arkansas Racing Commission, on such forms as may be required by the commission, of the terms and conditions upon which the option was granted or acquired.

(b) The commission may, upon a recommendation by the commission, require the

application of any person for a determination of suitability to hold an option to purchase or otherwise obtain an interest in a general partnership licensee.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

Subpart 8. Enforcement of Security Interests

23 CAR § 358-801. Definitions.

As used in this subpart:

(1) "Commission" means the Arkansas Racing Commission or the commission's designee;

(2) "Enforce a security interest" means the transfer of possession ownership or title pursuant to a security interest;

(3)(A) "Operating license" means the casino license issued to a person for the conduct of gaming.

(B) The term does not include licenses issued to officers, directors, holders of securities, or other ownership interest, key employees, or others who have been licensed due to their relationship to or involvement with the gaming operation;

(4) "Personal property gaming collateral" means property subject to a security interest that is composed of:

(A) A security issued by a corporation which is a holder of a casino license in this state;

(B) A security issued by a holding company that is not a publicly traded corporation;

(C) A security issued by a holding company that is a publicly traded corporation, if the enforcement of the security interest will result in the creditor acquiring control as set forth in this part; or

(D) A security issued by a partnership which is a holder of a casino license in this state;

(5) "Security" means security as that term is defined in 23 CAR § 358-1301 et

seq. and 23 CAR § 358-1401 et seq.;

(6) "Security agreement" means an agreement that creates or provides for a security interest;

(7) "Security interest" means an interest in property that secures the payment or performance of an obligation or a judgment; and

(8) "Secured party" means a person who is a lender, seller, or other person in whose favor there is a security interest or judgment.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-802. Approvals required — Applicability — Scope of approval.

(a)(1) A person may not enforce a security interest in personal property gaming collateral except as provided by this subpart.

(2) The purported enforcement of such security interest without the secured party having complied with the requirements of this subpart is void.

(b) The provisions of this subpart do not apply to the enforcement of a security interest in real property.

(c) Notwithstanding any other provision of this subpart, approval is not required under this subpart to enforce a security interest in a security issued by a holding company, or by a corporation, general partnership, or limited partnership licensee, if the gaming operation has ceased and the operating license has been surrendered to the Arkansas Racing Commission prior to the enforcement of such security interest.

(d) The granting of an approval pursuant to this subpart does not constitute a determination by the commission as to the validity or enforceability of the security interest.

(e) The granting of an approval pursuant to this subpart does not constitute licensing, registration, or finding of suitability of the secured party, nor approval for further sale, transfer, or other disposition of the gaming collateral subsequent to the enforcement of the security interest.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-803. Application for approval to enforce security interest — Investigation — Recommendation of the commission.

(a)(1) Except as otherwise specifically provided herein, a secured party shall apply for approval to enforce a security interest in personal property gaming collateral using such forms as the Arkansas Racing Commission may prescribe.

(2) The application shall include:

(A) A complete schedule and description of the gaming collateral that is the subject of the security interest;

(B) Copies of the security agreement and documents evidencing the obligation secured;

(C) A statement by the secured party identifying the act of default by the debtor that is the basis for seeking to enforce the security interest, including a copy of any notice of default sent to the debtor; and

(D) Any other information requested by the commission.

(b)(1) The commission shall investigate the facts and circumstances related to the application for approval to enforce a security interest.

(2) The investigation by the commission may include:

(A) A review of all pertinent documents;

(B) An analysis of the impact upon the debtor of approving the enforcement of the security interest, including an evaluation of the effect of enforcement of the security interest upon the continued operation of the licensed gaming establishment;

(C) A review of the transaction to determine whether the security interest was given in violation of this part, or in an attempt to evade the requirements of the rules adopted by the commission regarding the sale, assignment, transfer, or other disposition of an interest in a gaming operation or in the type of property subject to this subpart; and

(D) Any other data or information the commission deems relevant to the application.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-804. Enforcement of a security interest in personal property gaming collateral.

(a)(1) The enforcement of a security interest in personal property gaming collateral requires the affirmative approval of the Arkansas Racing Commission.

(2) The commission shall not approve the enforcement of such security interest if such enforcement will result in any person becoming subject to mandatory licensing, registration, or finding of suitability, unless all persons have been licensed, registered, or found suitable by the commission, as applicable.

(3) The commission may grant a temporary or permanent waiver of the requirement of prior licensing, registration, or finding of suitability, or may grant delayed licensing, registration, or finding of suitability upon written request by the secured party.

(b) Where an operating license is surrendered, the commission may, upon its own initiative or upon a request by the secured party, petition a court of competent jurisdiction for the appointment of a supervisor pursuant to this part to ensure the continuation of the gaming operation upon lapse of the license.

(c)(1) The commission may permit the licensee or holding company to register or record the securities in its books or records in the name of the secured party pursuant to this part.

(2) The commission may grant such permission only if the secured party has filed an application for approval to enforce a security interest in such securities.

(3) Such permission shall be conditioned upon and require that the secured party not exercise any voting rights or other control over the licensee or holding company, and that all dividends payable or other beneficial interest in the securities be held in escrow, pending final action on the application to enforce the security interest.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

Subpart 9. Closing of Business — Death or Disability — Insolvency

23 CAR § 358-901. Surrender of license on closing of business — Closing due to natural disasters.

(a)(1) If a gaming establishment is conveyed to a secured party who does not possess the licenses necessary to operate the establishment, and the licensee ceases gaming operations as a result, the licensee must immediately surrender the licensee's casino license and, upon written notification from the Arkansas Racing Commission that the surrender is accepted, the license shall be deemed to have lapsed.

(2) The commission may, upon its own initiative or upon a request by the former secured party of the establishment, petition a court of competent jurisdiction for the appointment of a supervisor pursuant to this part to ensure the continuation of the gaming operation upon lapse of the license.

(b)(1) Except as provided in subsection (a) of this section, any licensee who surrenders, abandons, or quits his or her licensed establishment, or who closes all of his or her licensed games for a period exceeding one (1) month, shall within ten (10) days after surrendering, quitting, or abandoning his or her licensed establishment or so closing his or her games, surrender his or her license to the commission.

(2) The commission may, upon request, authorize closing for longer periods, however, such extension will not permit closing for an entire calendar quarter.

(c)(1) Subsection (b) of this section shall not apply if the commission authorizes closure of any licensed gaming establishment that temporarily ceases the operation of all licensed games because of natural disaster, fire, or other physical destruction of the licensed gaming establishment.

(2) In such circumstances, the licensee shall notify the commission of the:

(A) Circumstances requiring closure of the licensed games pending rebuilding or repair of the premises;

(B) Anticipated duration of the closure; and

(C) Intent of the licensee to commence operation as soon as rebuilding or repairs have been completed.

(3) Upon receipt of such notice, the commission, if satisfied that the premises are in fact unusable for continuing gaming, may authorize closure for such time as is necessary.

(d)(1) Any licensee granted temporary closure by the commission under this subsection is a continuing state casino licensee subject to the provisions of The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, and rules adopted thereunder, and shall also be subject to such conditions, by way of placement of a bond, reporting, or otherwise, as may be deemed necessary by the commission.

(2) Prior to resumption or partial resumption of gaming operations, licensees shall pay in advance any license fees and taxes due.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-902. Death or disability of licensee.

(a) In the event of the death or judicially established disability of a licensee or a stockholder of a corporate licensee, the spouse, next of kin, personal representative, or guardian of such deceased or persons with disabilities or the person in charge of the licensed establishment, or, in the case of a corporate licensee, a managing officer of such corporation, shall notify the Arkansas Racing Commission immediately of the fact of such death or disability.

(b) In case such deceased or person with disabilities is the sole licensee for an establishment, the commission may in the commission's sole and absolute discretion, authorize the spouse, next of kin, personal representative, or guardian of such person to continue the operation of such establishment pending action on an application by such spouse, next of kin, personal representative, or guardian for a license to operate such establishment.

(c) In any case in which the interest held by such deceased or person with disabilities in any licensed establishment would pass by operation of law or otherwise to the person's estate or to any person other than a colicensee, such person or the personal representative or guardian of the deceased or person with disabilities shall, within thirty (30) days after the date of death or disability, make application to the commission for a temporary license as successor in interest, representative, or guardian, whichever is appropriate.

(d)(1) The commission may, in its discretion and if satisfied of the necessity of such action, recommend to the commission that a temporary license be issued to the applicant for such period of time as it may deem necessary.

(2) Such temporary license will entitle the person named therein to take part in the operation of such establishment and to receive profits therefrom as successor in interest, representative, or guardian of the deceased or person with disabilities.

(3) Such temporary license may not be assigned in whole or in part.

(e) No licensee shall permit any spouse, heir, next of kin, personal representative, or guardian to take part in the operation of the licensed establishment, nor pay over to such person any part of the profits of such operation which accrue after the date of death or disability, unless such person is either a colicensee or the holder of a temporary license as successor in interest, representative, or guardian.

(f) In any case in which the interest held by a deceased or disabled trustee in any licensed establishment would pass to a successor trustee other than a colicensee, such successor trustee shall, within thirty (30) days after the date of death or disability, make application to the commission for a temporary license as successor in interest.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-903. Insolvency of a licensee.

(a)(1) In the event that a licensee files any petition with the bankruptcy court for relief as a debtor or has such a petition filed against it, or a receiver is appointed for such licensed business or an assignment of such business is made for the benefit of

creditors, the licensee, trustee, receiver, or assignee, as the case may be, shall immediately notify the Arkansas Racing Commission of such fact in writing.

(2) Such written notice shall have attached a copy of the petition filed with the court, and any relevant court orders such as orders appointing trustees, receivers, or assignees.

(b)(1) No licensed establishment shall be operated by any trustee, receiver, or assignee for the benefit of creditors until such operation has been authorized by the commission.

(2) In an emergency situation, any three (3) members of the commission may authorize the continuation of such operation pending action by the commission.

(c)(1) Any such trustee, receiver, or assignee desiring to continue operation of the licensed establishment shall immediately make application for permission to do so.

(2) Application shall be made in the same manner as an application for an initial license, but the operation, if approved, shall be deemed to continue under the existing license of the establishment.

(d) Permission for such trustee, receiver, or assignee to continue the operation of the licensed establishment may be summarily withdrawn at any time in the discretion of the commission without the necessity of any hearing or proceedings for revocation or suspension.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

Subpart 10. Miscellaneous

23 CAR § 358-1001. Officials not to hold casino licenses or related approvals.

(a) **Prohibition.** No state casino license, finding of suitability, or approval, the granting of which requires an application to be made to the Arkansas Racing Commission, shall be held by nor granted to any person holding office in, or employed by, any agency of the State of Arkansas or any of its political subdivisions when the

duties of such office or agency pertain to the enforcement of the provisions of The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, or this part.

(b) **Inclusions.** This subpart applies specifically, but without limitation, to the following categories of persons in gaming enforcement:

(1) Persons affiliated with the Attorney General's office of the State of Arkansas;

(2) Persons affiliated with any prosecuting attorney's office within the State of Arkansas;

(3) Persons affiliated with any sheriff's office or police department within the State of Arkansas;

(4) Members, agents, or employees of the commission; and

(5) Any member of the judiciary.

(c) **Waivers.** The commission may waive the prohibition contained within subsection (a) of this section if it makes a written finding that such waiver is not inconsistent with the functions, duties, or responsibilities of the person otherwise restricted from holding the license, finding of suitability, or approval do not involve matters relating to the enforcement of the provisions of Amendment 100 or this part.

(d) **Nontransferability of waivers.** A waiver granted pursuant to this section is applicable only to the specific matter for which it is granted and shall not be transferable to any other license, finding of suitability, or approval applied for or held by the person otherwise prohibited from holding or being issued the same.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

Subpart 11. Chips

23 CAR § 358-1101. Definitions.

As used in this subpart:

(1) "Book" means a race book or sports pool licensed and approved pursuant

to this part;

(2) Except as otherwise provided, "commission" means the Arkansas Racing Commission or the commission's designee; and

(3) "Chip" means a nonmetal or partly metal representative of value issued by a licensee for use at table games or counter games at the licensee's gaming establishment.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1102. Approval of chips — Applications and procedures.

(a)(1) A licensee shall not issue any chips for use in its gaming establishment, or redeem any such chips, unless the chips have been approved in writing by the Arkansas Racing Commission.

(2) A licensee shall not issue any chips for use in its gaming establishment, or redeem any such chips, that are modifications of chips previously approved by the commission, unless the modifications have been approved in writing by the commission.

(b)(1) Applications for approval of chips and modifications to previously approved chips must be made, processed, and determined in such manner and using such forms as the commission may prescribe.

(2) Only casino licensees, or the manufacturer authorized by these licensees to produce the chips, may apply for such approval.

(3) Each application must include, in addition to such other items or information as the commission may require:

(A) An exact drawing, in color or in black-and-white, of each side and the edge of the proposed chip, drawn to actual size or drawn to larger than actual size and in scale, and showing the measurements of the proposed chip in each dimension;

(B) Written specifications for the proposed chips;

(C) The name and address of the manufacturer;

(D) The licensee's intended use for the proposed chips; and

(E) A verification upon oath or notarized affirmation, executed by the chief

operating officer of the chip manufacturer, or a person with equivalent responsibilities, that it has a written system of internal control, approved by the commission, which describes in detail the current administrative, accounting, and security procedures which are utilized in the manufacture, storage, and shipment of the chips and related material.

(4) The written system must include at a minimum a detailed, narrative description of the procedures and controls implemented to ensure the integrity and security of the manufacturing process, from design through shipment, including but not limited to those procedures and controls designed specifically to:

(A) Provide for the secure storage or destruction of all preproduction prototypes, samples, production rejects, and other nonsalable product;

(B) Provide security over the finished artwork, hubs, plates, dies, molds, stamps, and other related items which are used in the manufacturing process;

(C) Prevent the unauthorized removal of product from the production facility through the utilization of security devices such as metal detectors and surveillance cameras;

(D) Restrict access to raw materials, work-in-process, and finished goods inventories to authorized personnel;

(E) Establish procedures for documenting approval of production runs;

(F) Establish and maintain a perpetual inventory system which adequately documents the flow of materials through the manufacturing process;

(G)(i) Establish procedures which reconcile the raw material used to the finished product on a job-by-job basis.

(ii) Significant variances are to be documented, investigated by management personnel, and immediately reported to the commission and to the licensee who authorized the manufacturer to produce the chips;

(H)(i) Provide for quarterly physical inventory counts to be performed by an individual or individuals independent of the manufacturing process which are reconciled to the perpetual inventory records.

(ii) Significant variances are to be documented, investigated by

management personnel, and immediately reported to the commission;

(I) Establish a framework of procedures which provide for the security and accountability of products and materials sent to or received from subcontractors or satellite production facilities;

(J) Document controls over the shipment of finished product; and

(K)(i) Provide such other or additional information as the commission may require.

(ii) The commission may in writing approve variations from the specific requirements of this subpart if in the opinion of the commission the alternative controls and procedures meet the objectives of this subpart.

(c)(1) If, after receiving and reviewing the items and information described by this subpart, the commission is satisfied that the proposed chips and related information conform to the requirements of this subpart, the commission shall notify the licensee or the manufacturer authorized by the licensee to produce the chips in writing and shall request, and the licensee or the manufacturer shall provide, a sample of the proposed chips in final, manufactured form.

(2) If the commission is satisfied that the sample conforms with the requirements of this subpart and with the information submitted with the licensee's application, the commission shall approve the proposed chips and notify the licensee in writing.

(3) As a condition of approval of chips issued for use at the licensee's race book, sports pool, or specific table or counter game, the commission may prohibit the licensee from using the chips other than at the book, pool, or specific game.

(4) The commission may retain the sample chips submitted pursuant to this subsection.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1103. Specifications for chips.

(a)(1) Chips must be designed, manufactured, and constructed in compliance with

all applicable statutes, rules, regulations, and policies of the United States, Arkansas, and other states, and so as to prevent counterfeiting of the chips to the extent reasonably possible.

(2) Chips must not deceptively resemble any current or past coinage of the United States or any other nation.

(b) In addition to such other specifications as the Arkansas Racing Commission may approve:

(1) The name of the issuing gaming establishment must be inscribed on each side of each chip, and the city or other locality and the state where the establishment is located must be inscribed on at least one (1) side of each chip;

(2) The value of the chip must be inscribed on each side of each chip, other than chips used exclusively at roulette;

(3) The manufacturer's name or a distinctive logo or other mark identifying the manufacturer must be inscribed on at least one (1) side of each chip; and

(4) Each chip must be designed so that when stacked with chips of other denominations and viewed on closed-circuit, black-and-white television, the denomination of the chip can be distinguished from that of the other chips in the stack.

(c) The names of the city or other locality and the state where the establishment is located must be inscribed on at least one (1) side of each chip unless the commission finds, after application by a licensee, that such an inscription is not necessary because:

(1) The name of the issuing establishment is unique to one (1) readily identifiable establishment in all gaming jurisdictions; or

(2) The inclusion of the city or other locality and the state is not necessary or beneficial for any regulatory purpose relating to the applicant.

(d) Any application submitted pursuant to subsection (c) of this section must be signed by the chief executive officer of the applicant and be on a form prescribed by the commission.

(e) Any approval by the commission for the deletion of such an inscription shall be in writing and be limited to that period of time in which the name of the licensee is limited to one (1) establishment and conditioned so that it may be withdrawn in the

future if the commission determines that the deletion results in confusion with the chips of another establishment or if such inclusion is deemed necessary or beneficial for any regulatory purpose.

(f) A copy of any approval or disapproval or other decision by the commission pursuant to the authority delegated in subsection (c) of this section must be submitted to the members of the commission within five (5) working days thereafter and may be relied on by the applicant if within twenty (20) working days after such submission:

(1) A member of the commission does not request a review by the entire commission; or

(2) The commission does not include the matter on the next available commission agenda.

(g) In the event of such a request by a commission member, or such action by the commission, the application or other related issue or issues shall be considered and decided by the commission upon the recommendation of the commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1104. Specifications for chips.

(a) Unless the Arkansas Racing Commission approves otherwise, chips must be disk-shaped, must be one hundred thirty thousandths-inch (0.130″) thick, and must have a diameter of:

(1) One and fifty-five hundredths inches (1.55″) for chips used at games other than baccarat;

(2) One and fifty-five hundredths inches (1.55″) or one and six thousand eight hundred seventy-five millionths inches (1.6875″) for chips used at baccarat; and

(3) One and six thousand eight hundred seventy-five millionths inches (1.6875″) for chips used exclusively at race books and sports pools or other counter games.

(b) Each side of each chip issued for use exclusively at a race book, sports pool, or particular game must bear an inscription clearly indicating that use of the chip is so

restricted.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1105. Use of chips.

(a) Chips are solely representatives of value which evidence a debt owed to their custodian by the licensee that issued them and are not the property of anyone other than that licensee.

(b) A licensee that uses chips at its gaming establishment shall:

(1) Comply with all applicable statutes, rules, regulations, and policies of Arkansas and of the United States pertaining to chips;

(2) Issue chips only to patrons of its gaming establishment and only at their request;

(3) Promptly redeem its own chip from its patrons by cash or check drawn on an account of the licensee;

(4) Post conspicuous signs at its establishment notifying patrons that state law prohibits the use of the licensee's chips outside the establishment for any monetary purpose whatever, and that the chips issued by the licensee are the property of the licensee only; and

(5) Take reasonable steps, including examining chips and segregating those issued by other licensees to prevent the issuance to its patrons of chips issued by another licensee.

(c) A licensee shall not accept chips as payment for any goods or services offered at the licensee's gaming establishment with the exception of the specific use for which the chips were issued or purchase of beverages on the casino floor, and shall not give chips as change in any other transaction.

(d) A licensee shall not redeem its chips if presented by a person who the licensee knows or reasonably should know is not a patron of its gaming establishment, except that a licensee shall promptly redeem its chips if presented by:

(1) Another licensee who represents that it redeemed the chips from its

patrons or received them:

(A) Unknowingly;

(B) Inadvertently; or

(C) Unavoidably;

(2) An employee of the licensee who presents the chips in the normal course of employment; or

(3) A person engaged in the business of collecting from licensees chips issued by other
licensees and presenting them to the issuing licensees for redemption.

(e) A licensee may redeem its chips if presented by an agent of the Arkansas Racing Commission in the performance of the agent's official duties or on behalf of another governmental agency.

(f)(1) A licensee shall not knowingly issue, use, permit the use of, or redeem chips issued by another licensee, except as follows.

(2) A licensee may redeem chips issued by another licensee if:

(A) The chips are presented by a patron for redemption at the cashier's cage of the licensee's gaming establishment;

(B) The chips are presented by a patron at a table game, and the licensee redeems the chips with chips of its own, places the redeemed chips in the table's drop box, and separates and properly accounts for the redeemed chips during the count performed pursuant to the licensee's system of internal control submitted pursuant to 23 CAR § 358-606 and § 358-607; or

(C) The chips are presented by a patron as payment on a race, pari-mutuel, or sports wager to a book located on the premises of the licensee which issued the chips.

(g) Chips whose use is restricted to uses other than at table games or other than at specified table games may be redeemed by the issuing licensee at table games or nonspecified table games if the chips are presented by a patron, and the licensee redeems the chips with chips issued for use at the game, places the redeemed chips in the table's drop box, and separates and properly accounts for the redeemed chips

during the count performed pursuant to the licensee's system of internal control required by this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1106. Redemption and disposal of discontinued chips.

(a)(1) A licensee that permanently removes from use or replaces approved chips at its gaming establishment, or that ceases operating its gaming establishment whether because of closure or sale of the establishment or any other reason, must prepare a plan for redeeming discontinued chips that remain outstanding at the time of discontinuance.

(2) The licensee must submit the plan in writing to the Arkansas Racing Commission not later than thirty (30) days before the proposed removal, replacement, sale, or closure, unless the closure or other cause for discontinuance of the chips cannot reasonably be anticipated, in which event the licensee must submit the plan as soon as reasonably practicable.

(3) The commission may approve the plan or require reasonable modifications as a condition of approval.

(4) Upon approval of the plan, the licensee shall implement the plan as approved.

(b) In addition to such other reasonable provisions as the commission may approve or require, the plan must provide for:

(1) Redemption of outstanding, discontinued chips in accordance with this subpart for at least one hundred twenty (120) days after the removal or replacement of the chips or for at least one hundred twenty (120) days after operations cease, as the case may be, or for such longer or shorter period as the commission may for good cause approve or require;

(2) Redemption of the chips at the premises of the gaming establishment or at such other location as the commission may approve;

(3) The casino licensee shall publish in at least one (1) newspaper of general

circulation and on the website of the licensee any notice of the discontinuance of the chips and how the chips may be redeemed;

(4) Conspicuous posting of the notice described in subdivision (b)(3) of this section at the gaming establishment or other redemption location; and

(5) Destruction or such other disposition of the discontinued chips as the commission may approve or require.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1107. Destruction of counterfeit chips.

(a) As used in this section, "counterfeit chips" means any chip-like objects that have not been approved pursuant to this subpart, including objects commonly referred to as "slugs", but not including coins of the United States or any other nation.

(b) Unless a peace officer instructs or a court of competent jurisdiction orders otherwise in a particular case, licensees shall destroy or otherwise dispose of counterfeit chips discovered at their establishments in such manner as the Arkansas Racing Commission may approve or require.

(c) Unless a peace officer instructs or a court of competent jurisdiction orders otherwise in a particular case, licensees may dispose of coins of the United States or any other nation discovered to have been unlawfully used at their establishments by including them in their coin inventories or, in the case of foreign coins, by exchanging them for United States currency or coins and including same in their currency or coin inventories, or by disposing of them in any other lawful manner.

(d) Each licensee shall record, in addition to such other information as the commission may require:

(1) The number and denominations, actual and purported, of the coins and counterfeit chips destroyed or otherwise disposed of pursuant to this section;

(2) The month during which they were discovered;

(3) The date, place, and method of destruction or other disposition, including, in the case of foreign coin exchanges, the exchange rate and the identity of the bank,

exchange company, or other business or person at which or with whom the coins are exchanged; and

(4) The names of the persons carrying out the destruction or other disposition on behalf of the licensee.

(e) Each licensee shall maintain each record required by this subsection for at least five (5) years, unless the commission approves or requires otherwise.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1108. Promotional and tournament chips.

(a) As used in this section, "promotional chip" means a chip-like object issued by a licensee for use in promotions or tournaments at the licensee's gaming establishment.

(b) Promotional chips must be designed, manufactured, approved, and used in accordance with the provisions of this subpart applicable to chips, except as follows:

(1) Promotional chips must be of such shape and size and have such other specifications as the Arkansas Racing Commission may approve or require;

(2) Each side of each promotional chip must conspicuously bear the inscription "No Cash Value";

(3) Promotional chips must not be used, and licensees shall not permit their use, in transactions other than the promotions or tournaments for which they are issued; and

(4) The provisions of this subpart shall not apply to promotional chips.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1109. Other instrumentalities.

Other instrumentalities with which gaming is conducted must be designed, manufactured, approved, used, discontinued, destroyed, or otherwise disposed of in accordance with the provisions of this subpart applicable to chips, except as follows:

(1) Such other instrumentalities must be of such shape, size, and design and

have such other specifications as the Arkansas Racing Commission may approve or require; and

(2) The commission, in the commission's sole and absolute discretion, may deny approval of instrumentalities other than chips or may grant approval subject to such conditions as the commission considers appropriate.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

Subpart 12. Manufacturers, Distributors, Operators of Intercasino-linked Systems, Gaming Devices, New Games, Intercasino-linked systems, Online Slot Metering Systems, Cashless Wagering Systems, Mobile Gaming Systems, Interactive Gaming Systems, and Associated Equipment

23 CAR § 358-1201. Definitions.

As used in this subpart, unless the context otherwise requires:

(1) "Assume responsibility" means to acquire complete control over, or ownership of:

(A) A gaming device;

(B) A cashless wagering system;

(C) A mobile gaming system; or

(D) An interactive gaming system;

(2)(A) "Cashless wagering system" means the collective hardware, software, communications technology, and other associated equipment used to facilitate wagering on any game or gaming device including mobile gaming systems and interactive gaming systems with other than chips or legal tender of the United States.

(B) The term does not include any race and sports computerized bookmaking system that accepts pari-mutuel wagers, or any other race and sports book systems that do not:

(i) Accept wagering instruments;

(ii) Accept wagering credits; or

(iii) Process electronic money transfers.

(C) Associated equipment such as redemption kiosks may also be used to act as promotion kiosks and automated teller machines;

(3) "Commission" means the Arkansas Racing Commission or the commission's designee;

(4)(A) "Control program" means any software, source language, or executable code which affects the result of a wager by determining win or loss.

(B) The term includes, but is not limited to, software, source language, or executable code associated with the:

(i) Random number generation process;

(ii) Mapping of random numbers to game elements to determine game outcome;

(iii) Evaluation of the randomly selected game elements to determine win or loss;

(iv) Payment of winning wagers;

(v) Game recall;

(vi) Game accounting, including the reporting of meter and log information to an online slot metering system;

(vii) Monetary transactions conducted with associated equipment;

(viii) Software verification and authentication functions which are specifically designed and intended for use in a gaming device;

(ix) Monitoring and generation of game tilts or error conditions; and

(x)*(a)* Game operating systems which are specifically designed and intended for use in a gaming device.

(b) The term does not include software used for artistic attributes of a game including graphics, sound, and animation providing entertainment unless such elements are material to game play because they are necessary for the player to understand the game or game outcome;

(5) "Distribution" or "distribute" means the sale, offering for sale, lease, offering for lease, licensing, or other offer of any gaming device, cashless wagering

system, mobile gaming system, or interactive gaming system for use or play in Arkansas;

(6) "Distributor" means a person who operates, carries on, conducts, or maintains any form of distribution;

(7) "Distributor of associated equipment" means any person that sells, offers to sell, leases, offers to lease, licenses, markets, offers, or otherwise offers associated equipment in Arkansas for use by licensees;

(8) "Equipment associated with interactive gaming" means any equipment or mechanical, electromechanical, or electronic contrivance, component, or machine used remotely or directly in connection with gaming or mobile gaming, any game, race book, or sports pool that would not otherwise be classified as a gaming device, including dice, playing cards, links which connect to progressive slot machines, equipment which affects the proper reporting of gross revenue, computerized systems of betting at a race book or sports pool, computerized systems for monitoring slot machines, and devices for weighing or counting money, or a computerized system for recordation of sales for use in an area subject to tax;

(9) "Game of chance" means a game in which randomness determines all outcomes of the game as determined over a period of continuous play;

(10)(A) "Electronic games of skill" means games played through any electronic device or machine that afford an opportunity for the exercise of skill or judgment when the outcome is not completely controlled by chance alone;

(B) "Electronic games of skill" does not include pari-mutuel wagering on horse racing and greyhound racing governed by the Arkansas Horse Racing Law, Arkansas Code § 23-110-101 et seq., or the Arkansas Greyhound Racing Law, Arkansas Code § 23-111-101 et seq., whether pari-mutuel wagering on live racing, simulcast racing, or races conducted in the past and rebroadcast by electronic means;

(11) "Game outcome" means the final result of the wager;

(12)(A) "Game variation" means a change or alteration in a game or gambling game that affects the manner or mode of play of an approved game.

(B) This includes, but is not limited to, the addition or removal of

wagering opportunities or a change in the theoretical hold percentage of the game;

(13) "Gaming session" means the period of time commencing when a player initiates a game or series of games on a gaming device by committing a wager and ending at the time of a final game outcome for that game or series of games;

(14) "Hybrid game" means a game in which a combination of the skill of the player and chance affects the outcome of the game as determined over a period of continuous play;

(15) "Identifier" means any specific and verifiable fact concerning a player or group of players which is based upon objective criteria relating to the player or group of players, including, without limitation:

(A) The frequency, value, or extent of predefined commercial activity;

(B) The subscription to or enrollment in particular services;

(C) The use of a particular technology concurrent with the play of a gaming device;

(D) The skill of the player;

(E) The skill of the player relative to the skill of any other player participating in the same game;

(F) The degree of skill required by the game; or

(G) Any combination of subdivisions (15)(A) – (F) of this section, inclusive;

(16) "Independent contractor" means any person who:

(A) Is not an employee of a licensed manufacturer; and

(B) Pursuant to an agreement with a licensed manufacturer:

(i) Designs, develops, programs, produces, or composes a control program on behalf of the licensed manufacturer; or

(ii)*(a)* Designs, develops, produces, or composes software, source language, or executable code intended to be compiled into a control program by the licensed manufacturer.

(b) As used in this subpart, "licensed manufacturer" includes any affiliate that is owned or controlled by or under common control with the licensee;

(17) "Independent testing laboratory" means a private laboratory that is registered by the Arkansas Racing Commission to inspect and certify games, gaming devices, associated equipment, cashless wagering systems, intercasino-linked systems, mobile gaming systems, or interactive gaming systems, and any components thereof and modifications thereto, and to perform such other services as the commission may request;

(18)(A) "Intercasino-linked system" means a network of electronically interfaced similar games which are located at two (2) or more licensed gaming establishments that are linked to:

(i) Conduct gaming activities, contests, or tournaments; or

(ii) Facilitate participation in a common progressive prize system, and the collective hardware, software, communications technology, and other associated equipment used in such system to link and monitor games or devices located at two (2) or more licensed gaming establishments, including any associated equipment used to operate a multijurisdictional progressive prize system.

(B) Systems that solely record a patron's wagering activity among affiliated properties are not intercasino-linked systems.

(C) The term "multijurisdictional progressive prize system" means the collection of hardware, software, communications technology, and other associated equipment used to link and monitor progressive slot machines or other games among licensed gaming establishments in this state participating in an intercasino-linked system and one (1) or more lawfully operated gaming locations in other jurisdictions that participate in a similar system for the purpose of participation in a common progressive prize system;

(19)(A) "Intercasino-linked system modification" means a change or alteration to an intercasino-linked system made by an operator who has been previously approved by the Arkansas Racing Commission to operate that system.

(B) With regard to intercasino-linked systems that link progressive payout schedules, the term includes, but is not limited to a:

(i) Change in a system name or theme; or

(ii) Change in gaming device denomination;

(20)(A) "Interactive gaming system" is a gaming device and means the collective hardware, software, communications technology, and proprietary hardware and software specifically designed or modified for, and intended for use in, the conduct of interactive gaming.

(B) The core components of an interactive gaming system, including servers and databases running the games on the interactive gaming system and storing game and interactive gaming account information, must be located in the State of Arkansas except as otherwise permitted by the Arkansas Racing Commission;

(21) "Manufacture" means:

(A) To manufacture, produce, program, design, control the design of or make modifications to a gaming device, associated equipment, cashless wagering system, mobile gaming system, or interactive gaming system for use or play in Arkansas;

(B) To direct, control, or assume responsibility for the methods and processes used to design, develop, program, assemble, produce, fabricate, compose, and combine the components and other tangible objects of any gaming device, associated equipment, cashless wagering system, mobile gaming system, or interactive gaming system for use or play in Arkansas; or

(C) To assemble, or control the assembly of, a gaming device, associated equipment, cashless wagering system, mobile gaming system, or interactive gaming system for use or play in Arkansas;

(22) "Manufacturer" means a person who operates, carries on, conducts, or maintains any form of manufacture;

(23) "Manufacturer of associated equipment" means any person that manufactures, assembles, or produces any associated equipment, including intercasino-linked systems, for use in Arkansas by licensees;

(24) "Manufacturer of equipment associated with interactive gaming" means any person that manufactures, assembles, or produces any equipment associated with interactive gaming;

(25) "Mobile gaming system" or "system" means a system that allows for the conduct of games through mobile communications devices operated solely within a licensed gaming establishment by the use of communications technology that allows a patron to bet or wager, and corresponding information related to the display of the game, gaming outcomes, or other similar;

(26) "Mobile gaming system modification" means any change or alteration to a mobile gaming system made by a manufacturer from its approved configuration;

(27)(A) "Modification" means a change or alteration in a gaming device previously approved by the Arkansas Racing Commission for use or play in Arkansas that affects the manner or mode of play of the device.

(B) The term includes a change to control programs and, except as provided in subdivisions (27)(B)(iii) and (iv) of this section, in the theoretical hold percentage.

(C) The term does not include:

(i) Replacement of one (1) component with another, preapproved component;

(ii) The rebuilding of a previously approved device with preapproved components;

(iii) A change in the theoretical hold percentage of a mechanical or electromechanical device, provided that the device as changed meets the standards of this part;

(iv) A change in the theoretical hold percentage of an electronic device which is the result of a top award jackpot or bonus jackpot payment which is paid directly by an attendant and which is not accounted for by the device; or

(v) A change to software used for artistic attributes of a game, including graphics, sound, and animation providing entertainment unless such elements are material to game play because they are necessary for the player to understand the game or game outcome;

(28) "Online slot metering system" means the collective hardware, software, and other associated equipment used to monitor, accumulate, and record meter

information from gaming devices within a licensed establishment;

(29) "Operator" means, except as otherwise provided, any person or entity holding a license to operate:

(A) An intercasino-linked system or mobile gaming system in Arkansas;

(B) A casino gaming operation that operates an intercasino-linked system of affiliates; or

(C) An intercasino-linked system under subdivisions (29)(A) and (B) of this section which system also is linked to or otherwise incorporates a multijurisdictional progressive prize system;

(30) "Private residence" means a noncommercial structure used by a natural person as a place of abode and which is not used for a commercial purpose;

(31) "Proprietary hardware and software" means hardware or software specifically designed for use in a gaming device including a mobile gaming system and interactive gaming system;

(32) "Randomness" means the observed unpredictability and absence of pattern in a set of elements or events that have definite probabilities of occurrence;

(33)(A) "Rules of play" means those features of a game necessary for a reasonable person to understand how a game is played including, but not limited to, the following:

(i) Help screens;

(ii) Award cards; and

(iii) Payline information.

(B) The term does not include those inherent features of a game that a reasonable person should know or understand prior to initiating the game;

(34) "Skill" means the knowledge, dexterity, or any other ability or expertise of a natural person; and

(35) "Theme" means a concept, subject matter, and methodology of design.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1202. Policy.

Gaming devices and associated equipment that incorporate innovative, alternative, and advanced technology are beneficial to and in the best interests of the State of Arkansas and it is the policy of the Arkansas Racing Commission to encourage the development and deployment of such technologies by manufacturers, distributors, and gaming establishments in Arkansas.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1203. Determination of suitability.

(a) A person is not subject to licensing in connection with activities performed as an independent contractor provided that a person who is licensed under the provisions of this section assumes responsibility for the design, development, programming, production, or composition of the control program in Arkansas.

(b) An independent contractor may be required by the Arkansas Racing Commission, upon recommendation of the commission, to file an application for a finding of suitability to be an independent contractor for a licensed manufacturer.

(c)(1) The commission shall give written notice to the independent contractor of its decision to require the filing of an application for a finding of suitability.

(2) Unless otherwise stated by the commission in its written notice, an independent contractor who has been ordered to file an application for a finding of suitability to be an independent contractor may continue to perform under a contract with a manufacturer unless and until the commission finds the independent contractor unsuitable.

(d) If the commission finds an independent contractor to be unsuitable:

(1) All licensed manufacturers shall, upon written notification, immediately terminate any existing relationships, direct or indirect, with such independent contractor;

(2) No new gaming device with a control program that contains software, source language, or executable code created in whole or in part by the unsuitable

independent contractor shall be approved; and

(3) Any previously approved gaming device with a control program that contains software, source language, or executable code created in whole or in part by the independent contractor is subject to revocation of its approval if the reasons for the finding of unsuitability also apply to that gaming device.

(e) Failure of a licensed manufacturer to terminate any association or agreement with an independent contractor after receiving notice of the determination of unsuitability constitutes an unsuitable method of operation.

(f) The commission retains jurisdiction to determine the suitability of an independent contractor regardless of whether or not the independent contractor has any active agreements with licensed manufacturers or is otherwise no longer functioning as an independent contractor.

(g) A failure on the part of an independent contractor to submit an application for a finding of suitability within thirty (30) days after being demanded to do so by the commission shall constitute grounds for a finding of unsuitability of the independent contractor.

(h)(1) An independent contractor, or employee thereof, is not considered a gaming employee in relation to any work conducted designing, programming, producing, or composing a control program within the scope of an agreement entered into with a licensed manufacturer.

(2) An independent contractor or employee thereof is in no way exempt from being classified as a gaming employee for such work performed outside the scope of an agreement with a licensed manufacturer or for other work performed related to gaming.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1204. Manufacturer's agreements with independent contractors.

Any agreement between a licensed manufacturer and an independent contractor

shall provide for termination without continuing obligation of the licensed manufacturer in the event the independent contractor:

(1) Refuses to respond to information requests from the Arkansas Racing Commission;

(2) Fails to file an application for a finding of suitability as required by the commission; or

(3) Is found unsuitable by the commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1205. Manufacturer's responsibilities for independent contractors.

(a) Each licensed manufacturer must:

(1) Complete a review of any software, source language, or executable code designed, developed, produced, or composed by an independent contractor for compliance with all applicable rules and technical standards of the Arkansas Racing Commission and commission prior to submission to the commission; and

(2) As to such submission, maintain a record of the general subject matter description of the software, source language, or executable code that was designed, developed, produced, or composed by an independent contractor, by contractor name.

(b)(1) Unless the commission approves or requires otherwise in writing, such records shall be maintained for a minimum of five (5) years from the date of the relevant submission and must be made available to the commission upon request.

(2) Failure to keep and provide such records is an unsuitable method of operation.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1206. Certain themes prohibited in association with gaming devices or slot machines.

(a) A gaming device or gaming device modification submitted for approval by a manufacturer or made available for play by a licensee must not use a theme that:

(1) Is derived from or based on a product that is currently and primarily intended or marketed for use by persons under twenty-one (21) years of age; or

(2) Depicts a subject or material that:

(A) Is obscene;

(B) Offensively portrays persons based on:

(i) Race;

(ii) Religion;

(iii) National origin;

(iv) Gender; or

(v) Sexual preference; or

(C) Is otherwise contrary to public policy of this state.

(b)(1) A manufacturer, licensee, or other person holding the intellectual property rights to a theme may, concurrent with or independent of an application for approval of or modification to a gaming device, file a request with the Arkansas Racing Commission, in such manner and using such forms as the commission may prescribe, for a determination as to whether subsection (a) of this section prohibits use of the theme in connection with a gaming device.

(2) The request for determination must be accompanied by a nonrefundable fee of Five hundred dollars ($500) for each separate theme.

(3)(A) The requesting party shall articulate the reasons that the theme is not prohibited by subsection (a) of this section along with any additional information it deems relevant to the determination.

(B) Information submitted pursuant to this section is confidential.

(c) Within thirty (30) days of the submission of the request for determination pursuant to subsection (b) of this section, the commission shall administratively approve, approve with modification or condition, or deny the request for determination.

(d)(1) A written request for withdrawal of the request for determination may be made by the requesting party at any time prior to the commission's final action on such

request.

(2) A request for withdrawal is effective upon delivery to the commission and is without prejudice.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1207. Approval of gaming devices and the operation of new intercasino-linked systems, applications, and procedures.

(a) A manufacturer or distributor shall not distribute a gaming device in Arkansas and a licensee shall not offer a gaming device for play unless it has been approved by the Arkansas Racing Commission or is offered for play pursuant to a field test ordered by the commission.

(b) An operator of an intercasino-linked system shall not install and operate a new intercasino-linked system in Arkansas and a licensee shall not offer any gaming device or game for play that is part of such a system unless operation of the intercasino-linked system and all gaming devices or games that are part of or connected to the intercasino-linked system have been approved by the commission or are offered for play pursuant to a field test ordered by the commission.

(c)(1) Applications for approval of a new gaming device or to operate a new intercasino-linked system shall be made and processed in such manner and using such forms as the commission may prescribe.

(2) Only licensed manufacturers may apply for approval of a new gaming device.

(3) Only operators may apply for approval to operate a new intercasino-linked system.

(d) At the commission's request, an applicant for a manufacturer's or intercasino-linked system operator's license shall, or upon the commission's prior approval an applicant for a manufacturer's or operator's license may, apply for a preliminary determination that a new gaming device or new intercasino-linked system meets the standards required by this subpart.

(e) Each application shall include, in addition to other items or information as the commission may require:

(1) A complete, comprehensive, and technically accurate description and explanation in both technical and lay language of the manner in which the gaming device or intercasino-linked system operates and complies with all applicable statutes, regulations, and technical standards, signed under penalty of perjury;

(2) A statement under penalty of perjury that, to the best of the manufacturer's knowledge, the gaming device meets the standards of 23 CAR § 358-1403 or, in the case of an intercasino-linked system, that to the best of the operator's knowledge the system meets the standards of 23 CAR § 358-1209;

(3) In the case of a gaming device, a copy of all executable software, including data and graphic information, and a copy of all source code for programs that cannot be reasonably demonstrated to have any use other than in a gaming device, submitted on electronically readable, unalterable media;

(4) In the case of a gaming device, a copy of all graphical images displayed on the gaming device including, but not limited to, reel strips, rules, instructions, and paytables;

(5) In the case of an intercasino-linked system:

(A) An operator's manual;

(B) A network topology diagram;

(C) An internal control system;

(D) A hold harmless agreement;

(E) A graphical representation of the system theme and all related signage;

(F) Information sufficient to calculate a theoretical payoff schedule amount including, but not limited to:

(i) The base and reset amounts;

(ii) The total contribution percentage and a breakdown of that percentage, including contribution rates to all progressive payoff schedules and all reset funds;

(iii) The odds of winning the progressive payoff schedule; and

(iv) The amount of the wager required to win the progressive payoff schedule; and

(G) The form of any agreement or written specifications permitted or required of an operator by any other state or tribal government and affecting a multijurisdictional progressive prize system;

(6) In the case of a mobile gaming system:

(A) An operator's manual;

(B) A network topology diagram;

(C) An internal control system; and

(D) A description of the method used to isolate game function to the areas listed in this part; and

(7) All materials relating to the results of the registered independent testing laboratory's inspection and certification process that are required under 23 CAR § 358-1215.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1208. Minimum standards for gaming devices.

(a) All gaming devices must:

(1) Theoretically pay out a mathematically demonstrable percentage of all amounts wagered over the life of the game, which must not be less than eighty-three percent (83%) for each wager available for play on the device;

(2) Determine game outcome solely by the application of:

(A) Chance;

(B) The skill of the player; or

(C) A combination of the skill of the player and chance;

(3) Display in an accurate and non-misleading manner:

(A) The rules of play;

(B) The amount required to wager on the game or series of games in a

gaming session;

(C) The amount to be paid on winning wagers;

(D) Any rake-off percentage or any fee charged to play the game or series of games in a gaming session;

(E) Any monetary wagering limits for games representative of live gambling games;

(F) The total amount wagered by the player;

(G) The game outcome; and

(H) Such additional information sufficient for the player to reasonably understand the game outcome; and

(4) Satisfy the technical standards adopted pursuant to this part.

(b)(1) Once a game is initiated by a player on a gaming device, the rules of play for that game, including the probability and award of a game outcome, cannot be changed.

(2) In the event the game or rules of play for the game, including probability and award of a game outcome, change between games during a gaming session, notice of the change must be prominently displayed to the player.

(c) Gaming devices connected to a common payoff schedule shall:

(1) All be of the same denomination and have equivalent odds of winning the common payoff schedule/common award based as applicable on either or both of the combined influences of the attributes of chance and skill; or

(2)(A) If of different denominations, equalize the expected value of winning the payoff schedule/common award on the various denominations by setting the odds of winning the payoff schedule in proportion to the amount wagered based as applicable on either or both the combined influence of the attributes of chance and skill, or by requiring the same wager to win the payoff schedule/award regardless of the device’s denomination.

(B) The method of equalizing the expected value of winning the payoff schedule/award shall be conspicuously displayed on each device connected to the common payoff schedule/common award.

(C) For the purposes of this requirement, equivalent is defined as within a five-percent tolerance for expected value and no more than a one-percent tolerance on return to player or payback.

(d) All possible game outcomes must be available upon the initiation of each play of a game upon which a player commits a wager on a gaming device.

(e) For gaming devices that are representative of live gambling games, the mathematical probability of a symbol or other element appearing in a game outcome must be equal to the mathematical probability of that symbol or element occurring in the live gambling game.

(f) Gaming devices that offer games of skill or hybrid games must indicate prominently on the gaming device that the outcome of the game is affected by player skill.

(g) Gaming devices must not alter any function of the device based on the actual hold percentage.

(h) Gaming devices may use an identifier to determine which games are presented to or available for selection by a player.

(i) For gaming devices manufactured and distributed before September 28, 1989, the Arkansas Racing Commission may waive the requirements of this part for a licensee exposing a gaming device to the public for play, if the licensee can demonstrate to the commission's satisfaction that:

(1) After the waiver, the aggregate theoretical payout for all amounts wagered on all gaming devices exposed for play by the licensee at a single establishment meets the eighty-three percent (83%) standard of subdivision (a)(1) of this section; and

(2) The licensee is unable to bring the device into compliance with the requirements of subdivision (a)(1) of this section because of excessive cost or the unavailability of parts.

(j)(1) The commission may waive for good cause shown the requirements of a technical standard for a game.

(2) The commission has full and absolute authority to condition or limit a waiver granted under this section for any cause deemed reasonable.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1209. Minimum standards for intercasino-linked systems.

All intercasino-linked systems submitted for approval shall:

(1)(A) In the case of an intercasino-linked system featuring a progressive payoff schedule that increases as the intercasino-linked system is played, have a minimum rate of progression for the primary jackpot meter of not less than four-tenths of one percent (.4%) of amounts wagered.

(B) In the case of an intercasino-linked system featuring a progressive payoff schedule that increases over time, have a minimum rate of progression for the primary jackpot meter of not less than one hundred dollars ($100) per day.

(C) The provisions of subdivision (1) of this section do not prevent an operator from limiting a progressive payoff schedule as allowed by this part;

(2) Have a method to secure data transmissions between the games and devices and the main computer of the operator, as approved by the Arkansas Racing Commission;

(3) Display the rules of play and the payoff schedule; and

(4) Meet the applicable minimum standards for internal control that have been adopted pursuant to this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1210. Technical standards.

(a) The Arkansas Racing Commission shall publish technical standards for approval of:

(1) Gaming devices;

(2) Online slot metering systems;

(3) Cashless wagering systems; and

(4) Associated equipment.

(b) The commission shall:

(1) Publish notice of proposed technical standards or revisions by posting the proposed changes or revisions on the commission's website;

(2) Mail notice of the posting of the proposed technical standards or revisions on the commission's website and a copy of this section to every casino licensee, licensed manufacturer, and every person who has filed a request with the commission; and

(3) Provide a copy of the proposed technical standards or revisions to the commission.

(c) The commission shall consider all written statements, arguments, or contentions submitted by interested parties within thirty (30) days of service of the notice provided for in subsection (b) of this section.

(d) Not later than forty-five (45) days after service of written notice that the commission has proposed the technical standards or revisions, any casino licensee or licensed manufacturer may object to the technical standards or revisions by filing a written objection with the commission.

(e)(1) The commission shall consider any objections filed to the technical standards or revisions proposed by the commission.

(2) If the commission does not concur with any of the technical standards, the commission shall revise the technical standards to reflect the order of the commission.

(f) The commission shall send written notice of the effective date of the standards or revisions to all casino licensees, licensed manufacturers, and every person who has filed a request with the commission.

(g)(1) Casino licensees or licensed manufacturers may propose the adoption, revision, or deletion of technical standards by submitting a written request to the commission who will consider the request at the commission's discretion.

(2) If the commission does not propose the technical standard, the casino licensees or licensed manufacturers may file a request with the commission to adopt, revise, or delete a technical standard.

(3) The commission may consider the request at its discretion.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1211. Employment of individual to respond to inquiries from the commission.

(a)(1) Each manufacturer and operator shall employ or retain an individual who understands the design and function of each of its gaming devices, cashless wagering systems, intercasino-linked systems, mobile gaming systems, or interactive gaming systems who shall respond within the time specified by the Arkansas Racing Commission to any:

(A) Inquiries from the commission concerning the:

(i) Gaming device;

(ii) Cashless wagering system;

(iii) Intercasino-linked system;

(iv) Mobile gaming system; or

(v) Interactive gaming system; or

(B) Modifications to the:

(i) Gaming device;

(ii) Cashless wagering system;

(iii) Intercasino-linked system;

(iv) Mobile gaming system; or

(v) Interactive gaming system.

(2) Each manufacturer or operator shall on or before December 31 of each year report in writing the name of the individual designated pursuant to this section and shall report in writing any change in the designation within fifteen (15) days of the change.

(b)(1) Each registered independent testing laboratory shall employ an individual who understands the inspection and certification methodology, procedures, and operation of the registered independent testing laboratory.

(2) Such person shall be available during regular Arkansas business hours to

respond to requests from the commission.

(3) Each registered independent testing laboratory shall provide the commission with the name of the employee performing this function as part of their initial registration application materials, and shall report in writing any subsequent change in the employee designated to perform this function within fifteen (15) days of the change.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1212. Commission evaluation of new gaming devices.

(a) The Arkansas Racing Commission may require transportation of not more than two (2) working models of a new gaming device to the new game lab of the commission or some other location for review and inspection.

(b) The manufacturer seeking approval of the device must pay the cost of the inspection and investigation.

(c) The lab may dismantle the models and may destroy electronic components in order to fully evaluate the device.

(d) The commission may require that the manufacturer provide specialized equipment or the services of an independent technical expert to evaluate the device.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1213. Commission evaluation of intercasino-linked systems.

(a) The Arkansas Racing Commission may require transportation of not more than one (1) working model of an intercasino-linked system to the commission's offices or some other location for review and inspection pursuant to this part.

(b) The associated equipment manufacturer seeking approval of the system shall pay the cost of the inspection and investigation.

(c) The commission may dismantle the model and may destroy electronic

components in order to fully evaluate the intercasino-linked system.

(d) The commission may require that the operator of an intercasino-linked system provide specialized equipment or the services of an independent technical expert to evaluate the intercasino-linked system.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1214. Field test of new gaming devices and new intercasino-linked systems.

(a)(1) The Arkansas Racing Commission, in accordance with this part, may allow or require that one (1) or more models of a new gaming device or intercasino-linked system be tested at a licensed gaming establishment or establishments for not more than one hundred eighty (180) days under terms and conditions that the commission may approve or require.

(2) Upon written request of the manufacturer, distributor, or operator, the commission may, by written agreement, allow the test period to be continued an additional ninety (90) days beyond the one hundred eighty-day maximum field test period, for the purpose of allowing the application for approval of the new gaming device or application to operate a new intercasino-linked system to be acted upon by the commission.

(3) The commission shall report all field tests on the agenda of the next regularly scheduled meeting of the commission.

(b)(1) In the interests of expediting the introduction of innovative, alternative, and advanced technology for gaming devices and intercasino-linked systems for use or play in Arkansas, a manufacturer may request its new gaming device or intercasino-linked system be considered for evaluation under New Innovation Beta as an alternative to the field testing process set forth under subsection (a) of this section.

(2) For purposes of this section only, the term "New Innovation Beta" means a process of evaluating a new gaming device or intercasino-linked system utilizing a field testing period under conditions and limitations described in this subsection.

(3) The terms and conditions imposed under the New Innovation Beta will be set forth by the commission, and may include the requirement that a licensee notify patrons that the new gaming device is part of such a field test and is being exposed for play prior to finalization of the product in order to allow the evaluation of the gaming device or intercasino-linked system at an earlier stage of the regulatory approval process.

(4) The decision whether to permit a new gaming device or intercasino-linked system to be evaluated utilizing New Innovation Beta is at the sole and absolute discretion of the commission.

(5) When considering the request to evaluate a new gaming device or intercasino-linked system utilizing New Innovation Beta, the commission will consider factors including, without limitation, the ability of the gaming device to accurately determine, evaluate, and display the game outcome, the ability of the gaming device to accurately process the acceptance and award of all payments, and the extent to which an intercasino-linked system complies with the requirements of this part.

(6) The commission may also consider the approval status of the gaming device or intercasino-linked system in another state or foreign jurisdiction in which gaming is legal and regulated by a government agency with standards for gaming devices and intercasino-linked systems materially the same as those in Arkansas, the determination of which is within the sole discretion of the commission.

(c) A manufacturer shall not modify a gaming device and an operator shall not modify a new intercasino-linked system during the test period without the prior written approval of the commission.

(d)(1) The commission may order termination of the test period, if the commission determines, in the commission's sole and absolute discretion, that the manufacturer, operator, or licensed gaming establishment has not complied with the terms and conditions of the order allowing or requiring a test period or for any cause deemed reasonable.

(2) If the test period is terminated due to the licensed gaming establishment's failure to comply with the terms and conditions of the order allowing or requiring a test

period, the commission may order that the test be conducted at another licensed gaming establishment.

(3)(A) A manufacturer or operator may object to the termination of the test period by filing a written objection with the commission.

(B) The filing of an objection shall not stay the order terminating the test.

(C) If the commission fails to order resumption of the test within sixty (60) days of the written objection, the objection will be deemed denied.

(D) If the commission sustains the objection, the testing may be resumed under terms that may be approved or required by the commission.

(e)(1) A licensee or manufacturer, or their agent shall not play a new gaming device during a test period.

(2) A licensee or operator, or their agent, shall not play a gaming device or game connected to a new intercasino-linked system during a test period.

(f)(1) If the commission has made a determination that a new gaming device or new intercasino-linked system is not eligible for testing at a licensed gaming establishment, the commission shall notify the manufacturer or operator in writing.

(2) Not later than ten (10) days after receipt of such notification, the manufacturer, or operator may object to such a determination by filing written objection with the commission.

(3) If the commission fails to order a test period within sixty (60) days of the written objection, the objection will be deemed denied.

(4) If the commission sustains the objection, the new gaming device or new intercasino-linked system may be tested at a licensed gaming establishment under terms and conditions that may be approved or required by the commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1215. Certification by manufacturer.

(a)(1) After completing its evaluation of a new gaming device, the Arkansas Racing Commission's new games lab shall send a report of its evaluation to the manufacturer

seeking approval of the device.

(2) The report must include an explanation of the manner in which the device operates.

(3) The report must not include a position as to whether the device should be approved.

(4) The manufacturer shall return the report within fifteen (15) working days and shall either:

(A) Certify under penalty of perjury that to the best of its knowledge the explanation is correct; or

(B) Make appropriate corrections, clarifications, or additions to the report and certify under penalty of perjury that to the best of its knowledge the explanation of the gaming device is correct as amended.

(b) The commission may order additional evaluation and a field test of the new gaming device of up to sixty (60) days in addition to the test period provided for in this part if the commission determines, based upon the manufacturer's certification, that such additional evaluation is necessary.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1216. Final approval of new gaming devices and new intercasino-linked systems.

(a) After completing its evaluation of the new gaming device or the operation of a new intercasino-linked system, the Arkansas Racing Commission shall recommend whether the application for approval of the new gaming device or operation of a new intercasino-linked system should be granted.

(b) In considering whether a new gaming device or operation of a new intercasino-linked system will be given final approval, the commission shall consider whether:

(1) Approval of the new gaming device or operation of a new intercasino-linked system is consistent with the public policy of this state;

(2) The terms of any agreement or written specifications permitted or required

of an operator by any other state or tribal government and affecting a multijurisdictional progressive prize system:

(A) Comply with the provisions of this part; and

(B) Include procedures satisfactory to the commission for:

(i) Ensuring compliance with the requirements of this part;

(ii) Resolution of patron disputes under procedural and substantive requirements equal to or greater than the standards applied by the commission;

(iii) Surveillance and security of gaming devices connected to such system;

(iv) Record-keeping and record-retention;

(v) Control of access to any internal mechanism of gaming devices connected to such system meters;

(vi) Prior administrative approval of the commission for any adjustments to progressive;

(vii) Access by the commission to audit compliance with the requirements of subdivision (b)(2)(B) of this section; and

(viii) Any special procedures necessary for a multijurisdictional progressive prize system with lawfully operated gaming locations participating outside the United States, including without limitation matters of currency conversion and the availability of English translations of all relevant and material documentation and information; and

(3) For an intercasino-linked system of games of skill or hybrid games:

(A) The types of games that will be connected to such a system are compatible;

(B) The communications technology used to connect participating gaming devices is adequate for the operating environment for such a system; and

(C)(i) The progressive payoff schedules used for such systems are accurately described for players and comply with this part.

(ii) Notwithstanding the provisions of this part, such schedules may broaden and encourage participation in games with skill attributes, by providing,

without limitation, for partial prize awards, and prize awards for games with different themes or based on the use of identifiers.

(c)(1) Commission approval of a gaming device or intercasino-linked system does not constitute certification of the devices or intercasino-linked system's safety.

(2) Commission approval of a multijurisdictional progressive prize system shall include approval of any agreement or written specifications permitted or required by any other state or tribal government and affecting such system.

(3) The commission will complete any written acknowledgement necessary to document the commission's approval of any such agreement or written specifications.

(4) The prior administrative approval of the commission is required of any modification to such agreement or written specifications.

(d) A manufacturer or distributor who becomes aware that a gaming device or associated equipment approved by the commission or the commission no longer complies with the rules of the commission or the technical standards adopted pursuant to this part shall notify the commission in writing within three (3) business days.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1217. Installation of a system-based game or a system-supported game.

(a) A licensee shall not install or use a system-based game or system-supported game without prior written approval of the system network implementation from the Arkansas Racing Commission.

(b) Additionally, any modifications to the approved network implementation must be approved by the commission.

(c) Applications for approval to install or modify a system-based game or system-supported game shall be made and processed in such manner and using such forms as the commission may prescribe.

(d) The applicant seeking approval of the installation shall pay the cost of the investigation.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1218. Approval to modify gaming devices or intercasino-linked systems — Applications and procedures.

(a)(1) Modifications to gaming devices may only be made by licensed manufacturers who have received prior written approval of the Arkansas Racing Commission.

(2) Intercasino-linked system modifications may only be made by operators of such systems who have received prior written approval of the commission.

(3) The commission, in the commission's sole and absolute discretion, may refer an intercasino-linked system modification to the full commission for consideration of approval.

(4) In an emergency when a modification is necessary to prevent cheating or malfunction, the commission may, in the commission's sole and absolute discretion, orally approve a modification to be made by a manufacturer or operator.

(5) Within fifteen (15) days of the emergency modification, the manufacturer or operator making such modification shall submit a written request for approval of the modification that shall contain the information required by subsection (c) of this section and such other information as required by the commission.

(b)(1) A manufacturer shall not modify a gaming device unless the device, as modified, meets the standards in this part.

(2) An operator shall not modify an intercasino-linked system unless the system, as modified, meets the standards in this part.

(3) The commission may, in the commission's sole and absolute discretion, waive all or some of the standards in this part, if the modification is necessary to prevent cheating or malfunction.

(4)(A) A waiver shall be effective when the manufacturer or operator receives a written notification from the commission that all or some of the standards will be waived pursuant to this subsection.

(B) A waiver of all or some of the standards pursuant to this subsection is not an approval of the modification.

(c)(1) Applications for approval to modify a gaming device or an intercasino-linked system shall be made by a manufacturer and processed in such manner and using such forms as the commission may prescribe.

(2) Each application shall include, in addition to such other items or information as the commission may require:

(A) A complete, comprehensive, and technically accurate description and explanation of the modification in both technical and lay language signed under penalty of perjury;

(B) Unless the standards of this part have been waived pursuant to subsection (b) of this section, a statement under penalty of perjury that to the best of the manufacturer's knowledge, the gaming device, as modified, meets the standards of this part or, in the case of an intercasino-linked system, a statement under penalty of perjury that to the best of the operator's knowledge the intercasino-linked system, as modified, meets the standards of this part;

(C) In the case of a gaming device:

(i) A copy of all executable software, including data and graphic information, and a copy of all source code for programs that cannot be reasonably demonstrated to have any use other than in a gaming device, submitted on electronically readable, unalterable media;

(ii) A copy of all graphical images displayed on the gaming device including, but not limited to, reel strips, rules, instructions, and paytables;

(D) In the case of a modification to the control program of a gaming device that includes software, source language, or executable code designed or developed by an independent contractor:

(i) The name of the independent contractor; and

(ii) A general subject matter description of such software, source language, or executable code compiled into the control program as part of the submission to the commission;

(E) In the case of an intercasino-linked system:

(i) An operator's manual;

(ii) An internal control system;

(iii) A hold harmless agreement;

(iv) A graphical representation of the system theme and all related signage; and

(v) Information sufficient to calculate a theoretical payoff schedule amount.

(F) All materials relating to the results of the registered independent testing laboratory's inspection and certification process that are required under this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1219. Commission evaluation of modifications.

(a)(1) The Arkansas Racing Commission may require transportation of not more than two (2) working models of a modified gaming device or not more than one (1) working model of a modified intercasino-linked system, or any component thereof, to the commission's offices or some other location for review and inspection.

(2) The manufacturer or operator seeking approval of the modification shall pay the cost of the inspection and investigation.

(3) The commission may dismantle the models and may destroy electronic components in order to fully evaluate the modified gaming device or intercasino-linked system, or component.

(4) The commission may require that the manufacturer or operator provide specialized equipment or the services of an independent technical expert to evaluate the modification.

(b)(1) The commission has sole and absolute discretion to determine whether the requested modification of a gaming device renders the device sufficiently different so that the modified device should be treated as a new gaming device.

(2) If the commission makes such a determination, the commission shall notify the manufacturer in writing.

(3) The manufacturer may file an application for approval of a new gaming device.

(c) The manufacturer or operator shall submit materials relating to the results of the registered independent testing laboratory's inspection and certification process that are required under this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1220. Field test of modified gaming devices and modified intercasino-linked systems.

(a) The Arkansas Racing Commission may allow or require that one (1) or more models of a modified gaming device or modified intercasino-linked system be tested at a licensed gaming establishment for not more than one hundred eighty (180) days under terms and conditions that the commission may approve or require.

(b)(1) In the interests of expediting innovative, alternative, and advanced technology in the modification of gaming devices and intercasino-linked systems approved for use or play in Arkansas, a manufacturer may request a modification to its gaming device or intercasino-linked system be considered for evaluation under New Innovation Beta as an alternative to the field testing process set forth in this part.

(2) For purposes of this section only, the term "New Innovation Beta" means a process of evaluating a modification to a gaming device or intercasino-linked system utilizing a field testing period under conditions and limitations described in this subsection.

(3) The terms and conditions imposed under New Innovation Beta will be set forth by the commission, and may include the requirement that a licensee notify patrons that the modification to an approved gaming device or intercasino-linked system is part of such a field evaluation and is being exposed for play prior to finalization of the product in order to allow the evaluation of the modification to the

gaming device or intercasino-linked system at an earlier stage of the regulatory approval process.

(4) The decision whether to permit a modification to an approved gaming device or intercasino-linked system to be evaluated utilizing New Innovation Beta is at the sole and absolute discretion of the commission.

(5) When considering the request to evaluate a modification to an approved gaming device or intercasino-linked system utilizing New Innovation Beta, the commission will consider factors including, without limitation, the:

(A) Ability of the gaming device to accurately determine, evaluate, and display the game outcome;

(B) Ability of the gaming device to accurately process the acceptance and award of all payments; and

(C) Extent to which an intercasino-linked system complies with the requirements of this part.

(6) The commission may also consider the approval status of the modification to an approved gaming device or intercasino-linked system in another state or foreign jurisdiction in which gaming is legal and regulated by a government agency with standards for modifications of gaming devices and intercasino-linked systems materially the same as those in Arkansas, the determination of which is within the sole discretion of the commission.

(c) A manufacturer shall not further modify a gaming device and an operator shall not further modify an intercasino-linked system during the test period without the prior written approval of the commission.

(d) The commission may order termination of the test period if the commission determines, in the commission's sole and absolute discretion, that the manufacturer, operator, or licensed gaming establishment has not complied with the terms and conditions of the order allowing or requiring a test period or for any cause deemed reasonable.

(e)(1) A licensee or manufacturer, or their agent shall not play a modified gaming device during a test period.

(2) A licensee or operator, or their agent shall not play a gaming device or game connected to a modified intercasino-linked system during a test period.

(f) If the commission has made a determination that the modified gaming device or modified intercasino-linked system is not eligible for testing at a licensed gaming establishment, the commission shall notify the manufacturer or operator in writing.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1221. Final approval of modifications.

The Arkansas Racing Commission shall notify the manufacturer or operator in writing of the commission's decision to approve or disapprove a modification.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1222. Duplication of program storage media.

A licensee other than a manufacturer shall not duplicate the contents of gaming device program storage media unless its duplication process has received written approval of the Arkansas Racing Commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1223. Marking, registration, and distribution of gaming devices.

(a) Except as otherwise provided in subsection (b) of this section, a manufacturer or distributor shall not distribute a gaming device unless the gaming device has:

(1) A permanent serial number which must be affixed as required by the provisions of the Gambling Device Act of 1962, 15 U.S.C. § 1173; and

(2) For devices distributed in this state:

(A) A permanent serial number which must be the same number as given the device pursuant to the provisions of the Gambling Device Act of 1962, 15 U.S.C. §

1173, permanently stamped or engraved in lettering no smaller than five millimeters (5 mm) on the metal frame or other permanent component of the device and on a removable metal plate attached to the cabinet of the device; and

(B) The Arkansas Racing Commission approval number or, if the device has been modified since initial approval of the device, the modification approval number affixed on all program storage media placed in the device.

(b) The commission may, in the commission's sole and absolute discretion, waive the requirements of subsection (a) of this section if:

(1) The device was manufactured prior to January 1, 1962, and the manufacturer or distributor permanently stamps or engraves in lettering no smaller than five millimeters (5 mm) a distributor's identification code assigned by the commission and a seriatim number on the metal frame or other permanent component of each device covered by this subsection; and

(2) The program storage media in subdivision (a)(2) of this section can be altered through a means that does not require removal from the device or if the size of such media does not permit it.

(c) Each manufacturer or distributor shall:

(1) Keep records of the date of each distribution, the serial numbers of the devices, the commission approval number, or if the device has been modified since initial approval of the device, the modification approval number, and the name, addresses, and telephone numbers of the person to whom the gaming devices have been distributed for use or play in Arkansas; and

(2) Provide such records to the commission immediately upon the commission's request.

(d)(1) For all gaming devices distributed from a location within Arkansas that are not for use or play in Arkansas, a manufacturer or distributor shall provide any and all records documenting such distributions to the commission upon request.

(2) Such records shall include the information required under the Gambling Device Act of 1962, 15 U.S.C. § 1173, and shall be retained for a period of five (5) years.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

Codification Notes. The Gambling Devices Act of 1962 is codified at 15 U.S.C. § 1171 et seq.

23 CAR § 358-1224. Approval for category I licensees to distribute gaming devices out of Arkansas — Applications and procedure — Recordkeeping requirements for category II licensees — Extraterritorial distribution compliance — Inspection of facilities and devices.

(a)(1) Subject to the exemption set forth in subsection (d) of this section, category I manufacturers and distributors shall not distribute gaming devices out of this state without applying for and receiving the prior written approval of the Arkansas Racing Commission.

(2) Applications for such approval to distribute gaming devices out of this state must be made, processed, and determined in such manner and using such forms as the commission may prescribe.

(3) Each application must include, in addition to such other items or information as the commission may require:

(A)(i) The full name, state of residence, address, telephone number, Social Security number, and driver's license number of both the purchaser and the person to whom the shipment is being made, if neither is currently licensed by the commission.

(ii) If the purchaser or person to whom the shipment is being made does not have a Social Security number or driver's license number, the birth date of the purchaser or person to whom the shipment is being made may be substituted;

(B) The name and permanent address of the purchaser or person to whom the shipment is being made if either is currently licensed by the commission;

(C) The destination, including the port of exit if the destination is outside the continental United States;

(D) The number of devices to be shipped;

(E) The serial number of each device;

(F) The model number of each device and year each device was manufactured, if known;

(G) The denomination of each device;

(H) The expected date and time of shipment; and

(I) The method of shipment and name and address of the carrier.

(b) Except as provided in subdivision (b)(3) of this section, category II manufacturers and distributors are exempt from subsection (a) of this section, and shall:

(1)(A) Prepare and maintain records of the information required by the Gambling Devices Act of 1962, 15 U.S.C. § 1173.

(B) The records and documentation required by subdivision (b)(1) of this section will be retained for a period of five (5) years and must be produced for inspection upon request by the commission.

(C) The failure to prepare and maintain such records and documentation will be an unsuitable method of operation;

(2)(A) Submit to the commission on or before the fifteenth day of January and July of each calendar year an electronic record of the name and address of all current customers which shall be in a searchable format.

(B) The record required by subdivision (b)(2) of this section will be received and retained by the commission as confidential; and

(3) A category II manufacturer and distributor may by written notice to the commission elect to be treated as and comply with the requirements of this part applicable to a category I manufacturer and distributor.

(c) Manufacturers and distributors shall not ship gaming devices to a destination where possession of a gaming device is unlawful.

(d) Category I manufacturers and distributors are exempt from the requirements of this part for shipments of gaming devices provided:

(1) The gaming devices are only distributed to:

(A) Persons licensed to expose such devices for play or for further distribution, in the jurisdiction of destination or by a tribal gaming authority in the jurisdiction of destination;

(B) A federal, state, or tribal gaming regulatory authority or law enforcement agency; or

(C) A testing laboratory authorized by an entity identified within subdivision (d)(1)(B) of this section;

(2)(A) The category I manufacturer and distributor files the information required by subsection (a) of this section on or before the fifteenth of the month following the month of distribution.

(B) The commission may publish a list of jurisdictions or licensees to which this exemption does not apply and where category I manufacturers and distributors may not ship gaming devices without prior approval as required by subsection (a) of this section.

(e) Category I manufacturers and distributors shall obtain and thereafter maintain, a statement by the purchaser under penalty of perjury that each device will be used only for lawful purposes, unless the purchaser is currently licensed by the commission or comparable agency of another state or tribal gaming agency or the destination is outside the United States.

(f) Manufacturers and distributors shall, on or before the fifteenth day of January of each calendar year, give the commission a copy of the documentation evidencing registration with the United States Attorney General pursuant to the provisions of the Gambling Devices Act of 1962, 15 U.S.C. § 1173, for the ensuing year.

(g) An agent of the commission may inspect:

(1) The premises of manufacturers and distributors and all gaming devices located therein; and

(2)(A) All gaming devices for which an application has been filed by a category I manufacturer or distributor pursuant to subsection (a) of this section prior to distribution out of this state.

(B) Category I manufacturers and distributors shall make the gaming

devices subject to such applications available for such inspection.

(h) If the commission does not deny an application filed by a category I manufacturer or distributor for approval to distribute gaming devices out of this state pursuant to subsection (a) of this section within five (5) working days of receipt of a complete application, the application will be deemed to be approved.

(i)(1) A category I manufacturer or distributor shall keep a record of all shipments made out of state of parts specifically designed for use in a gaming device.

(2) The record must include the information set forth in subsection (a) of this section, if applicable.

(3) A manufacturer or distributor shall not ship parts specifically designed for use in a gaming device to a destination where possession of a gaming device is unlawful.

(j) The commission may, in the commission's discretion, waive one (1) or more of the requirements of this section upon good cause shown.

(k) As used in this section:

(1) "Category I manufacturer or distributor" means any manufacturer or distributor licensed by the commission that does not qualify as a category II manufacturer or distributor;

(2) "Category II manufacturer or distributor" means any manufacturer or distributor that:

(A) Is and has been licensed in good standing by the commission for the preceding five (5) years;

(B) Is and has been licensed, registered, approved, or qualified in at least ten (10) other domestic United States or tribal jurisdictions for the preceding three (3) years;

(C) Maintains pursuant to or consistent with the requirements of this part a compliance review and reporting system;

(D) Has annual gross sales exceeding five million dollars ($5,000,000) for such licensee's preceding fiscal year;

(E) Maintains an office or other facility in the State of Arkansas at which

the records required by this section are stored and may be inspected and copied by the commission;

(F)(i) Did not during the preceding year exclusively distribute used gaming devices.

(ii) As used in subdivision (k)(2)(F) of this section, "used gaming devices" means gaming devices previously used or played in a gaming operation in Arkansas, including such devices that have been in any way modified or refurbished since original manufacture; and

(3) "Current customer" means a person to whom the applicable manufacturer or distributor has shipped or delivered a gaming device within the preceding six (6) months pursuant to a contract, agreement, or other arrangement with such manufacturer or distributor, or its affiliate, for the purchase, lease, license, or other right to use such gaming device.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

Codification Notes. The Gambling Devices Act of 1962 is codified at 15 U.S.C. § 1171 et seq.

23 CAR § 358-1225. Approval for certain licensees to sell or dispose of gaming devices.

(a) A licensee, other than a manufacturer and distributor, shall not dispose of gaming devices without the prior written approval of the Department of Finance and Administration, unless the devices are sold or delivered to its affiliated companies or a licensed manufacturer or distributor, in which case approval is deemed granted.

(b) A licensee, other than a manufacturer and distributor, shall not request approval to sell or deliver gaming devices to a person other than its affiliated companies or a licensed manufacturer or distributor unless the devices have been marked pursuant to this part.

(c)(1) Applications for approval to sell gaming devices under this section must be

made, processed, and determined in such manner and using such forms as the department may prescribe.

(2) Each application must include the information required by this part, in addition to such other items or information as the department may require.

(d) Applications for approval to dispose of gaming devices under this section must be made, processed, and determined in such manner and using such forms as the department may prescribe.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1226. Maintenance of gaming devices.

(a) A licensee shall not alter the operation of approved gaming devices and shall maintain the gaming devices in a suitable condition.

(b) Each licensee shall keep a written list of repairs made to gaming devices offered for play to the public that require a replacement of parts that affect the game outcome and shall make the list available for inspection by the Arkansas Racing Commission upon the commission's request.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1227. Approval of promotional devices — Applications and procedures.

(a) As used in this section, "promotional device" means a contrivance that resembles a gaming device or slot machine that:

(1) Is playable without a wager being made; or

(2) Always pays out an amount in either cash or prizes that is equal to or greater than the wager made.

(b)(1) A manufacturer or distributor shall not distribute a promotional device for use in this state and a casino licensee shall not offer a promotional device for play to the public unless the promotional device has been approved by the Arkansas Racing

Commission.

(2) A restricted licensee shall not offer a promotional device for play to the public unless the promotional device and the use of the promotional device have both been approved by the commission.

(c)(1) Applications for approval of promotional devices must be made, processed, and determined in such manner and using such forms as the commission may prescribe.

(2) Each application must include, in addition to such other items or information as the commission may require:

(A) A complete, comprehensive, and technically accurate description and explanation of the manner in which the device operates and complies with all applicable statutes, rules, regulations, and technical standards, signed under penalty of perjury;

(B) The name and permanent address of the purchaser if the purchaser is currently licensed by the commission;

(C)(i) The name, permanent address, Social Security number, and driver's license number of the purchaser if the purchaser is not currently licensed by the commission.

(ii) If the purchaser does not have a Social Security number or driver's license number, the purchaser's birth date may be substituted;

(D) The quantity and the serial numbers of the promotional devices being sold or distributed; and

(E) A statement by the purchaser under penalty of perjury that the device will be used only for lawful purposes.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1228. Summary suspension of approval of gaming devices and intercasino-linked systems.

(a) The Arkansas Racing Commission may issue a summary order, with or without notice to the manufacturer, distributor, operator, or licensee, suspending approval of a

gaming device or intercasino-linked system if it determines that the device or intercasino-linked system does not operate:

(1) In the manner certified by the manufacturer pursuant to 23 CAR § 358-1215;

(2) As approved by the commission; or

(3) As approved by the commission, if the device has been modified since initial approval of the device or intercasino-linked system.

(b) After issuing an order pursuant to subsection (a) of this section, the commission may seal or seize all models of that gaming device or intercasino-linked system in Arkansas.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1229. Approval of new games and game variations — Applications and procedures.

(a)(1) A licensee shall not offer a new game for play unless the new game has been approved by the Arkansas Racing Commission.

(2) A licensee shall not offer a game variation for play unless the game variation has been approved in writing by the commission.

(b)(1) Applications for approval of a new game or game variation must be made and processed in such manner and using such forms as the commission may prescribe.

(2) The applicant seeking approval of the new game or game variation shall pay the cost of the investigation.

(3) Each application must include, in addition to such other items or information as the commission may require:

(A)(i) The name, permanent address, Social Security number, and driver's license number of the person developing the new game or game variation.

(ii) If the person developing the new game or game variation does not have a Social Security number or a driver's license number, the person's birth date may be substituted;

(B) The name of the game which must be different than the name of a game currently approved by the commission;

(C) A description of the new game or game variation, including:

(i) The rules of play;

(ii) The proposed schedule of payouts; and

(iii) A statistical evaluation of the theoretical percentages of the game; and

(D) All materials relating to the results of the registered independent testing laboratory's inspection and certification process that are required under this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1230. Field trials of new games and game variations.

(a) The Arkansas Racing Commission may allow or require that a new game or game variation to be tested at a licensed gaming establishment for not more than one hundred eighty (180) days under terms and conditions that the commission may approve or require.

(b) The commission may order termination of the test period, if the commission determines, in the commission's sole and absolute discretion, that the developer of the new game or the licensed gaming establishment has not complied with the terms and conditions of the order allowing or requiring a test period.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1231. Final approval of new games.

(a) The Arkansas Racing Commission shall recommend to the commission whether the application for approval of the new game should be granted.

(b) In considering whether a new game will be given final approval, the commission shall consider whether approval is consistent with the public policy of this

state.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1232. Approval of associated equipment — Applications and procedures.

(a)(1) Unless otherwise waived pursuant to subsection (b) of this section, a manufacturer or distributor of associated equipment shall not distribute associated equipment unless it has been approved by the Arkansas Racing Commission.

(2) Applications for approval of associated equipment shall be made and processed in such manner and using such forms as the commission may prescribe.

(3) Each application must include, in addition to such other items or information as the commission may require:

(A)(i) The name, permanent address, Social Security number, and driver's license number of the manufacturer or distributor of associated equipment unless the manufacturer or distributor is currently licensed by the commission.

(ii) If the manufacturer or distributor of associated equipment is a corporation, the names, permanent addresses, Social Security numbers, and driver's license numbers of the directors and officers must be included.

(iii) If the manufacturer or distributor of associated equipment is a partnership, the names, permanent addresses, Social Security numbers, and driver's license numbers of the partners and their partnership interest must be included.

(iv) If Social Security numbers or driver's license numbers are not available, the manufacturer's or distributor's birth date may be substituted;

(B) A complete, comprehensive, and technically accurate description and explanation in both technical and lay language of the associated equipment or a modification to previously approved associated equipment and its intended usage, signed under penalty of perjury;

(C) Detailed operating procedures for the associated equipment;

(D) The standards under which such tests were performed, including

Technical Standards 2 and 3 if applicable, and the results of such testing that confirms the associated equipment is functioning as represented, signed under penalty of perjury; and

(E) All materials relating to the results of the registered independent testing laboratory's inspection and certification process that are required under this part.

(b) Except as provided in subsection (c) of this section, upon written request from the manufacturer or distributor of associated equipment, or as the commission otherwise deems reasonable, the commission may, in the commission's sole and absolute discretion, waive the approval requirement for associated equipment upon such terms and conditions that the commission may approve or require or refer the associated equipment to the full commission for consideration of approval.

(c) Except as otherwise provided in subsection (d) of this section, the commission shall not grant an approval pursuant to this part or waive such approval requirement pursuant to this part with respect to any associated equipment that, when installed, will allow a patron to use a debit instrument for purposes of making electronic funds transfers from an independent financial institution to a game or gaming device through a cashless wagering system until such time as the appropriate rules for such transfers are adopted.

(d) The commission may grant approvals pursuant to subsection (a) of this section or waive such approval requirements pursuant to subsection (b) of this section with respect to the use of a prepaid access instrument in conjunction with an approved cashless wagering system.

(e) A manufacturer or distributor of associated equipment who becomes aware that associated equipment approved by the commission no longer complies with the rules of the commission or the technical standards adopted pursuant to this part shall notify the commission in writing within three (3) business days.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1233. Commission evaluation of associated equipment.

(a) The Arkansas Racing Commission may require transportation of not more than two (2) working models of associated equipment to the new game lab of the commission or some other location for review and inspection.

(b) The manufacturer seeking approval of the equipment must pay the cost of the inspection and investigation.

(c) The lab may dismantle the associated equipment and may destroy electronic components in order to fully evaluate the equipment.

(d) The commission may require the manufacturer or distributor seeking approval to provide specialized equipment or the services of an independent technical expert to evaluate the associated equipment.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1234. Field trial of associated equipment.

(a)(1) The Arkansas Racing Commission may allow or require that the associated equipment be tested at licensed gaming establishments for not more than one hundred eighty (180) days under terms and conditions that the commission may approve or require.

(2) The commission may allow an additional test period upon written request of the manufacturer or distributor of associated equipment.

(b) A manufacturer of associated equipment shall not modify associated equipment during the test period without the prior oral approval of the commission.

(c)(1) The commission may order termination of the test period, if the commission determines, in the commission's sole and absolute discretion, that the manufacturer or the distributor of the associated equipment or licensed gaming establishment has not complied with the terms and conditions of the order allowing or requiring a test period.

(2) If the test period is terminated due to the licensed gaming establishment's failure to comply with the terms and conditions of the order allowing or requiring a test period, the commission may order that the test be conducted at another licensed

gaming establishment.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1235. Installation of associated equipment.

(a)(1) Except as otherwise provided in this part, a licensee shall not install or use associated equipment without prior written approval of the Arkansas Racing Commission, unless the commission has waived the approval requirement pursuant to this part.

(2) Applications for approval to install or use associated equipment shall be made and processed in such manner and using such forms as the commission may prescribe.

(3) The commission shall not approve any use or installation or installations of associated equipment that allow a patron to use a debit instrument for purposes of making electronic funds transfers from an independent financial institution to a game or gaming device through a cashless wagering system until such time as the appropriate rules for such transfers are adopted.

(b) The commission may grant approvals for the use of or installation of equipment used in conjunction with prepaid access instruments.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1236. Maintenance of associated equipment.

The manner in which previously approved associated equipment operates may be altered only with the prior written approval of the Arkansas Racing Commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1237. Manufacturer or distributor of associated equipment — Registration of a manufacturer or distributor of associated equipment —

Applications and procedures.

(a) The initial application for registration and the application for renewal of registration shall be made, processed, and determined using such forms as the Arkansas Racing Commission may require or approve and must be accompanied and supplemented by such documents and information as may be specified or required.

(b) Any applications for registration or renewal required under this section shall be prepared and submitted by the relevant manufacturer or distributor of associated equipment.

(c) **Fee Structure and registration period.**

(1) Upon submission of an application for registration as a manufacturer or distributor of associated equipment or renewal application, the applicant shall pay an application fee of one thousand dollars ($1,000).

(2) Before the commission issues an initial registration or renewal of any registration for a manufacturer or distributor of associated equipment, the manufacturer or distributor of associated equipment shall pay an issuance fee of one thousand dollars ($1,000).

(d)(1) Each registered associated equipment manufacturer or distributor shall inform the commission in writing of any changes in the ownership, officers, or directors of the manufacturer or distributor of associated equipment.

(2) Reports required under this subsection shall be made to the commission within thirty (30) days of occurrence.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1238. Manufacturer or distributor of associated equipment — Determination of suitability.

(a) In addition to the requirements of this subpart requiring a manufacturer or distributor of associated equipment to be registered, the Arkansas Racing Commission may require a manufacturer or distributor of associated equipment who sells, transfers, or offers the associated equipment for use or play in Arkansas to file an application for

a finding of suitability to be a manufacturer or distributor of associated equipment.

(b) The commission may require any person who directly or indirectly involves himself or herself in the sale, transfer, or offering for use or play in Arkansas of such associated equipment who is not otherwise required to be licensed as a manufacturer or distributor to file an application for a finding of suitability to be a manufacturer or distributor of associated equipment.

(c) The commission shall give written notice of its decision to require the filing of an application for a finding of suitability under subsection (a) and/or (b) of this section.

(d)(1) All investigative costs and fees associated with applications for a finding of suitability are owed by the party required to file the application for a finding of suitability.

(2) Failure to remit such costs and fees within such periods set by the commission, upon the advice of the commission, will result in a lapse of the registrations of the applicable manufacturer or distributor of associated equipment and will constitute an unsuitable method of operation.

(3) Where the party required to file an application to manufacture or distribute associated equipment is not registered, failure to pay such investigative costs and fees is grounds for denial of any application associated with such manufacture or distribution of associated equipment.

(e) Failure of any party described in subsections (a) or (b) of this section to submit an application for a finding of suitability within thirty (30) days of being demanded to do so by the commission shall constitute grounds for a finding of unsuitability of that party.

(f) If the commission finds any manufacturer or distributor of associated equipment, as described in subsection (a) of this section, or any person, as described in subsection (b) of this section, to be unsuitable under this section:

(1) The registration of such manufacturer or distributor is thereupon revoked as a matter of law;

(2) Any applications for registration as a manufacturer or distributor of associated equipment associated with a party which is found unsuitable are deemed

denied as a matter of law; and

(3) All casino licensees shall, upon written notification from the commission, terminate any existing relationships, direct or indirect, with such unsuitable parties.

(g) Failure of a casino licensee to terminate any association or agreement, direct or indirect, with any party found unsuitable upon receiving written notice of the determination of unsuitability constitutes an unsuitable method of operation.

(h) Failure of a registered manufacturer or distributor of associated equipment to terminate any association or agreement with any party found unsuitable upon receiving written notice of the determination of unsuitability shall constitute grounds for the revocation of the registration of the manufacturer or distributor of associated equipment.

(i) The commission retains jurisdiction to determine the suitability of any party described in subsection (a) or subsection (b) of this section regardless of whether or not that party has severed any relationship with a casino licensee or registered manufacturer or distributor of associated equipment.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1239. Retention of records.

Unless otherwise specified, all records required by this subpart must be maintained for five (5) years.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

Subpart 13. Corporate Licensees

23 CAR § 358-1301. Powers of commission.

(a) The Arkansas Racing Commission shall have full and absolute power and authority, to the extent permitted by law, to recommend the granting, denial, limitation, conditioning, restriction, revocation, or suspension of any license, registration, approval,

or finding of suitability required or permitted under this subpart, or any application therefor, or to recommend other disciplinary action, for any cause deemed reasonable by the commission.

(b) The commission shall have full and absolute power and authority, to the extent permitted by law, to grant, deny, limit, condition, restrict, revoke, or suspend any license, registration, approval, or finding of suitability required or permitted under this subpart, or any application therefor, or to take other disciplinary action for any cause deemed reasonable by the commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1302. Certain investigations.

The Arkansas Racing Commission may, in its discretion, make such investigations concerning an applicant under this subpart, or a licensee, or a registered company, or any person involved with a licensee or a registered company as it may deem appropriate, either at the time of initial licensing or registration or at any time thereafter.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1303. Certain investigative fees.

In addition to all other fees payable under the act and rules, the Arkansas Racing Commission may require payment of the costs of any investigation conducted subsequent to licensing or registration to the extent of any reasonable fees charged by expert consultants employed by the commission and actual expenses incurred by the staff for investigations conducted outside the State of Arkansas.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1304. Burden of proof.

(a) The burden of proof with respect to the granting of any license, approval, registration, or finding of suitability required or permitted by this subpart shall at all times be upon the person applying for or holding such license, approval, registration, or finding of suitability.

(b) Each applicant shall satisfy the Arkansas Racing Commission that the granting of an application for action required or permitted by this subpart is consistent with the state policies concerning gaming.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1305. Disclosure of family agreements/information.

With respect to any requirement in this part, or other provisions of rules of the Arkansas Racing Commission, for filing or disclosure of any family shareholders agreement, family limited partnership agreement, family limited liability company operating agreement, or family trust, unless otherwise required by the commission, such requirement may be satisfied by the stockholder or stockholders, general partner or partners, managing member or members, or trustee or trustees as the case may be, providing reasonable access to a copy of the family shareholders agreement, family limited partnership agreement, family limited liability company operating agreement, or trust instrument, as the case may be, including any and all amendments thereto, certified as true, correct, and complete by said stockholder and stockholders, general partner or partners, managing member or members, or trustee or trustees as the case may be, for review by any member of the commission and the commission attorney upon any request by the member of the commission and/or the commission attorney to review said document.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1306. Prohibition with respect to ownership of corporate licensees.

No person shall acquire any equity security issued by a corporate licensee or a holding company, nor become a controlling affiliate of a corporate licensee or a holding company, nor become a holding company of a corporate licensee or a holding company without first obtaining the prior approval of the Arkansas Racing Commission in accordance with this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1307. Prohibitions with respect to the distribution or transfer of securities.

It shall be grounds for disciplinary action under The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, and rules if any person shall, in connection with the purchase or sale of any security issued by a corporate licensee or a holding company, or in connection with any document required to be filed pursuant to this part or Amendment 100:

(1) Employ any device, scheme, or artifice to defraud;

(2) Make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading;

(3) Engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person where such device, scheme, artifice, statement, act, practice, or course of business relates to gaming or the revenues from gaming or gaming operations; or

(4) Cause any document, correspondence, filing, or statement containing materially untrue, incorrect, or misleading information to be made or filed with the Arkansas Racing Commission, regardless of whether said information has been made or filed with another regulatory agency.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1308. Institutional investor.

(a)(1) An institutional investor that intends to become subject to this part as a result of its ownership of an equity security issued by a corporate licensee or a holding company, or any security issued by a corporate licensee or a holding company which gives the holder voting rights in the corporation, may apply to the Arkansas Racing Commission for a waiver of the requirements of this part with respect to the ownership of the voting or equity securities if such institutional investor intends to and does hold the securities for investment purposes only.

(2) An institutional investor shall not be eligible to receive or hold a waiver if the institutional investor will own, directly or indirectly, more than fifteen percent (15%) of the voting or equity securities of the corporate licensee or a holding company on a fully diluted basis where any such securities are to be acquired other than through a debt restructuring.

(3) Securities acquired before a debt restructuring and retained after a debt restructuring or as a result of an exchange, exercise, or conversion, after a debt restructuring, of any securities issued to an institutional investor through a debt restructuring, shall be deemed to have been acquired through a debt restructuring.

(4) A waiver granted under this section shall be effective only as long as the institutional investor's direct or indirect ownership interest in such voting or equity securities meets the limitations set forth above.

(b)(1) An institutional investor shall not be deemed to hold an equity security issued by a corporate licensee or a holding company, or any security issued by a corporate licensee or a holding company which gives the holder voting rights in the corporation, for investment purposes only unless the voting or equity securities will be acquired and held in the ordinary course of business as an institutional investor and do not, directly or indirectly, allow the institutional investor to vote for the election of members of the Arkansas Racing Commission, cause any change in the corporate charter, bylaws, other organic document, management, policies, or operations of the corporate licensee or the holding company, or cause any other action which the Arkansas Racing Commission finds to be inconsistent with investment purposes only.

(2) The following activities shall not be deemed to be inconsistent with holding voting or equity securities for investment purposes only:

(A) Serving as a member of any committee of creditors or security holders in connection with debt restructuring;

(B) Nominating any candidate for election or appointment to the Arkansas Racing Commission or the equivalent in connection with a debt restructuring;

(C) Making financial and other inquiries of management of the type normally made by securities analysts for informational purposes and not to cause a change in management, policies, or operations; and

(D) Such other activities as the Arkansas Racing Commission may determine to be consistent with such investment intent.

(c) An application for a waiver must include:

(1) A description of the institutional investor's business and a statement as to why the institutional investor is within the definition of "institutional investor" set forth in subsection (k) of this section;

(2) A certification made under oath and the penalty of perjury that:

(A) The voting or equity securities will be acquired and held for investment purposes only as defined in subsection (b) of this section and a statement by the signatory explaining the basis of the signatory's authority to sign the certification and to bind the institutional investor to its terms;

(B) The applicant agrees to be bound by and comply with The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, and the rules adopted thereunder, to be subject to the jurisdiction of the courts of Arkansas, and to consent to Arkansas as the choice of forum in the event any dispute, question, or controversy arises regarding the application or any waiver granted under this section; and

(C) The applicant agrees that it shall not grant an option to purchase, or sell, assign, transfer, pledge, or make any other disposition of any voting or equity security issued by the corporate licensee or the holding company without the prior approval of the Arkansas Racing Commission;

(3) A description of all actions, if any, taken or expected to be taken by the institutional investor relating to the activities described in subsection (b) of this section;

(4) The name, address, telephone number, and Social Security number of the officers and directors, or their equivalent, of the institutional investor as well as those persons that have direct control over the institutional investor's holdings of voting and equity securities of the corporate licensee or the holding company;

(5) The name, address, telephone number, and Social Security or federal tax identification number of each person who has the power to direct or control the institutional investor's exercise of its rights as a holder of voting or equity securities of the corporate licensee or the holding company;

(6) The name of each person that beneficially owns more than five percent (5%) of the institutional investor's voting securities or other equivalent;

(7) A list of the institutional investor's affiliates;

(8) A list of all regulatory agencies with which the institutional investor or any affiliate that owns any voting or equity securities or any other interest in a company which is licensed or registered with the Arkansas Racing Commission files periodic reports, and the name, address, and telephone number of the person, if known, to contact at each agency regarding the institutional investor;

(9)(A) A disclosure of all criminal or regulatory sanctions imposed during the preceding ten (10) years and of any administrative or court proceedings filed by any regulatory agency during the preceding five (5) years against the institutional investor, its affiliates, and current officer or director, or any former officer or director whose tenure ended within the preceding twelve (12) months.

(B) As to a former officer or director, such information need be provided only to the extent that it relates to actions arising out of or during such person's tenure with the institutional investor or its affiliates; and

(10) Any additional information the Arkansas Racing Commission may request.

(d) The Arkansas Racing Commission shall consider all relevant information in determining whether to grant a waiver requested pursuant to subsection (a) of this section, including but not limited to:

(1) Whether the waiver is consistent with the policy set forth in this part; and

(2) Any views expressed to the Arkansas Racing Commission by the corporate licensee or any affiliate thereof.

(e) Any waiver granted pursuant to this section may be limited or conditioned in any respect by the Arkansas Racing Commission, including, but not limited to, requiring a certification, made under oath and the penalty of perjury, which contains the following:

(1) A statement attesting that the institutional investor holds and/or has held the voting or equity securities of the corporate licensee or the holding company for investment purposes only, and in the ordinary course of business as an institutional investor and not for the purpose of:

(A) Causing, directly or indirectly, the election of the members of the Arkansas Racing Commission; or

(B) Effecting any change in the corporate charter, bylaws, other organic document, management, policies, or operations of the corporate licensee or any of its affiliates;

(2) A statement that the institutional investor has not engaged in any activities inconsistent with the holding of voting or equity securities for investment purposes only in accordance with the provisions of subsection (b) of this section;

(3) The name, title, and telephone number of the persons having direct control over the institutional investor's holdings of voting or equity securities in the corporate licensee or the holding company;

(4)(A) A statement of all complaints, arrest, indictments, or convictions of any officer or director of the institutional investor regarding the rules and regulations of the Securities and Exchange Commission and any regulatory agency of any state where it conducts business, or any offense which would constitute a gross misdemeanor or felony if committed in the State of Arkansas.

(B) The name, position, charge, arresting agency, and a brief description of the event must also be included in the statement; and

(5) A statement indicating any change to the structure and/or operation of the

institutional investor which could affect its classification as an institutional investor as defined in this part.

(f)(1) An institutional investor that has been granted a waiver of licensing, registration, or finding of suitability as required by this part and that subsequently intends not to hold its voting or equity securities of the corporate licensee or the holding company for investment purposes only, or that intends to take any action inconsistent with its prior intent shall, within two (2) business days after its decision, deliver notice to the Arkansas Racing Commission in writing of the change in its investment intent.

(2) The Arkansas Racing Commission may then take such action under this part or any other provision of Amendment 100 or rules of the Arkansas Racing Commission as the Arkansas Racing Commission deems appropriate.

(g) A waiver that has been granted pursuant to this section shall subject the institutional investor to the requirements of this part, as applicable, in that any purported sale, assignment, transfer, pledge, or other disposition of any voting or equity security issued by the corporate licensee or the holding company, or the granting of an option to purchase such a voting or equity security, shall be void unless approved in advance by the Arkansas Racing Commission.

(h) The institutional investor shall be entitled to whatever economic advantage, including, but not limited to, dividends, that may flow from ownership of the voting or equity securities as though it has been licensed, registered, or found suitable.

(i)(1) If the Arkansas Racing Commission finds that an institutional investor has failed to comply with the provisions of this section, or should be subject to licensing, registration, finding of suitability, or any approval to protect the public interest, the Arkansas Racing Commission may, in accordance with this part or any other provision of Amendment 100 or rules of the Arkansas Racing Commission the Arkansas Racing Commission deems appropriate, require the institutional investor to apply for licensing, registration, or a finding of suitability.

(2) The institutional investor affected by the action taken by the Arkansas Racing Commission may request a hearing on the merits of such action.

(3) The hearing shall be included on the agenda of the next regularly scheduled Arkansas Racing Commission meeting occurring more than ten (10) working days after the request for hearing.

(4) Upon good cause shown by the institutional investor, the Arkansas Racing Commission may waive the ten-day requirement and place such hearing on an earlier Arkansas Racing Commission agenda.

(5) The Arkansas Racing Commission for any cause deemed reasonable, may by a majority vote sustain, modify, or reverse the decision of the Arkansas Racing Commission, or remand the matter to the commission for such further investigation and reconsideration as the Arkansas Racing Commission may order.

(6) While the application for licensure, registration, or a finding of suitability review of the Arkansas Racing Commission's action requiring the filing of such application is pending, the institutional investor shall not directly or indirectly cause or attempt to cause any management, policy, or operating changes in the corporate licensee or holding company.

(j) The corporate licensee or the holding company shall immediately notify the Arkansas Racing Commission of any information about, fact concerning, or actions of an institutional investor holding any of its voting or equity securities that may materially affect the institutional investor's eligibility to hold a waiver under this section.

(k) For purposes of this subpart, "institutional investors" shall have the meaning set forth in this part and "debt restructuring" shall have the meaning set forth in this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1309. Definitions — General.

All terms defined in The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, shall have the same meaning in this part as in Amendment 100:

(1) "Associate". The term "associate" when used to indicate a relationship with any person, means any:

(A) Corporation or organization of which such person is an officer or partner or is, directly or indirectly, the beneficial owner of any share of any class of equity securities;

(B) Trust or other estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar capacity; and

(C) Relative or spouse of such person, or any relative of such spouse, who has the same home as such person or who is a director or officer of such corporation or any of its parents or subsidiaries;

(2) "Affiliate" . An "affiliate" of, or a person "affiliated" with, a specified person is a person that directly, or indirectly through one (1) or more intermediaries, controls, is controlled by, or is under common control with, the person specified;

(3) "Control" (including the terms "controlling", "controlled by", and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise;

(4) "Controlled affiliate" and "controlling affiliate".

(A) A "controlled affiliate" of a specified person is another person who, directly or indirectly, is controlled by the person specified.

(B) A "controlling affiliate" of a specified person is another person who, directly or indirectly, controls the person specified;

(5) "Own", "hold", and "have". A person shall be deemed to own, hold, or have a security of, or interest in, a corporation or other form of business organization if such person or any associate of such person has a record or beneficial interest therein;

(6) "Sale" and "sell".

(A) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of a security or interest in a security whether or not for value.

(B) "Sale" or "sell" includes any exchange of securities and any material change in the rights, preferences, privileges, or restrictions of or on outstanding securities;

(7)(A) "Security" means:

(i) Any stock;

(ii) Any membership in an incorporated association;

(iii) Any bond;

(iv) Any debenture or other evidence of indebtedness;

(v) Any investment contract;

(vi) Any voting trust certificate;

(vii) Any certificate of deposit for a security;

(viii) In general, any interest or instrument commonly known as a "security"; or

(ix) Any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase any of the foregoing.

(B) All of the foregoing are securities whether or not evidenced by a written document, provided that any evidence of indebtedness reported under this part is not a security;

(8) "Holding company". Included, without limitation, within the meaning of the term "holding company" shall be any person, other than an individual, of which a corporation holding or applying for a state casino license is a controlled affiliate; and

(9) "Subsidiary". Included, without limitation, within the meaning of the term "subsidiary" shall be any person, other than an individual, who is a controlled affiliate of another person, other than an individual.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1310. Waiver of requirements of rules.

The Arkansas Racing Commission may waive one (1) or more requirements of this part if it makes a written finding that such waiver is consistent with state policy.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1311. Public offerings by corporate licensees, holding companies, and stockholders.

No corporate licensee, no stockholder of a corporate licensee, no holding company, and no stockholder of a holding company shall make a public offering of securities of a corporate licensee or of a holding company except as is permitted by, and in accordance with, this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1312. Beneficial ownership, granting of proxies, and assignments of other interests.

(a)(1)(A) The terms "sale, assignment, transfer, pledge, or other disposition" extend to dispositions of any type of ownership referred to in this part.

(B) Included within the meaning of the term "disposition" as used in this part are, without limitation, the following:

(i) The granting of a proxy in respect of a security (other than a proxy granted to a person who is licensed or found suitable to own securities of the same corporation or securities of an affiliate of that corporation), in which case the person to whom the proxy is granted is to be regarded as the transferee; and

(ii) Any transfer or disposition, whether or not for value, of any interest in the profits or proceeds (including without limitation interest payments, dividends, and other distributions by the issuer of a security) realized from the holding or disposition of a security.

(2) **Issuer dispositions.** Application for approval of any sale, assignment, transfer, pledge, or other disposition of a security to be made by the issuer thereof shall be made pursuant to this part.

(3) **Procedures for obtaining approvals for transfers of outstanding securities.** The provisions of this part shall govern all transfers for which approval is required.

(b) **Persons who may be determined to be unsuitable.**

(1) The following persons may be determined to be unsuitable within the meaning of this section:

(A) Any person who, having been notified by the corporation or by the Arkansas Racing Commission of the requirement that such person be licensed, fails, refuses, or neglects to apply for such licensing within thirty (30) days after being requested to do so by the commission;

(B) Any record holder of a security issued by a corporate licensee or a holding company who shall have failed, refused, or neglected, upon request of the commission, to furnish to the commission within thirty (30) days after such request, full, complete, and accurate information as to the beneficial ownership of such security; and

(C) Any record owner of a security which is beneficially owned, in whole or in part, by a person determined to be unsuitable by the commission.

(2) **Escrow of securities.** The commission may, from time to time and at any time, require that securities issued by a corporate licensee be placed in escrow on specified terms and conditions.

(c) **Proscribed corporate activities in respect of persons found "unsuitable".** Beginning upon the date when the commission serves notice of a determination of unsuitability upon the corporation, it shall be grounds for disciplinary action for such corporation:

(1) To pay any person found to be unsuitable any dividend or interest upon any security held, as defined in this part, by such person;

(2) To recognize the exercise by any such unsuitable owner, directly or through any trustee or nominee, of any voting right conferred by such security;

(3) To pay to any such unsuitable owner any remuneration in any form for services rendered or otherwise; or

(4) To make any other payment or distribution, of any kind whatsoever, in respect of any such security, by way of or pursuant to payment of principal, redemption, conversion, exchange, or liquidation or any other transaction.

(d) **Statement required.**

(1) Every security issued by a corporation, other than a publicly traded corporation, which holds a state gaming license must bear a statement, on both sides of the certificate, evidencing the security, of the restrictions imposed by this section.

(2) The statement required shall be substantially as follows:

> The sale, assignment, transfer, pledge or other disposition of this security is ineffective unless approved in advance by the Arkansas Racing Commission. If at any time such commission finds that an owner of this security is unsuitable to continue to have an involvement in gaming in such state, such owner must dispose of such security as provided by the laws of the State of Arkansas and the rules of the Arkansas Racing Commission thereunder. Such laws and rules restrict the right under certain circumstances: (a) to pay or receive any dividend or interest upon any such security; (b) to exercise, directly or through any trustee or nominee, any voting right conferred by such security; or (c) to receive any remuneration in any form from the corporation, for services rendered or otherwise.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1313. Individual licensing of stockholders of corporate licensee.

(a) Except as provided in subsection (b) of this section, each person must be licensed before they may:

(1) Own more than five percent (5%) of the equity security issued by a corporate licensee; or

(2) Hold more than five percent (5%) of the securities issued by a corporate licensee which give the holders voting rights in the corporation.

(b) An individual who has a beneficial interest in an employee trust formed as a part of a stock bonus plan meeting the requirements of section 401(a) of the Internal Revenue Code of 1954, as amended, and holding legal title to any equity security issued by a corporate licensee need not be licensed individually as to such beneficial interest provided the plan or the trust formed thereunder requires that either:

(1) Any stock received by a transferee shall be transferred back to the trust within twenty-four (24) hours; or

(2)(A) The transferee shall apply immediately for licensing as a stockholder of the licensee.

(B) Until such time as the Arkansas Racing Commission acts upon the application for transfer, the transferee shall not exercise any voting rights nor receive any dividends, and if the transferee is not approved by the commission, the stock shall be immediately transferred back to the trust and any cash or stock dividends accumulated thereon shall remain in the trust.

(C) If the transferee is approved by the commission, any accumulated dividends may be passed to the transferee.

(c)(1) All stockholders owning or holding five percent (5%) or less of the equity and voting securities of a corporate licensee, other than a publicly traded corporation, must register in that capacity with the commission and affirmatively state in writing that they submit to the commission's jurisdiction.

(2) Such registration must be made on forms prescribed by the commission.

(3) A stockholder who is required to be registered by this section shall apply for registration before the stockholder obtains an ownership interest of five percent (5%) or less in a corporate licensee.

(d)(1) If the commission finds a stockholder unsuitable, denies an application of the stockholder, or revokes an approval of the stockholder, the stockholder shall immediately offer the security to the issuing corporation for purchase.

(2) The corporation shall purchase the security so offered, for cash at fair market value, within ten (10) days after the date of the offer.

(3) Beginning upon the date when the commission serves notice of a

determination of unsuitability upon the corporation, it is unlawful for the unsuitable stockholder:

(A) To receive any dividend or interest upon any such security;

(B) To exercise, directly or through any trustee or nominee, any voting right conferred by such security; or

(C) To receive any remuneration in any form from the corporation, for services rendered or otherwise.

(e) An application for registration with the commission shall:

(1) Include a completed application for registration form as prescribed by the commission;

(2) Include fully executed waivers and authorizations as determined necessary by the commission to investigate the registrant;

(3) Include an affirmative statement that the registrant submits to the jurisdiction of the commission;

(4) Include an affirmative statement that the registrant has no intent to exercise control over the licensee other than to vote the registrant's shares in the ordinary course;

(5)(A) Include the fingerprints of the registrant for purposes of investigating the registrant's criminal history.

(B) Such fingerprints shall be provided in a form and manner acceptable to the commission.

(C) The commission, in the commission's sole and absolute discretion, may waive this requirement upon a written request which specifically sets out the reasons for the request for waiver;

(6) Be accompanied by a fee to cover registration investigation costs as follows:

(A) For registrations related to two (2) or fewer restricted licenses, an investigative fee in the amount of five hundred fifty dollars ($550); and

(B)(i) For all other registrations, an investigative fee in the amount of two thousand five hundred dollars ($2,500).

(ii) This fee does not include the application fee or investigation costs should the commission require the registrant to apply for licensure; and

(7) Include such other information as the commission may require.

(f)(1) The commission may require a stockholder who is required to be registered by this section to apply for licensure at any time in the commission's discretion by sending notice through the United States Postal Service to the registrant at the address on the registrant's registration on file with the commission and to the corporate licensee at the address on file with the commission.

(2) A stockholder shall apply for licensure as required by the commission within forty (40) days of the stockholder's receipt of notice.

(3) The notice shall be deemed to have been received by the stockholder five (5) days after such notice is deposited with the United States Postal Service with the postage thereon prepaid.

(g)(1) Upon receipt of a completed application for registration with the commission, the application shall be placed on an agenda for consideration by the commission not later than the first regular monthly commission agenda following the expiration of one hundred twenty (120) days after the commission receives the completed application for registration with the commission.

(2)(A) At the meeting in which the commission considers the application, it shall register the person with the commission, decline to register the person with the commission, or refer the application back to staff.

(B) At the meeting in which the commission considers the application, it may also recommend the commission require the person required to be registered by this section to apply for licensure.

(C) If the commission declines to register a person pursuant to this subsection, such action in so declining to register a person with the commission shall not be considered a denial under the act.

(3) A person who has the person's application for registration with the commission declined or referred back to staff may file an application for licensure even if not required to do so by the commission.

(h) If a stockholder of a corporate licensee is a holding company and is required to register with the commission under this section, the stockholder is not also required to register as a subsidiary unless the commission requires the stockholder to apply for licensure.

(i)(1) In enacting this subpart, the commission finds that waiver is appropriate to the extent required by this section.

(2) In making this waiver, the commission finds such waiver is consistent with state policy because such waiver is for purposes including but not limited to fostering the growth of the gaming industry which is vitally important to the economy of the state and the general welfare of its inhabitants and broadening the opportunity for investment in gaming.

(3) The commission further finds such waiver does not diminish the commission's roles in strictly regulating gaming and effectively controlling the conduct of gaming by business organizations because the commission still requires, at a minimum, registration with the commission of all persons involved with gaming and may call such persons subject to registration with the commission forward for licensure, registration with the commission, or findings of suitability.

(j)(1) Upon the commission requiring a stockholder who is required to be registered by this section to apply for licensure, the stockholder does not have any right to the granting of the application.

(2) Any license hereunder is a revocable privilege, and no holder acquires any vested right therein or thereunder.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1314. Licensing of certain payees.

Any person who receives payments computed on the basis of the earnings profits or receipts from gaming of a corporate licensee, other than as the owner of an equity security issued by the corporate licensee, may be required to be licensed or approved.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1315. Corporate noncompliance.

Whenever it is the judgment of the Arkansas Racing Commission that the public interest will be served by requiring any or all of the corporation's lenders, holders of evidences of indebtedness, underwriters, key executives and agents, employees, or other persons dealing with the corporation and having the power to exercise a significant influence over decisions made by the corporation to be licensed, the commission shall serve a notice of such determination upon the corporation, and if the person, persons, or other entity or entities which are the subject to such determination shall not have, within thirty (30) days following the service of such notice, applied for a license, the corporation may be deemed to have failed to comply.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1316. Beneficial ownership.

The terms "issue or transfer" extend to transactions involving any type of ownership referred to in this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1317. Procedures for obtaining approvals for issuance of securities.

After licensing a corporation, other than a publicly traded corporation:

(1)(A) Before it may issue or transfer any security to any person, shall file a report of its proposed action with the Arkansas Racing Commission.

(B) The commission shall have ninety (90) days within which to approve or deny the request.

(C) If the commission denies the request, the corporation shall not issue or transfer any such security; and

(2)(A) Shall file a report of each change of the corporate officers and the members of its board of directors with the commission within thirty (30) days after the change becomes effective.

(B) The commission has ninety (90) days within which to approve or disapprove the change.

(C) During the ninety-day period and thereafter if the commission does not disapprove the change, the officer or member of the board of directors is entitled to exercise all powers of the office to which the officer or member was so elected or appointed.

(D) The report shall consist of an application signed by the president, or a vice president, and the secretary, or assistant secretary, of the applicant on an official form and, to the extent not inconsistent with the requirements of such form, setting forth the following information:

(i) The name, address, and telephone number of the applicant;

(ii)*(a)* Whether or not the applicant is a licensee, holding company, or intermediary company.

(b) If the applicant is not a licensee, but has applied for a license, the application shall set forth the date of such application and a statement of its current status;

(iii)*(a)* If the applicant is the holder of or has pending an application for a state casino license, the application shall set forth all of the information required to be set forth in a registration statement by such applicant.

(b) Such information may be incorporated by reference to the registration statement of the applicant, provided, however, that such information shall be as of a date not later than thirty (30) days preceding the date of such application;

(iv)*(a)* If the applicant is a holding company or intermediary company, the application shall set forth all of the information required to be set forth in a registration statement or furnished to the commission.

(b) Such information may be incorporated by reference to the registration statement of, or information previously filed by such person, provided,

however, that such information shall be as of a date not later than thirty (30) days prior to the date of such application; and

(v)*(a)* The identity and address of each proposed purchaser or transferee of the securities covered by such application.

(b) The application will not be approved unless and until the proposed transferee complies with this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1318. Licensing.

(a) After licensing pursuant to this part, the corporation shall:

(1) Report to the Arkansas Racing Commission in writing any change in corporate personnel who have been designated by the commission as key executives; and

(2) Furnish the commission an annual profit and loss statement and an annual balance sheet.

(b) The commission may require that any such corporation furnish the commission with a copy of its federal income tax return within thirty (30) days after such return is filed with the federal government.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1319. Persons who may be deemed unsuitable.

The several nonexclusive criteria of unsuitability set forth in this part are also nonexclusive criteria of unsuitability under this section.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1320. Escrow of securities.

The Arkansas Racing Commission shall have the same power with respect to

securities issued by holding companies as it has under this part with respect to securities issued by corporate licensees.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1321. Proscribed corporate activities in respect of unsuitable persons.

The Arkansas Racing Commission may determine a holding company to be unsuitable, or take other disciplinary action, if after the commission serves notice that a person is unsuitable to have a relationship to or involvement with such holding company, the holding company, or an intermediary company:

(1) Pays to any person found to be unsuitable any dividend or interest upon any securities referred to in said section, or any payment or distribution of any kind whatsoever;

(2) Recognizes the exercise by any such unsuitable person, directly or indirectly, or through any proxy, trustee, or nominee, of any voting right conferred by any securities or interest in any securities;

(3) Pays to any such unsuitable person any remuneration in any form, for services rendered or otherwise, or permits the corporate casino licensee to make any such payment; or

(4) Makes any other payment or distribution, of any kind whatsoever, in respect of any such security or interest by way of, or pursuant to payment of principal, redemption, conversion, exchange or liquidation, or any other transaction.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1322. Statement required.

(a) Any part of the outstanding equity securities of a corporation holding a gaming license or the interests in a partnership, limited partnership, limited liability company, or other business organization holding a gaming license shall bear a statement, on both

sides of the certificate evidencing such security, of the restrictions imposed by this part.

(b) The statement required shall be substantially the same as the statement required by this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1323. Public offerings by holding companies. [Reserved].

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1324. Approval by the Arkansas Racing Commission required for all issues or transfers by a holding company or intermediary company of its securities.

(a) No holding company shall, and it shall be grounds for disciplinary action if a holding company shall, issue or transfer any security of which it is the issuer without the prior approval of the Arkansas Racing Commission.

(b) As used herein, the terms "issue or transfer" extend to transactions involving any type of ownership referred to in this part.

(c) Every approval required by this subpart shall be sought by the filing of an application complying with this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1325. Arkansas Racing Commission approval required for dispositions of outstanding securities issued by holding companies or intermediary companies.

(a) No person other than the issuer shall sell, assign, transfer, pledge, or make any other disposition of any security issued by any holding company without the prior approval of the Arkansas Racing Commission.

(b) As used herein, the terms "sale, assignment, transfer, pledge, or other

disposition" extend to dispositions of any type of ownership referred to in this part.

(c) Included within the meaning of the term "disposition" as used in this subpart are the granting of a proxy or a transfer or disposition of a type described in this part.

(d) Every approval required by this subpart shall be sought by the filing of an application complying with the procedures set forth in this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1326. Stockholders of holding companies.

(a) Each stockholder of a holding company must be found suitable to be a stockholder or, in the discretion of the Arkansas Racing Commission, be licensed if the stockholder owns more than five percent (5%) of any licensee owned by the holding company.

(b)(1) All stockholders of a holding company who own five percent (5%) or less of any licensee owned by the holding company must register in that capacity with the commission and affirmatively state in writing that they submit to the commission's jurisdiction.

(2) Such registration must be made on forms prescribed by the Arkansas Racing Commission.

(3) A stockholder who is required to be registered by this section shall apply for registration before the stockholder obtains an ownership interest in the holding company.

(c) If the commission finds a stockholder unsuitable, denies an application of the stockholder, or revokes an approval of the stockholder, the stockholder and the corporate holding company shall comply with the following:

(1)(A) If at any time the commission finds that any person owning, controlling, or holding with power to vote any part of any class of security of, or any interest in, any holding company or intermediary company is unsuitable to be connected with a licensed gaming enterprise, it shall so notify the unsuitable person, the holding company or intermediary company, or both.

(B) The unsuitable person shall immediately offer the security to the issuing corporation, or the interest to the firm, partnership, trust, or other business organization, for purchase.

(C) The corporation shall purchase the security so offered, or the firm, partnership, trust or other business organization shall purchase the interest so offered, for cash at fair market value within ten (10) days after the date of the offer; and

(2) Beginning upon the date when the commission serves notice of a determination of unsuitability pursuant to subsection (c) of this section, it is unlawful for the unsuitable person:

(A) To receive any dividend or interest upon any such securities, or any dividend, payment, or distribution of any kind from any holding company or intermediary company;

(B) To exercise, directly or indirectly or through any proxy, trustee, or nominee, any voting right conferred by such securities or interest; or

(C) To receive any remuneration in any form from the corporation, partnership, limited partnership, limited liability company, or other business organization holding a license or from any holding company or intermediary company with respect thereto, for services rendered or otherwise.

(d) An application for registration with the commission shall:

(1) Include a completed application for registration form as prescribed by the commission;

(2) Include fully executed waivers and authorizations as determined necessary by the commission to investigate the registrant;

(3) Include an affirmative statement that the registrant submits to the jurisdiction of the commission;

(4) Include an affirmative statement that the registrant has no intent to exercise control over the licensee other than to vote the registrant's shares in the ordinary course;

(5)(A) Include the fingerprints of the registrant for purposes of investigating the registrant's criminal history.

(B) Such fingerprints shall be provided in a form and manner acceptable to the commission.

(C) The commission, in the commission's sole and absolute discretion, may waive this requirement upon a written request which specifically sets out the reasons for the request for waiver;

(6) Be accompanied by a fee to cover registration investigation costs as follows:

(A) For registrations related to two (2) or fewer restricted licenses, an investigative fee in the amount of five hundred fifty dollars ($550); and

(B)(i) For all other registrations, an investigative fee in the amount of two thousand five hundred dollars ($2,500).

(ii) This fee does not include the application fee or investigation costs should the commission require the registrant to apply for licensure; and

(7) Include such other information as the commission may require.

(e)(1) The commission may require a stockholder who is required to be registered by this section to apply for a finding of suitability at any time in the commission's discretion by sending notice through the United States Postal Service to the registrant at the address on the registrant's registration on file with the commission and to the holding company at the address on file with the commission.

(2) A stockholder shall apply for a finding of suitability as required by the commission within forty (40) days of the stockholder's receipt of notice.

(3) The notice shall be deemed to have been received by the stockholder five (5) days after such notice is deposited with the United States Postal Service with the postage thereon prepaid.

(f)(1) Upon receipt of a completed application for registration with the commission, the application shall be placed on an agenda for consideration by the commission not later than the first regular monthly commission agenda following the expiration of one hundred twenty (120) days after the commission receives the completed application for registration with the commission.

(2)(A) At the meeting in which the commission considers the application, it

shall register the person with the commission, decline to register the person with the commission, or refer the application back to staff.

(B) At the meeting in which the commission considers the application, it may also recommend the commission require the person required to be registered by this section to apply for licensure.

(C) If the commission declines to register a person pursuant to this subsection, such action in so declining to register a person with the commission shall not be considered a denial under the act.

(3) A person who has the person's application for registration with the commission declined or referred back to staff may file an application for licensure even if not required to do so by the commission.

(g) If a stockholder of a holding company is also a holding company and is required to register with the commission under this section, the stockholder is not required to register as a subsidiary unless the commission requires the stockholder to apply for a finding of suitability.

(h)(1) In enacting this subpart, the commission finds that waiver is appropriate to the extent required by this section.

(2) In making these waivers, the commission finds such waivers are consistent with state policy because such waivers are for purposes including but not limited to fostering the growth of the gaming industry which is vitally important to the economy of the state and the general welfare of its inhabitants and broadening the opportunity for investment in gaming.

(3) The commission further finds such waivers do not diminish the commission's roles in strictly regulating gaming and effectively controlling the conduct of gaming by business organizations because the commission still requires, at a minimum, registration with the commission of all persons involved with gaming and may call such persons subject to registration with the commission forward for licensure, registration with the commission, or findings of suitability.

(i)(1) Upon the commission requiring a stockholder who is required to be registered by this section to apply for licensure, the stockholder does not have any right to the

granting of the application.

(2) Any license hereunder is a revocable privilege, and no holder acquires any vested right therein or thereunder.

(3) Judicial review is not available for decisions of the commission made or entered under the provisions of this section.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1327. Officers and directors of holding companies.

(a) Except as otherwise specified in this section, any person who has a relationship to a holding company of a type described in this part with respect to publicly traded corporations shall file an application for finding of suitability and may be required to be licensed.

(b) An officer or director of a holding company who:

(1) Would otherwise be required to be found suitable pursuant to subsection (a) of this section;

(2) Does not serve on any committee to which is delegated the authority of the Arkansas Racing Commission to act in any matter involving the activities of a corporate casino licensee; and

(3)(A) Does not have a relationship to a holding company of a type described in this part with respect to publicly traded corporations is not required to be found suitable or licensed and must register in that capacity with the commission if the holding company is not, directly or indirectly, a general partner or manager of any licensee and does not control any licensee.

(B) A person who is required to be registered by this section shall apply for registration within thirty (30) days after the person assumes office.

(c)(1) If the commission finds a person who has a relationship to a holding company of a type described in this part with respect to publicly traded corporations unsuitable, denies an application of the person, or revokes an approval of the person, the person and the holding company shall comply with the following.

(2) If any officer, employee, director, partner, principal, manager, member, trustee, or direct or beneficial owner required to be found suitable fails to apply for a finding of suitability or a gaming license within thirty (30) days after being requested so to do by the commission, is not found suitable, or is denied a license by the commission, or if his or her license or the finding of his or her suitability is revoked after appropriate findings by the commission, the holding company or intermediary company, or both, shall immediately remove that person from any position in the administration or supervision of, or any other significant involvement with, the activities of a licensee.

(3) If the commission suspends the suitability or license of any officer, employee, director, partner, principal, manager, member, trustee, or owner, the holding company or intermediary company, or both, shall, immediately and for the duration of the suspension, suspend the person from performing any duties in administration or supervision of the activities of the licensee and from any other significant involvement therewith.

(d) An application for registration with the commission shall:

(1) Include a completed application for registration form as prescribed by the commission;

(2) Include fully executed waivers and authorizations as determined necessary by the commission to investigate the registrant;

(3) Include an affirmative statement that the registrant submits to the jurisdiction of the commission;

(4) Include an affirmative statement that the registrant has no intent to exercise control over the licensee;

(5)(A) Include the fingerprints of the registrant for purposes of investigating the registrant's criminal history.

(B) Such fingerprints shall be provided in a form and manner acceptable to the commission.

(C) The commission, in the commission's sole and absolute discretion, may waive this requirement upon a written request which specifically sets out the reasons for the request for waiver;

(6) Be accompanied by a fee to cover registration investigation costs as follows:

(A) For registrations related to two (2) or fewer restricted licenses, an investigative fee in the amount of five hundred fifty dollars ($550); and

(B)(i) For all other registrations, an investigative fee in the amount of two thousand five hundred dollars ($2,500).

(ii) This fee does not include the application fee or investigation costs should the commission require the registrant to apply for licensure; and

(7) Include such other information as the commission may require.

(e)(1) The commission may require a person who is required to be registered by this section to apply for a finding of suitability or licensure at any time in the commission's discretion by sending notice through the United States Postal Service to the registrant at the address on the registrant's registration on file with the commission and to the holding company at the address on file with the commission.

(2) Such person shall apply for a finding of suitability or licensure as required by the commission within forty (40) days of the individual's receipt of notice.

(3) The notice shall be deemed to have been received by such person five (5) days after such notice is deposited with the United States Postal Service with the postage thereon prepaid.

(f)(1) Upon receipt of a completed application for registration with the commission, the application shall be placed on an agenda for consideration by the commission not later than the first regular monthly commission agenda following the expiration of one hundred twenty (120) days after the commission receives the completed application for registration with the commission.

(2)(A) At the meeting in which the commission considers the application, it shall:

(i) Register the person with the commission;

(ii) Decline to register the person with the commission; or

(iii) Refer the application back to staff.

(B) At the meeting in which the commission considers the application, it

may also recommend the commission require the person required to be registered by this section to apply for licensure.

(C) If the commission declines to register a person pursuant to this subsection, such action in so declining to register a person with the commission shall not be considered a denial under the act.

(3) A person who has the person's application for registration with the commission declined or referred back to staff may file an application for licensure even if not required to do so by the commission.

(g)(1) In enacting this subpart, the commission finds that waiver is appropriate to the extent required by this section.

(2) In making this waiver, the commission finds such waiver is consistent with state policy because such waiver is for purposes including but not limited to fostering the growth of the gaming industry which is vitally important to the economy of the state and the general welfare of its inhabitants and broadening the opportunity for investment in gaming.

(3) The commission further finds such waiver does not diminish the commission's roles in strictly regulating gaming and effectively controlling the conduct of gaming by business organizations because the commission still requires, at a minimum, registration with the commission of all persons involved with gaming and may call such persons subject to registration with the commission forward for licensure, registration with the commission, or findings of suitability.

(h)(1) Upon the commission requiring a person who has a relationship to a holding company of a type described in 23 CAR § 358-1710(c) and § 358-1710(d) with respect to publicly traded corporations who is required to be registered by this section to apply for licensure, the person does not have any right to the granting of the application.

(2) Any license hereunder is a revocable privilege, and no holder acquires any vested right therein or thereunder.

(3) Judicial review is not available for decisions of the commission made or entered under the provisions of this section.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1328. Certain payees.

Any person who receives payments from a holding company computed on the basis of the earnings or profits of the holding company, or on the basis of the receipts from gaming of a subsidiary corporate licensee of such holding company, may be required to be found suitable or licensed or approved.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1329. **Reporting requirements for certain holding companies**.

(a) Each holding company which is a firm, partnership, trust, or other form of business organization not a natural person or a corporation, must furnish the Arkansas Racing Commission with information analogous to the following.

(b) If a corporation, partnership, limited partnership, limited liability company, or other business organization applying for or holding a license is or becomes a subsidiary, each holding company and each intermediary company with respect thereto must:

(1) Qualify to do business in the State of Arkansas; and

(2) If it is a corporation, register with the commission and furnish:

(A) A complete list of all stockholders when it first registers, and annually thereafter, within thirty (30) days after the annual meeting of the stockholders of the corporation, showing the number of shares held by each;

(B) The names of all corporate officers within thirty (30) days of their appointment; and

(C) The names of all members of the board of directors within thirty (30) days of their election.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1330. Exclusion of publicly traded corporations.

This subpart shall not apply to the securities of, nor other interest in, any holding company that is publicly traded, nor to its stockholders, directors, officers, agents, employees, underwriters, lenders, and other holders of evidence of indebtedness, as such.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

Subpart 14. Limited Partnership Licensees

23 CAR § 358-1401. Definitions.

As used in this subpart:

(1) "Capital account" as reflected on the books of the partnership shall mean the partner's initial and any subsequent contributions to the limited partnership, as increased by the partner's pro rata share of net income of the partnership, and decreased by the partner's pro rata share of net losses incurred by the partnership, as well as any draws or distributions to the partner of any kind or nature;

(2) Unless otherwise specified, "commission" means the Arkansas Racing Commission or the commission's designee;

(3) "Certificate of limited partnership" means the certificate referred to in Arkansas Code § 4-47-201 et seq., and the certificate as amended or restated, or in the case of a foreign limited partnership, the substantial equivalent of a certificate of limited partnership as required by the law of the jurisdiction in which the limited partnership is formed;

(4) "Contribution" means any cash, property, services rendered, or a promissory note or other binding obligation to contribute cash or property or to perform services, which a partner contributes to a limited partnership in his or her capacity as a partner;

(5) "Control", including the terms "controlling", "controlled by", and "under common control with", means the possession, direct or indirect, of the power to direct

or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise;

(6) A "controlled affiliate" of a specified person means another person who, directly or indirectly, is controlled by the person specified;

(7) A "controlling affiliate" of a specified person means another person who, directly or indirectly, controls the person specified;

(8) "Delayed licensing" means an approval granted by the Arkansas Racing Commission to a limited partner of a limited partnership licensee, enabling the limited partner to receive a share or percentage of revenues derived from the conduct of gaming prior to the limited partner being licensed;

(9) "Holding company" means, in addition to any corporation, firm, partnership, limited partnership, limited liability company, trust, or other form of business organization not a natural person which, directly or indirectly owns, has the power or right to control, or holds with power to vote any part of the limited partnership interests, interests in a limited liability company or outstanding voting securities of a corporation which holds or applies for a license, a limited partnership that owns or has the power or right to control all or any part of the outstanding securities of a limited partnership that holds or applies for a state casino license;

(10) "Limited partnership" means a partnership formed by two (2) or more persons pursuant to the terms of Title 4, Chapter 47 of the Arkansas Code, having as members one (1) or more general partners and one (1) or more limited partners;

(11) "Own", "hold", and "have" mean the possession of a record or beneficial interest in a limited partnership;

(12) "Partnership agreement" means any valid, written agreement of the partners as to the affairs of a limited partnership and the conduct of its business;

(13)(A) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security whether or not for value.

(B) "Sale" or "sell" includes any exchange of securities and any material change in the rights, preferences, privileges, or restrictions of or on outstanding securities; and

(14)(A) The term "security" means any stock, membership in an incorporated association, partnership interest in any limited or general partnership, bond, debenture, or other evidence of indebtedness, investment contract, voting trust certificate, certificate of deposit for a security, or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase, any of the foregoing.

(B) All of the foregoing are securities whether or not evidence of indebtedness reported under this part is a security.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1402. Powers of the commission.

(a) The Arkansas Racing Commission shall have full and absolute power and authority, to the extent permitted by law, to recommend the granting, denial, limitation, conditioning, restriction, revocation, or delay of any license, registration, approval, or finding of suitability required or permitted by this subpart, or any application therefor, or to recommend other disciplinary action for any cause deemed reasonable by the commission.

(b) The commission shall have full and absolute power and authority, to the extent permitted by law, to grant, deny, condition, restrict, revoke, suspend, or delay any license, registration, approval, or finding of suitability required or permitted under this subpart, or any application therefor, or to take other disciplinary action for any cause deemed reasonable by the commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1403. Burden of proof.

(a) The burden of proof with respect to the granting of any approval required or permitted by this subpart is at all times upon the person applying for such approval.

(b) Each applicant shall satisfy the Arkansas Racing Commission, as the case may be, that the granting of an approval is consistent with the state policies regarding gaming set forth in the commission's rules.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1404. Prohibition with respect to ownership of limited partnership licensees.

Except as otherwise provided, no person shall acquire any equity security issued by a limited partnership licensee or a holding company, become a controlling affiliate of a limited partnership licensee or a holding company, become a holding company of a limited partnership licensee or of a holding company without first obtaining the prior approval of the Arkansas Racing Commission in accordance with this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1405. Registration of certain limited partners of limited partnerships.

(a)(1) All limited partners with a five percent (5%) or less ownership interest in a limited partnership licensee must register in that capacity with the Arkansas Racing Commission and affirmatively state in writing that they submit to the commission's jurisdiction.

(2) Such registration must be made on forms prescribed by the commission.

(3) A limited partner who is required to be registered by this section shall apply for registration before the limited partner obtains an ownership interest of five percent (5%) or less in a limited partnership licensee.

(b) If the commission finds a limited partner unsuitable, denies an application of the limited partner, or revokes an approval of the limited partner, the limited partner and the limited partnership shall comply with the following:

(1)(A) If at any time the commission finds that an individual owner of any such

interest is unsuitable to hold that interest, the commission shall immediately notify the limited partnership of that fact.

(B) The limited partnership shall, within ten (10) days after the date that it receives the notice from the commission, return to the unsuitable owner, in cash, the amount of the unsuitable owner's capital account as reflected on the books of the partnership; and

(2) Beginning on the date when the commission serves notice of a determination of unsuitability pursuant to subsection (b)(1) of this section upon the limited partnership, it is unlawful for the unsuitable owner:

(A) To receive any share of the profits or interest upon any limited partnership interest;

(B) To exercise, directly or through any trustee or nominee, any voting right conferred by such interest; or

(C) To receive any remuneration in any form from the limited partnership, for services rendered or otherwise.

(c) An application for registration with the commission shall:

(1) Include a completed application for registration form as prescribed by the commission;

(2) Include fully executed waivers and authorizations as determined necessary by the commission to investigate the registrant;

(3) Include an affirmative statement that the registrant submits to the jurisdiction of the commission;

(4) Include an affirmative statement that the registrant has no intent to exercise control over the licensee other than:

(A) To vote the registrant's shares in the ordinary course; and

(B) If applicable, to take action in another licensed capacity under the commission rules that are not prohibited by any commission rules;

(5)(A)(i) Include the fingerprints of the registrant for purposes of investigating the registrant's criminal history.

(ii) Such fingerprints shall be provided in a form and manner

acceptable to the commission.

(B) The commission, in the commission's sole and absolute discretion, may waive this requirement upon a written request which specifically sets out the reasons for the request for waiver;

(6) Be accompanied by a fee to cover registration investigation costs as follows:

(A) For registrations related to two (2) or fewer restricted licenses, an investigative fee in the amount of five hundred fifty dollars ($550); and

(B)(i) For all other registrations, an investigative fee in the amount of two thousand five hundred dollars ($2,500).

(ii) This fee does not include the application fee or investigation costs should the commission require the registrant to apply for licensure; and

(7) Include such other information as the commission may require.

(d)(1) The commission may require a limited partner who is required to be registered by this section to apply for licensure at any time in the commission's discretion by sending notice through the United States Postal Service to the registrant at the address on the registrant's registration on file with the commission and to the limited partnership at the address on file with the commission.

(2) A limited partner shall apply for licensure as required by the commission within forty (40) days of the limited partner's receipt of notice.

(3) The notice shall be deemed to have been received by the limited partner five (5) days after such notice is deposited with the United States Postal Service with the postage thereon prepaid.

(e)(1) Upon receipt of a completed application for registration with the commission, the application shall be placed on an agenda for consideration by the commission not later than the first regular monthly commission agenda following the expiration of one hundred twenty (120) days after the commission receives the completed application for registration with the commission.

(2)(A) At the meeting in which the commission considers the application, it shall register the person with the commission, decline to register the person with the

commission, or refer the application back to staff.

(B) At the meeting in which the commission considers the application, it may also recommend the commission require the person required to be registered by this section to apply for licensure.

(C) If the commission declines to register a person pursuant to this subsection, such action in so declining to register a person with the commission shall not be considered a denial under the act.

(3) A person who has the person's application for registration with the commission declined or referred back to staff may file an application for licensure even if not required to do so by the commission.

(f) If a limited partner of a limited partnership licensee is a holding company and is required to register with the commission under this section, the limited partner is not also required to register with the commission as a subsidiary unless the commission requires the limited partner to apply for licensure.

(g)(1) In enacting this subpart, the commission finds that waiver is appropriate to the extent required by this section.

(2) In making this waiver, the commission finds such waiver is consistent with state policy because such waiver is for purposes including but not limited to fostering the growth of the gaming industry which is vitally important to the economy of the state and the general welfare of its inhabitants and broadening the opportunity for investment in gaming.

(3) The commission further finds such waiver does not diminish the commission's roles in strictly regulating gaming and effectively controlling the conduct of gaming by business organizations because the commission still requires, at a minimum, registration with the commission of all persons involved with gaming and may call such persons subject to registration with the commission forward for licensure, registration with the commission, or findings of suitability.

(h)(1) Upon the commission requiring a limited partner who is required to be registered by this section to apply for licensure, the limited partner does not have any right to the granting of the application.

(2) Any license hereunder is a revocable privilege, and no holder acquires any vested right therein or thereunder.

(3) Judicial review is not available for decisions of the commission made or entered under the provisions of this section.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1406. Institutional investor.

(a)(1) An institutional investor that intends to become subject to this part as a result of its ownership of an interest in or equity security issued by a limited partnership licensee or a holding company may apply to the Arkansas Racing Commission for a waiver of the qualification and registration requirements of this part with respect to the ownership of the interest in or equity securities issued by the limited partnership licensee or a holding company if such institutional investor intends to and does hold the interest or equity securities for investment purposes only.

(2) An institutional investor shall not be eligible to receive or hold a waiver if the institutional investor will own, directly or indirectly, more than a fifteen percent (15%) interest in or of the equity securities issued by the limited partnership licensee or a holding company on a fully diluted basis where any such interest or securities are to be acquired other than through a debt restructuring.

(3) Limited partnership interests or securities acquired before a debt restructuring or as a result of an exchange, exercise, or conversion, after a debt restructuring, of any securities issued to an institutional investor through a debt restructuring, shall be deemed to have been acquired through a debt restructuring.

(4) A waiver granted under this section shall be effective only as long as the institutional investor's direct or indirect ownership interest in or of the equity securities issued by a limited partnership meets the limitations set forth above.

(b)(1) An institutional investor shall not be deemed to hold an interest in or equity security issued by a limited partnership licensee or a holding company, for investment purposes only unless the interest or equity securities will be acquired and held in the

ordinary course of business as an institutional investor, is not a general partnership interest, and does not, directly or indirectly, allow the institutional investor to vote for the election or appointment of a general partner or partners, cause any change in the partnership agreement, certificate of limited partnership, or other organic document, management, policies, or operations of the limited partnership licensee or the holding company, or cause any other action which the Arkansas Racing Commission finds to be inconsistent with investment purposes only.

(2) The following activities shall not be deemed to be inconsistent with holding an interest or equity securities for investment purposes only:

(A) Serving as a member of any committee of creditors or security or interest holders in connection with a debt restructuring;

(B) Nominating any candidate for election or appointment to a creditors committee or the equivalent in connection with a debt restructuring;

(C) Making financial and other inquiries of management of the type normally made by securities analysts for informational purposes and not to cause a change in its management, policies, or operations; and

(D) Such other activities as the Arkansas Racing Commission may determine to be consistent with such investment intent.

(c) An application for a waiver must include:

(1) A description of the institutional investor's business and a statement as to why the institutional investor is within the definition of "institutional investor" set forth in subsection (k) of this section;

(2) A certification made under oath and the penalty of perjury that:

(A) The interest in or equity securities of the limited partnership licensee or the holding company will be acquired and held for investment purposes only as defined in subsection (b) of this section and a statement by the signatory explaining the basis of the signatory's authority to sign the certification and to bind the institutional investor to its terms;

(B) The applicant agrees to be bound by and comply with The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, and the

rules adopted thereunder, to be subject to the jurisdiction of the courts of Arkansas, and to consent to Arkansas as the choice of forum in the event any dispute, question, or controversy arises regarding the application or any waiver granted under this section; and

(C) The applicant agrees that it shall not grant an option to purchase, or sell, assign, transfer, pledge, or make any other disposition of any interest in or equity security issued by the limited partnership licensee or the holding company without the prior approval of the Arkansas Racing Commission;

(3) A description of all actions, if any, taken or expected to be taken by the institutional investor relating to the activities described in subsection (b) of this section;

(4) The name, address, telephone number, and Social Security number of the officers and directors, or their equivalent, of the institutional investor as well as those persons that have direct control over the institutional investor's holdings of an interest in or equity securities of the limited partnership licensee or the holding company;

(5) The name, address, telephone number, and Social Security or federal tax identification number of each person who has the power to direct or control the institutional investor's exercise of its rights as a holder of the interest in or equity securities of the limited partnership licensee or the holding company;

(6) The name of each person that beneficially owns more than five percent (5%) of the institutional investor's voting securities or other equivalent;

(7) A list of the institutional investor's affiliates;

(8) A list of all regulatory agencies with which the institutional investor or any affiliate that owns any voting or equity securities or any other interest in a company which is licensed or registered with the Arkansas Racing Commission files periodic reports, and the name, address, and telephone number of the person, if known, to contact at each agency regarding the institutional investor;

(9)(A) A disclosure of all criminal or regulatory sanctions imposed during the preceding ten (10) years and of any administrative or court proceedings filed by any regulatory agency during the preceding five (5) years against the institutional investor, its affiliates, and current officer or director, or any former officer or director whose

tenure ended within the preceding twelve (12) months.

(B) As to a former officer or director, such information need be provided only to the extent that it relates to actions arising out of or during such person's tenure with the institutional investor or its affiliates; and

(10) Any additional information the Arkansas Racing Commission may request.

(d) The Arkansas Racing Commission shall consider all relevant information in determining whether to grant a waiver requested pursuant to subsection (a) of this section, including but not limited to:

(1) Whether the waiver is consistent with the policy set forth in this part; and

(2) Any views expressed to the Arkansas Racing Commission by the limited partnership licensee or any affiliate thereof.

(e) Any waiver granted pursuant to this section may be limited or conditioned in any respect by the Arkansas Racing Commission, including, but not limited to, requiring a certification, made under oath and the penalty of perjury, which contains the following:

(1) A statement attesting that the institutional investor holds and/or has held the interest in or equity securities issued by the limited partnership licensee or the holding company for:

(A) Investment purposes only; and

(B) In the ordinary course of business as an institutional investor and not for the purpose of:

(i) Causing, directly or indirectly, the appointment of any general partner or partners; or

(ii) Effecting any change in the partnership agreement, certificate of limited partnership, other organic document, management, policies, or operations of the limited partnership licensee or any of its affiliates;

(2) A statement that the institutional investor has not engaged in any activities inconsistent with the holding of an interest in or equity securities of a limited partnership licensee or the holding company for investment purposes only in accordance with the provisions of subsection (b) of this section;

(3) The name, title, and telephone number of the persons having direct control over the institutional investor's holdings of an interest in or equity securities issued by the limited partnership licensee or the holding company;

(4)(A) A statement of all complaints, arrests, indictments, or convictions of any officer or director of the institutional investor regarding the rules and regulations of the Securities and Exchange Commission and any regulatory agency of any state where it conducts business, or any offense which would constitute a gross misdemeanor or felony if committed in the State of Arkansas.

(B) The name, position, charge, arresting agency, and a brief description of the event must also be included in the statement; and

(5) A statement indicating any change to the structure and/or operation of the institutional investor which could affect its classification as an institutional investor as defined within this part.

(f)(1) An institutional investor that has been granted a waiver of licensing, registration, or finding of suitability as required by this part and that subsequently intends not to hold its interest in or equity securities issued by the limited partnership licensee or the holding company for investment purposes only, or that intends to take any action inconsistent with its prior intent shall, within two (2) business days after its decision, deliver notice to the Arkansas Racing Commission in writing of the change in its investment intent.

(2) The Arkansas Racing Commission may then take such action under this part, or any other provisions of Amendment 100 or rules of the Arkansas Racing Commission as the Arkansas Racing Commission deems appropriate.

(g) A waiver that has been granted pursuant to this section and this part shall subject the institutional investor to the requirements found in this part, as applicable, in that any purported sale, assignment, transfer, pledge, or other disposition of any interest in or equity security issued by the limited partnership licensee or the holding company, or the granting of an option to purchase such an interest or equity security, shall be void unless approved in advance by the Arkansas Racing Commission.

(h) The institutional investor shall be entitled to whatever economic advantage,

including, but not limited to, distributions, that may flow from ownership of the interest or equity securities as though it has been licensed, registered, or found suitable.

(i)(1) If the Arkansas Racing Commission finds that an institutional investor has failed to comply with the provisions of this section, or should be subject to licensing, registration, finding of suitability or any approval to protect the public interest, the Arkansas Racing Commission may, in accordance with this part or any other provision of Amendment 100 or rules of the Arkansas Racing Commission the Arkansas Racing Commission deems appropriate, require the institutional investor to apply for licensing, registration, or a finding of suitability.

(2) The institutional investor affected by the action taken by the Arkansas Racing Commission may request a hearing on the merits of such action.

(3) The hearing shall be included on the agenda of the next regularly scheduled Arkansas Racing Commission meeting occurring more than ten (10) working days after the request for hearing.

(4) Upon good cause shown by the institutional investor, the Arkansas Racing Commission may waive the ten-day requirement and place such hearing on an earlier Arkansas Racing Commission agenda.

(5) The Arkansas Racing Commission, for any cause deemed reasonable, may by a majority vote sustain, modify, or reverse the decision of the Arkansas Racing Commission, or remand the matter to the Arkansas Racing Commission for such further investigation and reconsideration as the Arkansas Racing Commission may order.

(6) While the application for licensure, registration, or a finding of suitability review of the Arkansas Racing Commission action requiring the filing of such application is pending, the institutional investor shall not directly or indirectly cause or attempt to cause any management, policy, or operating changes in the limited partnership licensee or the holding company.

(j) The limited partnership licensee or the holding company shall immediately notify the Arkansas Racing Commission of any information about, fact concerning, or actions of an institutional investor holding any interest in or equity securities of the limited partnership licensee or the holding company that may materially affect the institutional

investor's eligibility to hold a waiver under this section.

(k) For purposes of this subpart, "institutional investor" shall have the meaning set forth in this part and "debt restructuring" shall have the meaning set forth in this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1407. Required provisions in certificate of limited partnership.

The following provisions must be included in the certificate of limited partnership of every limited partnership that receives a state casino license:

(1) A purpose clause containing language substantially as follows: "The character and general nature of the business to be conducted by the partnership is to operate, manage, and conduct gaming in a gaming casino on or within the premises known as and located at _____";

(2) The certificate shall include language substantially as follows:

Notwithstanding anything to the contrary expressed or implied in this agreement, the sale, assignment, transfer, pledge, or other disposition of any interest in the partnership is void unless approved in advance by the Commission. If at any time the Commission finds that an individual owner of any such interest is unsuitable to hold that interest, the Commission shall immediately notify the partnership of that fact. The partnership shall, within ten days from the date that it receives the notice from the Commission, return to the unsuitable owner the amount of the unsuitable owner's capital account as reflected on the books of the partnership. Beginning on the date when the Commission serves notice of a determination of unsuitability, pursuant to the preceding sentence, upon the partnership, it is unlawful for the unsuitable owner: (a) to receive any share of the profits or distributions of any cash or other property other than a return of capital as required above; (b) to exercise, directly or through any trustee or nominee, any voting right conferred by such interest; or (c) to receive any remuneration in any form from the partnership, for services rendered or otherwise.

(3) The certificate shall include language substantially as follows:

> Any limited partner granted delayed licensing that is later found unsuitable by the Commission shall return all evidence of any ownership in the limited partnership to the limited partnership, at which time the limited partnership shall refund to the unsuitable limited partner no more than the amount that the unsuitable partner paid for his or her ownership interest, and the unsuitable limited partner shall no longer have any direct or indirect interest in the limited partnership.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1408. Public offerings by limited partnership licensees and holding companies.

No limited partnership licensee and no holding company shall make a public offering of securities of a limited partnership licensee of a holding company except as is permitted by, and in accordance with, this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1409. Assignment of interest in a security.

The purported sale, assignment, transfer, pledge, exercise of an option to purchase, including any transfer, whether or not for value, of any interest in the profits or proceeds realized from the holding or disposition of a security, or other disposition of any interest in a limited partnership which holds a state gaming license or which is a holding company or an intermediary company for an entity that holds a state gaming license is void unless approved in advance by the Arkansas Racing Commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1410. Procedure for obtaining approval for transfer of securities.

The provisions of this part shall govern all transfers for which approval is required.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1411. Persons who may be determined to be unsuitable.

(a) If at any time the Arkansas Racing Commission finds that an individual owner of any such interest is unsuitable to hold that interest, the commission shall immediately notify the limited partnership of that fact.

(b) The limited partnership shall, within ten (10) days after the date that it receives the notice from the commission, return to the unsuitable owner, in cash, the amount of the unsuitable owner's capital account as reflected on the books of the partnership.

(c) Without in any manner limiting the foregoing, the following persons may be determined to be unsuitable:

(1) Any person who, having been notified by the general partners, the commission, or the commission of the requirement that such persons be licensed, fails, refuses, or neglects to apply for such licensing within thirty (30) days after being requested to do so by the commission;

(2) Any record holder of a security issued by a limited partnership licensee or a holding company who fails, refuses, or neglects, upon request of the commission, to furnish to the commission within thirty (30) days after such request full, complete, and accurate information as to the owner of any beneficial interest in such security; or

(3) Any record owner of a security that is beneficially owned, in whole or in part, by a person determined to be unsuitable by the commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1412. Limited partnership noncompliance.

(a) Whenever the Arkansas Racing Commission determines that the public interest will be served by requiring any or all of the limited partnership's lenders, holders of evidences of indebtedness, underwriters, key executives and agents, employees, or other persons dealing with the limited partnership and having the power to exercise a significant influence over decisions by the limited partnership to be licensed, the commission shall serve a notice of such determination upon the limited partnership either personally or by certified mail.

(b) If the person or entity that is the subject of such determination shall not have, within thirty (30) days following the receipt of such notice, applied for a license, the limited partnership may be deemed to have failed to comply.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1413. Approval by commission required for all issues or transfers by a holding company of its securities.

(a) No holding company shall issue or transfer any security of which it or its controlled affiliate is the issuer without the prior approval of the Arkansas Racing Commission.

(b) As used herein, the terms "issue or transfer" extend to transactions involving any type of ownership referred to in this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1414. Commission approval required for dispositions of outstanding securities issued by holding companies.

(a) No person other than the issuer shall sell, assign, transfer, pledge, or make any other disposition of any security issued by any holding company without the prior approval of the Arkansas Racing Commission.

(b) As used herein, the terms "sale, assignment, transfer, pledge, or other disposition" extend to disposition of any type of ownership referred to in this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1415. Licensing of general partners and limited partners of limited partnership holding companies.

(a)(1) Except as otherwise provided in this section, each general partner of a limited partnership holding company must be licensed.

(2) Each limited partner of a limited partnership holding company must be licensed if the limited partner owns more than five percent (5%) of any licensee owned by the limited partnership holding company, except to the extent delayed licensing is approved by the Arkansas Racing Commission.

(3) For the purposes of this section, "own" means the possession of a record or beneficial interest in any business organization.

(b)(1) All limited partners of a limited partnership holding company which own five percent (5%) or less of any licensee owned by the limited partnership holding company must register in that capacity with the commission and affirmatively state in writing that they submit to the commission's jurisdiction.

(2) Such registration must be made on forms prescribed by the commission.

(3) A limited partner who is required to be registered by this section shall apply for registration before the limited partner obtains an ownership interest in the limited partnership holding company.

(c)(1) A general partner of a limited partnership holding company is not required to be licensed and must register in that capacity with the commission if both of the following apply:

(A) General partner owns five percent (5%) or less of each licensee owned by the limited partnership holding company; and

(B) Limited partnership holding company is not, directly or indirectly, a general partner or manager of any licensee and does not control any licensee.

(2) A general partner who is required to be registered by this section shall apply for registration before the general partner obtains an ownership interest in the limited partnership holding company.

(d) If the commission finds a limited partner or general partner unsuitable, denies an application of the limited partner or general partner, or revokes an approval of the limited partner or general partner, the limited partner, general partner, and the limited partnership holding company shall comply with the following:

(1)(A) If at any time the commission finds that any person owning, controlling, or holding with power to vote any part of any class of security of, or any interest in, any holding company or intermediary company is unsuitable to be connected with a licensed gaming enterprise, it shall so notify the unsuitable person, the holding company or intermediary company, or both.

(B) The unsuitable person shall immediately offer the security to the issuing corporation, or the interest to the firm, partnership, trust, or other business organization, for purchase.

(C) The corporation shall purchase the security so offered, or the firm, partnership, trust, or other business organization shall purchase the interest so offered for cash at fair market value within ten (10) days after the date of the offer;

(2) Beginning upon the date when the commission serves notice of a determination of unsuitability, it is unlawful for the unsuitable person:

(A) To receive any dividend or interest upon any such securities, or any dividend, payment, or distribution of any kind from any holding company or intermediary company;

(B) To exercise, directly or indirectly or through any proxy, trustee, or nominee, any voting right conferred by such securities or interest; or

(C) To receive any remuneration in any form from the corporation, partnership, limited partnership, limited liability company, or other business organization holding a license or from any holding company or intermediary company with respect thereto, for services rendered or otherwise; and

(3)(A) If any officer, employee, director, partner, principal, manager, member,

trustee, or direct or beneficial owner required to be found suitable fails to apply for a finding of suitability or a gaming license within thirty (30) days after being requested so to do by the commission, is not found suitable or is denied a license by the commission, or if his or her license or the finding of his or her suitability is revoked after appropriate findings by the commission, the holding company or intermediary company, or both, shall immediately remove that person from any position in the administration or supervision of, or any other significant involvement with, the activities of a licensee.

(B) If the commission suspends the suitability or license of any officer, employee, director, partner, principal, manager, member, trustee, or owner, the holding company or intermediary company, or both, shall, immediately and for the duration of the suspension, suspend the person from performing any duties in administration or supervision of the activities of the licensee and from any other significant involvement therewith.

(e) An application for registration with the commission shall:

(1) Include a completed application for registration form as prescribed by the commission;

(2) Include fully executed waivers and authorizations as determined necessary by the commission to investigate the registrant;

(3) Include an affirmative statement that the registrant submits to the jurisdiction of the commission;

(4) Include an affirmative statement that the registrant has no intent to exercise control over the licensee other than to vote the registrant's shares in the ordinary course, and if applicable, to take action in another licensed capacity under commission rules that are not prohibited by any commission rule;

(5)(A) Include the fingerprints of the registrant for purposes of investigating the registrant's criminal history.

(B) Such fingerprints shall be provided in a form and manner acceptable to the commission.

(C) The commission, in the commission's sole and absolute discretion, may waive this requirement upon a written request which specifically sets out the

reasons for the request for waiver;

(6) Be accompanied by a fee to cover registration investigation costs as follows:

(A) For registrations related to two (2) or fewer restricted licenses, an investigative fee in the amount of five hundred fifty dollars ($550); and

(B)(i) For all other registrations, an investigative fee in the amount of two thousand five hundred dollars ($2,500).

(ii) This fee does not include the application fee or investigation costs should the commission require the registrant to apply for licensure; and

(7) Include such other information as the commission may require.

(f)(1) The commission may require a limited partner or general partner who is required to be registered by this section to apply for licensure at any time in the commission's discretion by sending notice through the United States Postal Service to the registrant at the address on the registrant's registration on file with the commission and to the limited partnership holding company at the address on file with the commission.

(2) A limited partner or general partner shall apply for licensure as required by the commission within forty (40) days of the limited partner or general partner's receipt of notice.

(3) The notice shall be deemed to have been received by the limited partner or general partner five (5) days after such notice is deposited with the United States Postal Service with the postage thereon prepaid.

(g)(1) Upon receipt of a completed application for registration with the commission, the application shall be placed on an agenda for consideration by the commission not later than the first regular monthly commission agenda following the expiration of one hundred twenty (120) days after the commission receives the completed application for registration with the commission.

(2)(A) At the meeting in which the commission considers the application, it shall register the person with the commission, decline to register the person with the commission, or refer the application back to staff.

(B) At the meeting in which the commission considers the application, it may also recommend the commission require the person required to be registered by this section to apply for licensure.

(C) If the commission declines to register a person pursuant to this subsection, such action in so declining to register a person with the commission shall not be considered a denial under the act.

(3) A person who has the person's application for registration with the commission declined or referred back to staff may file an application for licensure even if not required to do so by the commission.

(h) If a limited partner or general partner of a limited partnership holding company is also a holding company and is required to register with the commission under this section, the limited partner or general partner is not also required to register with the commission as a subsidiary unless the commission requires the limited partner, officer, director, or general partner to apply for licensure.

(i)(1) In enacting this subpart, the commission finds that waiver is appropriate to the extent required by this section.

(2) In making these waivers, the commission finds such waivers are consistent with state policy because such waivers are for purposes including but not limited to fostering the growth of the gaming industry which is vitally important to the economy of the state and the general welfare of its inhabitants and broadening the opportunity for investment in gaming.

(3) The commission further finds such waivers do not diminish the commission's roles in strictly regulating gaming and effectively controlling the conduct of gaming by business organizations because the commission still requires, at a minimum, registration with the commission of all persons involved with gaming and may call such persons subject to registration with the commission forward for licensure, registration with the commission, or findings of suitability.

(j)(1) Upon the commission requiring a limited partner or general partner who is required to be registered by this section to apply for licensure, the limited partner or general partner does not have any right to the granting of the application.

(2) Any license hereunder is a revocable privilege, and no holder acquires any vested right therein or thereunder.

(3) Judicial review is not available for decisions of the commission made or entered under the provisions of this section.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1416. Certain payees required to be found suitable, licensed, or approved.

The Arkansas Racing Commission may require any person who receives payments from a limited partnership holding company computed on the basis of the earnings or profits of the holding company or on the basis of the receipts from gaming of the subsidiary limited partnership licensee of such holding company to be found suitable, licensed or approved.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1417. Delayed licensing for limited partners.

Pursuant to the provisions of this subpart, the Arkansas Racing Commission may waive licensing of limited partners and, in lieu thereof, grant approval of delayed licensing for any limited partner.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1418. Eligibility for delayed licensing.

(a) A limited partnership that has filed an application to be registered with the Arkansas Racing Commission may file an application for approval of delayed licensing of its limited partners.

(b)(1) Only limited partners whose aggregate effective ownership percentage in the limited partnership is no more than ten percent (10%) will be considered for

delayed licensing approval.

(2) For purposes of determining aggregate effective ownership percentage, a natural person who is part of a legal entity that is a limited partner shall be deemed to have the percentage ownership interest held by the legal entity.

(c) A general partner is not eligible for delayed licensing.

(d)(1) A limited partnership seeking delayed licensing of its limited partners shall apply for a ruling from the commission, upon recommendation of the commission, that it is eligible for delayed licensing of its limited partners.

(2) Such application may be made at the same time that the limited partnership applies for a state casino license or registers with the commission, and must include the information from limited partners required by this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1419. Application for delayed licensing by individual limited partners.

(a) Once a limited partnership has been found eligible for delayed licensing pursuant to this part, each limited partner seeking delayed licensing shall file an application for delayed licensing pursuant to this part.

(b) A limited partner may file an application for delayed licensing prior to the Arkansas Racing Commission's ruling on the eligibility of the limited partnership, but the application will not be considered by the commission until the commission rules that the limited partnership is eligible for delayed licensing.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1420. Procedure for consideration of application for delayed licensing.

(a) Any application for delayed licensing, whether by the limited partnership pursuant to this part, or by an individual limited partner pursuant to this part, shall be

made to the Arkansas Racing Commission on forms furnished by the commission and in accordance with this part.

(b) The commission shall investigate the applicant and act upon the application pursuant to this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1421. Information to be provided by applicant for delayed licensing.

In addition to filing a completed personal history record and personal financial questionnaire, along with all required releases and fingerprint cards, each limited partner applying for approval of delayed licensing shall provide the following information:

(1) A listing of any other business interest between the applicant and a general partner existing prior to, at the time of, or after the formation of the limited partnership;

(2) Whether the applicant has a familial relationship, either by blood, marriage, or adoption, with a general partner; and

(3)(A) A certification that the applicant does not have and will not have a material relationship to, or material involvement with, a general partner of the limited partnership with respect to gaming operations of the limited partnership, except in another licensed capacity under Arkansas Racing Commission rules in accordance with commission rules.

(B) A person may be deemed to have a material relationship to, or material involvement with, a general partner if the person is a shareholder, controlling person, or key employee of a legal entity that is a general partner, or if the person, as an agent, consultant, advisor, or otherwise, exercises a significant influence upon the management or affairs of such general partner.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1422. Effect of the commission's ruling on a limited partnership's application for delayed licensing.

If the Arkansas Racing Commission rules that a limited partnership is eligible for delayed licensing of its limited partners, the commission shall direct the commission, based upon such investigation as the commission deems appropriate, to recommend to the commission which of the limited partners who have applied for delayed licensing, if any, should be granted delayed licensing.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1423. Standards.

(a) The Arkansas Racing Commission shall consider all relevant material facts in determining whether to grant an approval of delayed licensing to a limited partnership, and thereafter to a limited partner, as permitted by this subpart.

(b) The commission may further consider the effects of the action or approval requested by the applicant, the benefits to the State of Arkansas, and whether other facts are deemed relevant, including, but not limited to, the following:

(1)(A) Whether the applicant, either individually or in conjunction with other limited partners, has any direct or indirect control or significant influence over a general partner, or over the management of the limited partnership's business or gaming operations, or the ability to acquire such control.

(B) The limited partnership agreement will be scrutinized to determine if it has clear and specific provisions covering the following:

(i) Restricting the priority rights with respect to income, losses, or other distributions, whether during the term of the limited partnership or upon its dissolution, of limited partners seeking delayed licensing;

(ii) Vesting the general partner or partners with the sole and exclusive right to manage and control the limited partnership's business;

(iii) Defining the scope of the general partner's or partners' authority

and any limitations thereon;

(iv) Restricting the right of the limited partners to remove or elect general partners, except to the extent necessary to elect a general partner upon the retirement, death, or disability of a general partner who is a natural person; and

(v) Whether any additional assessment or capital contribution can be required of the limited partners;

(2)(A) Whether the applicant has, or has had, a material relationship with a general partner.

(B) Applicants who have a familial relationship, either by blood, marriage, or adoption, to a general partner may be deemed to have such a material relationship;

(3) The commonality of other business interests between a general partner and any limited partners prior to, or existing at, formation of the limited partnership;

(4) Whether the applicant had a key role in forming the limited partnership;

(5) The relative level of risk for each general partner;

(6) The business probity of each general partner, in gaming or otherwise;

(7) The presence or absence of restrictions on the limited partners;

(8) Whether a substantial portion of the assets of the limited partnership were owned by only one (1) or more limited partners prior to formation of the limited partnership;

(9) Whether a substantial portion of the depreciable assets involved in the proposed gaming operation will be owned by the limited partnership;

(10)(A) The number of persons and entities involved in the limited partnership.

(B) The commission will not ordinarily grant delayed licensing status to a limited partnership with fewer than twenty-five (25) limited partners;

(11) The various percentage ownership interests in the limited partnership;

(12) Whether any limited partner has obligated his or her personal assets as a guarantee for the limited partnership or made any loans to the limited partnership in any manner whatsoever;

(13) The terms of any agreement that provides for a buyout of a limited partner's interest in the event that a limited partner is found unsuitable for licensing;

and

(14) The presence or absence of any tax benefits to the limited partner.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1424. Postapproval monitoring after approval of delayed licensing.

(a) The partnership agreement of a limited partnership that seeks delayed licensing must contain language to the effect that the licensing of any limited partner granted delayed licensing may be activated at any time pursuant to this subpart.

(b) The granting of delayed licensing to a limited partner by the Arkansas Racing Commission shall be a revocable approval.

(c) The commission shall not relinquish jurisdiction.

(d) Any limited partner receiving approval for delayed licensing from the commission has no legal vested right or privilege inherent in that approval, nor shall the limited partners that have been granted delayed licensing accrue any privilege from the licensing of the limited partnership.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1425. Powers of the commission after delayed licensing approval.

The Arkansas Racing Commission may exercise, without limitation, any of the following powers:

(1) After the granting of delayed licensing to a limited partner, the commission may activate the licensing process for any limited partner granted delayed licensing if it determines that:

(i) A limited partner has thereafter developed a material relationship with or to a general partner;

(ii) A limited partner, individually or in conjunction with other limited

partners, has acquired the ability to exercise significant control or influence over the management of the limited partnership's gaming operations or business affairs;

(iii) A limited partner, individually or in conjunction with other limited partners, has exercised, for any reason, significant control or influence over the management of the limited partnership's gaming operations, either directly or indirectly, even if such control is contemplated or authorized by the partnership agreement;

(iv) There is reason to believe that a limited partner cannot demonstrate his or her suitability;

(v) The aggregate effective ownership percentage held by a limited partnership granted delayed licensing has increased to more than ten percent (10%); or

(vi) Any other cause it deems reasonable;

(2) The commission, after considering the recommendation of its director or staff, may activate the licensing process for any limited partner granted delayed licensing at any time;

(3) The commission may delegate to its director or staff the authority to activate, without commission approval, the licensing process for any particular limited partner granted delayed licensing;

(4)(A) The commission may issue an order requiring escrow of the funds, profits, or other monies due any limited partner granted delayed licensing from the licensed limited partnership for any cause deemed reasonable.

(B) Any such escrow ordered by the commission automatically terminates at the conclusion of the next regular commission meeting unless:

(i) The commission recommends that the commission activate the licensing process for the limited partner that is the subject of the order;

(ii) The commission continues discussion of whether it should recommend that the licensing process be activated to a future meeting at the request of the limited partner that is the subject of the order; or

(iii) The commission activates the licensing process pursuant to a delegation of authority from the commission under this part; and

(5) Any escrow ordered by the commission pursuant to subdivision (4) of this section automatically terminates if the commission decides not to activate the licensing process for the limited partner that is the subject of the order or if the commission licenses the limited partner.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1426. Nontransferability of delayed licensing approval.

(a) Delayed licensing approval shall be personal to the limited partnership or limited partner granted delayed licensing.

(b) A limited partnership interest that is held under delayed licensing may not be transferred, assigned, encumbered, or hypothecated in any manner without the prior approval of the Arkansas Racing Commission, upon recommendation of the commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1427. Exclusion of public limited partnerships.

This subpart shall not apply to the limited partnership interest or securities of, nor other interest in, any limited partnership holding company that has been permitted to comply with the regulations governing public limited partnerships, nor to its general partners, limited partners, agents, employees, underwriters, lenders, and other holders of evidence of indebtedness, as such.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1428. Waiver of requirement of rule.

The Arkansas Racing Commission may waive one or more requirements of this part if it makes a written finding that such waiver is consistent with state policy.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

Subpart 15. Limited Liability Company Licensees

23 CAR § 358-1501. Definitions.

As used in in this subpart:

(1) "Articles of organization" means the articles of organization filed with the Secretary of State for the purpose of forming a limited liability company pursuant to Title 4, Chapter 32 of the Arkansas Code;

(2) "Capital account" as reflected on the books of the limited liability company shall mean the member's initial and any subsequent contributions to the limited liability company, as increased by the member's pro rata share of net income of the limited liability company, and decreased by the member's pro rata share of net losses incurred by the limited liability company, as well as any draws or distributions to a member of any kind or nature;

(3) Unless otherwise specified, "Commission" means the Arkansas Racing Commission or the commission's designee;

(4) "Contribution" means anything of value which a person contributes to the limited liability company as a prerequisite for or in connection with membership, including cash, property, or services rendered or a promissory note or other binding obligation to contribute cash or property or to perform services;

(5) "Control", including the term "controlling", "controlled by", and "under common control with" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise;

(6) A "controlled affiliate" of a specified person means another person which, directly or indirectly, is controlled by the person specified;

(7) A "controlling affiliate" of a specified person means another person which, directly or indirectly, controls the person specified;

(8) "Delayed licensing" means the approval granted by the Arkansas Racing

Commission to a member of a limited liability company licensee, enabling the member to receive a share or percentage of revenues derived from the conduct of gaming prior to the member being licensed;

(9) "Holding company" means, in addition to any corporation, firm, partnership, limited partnership, limited liability company, trust, or other form of business organization not a natural person which, directly or indirectly owns, has the power or right to control, or holds with power to vote any part of the limited partnership interests, interests in a limited liability company, or outstanding voting securities of a corporation which holds or applies for a license, a limited liability company that owns or has the power or right to control all or any part of the outstanding securities of a limited liability company that holds or applies for a state casino license;

(10)(A) "Interest in a limited liability company" means a member's share of the profits and losses of a limited liability company and the right to receive distributions of the company's assets.

(B) The definition provided within this subsection is not intended to be a definition of "interest" for use in this or any rule or statute;

(11) "Limited liability company" means a limited liability company organized and existing pursuant to the terms of Title 4, Chapter 32 of the Arkansas Code;

(12) "Manager" means a person elected by the members of a limited liability company to manage the company pursuant to Title 4, Chapter 32 of the Arkansas Code;

(13) "Member" means a person who owns an interest in a limited liability company;

(14)(A) "Member's interest" means a member's share of the profits and losses of a limited liability company and the right to receive distributions of the limited liability company's assets.

(B) The definition provided within this subsection is not intended to be a definition of "interest" for use in this or any rule or statute;

(15) "Operating agreement" means any valid written agreement of the

members as to the affairs of a limited liability company and the conduct of its business;

(16) "Own", "hold", and "have" mean the possession of a record or beneficial interest in a limited liability company;

(17)(A) "Sale" or "sell" includes every contract of sale or, contract to sell, or disposition of, a security or interest in a security whether or not for value.

(B) "Sale" or "sell" includes any exchange of an interest or securities and any material change in the rights, preferences, privileges, or restrictions of or on outstanding interest or securities; and

(18)(A) The term "security" means any stock, membership in an incorporated association, partnership interest in any limited or general partnership, interest in any limited liability company, bond, debenture, or other evidence of indebtedness, investment contract, voting trust certificate, certificate of deposit for a security, or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase, any of the foregoing.

(B) All of the foregoing are securities whether or not evidence of indebtedness reported under this part is a security.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1502. Powers of commission.

(a) The Arkansas Racing Commission shall have full and absolute power and authority, to the extent permitted by law, to recommend the granting, denial, limitation, conditioning, restriction, revocation, or delay of any license, registration, approval, or finding of suitability required or permitted by this subpart, or any application therefor, or to recommend other disciplinary action for any cause deemed reasonable by the commission.

(b) The commission shall have full and absolute power and authority, to the extent permitted by law, to grant, deny, condition, restrict, revoke, suspend, or delay any license, registration, approval, or finding of suitability required or permitted under this

subpart, or any application therefor, or to take other disciplinary action for any cause deemed reasonable by the commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1503. Burden of proof.

(a) The burden of proof with respect to the granting of any approval required or permitted by this part is at all times upon the person applying for such approval.

(b) Each applicant shall satisfy the Arkansas Racing Commission, as the case may be, that the granting of an approval is consistent with the state policies regarding gaming.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1504. Ownership of limited liability company licensees.

Except as otherwise provided by law, no person shall acquire any interest in or equity security issued by a limited liability company licensee or a holding company, become a controlling affiliate of a limited liability company licensee or a holding company, become a holding company of a limited liability licensee or of a holding company without first obtaining the prior approval of the Arkansas Racing Commission in accordance with this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1505. Registration of certain members of limited liability companies.

(a)(1) All members with a five percent (5%) or less ownership interest in a limited liability company licensee must register in that capacity with the Arkansas Racing Commission and affirmatively state in writing that they submit to the commission's jurisdiction.

(2) Such registration must be made on forms prescribed by the commission.

(3) A member who is required to be registered by this section shall apply for registration before the member obtains an ownership interest of five percent (5%) or less in a limited liability company licensee.

(b) If the commission finds a member unsuitable, denies an application of the member, or revokes an approval of the member, the member and the limited liability company shall comply with the following:

(1)(A) If at any time the commission finds that a member is unsuitable to hold an interest in a limited liability company, the commission shall immediately notify the limited liability company of that fact.

(B) The limited liability company shall, within ten (10) days after it receives the notice from the commission, return to the member, in cash, the amount of the member's capital account as reflected on the books of the company; and

(2) Except as otherwise provided in subdivision (b)(1) of this section, beginning on the date when the commission serves notice of a determination of unsuitability pursuant to subdivision (b)(1) of this section upon the limited liability company, it is unlawful for the unsuitable member:

(A) To receive any share of the distribution of profits of the limited liability company or any payments upon dissolution of the company;

(B) To exercise any voting right conferred by the member's interest in the limited liability company;

(C) To participate in the management of the limited liability company; or

(D) To receive any remuneration in any form from the limited liability company, for services rendered or otherwise.

(c) An application for registration with the commission shall:

(1) Include a completed application for registration form as prescribed by the commission;

(2) Include fully executed waivers and authorizations as determined necessary by the commission to investigate the registrant;

(3) Include an affirmative statement that the registrant submits to the

jurisdiction of the commission;

(4) Include an affirmative statement that the registrant has no intent to exercise control over the licensee other than to vote the registrant's shares in the ordinary course, and if applicable, to take action in another licensed capacity under commission rules that are not prohibited by any commission rules;

(5)(A) Include the fingerprints of the registrant for purposes of investigating the registrant's criminal history.

(B) Such fingerprints shall be provided in a form and manner acceptable to the commission.

(C) The commission, in the commission's sole and absolute discretion, may waive this requirement upon a written request which specifically sets out the reasons for the request for waiver;

(6) Be accompanied by a fee to cover registration investigation costs as follows:

(A) For registrations related to two (2) or fewer restricted licenses, an investigative fee in the amount of five hundred fifty dollars ($550); and

(B)(i) For all other registrations, an investigative fee in the amount of two thousand five hundred dollars ($2,500).

(ii) This fee does not include the application fee or investigation costs should the commission require the registrant to apply for licensure; and

(7) Include such other information as the commission may require.

(d)(1) The commission may require a member who is required to be registered by this section to apply for licensure at any time in the commission's discretion by sending notice through the United States Postal Service to the registrant at the address on the registrant's registration on file with the commission and to the limited liability company at the address on file with the commission.

(2) A member shall apply for licensure as required by the commission within forty (40) days of the member's receipt of notice.

(3) The notice shall be deemed to have been received by the member five (5) days after such notice is deposited with the United States Postal Service with the

postage thereon prepaid.

(e)(1) Upon receipt of a completed application for registration with the commission, the application shall be placed on an agenda for consideration by the commission not later than the first regular monthly commission agenda following the expiration of one hundred twenty (120) days after the commission receives the completed application for registration with the commission.

(2)(A) At the meeting in which the commission considers the application, it shall register the person with the commission, decline to register the person with the commission, or refer the application back to staff.

(B) At the meeting in which the commission considers the application, it may also recommend the commission require the person required to be registered by this section to apply for licensure.

(C) If the commission declines to register a person pursuant to this subsection, such action in so declining to register a person with the commission shall not be considered a denial under the act.

(3) A person who has the person's application for registration with the commission declined or referred back to staff may file an application for licensure even if not required to do so by the commission.

(f) If a member of a limited liability company licensee is a holding company and is required to register with the commission under this section, the member is not also required to register with the commission as a subsidiary unless the commission requires the member to apply for licensure.

(g)(1) In enacting this subpart, the commission finds that waiver is appropriate to the extent required by this section.

(2) In making this waiver, the commission finds such waiver is consistent with the state policy because such waiver is for purposes including but not limited to fostering the growth of the gaming industry which is vitally important to the economy of the state and the general welfare of its inhabitants and broadening the opportunity for investment in gaming.

(3) The commission further finds such waiver does not diminish the

commission's roles in strictly regulating gaming and effectively controlling the conduct of gaming by business organizations because the commission still requires, at a minimum, registration with the commission of all persons involved with gaming and may call such persons subject to registration with the commission forward for licensure, registration with the commission, or findings of suitability.

(h)(1) Upon the commission requiring a member who is required to be registered by this section to apply for licensure, the member does not have any right to the granting of the application.

(2) Any license hereunder is a revocable privilege, and no holder acquires any vested right therein or thereunder.

(3) Judicial review is not available for decisions of the commission made or entered under the provisions of this section.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1506. Institutional investor.

(a)(1) An institutional investor that intends to become subject to 23 CAR §§ 358-1504 and 358-1515 as a result of its ownership of an interest in or equity security issued by a limited liability company licensee or a holding company, may apply to the Arkansas Racing Commission for a waiver of the requirements of 23 CAR §§ 358-1326, 358-1329, 358-1504, and 358-1515 with respect to the ownership of the interest in or equity securities issued by the limited liability company licensee or a holding company if such institutional investor intends to and does hold the interest or equity securities for investment purposes only.

(2) An institutional investor shall not be eligible to receive or hold a waiver if the institutional investor will own, directly or indirectly, more than a fifteen percent (15%) interest in or of the equity securities issued by the limited liability company licensee or a holding company on a fully diluted basis where any such interest or securities are to be acquired other than through a debt restructuring.

(3) Limited liability company interests or securities acquired before a debt

restructuring and retained after a debt restructuring or as a result of an exchange or conversion, after a debt restructuring, of any securities issued to an institutional investor through a debt restructuring, shall be deemed to have been acquired through a debt restructuring.

(4) A waiver granted under this section shall be effective only as long as the institutional investor's direct or indirect ownership interest in or of the equity securities issued by a limited liability company meets the limitations set forth above.

(b)(1) An institutional investor shall not be deemed to hold an interest in or equity security issued by a limited liability company licensee or a holding company, for investment purposes only unless the interest or equity securities were acquired and are held in the ordinary course of business as an institutional investor, does not give the institutional investor management authority, and does not, directly or indirectly, allow the institutional investor to vote for the appointment of a manager, cause any change in the articles of organization, operating agreement, other organic document, management, polices or operations of the limited liability company licensee or the holding company, or cause any other action which the Arkansas Racing Commission finds to be inconsistent with investment purposes only.

(2) The following activities shall not be deemed to be inconsistent with holding an interest or equity securities for investment purposes only:

(A) Serving as a member of any committee of creditors or security or interest holders in connection with a debt restructuring;

(B) Nominating any candidate for election or appointment to a Arkansas Racing Commission or the equivalent in connection with a debt restructuring;

(C) Making financial and other inquires of management of the type normally made by securities analyst for informational purposes and not to cause a change in its management, policies, or operations; and

(D) Such other activities as the Arkansas Racing Commission may determine to be consistent with such investment intent.

(c) An application for a waiver must include:

(1) A description of the institutional investor's business and a statement as to

why the institutional investor is within the definition of "institutional investor" set forth in subsection (k) of this section;

(2) A certification made under oath and the penalty of perjury, that:

(A) The interest in or equity securities of the limited liability company licensee or the holding company will be acquired and held for investment purposes only as defined in this part and a statement by the signatory explaining the basis of the signatory's authority to sign the certification and to bind the institutional investor to its terms;

(B) The applicant agrees to be bound by and comply with The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, and the rule adopted thereunder, to be subject to the jurisdiction of the courts of Arkansas, and to consent to Arkansas as the choice of forum in the event any dispute, question, or controversy arises regarding the application or any waiver granted under this section; and

(C) The applicant agrees that it shall not grant an option to purchase, or sell, assign, transfer, pledge, or make any other disposition of any interest in or equity security issued by the limited liability company licensee or the holding company without the prior approval of the Arkansas Racing Commission;

(3) A description of all actions, if any, taken or expected to be taken by the institutional investor relating to the activities described in this part;

(4) The name, address, telephone number, and Social Security number of the officers and directors, or their equivalent, of the institutional investor as well as those persons that have direct control over the institutional investor's holdings of an interest in or equity securities of the limited liability company licensee or the holding company;

(5) The name, address, telephone number, and Social Security or federal tax identification number of each person who has the power to direct or control the institutional investor's exercise of its rights as a holder of the interest in or equity securities of the limited liability company licensee or the holding company;

(6) The name of each person that beneficially owns more than five percent (5%) of the institutional investor's voting securities or other equivalent;

(7) A list of the institutional investor's affiliates;

(8) A list of all regulatory agencies with which the institutional investor or any affiliate that owns any voting or equity securities or any other interest in a company which is licensed or registered with the Arkansas Racing Commission files periodic reports, and the name, address, and telephone number of the person, if known, to contact at each agency regarding the institutional investor;

(9)(A) A disclosure of all criminal or regulatory sanctions imposed during the preceding ten (10) years and of any administrative or court proceedings filed by any regulatory agency during the preceding five (5) years against the institutional investor, its affiliates, and current officer or director, or any former officer or director whose tenure ended within the preceding twelve (12) months.

(B) As to a former officer or director, such information need be provided only to the extent that it relates to actions arising out of or during such person's tenure with the institutional investor or its affiliates; and

(10) Any additional information the Arkansas Racing Commission may request.

(d) The Arkansas Racing Commission shall consider all relevant information in determining whether to grant a waiver requested pursuant to subsection (a) of this section, including but not limited to:

(1) Whether the waiver is consistent with the policy set forth in this part; and

(2) Any views expressed to the Arkansas Racing Commission by the limited liability company licensee or affiliate thereof.

(e) Any waiver granted pursuant to this section may be limited or conditioned in any respect by the Arkansas Racing Commission, including, but not limited to, requiring a certification, made under oath and the penalty of perjury, which contains the following:

(1) A statement attesting that the institutional investor holds and/or has held the interest in or equity securities issued by the limited liability company licensee or the holding company:

(A) For investment purposes only; and

(B) In the ordinary course of business as an institutional investor and not

for the purpose of:

(i) Causing, directly or indirectly, the appointment of any manager or managers; or

(ii) Effecting any change in the articles of organization, operating agreement, other organic document, management, policies or operations of the limited liability company licensee or any of its affiliates;

(2) A statement that the institutional investor has not engaged in any activities inconsistent with the holding of an interest in or equity securities of a limited liability company licensee for investment purposes only in accordance with the provisions of subsection (b) of this section;

(3) The name, title, and telephone number of the persons having direct control over the institutional investor's holdings of an interest in or equity securities issued by the limited liability company licensee or the holding company;

(4)(A) A statement of all complaints, arrests, indictments, or convictions of any officer or director of the institutional investor regarding the rules and regulations of the Securities and Exchange Commission and any regulatory agency of any state where it conducts business, or any offense which would constitute a gross misdemeanor or felony if committed in the State of Arkansas.

(B) The name, position, charge, arresting agency, and a brief description of the event must also be included in the statement; and

(5) A statement indicating any change to the structure and/or operation of the institutional investor which could affect its classification as an institutional investor as defined within this part.

(f)(1) An institutional investor that has been granted a waiver of licensing, registration, or finding of suitability as required by this part and that subsequently intends not to hold its interest in or equity securities issued by the limited liability company licensee or the holding company for investment purposes only, or that intends to take any action inconsistent with its prior intent shall, within two (2) business days after its decision, deliver notice to the Arkansas Racing Commission in writing of the change in its investment intent.

(2) The Arkansas Racing Commission may then take such action under this part, or any other provision of Amendment 100 or rules of the Arkansas Racing Commission as the Arkansas Racing Commission deems appropriate.

(g) A waiver that has been granted pursuant to this section and this part shall subject the institutional investor to requirements similar to those found within this part, as applicable, in that any purported sale, assignment, transfer, pledge, or other disposition of any interest in or equity security issued by the limited liability company licensee or the holding company, or the granting of an option to purchase such an interest or equity security, shall be void unless approved in advance by the Arkansas Racing Commission.

(h) The institutional investor shall be entitled to whatever economic advantage, including, but not limited to, distributions of profits, that may flow from ownership of the interest or equity securities as though it has been licensed, registered, or found suitable.

(i)(1) If the Arkansas Racing Commission finds that an institutional investor has failed to comply with the provisions of this section, or should be subject to licensing, registration, finding of suitability, or any approval to protect the public interest, the Arkansas Racing Commission may, in accordance with this part or any other provision of Amendment 100 or rules of the Arkansas Racing Commission the Arkansas Racing Commission deems appropriate, require the institutional investor to apply for licensing, registration, or a finding of suitability.

(2) The institutional investor affected by the action taken by the Arkansas Racing Commission may request a hearing on the merits of such action.

(3) The hearing shall be included on the agenda of the next regularly scheduled Arkansas Racing Commission meeting occurring more than ten (10) working days after the request for hearing.

(4) Upon good cause shown by the institutional investor, the Arkansas Racing Commission may waive the ten-day requirement and place such hearing on an earlier Arkansas Racing Commission agenda.

(5)(A) The Arkansas Racing Commission, for any cause deemed reasonable,

may by a majority vote, sustain, modify, or reverse the decision of the Arkansas Racing Commission, or remand the matter to the Arkansas Racing Commission for such further investigation and reconsideration as the Arkansas Racing Commission may order.

(B) While the application for licensure, registration, or a finding of suitability review of the Arkansas Racing Commission's action requiring the filing of such application is pending, the institutional investor shall not directly or indirectly, cause or attempt to cause any management, policy, or operating changes in the limited liability company licensee or the holding company.

(j) The limited liability company licensee or the holding company shall immediately notify the Arkansas Racing Commission of any information about, fact concerning or actions of, an institutional investor holding any interest in or equity securities of the limited liability company licensee or the holding company, that may materially affect the institutional investor's eligibility to hold a waiver under this section.

(k) For purposes of this subpart "institutional investor" shall have the meaning set forth in this part and "debt restructuring" shall have the meaning set forth in this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1507. Required provisions in articles of organization.

The following provisions must be included in the articles of organization of every limited liability company that receives a state casino license:

(1) A purpose clause containing language substantially as follows:

> "The character and general nature of the business to be conducted by the limited-liability company is to operate, manage, and conduct gaming in a gaming casino on or within the premises known as _____ and located at _____";

(2) The articles of organization shall include language substantially as follows:

Notwithstanding anything to the contrary expressed or implied in these articles, the sale, assignment, transfer, pledge or other disposition of any interest in the limited-liability company is ineffective unless approved in advance by the commission. If at any time the commission finds that a member who owns any such interest is unsuitable to hold that interest, the commission shall immediately notify the limited-liability company of that fact. The limited-liability company shall, within 10 days from the date that it receives the notice from the commission, return to the unsuitable member the amount of the unsuitable member's capital account as reflected on the books of the limited-liability company. Beginning on the date when the commission serves notice of a determination of unsuitability, pursuant to the preceding sentence, upon the limited-liability company, it is unlawful for the unsuitable member: (a) To receive any share of the distribution of profits or cash or any other property of, or payments upon dissolution of, the limited-liability company, other than a return of capital as required above; (b) To exercise directly or through a trustee or nominee, any voting right conferred by such interest; (c) To participate in the management of the business and affairs of the limited-liability company; or (d) To receive any remuneration in any form from the limited-liability company, for services rendered or otherwise.; and

(3) The articles of organization shall include language substantially as follows:

Any member that is found unsuitable by the commission shall return all evidence of any ownership in the limited-liability company to the limited-liability company, at which time the limited-liability company shall within 10 days, after the limited-liability company receives notice from the commission, return to the member in cash,

the amount of the member's capital account as reflected on the books of the limited-liability company, and the unsuitable member shall no longer have any direct or indirect interest in the limited-liability company.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1508. Public offerings by limited liability company licensees and holding companies.

No limited liability company licensee and no holding company shall make a public offering of interests or securities of a limited liability company licensee or of a holding company except as is permitted by, and in accordance with, this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1509. Assignment of interest in a security.

The purported sale, assignment, transfer, pledge, or exercise of an option to purchase, including any transfer, whether or not for value, of any interest in the profits or proceeds realized from the holding or disposition of a security, or other disposition of any interest in a limited liability company which holds a state gaming license or which is a holding company or an intermediary company for an entity that holds a state gaming license is void unless approved in advance by the Arkansas Racing Commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1510. Procedure for obtaining approval for transfer of interests.

The provisions of this part shall govern all transfers for which approval is required.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1511. Persons who may be determined to be unsuitable.

(a) If at any time the Arkansas Racing Commission finds that an individual owner of any such interest is unsuitable to hold that interest, the commission shall immediately notify the limited liability company of that fact.

(b) The limited liability company shall, within ten (10) days after the date that it receives the notice from the commission, return to the unsuitable owner, in cash, the amount of the unsuitable owner's capital account as reflected on the books of the company.

(c) Without in any manner limiting the foregoing, the following persons may be determined to be unsuitable:

(1) Any person who, having been notified by the member, the commission, or the commission of the requirement that such persons be licensed, fails, refuses, or neglects to apply for such licensing within thirty (30) days after being requested to do so by the commission;

(2) Any record holder of a security issued by a limited liability company licensee or a holding company who fails, refuses, or neglects, upon request of the commission, to furnish to the commission within thirty (30) days after such request, full, complete, and accurate information as to the owner of any beneficial interest in such security; or

(3) Any record owner of a security that is beneficially owned, in whole or in part, by a person determined to be unsuitable by the commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1512. Limited liability company noncompliance.

(a) Whenever the Arkansas Racing Commission determines that the public interest will be served by requiring any or all of the limited liability company's lenders, holders of evidences of indebtedness, underwriters, key executives and agents, employees, or

other persons dealing with the limited liability company and having the power to exercise a significant influence over decisions by the limited liability company to be licensed, the commission shall serve a notice of such determination upon the limited liability company either personally or by certified mail.

(b) If the person or entity that is the subject of such determination shall not have, within thirty (30) days following the receipt of such notice, applied for a license, the limited partnership may be deemed to have failed to comply.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1513. Approval by commission required for all issues or transfers by a holding company of its securities.

(a) No holding company shall issue or transfer any security or member's interest of which it or its controlled affiliate is the issuer without the prior approval of the Arkansas Racing Commission.

(b) As used herein, the terms "issue or transfer" extend to transactions involving any type of ownership referred to in this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1514. Commission approval required for dispositions of outstanding securities issued by holding companies.

(a) No person other than the issuer shall sell, assign, transfer, pledge, or make any other disposition of any interest in or security issued by any holding company without prior approval of the Arkansas Racing Commission.

(b) As used herein, the terms "sale, assignment, transfer, pledge, or other disposition" extend to dispositions of any type of ownership referred to in this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1515. Licensing of managers and members of limited liability company holding companies.

(a)(1) Except as otherwise provided in this section, each manager of a limited liability company holding company must be licensed.

(2) Each member of a limited liability company holding company must be licensed if the member owns more than five percent (5%) of any licensee owned by the limited liability company holding company, except to the extent delayed licensing is approved by the Arkansas Racing Commission.

(3) For the purposes of this section, "own" means the possession of a record or beneficial interest in any business organization.

(b)(1) All members which own five percent (5%) or less of any licensee owned by the limited liability company holding company must register in that capacity with the commission and affirmatively state in writing that they submit to the commission's jurisdiction.

(2) Such registration must be made on forms prescribed by the commission.

(3) A member who is required to be registered by this section shall apply for registration before the member obtains an ownership interest in the limited liability company holding company.

(c)(1) A manager of a limited liability company holding company is not required to be licensed and must register in that capacity with the commission if the limited liability company holding company is not, directly or indirectly, a general partner or manager of any licensee and does not control any licensee.

(2) A manager who is required to be registered by this section shall apply for registration within thirty (30) days after the manager assumes office.

(d) If the commission finds a member or manager unsuitable, denies an application of the member or manager, or revokes an approval of the member or manager, the member, manager, and the limited liability company holding company shall comply with the following:

(1)(A) If at any time the commission finds that any person owning, controlling, or holding with power to vote any part of any class of security of, or any interest in, any

holding company or intermediary company is unsuitable to be connected with a licensed gaming enterprise, it shall so notify the unsuitable person, the holding company or intermediary company, or both.

(B) The unsuitable person shall immediately offer the security to the issuing corporation, or the interest to the firm, partnership, trust, or other business organization, for purchase.

(C) The corporation shall purchase the security so offered, or the firm, partnership, trust, or other business organization shall purchase the interest so offered, for cash at fair market value within ten (10) days after the date of the offer; and

(2) Beginning upon the date when the commission serves notice of a determination of unsuitability, it is unlawful for the unsuitable person:

(A) To receive any dividend or interest upon any such securities, or any dividend, payment, or distribution of any kind from any holding company or intermediary company;

(B) To exercise, directly or indirectly or through any proxy, trustee, or nominee, any voting right conferred by such securities or interest; or

(C)(i) To receive any remuneration in any form from the corporation, partnership, limited partnership, limited liability company, or other business organization holding a license or from any holding company or intermediary company with respect thereto, for services rendered or otherwise.

(ii) If any officer, employee, director, partner, principal, manager, member, trustee, or direct or beneficial owner required to be found suitable fails to apply for a finding of suitability or a gaming license within thirty (30) days after being requested to do so by the commission, is not found suitable or is denied a license by the commission, or if his or her license or the finding of his or her suitability is revoked after appropriate findings by the commission, the holding company or intermediary company, or both, shall immediately remove that person from any position in the administration or supervision of, or any other significant involvement with, the activities of a licensee.

(iii) If the commission suspends the suitability or license of any

officer, employee, director, partner, principal, manager, member, trustee, or owner, the holding company or intermediary company, or both, shall, immediately and for the duration of the suspension, suspend the person from performing any duties in administration or supervision of the activities of the licensee and from any other significant involvement therewith.

(e) An application for registration with the commission shall:

(1) Include a completed application for registration form as prescribed by the commission;

(2) Include fully executed waivers and authorizations as determined necessary by the commission to investigate the registrant;

(3) Include an affirmative statement that the registrant submits to the jurisdiction of the commission;

(4) Include an affirmative statement that the registrant has no intent to exercise control over the licensee other than:

(A) To vote the registrant's shares in the ordinary course; and

(B) If applicable, to take action in another licensed capacity under commission rules that are not prohibited by any commission rule;

(5)(A) Include the fingerprints of the registrant for purposes of investigating the registrant's criminal history.

(B) Such fingerprints shall be provided in a form and manner acceptable to the commission.

(C) The commission, in the commission's sole and absolute discretion, may waive this requirement upon a written request which specifically sets out the reasons for the request for waiver;

(6) Be accompanied by a fee to cover registration investigation costs as follows:

(A) For registrations related to two (2) or fewer restricted licenses, an investigative fee in the amount of five hundred fifty dollars ($550); and

(B)(i) For all other registrations, an investigative fee in the amount of two thousand five hundred dollars ($2,500).

(ii) This fee does not include the application fee or investigation costs should the commission require the registrant to apply for licensure; and

(7) Include such other information as the commission may require.

(f)(1) The commission may require a member or manager who is required to be registered by this section to apply for licensure at any time in the commission's discretion by sending notice through the United States Postal Service to the registrant at the address on the registrant's registration on file with the commission and to the limited liability company holding company at the address on file with the commission.

(2) A member or manager shall apply for licensure as required by the commission within forty (40) days of the member or manager's receipt of notice.

(3) The notice shall be deemed to have been received by the member or manager five (5) days after such notice is deposited with the United States Postal Service with the postage thereon prepaid.

(g)(1) Upon receipt of a completed application for registration with the commission, the application shall be placed on an agenda for consideration by the commission not later than the first regular monthly commission agenda following the expiration of one hundred twenty (120) days after the commission receives the completed application for registration with the commission.

(2)(A) At the meeting in which the commission considers the application, it shall register the person with the commission, decline to register the person with the commission, or refer the application back to staff.

(B) At the meeting in which the commission considers the application, it may also recommend the commission require the person required to be registered by this section to apply for licensure.

(C) If the commission declines to register a person pursuant to this subsection, such action in so declining to register a person with the commission shall not be considered a denial under the act.

(3) A person who has the person's application for registration with the commission declined or referred back to staff may file an application for licensure even if not required to do so by the commission.

(h) If a member or manager of a limited liability company holding company is also a holding company and is required to register with the commission under this section, the member or manager is not also required to register with the commission as a subsidiary unless the commission requires the member or manager to apply for licensure.

(i)(1) In enacting this subpart, the commission finds that waiver is appropriate to the extent required by this section.

(2) In making these waivers, the commission finds such waivers are consistent with state policy because such waivers are for purposes including but not limited to fostering the growth of the gaming industry which is vitally important to the economy of the state and the general welfare of its inhabitants and broadening the opportunity for investment in gaming.

(3) The commission further finds such waivers do not diminish the commission's roles in strictly regulating gaming and effectively controlling the conduct of gaming by business organizations because the commission still requires, at a minimum, registration with the commission of all persons involved with gaming and may call such persons subject to registration with the commission forward for licensure, registration with the commission, or findings of suitability.

(j)(1) Upon the commission requiring a member or manager who is required to be registered by this section to apply for licensure, the member or manager does not have any right to the granting of the application.

(2) Any license hereunder is a revocable privilege, and no holder acquires any vested right therein or thereunder.

(3) Judicial review is not available for decisions of the commission made or entered under the provisions of this section.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1516. Certain payees required to be found suitable, licensed, or approved.

The Arkansas Racing Commission may require any person who receives payments from a limited liability company holding company computed on the basis of earnings or profits of the holding company or on the basis of receipts from gaming of the subsidiary limited liability company licensee of such holding company to be found suitable, licensed, or approved.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1517. Delayed licensing for members.

Pursuant to the provisions of this part, the Arkansas Racing Commission may waive licensing of members and, in lieu thereof, grant approval of delayed licensing for any member.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1518. Eligibility for delayed licensing.

(a) A limited liability company that has filed an application to be registered with the Arkansas Racing Commission may file an application for approval of delayed licensing of its members.

(b)(1) Only members whose aggregate effective ownership percentage in the limited liability company is no more than ten percent (10%) will be considered for delayed licensing approval.

(2) For purposes of determining aggregate effective ownership percentage, a natural person who is part of a legal entity that is a member shall be deemed to have the percentage ownership interest held by the legal entity.

(c) Neither a member having management authority or responsibility nor a manager is eligible for delayed licensing.

(d)(1) A limited liability company seeking delayed licensing of its members shall apply for a ruling from the commission, upon recommendation from the commission, that it is eligible for delayed licensing of its members.

(2) Such application may be made at the same time that the limited liability company applies for state casino license or registers with the commission, and must include the information from members required by this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1519. Application for delayed licensing by individual members.

(a) Once a limited liability company has been held eligible for delayed licensing pursuant to this part, each member seeking delayed licensing shall file an application for delayed licensing pursuant to this part.

(b) A member may file an application for delayed licensing prior to the Arkansas Racing Commission's ruling on the eligibility of the limited liability company, but the application will not be considered by the commission until the commission rules that the limited liability company is eligible for delayed licensing.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1520. Procedure for consideration of application for delayed licensing.

(a) Any application for delayed licensing, whether by the limited liability company pursuant to this part, or by any individual member pursuant to this part, shall be made to the Arkansas Racing Commission on forms furnished by the commission and in accordance with this part.

(b) The commission shall investigate the applicant and act upon the application pursuant to this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1521. Information to be provided by applicant for delayed

licensing.

In addition to filing a completed personal history record and personal financial questionnaire, along with all required releases and fingerprint cards, each member applying for approval of delayed licensing shall provide the following information:

(1) A listing of any other business interest between the applicant and a manager existing prior to, at the time of, or after the formation of the limited liability company;

(2) Whether the applicant has a familial relationship, either by blood, marriage, or adoption, with a manager of the limited liability company; and

(3)(A) A certification that the applicant does not have and will not have a material relationship to, or a material involvement with, a manager of the limited liability company with respect to the gaming operations of the limited liability company, except in another licensed capacity under Arkansas Racing Commission rules in accordance with commission rules.

(B) A person may be deemed to have a material relationship to, or a material involvement with, a manager if the person is a stockholder, controlling person, or key employee of a legal entity that is a manager, or if the person, as an agent, consultant, advisor, or otherwise, exercises a significant influence upon the management or affairs of such manager.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1522. Effect of the Arkansas Racing Commission ruling on a limited liability company's application for delayed licensing.

If the Arkansas Racing Commission rules that a limited liability company is eligible for delayed licensing of its members, the commission shall direct the commission, based upon such investigation as the commission deems appropriate, to recommend to the commission which of the members who have applied for delayed licensing, if any, should be granted delayed licensing.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1523. Standards.

(a) The Arkansas Racing Commission shall consider all relevant material facts in determining whether to grant an approval of delayed licensing to a limited liability company, and thereafter to a member, as permitted by this subpart.

(b) The commission may consider the effects of the action or approval requested by the applicant, the benefits to the State of Arkansas, and whatever other facts are deemed relevant, including, but not limited to, the following:

(1)(A) Whether the applicant, either individually or in conjunction with other members, has any direct or indirect control or significant influence over a manager or over the management of the limited liability company's business or gaming operations, or the ability to acquire such control.

(B) The limited liability company's operating agreement will be scrutinized to determine if it has clear and specific provisions covering the following:

(i) Restricting the priority rights with respect to income, losses, or other distributions, whether during the term of the limited liability company or upon its dissolution, of members seeking delayed licensing;

(ii) Vesting the managers or the members with the sole and exclusive right to manage and control the limited liability company's business;

(iii) Defining the scope of the manager's authority and any limitations thereon;

(iv) Restricting the right of members to remove or elect managers, except to the extent necessary to elect a manager pursuant to state or federal law, or this part, or upon the retirement, death, or disability of a manager who is a natural person; and

(v) Whether any additional assessment or capital contribution can be required of the members;

(2)(A) Whether the applicant has, or has had, a material relationship with a manager.

(B) Applicants who have a familial relationship, either by blood, marriage, or adoption, to a manager, may be deemed to have such a material relationship;

(3) The communality of other business interests between a manager and any member prior to, or existing at, formation of the limited liability company;

(4) Whether the applicant had a key role in forming the limited liability company;

(5) The relative level of risk for each manager;

(6) The business probity of each manager, in gaming or otherwise;

(7) The presence or absence of restrictions on the members;

(8) Whether a substantial portion of the assets of the limited liability company were owned by only one (1) or more members prior to formation of the limited liability company;

(9) Whether substantial proportion of the depreciable assets involved in the proposed gaming operation will be owned by the limited liability company;

(10)(A) The number of persons and entities involved in the limited liability company.

(B) The commission will not ordinarily grant delayed licensing status to a limited liability company with fewer than twenty-five (25) members;

(11) The various percentage ownership interests in the limited liability company;

(12) Whether any member has obligated his or her personal assets as a guaranty for the limited liability company or made any loans to the limited liability company in any manner whatsoever;

(13) The terms of any agreement that provides for a buyout of a member's interest in the event that a member is found unsuitable for licensing;

(14) The presence or absence of any tax benefit to the member; and

(15)(A) Postapproval monitoring after approval of delayed licensing.

(B) The operating agreement of a limited liability company that seeks delayed licensing must contain language to the effect that the licensing of any member granted delayed licensing may be activated at any time pursuant to this subpart.

(C) The granting of delayed licensing to a member by the commission shall be a revocable approval.

(D) The commission shall not relinquish jurisdiction.

(E) Any member receiving approval for delayed licensing from the commission has no legal vested right or privilege inherent in that approval, nor shall the members that have been granted delayed licensing accrue any privilege from the licensing of the limited liability company.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1524. Powers of the commission after delayed licensing approval.

(a) The Arkansas Racing Commission may exercise, without limitation, any of the following powers.

(b) After the granting of delayed licensing to a member, the commission may at any time activate the licensing process for any member granted delayed licensing if it determines that:

(1) A member has thereafter developed a material relationship with or to a manager;

(2) A member, individually or in conjunction with other members, has acquired the ability to exercise significant control or influence over the management of the limited liability company's gaming operations or business affairs;

(3) A member, individually or in conjunction with other members, has exercised, for any reason, significant control or influence over the management of the limited liability company's gaming operations, either directly or indirectly, even if such control is contemplated or authorized by the operating agreement;

(4) There is reason to believe that a member cannot demonstrate his or her suitability;

(5) The aggregate effective ownership percentage held by a member granted delayed licensing has increased to more than ten percent (10%);

(6) There is a change in the manager, except upon the retirement, death, or disability of a manager who is a natural person; or

(7) Any other cause it deems reasonable.

(c) The commission may activate the licensing process for any member granted delayed licensing at any time.

(d) The commission may delegate to its director or staff the authority to activate, without commission approval, the licensing process for a particular member who has been granted delayed licensing.

(e)(1) The commission may issue an order requiring escrow of the funds, profits, or other moneys due any member granted delayed licensing from the licensed limited liability company for any cause deemed reasonable.

(2) Any such escrow ordered by the commission automatically terminates at the conclusion of the next regular commission meeting unless:

(A) The commission recommends that the commission activate the licensing process for the member that is the subject of the order;

(B) The commission continues discussion of whether it should recommend that the licensing process be activated to a future meeting at the request of the member that is the subject of the order; or

(C) The commission activates the licensing process pursuant to a delegation of authority from the commission under this part.

(f) Any escrow ordered by the commission pursuant to subsection (e) of this section automatically terminates if the commission decides not to activate the licensing process for the member that is the subject of the order or if the commission licenses the member.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1525. Non-transferability of delayed licensing approval.

(a) Delayed licensing approval shall be personal to the limited liability company or member granted delayed licensing.

(b) An interest in a limited liability company that is held under delayed licensing may not be transferred, assigned, encumbered, or hypothecated in any manner without the prior approval of the Arkansas Racing Commission, upon recommendation of the commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1526. Exclusion of public limited liability companies.

This subpart shall not apply to an interest in a limited liability company or securities of, nor other interest in, any limited liability company holding company that has been permitted to comply with public limited liability companies, inclusive, nor to its managers, members, agents, employees, underwriters, lenders, and other holders of evidence of indebtedness, as such.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1527. Waiver of requirement of rule.

The Arkansas Racing Commission may waive one (1) or more requirements of this subpart if it makes a written finding that such waiver is consistent with state policy.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

Subpart 16. Private Investment Companies

23 CAR § 358-1601. Definitions.

As used in this subpart:

(1) "Private investment company" means any privately held legal entity except a natural person which holds or applies for a license, or owns, directly or indirectly, a beneficial interest in any corporation, firm, partnership, limited partnership, limited liability company, trust, or other form of business organization which holds or applies

for a license, and which has the following characteristics:

(A) One hundred percent (100%) of the economic securities of the company are held, directly or indirectly, by one (1) or more:

(i) Investment funds that are managed by an investment manager or managers, which investment manager or managers collectively have more than one billion dollars ($1,000,000,000) in assets under management; or

(ii) Institutional investors as defined in this part that each have assets of more than one billion dollars ($1,000,000,000);

(B) One hundred percent (100%) of the voting securities of the company are held by one (1) or more legal entities that are controlled by one (1) or more controlling persons or key executives of the investment managers or institutional investors; and

(C)(i) The company is not a publicly traded corporation or has received Arkansas Racing Commission approval to convert its registration from a publicly traded corporation to a private investment company.

(ii) The commission may waive or modify one (1) or more of the characteristics above for reasons consistent with this part;

(2) "Affiliate" or "affiliated company" means a subsidiary company, holding company, intermediate company, or any other form of business organization that controls, is controlled by, or is under common control with a private investment company;

(3) "Control", when used as a noun, means the possession, direct or indirect, of the power to direct or cause the direction of management and policies of a person, and when used as a verb means to possess, directly or indirectly, such power;

(4) "Controlling person" means, with respect to a private investment company, each person who controls the private investment company;

(5) "Economic security" means a nonvoting interest which entitles the holder to the economic benefits, without the right to control or vote, of:

(A) A corporation;

(B) A firm;

(C) A partnership;

(D) A limited partnership;

(E) A limited liability company;

(F) A trust; or

(G) Other form of business organization;

(6) "Holding company" defined.

(A) "Holding company" means any corporation, firm, partnership, limited partnership, limited liability company, trust, or other form of business organization not a natural person which, directly or indirectly, owns, has the power or right to control, or holds with power to vote any part of the limited partnership interests, interests in a limited liability company, or outstanding voting securities of a private investment company.

(B) For purposes of this section, in addition to any other reasonable meaning of the words used, a holding company indirectly has, holds, or owns any power, right, or security mentioned in subdivision (6)(A) of this section if it does so through any interest in a subsidiary or successive subsidiaries, however many such subsidiaries may intervene between the holding company and the private investment company;

(7) "Intermediary company" means any corporation, firm, partnership, limited partnership, limited liability company, trust, or other form of business organization other than a natural person which:

(A) Is a holding company with respect to a private investment company; and

(B) Is a subsidiary with respect to any holding company;

(8) "Key executive" means any person performing a principal business or policy making function for a business organization, as determined by the commission on a case-by-case basis;

(9) "Person" means any natural person, corporation, firm, partnership, limited partnership, limited liability company, trust, or other form of business organization, whether or not a legal entity;

(10) "Private investment fund" means a business entity exempted from registration under 15 U.S.C. § 80a-3(c);

(11) "Subsidiary" means any corporation, firm, partnership, limited partnership, limited liability company, trust, or other form of business organization not a natural person, any interest in which is owned, subject to a power or right of control, or held with power to vote by a holding company or intermediary company; and

(12) "Voting security" means an interest which entitles the holder to vote for the election of a member or members of the board of directors or board of trustees of a corporation or a comparable person or persons in the case of:

(A) A partnership;

(B) A limited liability company; or

(C) Other form of business organization.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1602. Powers of commission.

(a) The Arkansas Racing Commission shall have full and absolute power and authority, to the extent permitted by law, to recommend the granting, denial, limitation, conditioning, restriction, revocation, or delay of any license, registration, approval, or finding of suitability required or permitted by this subpart, or any application therefor, or to recommend other disciplinary action for any cause deemed reasonable by the commission.

(b) The commission shall have full and absolute power and authority, to the extent permitted by law, to grant, deny, condition, restrict, revoke, suspend, or delay any license, registration, approval, or finding of suitability required or permitted under this part, or any application therefor, or to take other disciplinary action for any cause deemed reasonable by the commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1603. Burden of proof.

(a) The burden of proof with respect to the granting of any approval required or permitted by this subpart is at all times upon the person applying for such approval.

(b) Each applicant shall satisfy the Arkansas Racing Commission, as the case may be, that the granting of an approval is consistent with the state policies regarding gaming set forth in this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1604. Exemptions from certain requirements.

(a) Except as otherwise set forth herein, private investment companies are exempt from the requirements of this part.

(b) However, the legal entities that own the voting securities of the private investment company shall be registered and found suitable by the Arkansas Racing Commission as holding companies and shall be subject to 23 CAR § 358-701 et seq., 23 CAR §§ 358-1324 – 358-1329, 23 CAR §§ 358-1413 – 358-1315, 23 CAR §§ 358-1513 – 358-1515.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1605. Private investment companies owning or controlling applicant or licensee — Duties and power of commission to investigate.

(a) If a corporation, partnership, limited partnership, limited liability company, or other business organization applying for or holding a state casino license is or becomes owned or controlled, in whole or in part, by a private investment company, or if a private investment company applies for or holds a state casino license, the private investment company shall:

(1) Maintain a ledger in its principal office or the principal office of its subsidiary which is licensed to conduct gaming in this state, which must:

(A) Reflect the ownership of record of each holder of economic securities

and voting securities in the private investment company; and

(B) Be available for inspection by the Arkansas Racing Commission and their authorized agents at all reasonable times without notice;

(2) Subject to subdivision (a)(4) of this section, register with the commission and provide the following information to the commission:

(A) The organization, financial structure, and nature of the business of the private investment company, including the names of all key executives and employees actively and directly engaged in the administration or supervision of the activities of the casino licensee, and the names, addresses, and percentage ownership interest held of record by each economic security holder and each voting security holder;

(B) The rights and privileges accorded the holders of different classes of its authorized economic securities and voting securities;

(C) The terms on which its economic securities and voting securities are to be, and during the preceding three (3) years have been, offered by the private investment company to the public or otherwise initially issued by it;

(D) The terms and conditions of all its outstanding loans, mortgages, trust deeds, pledges, or any other indebtedness or security device, directly relating to the gaming activities of the casino licensee;

(E) The extent of the economic securities and voting securities of record in the private investment company held by all key executives and any employees, and any payment received by any such persons from the private investment company for each of its three (3) preceding fiscal years for any reason whatever;

(F) Remuneration exceeding one hundred thousand dollars ($100,000) per annum to persons other than key executives and employees who are actively and directly engaged in the administration or supervision of the gaming activities of the casino licensee;

(G) Bonus and profit-sharing arrangements of the private investment company directly or indirectly relating to the gaming activities of the casino licensee;

(H) Management and service contracts of the private investment company directly or indirectly relating to the gaming activities of the casino licensee;

(I) Options existing or from time to time created in respect of its economic securities and voting securities;

(J) Balance sheets, certified by independent public accountants, for at least the three (3) preceding fiscal years, or if the private investment company is fewer than three (3) years old, balance sheets from the time of its formation;

(K) Profit and loss statements, certified by independent certified public accountants, for at least the three (3) preceding fiscal years, or, if the private investment company is fewer than three (3) years old, profit and loss statements from the time of its formation;

(L) A description of the private investment company's affiliated companies and intermediary companies, and the various casino licenses and approvals obtained by those entities; and

(M)(i) Any further information within the knowledge or control of the private investment company which either the commission may deem necessary or appropriate for the protection of this state, or licensed gambling, or both.

(ii) The commission may make such investigation of the private investment company or any of its key executives, interest holders, or other persons associated therewith as it deems necessary;

(3) Upon request of the commission, furnish to the commission a noninterference letter, in a form acceptable to the commission, which provides that the investment managers and institutional investors described in this part will not take any action to influence the controlling persons or key executives described in this part, as applicable, in the exercise of their management or voting rights in respect of the gaming activities of the private investment company or any of its affiliated, intermediary, or subsidiary companies, and that such controlling persons or key executives, as applicable, are authorized to exercise such rights independently of, and without consultation with, the investment managers and institutional investors; and

(4) A private investment company registered with the commission as a publicly traded corporation will be considered registered for purposes of this section and will not be required to reregister under subdivision (a)(2) of this section following the

submission to the commission and an approval by the commission of an application to convert the registration to that of a private investment company.

(b) If the private investment company is a foreign legal entity, it must also qualify to do business in this state.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1606. Individual licensing of key executives and employees — Removal from position if found unsuitable or if license is denied or revoked — Suspension of suitability by commission.

(a)(1) Each key executive and employee of a private investment company whom the Arkansas Racing Commission determines is or is to become actively and directly engaged in the administration or supervision of, or have any other significant involvement with, the gaming activities of the private investment company or any of its affiliated, intermediary, or subsidiary companies must be found suitable therefor and may be required to be licensed by the commission.

(2) Any person who has a relationship to a private investment company of a type described in this part with respect to publicly traded corporations shall file an application for finding of suitability and may be required to be licensed.

(b)(1) If any key executive or employee of a private investment company required to be licensed or found suitable pursuant to subsection (a) of this section fails to apply for a casino license or finding of suitability within thirty (30) days after being requested to do so by the commission, or is denied a license or is not found suitable by the commission, or if his or her license or the finding of his or her suitability is revoked after appropriate findings by the commission, the private investment company shall immediately remove that key executive or employee from any office or position wherein the key executive or employee is actively and directly engaged in the administration or supervision of, or has any other significant involvement with, the gaming activities of the private investment company or any of its affiliated or intermediary companies.

(2) If the commission suspends the finding of suitability of any key executive

or employee, the private investment company shall, immediately and for the duration of the suspension, suspend that key executive or employee from performance of any duties wherein the key executive or employee is actively and directly engaged in administration or supervision of, or has any other significant involvement with, the gaming activities of the private investment company or any of its affiliated or intermediary companies.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1607. Suitability of persons acquiring beneficial or record ownership of any economic security or debt security in private investment company — Report of acquisition — Application — Penalty.

(a) Each person who acquires beneficial ownership or record ownership of any direct or indirect interest in any economic security in a private investment company which is registered with the Arkansas Racing Commission may be required to be found suitable in the discretion of the commission.

(b) Each person who acquires beneficial or record ownership of any direct or indirect interest in any debt security in a private investment company which is registered with the commission may be required to be found suitable in the discretion of the commission.

(c) Any person required by the commission or by this section to be found suitable shall:

(1) Apply for a finding of suitability within thirty (30) days after the commission requests that the person do so; and

(2) Together with the application, deposit with the commission a sum of money which, in the opinion of the commission, will be adequate to pay the anticipated costs and charges incurred in the investigation and processing of the application, and deposit such additional sums as are required by the commission to pay final costs and charges.

(d) Any person required by the commission or this section to be found suitable who

is found unsuitable by the commission shall not hold directly or indirectly the beneficial or record ownership of any economic security or debt security.

(e) As used in this section, "debt security" means any instrument generally recognized as a corporate security representing money owed and reflected as debt on the financial statement of a legal entity.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1608. Remuneration, contracts, and employment prohibited for certain unsuitable or unlicensed persons.

If any person who is required, pursuant to this subpart, to be licensed or found suitable because of the person's connection with a corporation, partnership, limited partnership, limited liability company, or other business organization holding a license, or a holding company or intermediary company, including a private investment company, fails to apply for a license or a finding of suitability after being requested to do so by the Arkansas Racing Commission or is denied a license or a finding of suitability, or if the person's license or finding of suitability is revoked, the corporation, partnership, limited partnership, limited liability company, business organization, holding company, intermediary company, or any person who directly or indirectly controls, is controlled by, or is under common control with the corporation, partnership, limited partnership, limited liability company, business organization, holding company, or intermediary company shall not, and any licensee or an affiliate of the licensee shall not, after receipt of written notice from the commission:

(1)(A) Pay the person any remuneration for any service relating to the activities of a licensee, except for amounts due for services rendered before the date of receipt of notice of such action by the commission.

(B) Any contract or agreement for personal services or the conduct of any activity at a licensed gaming establishment between a former employee whose employment was terminated because of failure to apply for a license or a finding of suitability, denial of a license or a finding of suitability, or revocation of a license or a

finding of suitability, or any business enterprise under the control of that employee and the licensee, holding or intermediary company, or private investment company is subject to termination.

(C) Every such agreement shall be deemed to include a provision for its termination without liability on the part of the licensee upon a finding by the commission that the business or any person associated therewith is unsuitable to be associated with a gaming enterprise.

(D) Any failure to include expressly such a condition in the agreement is not a defense in any action brought pursuant to this section to terminate the agreement;

(2) Enter into any contract or agreement with the person or with a business organization that the licensee knows or under the circumstances reasonably should know is under the person's control which involves the operations of a licensee, without the prior approval of the commission; or

(3) Employ the person in any position involving the activities of a licensee without prior approval of the commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1609. Powers of commission.

(a) The Arkansas Racing Commission may determine, upon recommendation of the commission, at the time of initial application by a private investment company, or at any time thereafter, that the public interest and the purposes of the act require that any person who has a material relationship to, or material involvement with, a private investment company, affiliated company, or a licensee that is subject to the jurisdiction of the act should apply for a finding of suitability or licensing.

(b) A person may be deemed to have a material relationship to, or material involvement with, a private investment company, affiliated company, or licensee if the person is a controlling person or key executive of the private investment company, affiliated company, or licensee, or if the person, as an agent, consultant, advisor, or

otherwise, exercises significant influence upon the management or affairs of the private investment company, affiliated company, or licensee.

(c) The foregoing powers of the commission are not limited to persons having a formal and direct involvement or relationship with a private investment company, affiliated company, or licensee, nor to persons who are beneficial owners of any stated percentage of the outstanding economic securities of a private investment company, affiliated company, or licensee.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1610. Required reports and statements — Income tax return — Documents filed with the commission.

(a) After a private investment company has registered pursuant to this subpart, and while the private investment company or any of its affiliated, intermediary, or subsidiary companies holds a casino license, the private investment company shall:

(1) Report promptly to the Arkansas Racing Commission, in writing, any change in its key executives or employees who are actively and directly engaged in the administration or supervision of the gaming activities of the private investment company or any of its affiliated, intermediary, or subsidiary companies;

(2) Within forty-five (45) days after the close of the quarter to which they relate, furnish to the commission a quarterly profit and loss statement and a balance sheet of the private investment company;

(3)(A) Each year furnish to the commission a profit and loss statement and a balance sheet of the private investment company as of the end of the year, certified by independent certified public accountants, and, upon request of the commission therefor, a copy of the private investment company's federal income tax return within thirty (30) days after the return is filed with the Internal Revenue Service.

(B) All profit and loss statements and balance sheets must be submitted within one hundred twenty (120) days after the close of the fiscal year to which they relate;

(4) Report promptly to the commission, in writing, any changes that would result in the private investment company no longer having one (1) or more of the characteristics of a private investment company as described in this part, unless such characteristic has been waived or modified by the commission; and

(5)(A) Establish and maintain a gaming compliance program for the purpose of, at a minimum, performing due diligence, determining the suitability of relationships with other persons, and to review and ensure compliance by the private investment company, its subsidiaries, and any affiliated companies with the act, as amended, this part, as amended, and the laws and regulations of any other jurisdictions in which the private investment company, its subsidiaries, and any affiliated entities operate.

(B) The gaming compliance program, any amendments thereto, and the members of the compliance committee, at least one (1) such member who shall be independent and knowledgeable of the act and the part, shall be administratively reviewed and approved by the commission or the commission's designee.

(C) The private investment company shall amend the gaming compliance program, or any element thereof, and perform such duties as may be assigned by the commission or the commission's designee, related to a review of activities relevant to the continuing qualification of the private investment company, its subsidiaries, and any affiliated companies under the provisions of the act and this part.

(b) In addition to the requirements set forth in subsection (a) of this section, upon request of the commission, the private investment company shall provide any other documents, papers, reports, or other information deemed relevant by the commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1611. Approvals required for dividends and distributions.

Without the prior approval of the Arkansas Racing Commission, neither the private investment company, nor any of its affiliated, intermediary, or subsidiary companies who have been found suitable by the commission pursuant to this part, shall declare any dividends or distributions on any class of securities to any person who has not been

licensed or found suitable by the commission, provided, however, that any of the foregoing entities may, with the prior administrative approval of the commission or the commission's designee, pay dividends and make distributions to their direct or indirect equity owners who have not been licensed or found suitable by the commission for the purpose of defraying tax liabilities and tax-related expenses of such direct or indirect equity owners that arise directly out of such direct or indirect ownership interest, and further provided that any of the foregoing entities may, upon five (5) days' prior written notice to the commission, make distributions to their direct or indirect equity owners who have not been licensed or found suitable by the commission for the purpose of the payment of debt service by such direct or indirect equity owners for debt incurred in connection with the acquisition of any licensed subsidiary or the assets comprising a licensed establishment.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1612. Administrative approval required for certain transfers of economic securities in private investment companies.

Each person who acquires beneficial ownership or record ownership of any direct interest in any economic security in a private investment company which is registered with the Arkansas Racing Commission shall not, without the prior administrative approval of the commission, sell, assign, transfer, pledge, or otherwise dispose of any economic security of such private investment company, or any other security held by it that is convertible or exchangeable into an economic security of the private investment company.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1613. Reporting required for certain transfers and changes affecting economic securities in private investment companies.

(a) A private investment fund and any of its affiliates and subsidiaries that acquire

beneficial ownership or record ownership of any indirect interest in any economic security in a private investment company which is registered with the Arkansas Racing Commission shall report quarterly to the commission, in writing:

(1) The sale, assignment, transfer, pledge, or other disposition of any interest in the private investment fund, affiliate, or subsidiary; and

(2) The addition of any new members, partners, shareholders, trustees, or beneficiaries in the private investment fund, affiliate, or subsidiary, excluding persons that are holders of publicly traded securities issued by those entities.

(b) The commission may require the private investment company to provide such additional information regarding any of the aforesaid transactions as it deems necessary.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1614. Commission approval required for transfers by the beneficial owners of voting securities of private investment companies.

Each person who acquires beneficial ownership or record ownership of any direct or indirect interest in any voting security in a private investment company which is registered with the Arkansas Racing Commission, and who has been found suitable by the commission shall not, without the prior approval of the commission, sell, assign, transfer, pledge, or otherwise dispose of any voting security of such private investment company, or any other security held by it that is convertible or exchangeable into a voting security of the private investment company.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1615. Commission approval required to issue voting securities.

A private investment company that is registered with the Arkansas Racing Commission shall not issue voting securities, or any other security that is convertible or

exchangeable into a voting security, without the prior approval of the commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1616. Penalties for noncompliance with laws and rules.

If any corporation, partnership, limited partnership, limited liability company, or other business organization holding a license is owned or controlled by a private investment company subject to the provisions of this subpart, or that private investment company, does not comply with the laws of this state and rules of the Arkansas Racing Commission, the commission may in its discretion do any one (1), all, or a combination of the following:

(1) Revoke, limit, condition, or suspend the license of the licensee; or

(2) Fine the persons involved, the licensee, or the private investment company in accordance with the laws of this state and the rules of the commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1617. Fraudulent and deceptive practices prohibited.

It is grounds for disciplinary action if any person, in connection with the purchase or sale of any security issued by a private investment company or an affiliated company or in connection with any document required to be filed pursuant to this part or The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100:

(1) Employs any device, scheme, or artifice to defraud;

(2) Makes any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading;

(3) Engages in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person; or

(4) Causes any document, correspondence, filing, or statement containing materially untrue, incorrect, or misleading information to be made or filed with the

Arkansas Racing Commission, regardless of whether said information has been made or filed with another regulatory agency.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1618. Exemptions.

The Arkansas Racing Commission may, either generally or specifically, exempt a person, a security, a transaction, or any portion thereof from the application of this part or any portion thereof if the commission determines that such exemption is consistent with the purpose of The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

Subpart 17. Publicly Traded Corporations and Public Offerings of Securities

23 CAR § 358-1701. Definitions.

As used in this subpart:

(1) "Acquire control" or "acquiring control" means any act or conduct by a person whereby the person obtains control, whether accomplished through the ownership of equity or voting securities, ownership of rights to acquire equity or voting securities, by management or consulting agreements or other contract, by proxy or power of attorney, by statutory mergers, by consummation of a tender offer, by acquisition of assets, or otherwise;

(2) Unless otherwise specified, "commission" means the Arkansas Racing Commission or the commission's designee;

(3) "Control", when used as a noun, means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, and when used as a verb, means to possess, directly or indirectly, such power;

(4) "Controlling person", with respect to a publicly traded corporation, means

each person who controls the publicly traded corporation;

(5) "Corporate acquisition opposed by management" means an attempt to acquire control of a publicly traded corporation that is an affiliated company by means of a tender offer that is opposed by the board of directors of the affiliated company;

(6) "Corporate licensee" means a corporation that is licensed and registered with the Arkansas Racing Commission;

(7)(A) "Current market price" means the average of the daily closing prices for the twenty (20) consecutive trading days immediately preceding the date of a transaction or the closing price on the day immediately preceding the date of such transaction, whichever is higher.

(B) For the purpose of this definition, the closing price for each day shall be the last reported sale price, regular way, or in case no such reported sale takes place on such date, the average of the last reported bid and asked prices, regular way, in either case on the principal national securities exchange registered under the Securities Exchange Act of 1934, 15 U.S.C. § 78a, on which such security is admitted to trading or listed, or if not listed or admitted to trading on any national securities exchange, the closing price of such security, or in case no reported sale takes place, the average of the closing bid and asked prices, on NASDAQ or any comparable system, or if such security is not listed or quoted on NASDAQ or any comparable system, the closing sale price, or in case no reported sale takes place, the average of the closing bid and asked prices, as furnished by any member of the National Association of Securities Dealers, Inc., selected from time to time by the issuer for that purpose;

(8) "Debt restructuring" means:

(A) A proceeding under the United States Bankruptcy Code; or

(B) Any out-of-court reorganization of a person that is insolvent or generally unable to pay its debts as they become due;

(9)(A) "Exceptional repurchase of securities" means the direct or indirect purchase by a corporation of securities representing beneficial ownership of more than one percent (1%) of its voting securities, whether in a single transaction or a series of related transactions, at a price more than ten percent (10%) above the current market

price of such securities on the date of the agreement to purchase such securities from any person, other than a person who has been an executive officer or a member of the board of directors for at least the past two (2) years, who, on the date of the agreement to purchase, is the beneficial owner of more than three percent (3%) of the voting securities of such corporation and has been the beneficial owner of more than three percent (3%) of such securities for less than one (1) year, unless such purchase has been approved by the affirmative vote of a majority of the holders of voting securities voting on the transaction exclusive of the selling security holder, or is pursuant to the same offer and terms as made to all holders of voting securities of such class, other than holders, if any, who have consented in writing to be excluded from the class of offerees, executive officers, or members of the board of directors.

(B) For the purpose of this definition, when determining whether a corporation has purchased more than one percent (1%) of its voting securities, the amount of voting securities of such corporation shall be deemed to include voting securities issuable pursuant to purchase rights where the price of the purchase rights is less than the current market price of such securities on a given determination date provided, however, that in any event, the amount of such voting securities beneficially owned by a selling security holder pursuant to purchase rights shall be included to determine the amount of the corporation's voting securities for purposes of such computation if not otherwise included based on the foregoing provision;

(10) "Executive officer", with respect to a publicly traded corporation, means the president, secretary, treasurer, any vice president in charge of a principal business function (such as sales, administration, or finance), and any other person who performs similar policy making functions for a publicly traded corporation;

(11) "Federal Securities Act" means 15 U.S.C. §§ 77a – 77aa, as amended from time to time, and the rules and regulations of the Securities and Exchange Commission now or hereafter promulgated thereunder;

(12) "Federal Securities Exchange Act" means 15 U.S.C. §§ 78a – 78kk, as amended from time to time, and the rules and regulations of the Securities and Exchange Commission now or hereafter promulgated thereunder;

(13) "Full disclosure" with respect to a transaction or to a series of transactions means a descriptive statement thereof that does not make an untrue statement of a material fact nor omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading;

(14)(A) "Institutional investor" means:

(i) A bank as defined in Section 3(a)(6) of the Federal Securities Exchange Act;

(ii) An insurance company as defined in Section 2(a)(17) of the Investment Company Act of 1940, as amended;

(iii) An investment company registered under Section 8 of the Investment Company Act of 1940, as amended;

(iv) An investment advisor registered under Section 203 of the Investment Advisors Act of 1940, as amended;

(v) Collective trust funds as defined in Section 3(c)(11) of the Investment Company Act of 1940, as amended;

(vi) An employee benefit plan or pension fund that is subject to the Employee Retirement Income Security Act of 1974, as amended, excluding an employee benefit plan or pension fund sponsored by a publicly traded corporation registered with the Arkansas Racing Commission;

(vii) A state or federal government pension plan;

(viii) A group comprised entirely of persons specified in subdivisions (14)(A)(i) – (vii) of this section; or

(ix) Such other persons as the Arkansas Racing Commission may determine for reasons consistent with the policies of this part.

(B) To qualify as an institutional investor, a person other than a state or federal pension plan must meet the requirements of a qualified institutional buyer as defined in Rule 144A of the Federal Securities Act;

(15) "Plan of recapitalization" means a plan proposed by the Arkansas Racing Commission to the security holders of a publicly traded corporation that is an affiliated

company, which plan:

(A) Contains recommended action in response to a corporate acquisition opposed by management, which acquisition cannot be consummated until approval has been obtained pursuant to 23 CAR § 358-1611, and which acquisition has not been consummated, withdrawn, or terminated;

(B) Involves either a cash dividend to voting securities or an exchange of voting securities held by security holders in return for a payment of cash or the issuance of securities of the issuer or a combination of cash and securities of the issuer, with an aggregate value in excess of fifty percent (50%) of the aggregate current market price of the voting securities of the company on the day of the public announcement of the plan of recapitalization; and

(C) Is financed in substantial part by borrowings from financial institutions or the issuance of debt securities;

(16) "Public offering" means a sale of securities that is subject to the registration requirements of Section 5 of the Federal Securities Act, or that is exempt from such requirements solely by reason of an exemption contained in Section 3(a)10, 3(a)11, or 3(c) of said act or Regulation A adopted pursuant to Section 3(b) of said act;

(17) "Purchase rights" means a security or contractual right in securities issued or issuable on the exercise of options, warrants, or other beneficial interest in securities obtained for value upon the issuance of securities, or on conversion of other securities;

(18) "Speculative securities" means:

(A) Securities, the value of which depends substantially upon proposed or promised future promotion or development rather than on material existing assets, conditions, or operating results; or

(B) Securities, an investment in which involves an extraordinary risk of loss to the investor;

(19) "Tender offer" means a public offer by a person other than the issuer to purchase voting securities of a publicly traded corporation that is an affiliated company, made directly to security holders for the purpose of acquiring control of the affiliated company; and

(20) "Voting security" means a security the holder of which is entitled to vote for the election of a member or members of the board of directors or board of trustees of a corporation or a comparable person or persons in the case of a partnership, trust, or other form of business organization other than a corporation.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

Codification Notes. The Securities Act of 1933 is codified at 15 U.S.C. § 77a et seq.

The Securities and Exchange Act of 1934 is codified at 15 U.S.C. § 78a et seq.

The Investment Company Act of 1940 is codified at 15 U.S.C. § 80a-1 et seq.

The Employee Retirement Income Security Act of 1974 is codified generally at 29 U.S.C. § 1001 et seq.

23 CAR § 358-1702. Burden of proof.

(a) The burden of proof for the granting of any approval required or permitted by this part is at all times upon the applicant.

(b) Each applicant shall satisfy the Arkansas Racing Commission or the commission, as the case may be, that the granting of any approval required or permitted by this part is consistent with the state policies concerning gaming set forth in this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1703. Powers of commission.

(a) The Arkansas Racing Commission may provide:

(1) That a time period be accelerated or extended; or

(2) That as a condition to the processing of an application or to the granting of an approval:

(A) An application be supplemented in any particular and to any extent either before or after the commission has acted thereon;

(B) An applicant or other person urging the approval or denial of an application appear personally before the commission and submit to interrogation under oath or otherwise;

(C) Funds, securities, instruments, or agreements be placed in escrow upon specified conditions;

(D) A transaction be in compliance with the applicable laws, rules, and regulations of any federal, state, or local governmental entity or agency;

(E) A transaction be approved by an applicant's board of directors;

(F) An opinion of an applicant's legal counsel be furnished to the commission;

(G) An opinion of an applicant's auditors be furnished to the commission; and

(H) All or any portion of an application be examined or evaluated by a consultant to the commission at the expense of the applicant.

(b)(1) The commission has the power to delegate to its director or staff, in its order granting approval, the power to issue an interlocutory stop order.

(2) The interlocutory stop order may be issued for any cause deemed reasonable by the commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1704. Commission review of stop orders.

If a stop order is issued by the Arkansas Racing Commission pursuant to the provisions of this part, the commission shall, upon request of the person that is the subject of the order, conduct a hearing on the merits of the matter no later than its next regular meeting for which notice of the hearing is practicable.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1705. Timing of investigations and approvals.

(a) The Arkansas Racing Commission is hereby delegated the power to accelerate or extend the time period in which the commission may grant approval of any act for which approval by the commission is required or permitted by this part.

(b)(1) The commission shall use its best efforts to take final action upon an application by a person making a tender offer within sixty (60) days of the date upon which the application is filed and any fees are paid consistent with the public policy of this state concerning gaming as provided in this part.

(2) If the commission cannot take final action upon the application within sixty (60) days of filing of such application, the commission shall transmit to the applicant written notice of a time certain for completion of the investigation and the final action of the commission.

(3) The notice required by this subsection shall be transmitted at least ten (10) days prior to the sixtieth day after the filing of the application.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1706. Standards for commission action.

(a) The Arkansas Racing Commission will consider all relevant material facts in determining whether to grant an approval required or permitted by this part.

(b) With respect to any approvals requested pursuant to or in accordance with this part, the commission may further consider not only the effects of the action or approval requested by the applicant, but whatever other facts are deemed relevant, including but not limited to the following:

(1) The business history of the applicant, including its record of financial stability, integrity, and success of its operations;

(2) The current business activities and interest of the applicant, as well as those of its executive officers, promoters, lenders, and other sources of financing, or any other individuals associated therewith;

(3) The current financial structure of the applicant, as well as changes which could reasonably be anticipated to occur to such financial structure as a consequence of the proposed action of the applicant;

(4) The gaming-related goals and objectives of the applicant, including a description of the plans and strategy for achieving such goals and objectives;

(5) The relationship between such goals and objectives and the requested approval;

(6) The adequacy of the proposed financing or other action to achieve the announced goals and objectives;

(7) The present and proposed compensation arrangement between the applicant and its:

(A) Directors;

(B) Executive officers;

(C) Principal employees;

(D) Security holders;

(E) Lenders; or

(F) Other sources of financing;

(8) The equity investment, commitment, or contribution of present or prospective:

(A) Directors;

(B) Officers;

(C) Principal employees,

(D) Investors;

(E) Lenders; or

(F) Other sources of financing;

(9) The dealings and arrangements, prospective or otherwise, between the applicant and any:

(A) Investment bankers;

(B) Promoters;

(C) Finders or lenders; and

(D) Other sources of financing;

(10) The effect of the proposed action on existing and prospective security holders of the applicant, both before and after the intended action;

(11) Whether the applicant has made full and complete disclosure of all material facts relative to the proposed action to the commission and made provision for such disclosure to all prospective security holders;

(12) Whether the proposed action tends not to work a fraud upon the public;

(13) Whether a proposed public offering contains speculative securities; and

(14) Whether a proposed transaction will create a significant risk that the publicly traded corporation and its affiliated companies will not:

(A) Satisfy their financial obligations as they become due; or

(B) Satisfy all financial and regulatory requirements imposed by the rules adopted by the commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1707. Public offerings.

(a) **Corporate licensees.** A corporate licensee shall not guarantee a security issued by an affiliated company pursuant to a public offering, nor hypothecate its assets to secure the payment or performance of the obligations evidenced by a security issued by an affiliated company pursuant to a public offering, without first obtaining the prior approval of the Arkansas Racing Commission.

(b) **Public offerings of affiliated companies.** Prior approval of the Arkansas Racing Commission is required for any public offering of any securities of an affiliated company:

(1) Which is not a publicly traded corporation if the securities will be offered by such an affiliated company or by a controlling person thereof; or

(2) Which is a publicly traded corporation if the securities will be offered by such affiliated company and if such securities or the proceeds from the sale thereof are intended to be used:

(A) To pay for construction of gaming facilities in Arkansas to be owned or operated by the affiliated company or a subsidiary of the affiliated company;

(B) To acquire any direct or indirect interest in gaming facilities in Arkansas;

(C) To finance the operation by the affiliated company or a subsidiary of such affiliated company of gaming facilities in Arkansas; or

(D) To retire or extend obligations incurred for one (1) or more such purposes.

(c) **Continuous or delayed public offerings.**

(1) An affiliated company which is a publicly traded corporation may apply for approval of a continuous or delayed public offering of its securities if such an affiliated company:

(A) Has a class of securities listed on either the New York Stock Exchange, the American Stock Exchange, the National Association of Securities Dealers Automatic Quotation System, or has stockholders' equity in an amount of ten million dollars ($10,000,000) or more as reported in its most recent report on Form 10-K or Form 10-Q filed with the Securities and Exchange Commission immediately preceding the application; and

(B) Has filed all reports required to be filed by Section 13 or Section 15(d) of the Federal Securities Exchange Act, or in the case of a foreign issuer or foreign private issuer, pursuant to Regulations 13d-16 and 15a-16 of the Federal Securities Exchange Act, during the preceding twelve (12) months, or for such a shorter period that such affiliated company has been required to file such reports.

(2)(A) The Arkansas Racing Commission may grant approval of a continuous or delayed offering for a period of up to three (3) years.

(B) An approval granted pursuant to this subpart does not constitute an approval of other related transactions for which separate Arkansas Racing Commission approval is otherwise required by this part adopted by the Arkansas Racing Commission.

(3)(A) If an application is approved, the affiliated company shall notify the

Arkansas Racing Commission of its intent to make the public offering and identify the type and amount of securities it proposes to sell and the date on which it is anticipated the sale will occur.

(B) If such notification is not written, it must be followed, as soon as practicable, with a written confirmation which need not precede such sale.

(d) **Public offerings by entities not presently licensees or affiliated companies.**

(1) Any entity that is not a licensee or an affiliated company or otherwise subject to the provisions of the act or the rules which plans to make a public offering of securities intending to use such securities, or the proceeds from the sale thereof, to construct gaming facilities in Arkansas to be operated by the entity, or a subsidiary of the entity, or any other corporation or other form of business organization under common control with the entity, to acquire any direct or indirect interest in gaming facilities in Arkansas, to finance the operation by the entity, or a subsidiary of the entity, or any other corporation or other form of business organization under common control with the entity, of gaming facilities in Arkansas, or to retire or extend obligations incurred for one (1) or more such purposes, may apply to the Arkansas Racing Commission for prior approval of such an offering.

(2) The Arkansas Racing Commission may act on any such application.

(3) Any entity which submits an application pursuant to this subpart shall pay all costs connected with the processing of the application including but not limited to investigative costs.

(4) An approval sought under this subpart will not include a finding regarding the suitability of the individuals involved.

(5) The Arkansas Racing Commission may find an entity unsuitable based solely on the fact that it did not submit an application pursuant to subdivision (d)(1) of this section, unless the Arkansas Racing Commission has ruled pursuant to subdivision (d)(6) of this section that it is not necessary to submit an application pursuant to subdivision (d)(1) of this section.

(6) Upon receipt of a written request for a ruling, the Arkansas Racing

Commission may issue an administrative ruling that it is not necessary for an entity to submit an application pursuant to subdivision (d)(1) of this section upon review of such factors as the Arkansas Racing Commission deems appropriate, including but not limited to the following:

(A) The standards enumerated in this part;

(B) Whether the entity has any applications pending before the Arkansas Racing Commission and if so, the nature of such applications;

(C) The operational and ownership structure and history of the entity;

(D) A description of the regulatory authorities that the entity is subject to the jurisdiction of and the entity's regulatory history; and

(E) Such other facts as the Arkansas Racing Commission may deem relevant and material.

(7)(A) Any entity for which the Arkansas Racing Commission has approved an application submitted pursuant to subdivision (d)(1) of this section shall cause the following statement to be included in the prospectus, offering circular, or other offering document, or if such a document is not required by law, the offeror shall maintain adequate records that the statement was furnished to potential investors, for the public offering which was approved by the Arkansas Racing Commission.

(B) Because proceeds of this offering are to be used in connection with gaming facilities in Arkansas, the entity making the offering voluntarily sought and received approval of the Arkansas Racing Commission to make the offering.

(C) That approval relates solely to the terms of the offering.

(D) It does not constitute a finding that the entity has been or will be found qualified to be involved with gaming activities in Arkansas for which a separate Arkansas Racing Commission approval will be required.

(E) It also does not involve a finding by the Arkansas Racing Commission as to the accuracy or adequacy of this part.

(e) **Certain public offerings and stockholder approvals.** The Arkansas Racing Commission may find a publicly traded corporation unsuitable to be a holding company of a corporate licensee if:

(1) At a time when the applicant was not subject to the jurisdiction of the Arkansas Racing Commission it made a public offering of securities intending to use such securities, or the proceeds from the sale thereof, to construct gaming facilities in Arkansas to be operated by the applicant, or a subsidiary of the applicant, or any other corporation or other form of business organization under common control with the applicant, to acquire any direct or indirect interest in gaming facilities in Arkansas, to finance the operation by the applicant, or a subsidiary of the applicant, or any other corporation or other form of business organization under common control with the applicant, of gaming facilities in Arkansas, or to retire or extend obligation incurred for one (1) or more such purposes; or

(2) At a time when the applicant was not subject to the jurisdiction of the Arkansas Racing Commission it obtained the approval or consent of its stockholders to have a material involvement with gaming in the State of Arkansas, and in connection with such offering, approval, or consent, it did not make a full disclosure of all material facts to the offerees or its stockholders relating to such material involvement including, without limitation, a description of the nature and scope of the state and applicable local laws of Arkansas regarding gaming control.

(f) **Approval of securities issuable on exercise of options or warrants or conversion of other securities.** If the Arkansas Racing Commission approves a public offering of securities which involves securities issuable on exercise of purchase rights, such approval is deemed continuing for the entire period of exercisability or convertibility and further approval is not required for the actual issuance of such securities.

(g) **Application for approval of public offering.**

(1) A person applying for approval of a public offering pursuant to this part shall make a full disclosure of all material facts relating thereto to the Arkansas Racing Commission.

(2) To the extent applicable, the application must include the following information:

(A) A description of the securities to be offered;

(B) The terms upon which the securities are to be offered;

(C) The gross and net proceeds of the offering, including a detailed list of expenses;

(D) The use of proceeds;

(E) The name and address of the lead underwriter and the participating underwriters, if any;

(F) The forms of the underwriting agreement, the agreement among underwriters, if any, and the selected dealer's agreements, if any;

(G) A statement of intended compliance with all applicable federal, state, local, and foreign securities laws;

(H) The names and addresses of the applicant's general counsel, local counsel, special securities counsel, independent auditors, and any special consultants on the offering;

(I) If any securities to be issued are not to be offered to the general public, the names and addresses of the other offerees and the form of the offering thereto; and

(J)(i) True copies or descriptions of all papers filed with the Securities and Exchange Commission and all material communications between the applicant and the Securities and Exchange Commission or, if the offering is not subject to the registration requirements of Section 5 of the Federal Securities Act other than by reason of an exemption contained in Regulation A adopted pursuant to Section 3 of said Act, copies or descriptions of all papers filed with, and all material communications between the applicant and such other governmental entity charged with securities regulation, if any.

(ii) A copy of each registration statement and each amendment thereto must be filed with the Arkansas Racing Commission by the end of the next business day after their filing with the Securities and Exchange Commission.

(iii) All other papers required to be included pursuant to this subsection must be filed with the Arkansas Racing Commission as soon as practicable.

(h) **Coordination.**

(1) The Arkansas Racing Commission will ordinarily permit an application for

approval of a public offering pursuant to this subpart to be completed over a period of time as documents and information become available in accordance with the normal and customary practice in the securities industry.

(2) An application may be filed without all the information required by this part if all such information required by the Arkansas Racing Commission is supplied prior to the sale of the securities.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

Codification Notes. The Securities Act of 1933 is codified at 15 U.S.C. § 77a et seq.

The Securities and Exchange Act of 1934 is codified at 15 U.S.C. § 78a et seq.

23 CAR § 358-1708. Mergers, acquisitions, and changes of control.

(a) **Approval of acquisition of control.** A publicly traded corporation shall not directly or indirectly acquire control of a corporate licensee or affiliated company, and a person shall not acquire control of a publicly traded corporation which is an affiliated company, without the prior approval of the Arkansas Racing Commission.

(b) **Application for approval of acquisitions of control.** An application for approval of a transaction subject to this part must contain full disclosure of all material facts relating thereto, and include to the extent applicable:

(1) The following information:

(A) A complete list of all stockholders when it first registers, and annually thereafter, within thirty (30) days after the annual meeting of the stockholders of the corporation, showing the number of shares held by each;

(B) The names of all corporate officers within thirty (30) days of their appointment;

(C) The names of all members of the board of directors within thirty (30) days of their election;

(2) The terms and provisions of the contemplated transaction;

(3) A statement of any contemplated management and operating changes to be effected after completion of the contemplated transaction; and

(4) Copies or descriptions of all material documents and correspondence filed with the Securities and Exchange Commission in connection with the contemplated transaction, if any, or, if the transaction is not subject to the Federal Securities Act, copies or descriptions of all material documents and correspondence filed with such other governmental entity charged with securities regulation, if any.

(c) **Approval of plan of recapitalization.** Except as provided by this part, a publicly traded corporation that is an affiliated company shall not consummate a plan of recapitalization without the prior approval of the Arkansas Racing Commission.

(d) **Approval of exceptional repurchases of securities.** Except as provided in this part, a publicly traded corporation that is an affiliated company shall not make an exceptional repurchase of securities without the prior approval of the Arkansas Racing Commission.

(e) **Exempt transactions.** Unless otherwise required by this part adopted by the Arkansas Racing Commission, the approval of the commission is not required before a publicly traded corporation that is an affiliated company may repurchase securities issued by such corporation if:

(1) The repurchase is made pursuant to contractual rights or arrangements, including without limitation puts and price guarantees, given the issuee of such securities or the issuee's designee at the time of the original issuance of the security;

(2) The repurchase is made for purposes of compromising a bona fide dispute with a security holder arising from the original issuance of such securities;

(3) The repurchase is made pursuant to calls or redemptions of any securities in accordance with the terms and conditions of the governing instruments of such securities;

(4) The repurchase involves securities evidenced by a scrip certificate, order form, or similar document that represents a fractional interest in a share of stock or similar securities;

(5) The repurchase is made pursuant to a statutory procedure for the

purchase of dissenting security holders' securities;

(6) The repurchase is made in order to comply with any court or administrative order;

(7) The repurchase is made in accordance with or to effectuate the provisions of any employee compensation arrangement, employee stock plan, or employee benefit program including, without limitation, an employee stock ownership plan or to eliminate or cancel outstanding employee stock options or create a disposition for federal income tax purposes as to securities acquired as a result of the exercise of an employee incentive stock option as defined under the Internal Revenue Code;

(8) The repurchase involves a transaction or series of related transactions occurring within a fiscal quarter in which the aggregate price of the securities purchased is less than the greater of one million dollars ($1,000,000) or five percent (5%) of the consolidated net worth of the corporation purchasing the securities determined using the most recent audited financial statements of the corporation or the financial statements most recently filed by the corporation with the Securities and Exchange Commission; or

(9) The repurchase is made pursuant to a publicly announced open market securities repurchase program in which the price and other terms of sale are not negotiated between the purchaser and seller.

(f) **Application for approval of recapitalization plan or exceptional securities repurchases.** An application for approval of a plan of recapitalization subject to this part or an exceptional repurchase of securities subject to this part must contain full disclosure of all material facts relating thereto, and include to the extent applicable:

(1) The terms and provisions of the contemplated transaction;

(2) A statement of any contemplated management and operating changes to be effected after completion of the contemplated transaction;

(3) An analysis showing on a pro forma basis the effect of the transaction on the financial statements of the publicly traded corporation that is an affiliated company;

(4) A general description of the source of funds for the purchase and any

financing arrangements;

(5) Copies or descriptions of all material documents and correspondence filed with the Securities and Exchange Commission in connection with the contemplated transaction, if any, or, if the transaction is not subject to the Federal Securities Act, copies or descriptions of all material documents and correspondence filed with any other governmental entity charged with securities regulation; and

(6) Any other documents, papers, reports, or other information deemed relevant by the Arkansas Racing Commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1709. Markets and trading.

(a) **Fraudulent and deceptive practices prohibited.** It is grounds for disciplinary action if any person, in connection with the purchase or sale of any security issued by a corporate licensee or an affiliated company or in connection with any document required to be filed pursuant to this part or the act:

(1) Employs any device, scheme, or artifice to defraud;

(2) Makes any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading;

(3) Engages in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person; or

(4) Causes any document, correspondence, filing, or statement containing materially untrue, incorrect, or misleading information to be made or filed with the Arkansas Racing Commission, regardless of whether said information has been made or filed with another regulatory agency.

(b) **Approval of proxy and information statements related to gaming.**

(1) Before any person sends to the holders of a voting security of a publicly traded corporation a proxy statement subject to 17 C.F.R. § 240.14a et seq. of the Securities and Exchange Commission, or an information statement subject to 17 C.F.R.

§ 240.14c et seq. of the Securities and Exchange Commission, and includes a discussion of the nature and scope of, and procedures under, the act and regulations, such proxy statement or information statement must be approved by the Arkansas Racing Commission.

(2) A proxy statement or information statement is deemed to have been approved if it has been filed with the Arkansas Racing Commission for at least ten (10) days and the Arkansas Racing Commission has not issued a stop order during such period.

(c) **Reporting requirements.**

(1) Upon the request of the Arkansas Racing Commission, whenever any material document, including any document considered to be confidential or furnished to the holders of voting securities of the publicly traded corporation, is filed by a publicly traded corporation with the Securities and Exchange Commission or with any national or regional securities exchange, such publicly traded corporation shall within five (5) business days file a true copy of such document with the Arkansas Racing Commission.

(2) Upon the request of the Arkansas Racing Commission, whenever a publicly traded corporation receives any material document filed with the Securities and Exchange Commission by any other person relating to such publicly traded corporation, it shall, within ten (10) days following such receipt, file a true copy of such document with the Arkansas Racing Commission.

(3) Upon the request of the Arkansas Racing Commission, each publicly traded corporation shall file with the Arkansas Racing Commission annually a list of the holders of its voting securities or more frequently as such lists are prepared.

(4) Each publicly traded corporation shall, within sixty (60) days of election or appointment, report to the Arkansas Racing Commission, on the form prescribed by the commission, the election or appointment of any director, any executive officer, and any other officer actively and directly engaged in the administration or supervision of the gaming activities at a licensed gaming establishment of the corporate licensee.

(5) Whenever a publicly traded corporation is informed that any person

determined by the Arkansas Racing Commission to be a controlling person in respect of such corporation has disposed of any of such corporation's voting securities, such corporation shall thereupon promptly report such information to the Arkansas Racing Commission.

(6) Each publicly traded corporation shall file promptly with the Arkansas Racing Commission such other documents within its control as the Arkansas Racing Commission may lawfully request.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1710. Individuals.

(a) **Powers of commission.**

(1) The Arkansas Racing Commission may determine, upon the recommendation of the Arkansas Racing Commission, at the time of initial application by a publicly traded corporation for registration as a holding company, or at any time thereafter, that the public interest and the purposes of The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, require that any individual who has a material relationship to, or material involvement with, a publicly traded corporation, affiliated company, or a licensee that is subject to the jurisdiction of Amendment 100 should apply for a finding of suitability or licensing.

(2) A person may be deemed to have a material relationship to, or material involvement with, a corporation, affiliated company, or a licensee if the person is a controlling person or key employee of the corporation, affiliated company, or a licensee, or if the person, as an agent, consultant, advisor, or otherwise, exercises a significant influence upon the management or affairs of the corporation, affiliated company, or a licensee.

(3) The foregoing powers of the Arkansas Racing Commission are not limited to individuals having a formal and direct involvement or relationship with a publicly traded corporation, affiliated company, or a licensee, nor to individuals who are beneficial owners of any stated percentage of the outstanding equity securities of a

publicly traded corporation, affiliated company, or a licensee.

(b) **Beneficial owners of voting securities.**

(1) The Arkansas Racing Commission shall consider the following in making its determination as to which beneficial owners of voting securities of publicly traded corporations must or may be required to be found suitable or to be licensed:

(A) Each person who acquires, directly or indirectly:

(i) Beneficial ownership of any voting security; or

(ii) Beneficial or record ownership of any nonvoting security, in a publicly traded corporation which is registered with the Arkansas Racing Commission may be required to be found suitable if the Arkansas Racing Commission has reason to believe that the person's acquisition of that ownership would otherwise be inconsistent with the declared policy of this state;

(B) Each person who acquires, directly or indirectly, beneficial or record ownership of any debt security in a publicly traded corporation which is registered with the Arkansas Racing Commission may be required to be found suitable if the Arkansas Racing Commission has reason to believe that the person's acquisition of the debt security would otherwise be inconsistent with the declared policy of this state;

(C) Each person who, individually or in association with others, acquires, directly or indirectly, beneficial ownership of more than five (5) percent of any class of voting securities of a publicly traded corporation registered with the Arkansas Racing Commission, and who is required to report, or voluntarily reports, the acquisition to the Securities and Exchange Commission pursuant to section 13(d)(1), 13(g) or 16(a) of the Securities Exchange Act of 1934, as amended, 15 U.S.C. §§ 78m(d)(1), 78m(g) and 78p(a), respectively, shall, within ten (10) days after filing the report and any amendment thereto with the Securities and Exchange Commission, notify the Arkansas Racing Commission that the report has been filed with the Securities and Exchange Commission;

(D) Each person who, individually or in association with others, acquires, directly or indirectly, the beneficial ownership of more than ten percent (10%) of any class of voting securities of a publicly traded corporation registered with the Arkansas

Racing Commission, or who is required to report, or voluntarily reports, such acquisition pursuant to section 13(d)(1), 13(g) or 16(a) of the Securities Exchange Act of 1934, as amended, 15 U.S.C. §§ 78m(d)(1), 78m(g) and 78p(a), respectively, shall apply to the Arkansas Racing Commission for a finding of suitability within thirty (30) days after the Arkansas Racing Commission mails the written notice; and

(E) A person who acquires, directly or indirectly:

(i) Beneficial ownership of any voting security; or

(ii) Beneficial or record ownership of any nonvoting security or debt security, in a publicly traded corporation created under the laws of a foreign country which is registered with the Arkansas Racing Commission shall file such reports and is subject to such a finding of suitability as the Arkansas Racing Commission may prescribe.

(2) All rules and regulations of the Securities and Exchange Commission applicable in determining whether a person is the beneficial owner of a particular equity security for purposes of Section 13(d) of the Federal Securities Exchange Act may be considered by, but shall not be binding upon, the Arkansas Racing Commission in making its determination whether, and the extent to which, a person is the beneficial owner of a voting security for the purposes of 23 CAR § 358-1701(8), § 358-1709(c), § 358-1710(b), and § 358-1710(f).

(3) This subpart applies to every person who is, directly or indirectly, the beneficial owner of any voting security in a publicly traded corporation which is registered with the Arkansas Racing Commission, irrespective of the time of acquisition of such ownership.

(4) If any securities of a publicly traded corporation are held in street name, by a nominee, an agent or trust, the publicly traded corporation shall render maximum assistance to the Arkansas Racing Commission, upon its request, to determine the beneficial ownership of such securities.

(c) **Officers and employees.**

(1) The Arkansas Racing Commission shall require application for finding of suitability and may require licensing of any officer or employee of a publicly traded

corporation whom the Arkansas Racing Commission finds to be actively and directly engaged in the administration or supervision of, or any other significant involvement with, the activities of a corporate casino licensee.

(2) The Arkansas Racing Commission may require application for licensing or finding of suitability by any officer or employee of a publicly traded corporation whose application is not otherwise required pursuant to subdivision (c)(1) of this section, if the Arkansas Racing Commission determines that the policies of the state regarding gaming would be served by such action.

(3) The following officers or employees of the publicly traded corporation are deemed to be actively and directly engaged in the administration or supervision of, and significantly involved with, the activities of the corporate licensee and therefore are normally required to be licensed or found suitable:

(A) Each employee who is involved in gaming and who is also a director of the publicly traded corporation; and

(B) The president, any persons performing the function of principal executive officer or principal operating officer, the principal financial officer, and any persons performing the function of chief technology officer or chief information officer.

(d) **Directors.**

(1) The Arkansas Racing Commission shall require application for finding of suitability and may require licensing of any director whom the Arkansas Racing Commission finds to be actively and directly engaged in the administration or supervision of the gaming activities at a licensed gaming establishment of a subsidiary corporate licensee.

(2) The Arkansas Racing Commission may require application for licensing or finding of suitability by any director of a publicly traded corporation whose application is not otherwise required by subdivision (d)(1) of this section, if the Arkansas Racing Commission determines that the policies of the state regarding gaming would be served by such action.

(3) The following directors of the publicly traded corporation are deemed to be actively and directly engaged in the administration or supervision of the gaming

activities of the subsidiary corporate licensee and therefore are normally required to be licensed or found suitable:

(A) Each director who serves as director of the board of directors;

(B) Each director who serves as the director of the audit committee;

(C) Each director who, individually or in association with others, is the beneficial owner of greater than five percent (5%) of any class of voting securities of the registered publicly traded corporation for which he or she serves as a director; and

(D) Each person, whether as director or otherwise, who serves on any committee to which is delegated the authority of the Arkansas Racing Commission to act in any matter involving the activities of a corporate casino licensee and each director who serves in the capacity of lead director.

(e) **Appointments and elections.**

(1) Except in a transaction subject to this part which involved a change of control of a publicly traded corporation as a whole, an individual may be appointed or elected to a position described in 23 CAR § 358-1710(c) or § 358-1710(d) without the prior approval of the Arkansas Racing Commission, and may occupy the position and exercise the authority and duties thereof until otherwise ordered by the Arkansas Racing Commission.

(2) The Arkansas Racing Commission may impose stricter requirements, including a requirement of prior approval, on any publicly traded corporation or with respect to any individual at any time.

(f) **Institutional investor.**

(1)(A) An institutional investor that becomes or intends to become subject to this part as a result of its beneficial ownership of voting securities of a publicly traded corporation registered with the Arkansas Racing Commission may apply to the Arkansas Racing Commission for a waiver of the requirements with respect to the beneficial ownership of the voting securities of such publicly traded corporation if such institutional investor holds the securities for investment purposes only, provided, however, that an institutional investor shall not be eligible to receive or hold a waiver if the institutional investor beneficially owns, directly or indirectly, except as otherwise

provided in subdivision (f)(2) of this section, more than twenty-five percent (25%) of the voting securities and if any of the voting securities were acquired other than through a debt restructuring.

(B) Voting securities acquired before a debt restructuring and retained after a debt restructuring or as a result of an exchange, exercise, or conversion, after a debt restructuring, of any securities issued to the institutional investor through a debt restructuring, shall be deemed to have been acquired through a debt restructuring.

(C) A waiver granted under this section shall be effective only as long as the institutional investor's direct or indirect beneficial ownership interest in such voting securities meets the limitations set forth above.

(2) An institutional investor that has been granted a waiver pursuant to subdivision (f)(1) of this section, may beneficially own more than twenty-five percent (25%), but not more than twenty-nine percent (29%), of the voting securities of a publicly traded corporation registered with the Arkansas Racing Commission, only if such additional ownership results from a stock repurchase program conducted by such publicly traded corporation, and upon the condition that such institutional investor does not purchase or otherwise acquire any additional voting securities of the publicly traded corporation that would result in an increase in the institutional investor's ownership percentage.

(3)(A) An institutional investor shall not be deemed to hold voting securities for investment purposes only unless the voting securities were acquired and are held in the ordinary course of business as an institutional investor and not for the purpose of causing, directly or indirectly, the election of a majority of the members of the board of directors, any change in the corporate charter, bylaws, management, policies or operations of the publicly traded corporation registered with the Arkansas Racing Commission or any of its gaming affiliates, or any other action which the Arkansas Racing Commission finds to be inconsistent with investment purposes only.

(B) The following activities shall not be deemed to be inconsistent with holding voting securities for investment purposes only:

(i) Voting, directly or indirectly through the delivery of a proxy

furnished by the board of directors, on all matters voted on by the holders of such voting securities;

(ii) Serving as a member of any committee of creditors or security holders formed in connection with a debt restructuring;

(iii) Nominating any candidate for election or appointment to the board of directors in connection with a debt restructuring;

(iv) Accepting appointment or election as a member of the board of directors in connection with a debt restructuring and serving in that capacity until the conclusion of the member's term;

(v) Making financial and other inquiries of management of the type normally made by securities analysts for informational purposes and not to cause a change in its management, policies, or operations; and

(vi) Such other activities as the Arkansas Racing Commission may determine to be consistent with such investment intent.

(4) An application for a waiver must include:

(A) A description of the institutional investor's business and a statement as to why the institutional investor is within the definition of institutional investor set forth in this part;

(B)(i) A certification made under oath and the penalty of perjury, that the voting securities were acquired and are held for investment purposes only as defined in subdivision (f)(2) of this section and a statement by the signatory explaining the basis of the signatory's authority to sign the certification and to bind the institutional investor to its terms.

(ii) The certification shall also provide that the applicant agrees to be bound by and comply with The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, and the rules adopted thereunder, to be subject to the jurisdiction of the courts of Arkansas, and to consent to Arkansas as the choice of forum in the event any dispute, question, or controversy arises regarding the application or any waiver granted under this section;

(C) A description of all actions, if any, taken or expected to be taken by

the institutional investor relating to the activities described in subdivision (f)(2) of this section;

(D) The name, address, telephone number, and Social Security number of the officers and directors, or their equivalent, of the institutional investor as well as those persons that have direct control over the institutional investor's holdings of voting securities of the publicly traded corporation registered with the Arkansas Racing Commission;

(E) The name, address, telephone number, and Social Security or federal tax identification number of each person who has the power to direct or control the institutional investor's exercise of its voting rights as a holder of voting securities of the publicly traded corporation registered with the Arkansas Racing Commission;

(F) The name of each person that beneficially owns more than five percent (5%) of the institutional investor's voting securities or other equivalent;

(G) A list of the institutional investor's affiliates;

(H) A list of all securities of the publicly traded corporation registered with the Arkansas Racing Commission that are or were beneficially owned by the institutional investor or its affiliates within the preceding year, setting forth a description of:

(i) The securities;

(ii) Their amount; and

(iii) The date of acquisition or sale;

(I) A list of all regulatory agencies with which the institutional investor or any affiliate that beneficially owns voting securities of the publicly traded corporation registered with the Arkansas Racing Commission files periodic reports, and the name, address, and telephone number of the person, if known, to contact at each agency regarding the institutional investor;

(J)(i) A disclosure of all criminal or regulatory sanctions imposed during the preceding ten (10) years and of any administrative or court proceedings filed by any regulatory agency during the preceding five (5) years against the institutional investor, its affiliates, any current officer or director, or any former officer or director whose tenure ended within the preceding twelve (12) months.

(ii) As to a former officer or director, such information need be provided only to the extent that it relates to actions arising out of or during such person's tenure with the institutional investor or its affiliates;

(K) A copy of the institutional investor's most recent Schedule 13D or 13G and any amendments thereto filed with the Securities and Exchange Commission concerning any voting securities of the publicly traded corporation registered with the Arkansas Racing Commission;

(L) A copy of any filing made under 15 U.S.C. § 18a with respect to the acquisition or proposed acquisition of voting securities of the publicly traded corporation registered with the Arkansas Racing Commission; and

(M) Any additional information the Arkansas Racing Commission may request.

(5) The Arkansas Racing Commission shall consider all relevant information in determining whether to grant a waiver requested pursuant to subdivision (f)(1) of this section, including but not limited to:

(A) Whether the waiver is consistent with the policy set forth in this part;

(B) The factors set forth within this part; and

(C) Any views expressed to the Arkansas Racing Commission by the publicly traded corporation or any licensed affiliate thereof.

(6)(A) An institutional investor that has been granted a waiver of a finding of suitability and that subsequently intends not to hold its voting securities of the publicly traded corporation for investment purposes only, or that intends to take any action inconsistent with its prior intent shall, within two (2) business days after its decision, deliver notice to the Arkansas Racing Commission in writing of the change in its investment intent.

(B) The Arkansas Racing Commission may then take such action under this part as the Arkansas Racing Commission deems appropriate.

(7)(A) A waiver of the requirements that has been granted pursuant to this section shall not be construed as a waiver of or exemption from the prior approval requirements of this part.

(B) An institutional investor that intends to apply for a waiver of the requirements pursuant to this section must also simultaneously apply to the Arkansas Racing Commission for an exemption from the prior approval requirements of this part if:

(i) The proposed acquisition would give the institutional investor, directly or indirectly, the power to direct or cause the direction of the management and policies of the publicly traded corporation; or

(ii) The institutional investor intends to increase its beneficial ownership to more than twenty percent (20%) but not more than twenty-five percent (25%) of the voting securities of the registered publicly traded corporation.

(C) If at the time an institutional investor applies to the Arkansas Racing Commission for a waiver of the requirements it does not intend to increase its beneficial ownership to more than twenty percent (20%) of the voting securities of the registered publicly traded corporation but subsequently intends to increase to more than twenty percent (20%) but not more than twenty-five percent (25%), it must apply to the Arkansas Racing Commission for an exemption from the prior approval requirements of this part.

(8)(A) If the Arkansas Racing Commission finds that an institutional investor has failed to comply with the provisions of this section, or should be subject to a finding of suitability to protect the public interest, the Arkansas Racing Commission may, in accordance with this part, require the institutional investor to apply for a finding of suitability.

(B) The institutional investor affected by the action taken by the Arkansas Racing Commission may request a hearing on the merits of such action.

(C) The hearing shall be included on the agenda of the next regularly scheduled Arkansas Racing Commission meeting occurring more than ten (10) working days after the request for hearing.

(D) Upon good cause shown by the institutional investor, the Arkansas Racing Commission may waive the ten-day requirement and place such hearing on an earlier Arkansas Racing Commission agenda.

(E) The Arkansas Racing Commission, for any cause deemed reasonable, may by a majority vote, sustain, modify or reverse the decision of the Arkansas Racing Commission, or remand the matter to the Arkansas Racing Commission for such further investigation and reconsideration as the Arkansas Racing Commission may order.

(F) While the application for a finding of suitability review of the Arkansas Racing Commission's action requiring the filing of such application is pending, the institutional investor shall not, directly or indirectly, cause or attempt to cause any management, policy, or operating changes in the publicly traded corporation or any gaming affiliate.

(9) Any publicly traded corporation registered with the Arkansas Racing Commission or any registered or licensed subsidiary thereof shall immediately notify the Arkansas Racing Commission of any information about, fact concerning or actions of, an institutional investor holding any of its voting securities, that may materially affect the institutional investor's eligibility to hold a waiver under this section.

(10)(A) An institutional investor that is subject to this subpart as a result of its beneficial ownership of voting securities of a publicly traded corporation registered with the Arkansas Racing Commission and that has not been granted a waiver pursuant to subdivision (f)(1) of this section, may beneficially own more than ten percent (10%), but not more than eleven percent (11%), of the voting securities of such publicly traded corporation, only if such additional ownership results from a stock repurchase program conducted by the publicly traded corporation, upon the same conditions as provided in subdivision (f)(2) of this section.

(B) Unless otherwise notified by the Arkansas Racing Commission, such an institutional investor is not required to apply to the Arkansas Racing Commission for a finding of suitability, but shall be subject to reporting requirements as prescribed by the Arkansas Racing Commission.

(g) **Proscribed activities with respect to "unsuitable" persons.**

(1) If a person required by the Arkansas Racing Commission to apply for a finding of suitability fails, refuses or neglects to apply for a finding of suitability or a license within thirty (30) days after the Arkansas Racing Commission orders that such

application be made, the Arkansas Racing Commission may find such person to be unsuitable.

(2) The Arkansas Racing Commission may determine a publicly traded corporation registered with the Arkansas Racing Commission to be unsuitable, or take other disciplinary action, if the publicly traded corporation, after the Arkansas Racing Commission serves notice to the publicly traded corporation that a person is unsuitable to be a stockholder or to have any other relationship or involvement with such publicly traded corporation or with a corporate licensee or any other affiliated company:

(A) Pays to any person found to be unsuitable any dividend or interest upon any voting securities or any payment or distribution of any kind whatsoever except as permitted by subdivision (g)(2)(D) of this section;

(B) Recognizes the exercise by any such unsuitable person, directly or indirectly, or through any proxy, trustee or nominee, of any voting right conferred by any securities or interest in any securities;

(C) Pays to any such unsuitable person any remuneration in any form for services rendered or otherwise except as permitted pursuant to this part; or

(D) Fails to pursue all lawful efforts to require such unsuitable person to relinquish his or her voting securities including, if necessary, the immediate purchase of said voting securities by the publicly traded corporation for cash at fair market value.

(h) **Exemptions.**

(1) The Arkansas Racing Commission may, either generally or specifically, exempt a person, a security, a transaction, or any portion thereof, from the application of this subpart or any portion thereof if the Arkansas Racing Commission determines that such exemption is consistent with the purpose of the act.

(2) The Arkansas Racing Commission may by its order, from time to time, delegate to the commission the power to grant exemptions from the application of this subpart, to the extent, and within the scope, specified in such order.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

Codification Notes. The Securities and Exchange Act of 1934 is codified at 15 U.S.C. § 78a et seq.

Subpart 18. Supervision

23 CAR § 358-1801. Policy.

The Arkansas Racing Commission finds and hereby declares that the continuation of a casino gaming establishment's gaming operation following surrender, lapse, suspension, or revocation of a license essential to such operation presents significantly enhanced dangers to the public health, safety, morals, good order, and general welfare of the inhabitants of the State of Arkansas and should only be permitted when:

(1) The possible adverse economic impact of closure of the gaming operations upon the specific community in which the establishment is located and upon the state generally is significant; and

(2) Continued gaming operation pursuant to a supervisorship would facilitate speedy transfer of ownership of the establishment in a manner that does not unreasonably endanger the public health, safety, morals, good order, and general welfare.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1802. Determination to seek supervisor.

(a) Only the Arkansas Racing Commission is empowered to petition ex parte for court appointment of a supervisor if the license of any person whose license is essential to the operation of a gaming establishment:

(1) Is revoked by the commission;

(2) Is suspended by the commission;

(3) Lapses; or

(4) Is surrendered because the gaming establishment or the ownership thereof has been conveyed or transferred to a secured party who does not possess the licenses

necessary to operate the establishment.

(b) The decision to file such a petition is discretionary with the commission, and in determining whether such a petition shall be filed, the commission shall consider, at any time following issuance of an order revoking, suspending or allowing surrender or lapse of a casino license:

(1) The nature of the violation which resulted in the:

(A) Revocation;

(B) Suspension;

(C) Surrender; or

(D) Lapse;

(2) The ability and actions taken, if any, for a removal by licensees in good standing of persons who committed the violation;

(3) The involvement during a proposed supervisorship in any operation of the establishment of persons whose licenses were:

(A) Revoked;

(B) Suspended;

(C) Surrendered; or

(D) Lapsed;

(4) The economic impact of closure of the gaming operations upon the community in which the establishment is located;

(5) The economic impact of closure of the gaming operations upon the State of Arkansas;

(6) The prior efforts, if any, to sell the establishment;

(7) The involvement, if any, of undisclosed interests in the establishment;

(8) The presence, if any, of a publicly traded holding company and the public trading that would occur during a supervisorship;

(9) The current status of all fees and taxes applicable to the operation;

(10) The adequacy of existing financing for the operation, if continued, and the suitability of the source of such financing;

(11) The impact upon public confidence and trust that gaming operations in

Arkansas are conducted honestly, competitively, and free from criminal and corruptive elements;

(12) The ownership of the gaming establishment premises or an interest therein by persons other than the offending, surrendering, or lapsed licensee;

(13) Any other matter material to a full and complete consideration of the particular circumstances presented; and

(14) The availability of two (2) or more persons qualified and willing to assume the position of supervisor for the establishment in question, unless, in the opinion of the commission, only one (1) person is available who is qualified to serve, in which case the commission may name only that person.

(c) The commission may decline to petition for appointment of a supervisor if satisfied that because of any or all of the above considerations or for any other reason, a continuation of the gaming operation would not be in the best interest of the State of Arkansas, the gaming industry, or both.

(d) The commission will not petition for a supervisor to continue gaming operations at any establishment if:

(1) A rehearing has been granted by the commission to the licensee on the revocation or suspension of his or her license and the rehearing has not been concluded;

(2) The gaming establishment has never been in operation and opened to the public;

(3) The gaming establishment is, or reasonably appears to be, insolvent; or

(4) Gaming operations ceased at the establishment for any reason prior to revocation, suspension, or lapse of an essential license.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1803. Qualifications of supervisor.

(a) Should the Arkansas Racing Commission petition for appointment of a supervisor, the commission shall include the names of two (2) or more persons who the

commission believes are suitable and qualified to manage the gaming establishment involved and who are available for appointment by the court, unless, in the opinion of the commission, only one (1) person is available who is qualified to serve, in which case the commission may name only that person.

(b) The commission shall not petition for appointment of any person unless first satisfied that the person meets the following qualifications:

(1) An application to receive a license or be found suitable must not be granted unless the commission is satisfied that the applicant is:

(A) A person of good character, honesty, and integrity;

(B) A person whose prior activities, criminal record, if any, reputation, habits and associations do not pose a threat to the public interest of this state or to the effective regulation and control of gaming or charitable lotteries, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods and activities in the conduct of gaming or charitable lotteries or in the carrying on of the business and financial arrangements incidental thereto; and

(C) In all other respects qualified to be licensed or found suitable consistently with the declared policy of the state; and

(2)(A) A license to operate a gaming establishment or an intercasino-linked system must not be granted unless the applicant has satisfied the commission that:

(i) The applicant has adequate business probity, competence, and experience in gaming or generally; and

(ii) The proposed financing of the entire operation is:

(a) Adequate for the nature of the proposed operation; and

(b) From a suitable source.

(B) Any lender or other source of money or credit which the commission finds does not meet the standards set forth in this subsection may be deemed unsuitable.

(c) The commission may petition for the appointment of more than a single individual, such as a management team, association or company, where such an appointment would better meet the circumstances and the needs of the establishment.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1804. Termination.

(a) Once a license essential to a continuation of the gaming operations has been revoked, suspended, surrendered, or has lapsed, there is no right or interest in any person to further conduct gaming at the establishment, and the Arkansas Racing Commission may seek termination of a supervisorship for any cause deemed reasonable by the commission.

(b) Without limiting the foregoing, the commission may seek termination whenever:

(1) License fees and taxes are not paid when due;

(2) The establishment enters into voluntary or involuntary bankruptcy proceedings;

(3) The establishment's debts exceed the value of its assets or the establishment cannot meet its debts as they become due;

(4) The commission determines that a violation of the rules enacted pursuant thereto, relating to the establishment has occurred subsequent to the supervisorship;

(5) A former owner, the former owner's agent, employee, or representative are determined by the commission to have violated any statute or regulation relating directly or indirectly to gaming or the administration of the supervisorship, other than the violation, if any, which resulted in the:

(A) Revocation;

(B) Suspension;

(C) Surrender; or

(D) Lapse;

(6) The death, disability, or removal of the supervisor;

(7) Closure of gaming operations at the establishment for any reason, regardless of fault; or

(8) Any circumstances which, in the determination of the commission, renders

continued operations under the supervisorship impractical or detrimental to the interests of the State of Arkansas, or licensed gaming, or both.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-1805. Distribution of earnings to former legal owners.

(a) A supervisor shall not distribute earnings of the gaming establishment to the former licensed owners thereof, until deduction is made for:

(1) The costs of the supervisorship, including compensation and expenses incurred by the supervisor and those engaged by the supervisor to aid in the supervisor's duties, then due and owing;

(2) Amounts deemed necessary by the supervisor for continuing the operation of the establishment, including, but not limited to, bankroll, salaries, and foreseeable operating expenses;

(3) Amounts deemed necessary by the supervisor to preserve the assets of the gaming establishment; and

(4) A reserve fund sufficient, in the determination of the supervisor, to facilitate continued operation in light of pending civil litigation, disputed claims, contractual obligations, taxes, fees, and any other contingency known to the supervisor which may require payment by the establishment.

(b) The supervisor is subject to the provisions of this part, and shall not distribute any earnings of the gaming establishment in contravention of any provision thereof.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

Subpart 19. [Reserved]

Subpart 20. Race Books and Sports Pools

23 CAR § 358-2001. Definitions.

As used in this subpart:

(1)(A) "Account wagering system" means a system of wagering using computer or other method of wagering communication as approved by the Arkansas Racing Commission, including mobile applications and other digital platforms that utilize communications technology, whose components shall be located in this state.

(B) The components shall include, but not be limited to:

(i) The systems operator;

(ii) Permanent information databases;

(iii) System monitoring equipment; and

(iv) Writers;

(2) "Book" means a race book or sports pool licensed and approved pursuant to The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, and this subpart;

(3)(A) "Call center system" means a computerized system, or a component of such a system, that is used to provide technical support to a patron.

(B) A call center system shall not be used to receive, transmit, or accept wagers from a patron to a licensed book;

(4) "Cash" means coin and currency that circulates, and is customarily used and accepted as money, in the issuing nation;

(5) "Commission" means the Arkansas Racing Commission or the commission's designee;

(6) "Communications technology" means the methods used and the components employed to facilitate the transmission of information including, but not limited to, transmission and reception systems based on:

(A) Wire;

(B) Cable;

(C) Radio;

(D) Microwave;

(E) Light;

(F) Optics;

(G) Cellular data; or

(H) Computer data networks and the internet;

(7) "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks;

(8) "Key employee" means an employee in any of the classes described in 23 CAR § 358-401 et seq.;

(9) "Messenger bettor" means a person who places a race book or sports pool wager for the benefit of another for compensation;

(10) "Nonpari-mutuel wager" means a race book or sports pool wager other than one (1) offered to be included in a common pari-mutuel pool;

(11)(A) "Operator of a call center" means a person who, as an agent of a licensed Arkansas book, engages in the business of operating a call center system as a means of providing patron services to assist a patron located in this state.

(B) An operator of a call center does not receive, transmit, or accept wagers;

(12)(A) "Online sports pool" means an operation in which wagers on sports events are made over the internet on websites or mobile applications through computers, mobile devices, or other approved interactive devices accepted through a gaming system approved by the Arkansas Racing Commission.

(B) In order to operate an online sports pool, a casino licensee must first operate and continue to operate a sports pool from the casino licensee's premises.

(C) Further, operation of an online sports pool shall be prohibited in circumstances in which a majority of the net casino gaming receipts, as defined in Amendment 100, from the online sports pool is paid to a third-party vendor assisting in the operation of the sports pool;

(13) "Online sports pool operator" means a casino licensee that has elected to operate an online sports pool or a sports pool operator intermediary operating an online sports pool on behalf of a casino licensee;

(14) "Online sports pool platform" means an integrated system of hardware, software, or applications through which an online sports pool operator operates,

conducts, or offers an online sports pool;

(15) "Payout" means the total payment due on a winning wager whether or not:

(A) The patron collects the total payment due at one (1) time;

(B) All or a portion of the payment due is made in the form of cash, chips, or other form of payment; or

(C) All or a portion of the payment due is used by the patron to place another wager;

(16) "Post time" means, unless an earlier time is required by rule or regulation in the state where the race is run:

(A) For users of live broadcasts and for buyers of audible announcements of post time from disseminators of live broadcasts, the later of either the time when the disseminator transmits an audible announcement of the post time, or when the race is started by, as applicable, the opening of the gates and/or box, the starting gate car begins to close its arms, or such other method used by the track and administratively approved by the Arkansas Racing Commission;

(B) For races broadcast live on a national television network for which an agreement has been reached with a disseminator to provide an audible announcement of post time, that time when the disseminator relying upon information obtained independently of the television broadcast, transmits an audible announcement of post time which must be no later than when the race is started by, as applicable, the opening of the gates and/or box, the starting gate car begins to close its arms, or such other method used by the track and administratively approved by the commission;

(C) For licensed race books that, pursuant to an agreement with a licensed systems operator, use a computerized bookmaking system that allows the systems operator to close wagering via electronic remote access, that time when the race is started by, as applicable, the opening of the gates and/or box, the starting gate car begins to close its arms, or such other method used by the track and administratively approved by the commission, as determined by the systems operator

through information the systems operator independently receives from a disseminator; and

(D) Except as provided in subdivisions (16)(A) – (C) of this section, not later than two (2) minutes before the scheduled post time as announced by the disseminator;

(17)(A) "Race book" means a business that accepts wagers on horse or other animal races.

(B) A casino licensee that is also a franchise holder may elect to have its race book operations relating to pari-mutuel wagering on horse and greyhound racing regulated and governed by the Arkansas Horse Racing Law, Arkansas Code § 23-110-101 et seq., or the Arkansas Greyhound Racing Law, Arkansas Code § 23-111-101 et seq., respectively, and rules promulgated by the Arkansas Racing Commission thereunder and not by this part;

(18) "Secure personal identification" means a secure personal identification as that term is defined in this part;

(19)(A) "Sports event" or "sporting event" means any:

(i) Professional sport or athletic event;

(ii) Amateur sport or athletic event;

(iii) Collegiate sport or athletic event; or

(iv) Motor race event.

(B) Sports events upon which wagers may be accepted under this part:

(i) Shall only include athletic sports events conducted live by human athletes, including race car drivers; and

(ii) Shall not include any virtual or simulated event, or event conducted in the past and rebroadcast for wagering purposes;

(20) "Sports pool" means a business that accepts wagers on sporting events other than horse or other animal races;

(21) "Wagering account" means a sports wagering account as that term is defined in this part;

(22) "Wagering communication" means the transmission of a wager between a

point of origin and a point of reception by aid of a communications technology, including computers or mobile application on mobile devices or other approved interactive devices approved by the Arkansas Racing Commission; and

(23) "Wagering instructions" means the instructions given by a patron on the grounds of the licensee's facility where casino gaming is conducted or who maintains a mobile wagering account at a book to effect a wagering communication to the book.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2002. License required — Applications.

(a) No person may operate or own any interest in a race book or sports pool in Arkansas unless that person holds a casino license.

(b) Authorization to operate a race book or a license to operate a sports pool occurs immediately upon adoption of rules and regulations required by The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100.

(c) Each application for authorization by a licensee must be accompanied by an internal control system prepared and submitted in accordance with 23 CAR § 358-601 et seq., and this subpart.

(d) Each casino licensee, in its discretion and with the approval of the Arkansas Racing Commission, may provide no more than two (2) individually branded online sports platforms and accompanying mobile applications.

(e) Any individually branded online sports pool platform/mobile application provided by an online sports pool operator intermediary must, on its webpage, conspicuously bear the name of the casino licensee with which it is affiliated.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2003. Finding of suitability required to operate a call center — Applications.

(a) A person shall not function as the operator of a call center unless the person

has been found suitable to operate a call center under this part.

(b) Applications for a finding of suitability to function as the operator of a call center must be made, processed, and determined using such forms as the Arkansas Racing Commission may require or approve.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2004. Reserve requirements.

Notwithstanding the minimum reserve requirements established for wagering accounts pursuant to this part, each book shall comply with the following to calculate the minimum reserve requirements:

(1) Each book shall at all times maintain a reserve of not less than the greater of twenty-five thousand dollars ($25,000) or the sum of the following amounts:

(A) Amounts held by the book for the account of patrons;

(B) Amounts accepted by the book as wagers on contingencies whose outcomes have not been determined; and

(C) Amounts owed but unpaid by the book on winning wagers through the period established by the book for honoring winning wagers; and

(2)(A) Before beginning operations, each newly licensed book must establish a reserve of at least the greater of twenty-five thousand dollars ($25,000) or the amount the Arkansas Racing Commission projects will at least equal the sum of the amounts specified in subdivisions (1)(A) – (C) of this section at the end of the first week of the book's operation.

(B) After the book begins operations, the book's reserve must comply with this section.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2005. Issuance and control of betting tickets.

(a) Immediately upon accepting a wager, other than an account wager, the book

shall create a betting ticket on which the terms of the wager are written.

(b) Betting tickets must bear the name and address of the book.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2006. Remote/off-premises wagers on sporting events.

(a) Licensees/books may accept wagers on sporting events from any person who is not physically present on the licensee's/franchise holder's premises so long as the person is physically present in the State of Arkansas when placing the wager and the wager is made pursuant to the account wagering system provisions of this part.

(b) Wagers accepted by licensees/books on sporting events shall be treated for all purposes as a wager made by the person on the grounds of the licensee's facility where casino gaming is conducted.

(c) Also, patrons may place wagers and franchise holders may accept such wagers on horse and greyhound races pursuant to Arkansas Code § 23-111-508(e)(1) and Arkansas Code § 23-110-405(e)(1).

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2007. Acceptance of wagers.

(a)(1) Books may not accept wagers unless made with cash, chips, or other representatives of value approved by the Arkansas Racing Commission, or against credits made to a wagering account as provided for in 23 CAR § 358-2025 or on credit extended in accordance with the rules of the commission.

(2) A book shall accept sports wagers only on its licensed premises, and only at betting stations on the grounds of the licensee's facility where casino gaming is conducted and as approved by the commission or on sports events through an account wagering system that has been approved by the commission.

(3) The casino licensee may utilize kiosks for wagering transactions in conjunction with an approved system in a location on the grounds of the licensee's

facility where casino gaming is conducted and as approved by the commission.

(4) No less often than weekly, an operator of a book shall remove the bill validator boxes in the kiosks (the sports pool kiosk drop).

(5) The sports pool kiosk drop shall be monitored and recorded by surveillance.

(6) The casino licensee shall submit the sports pool kiosk drop schedule to the commission.

(7) The casino licensee's accounting department shall reconcile the kiosks on a daily basis pursuant to internal controls.

(8) Any variance of five hundred dollars ($500) or more shall be documented by the accounting department and reported in writing to the commission within seventy-two (72) hours of the end of the gaming day during which the variance was discovered.

(9) The report shall indicate the cause of the variance and shall contain any documentation required to support the stated explanation.

(10) All kiosks must satisfy all MICS requirements and be detailed in the casino licensee's internal controls approved by the commission.

(b)(1) A book shall not knowingly accept money or its equivalent ostensibly as a wager upon an event whose outcome has already been determined.

(2) A licensed sports pool shall not accept a wager on an event unless the date and time at which the outcome of the event is determined can be confirmed from reliable sources satisfactory to the commission or from records created and maintained by the book in such manner as the commission may approve.

(c)(1) Licensed sports pools may accept wagers, including parlay card wagers, as to which of the participating contestants will win specified sports events and as to whether the total points scored in a specified game, match, or similar sports event will be higher or lower than a number specified for that event.

(2) Licensed sports pools shall not accept wagers, including parlay card wagers, on other contingencies unless their outcomes are reported in newspapers of general circulation or in official, public records maintained by the appropriate league or

other governing body, or unless the pertinent sports events are televised live at the book and a book employee other than a betting ticket writer monitors the telecast, records the occurrence of the pertinent events and contingencies simultaneously with their occurrence, and records the time of their occurrence.

(d) No book or agent or employee of a book may accept a wager from a person who the book, agent, or employee knows or reasonably should know is a messenger bettor or is placing the wager in violation of state or federal law.

(e) No book may hold a patron's money or its equivalent on the understanding that the book will accept the money as a wager only upon the occurrence of a specified, future contingency, unless a betting ticket documenting the wager and contingency is issued immediately when the book receives the money or its equivalent.

(f)(1) A race book or sports pool may not accept wagers on a race or sporting event unless the wagering proposition is posted.

(2) Propositions may be posted by electronic or manual means, including printed media.

(3) If posted propositions are not updated simultaneously with actual changes to the propositions, an announcement, audible throughout the race book or sports pool, must be made simultaneously with the actual changes followed by updating the posted propositions within a time specified in the house rules.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2008. Wagers and payouts in excess of ten thousand dollars ($10,000).

(a) Prior to accepting any nonpari-mutuel wager in excess of ten thousand dollars ($10,000) or making a payout in excess of ten thousand dollars ($10,000) on a nonpari-mutuel winning wager the book shall:

(1) Obtain the patron's name;

(2) Obtain the patron's permanent address;

(3) Obtain the patron's Social Security number or passport number;

(4) Obtain one (1) of the following identification credentials from the patron:

(A) Driver's license;

(B) Passport;

(C) Non-resident alien identification card;

(D) Other reliable government issued identification credentials; or

(E) Other picture identification credential normally acceptable as a means of identification when cashing checks; and

(5) Examine the identification credential obtained to verify the patron's name and the accuracy of the information obtained pursuant to subdivisions (a)(1) and (2) of this section.

(b) Prior to accepting a nonpari-mutuel wager in excess of ten thousand dollars ($10,000) or making a payout in excess of ten thousand dollars ($10,000) on a nonpari-mutuel winning wager, if a book knows a person is placing a wager or receiving a payout allowed by the Arkansas Code and this part on behalf of another person, the licensee shall obtain and record the information required by subdivisions (a)(1) – (5) of this section with respect to all persons placing the wager or receiving the payout, and the licensee shall reasonably attempt to obtain and, to the extent obtained, shall record the information required by subdivisions (a)(1) – (5) of this section with respect to all persons for whom the wager was placed or the payout received.

(c)(1) Subsequent to accepting a nonpari-mutuel wager in excess of ten thousand dollars ($10,000) or making a payout in excess of ten thousand dollars ($10,000) on a nonpari-mutuel winning wager the book shall record or maintain records that include:

(A) The patron's name and, if applicable, the agent's name;

(B) The patron's address and, if applicable, the agent's address;

(C) The patron's Social Security number and, if applicable, the agent's Social Security number;

(D) A description including any document number of the identification credential examined and, if applicable, for the agent;

(E) The amount of the wager or payout;

(F) Window number or other identification of the location where the

wager or payout occurred;

(G) The time and date of the wager or payout;

(H) The names and signatures of the book employees accepting or approving the wager and payout on the wager; and

(I) Any other information as required by the Arkansas Racing Commission.

(2) A book shall not implement alternative procedures to comply with this subsection without the written approval of the commission.

(d)(1) Each book shall report the wagers or payouts required to be recorded pursuant to this section on a Book Wagering Report, a form published or approved by the commission that includes, but is not limited to:

(A) The patron's and agent's (if applicable) name;

(B) The patron's and agent's (if applicable) government issued identification credential information;

(C) The patron's and agent's (if applicable) Social Security number;

(D) Wager and payout amounts; and

(E) Date of transactions.

(2) Reports shall be submitted to the commission no later than fifteen (15) days after the end of the month of the occurrence of the transaction and in such manner as the commission may approve or require.

(3) Each book shall file an amended report if the licensee obtains information to correct or complete a previously submitted report, and the amended report shall reference to the previously submitted report.

(4) Each book shall retain a copy of each report filed for at least five (5) years unless the commission requires retention for a longer period of time.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2009. Multiple wagers.

(a)(1) A book and its employees and agents shall not knowingly allow, and each book shall take reasonable steps to prevent, the circumvention of this part by multiple

wagers within its designated twenty-four-hour period with a patron or a patron's agent or by the use of a series of wagers that are designed to accomplish indirectly that which could not be accomplished directly.

(2) As part of a book's efforts to prevent such circumventions relative to this part, a book shall establish and implement wagering multiple transaction logs.

(b)(1) Each book shall record in a wagering multiple transaction log all nonpari-mutuel wagers in excess of five thousand dollars ($5,000), or in smaller amounts that aggregate in excess of five thousand dollars ($5,000) when any single officer, employee, or agent of the book has actual knowledge of the wagers or would in the ordinary course of business have reason to know of the wagers between the book and a patron or a person who the book knows or has reason to know is the patron's confederate or agent.

(2) This record shall be made for nonpari-mutuel wagers occurring during a designated twenty-four-hour period, within a monitoring area.

(c) Each log entry in a wagering multiple transaction log shall be made by the employee accepting or approving the wager, immediately after accepting the wager, and shall include at a minimum:

(1) Description of the patron or agent, which may include such identifiers as age, sex, race, eye color, hair, weight, height, and attire, if the person is present when the wager is accepted;

(A) Patron's name and agent's name, if known;

(B) Window number or other identification of the location where the wager occurred;

(C) Time and date of the wager;

(D) Dollar amount of the wager; and

(E) Signature or electronic signature of person accepting or approving the wager; and

(2)(A) One log shall be maintained for each monitoring area, for each designated twenty-four-hour period.

(B) A log is completed for each twenty-four-hour period regardless of

whether any nonpari-mutuel wagers occurred.

(C) At the conclusion of each designated twenty-four-hour period, the last entry on a log which is recorded manually shall be an indication that the end of the designated twenty-four-hour period has occurred.

(D) A book shall not implement alternative procedures or records to comply with this subsection without the written approval of the Arkansas Racing Commission.

(d) Each book shall aggregate all nonpari-mutuel wagers in excess of five thousand dollars ($5,000) or smaller amounts when any single officer, employee, or agent of the book has actual knowledge of the wagers or would in the ordinary course of business have reason to know of the wagers between the book and a patron or a person who the book knows or has reason to know is the patron's confederate or agent during a designated twenty-four-hour period within a monitoring area.

(e)(1) Before completing a wager that, when aggregated with other wagers pursuant to subsection (d) of this section, will aggregate to an amount that will exceed ten thousand dollars ($10,000), the book shall complete the identification and recordkeeping requirements described in this part.

(2) When aggregated wagers exceed ten thousand dollars ($10,000), the book shall complete the recording and reporting requirements of this part.

(f) If a patron places a wager that pursuant to subsection (d) of this section is to be aggregated with previous wagers for which a record has been completed pursuant to this part, the book shall complete the identification, recordation, and reporting procedures described in this part for any additional wager regardless of amount occurring during a designated twenty-four-hour period.

(g) As used in this section:

(1) "Designated twenty-four-hour period" means the twenty-four-hour period ending at midnight each day unless otherwise approved by the commission; and

(2) "Monitoring area" means all race book and sports pool writing locations unless otherwise approved by the commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2010. Structured wagers.

(a)(1) A book, its officers, employees, or agents shall not encourage or instruct the patron to structure or attempt to structure wagers.

(2) This subsection does not prohibit a book from informing a patron of the regulatory requirements imposed upon the book, including the definition of structured wagers.

(b) A book, its officers, employees, or agents shall not knowingly assist a patron in structuring or attempting to structure wagers.

(c)(1) As used in this section, "structure wagers" or "structuring wagers" means to willfully conduct or attempt to conduct a series of wagers in any amount, at one (1) or more books, on one (1) or more days in any manner as to willfully evade or circumvent the recording and reporting requirements of 23 CAR § 358-2008.

(2) The wager or wagers need not exceed the dollar thresholds in 23 CAR § 358-2008 at any single book in any single day in order to constitute structuring within the meaning of this definition.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2011. Imposition of supplemental recordkeeping and reporting requirements.

(a) The Arkansas Racing Commission may require a book to comply with the identification, recordkeeping, and reporting requirements of 23 CAR § 358-2008 and § 358-2009 for pari-mutuel wagers.

(b) The commission shall notify the book of the decision, in writing, and such decision shall be considered an administrative decision, and therefore reviewable pursuant to the procedures set forth in this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2012. Payment of winning wagers.

(a)(1) Except as otherwise provided in this subsection, books shall make payment on a winning wager to the person who presents the patron's copy of the betting ticket representing the wager or, in the case of a wager made through an account wagering system approved by the Arkansas Racing Commission, as soon as the wager settles.

(2) A book need not make payment to a person who the book or an agent or employee of the book knows is not the person to whom the patron's copy was issued.

(3) A book shall not make payment on a winning wager to a person who the book or its agent or employee knows or reasonably should know is collecting the payment on behalf of another for monetary consideration or in violation of federal law.

(4) A book may withhold payment of a winning wager if the patron refuses to supply identification or any other documentation required by state or federal law.

(b) Presentment of the betting ticket and payment of the winning wager may be made at an affiliated book provided that:

(1) An adequate accounting of the payment is kept for five (5) years by both books; and

(2) The payout is properly included in the computation of gross revenue of the licensee that initially accepted the wager.

(c)(1) Books shall honor winning betting tickets for thirty (30) days after the conclusion of the event wagered upon unless a longer period is established by the book.

(2) The book shall state the redemption period on each betting ticket, in house rules, and on notices conspicuously placed about the licensed premises.

(3) Payment by mail may be made only after presentment of the betting ticket and all identification information and documentation required by state or federal law, and must be made not later than ten (10) days after presentment.

(4) A book may accept a photocopy of a driver's license or passport in lieu of an actual driver's license or passport when presentment of the betting ticket is made by mail.

(5) Books shall maintain the information and documentation presented for a period of five (5) years.

(d) A licensed race book shall determine the winners of or payouts on wagers on horse and other animal races only with information the book receives from licensed disseminators pursuant to this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2013. Parlay card wagers.

(a) As used in this section, "parlay card wager" means a wager on the outcome of a series of three (3) or more games, matches, or similar sports events or on a series of three (3) or more contingencies incident to particular games, matches, or similar sports events preprinted on a form to assist in making selections for a parlay wager at a betting window or kiosk.

(b) Each sports pool, including an online sports pool operator, that offers to accept parlay card wagers shall fully, accurately, and unambiguously disclose on all parlay card wagering forms:

(1) The amounts to be paid to winners or the method by which such amounts are to be determined and, if the sports pool limits payouts to an aggregate amount under subsection (c) of this section, the aggregate amount and the establishments to which it applies;

(2) The effect of ties;

(3) The minimum and maximum betting limits, if any;

(4) The procedure for claiming winnings, including but not limited to the documentation players must present to claim winnings, time limits, if any, for claiming winnings, whether winnings may be claimed and paid by mail and, if so, the procedure for claiming winnings by mail;

(5) The effects of an event wagered on not being played on the date specified and of other events that will cause selections to be invalid;

(6) The requirement that a parlay card wager must consist of at least three (3)

selections that have not become invalid under applicable house rules or the wager will be void and the money wagered will be refunded;

(7) The rights, if any, reserved by the sports pool, including but not limited to reservation of the right to refuse any wager or delete or limit any selection prior to the acceptance of a wager, or to withhold payouts of specified amounts until the outcome of each proposition offered by the parlay card has been determined;

(8) The requirement that the point spreads printed on the parlay card wagering form when the wager is accepted will be used to determine the outcomes of the wagers; and

(9) That the sports pool's house rules apply to parlay cards unless otherwise stated on the parlay card wagering form.

(c)(1) As used in this subsection, "parlay card" means a wagering form offering exactly the same propositions on exactly the same terms.

(2) A sports pool may limit the aggregate amount to be paid to winners on a parlay card in proportion to the amounts won.

(3)(A) When a sports pool knows or reasonably should know that actual payouts on a parlay card will be limited by an aggregate amount established under subdivision (c)(2) of this section, the sports pool shall cease accepting wagers and making payouts on the parlay card.

(B) After the outcome of the final game, match, or event covered by the parlay card has been determined, the sports pool shall pay each winner at least that proportion of the payout amount stated on the parlay card that the aggregate limit bears to total payouts, including payouts made prior to the suspension of payouts, that would otherwise have been made but for the limit.

(4) When a book ceases accepting wagers and making payouts on a parlay card under subdivision (c)(3) of this section, the book may accept wagers on the parlay card on those propositions whose outcomes have not been determined if the parlay card, patron receipts, and related documentation are distinguishable from the card, receipts, and documentation as to which the book has ceased accepting wagers, in which case the parlay card shall be considered a different parlay card for purposes of

this subsection.

(5) If a book pays the winner of a parlay card wager more than ten percent (10%) of the base amount established under subdivision (c)(2) of this section before the outcome of every proposition offered by the parlay card has been determined, the book must pay every winner of a wager on that parlay card the proper payout amount stated on the parlay card in full and without regard to any aggregate limit established under subdivision (c)(2) of this section.

(6) In specific cases the Arkansas Racing Commission may waive or impose requirements more restrictive than the requirements of this subsection.

(d) Prior to adopting or amending parlay card rules, a book shall submit such rules to the commission for approval.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2014. Computerized bookmaking systems.

Before beginning operations, each book shall install and thereafter maintain a computerized bookmaking system meeting the specifications approved by the Arkansas Racing Commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2015. Layoff bets.

(a) Books may accept wagers placed by other books.

(b) Books may place wagers only with other books.

(c) A book that places a wager shall inform the book accepting the wager that the wager is being placed by a book and shall disclose its identity.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2016. Prohibition against rescission of wagers.

(a) A book may not unilaterally rescind any wager without the prior written approval of the Arkansas Racing Commission unless the wager was placed due to clear error by the book, as defined in the book's internal control system.

(b) Any wager rescinded due to clear error by the book is subject to subsequent review by the commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2017. Prohibited wagers — Exception for an event other than a horse race, greyhound race, or an athletic sports event.

(a) No wagers may be accepted or paid by any licensee/book on:

(1) Any amateur sport or athletic event other than:

(A) Olympic sporting or athletic events sanctioned by the International Olympic Committee, subject to limitation by the Arkansas Racing Commission or the commission's designee in the commission's sole and absolute discretion; and

(B) Collegiate sporting or athletic events;

(2)(A) Any collegiate sport or athletic event which the licensee knows or reasonably should know is being placed by or on behalf of a coach or participant in that collegiate event.

(B) Each licensee shall take reasonable steps to prevent the circumvention of this subpart;

(3) The outcome of any election for any public office both within and without the State of Arkansas; and

(4) Any event other than a horse race, greyhound race, or an athletic sports event, unless such event is:

(A) Administratively approved by the commission in writing in accordance with subsection (c) of this section;

(B) After referral from the commission, approved by the commission in accordance with subsection (e) of this section; or

(C) Approved by the commission after review pursuant to this part or, if

applicable, approved by the commission after review pursuant to this part.

(b) A request for approval to accept wagers on an event other than a horse race, greyhound race, or an athletic sports event shall be made by a book on such forms approved by the commission, and shall include:

(1) A full description of the event and the manner in which wagers would be placed and winning wagers would be determined;

(2) A full description of any technology which would be utilized to offer the event;

(3) Such other information or documentation which demonstrates that:

(A) The event could be effectively supervised;

(B) The outcome of the event would be verifiable;

(C) The outcome of the event would be generated by a reliable and independent process;

(D) The outcome of the event would be unlikely to be affected by any wager placed;

(E) The event could be conducted in compliance with any applicable laws; and

(F) The granting of the request for approval would be consistent with the public policy of the state; and

(4) Such additional or supplemental information as the commission may require.

(c)(1) The commission may refer a request for approval to the full commission for consideration, or grant, deny, limit, restrict, or condition a request made pursuant to subsection (b) of this section for any cause the commission deems reasonable.

(2) A book aggrieved by an administrative decision of the commission may submit the matter for review by the commission pursuant to this part.

(d)(1) The commission is hereby granted the authority to issue an interlocutory order revoking or suspending any administrative approval granted pursuant to subsection (c) of this section for any cause deemed reasonable.

(2) An interlocutory order shall be deemed delivered and effective when

personally served upon the book, or if personal service is impossible or impractical, when deposited, postage prepaid, in the United States mail, to the book at its address as shown in the records of the commission.

(3) If an interlocutory order revoking or suspending the administrative approval is issued, the affected book may request that the order be reviewed by the commission pursuant to this part.

(e)(1) Whenever the commission refers a request for approval to the commission for consideration, the request shall be deemed an application and the book which submitted the request shall submit the application fee set forth in this part.

(2) Such application shall be included on the agenda of the next regularly scheduled meeting of the commission occurring more than ten (10) working days after receipt of the application fee and, thereafter, on the agenda of the next regularly scheduled meeting of the commission.

(3) The commission, after considering the recommendation of the commission may grant, deny, limit, restrict, or condition the application for any cause it deems reasonable and the decision of the commission shall be final and shall not be subject to any further administrative or judicial review.

(f)(1) Upon approval of the acceptance of wagers on an event other than a horse race, greyhound race, or an athletic sports event pursuant to the provisions of subsection (a) of this section, the commission shall provide public notice of such approval including any conditions and limitations placed on such approval.

(2) Such notice shall occur by publication on the commission's website as close as practicable to the time at which the commission, director, or commission approves the other event.

(3) Thereafter, any book may accept wagers on such other event pursuant to the approval and any conditions and limitations placed thereon.

(g) For purposes of this subpart, "collegiate sport or athletic event" means a sport or athletic event offered or sponsored by or played in connection with a public or private institution that offers educational services beyond the secondary level.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2018. Reports of suspicious transactions.

(a) As used in this section, "suspicious transaction" means a transaction which a book knows or, in the judgment of it or its directors, officers, employees, or agents, has reason to suspect:

(1) Is, or would be if completed, in violation of, or is part of a plan to violate or evade, any federal, state, or local law, rule, or regulation;

(2) Is, or would be if completed, wagering by, or on behalf of, a coach or participant in a sporting event or other event on such event; or

(3) Has no business or apparent lawful purpose or is not the sort of transaction the particular patron would normally be expected to perform, and the book knows of no reasonable explanation for the transaction after examining the available facts, including the background of the transaction.

(b) A book:

(1) Shall file with the Arkansas Racing Commission, by using a form developed by the commission, a report of any suspicious transaction if it involves or aggregates to more than five thousand dollars ($5,000) in funds or other assets; and

(2) May file a report of any suspicious transaction, regardless of the amount, if the licensee believes it is relevant to the possible violation of any law or regulation.

(c)(1) The report in subdivision (b)(1) of this section shall be filed no later than thirty (30) calendar days after the initial detection by the licensee of facts that may constitute a basis for filing such a report.

(2) In situations involving violations that require immediate attention, the licensee shall immediately notify, by telephone, the commission in addition to timely filing a report.

(d)(1) A licensee shall maintain a copy of any report filed and the original or business record equivalent of any supporting documentation for a period of five (5) years from the date of filing the report.

(2) Supporting documentation shall be identified, and maintained by the

licensee as such, and shall be deemed to have been filed with the report.

(3) A licensee shall make all supporting documentation available to the commission and any appropriate law enforcement agencies upon request.

(e)(1) A licensee and its directors, officers, employees, or agents who file a report pursuant to this section shall not notify any person involved in the transaction that the transaction has been reported.

(2) Any report filed with the commission under this subsection is confidential and is privileged and may be disclosed only by the commission in the necessary administration of their duties and responsibilities under The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100.

(3) Any report, whether written or oral, is absolutely privileged and does not impose liability for defamation or constitute a ground for recovery in any civil action.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2019. Wagers — Terms and conditions.

(a) No book shall:

(1) Accept from a patron, directly or indirectly, less than the full face value of an off-track pari-mutuel wager;

(2) Agree to refund or rebate to a patron any portion or percentage of the full face value of an off-track pari-mutuel wager; or

(3) Increase the payoff of, or pay a bonus on, a winning off-track pari-mutuel wager.

(b) The provisions of this subsection do not prohibit the granting of the following by a book or a licensed gaming establishment where a book is located, or an affiliate of one (1) or more of those entities that holds a casino license:

(1) Room, food, beverage, racing data subscriptions or services, including but not limited to broadcasts, periodicals, and electronic publications or services, that are available to the public from other sources, tobacco, or other services, including:

(A) Spa services;

(B) Movies;

(C) Bowling; and

(D) Entertainment admission;

(2) Limousine or other car service transportation to and from the gaming establishment where the book is located;

(3) Merchandise or other non-cash equivalents not exceeding one hundred dollars ($100) per patron per week with the value of such one hundred dollars ($100) determined by the book's or the licensed gaming establishment's cost;

(4) Player loyalty program points based on wagers other than pari-mutuel wagers and such points may be redeemed in accordance with the rules of the program, including but not limited to being redeemed for free-play on any gaming device or gambling game located at the casino licensee's premises; or

(5) Increase the payoff of or pay a bonus on any deposit or winning sports or nonpari-mutuel wager.

(c) A book or a licensed gaming establishment where a book is located, or an affiliate of one (1) or more of those entities that holds a casino license, may award player loyalty program points based on pari-mutuel wagers placed by a patron, however, such points may only be redeemed in accordance with the rules of the program, provided that points earned based on pari-mutuel wagers may not be redeemed for cash, items, or services that the book intends to or does redeem for cash, or free-play on any gaming device or gambling game, or for items or services that do not fall under one (1) of the exceptions listed under subsection (b) of this section.

(d) A book shall not, in an attempt to provide a benefit to the patron in violation of subsection (a) of this section, offer a wagering proposition, or set or move its wagering odds, lines, or limits.

(e)(1) The Arkansas Racing Commission may require a book to:

(A) Disclose its betting limits in its house rules and obtain approval from the commission before changing those limits or modifying its house rules; and

(B) Document and report, in such manner as the commission may approve or require, wagering limits, temporary changes to such limits, or the

acceptance of a wager or series of wagers from the same patron that exceeds such limits.

(2) The report may include, but is not limited to:

(A) Recording the name of the patron for which betting limits are changed or exceeded;

(B) Recording the name of the employee approving the acceptance of a wager that exceeds betting limits or causes a change in betting limits;

(C) Describing the nature of the temporary change and any related wagers; and

(D) Describing how the temporary change in limit will benefit the licensee.

(3) The commission shall notify the book, in writing, of the decision to impose such requirements and such decision shall be considered an administrative decision and, therefore, reviewable pursuant to the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

(f) A book shall not set lines or odds or offer wagering propositions designed for the purposes of ensuring that a patron will win a wager or series of wagers.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2020. Communications technology.

(a)(1) Before installing or permitting the installation or use of any communications technology, the book shall notify the Arkansas Racing Commission in writing of the location and number or other identifier of each communications technology and shall obtain the written approval of the commission for each communications technology.

(2) The commission may condition the approval in any manner the commission considers appropriate.

(b)(1) Before a book accepts any wagering communications, the book must obtain the written approval of the commission to accept such wagering communications and wagering instructions, and thereafter use only the communications technology approved for that purpose.

(2) The book must obtain written permission from the commission for any substantive changes to the communications technology.

(c)(1) As a condition to the granting of the privilege of using communications technology upon the licensed premises, the book shall be deemed to have consented to the authority of the commission to require the immediate removal of any communications technology from the licensed premises at any time without prior notice of hearing.

(2) After any such removal, the book or the call center may request a hearing before the commission as to whether or not circumstances may warrant the permanent revocation of the privilege of having communications technology upon the premises.

(d) Upon the request of the commission, a book shall provide a written consent for the commission to examine and copy the records of any telephone, telegraph, or other communications company or utility that pertain to the operation of the book or the call center.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2021. Wagering communications — Establishing patron wagering accounts for sports, nonpari-mutuel race, and other event wagering.

(a)(1) A book may only accept a sports wager or nonpari-mutuel race wager made in person, unless the transmission of a wager is initiated by a patron while physically present within the State of Arkansas and made pursuant to the account wagering system provisions of this part.

(2) Each book must conspicuously display signs to that effect on its premises.

(3) Consistent with the intent of the United States Congress as articulated in the Unlawful Internet Gambling Enforcement Act of 2006 (31 U.S.C. § 5361 et seq.) the intermediate routing of electronic data relating to a lawful intrastate wager authorized under this provision shall not determine the location or locations in which such wager is initiated, received, or otherwise made.

(b)(1) A book may only accept a pari-mutuel horse race wager made in person unless a pari-mutuel horse race account wager is accepted pursuant to the provisions of 23 CAR § 358-2401 et seq.

(2) Each book must conspicuously display signs to that effect on its premises.

(c) Each licensee that accepts wagering communications shall establish and implement pursuant to this part a system of internal control for such transactions, and comply with both its system of internal control and the minimum internal control standards contained in this part.

(d) Each book shall:

(1) Prepare a written description of its rules and procedures for wagering communications; and

(2) Make a copy available to each patron for whom a wagering account is established.

(e) Before a book accepts a wagering communication on any sporting event wager, on any nonpari-mutuel race wager, or on any other event wager, the following must occur:

(1) A book must register patrons and create wagering accounts in accordance with 23 CAR § 358-425; and

(2)(A) In addition to the requirements of this part, before registering a patron for a wagering account, the book must have the patron affirm that the patron has been informed and acknowledges that patrons are prohibited by law from placing sports wagers, nonpari-mutuel race wagers, and other event wager wagers while physically present outside the State of Arkansas and the licensee/book is prohibited from accepting such wagers, and with regard to pari-mutuel horse race and greyhound race wagers, a race book may only accept off-track pari-mutuel horse race and greyhound race account wagers pursuant to the provisions of 23 CAR § 358-2401 et seq., or, with respect to franchise holders, patrons may place wagers, and franchise holders may accept such wagers, on horse and greyhound races pursuant to Arkansas Code § 23-111-508(e)(1) and Arkansas Code § 23-110- 405(e)(1).

(B)(i) Notwithstanding the requirements of this part, for a business entity

patron, the patron must provide an employee of the book with the following information before the book registers and creates a wagering account for the patron:

(a) The name, residential address, copy of a valid photo identification which evidences that the person is at least twenty-one (21) years of age, and Social Security number or individual taxpayer identification number, of each of the business entity's equity owners, holders of indebtedness, directors, officers, managers, and partners, anyone entitled to payments based on the profits or revenues, and any designated individuals;

(b) The business entity's formation documents and all filings with the Secretary of State;

(c) Any other documentation or information the Arkansas Racing Commission may require; and

(d) Any other documentation or information the race book or sports pool may require.

(ii) The employee must record such information.

(iii) Unless a book has otherwise been granted approval by the commission pursuant to this part, the information required pursuant to this subsection shall be provided by the patron to an employee of the book at the premises of the book.

(f) Before a book accepts a wagering communication on any sporting event wager, nonpari-mutuel race wager, or other event wager from another book:

(1) The authorized employee of the other book must personally appear at the premises of the book to open a wagering account;

(2) The book employee must record:

(A) The authorized employee of the other book's name, permanent business address other than a post office box number, and business telephone number;

(B) The documents used to verify the other book is a book, the authorized employee is an employee of the other book, and is authorized to open this wagering account;

(C) The amount of the authorized employee of the other book's initial

wagering account or front money deposit;

(D) The authorized employee of the other book's account number with the book; and

(E) The date the authorized employee of the other book's account with the book is opened;

(3) The authorized employee of the other book must sign, in the presence of a supervising employee of the book, statements attesting that the authorized employee of the other book:

(A) Confirms the accuracy of the information recorded;

(B) Has received a copy, or has had a copy made available to them, of the book's rules and procedures for wagering communications;

(C) Has been informed and understands that authorized employees of other books that establish a wagering account pursuant to this subsection are prohibited by law from placing wagering communications from outside Arkansas and that the book is prohibited by law from accepting them;

(D) Has been informed and understands that, with regard to pari-mutuel horse race wagers, a race book may only accept off-track pari-mutuel horse race account wagers pursuant to the provisions of this part; and

(E) Consents to the monitoring and recording by the commission and the book of any wagering communication; and

(4) The employee who verifies the authorized employee of the other book's information and who obtains and records the information on behalf of the book and the supervising employee described in subdivision (f)(3) of this section, must each sign statements that they witnessed the authorized employee's signature and confirmed the authorized employee of the other book's identity and residence.

(g)(1) In addition to the posting of the wager in the computerized bookmaking system, all wagering communications shall be electronically recorded and retained for a period of sixty (60) days.

(2) The method of recording the wager must be approved by the commission.

(3) Such recordings must be made immediately available to any commission

agent upon request.

(h)(1) All wagering account applications or amendments thereto for active accounts must be retained by the book.

(2) All wagering account applications or amendments thereto for rejected applications shall be retained by the book for no less than one (1) year following the rejection of the related application.

(3) All wagering account applications or amendments thereto for closed accounts shall be retained by the book for no less than one (1) year following the closure of the related wagering account.

(i) A book shall not allow the use of a wagering account established pursuant to this section for forms of wagering other than sports wagering, nonpari-mutuel race wagering, or other event wagering unless:

(1) The establishment and use of the wagering account otherwise meets all of the requirements of this part; and

(2) Administrative approval has been granted by the commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2022. Account wagering systems.

Account wagering systems shall:

(1)(A) For systems that use other than voice-only wagering communications technology, provide for the patron's review and confirmation of all wagering information before the wagering communication is accepted by the book.

(B) The system shall create a record of the confirmation.

(C) This record of the confirmation of the wager shall be deemed to be the actual transaction of record, regardless of what wager was recorded by the system;

(2) Except in the case of a wager placed due to clear error by the book, as defined in the book's internal control system, prohibit wagers from being changed after the patron has reviewed and confirmed the wagering information, and the specific wagering communication transaction has been completed;

(3) Prohibit the acceptance of wagers after post time or the start of a sporting event except those originated after post time or the start time of the sporting event that are approved in the same manner as other events approved pursuant to this part provided, however, that wagers on in-progress sporting events are not prohibited under this part;

(4) Prohibit a book from accepting an account wager, or a series of account wagers, in an amount in excess of the available balance of the wagering account;

(5) Prohibit a book from accepting sports wagers and nonpari-mutuel horse race wagers from patrons while physically located outside the state;

(6) Post payment on winning account wagers as a credit to the patron's wagering account as soon as reasonably practicable after the event is declared official;

(7)(A) Unless otherwise approved by the Arkansas Racing Commission, maintain a completely separate wagering account for pari-mutuel horse race wagers.

(B) Wagering accounts for pari-mutuel sports wagers, nonpari-mutuel horse race wagers, and nonpari-mutuel sports wagers may be commingled in a single wagering account;

(8) Maintain complete records of every deposit, withdrawal, wager, winning payoff, and any other debit or credit for each account; and

(9) For systems that use other than voice-only wagering communications technology, produce a printable record of the entire transaction as required by this section and shall not accept any wagering communication or transaction if the printable record system is inoperable.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2023. House rules.

(a) Each book shall adopt, adhere to, and make available upon request or online, written comprehensive house rules governing wagering transactions with patrons.

(b) Without limiting the generality of the foregoing, the rules must specify the:

(1) Amounts to be paid on winning wagers;

(2) Effect of schedule changes;

(3) Redemption period for winning tickets; and

(4) Method of noticing odds or line changes to patrons.

(c) House rules must state that wagers may be accepted at other than the currently posted terms, if applicable.

(d) Prior to adopting or amending such house rules, a book shall submit such rules to the Arkansas Racing Commission for approval.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2024. Business entity wagering.

(a) A book shall notify the Arkansas Racing Commission in writing of its intent to accept wagers from business entities which have met all of the applicable requirements found in this part.

(b)(1) A book is prohibited from accepting wagers from a business entity unless all of the business entity's owners, directors, officers, managers, partners, holders of indebtedness, and anyone entitled to payments based on profits or revenues of the entity are fully disclosed.

(2) If the business entity is owned or controlled by one (1) or more holding companies, each of the holding companies' owners, directors, officers, managers, partners, holders of indebtedness, and everyone entitled to payments based on profits or revenues of the entity must be fully disclosed.

(c) A book which elects to accept wagers from business entities must conduct due diligence on each business entity from which the book will accept wagers which, at a minimum, includes, but is not limited to:

(1) Requiring the business entity to affirm that it has met all of the applicable requirements found in this section and that it is not established for the purpose of circumventing any applicable federal or state laws including, but not limited to, laws concerning:

(A) Illegal sports wagering;

(B) Electronic communications; and

(C) Money laundering;

(2) Ascertaining all equity owners, holders of indebtedness, directors, officers, managers, partners, anyone entitled to payments based on the profits or revenues, and any designated individuals; and

(3)(A) Ascertaining the natural person who is the source of funds for each contribution to the business entity.

(B) A book shall maintain records of the due diligence it performs on a business entity for no less than one (1) year following the closure of the wagering account of the business entity or for no less than one (1) year after rejection of a business entity wagering account application by the book.

(d) A book shall not accept wagers from a business entity if:

(1) The business entity does not make the affirmation or disclosures required by this part;

(2) The book is unable to verify the identity of all the equity owners, holders of indebtedness, directors, officers, managers, partners, anyone entitled to payments based on the profits or revenues, and any designated individuals of the business entity; or

(3) The book is unable to verify the natural person who is the source of funds for each contribution to the business entity.

(e)(1) Upon receipt of updated information from a business entity, a book shall verify the updated information.

(2) If a book is unable to verify the updated information within thirty (30) days of the book's receipt of the updated information from the business entity, the book shall suspend the wagering account and not allow further wagering activity on the wagering account.

(f) A book shall require a business entity from which the book accepts wagers to provide:

(1)(A) For business entities from which the book accepts wagers aggregating more than five million dollars ($5,000,000) in a calendar year, an independent third-

party verification concerning to whom the business entity made payments based on profits or revenues to ensure no payments were made to persons other than those permitted by this part to receive such payments.

(B) If the book does not receive a copy of the independent third-party verification prior to April 1 of the year following the year in which the business entity placed wagers in excess of five million dollars ($5,000,000), the book shall suspend the wagering account and not allow further wagering activity on the wagering account; or

(2)(A) For business entities from which the book accepts wagers aggregating five million dollars ($5,000,000) or less within a calendar year, an affirmation stating the business entity did not make payments based on profits or revenues to persons other than those permitted by this part to receive such payments.

(B) If the book does not receive such affirmation prior to April 1 of the year following any year in which the business entity placed wagers with the book, the book shall suspend the wagering account and not allow further wagering activity on the wagering account.

(g)(1) A book shall report any violation or suspected violation of law or regulation related to business entity wagering to the commission immediately.

(2) Such reporting shall include, but is not limited to, any violation or suspected violation of relevant federal laws such as the Interstate Wire Act, 18 U.S.C. § 1084, the Part C of the Organized Crime Control Act of 1970, 18 U.S.C. § 1955, and Title 31 anti-money laundering laws.

(h)(1) A book may only accept wagering activity from a business entity, acting through one (1) or more designated individuals, through a wagering account established by the business entity and may only deposit winnings into such wagering account.

(2) The book must use an account wagering system for such wagering activity.

(i) A book shall not extend credit to a business entity.

(j)(1) A book shall report the suspension or closure of a business entity wagering account to the commission within five (5) days of suspension or closure and shall include the reason for such suspension or closure in the report.

(2) A book shall report the reinstatement of a suspended business entity wagering account to the commission within five (5) days of reinstatement and shall include the reasons the book reinstated the wagering account.

(k) A book that accepts wagers from business entities shall adopt, conspicuously display at its premises, and adhere to house rules governing business entity wagering transactions.

(l) A book that accepts wagers from business entities shall implement policies and procedures designed to ensure that business entities' wagering accounts are used only to place book wagers.

(m)(1) As used in this section, "holding company" means any corporation, firm, partnership, limited partnership, limited liability company, trust, or other form of business organization which, directly or indirectly, owns, as defined in this part, controls, as defined in this part, or holds with power to vote any part of a business entity subject to this section.

(2) In addition to any other reasonable meaning of the words used, a holding company indirectly has, holds, or owns any power, right, or security if it does so through any interest in a subsidiary or successive subsidiaries, however many such subsidiaries may intervene between the holding company and the business entity subject to this section.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2025. Wagering account transactions.

(a) Except as otherwise provided herein, deposits, withdrawals, credits, and debits to wagering accounts shall be made in accordance with this part.

(b)(1) Business entity wagering account deposits and withdrawals may only be made by transfers to and from the bank or financial institution account maintained by the business entity.

(2) Business entity wagering account deposits and withdrawals may not be made in cash.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2026. Use of an operator of a call center.

(a)(1) A licensee, franchise holder, or book shall not utilize an operator of a call center, except to provide technical support to a patron.

(2) A call center system shall not be used to receive, transmit, or accept wagers from a patron to a licensed book.

(b) The operator of a call center performs such patron services as:

(1) Providing help desk responses to patrons and the general public concerning sports wagers and nonpari-mutuel horse race wagers at a licensed Arkansas book; and

(2) Such other patron services as may be approved by the Arkansas Racing Commission.

(c)(1) In addition to the posting of the wager at a licensed Arkansas book, all wagering instructions shall be electronically recorded and retained for a period of sixty (60) days.

(2) The method of recording the wagering instructions must be approved by the commission.

(3) Such recordings must be made immediately available to any commission agent upon request.

(d) The operator of a call center shall allow the members of the commission, the commission, their agents, and employees to immediately inspect and examine the premises and immediately inspect, examine, photocopy, and examine all papers, books, and records, on the premises, or elsewhere as practicable.

(e) The operator of a call center shall only use communications technology approved pursuant to this part.

(f) The operator of a call center shall operate in compliance with all applicable provisions of this subpart that may apply to it or the licensed Arkansas book using its services.

(g) The licensed Arkansas book shall maintain responsibility for any operator of a call center used by the book to operate in compliance with all state and federal laws and regulations, as applicable.

(h) Violation of any applicable law or regulation by an operator of a call center constitutes reasonable cause for disciplinary action.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2027. Gross revenue computations and layoff bets.

The amounts of wagers placed by a book and the amounts received by the book as payments on such wagers shall not affect the computation of the book's gross gaming revenue.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2028. Assigned agent.

(a) The Arkansas Racing Commission may at any time require a book to allow an agent of the commission to be permanently present on the book's premises during all hours of operation, and to require the costs and expenses for such agent to be borne by the book in a manner deemed reasonable by the commission.

(b) The agent shall have full and complete access to all books, records, and to any telephone conversations emanating from or received at the licensed premises.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2029. Records and reports for users and buyers.

Each "user", which is defined as an operator of a race book, sports pool, or gambling game who is licensed in this state and receives and displays a live broadcast within this state, who uses information included in a live broadcast to determine winners of and payoffs on wagers accepted at the user's race book, and each "buyer",

as defined in this part, shall comply with the recording and reporting requirements specified in this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2030. Records and forms.

(a) Books shall create and maintain the records and reports required by this subpart in such manner and using such forms as the Arkansas Racing Commission may require or approve.

(b) The commission may require books to create and maintain such other records and reports as are necessary or convenient for strict regulation of books.

(c) Except as otherwise provided in this subpart, books shall preserve the records required by this subpart for at least five (5) years after they are made.

(d) The commission may at any time examine and copy the records of any book.

(e) Each book shall comply with all other applicable rules of the commission to the extent not in conflict with this subpart.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2031. Global risk management.

(a) A book engaging in global risk management may provide direction, management, consultation, and/or instruction to the operator of a wagering pool located in a jurisdiction approved by the Arkansas Racing Commission concerning:

(1) The management of risks associated with a wagering pool for a race or sporting event or any other event for which the wagering pool is permitted to accept wagers;

(2) The determination of where lines, point spreads, odds, or other activity relating to betting or wagering are initially set and the determination of whether to change such lines, point spreads, odds, or other activity relating to betting or wagering;

(3) Whether or not to:

(A) Accept or reject bets or wagers;

(B) Pool bets or wagers; or

(C) Lay off bets or wagers;

(4) The use, transmittal, and accumulation of information and data for the purpose of providing global risk management; and

(5) Any other activity associated with a wagering pool if approved in writing by the commission prior to a book commencing direction, management, consultation, and/or instruction concerning the activity.

(b) A book which intends to provide global risk management shall:

(1)(A) Enter into a written agreement to provide global risk management with any operator of a wagering pool to which the book proposes to provide global risk management.

(B) A copy of such executed agreement with an operator of a wagering pool located outside of Arkansas shall be provided to the commission no later than the date on which the book commences global risk management for the operator of the wagering pool;

(2) Provide details to the commission regarding any permissible jurisdiction other than Arkansas where the book intends to provide global risk management no later than the date on which the book commences global risk management in such permissible jurisdiction;

(3)(A) No later than the date on which a book commences global risk management, submit the book's systems of accounting and internal control utilized for global risk management to the commission.

(B) Such systems must include provisions for complying with all federal laws and regulations; and

(4) Provide such other information as the commission may require concerning global risk management.

(c)(1) In addition to the requirements contained in subsection (b) of this section, at least thirty (30) days prior to providing global risk management to a Arkansas licensee, a book shall submit to the commission the written agreement for the global risk

management provided to the Arkansas licensee.

(2) The commission may object in writing to such agreements in the commission's sole and absolute discretion.

(3) If the commission objects to an agreement, the book shall not provide global risk management to the Arkansas licensee until the book has resubmitted the agreement to the commission, and the commission has indicated in writing that the commission does not object to the resubmitted agreement.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

Subpart 21. Card Games

23 CAR § 358-2101. Authority and applicability.

The Arkansas Racing Commission hereby provides for the regulation of the method of operation and fiscal affairs of games of poker and all other similar games.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2102. Definitions.

As used in this subpart, the following terms shall have the following meanings:

(1) "Ante" means a player's initial wager or predetermined contribution to the pot prior to the dealing of the first hand;

(2) "Call" means a wager made in an amount equal to the immediately preceding wager;

(3) "Card game shill" means an employee engaged and financed by the licensee as a player for the purpose of starting and/or maintaining a sufficient number of players in a card game;

(4) "Card room bank" means an imprest fund which is a part of and accountable to the licensee's casino cage or bankroll but which is maintained in the card room exclusively for the purposes set forth in this part;

(5)(A) "Card table bank" means an imprest inventory of cash and chips physically located in the table tray on the card table and controlled by the licensee through accountability established with the card room bank.

(B) The card table bank shall be used only for the purposes set forth in this part;

(6) "Check" means to waive the right to initiate the wagering, but to retain the right to call after all the other players have either wagered or folded;

(7) "Hand" means:

(A) One (1) game in a series;

(B) One (1) deal in a card game; or

(C) The cards held by a player;

(8) "Pot" means the total amount anted and wagered by players during a hand;

(9) "Proposition player" means a person paid a fixed sum by the licensee for the specific purpose of playing in a card game who uses his or her own funds and who retains his or her winnings and absorbs his or her losses;

(10) "Raise" means a wager made in an amount greater than the immediately preceding wager;

(11) "Rake-off" means a percentage of the pot which may be taken by the licensee for maintaining or dealing the game;

(12) "Stake" means the funds with which a player enters a game;

(13) "Stakes player" means a person financed by the licensee to participate in a game under an arrangement or understanding whereby such person is entitled to retain all or any portion of his or her winnings;

(14) "Table tray" means a receptacle used to hold the card table bank; and

(15) "Time buy-in" means a charge to a player, determined on a time basis, by the licensee for the right to participate in a game.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2103. Card game drop box procedures.

(a)(1) Each card table shall have one card game drop box with the drop slot located at least four inches (4″) in front of the table tray and to the right thereof, unless the table is equipped with a drop slot located at least two inches (2″) to the right of and even with the top right-hand corner of the table tray, with a cover over the drop slot, which when activated will cause the rake to drop directly into the drop box.

(2) The card game drop box shall be a locked container marked with a permanent number corresponding to a permanent number on the card table and permanently marked to indicate game and shift, all of which markings shall be clearly visible at a distance of twenty feet (20′).

(3) The locked container shall be locked to the card table and shall be separately keyed from the container itself.

(b)(1) All card game drop boxes shall be removed from their respective card tables at the end of each gaming day at the times previously designated in writing to the Arkansas Racing Commission.

(2) The removal of card game drop boxes shall be without any interruptions so that an observer may be able to observe the markings on the boxes.

(3) The boxes must be transported directly to the room designated for counting where they shall be stored in a secure place or immediately counted.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2104. Sale of stakes.

No cash or chips received for the sale of stakes shall be commingled with any rake-offs or other compensation received by the licensee from the players for the right to play.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2105. Accounting for transactions between card table

bank and card room bank.

(a) When the card table bank is to be replenished with chips from the card room bank, all cash or chips to be transferred must be counted down by the dealer in public view on the card table and verified by the person who transports the cash or chips.

(b)(1) The transfer shall be preceded by the placement of appropriately designated marker buttons (lammer) on the card table of a value equivalent to the cash or chips to be transferred to the card room bank.

(2) Such marker buttons may only be removed by the dealer after the transaction has been completed.

(c) Upon written Arkansas Racing Commission approval, those licensees wishing to utilize the casino cage in lieu of a card room bank may do so provided that the same procedures as set forth in this part shall be followed by the casino cage for such transactions.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2106. Limitations on the use of card room banks and card table banks.

(a) Card room banks shall be used exclusively for the purposes of the:

(1) Issuance and receipt of shill funds;

(2) Maintenance of card table banks used in card games; and

(3) Issuance of chips to and redemption of chips from players.

(b) Card table banks shall be used only for the purposes of making change or handling player buy-ins.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2107. Rake-off and time buy-in.

(a)(1) Rake-offs shall not exceed ten percent (10%) of all sums wagers in the hand.

(2) Rake-offs shall only be pulled from the pot by the dealer in an obvious manner after each wager and call or at the completion of the hand.

(3) The rake-off shall be placed in a designated rake circle and shall remain in the designated rake circle until a winner is declared and paid.

(4) The rake-off shall then be dropped into the card game drop box.

(b)(1) The designated rake circle must be clearly visible to all players and shall be positioned in a location on the table where it is at least four inches (4″) from and in front of the table tray and at least eight inches (8″) from the table drop slot, unless the table is equipped with a drop slot located at least two inches (2″) to the right of and even with the top right-hand corner of the table tray, with a cover over the drop slot, which when activated will cause the rake to drop directly into the drop box.

(2) Such drop slot shall serve as the rake circle.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2108. Restrictions on use of shills and proposition players.

(a) Shills may not check and raise or play in any manner between themselves or in collusion with others to the disadvantage of other players within the game.

(b) Each establishment employing shills or proposition players shall identify such shills or proposition players upon request and shall display a sign clearly legible from each table which states: "Arkansas gaming rules allow the use of shills and proposition players. Shills and proposition players shall be identified by management upon request."

(c) Each licensee shall maintain, in a manner as in the case of all other employees, employment records on each individual engaged as a shill or proposition player, additionally, a list of all shills and proposition players shall be maintained at the card room bank and shall be readily available for inspection.

(d) Persons who participate in the management or supervision of games subject to this subpart shall be permitted to act as a shill or proposition player in the establishment where employed if supervision is otherwise provided.

(e) All advances to and winnings of a shill shall be utilized only for wagering in card

games or turned in to the card room bank at the conclusion of play.

(f)(1) No more than two (2) proposition players may play in a card game.

(2) No more than a combination of four (4) shills and proposition players may play in a card game.

(g) Shills may only wager chips or coins.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2109. Restrictions on other players.

(a) Stakes players shall not be utilized by any licensee.

(b) No dealer may wager in any game in which he or she is dealing.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2110. Posting of rules.

The rules of each game shall be posted and be clearly legible from each table and must designate:

(1) The maximum:

(A) Rake-off percentage;

(B) Time buy-in; or

(C) Other fee charged;

(2) The number of raises allowed;

(3) The monetary limit of each raise;

(4) The amount of ante; and

(5) Other rules as may be necessary.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

Subpart 22. Off-track Pari-mutuel Wagering

23 CAR § 358-2201. Scope.

(a) This subpart and 23 CAR § 358-2401 et seq. govern all off-track pari-mutuel wagering in Arkansas for which a license or approval has been granted by the Arkansas Racing Commission pursuant to The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100.

(b) A casino licensee that is also a franchise holder may elect to have its race book operations relating to pari-mutuel wagering and horse and greyhound racing regulated and governed by the Arkansas Horse Racing Law at Arkansas Code § 23-110-101 et seq., or the Arkansas Greyhound Racing Law at Arkansas Code § 23-111-101 et seq., respectively, and rules promulgated by the commission thereunder and not by this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2202. Definitions.

As used in this subpart:

(1) "Affiliate" has the same meaning as defined in this part;

(2) "Breakage" means:

(A) The rounding of a payout on a winning pari-mutuel wager, as determined by the track in accordance with the laws, rules, and regulations that are applicable to the jurisdiction in which the track operates;

(B) Those deficiencies arising from payouts made pursuant to this part; or

(C) Those deficiencies arising from the payment of a guaranteed payout pursuant to this part;

(3) "Commission on wagers" or "takeout" means the amount retained and not returned to patrons by a pari-mutuel book from the total amount of off-track pari-mutuel wagers;

(4) "Foreign track" means a track located outside of the United States;

(5) "Gross revenue" means:

(A) The amount of the commission on wagers received by a licensee; plus

(B) Positive breakage and the dollar amount of winning tickets that remain

unpaid pursuant to this subpart; less

(C) Negative breakage and the amount paid to a track for the right to be part of an interstate or intrastate common pari-mutuel pool (track fee);

(6) "Interstate common pari-mutuel pool" means a pari-mutuel pool consisting of the pari-mutuel wagers placed at a track, its intrastate betting locations, other jurisdictions, and the off-track pari-mutuel wagers placed and accepted at pari-mutuel books;

(7) "Intrastate common pari-mutuel pool" means a pari-mutuel wagering pool operated by a systems operator consisting solely of the wagers placed and accepted at two (2) or more pari-mutuel books on races at tracks;

(8) "Live audio-visual signal" or "simulcast" means the audio and visual transmission of a race, or series of races, as it occurs at a track;

(9) "Manual merge" means the process used in the event of a systems or communications failure by which the systems operator transmits to the track through telephone, telecopy, cellular, or other means of communication, the pari-mutuel books wagering information and the process by which the track includes the off-track pari-mutuel wagers in the interstate common pari-mutuel pool in such event;

(10) "Nonpari-mutuel race wager" means a wager other than one (1) offered to be included in an interstate or intrastate common pari-mutuel pool;

(11) "Off-track pari-mutuel system" means a computerized system or component of a system that is used to transmit wagering data:

(A) In an interstate common pari-mutuel system, to and from a track which offers interstate common pari-mutuel pools; or

(B) In an intrastate common pari-mutuel system, between the pari-mutuel books and a systems operator, and includes the totalizator equipment used to determine the winners of and payoffs on intrastate common pari-mutuel pools;

(12) "Off-track pari-mutuel wager" means either:

(A) A wager placed by a patron and accepted by a pari-mutuel book on a race or races offered as part of an interstate common pari-mutuel pool whether or not the wager is actually included in the total amount of the interstate common pari-mutuel

pool; or

(B) A wager placed by a patron and accepted by a pari-mutuel book on a race or races offered as part of an intrastate common pari-mutuel pool;

(13)(A) "Pari-mutuel book" means a race book that has received a license to accept off-track pari-mutuel wagers pursuant to the provisions of this subpart.

(B) The term "pari-mutuel book" shall include pari-mutuel only books, unless stated otherwise within this subpart;

(14) "Pari-mutuel only book" means a race book that has received a license to accept off-track pari-mutuel wagers pursuant to the provisions of this subpart, but has elected not to accept nonpari-mutuel race wagers;

(15) "Post time" means "post time" as that term is defined in this part;

(16) "Source market fee" means a track fee paid for accepting wagering account wagers, in accordance with 23 CAR § 358-2401 et seq., from a customer residing in the track's defined market area;

(17) "Systems operator" or "operator of a system" means a person engaged in providing the off-track pari-mutuel system or services directly related to the reconciliation of the interstate or intrastate common pari-mutuel pool and transfers of funds between the tracks and the pari-mutuel books, or among the pari-mutuel books;

(18)(A) "Track" means an out-of-state facility licensed to operate horse or other racing where pari-mutuel wagering on races is conducted, or a person licensed in another jurisdiction to conduct pari-mutuel wagering on such races.

(B) Where applicable, the term also includes a person or governmental agency from outside this state that operates a track, holds a track's rights to off-track pari-mutuel wagering, or shares in its revenues.

(C) The term also includes an association of tracks;

(19) "Wagering data" means the information regarding results, actual payouts, and the amount of pari-mutuel and off-track pari-mutuel wagers accepted for each race or group of races in an interstate or intrastate common pari-mutuel pool; and

(20) "Wagering information" means the amount of off-track pari-mutuel wagers accepted for each race or group of races by a pari-mutuel book.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2203. Authorization required to accept off-track pari-mutuel wagers — Applications.

(a)(1) A person shall not accept off-track pari-mutuel wagers unless it has received authorization to accept such wagers from the Arkansas Racing Commission.

(2) Authorization to accept off-track pari-mutuel wagers shall not be granted to anyone other than a licensee.

(b)(1) Applications for authorization to accept off-track pari-mutuel wagers must be made, processed, and determined using such forms as the commission may require or approve.

(2) Each application must be accompanied by an internal control system prepared and submitted in accordance with this part.

(3) Applications for authorization to accept off-track pari-mutuel wagers must enter into agreements and arrangements with other parties, consistent with federal law and approval by the commission, pursuant to which its patrons may wager on races run at race tracks that are shown live or in any other manner approved by the commission, by television, or otherwise, at locations on the grounds of the race book.

(4)(A) For purposes of this section:

(i) "Horse racing franchisor" means a franchisor licensed to conduct horse racing, and pari-mutuel wagering thereon, in Garland County, Arkansas, under the Arkansas Horse Racing Law, Arkansas Code § 23-110-101 et seq.; and

(ii) "Greyhound racing franchisor" means a franchisor licensed to conduct greyhound racing, and pari-mutuel wagering thereon, in Crittenden County under the Arkansas Greyhound Racing Law, Arkansas Code § 23-111-101 et seq.

(B) In the case of a casino (other than one (1) licensed to a horse racing franchisor), the casino (including any race book) shall not accept wagers on horse racing unless the casino licensee has a commercially reasonable agreement, acceptable to the commission, in place with the horse racing franchisor setting forth the terms and

conditions for acceptance of such wagers on horse racing that fairly attempts to ensure that the acceptance of such wagers will not adversely impact horse racing at the horse racing franchisor's racetrack, and related purses, and thoroughbred breeding activities in Arkansas, and related Arkansas thoroughbred breeding purse support programs.

(C) In the case of a casino (other than one (1) licensed to a greyhound racing franchisor), the casino (including any race book) shall not accept wagers on greyhound racing unless the casino licensee has a commercially reasonable agreement, acceptable to the commission, in place with the greyhound racing franchisor setting forth the terms and conditions for acceptance of such wagers on greyhound racing that fairly attempts to ensure that the acceptance of such wagers will not adversely impact greyhound racing at the greyhound franchisor's racetrack, and related purses, and greyhound breeding activities in Arkansas, and related Arkansas greyhound breeding purse support programs.

(D) The provisions of this section shall likewise also apply to any wagers on horse or greyhound racing by a race book under this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2204. Conduct of off-track pari-mutuel wagering.

(a) Off-track pari-mutuel wagering may be conducted only within a race book or any other area approved by the Arkansas Racing Commission.

(b) A pari-mutuel book offering off-track pari-mutuel wagering must comply with the provisions of this part, when not in conflict with this subpart.

(c) A pari-mutuel book shall not use the information received from the off-track pari-mutuel system to determine the winners of or payoffs on nonpari-mutuel race wagers.

(d) A pari-mutuel book shall not use the information received from a live broadcast to determine the winners of or payoffs on off-track pari-mutuel wagers.

(e)(1) A pari-mutuel book may use the information received from a live audio-visual signal to determine the winners of or payoffs on off-track pari-mutuel wagers in

the event the systems operator notifies the pari-mutuel book that it is unable to relay that information to the pari-mutuel book through the off-track pari-mutuel system.

(2) A pari-mutuel book shall comply with the 23 CAR § 358-601 et seq. minimum internal control standards when making such payoffs.

(f) A pari-mutuel book shall pay winning interstate off-track pari-mutuel wagers in accordance with official results at the track, irrespective of whether the wagering information from the pari-mutuel book was included in the interstate common pari-mutuel pool.

(g) A pari-mutuel book shall pay winnings, intrastate off-track pari-mutuel wagers in accordance with official results from the approved, off-track pari-mutuel system and shall return at least one dollar and five cents ($1.05) for each winning dollar wagered, and any other guaranteed payout.

(h)(1) The pari-mutuel books shall be jointly responsible for any deficiencies and shall share in any excesses resulting from the requirements of this part.

(2) The terms of any such agreement must be approved pursuant to the provisions of this subpart.

(i) A pari-mutuel book, other than a pari-mutuel only book, that has agreed to accept off-track pari-mutuel wagers may only accept nonpari-mutuel race wagers on types of bets not offered as part of the interstate or intrastate common pari-mutuel pool, and may accept nonpari-mutuel race wagers on types of bets offered as part of an interstate or intrastate common pari-mutuel pool in the event the off-track pari-mutuel system is not functioning.

(j) A pari-mutuel book shall not pay a systems operator or a track any compensation for the right to be part of an interstate or intrastate common pari-mutuel pool unless the agreement setting forth the terms of the compensation has been approved pursuant to the provisions of this subpart.

(k)(1) A pari-mutuel book shall adopt, conspicuously display, and adhere to written house rules governing off-track pari-mutuel wagering transactions with patrons.

(2) Prior to adopting or amending such house rules, a pari-mutuel book shall submit such rules to the commission for approval.

(l)(1) A pari-mutuel book shall allow patrons to cash an outstanding off-track pari-mutuel ticket for one hundred twenty (120) days from the date of purchase or thirty (30) days after the close of the racing meet, whichever shall first occur.

(2) Tickets which are not redeemed within such time become valueless, unless the time period is otherwise extended by the licensee, and the sum of money represented by them shall accrue to the issuing licensee.

(m)(1) Pari-mutuel books may not accept intrastate pari-mutuel wagers placed by any book, affiliate of the pari-mutuel book, or a systems operator providing the intrastate common pari-mutuel system.

(2) Books or systems operators may not place wagers into an intrastate common pari-mutuel pool.

(n)(1) Each pari-mutuel book that accepts an intrastate pari-mutuel wager must visually display to patrons, through direct communications with the off-track pari-mutuel system conducting the intrastate pool, the current odds and minutes to post for each race or wagering proposition on which intrastate wagers are being accepted as well as the official results and payoffs.

(2) The odds and post information shall be displayed at least ten (10) minutes prior to the scheduled post time and shall be updated at least every ninety (90) seconds prior to post time.

(3) An intrastate pari-mutuel pool shall not be approved unless the systems operator has the capability to deliver this visual information to the pari-mutuel books in a form acceptable to the commission, and each pari-mutuel book must be capable of displaying the information in a form acceptable to the commission, before being approved to participate in that intrastate pari-mutuel pool.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2205. [Reserved].

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2206. Approval to share in revenues — Applications.

(a) A pari-mutuel book shall not pay a share of the revenue from off-track pari-mutuel wagering to any person for the right to be part of an interstate or intrastate common pari-mutuel pool or for any services relating to the interstate or intrastate common pari-mutuel pool or off-track pari-mutuel system, unless the person sharing the revenue from the off-track pari-mutuel wagering has received approval from the Arkansas Racing Commission.

(b) Applications for approval to be paid a share of the revenue from off-track pari-mutuel wagering must be made, processed, and determined using such forms as the commission may require or approve.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2207. Criteria for approval to share in revenue.

The Arkansas Racing Commission may consider the following suitability criteria in determining whether to approve an application by a person to receive a share of the revenue from off-track pari-mutuel wagering:

(1) A person of good character, honesty, and integrity;

(2) A person whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the public interest of this state or to the effective regulation and control of gaming or charitable lotteries, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or charitable lotteries or in the carrying on of the business and financial arrangements incidental thereto; and

(3) In all other respects qualified to be licensed or found suitable consistently with the declared policy of the state.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2208. Requirements imposed upon tracks approved to share in the revenue or otherwise receive compensation.

(a) A track approved to share in the revenue or otherwise receive compensation from pari-mutuel books for the right to be part of an interstate common pari-mutuel pool or for permitting pari-mutuel books to conduct an intrastate pari-mutuel pool shall:

(1) For each racing meet for which it is offering an interstate common pari-mutuel pool or permitting pari-mutuel books to conduct an intrastate pari-mutuel pool, provide a live broadcast signal to a disseminator at a fee which is less than the amount the disseminator may charge pursuant to this part, which amount shall not exceed three percent (3%) of the total live broadcast handle;

(2)(A) Offer all pari-mutuel books the right to be part of an interstate common pari-mutuel pool or intrastate pari-mutuel pool and charge the same percentage of the revenue from off-track pari-mutuel wagering to all pari-mutuel books.

(B) If charging a fixed daily fee amount, the track shall charge each pari-mutuel book its proportional share of the fixed amount based upon each pari-mutuel book's percentage of the total off-track pari-mutuel wagers;

(3) Comply with all applicable state and federal laws for all racing meets for which it is offering an interstate common pari-mutuel pool or permitting pari-mutuel books to conduct an intrastate pari-mutuel pool; and

(4)(A) Engage the services of the disseminator authorized to disseminate the live broadcast signal of a racing meet to provide racing information not part of wagering data, but which is the type of information provided to users and buyers, and to transmit the live audio-visual signal of the racing meet to the pari-mutuel books and the systems operator.

(B) The live audio-visual signal must meet the production requirements of this part applicable to live broadcasts.

(C) Nothing in this section shall be deemed to require a pari-mutuel book to display a live audio-visual signal in conjunction with an interstate or intrastate common pari-mutuel pool.

(b)(1) A track approved to share in the revenue from off-track pari-mutuel

wagering shall maintain a revolving fund with the Arkansas Racing Commission in an amount determined by the commission, which may not exceed ten thousand dollars ($10,000) without commission approval, for post-approval investigative costs.

(2) A track shall remit the amount requested by the commission within fifteen (15) days of the request.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2209. Licensing of off-track pari-mutuel systems operator.

(a) A pari-mutuel book shall not use an interstate or intrastate off-track pari-mutuel system unless the systems operator has been licensed by the Arkansas Racing Commission.

(b)(1) Applications for a license to serve as a systems operator must be made, processed, and determined using such forms as the commission may require or approve.

(2) Each application must include an internal control system prepared and submitted in accordance with this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2210. Requirements imposed upon systems operators.

(a) Each systems operator shall maintain an office in Arkansas and designate a key employee located in the Arkansas office to supervise and be responsible for the day-to-day operations of the off-track pari-mutuel system.

(b)(1) Each systems operator shall submit and comply with an internal control system and all amendments to such systems as have been approved by the Arkansas Racing Commission pursuant to 23 CAR § 358-601 et seq.

(2) Each systems operator shall, if required by the commission, amend the written system to comply with any requirements consistent with this part that the commission deems appropriate.

(c) Each systems operator shall prepare financial statements covering all financial activities of the systems operator for each business year and shall engage an independent accountant who shall audit the financial statements in accordance with generally accepted auditing standards, unless the commission allows the systems operator upon written request to engage the independent accountant to review the financial statements in accordance with standards for accounting and review services.

(d) Each systems operator shall submit to the commission two (2) copies of its audited or reviewed financial statements not later than one hundred twenty (120) days after the last day of the systems operator's business year.

(e) If a systems operator changes its business year, the systems operator shall prepare and submit to the commission audited or reviewed financial statements covering the stub period from the end of the previous business year to the beginning of the new business year, not later than one hundred twenty (120) days after the end of the stub period or incorporate the financial results of the stub period in the financial statements for the new business year.

(f) Reports that directly relate to the independent accountant's review or audit of the systems operator's financial statements must be submitted within one hundred twenty (120) days after the end of the systems operator's business year.

(g)(1) Each systems operator shall require the independent accountant engaged by the systems operator to audit or to review the systems operator's financial statements to submit to the systems operator two (2) copies of a written report of its compliance with the internal control system approved by the commission.

(2) Not later than one hundred fifty (150) days after the end of the systems operator's
business year, the systems operator shall submit two (2) copies of the independent accountant's report or any other correspondence directly relating to the systems operator's system of internal control to the commission, accompanied by the systems operator's statement addressing each item of noncompliance noted by the independent accountant and describing the corrective measure taken.

(h) The commission may request additional information and documents from either

the systems operator or the systems operator's independent accountant, through the systems operator, regarding the financial statements or the services performed by the independent accountant.

(i)(1) Each systems operator shall maintain a revolving fund with the commission in an amount determined by the commission, which may not exceed ten thousand dollars ($10,000) without commission approval, for postlicensing investigative costs.

(2) A systems operator shall remit the amount requested by the commission within fifteen (15) days of the request.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2211. Approval of off-track pari-mutuel systems — Applications.

A pari-mutuel book shall not use an off-track pari-mutuel system unless the system has been approved pursuant to the provisions of this part governing associated equipment.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2212. Minimum technical requirements for off-track pari-mutuel systems.

An off-track pari-mutuel wagering system must include a fully redundant computer system and must:

(1) For each race for which wagers are to be included in an interstate common pari-mutuel pool, receive, aggregate by pool, and report to a track at regular intervals to be approved by the Arkansas Racing Commission all off-track pari-mutuel wagering information received separately from the pari-mutuel books;

(2) For each race for which wagers are to be included in an interstate common pari-mutuel pool, receive and report to each pari-mutuel book at regular intervals to be approved by the commission all wagering data received from the track through the

system;

(3) For each race for which wagers are to be included in an intrastate common pari-mutuel pool, the system shall include totalizator equipment that shall aggregate by pool and report to the pari-mutuel books, at regular intervals approved by the commission, all pari-mutuel wagering information received separately from the pari-mutuel books;

(4)(A) After each race on which pari-mutuel wagering is conducted is declared official, receive and report to each pari-mutuel book the results and payoff prices reported by the track in an interstate common pari-mutuel pool, and the results reported by a licensed disseminator and payoff prices determined by the off-track pari-mutuel system in an intrastate common pari-mutuel pool.

(B) Nothing in this section shall be deemed to require the systems operator or pari-mutuel book to display a live audio-visual signal in conjunction with an interstate or intrastate common pari-mutuel pool; and

(5) Provide all accounting and reconciliation reports required by the commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2213. Operation of the off-track pari-mutuel system.

(a) A systems operator operating an interstate common pari-mutuel pool shall immediately notify the pari-mutuel books in the event that it is unable to transmit wagering information to the track and shall cause the system to cease accepting off-track pari-mutuel wagers if it is unable to transmit the wagering information to the track either through the system or through a manual merge.

(b) A systems operator operating an interstate common pari-mutuel pool may use the information received from a live audio-visual signal furnished by a track to input information regarding winners of or payoffs on off-track pari-mutuel wagers in the event that communications between the track and the systems operator are disrupted.

(c) A systems operator operating an intrastate common pari-mutuel pool shall

immediately notify the pari-mutuel books in the event that it is unable to compile the information necessary to maintain an intrastate common pari-mutuel pool and shall cause the system to cease accepting intrastate pari-mutuel wagers in such an event.

(d) A systems operator shall cause the system to cease accepting off-track pari-mutuel wagers from the pari-mutuel books at post time.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2214. Approval of agreements.

(a) Except as provided in this part, the terms and conditions of any agreement between the pari-mutuel books, any person representing the pari-mutuel books, systems operator, disseminator, track, and the holders of track rights agreements, or any combination thereof, relating in any way to the operation of an off-track pari-mutuel wagering system, an interstate or intrastate common pari-mutuel pool, or transmission of a live audio-visual signal of races on which off-track pari-mutuel wagering will be conducted must be approved by the Arkansas Racing Commission upon a recommendation of the commission.

(b) The commission, after whatever investigation or review the commission deems necessary, may approve the following agreements:

(1) Any agreement, or amendment to an agreement, involving the sharing of pari-mutuel revenue if the commission has previously approved the person sharing in the revenue; or

(2) Any agreement, or amendment to an agreement, not involving the sharing of pari-mutuel revenue, whether or not the commission has previously approved such an agreement.

(c) Agreements among the pari-mutuel books as to the types of intrastate pari-mutuel wagers to be accepted for a particular race or races do not require approval by the commission or the commission's designee.

(d) An agreement between the pari-mutuel books and a track shall not be approved unless the commission is satisfied that:

(1) The agreement specifies the amount of the commission on wagers and track fees, including source market fees if applicable;

(2) The agreement specifies the manner in which breakage is to be allocated;

(3) The agreement specifies the manner in which the parties will handle a system or communication failure and specifically requires the track to accept wagering information from the systems operator through a manual merge for a reasonable amount of time, or the agreement specifies that if the track is unable to accept wagering information through a manual merge, or the applicable regulatory agency having jurisdiction over the track or the laws of the jurisdiction in which the betting system is located does not permit manual merge as a means of transmitting wagering information, the requirement for manual merge set forth in this part may be administratively waived by the commission;

(4) The track has complied with all federal, state, and local interstate pari-mutuel wagering laws, rules, and regulations that are applicable to the jurisdiction where the track operates;

(5) The track holds all necessary licenses in its home state or country to participate in the off-track pari-mutuel system and to provide the live audio-visual signal;

(6) There are means for the and the commission to:

(A) Obtain adequate access to information pertaining to the operation of the off-track pari-mutuel system, and the transmission of the live audio-visual signal; and

(B) Investigate any associate of the track in such operation and transmission;

(7) There is assurance that the track has engaged the services of a disseminator, as required by this part, and that the related live broadcast proposal has been approved by the commission pursuant to this part;

(8) There is assurance that the operation of the off-track pari-mutuel system and the transmission of the live audio-visual signal will be lawfully conducted after approval by the commission or Director of the Arkansas Racing Commission, as

applicable, and will not pose a threat to gaming control in Arkansas;

(9) There is assurance that the track and its associates in the off-track pari-mutuel wagering system and live audio-visual signal transmission will abide by the conditions and restrictions imposed upon approval;

(10) There is assurance that the right of Arkansas to collect license fees from the pari-mutuel books will be adequately protected through an effective accounting system designed to prevent the undetected employment of techniques to avoid payment; and

(11) There is assurance that the relationship of the track with any associate will not pose a threat to the interest of Arkansas in regulating the gaming industry within the state.

(e)(1) An executed agreement between the pari-mutuel books and a track shall be submitted to the commission for approval no later than ten (10) days before the racing meet begins.

(2) Additionally, for a foreign track, a draft agreement between the pari-mutuel books and the track and an executed letter of contractual intent between the pari-mutuel books and the track must be submitted to the commission no later than ninety (90) days before the racing meet begins.

(f) An agreement between the pari-mutuel books and a systems operator relating to an interstate or an intrastate common pari-mutuel pool shall not be approved unless the commission or commission, as applicable, is satisfied that:

(1) The agreement specifies the amount of the common pari-mutuel pool commission on wagers;

(2) The agreement specifies the manner in which the common pari-mutuel pool breakage is to be allocated;

(3) The agreement specifies the manner in which the parties will handle a system or communication failure;

(4) There are means for the commission to obtain adequate access to information pertaining to the operation of the off-track pari-mutuel system; and

(5) There is assurance that the right of Arkansas to collect license fees from

the pari-mutuel books will be adequately protected through an effective accounting system designed to prevent the undetected employment of techniques to avoid payment.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2215. Deduction of commission on wagers.

The total percentage of off-track pari-mutuel wagers that is to be deducted as a commission on wagers must be:

(1) For interstate common pari-mutuel pools, the same percentage as deducted by the track, unless a different percentage is otherwise approved by the Arkansas Racing Commission; and

(2) For intrastate common pari-mutuel pools, a percentage not to exceed twenty-five percent (25%).

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2216. Limits and conditions on approvals.

The Arkansas Racing Commission may impose limits or place conditions upon any license or approval issued pursuant to this subpart.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2217. Record retention — Access to premises.

Each pari-mutuel book, each licensed systems operator, and each track which offers an interstate common pari-mutuel pool shall:

(1) Maintain and retain all records required by the Arkansas Racing Commission for at least five (5) years after they are made and shall provide them to the commission upon the commission's request; and

(2) Allow the members of the commission, their agents, and employees to

immediately inspect and examine the premises and immediately inspect, examine, photocopy, and audit all papers, books, and records of the pari-mutuel book, track and systems operator, on the premises, or elsewhere as practicable.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2218. Grounds for disciplinary action.

Violation of any applicable law or rule by a pari-mutuel book, track, or system operator constitutes reasonable cause for disciplinary action.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2219. Authority to issue orders for racing meets.

The Arkansas Racing Commission shall issue such orders as the commission deems appropriate to further the process of off-track pari-mutuel wagering.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2220. Waivers.

The Arkansas Racing Commission may waive one (1) or more of the requirements of this part if the commission finds that such waiver is consistent with the public policy of the state.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

Subpart 23. Off-track Pari-mutuel Sports Wagering and Off-track Pari-mutuel Other Event Wagering

Codification Notes. This subpart as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "23.210 Effective date of Rule. This Rule shall be

effective upon passage."

23 CAR § 358-2301. Scope.

(a) This subpart governs and its applicability is limited to off-track pari-mutuel wagering on sporting events and other events for which approval has been granted by the Arkansas Racing Commission pursuant to The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100.

(b) Off-track pari-mutuel wagering on horse and greyhound races conducted by franchise holders shall continue to be governed by the Arkansas Horse Racing Law, Arkansas Code § 23-110-101 et seq., and Arkansas Greyhound Racing Law, Arkansas Code § 23-111-101 et seq., respectively, and the rules of the commission thereunder, and not this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2302. Definitions.

As used in this subpart:

(1) "Breakage" means the odd cents over a multiple of ten cents ($0.10) arising from the computation of odds and payoffs on off-track pari-mutuel sports wagers;

(2) "Commission" means the Arkansas Racing Commission or the commission's designee;

(3) "Commission on wagers" means an amount retained and not returned to patrons by a pari-mutuel sports book from the aggregate amount of off-track pari-mutuel sports wagers;

(4) "Common pari-mutuel pool" means a pari-mutuel wagering pool consisting of the off- track pari-mutuel sports wagers placed at two (2) or more pari-mutuel sports books;

(5) "Manual merge" means the process used in the event of a systems or communications failure by which participating pari-mutuel sports books transmit to the

systems operator through telephone, telecopy, cellular, or other means of communication, the sports books' wagering information, and the process by which the systems operator includes the off-track pari-mutuel sports wagers in the common pari-mutuel pool in such event;

(6) "Off-track pari-mutuel sports system" means a computerized system or component of a system that is used to receive wagering information from and transmit pool data to a pari-mutuel sports book;

(7) "Off-track pari-mutuel sports wager" means a pari-mutuel wager on a sporting event or other event offered as part of a common pari-mutuel pool, whether or not the wager is actually included in the common pari-mutuel pool;

(8) "Other event" means any event other than a:

(A) Horse race;

(B) Dog race; or

(C) Athletic sporting event;

(9)(A) "Pari-mutuel sports book" means an establishment within this state that has been authorized to accept off-track pari-mutuel sports wagers pursuant to The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, or an out-of-state facility approved to accept off-track pari-mutuel sports wagers.

(B) Where applicable, the term also includes a person or governmental agency from outside this state that operates such a facility, and an association of such facilities;

(10) "Pool data" means data regarding the results, payoffs, odds, or payoff prices, and the aggregate amount of off-track pari-mutuel sports wagers accepted on each sporting event or other event by all pari-mutuel sports books;

(11) "Post time" means five (5) minutes before the scheduled start of a sporting event or other event or such other time as designated by the Arkansas Racing Commission;

(12)(A) "Sporting event" means an individual race, game, match, or contest, and any group, series, or part thereof.

(B) The term does not include horse or dog races;

(13) "Systems operator" or "operator of a system" means a person engaged in providing the off-track pari-mutuel sports system or services directly related to the reconciliation of a common pari-mutuel pool and transfers of funds between the participating pari-mutuel sports books; and

(14) "Wagering information" means the amount of off-track pari-mutuel sports wagers accepted for each sporting event or other event by a single pari-mutuel sports book.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2303. Authorization required to accept off-track pari-mutuel sports wagers — Application.

(a)(1) A person shall not accept off-track pari-mutuel sports wagers in Arkansas unless the person has received authorization from the Arkansas Racing Commission to accept such wagers.

(2) Authorization to accept off-track pari-mutuel sports wagers shall only be granted to a nonrestricted operation licensed to accept wagers on sporting events or other events.

(b)(1) An application for authorization to accept off-track pari-mutuel sports wagers must be submitted using such forms as the commission approves.

(2) The application must be accompanied by an internal control system that complies with this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2304. Conduct of off-track pari-mutuel sports wagering.

(a) Off-track pari-mutuel sports wagering may be conducted only at a pari-mutuel sports book.

(b) A pari-mutuel sports book shall comply with the provisions of this part.

(c)(1) A pari-mutuel sports book shall not accept off-track pari-mutuel sports

wagers after post time.

(2) Off-track pari-mutuel sports wagers become final at the start of the sporting event or other event.

(d) A pari-mutuel sports book shall conspicuously display, at periodic intervals to be determined by the Arkansas Racing Commission, both the aggregate amount of off-track pari-mutuel sports wagers accepted and the odds for each sporting event or other event on which off-track pari-mutuel sports wagering is being conducted.

(e) A pari-mutuel sports book shall pay winning off-track pari-mutuel sports wagers in accordance with the pari-mutuel payoff on the off-track pari-mutuel sports wagers accepted on a sporting event or other event, irrespective of whether all wagering information from all pari-mutuel sports books actually was included in the common pari-mutuel pool.

(f) A pari-mutuel sports book shall return at least one dollar and five cents ($1.05) for each winning dollar wagered.

(g) The pari-mutuel sports books shall be jointly responsible for any deficiencies and shall share in any excesses resulting from the requirements of subsections (e) and (f) of this section.

(h) A pari-mutuel sports book shall not pay any systems operator or any other pari-mutuel sports book any compensation for the right to be part of a common pari-mutuel pool unless the agreement setting forth the terms of the compensation has been approved pursuant to 23 CAR § 358-2314.

(i)(1) A pari-mutuel sports book shall adopt, conspicuously display, and adhere to written house rules governing off-track pari-mutuel sports wagering transactions with patrons.

(2) Prior to adopting or amending such house rules, a pari-mutuel sports book shall submit the rules to the commission for the commission’s approval.

(j)(1) A pari-mutuel sports book shall allow a patron to cash an outstanding off-track pari-mutuel sports wagering ticket for at least thirty (30) days from the date the sporting event is concluded.

(2) A ticket which is not redeemed within such time becomes valueless, unless

the time period is extended by the licensee, and the sum of money represented by the ticket shall then accrue to the issuing licensee.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2305. Approval to share in revenues — Application.

(a) A pari-mutuel sports book shall not share the revenue from off-track pari-mutuel sports wagering with any person unless the person who is to share in the revenue has been licensed by or received approval from the Arkansas Racing Commission.

(b) An application for approval to receive a share of the revenue from off-track pari-mutuel sports wagering must be submitted using such forms as the commission approves.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2306. Criteria for licensing and approval to share in revenue.

The Arkansas Racing Commission may consider the following suitability criteria in determining whether to approve an application by a person to receive a share of the revenue from off-track pari-mutuel wagering:

(1) A person of good character, honesty, and integrity;

(2) A person whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the public interest of this state or to the effective regulation and control of gaming or charitable lotteries, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or charitable lotteries or in the carrying on of the business and financial arrangements incidental thereto; and

(3) In all other respects qualified to be licensed or found suitable consistently with the declared policy of the state.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2307. Requirements imposed upon out-of-state pari-mutuel sports books approved to share in the revenue or otherwise receive compensation.

An out-of-state pari-mutuel sports book approved to share in the revenue or otherwise receive compensation from pari-mutuel sports books within this state for the right to be part of a common pari-mutuel pool shall comply with all applicable state and federal laws regarding wagers on sporting events or other events for which it is offering a common pari-mutuel pool.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2308. Participation in common pari-mutuel pool.

All pari-mutuel sports books in Arkansas must be offered the right to accept wagers in a common pari-mutuel pool at the same fee or rate.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2309. Licensing of off-track pari-mutuel sports systems operator.

(a) A pari-mutuel sports book shall not use an off-track pari-mutuel sports system unless the systems operator has been licensed by the Arkansas Racing Commission.

(b)(1) An application for a license to serve as a systems operator must be submitted using such forms as the commission approves.

(2) The application must be accompanied by an internal control system that complies with this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2310. Requirements imposed upon systems operator.

(a) Each systems operator shall maintain an office in Arkansas and designate a key employee located in the Arkansas office to supervise and be responsible for the day-to-day operations of the off-track pari-mutuel sports system.

(b)(1) Each systems operator shall comply with the internal control system and all amendments to such system as have been approved by the Arkansas Racing Commission pursuant to this part.

(2) Each systems operator shall, if required by the commission, amend the written internal control system to comply with any requirements consistent with this part that the commission deems appropriate.

(c) Each systems operator shall prepare financial statements covering all financial activities of the systems operator for each business year and shall engage an independent accountant licensed by the Arkansas State Board of Public Accountancy to audit the financial statements in accordance with generally accepted auditing standards, unless the commission allows the systems operator upon written request to engage the independent accountant to review the financial statements in accordance with standards established by the American Institute of Certified Public Accountants.

(d) Each systems operator shall submit to the commission two (2) copies of its audited or reviewed financial statements not later than one hundred twenty (120) days after the last day of the system operator's business year.

(e) If a systems operator changes its business year, the systems operator shall prepare and submit to the commission audited or reviewed financial statements covering the stub period from the end of the previous business year to the beginning of the new business year, not later than one hundred twenty (120) days after the end of the stub period or incorporate the financial results of the stub period in the financial statements for the new business year.

(f) Reports that directly relate to the independent accountant's review or audit of the systems operator's financial statements must be submitted within one hundred twenty (120) days after the end of the systems operator's business year.

(g)(1) Each systems operator shall require the independent accountant engaged by the systems operator to audit or to review the systems operator's financial statements to submit to the systems operator two (2) copies of a written report of its compliance with the internal control system approved by the commission.

(2) Not later than one hundred fifty (150) days after the end of the systems operator's business year, the systems operator shall submit a copy of the independent accountant's report or any other correspondence directly relating to the systems operator's system of internal control to the commission, accompanied by the systems operator's statement addressing each item of noncompliance noted by the independent accountant and describing the corrective measures taken.

(h) The commission may request additional information and documents from either the systems operator or the systems operator's independent accountant, through the systems operator, regarding the financial statements or the services performed by the independent accountant.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2311. Approval of off-track pari-mutuel sports system.

A pari-mutuel sports book shall not use an off-track pari-mutuel sports system unless the system has been approved pursuant to the provisions of this part governing associated equipment.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2312. Minimum technical requirements for off-track pari-mutuel sports systems.

An off-track pari-mutuel sports system must include a fully redundant computer system and must:

(1) Receive and aggregate by pool all off-track pari-mutuel sports wagering information received separately from each of the pari-mutuel sports books;

(2) Receive and report to each pari-mutuel sports book at periodic intervals to be approved by the Arkansas Racing Commission all pool data compiled through the system;

(3) After each sporting event or other event on which off-track pari-mutuel sports wagering is conducted, report to each pari-mutuel sports book the results and payoffs; and

(4) Provide all accounting and reconciliation reports required by the commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2313. Operation of the off-track pari-mutuel sports system.

A systems operator shall:

(1) Immediately notify the pari-mutuel sports books in the event that it is unable to receive wagering information or transmit pool data, and shall cause the system to cease accepting off-track pari-mutuel sports wagers if it is unable to receive the wagering information or transmit the pool data; and

(2) Cause the system to cease accepting off-track pari-mutuel sports wagers from the pari-mutuel sports books at post time.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2314. Approval of agreements.

(a) The terms and conditions of any agreement between pari-mutuel sports books, or between pari-mutuel sports books and a systems operator relating in any way to the operation of an off-track pari-mutuel sports system, a common pari-mutuel pool, or transmission of wagering information or pool data regarding sporting events or other events on which off-track pari-mutuel sports wagering will be conducted, must be approved by the Arkansas Racing Commission upon a recommendation of the

commission, or by the commission pursuant to this part, after whatever investigation the commission deems necessary.

(b)(1) An agreement described in subsection (a) of this section may be approved by the commission if it is an extension, renewal, or modification of an agreement previously approved by the commission.

(2) Any material modification of a previously approved agreement, such as an increase in the amount of the commission on wagers, must also be approved by the commission.

(c) An agreement described in this subpart may not be approved unless the commission is satisfied that:

(1) The agreement specifies the manner in which the line or proposition for each sporting event will be established;

(2) The agreement specifies the amount of the commission on wagers;

(3) The agreement specifies the manner in which breakage is to be allocated;

(4) The agreement specifies the manner in which the parties will handle a system or communication failure and specifically requires the systems operator to accept wagering information from the pari-mutuel sports books through a manual merge for a reasonable amount of time;

(5) The agreement specifies the manner in which the pari-mutuel sports books shall be responsible for any deficiencies and share in any excesses resulting from the requirements of this part;

(6) The agreement specifies the manner in which the parties will handle pool amounts that are not won by patrons;

(7) The systems operator and pari-mutuel sports books have complied with all laws applicable to off-track pari-mutuel sports wagering;

(8) The systems operator and pari-mutuel sports books hold all necessary licenses and approvals to participate in the off-track pari-mutuel system;

(9) There are means for the commission to obtain adequate access to information pertaining to the operation of the off-track pari-mutuel sports system, and to investigate any associate of the systems operator and pari-mutuel sports books in

such operation;

(10) There is assurance that the operation of the off-track pari-mutuel sports system will be lawfully conducted after approval by the commission and will not pose a threat to gaming control in Arkansas;

(11) There is assurance that the systems operator, pari-mutuel sports books, and their associates in the off-track pari-mutuel sports system will abide by the conditions and restrictions imposed upon approval;

(12) There is assurance that the right of Arkansas to collect license fees from the pari-mutuel sports books will be adequately protected through an effective accounting system designed to prevent the undetected employment of techniques to avoid payment; and

(13) There is assurance that the relationships of the systems operator and pari-mutuel sports books with any associate will not pose a threat to the interest of Arkansas in regulating the gaming industry.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2315. Deduction of commission on wagers.

Except as provided in an agreement approved under this part, the total percentage of off-track pari-mutuel sports wagers that is to be deducted as a commission wagers by pari-mutuel sports books in Arkansas must not exceed twenty-five percent (25%).

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2316. Limits and conditions on approvals.

The Arkansas Racing Commission may impose limits or place conditions upon any license or approval issued pursuant to this subpart.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2317. Record retention — Monthly reports — Access to premises.

Each pari-mutuel sports book and each systems operator which offers a common pari-mutuel pool, shall:

(1) Maintain and retain all records required by the Arkansas Racing Commission for at least five (5) years after they are made, and provide them to the commission upon the commission's request;

(2) Allow the members of the commission, their agents, and employees to immediately inspect and examine the premises and immediately inspect, examine, photocopy, and audit all papers, books, and records of the pari-mutuel sports book or systems operator, on its premises or elsewhere as practicable; and

(3) File with the commission all reports required by the commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2318. Grounds for disciplinary action.

Violation of any applicable law or rule by a pari-mutuel sports book or systems operator constitutes reasonable cause for disciplinary action.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2319. Waivers.

The Arkansas Racing Commission may waive one (1) or more of the requirements of this part if it finds that such waiver is consistent with the public policy of the state.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2320. Gross revenue computations.

(a) For purposes of this subpart, "gross revenue" means:

(1) The total commission on wagers; plus

(2) Any pool amounts not won by patrons and retained by the pari-mutuel sports book; plus

(3) The face amount of unpaid winning tickets, plus breakage; less

(4) Any rights fee paid by the pari-mutuel sports book; less

(5) Any commission on wagers returned to a patron by the pari-mutuel sports book pursuant to this part.

(b)(1) As used in this section, "rights fee" means any compensation paid by a pari-mutuel sports book for the right to participate in a common pari-mutuel pool.

(2) The term does not include any amount paid to a systems operator, a gaming licensee, an association of gaming licensees, or their affiliates.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

Subpart 24. Off-track Pari-mutuel Horse Racing Account Wagering

23 CAR § 358-2401. Scope.

(a) This part governs all off-track pari-mutuel horse race account wagering in Arkansas for which a license or approval has been granted by the Arkansas Racing Commission pursuant to The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100.

(b) Franchise holders may continue to accept wagers pursuant to Arkansas Code § 23-110-405(e)(1) or Arkansas Code § 23-111-508(e)(1).

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2402. Definitions.

As used in this subpart:

(1)(A) "Account wagering system" means a system of wagering using telephone, computer, or other method of wagering communication as approved by the Arkansas Racing Commission, whose components shall be located in this state.

(B) The components shall include, but not be limited to:

(i) The systems operator;

(ii) Permanent information databases;

(iii) System monitoring equipment;

(iv) Writers; and

(v) Patron service representatives;

(2)(A) "Call center system" means a computerized system, or a component of such a system, that is used to receive and transmit pari-mutuel race wagering instructions from a patron to a person licensed to accept off-track pari-mutuel race wagers.

(B) The call center system is located within Arkansas but off the premises of a licensed gaming establishment or any affiliated licensed gaming establishment;

(3) "Communications technology" means the methods used and the components employed to facilitate the transmission of information, including but not limited to transmission and reception systems based on wire, cable, radio, microwave, light, optics, cellular data, or computer data networks and the internet;

(4) "Director" means the Director of the Arkansas Racing Commission or the commission's designee;

(5) "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks;

(6) "Key employee" means an employee in any of the classes described in this part;

(7) "Messenger bettor" means a person who places a wager for the benefit of another for compensation;

(8)(A) "Operator of a call center" means a person who, as an agent of a licensed Arkansas pari-mutuel race book, engages in the business of operating a call center system as a means of providing patron services to assist a patron located in a state or foreign jurisdiction where such wagering is legal, to convey pari-mutuel horse race wagering instructions to one (1) or more licensed Arkansas pari-mutuel race

books.

(B) An Arkansas pari-mutuel race book operating a call center on the premises of their gaming establishment or any affiliated licensed gaming establishment, with participation limited to affiliated licensed gaming establishments, is not an operator of a call center;

(9) "Post time" means, unless an earlier time is required by regulation in the state where the race is run, the time when the race is started by, as applicable, the opening of the gates and/or box, the starting gate car begins to close its arms, or such other method used by the track and administratively approved by the commission;

(10)(A) "Race book" means a business that accepts wagers on horse or other animal races.

(B) A casino licensee that is also a franchise holder may elect to have its race book operations relating to pari-mutuel wagering and horse and greyhound racing regulated and governed by the Arkansas Horse Racing Law at Arkansas Code § 23-110-101 et seq., or the Arkansas Greyhound Racing Law at Arkansas Code § 23-111-101 et seq., respectively, and rules promulgated by the commission thereunder and not by this part;

(11) "Secure personal identification" means a secure personal identification as that term is defined in 23 CAR § 358-425;

(12) "Wagering account" means a sports wagering account as that term is defined in this part;

(13) "Wagering communication" means the transmission of a wager between a point of origin and a point of reception by aid of a communications technology; and

(14) "Wagering instructions" means the instructions given by a patron on the grounds of the licensee's facility where casino gaming is conducted or who maintains a mobile wagering account at a book to effect a wagering communication to the book.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2403. License required — Applications.

No person may operate or own any interest in a race book in Arkansas unless that person holds a casino gaming license specifically permitting the person to do so.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2404. Finding of suitability required to operate a call center — Applications.

(a) A person shall not function as the operator of a call center unless the person has been found suitable pursuant to this part.

(b) Applications for a finding of suitability to function as the operator of a call center must be made, processed, and determined using such forms as the Arkansas Racing Commission may require or approve.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2405. Registration of managers or supervisors.

(a)(1) Any individual who fulfills the function of race book manager or supervisor or who fulfills the function of a manager or supervisor for an operator of a call center must register with the Arkansas Racing Commission.

(2) Such registration must be made on a form provided by the commission and shall include the individual's:

(A) Full legal name and any aliases, nicknames, maiden name, and any other change, legal or otherwise;

(B) Social Security number and current driver's license number;

(C) Date and place of birth;

(D) History of residence for the past five (5) years;

(E) History of employment for the past ten (10) years;

(F) Complete history of arrests, detentions, or litigations including any which have been sealed or expunged by court order;

(G) Consent to a full licensing investigation, subject to the provisions of this subpart, by the commission; and

(H) Such other information as required by the commission.

(b) Licensed key employees or key employees in applicant status are not required to register pursuant to this section.

(c) Individuals required to register must file within thirty (30) days of assuming such duties.

(d)(1) After reviewing the registration forms, the commission may request that the individual file a completed application form.

(2) Individuals who object to the request for submission of a completed application form and commencement of a full licensing investigation by the commission may appeal the administrative decision to the full commission in a manner similar to that outlined in this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2406. Employees of an operator of a call center.

Any employee of an operator of a call center who fulfills the function of receiving and transmitting wagering instructions and any employee supervising this function is a gaming employee as defined in this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2407. Reserve requirements.

(a) Notwithstanding the minimum reserve requirements established for wagering accounts pursuant to this part, each book shall comply with the following to calculate the minimum reserve requirements:

(1) Each book shall at all times maintain a reserve of not less than the greater of twenty-five thousand dollars ($25,000) or the sum of the following amounts:

(A) Amounts held by the book for the account of patrons;

(B) Amounts accepted by the book as wagers on contingencies whose outcomes have not been determined; and

(C) Amounts due the patron on wagers whose outcomes have been determined but that have not been posted to the patron's wagering account; and

(2)(A) Before beginning operations, each newly-licensed book must establish a reserve of at least the greater of twenty-five thousand dollars ($25,000) or the amount the Arkansas Racing Commission projects will at least equal the sum of the amounts specified in this part at the end of the first week of the book's operation.

(B) After the book begins operations, the book's reserve must comply with this part.

(b) The reserve described in subsection (a) of this section may be combined as a single amount with the reserve described in this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2408. Recordation of wagers.

Immediately upon accepting an account wager, the book shall create an electronic record of the terms of the wager in the off-track pari-mutuel race system.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2409. Acceptance of wagers.

(a) Books may not accept wagers unless made against credits made to a wagering account as provided for in this part or on credit extended in accordance with the rules of the Arkansas Racing Commission.

(b) A book shall accept wagers only on its licensed premises, and only at betting stations approved by the commission or through an account wagering system that has been approved by the commission.

(c) A book shall not knowingly accept money or its equivalent ostensibly as a wager upon an event whose outcome has already been determined.

(d) No book or agent or employee of a book may accept a wager from a person who the book, agent, or employee knows or reasonably should know is a messenger bettor or is placing the wager in violation of state or federal law.

(e) No book may hold a patron's money or its equivalent on the understanding that the book will accept the money as a wager only upon the occurrence of a specified, future contingency, unless an electronic record documenting the wager and contingency is immediately made in the off-track pari-mutuel race system.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2410. Imposition of supplemental recordkeeping and reporting requirements.

(a) The Arkansas Racing Commission may require a book to comply with the identification, recordkeeping, and reporting requirements of this part for interstate pari-mutuel horse race account wagers.

(b) The commission shall notify the book of the decision, in writing, and such decision shall be considered an administrative decision, and therefore reviewable pursuant to the procedures set forth in this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2411. Payment of winning wagers.

In the event the off-track pari-mutuel system is not functioning, a licensed race book shall determine the winners of or payouts on wagers on horse races in accordance with the provisions of this part.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2412. Off-track pari-mutuel race systems.

Before beginning operations, each book shall install and thereafter maintain an off-

track pari-mutuel race system meeting the specifications approved by the Arkansas Racing Commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2413. Layoff bets.

(a) A book may place or accept wagers from another book if the accepting book does not have common control, as defined in this part, with the placing book.

(b) A book that is permitted to place a layoff wager shall inform the book accepting the wager that the wager is being placed by a book and shall disclose its identity.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2414. Prohibition against rescission of wagers.

A book may not unilaterally rescind any wager without the prior written approval of the Arkansas Racing Commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2415. Prohibited wagers.

No wagers may be accepted or paid by any pari-mutuel race book on any event other than a horse race that is offered as part of a pari-mutuel pool.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2416. Wagers — Terms and conditions.

No book shall:

(1) Accept from a patron, directly or indirectly, less than the full face value of an off-track pari-mutuel wager;

(2) Agree to refund or rebate to a patron any portion or percentage of the full

face value of an off-track pari-mutuel wager; or

(3)(A) Increase the payoff of, or pay a bonus on, a winning off-track pari-mutuel wager.

(B) The provisions of this section do not prohibit the granting of room, food, beverage, or entertainment admission complimentaries.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2417. Communications technology.

(a)(1) Before installing or permitting the installation of any communications technology on the premises of a book or a call center, the book or the call center shall notify the Arkansas Racing Commission in writing of the location and number or other identifier of each communications technology and shall obtain the written approval of the commission for each communications technology.

(2) The commission may condition the approval in any manner the commission considers appropriate.

(b)(1) Before a book accepts any wagering communications, and before a call center accepts any wagering instructions, the book and the call center must obtain the written approval of the commission to accept such wagering communications and wagering instructions, and thereafter use only the communications technology approved for that purpose.

(2) The book or the call center must obtain written permission from the commission by March 1 of each calendar year to continue using the communications technology.

(c)(1) As a condition to the granting of the privilege of having communications technology upon the licensed premises, the book and the call center shall be deemed to have consented to the authority of the commission to require the immediate removal of any communications technology from the licensed premises at any time without prior notice of hearing.

(2) After any such removal, the book or the call center may request a hearing

before the commission as to whether or not circumstances may warrant the permanent revocation of the privilege of having communications technology upon the premises.

(d) Upon the request of either the commission, a book or a call center shall provide a written consent for the commission to examine and copy the records of any telephone, telegraph, or other communications company or utility that pertain to the operation of the book or the call center.

(e) A call center system is associated equipment requiring approval pursuant to this part.

(f) A book receiving wagering instructions from a call center system shall comply with the requirements of this part prior to the use of this system.

(g) Nothing herein prohibits the use of the internet for the purposes of establishing wagering accounts or transacting wagering account deposits and withdrawals.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2418. Use of an operator of a call center.

(a) A licensed Arkansas pari-mutuel race book shall not utilize an operator of a call center unless the operator of the call center has been found suitable by the Arkansas Racing Commission.

(b) The call center system, or a component of such a system, will record patron instructions received and transmitted to a licensed Arkansas pari-mutuel race book and the date/time instructions are received from a patron for:

(1) Pari-mutuel horse race wagers to be placed; and

(2) Any other pari-mutuel horse race wagering instructions as may be approved by the commission.

(c) The operator of a call center performs such patron services as:

(1)(A) Receiving pari-mutuel horse race wagering instructions from a patron and performing procedures to provide reasonable assurance that the patron is located within the borders of a state or foreign jurisdiction in which pari-mutuel horse race wagering is legal, and that the state or foreign jurisdiction does not otherwise restrict

wagering on accounts located outside its borders prior to accepting a wagering communication.

(B) Reasonable assurance of patron location includes, but is not limited to, an inquiry process through electronic or voice-only means in which patrons affirm their physical location at the time of each wagering communication.

(C) A recording of the inquiry process with the patron shall be retained for a period of sixty (60) days;

(2) Providing help desk responses to patrons and the general public concerning pari-mutuel horse race wagers at a licensed Arkansas pari-mutuel race book; and

(3) Such other patron services as may be approved by the commission.

(d)(1) In addition to the posting of the wager in the off-track pari-mutuel race system by the Arkansas pari-mutuel race book, all wagering instructions shall be electronically recorded and retained for a period of sixty (60) days.

(2) The method of recording the wagering instructions must be approved by the commission.

(3) Such recordings must be made immediately available to any commission agent upon request.

(e) The operator of a call center shall allow the members of the commission, their agents, and employees to immediately inspect and examine the premises and immediately inspect, examine,
photocopy, and examine all papers, books, and records, on the premises, or elsewhere as practicable.

(f) The operator of a call center shall operate in compliance with all applicable provisions of this subpart.

(g) The licensed Arkansas pari-mutuel race book shall maintain responsibility for any operator of a call center, used by the book, to operate in compliance with all state and federal laws, rules, and regulations, as applicable.

(h) Violation of any applicable law or rule by an operator of a call center constitutes reasonable cause for disciplinary action.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2419. Wagering communications — Establishing patron wagering accounts for pari-mutuel race wagering.

(a)(1) Each casino licensee that accepts wagering communications shall establish and implement pursuant to 23 CAR § 358-601 et seq., a system of internal control for such transactions, and comply with both its system of internal control and the minimum internal control standards contained in this part.

(2) Each licensee that accepts wagering communications shall comply with the internal control procedures contained in this part.

(b)(1) Each book shall prepare a written description of its house rules and procedures for wagering communications, and shall make a copy available to each patron for whom a wagering account is established.

(2) Prior to adopting or amending such house rules, a book shall submit such rules to the Arkansas Racing Commission for approval.

(c)(1) A race book licensed to accept off-track pari-mutuel horse race wagers may establish wagering accounts for residents of Arkansas and residents of any state or foreign jurisdiction in accordance with this part.

(2) Patrons having established a wagering account may place off-track pari-mutuel horse race wagers from within Arkansas or from other states or foreign jurisdictions in which pari-mutuel horse race wagering is legal provided that the state or foreign jurisdiction does not otherwise restrict wagering on accounts located outside its borders.

(3) Before a race book accepts a wagering communication, or a call center accepts a wagering instruction, on an off-track pari-mutuel horse race, the following must occur:

(A) A race book must register the patron and create a wagering account for the patron in accordance with this part, except that a race book may confirm the patron's identity remotely if the wagering account is used solely to place off-track pari-

mutuel horse race wagers;

(B)(i) A race book shall confirm that the state or foreign jurisdiction in which the patron resides is a jurisdiction in which off-track pari-mutuel horse race wagering is legal, and that the state or foreign jurisdiction does not otherwise restrict wagering on accounts located outside its borders, prior to the book accepting wagers on such accounts.

(ii) The race book shall maintain a record of such confirmation;

(C) The race book must have the patron affirm that the patron has been informed and acknowledges that, with regard to off-track pari-mutuel horse race wagers, the book may accept such wagers from patrons only when the patron is located within Arkansas or other states or foreign jurisdictions in which pari-mutuel horse race wagering is legal and such wagering on accounts located outside its borders is not otherwise restricted;

(D) Notwithstanding the requirements of this part, for a business entity patron, the patron must provide an employee of the book, and the book must record and maintain, the following information before the book registers and creates a wagering account for the patron:

(i) The name, residential address, copy of a valid photo identification which evidences that the person is at least twenty-one (21) years of age, and Social Security number or individual taxpayer identification number, of each of the business entity's equity owners, holders of indebtedness, directors, officers, managers, and partners, anyone entitled to payments based on the profits or revenues, and any designated individuals;

(ii) The business entity's formation documents and all filings with the Secretary of State;

(iii) Any other documentation or information the commission may require; and

(iv) Any other documentation or information the race book or sports pool may require; and

(E)(i) The employee must record such information.

(ii) Unless a book has otherwise been granted approval by the commission pursuant to this part, the information required by this subsection shall be provided by the patron to an employee of the book at the premises of the book.

(d)(1) In addition to the posting of the wager in the off-track pari-mutuel race system, all wagering communications shall be electronically recorded and retained for a period of sixty (60) days.

(2) The method of recording the wager must be approved by the commission.

(3) Such recordings must be made immediately available to any commission agent upon request.

(e)(1) All wagering account applications or amendments thereto for active accounts must be retained by the book.

(2) All wagering account applications or amendments thereto for rejected applications shall be retained by the book for no less than one (1) year following the rejection of the related application.

(3) All wagering account applications or amendments thereto for closed accounts shall be retained by the book for no less than one (1) year following the closure of the related wagering account.

(f) A race book shall not allow the use of a wagering account established pursuant to this section for forms of wagering other than off-track pari-mutuel horse race wagering unless:

(1) The establishment and use of the wagering account otherwise meets all of the requirements of this part; and

(2) Administrative approval has been granted by the commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2420. Account wagering systems.

Account wagering systems shall:

(1)(A) For systems that use other than voice-only wagering communications technology, provide for the patron's review and confirmation of all wagering information

before the wagering communication is accepted by the book.

(B) The system shall create a record of the confirmation.

(C) This record of the confirmation of the wager shall be deemed to be the actual transaction of record, regardless of what wager was recorded by the system;

(2) Prohibit wagers from being changed after the patron has reviewed and confirmed the wagering information, and the specific wagering communication transaction has been completed;

(3) Prohibit the acceptance of wagers after post time;

(4) Prohibit a book from accepting an account wager, or a series of account wagers, in an amount in excess of the available balance of the wagering account;

(5) Prohibit a book from accepting sports wagers and nonpari-mutuel horse race wagers from a patron while physically located outside the state;

(6) Post payment on winning account wagers as a credit to the patron's wagering account as soon as reasonably practicable after the event is declared official;

(7)(A) Maintain a completely separate wagering account for pari-mutuel horse race wagers.

(B) Wagering accounts for pari-mutuel sports wagers, nonpari-mutuel horse race wagers, and nonpari-mutuel sports wagers may be commingled in a single separate wagering account;

(8) Maintain complete records of every deposit, withdrawal, wager, winning payoff, and any other debit or credit for each account; and

(9) For systems that use other than voice-only wagering communications technology, produce a printable record of the entire transaction as required by this section and shall not accept any wagering communication or transaction if the printable record system is inoperable.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2421. Business entity wagering.

(a) A book shall notify the Arkansas Racing Commission in writing of its intent to

accept wagers from business entities which have met all of the applicable requirements of this part.

(b)(1) A book is prohibited from accepting wagers from a business entity unless all of the business entity's owners, directors, officers, managers, partners, holders of indebtedness, and anyone entitled to payments based on profits or revenues of the entity are fully disclosed.

(2) If the business entity is owned or controlled by one (1) or more holding companies, each of the holding companies' owners, directors, officers, managers, partners, holders of indebtedness, and everyone entitled to payments based on profits or revenues of the entity must be fully disclosed.

(c) A book which elects to accept wagers from business entities must conduct due diligence on each business entity from which the book will accept wagers which, at a minimum, includes, but is not limited to:

(1) Requiring the business entity to affirm that it has met all of the applicable requirements found in this part and that it is not established for the purpose of circumventing any applicable federal or state laws including, but not limited to, laws concerning illegal:

(A) Sports wagering;

(B) Electronic communications; and

(C) Money laundering;

(2) Ascertaining all equity owners, holders of indebtedness, directors, officers, managers, partners, anyone entitled to payments based on the profits or revenues, and any designated individuals; and

(3)(A) Ascertaining the natural person who is the source of funds for each contribution to the business entity.

(B) A book shall maintain records of the due diligence it performs on a business entity for no less than one (1) year following the closure of the wagering account of the business entity or for no less than one (1) year after rejection of a business entity wagering account application by the book.

(d) A book shall not accept wagers from a business entity if:

(1) The business entity does not make the affirmation or disclosures required by subsection (b) of this section or subdivision (c)(1) of this section;

(2) The book is unable to verify the identity of all the equity owners, holders of indebtedness, directors, officers, managers, partners, anyone entitled to payments based on the profits or revenues, and any designated individuals of the business entity; or

(3) The book is unable to verify the natural person who is the source of funds for each contribution to the business entity.

(e)(1) Upon receipt of updated information from a business entity, a book shall verify the updated information.

(2) If a book is unable to verify the updated information within thirty (30) days of the book's receipt of the updated information from the business entity, the book shall suspend the wagering account and not allow further wagering activity on the wagering account.

(f) A book shall require a business entity from which the book accepts wagers to provide:

(1)(A) For business entities from which the book accepts wagers aggregating more than five million dollars ($5,000,000) in a calendar year, an independent third-party verification concerning to whom the business entity made payments based on profits or revenues to ensure no payments were made to persons other than those permitted by this part to receive such payments.

(B) If the book does not receive a copy of the independent third-party verification prior to April 1 of the year following the year in which the business entity placed wagers in excess of five million dollars ($5,000,000), the book shall suspend the wagering account and not allow further wagering activity on the wagering account; or

(2)(A) For business entities from which the book accepts wagers aggregating five thousand dollars ($5,000,000) or less within a calendar year, an affirmation stating the business entity did not make payments based on profits or revenues to persons other than those permitted by this part to receive such payments.

(B) If the book does not receive such affirmation prior to April 1 of the

year following any year in which the business entity placed wagers with the book, the book shall suspend the wagering account and not allow further wagering activity on the wagering account.

(g)(1) A book shall report any violation or suspected violation of law or rule related to business entity wagering to the commission immediately.

(2) Such reporting shall include, but is not limited to, any violation or suspected violation of relevant federal laws such as The Interstate Wire Act, 18 U.S.C. § 1084, Part C of the Organized Crime Control Act of 1970, 18 U.S.C. § 1955, and Title 31 anti-money laundering laws.

(h)(1) A book may only accept wagering activity from a business entity, acting through one (1) or more designated individuals, through a wagering account established by the business entity and may only deposit winnings into such wagering account.

(2) The book must use an account wagering system for such wagering activity.

(3) The requirement to use an account wagering system will become effective upon the date approved by the commission.

(i) A book shall not extend credit to a business entity.

(j)(1) A book shall report the suspension or closure of a business entity wagering account to the commission within five (5) days of suspension or closure and shall include the reason for such suspension or closure in the report.

(2) A book shall report the reinstatement of a suspended business entity wagering account to the commission within five (5) days of reinstatement and shall include the reasons the book reinstated the wagering account.

(k) A book that accepts wagers from business entities shall adopt, conspicuously display at its premises, and adhere to house rules governing business entity wagering transactions.

(l) A book that accepts wagers from business entities shall implement policies and procedures designed to ensure that business entities' wagering accounts are used only to place book wagers.

(m)(1) As used in this section, "holding company" means any corporation, firm,

partnership, limited partnership, limited liability company, trust, or other form of business organization which, directly or indirectly owns, as defined in this part; controls, as defined in this part; or holds with power to vote any part of a business entity subject to this section.

(2) In addition to any other reasonable meaning of the words used, a holding company indirectly has, holds, or owns any power, right, or security if it does so through any interest in a subsidiary or successive subsidiaries, however many such subsidiaries may intervene between the holding company and the business entity subject to this section.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2422. Wagering account transactions.

(a) Except as otherwise provided herein, deposits, credits, and debits to wagering accounts shall be made in accordance with this part.

(b) Business entity wagering account deposits and withdrawals may only be made by transfers to and from the bank or financial institution account maintained by the business entity.

(c) Business entity wagering account deposits and withdrawals may not be made in cash.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2423. Gross revenue computations and layoff bets.

The amounts of wagers placed by a book and the amounts received by the book as payments on such wagers shall not affect the computation of the book's gross gaming revenue.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2424. Assigned agent.

(a) The Arkansas Racing Commission may at any time require a book to allow an agent of the commission to be permanently present on the book's premises during all hours of operation, and to require the costs and expenses for such agent to be borne by the book in a manner deemed reasonable by the commission.

(b) The agent shall have full and complete access to all books, records, and to any telephone conversations emanating from or received at the licensed premises.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2425. Records and forms.

(a) Books shall create and maintain the records and reports required by this subpart in such manner and using such forms as the Arkansas Racing Commission may require or approve.

(b) The commission may require books to create and maintain such other records and reports as are necessary or convenient for strict regulation of books.

(c) Except as otherwise provided in this subpart, books shall preserve the records required by this subpart for at least five (5) years after they are made.

(d) The commission may at any time examine and copy the records of any book.

(e) Each book shall comply with all other applicable rules of the commission to the extent not in conflict with this subpart.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

Subpart 25. Exclusions

23 CAR § 358-2501. Exclusions – Inimicals, cheats, career criminals — Definitions.

The following words and terms, when used in this subpart, shall have the following meanings unless the context clearly indicates otherwise:

(1) "Candidate" means any person whose name is included on the exclusion list;

(2) "Career or professional offender" means any person, whose behavior is pursued in an occupational manner or context for the purpose of economic gain, utilizing methods that constitute violations of the laws of the State of Arkansas;

(3) "Cheat" means any person whose act or acts in any jurisdiction would constitute any criminal offense relating to gaming play;

(4) "Excluded person" means any person who has been placed upon the List of Excluded Persons by order of the Arkansas Racing Commission and is required to be ejected from a gaming facility;

(5) "Inimical" means adverse, unfriendly, or hostile to the integrity of gaming;

(6) "List of Excluded Persons" means a list of names of persons who are required to be excluded or ejected from the licensee's premises; and

(7) "Occupational manner or context" means the systematic planning, administration, management, or execution of an activity for financial gain.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2502. Maintenance and distribution of list.

(a) The Arkansas Racing Commission shall maintain a list of persons to be excluded from a licensee's premises.

(b)(1) The list shall be distributed to every licensee in the State of Arkansas on at least a quarterly basis via email or United States Postal Service.

(2) Each licensee shall acknowledge receipt thereof by notifying the commission via email or correspondence.

(c) The following information and data shall be provided for each excluded person:

(1) The full name and aliases of the person to be excluded;

(2) A description of the person's physical appearance, including:

(A) Height;

(B) Weight;

(C) Type build;

(D) Color of hair and eyes; and

(E) Other physical characteristics which might assist in the identification of the person;

(3) Date of birth;

(4) The effective date of the order of exclusion; and

(5) A photograph, if obtainable, and the date of the photo or a photo taken by the licensee's surveillance department.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2503. Criteria for exclusion.

The exclusion list may include any person who meets the following criteria:

(1) A career or professional offender whose presence in a licensee's premises would be contrary to the interests of the State of Arkansas;

(2) An associate of a career offender or professional offender whose association is such that his or her presence in a licensee's premises would be inimical to the interest of the State of Arkansas;

(3) Any person whose presence in a licensee's premises would be inimical to the interest of the State of Arkansas, but not limited to:

(A) Cheats;

(B) Persons whose privileges for an Employee License have been revoked;

(C) Persons who pose a threat to the safety of patrons or employees of the licensee; and

(D) Persons with a documented history of conduct involving undue disruption of a licensee's operations.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2504. Procedure for entry of names.

(a) The Arkansas Racing Commission shall, on its own initiative, or upon referral by the licensee, investigate or review any individual who would appear to be an appropriate candidate for placement on the exclusion list.

(b) An agent or other representative of the commission may conduct the investigation and place any candidate for exclusion on the list and notify that person.

(c) The commission administrator or designee shall, within thirty (30) days of placement thereon, affirm the decision of the commission representative to place an individual on the exclusion list, or the person's name shall be removed from the list.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2505. Duty of licensee regarding excluded persons.

(a) A licensee shall exclude or eject any person that has been placed on the exclusion list.

(b) If an excluded person enters, attempts to enter, or is in a licensee premises and is recognized by the licensee personnel, the licensee personnel shall immediately notify the Arkansas Racing Commission.

(c) It shall be a continuing duty of licensee to inform the commission of the names of persons it believes are appropriate candidates for placement on the exclusion list.

(d) Each licensee shall have the right to exclude undesirable individuals from its premises, and without limiting the generality of the forgoing, each licensee may have the person whose name appears on the exclusion list removed from the licensee premises or may press trespass charges against the individual.

(e)(1) Any excluded person who has engaged in gaming activity at a licensee's premises prior to detection and whose gaming has resulted in a win by the excluded patron, shall forfeit all winnings immediately upon detection of the excluded person by the licensee or commission.

(2) A licensee shall not reimburse the excluded person for any losses incurred while the excluded person engaged in gaming activity.

Authority. Arkansas Constitution, Amendment 100, sec. 4.

23 CAR § 358-2506. Removal from the exclusion list.

(a) An excluded person may petition the Arkansas Racing Commission to remove his or her name from the exclusion list.

(b) The petition for removal shall state with specificity the grounds believed by the petitioner to constitute good cause for the removal from the list.

(c)(1) The commission or designee may decide the petition on the basis of the documents submitted or grant the petitioner a hearing.

(2) A hearing shall be granted only upon a finding that there is new evidence which is material and necessary, or that circumstances have changed since the placement of the excluded person on the list.

(3) All exclusion decisions may be appealed to the commission.

Authority. Arkansas Constitution, Amendment 100, sec. 4.