

Part 4500 of 9 NYCRR is amended to read as follows:

Subchapter G. [Internet and Telephone] Account Wagering

PART 4500

[Internet and Telephone] Account Wagering

Section

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§ 4500.1. Definitions and general provisions.

[The] In addition to the definitions set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1001, which shall apply to this Part, the following words and terms, when used in this Subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

(a) *Account* means a formal record of all transactions (debits, wagers, deposits, withdrawals and credits) initiated by an account holder in a wagering account with an [authorized pari-mutuel wagering entity] account wagering licensee.

(b) *Account activity* means any deposit, withdrawal, wager or other transaction made by the account holder.

[(b)] (c) *Account holder* means a natural person authorized by an [authorized pari-mutuel wagering entity] account wagering licensee to place wagers via account wagering.

[(c)] (d) *Account wager* means a wager placed by means of account wagering. An account wager may be made by the account holder in person, via telephonic device or by the internet or by communication through other electronic means.

[(d)] *Account wagering* means pari-mutuel wagering in which an individual deposits money in an account with an authorized pari-mutuel wagering entity to be used for pari-mutuel wagering authorized by law to be conducted by the authorized pari-mutuel wagering entity].

(e) *Account wagering center* means the facility or facilities with the capability of accepting account wagers [utilizing] using wired or wireless communications devices, including but not limited to wireline telephones, wireless telephones, and the internet, to transmit the placement of wagers on races and special events.

[(f)] *Account activity* means any deposit, withdrawal, wager or other transaction made by the account holder.]

[(g)] *Authorized pari-mutuel wagering entity* means a corporation or association that is duly licensed by the commission or holds a franchise to conduct pari-mutuel wagering and simulcasting activity.

[(h)] *Commission* means the New York State Gaming Commission.]

[(i)] *Dormant account* has the meaning set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1001(s).]

[(f)] *Electronic signature* shall mean an electronic sound, symbol, or process that is attached to or logically associated with an electronic record and is executed or adopted by a person with the intent to sign the record.

[(k)] *Racing law* means title 47A of the consolidated laws of the State of New York, the New York State Racing, Pari-Mutuel Wagering and Breeding Law.]

[(i)] (g) *Internet* means a computer network consisting of a worldwide network of computer networks that use the TCP/IP network protocols to facilitate data transmission and exchange.

[(j)] (h) *Official* means a [representative(s)] representative of the commission.

(i) *PIN* means a personal identification number associated with an account.

[(l)] (j) *Regional off-track-betting corporation* means a corporation created pursuant to section 502 or section 603 of the [New York State] Racing, Pari-Mutuel Wagering and Breeding Law.

[(m)] (k) *Report* means a summary of wagering activity or other written record prepared pursuant to this subchapter.

[(n)] (l) *Stored value instrument* means funds or monetary value represented in digital electronics format (whether or not specially encrypted) and stored or capable of storage on electronic media in such a way as to be retrievable and transferable electronically.

[(o)] (m) *Totalisator system* means a computer system that registers and computes the wagering and payoffs in pari-mutuel wagering.

[(p)] (n) *Wagering device* means a device enabling the placing of wagers.

§ 4500.2. [Account] Licensing account wagering [services, general].

(a) An [authorized pari-mutuel wagering entity] account wagering licensee may offer a system of account wagering [whereby] in which wagers and withdrawals are debited and winning payoffs and deposits are credited to an account held by an [authorized pari-mutuel wagering entity] account wagering licensee on behalf of an account holder provided:

[(a)] (1) [Prior] prior commission approval is granted for the account wagering system[;],which shall be conducted in accordance with a written plan of operation submitted by such licensee and approved by the commission. Such plan of operation shall include, at a minimum:

(i) systems of processing wagers;

(ii) internal controls for account wagering;

(iii) appropriate totalisator and accounting contracts that safeguard the transmission of wagering data;

(iv) a plan for system security that includes but is not limited to the use of access encryption and firewalls;

(v) account wagering rules; and

(vi) a plan for a recording for each transaction on a system separate from the totalisator system;

[(b)] (2) [Accounts] accounts are restricted for wagering and related purposes only; and

(3) the commission has duly licensed the account wagering provider.

[(c)] (b) Account wagers that are accepted by a New York racing association, racing corporation or franchised corporation are deemed for distribution purposes to be on-track wagers [for those] of such wagering entities [licensed or franchised pursuant to Articles II, III or IV and Section 1007 of the Racing, Pari-Mutuel Wagering and Breeding Law, and are deemed to be] and not simulcast wagers [for those licensed pursuant to Sections 1008 or 1009 of the Racing, Pari-Mutuel Wagering and Breeding Law]. Account wagers that are accepted by any partnership or joint venture or other affiliation or contractual arrangement formed pursuant to Racing, Pari-Mutuel Wagering and Breeding Law section 1012(1) shall follow the distributional policy of Racing, Pari-Mutuel Wagering and Breeding Law section 1012(1) or 1012(1-a), whichever applies.

(c) In order to offer account wagering, the account wagering provider must be licensed annually by the commission to provide both simulcast wagering and account wagering services.

(d) An account wagering provider must obtain a separate account wagering license for each account wagering platform that such provider operates in conjunction with another entity or that such provider markets to bettors as a distinct wagering platform.

(e) Applications for annual licenses for simulcast and account wagering shall be made in a form and manner determined by the commission.

(f) The applicant shall submit the required application fees with its simulcast and account wagering license applications, as follows:

(i) Simulcast license fee. Each applicant shall pay an annual simulcast application fee in the amount prescribed by Racing, Pari-Mutuel Wagering and Breeding Law section 1003(1)(a). If the commission does not issue a simulcast license or approve a given facility, then the related application fee shall be refunded.

(ii) Account wagering license fee. Each applicant shall pay an annual account wagering application fee of \$2,000. Such fee shall be non-refundable, as prescribed by Racing, Pari-Mutuel Wagering and Breeding Law section 1012(3).

An application for any license may be denied if the applicant has failed or refuses to pay the required application and related fees.

(g) In considering an application for a license, the commission shall review the application and issue licenses in accordance with the standards set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 307(5)(a), which standards shall be applicable to the applicant and its related individuals and entities described in such provision.

(h) Pending final determination of any question, the commission may issue a temporary license upon such terms and conditions as it may deem necessary, desirable or proper to effectuate the provisions of the Racing, Pari-Mutuel Wagering and Breeding Law and this Part.

(i) A refusal to issue a license shall be subject to adjudication in accordance with the provisions of Part 4550 of this Chapter.

[§ 4500.3. Approval of account wagering.

Authorized pari-mutuel wagering entities are authorized to conduct account wagering pursuant to the written plan of operation approved by the commission. The plan of operation shall include, at a minimum:

(a) Systems of processing wagers.

(b) Internal controls for account wagering.

(c) System security that shall include but not be limited to the use of access encryption and firewalls.

(d) Account wagering rules.

(e) Provide for a recording for each transaction on a system separate from the totalisator system.]

§ 4500.3. Multi-jurisdictional account wagering providers; additional provisions

(a) A multi-jurisdictional account wagering provider shall be licensed only under the additional terms and conditions set forth in Racing, Pari-Mutuel Wagering and Breeding Law sections 1012-a(1) through 1012-a(5).

(b) The commission may issue a temporary license to a multi-jurisdictional account wagering provider that is not yet registered to do business in New York State, provided that such applicant has agreed to take promptly those steps necessary to qualify to do business in New York State and to maintain such status in good standing throughout the license period, pending the commission's final determination of such provider's license applications.

(c) Multi-jurisdictional account wagering providers shall pay, in a form and manner determined by the commission, a monthly market origin fee as prescribed in Racing, Pari-Mutuel Wagering and Breeding Law section 1012-a(6).

(d) Each individual, in order to participate in the New York operations of the multi-jurisdictional account wagering provider, or to participate in such provider's affairs as a director, officer or manager, must hold a valid occupational license from the commission.

(e) In investigating, conducting inspections and ensuring compliance with the rules and regulations of the commission, as prescribed in Racing, Pari-Mutuel Wagering and Breeding Law section 1012-a(4), the commission may at a reasonable time on any date enter the premises of a multi-jurisdictional account wagering provider to conduct an examination and analysis of such provider's books, records and other property, including without limitation such provider's:

(1) written books and records and its computer systems and records, to verify its accounting records and business practices;

(2) written and computerized records and operational systems on its computers; and

(3) facilities, with complete access including to all of its equipment, activities, structures and other property.

Such examination and analysis by the commission may include a forensic review by accountants of such provider's financial books and operational records and may be repeated to investigate possible material changes in relation to alterations or renewals of such provider's licensing status. The commission may initiate any such investigation and inspection at random, for cause, or as determined by an executive official or commissioner of the commission. The commission shall notify the multi-jurisdictional account wagering provider before arriving to conduct an investigation or inspection and, upon arriving, the commission's agents, employees and designees shall provide identification and notice to such provider that the investigation and inspection is conducted pursuant to this section. Such provider immediately shall assist any such investigation and inspection by providing full and timely disclosure of all requested information and full access to all facilities, books, records and other property, including without limitation computers, equipment, structures, bank records, financial books and records, wagering records, wagering account holder information and such other documents and information as may reasonably be requested by the person or persons conducting the investigation and inspection. The disclosure of such records and information by such provider shall not constitute a waiver of any trade secret or other confidentiality rights of such provider.

§ 4500.4. Establishment of an account.

(a) Accounts shall be used for wagering and related purposes only.

(b) Account wagering licensees [Authorized pari-mutuel wagering entities] may [establish/open] establish accounts for individuals provided the following minimum requirements are met:

(1) An account holder shall be a natural person 18 years of age or older.

(2) Accounts may be opened in accordance with procedures set forth in a plan of operation approved by the commission.

(3) An account [holders] holder shall provide [their] his or her age, principal residential address, mailing address (if different), phone number, social security number and date of birth.

(4) [Application shall be signed attesting to its accuracy.] The account holder must have completed an application as set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1012(8)(b). In the case of an online application, the applicant shall provide an electronic signature to attest to the accuracy of the information provided.

(5) Except in the case of an online application, the name of each new account holder [will] shall be confirmed in accordance with the Federal government's standards for evaluating and confirming government issued identification and credentials (U.S. Department of Homeland Security Employment Verification Form I-9). A copy of each properly validated credential [will] shall be maintained with the appropriate account application. A copy of a social security card is not required to be maintained at the time of the application if the number is verified with a credit reporting agency and such report is maintained with the account application. In the case of an online application, the [pari-mutuel wagering entity] account wagering licensee shall verify the applicant's identity using, at a minimum, the name, address, social security number and date of birth of the applicant through a credit reporting agency, public database[,] or similarly reliable sources as provided for in the plan of operation. If there is a discrepancy between the minimum information submitted and the information provided by the electronic verification described above or if no information on the applicant is available from such electronic verification, then the [pari-mutuel wagering entity] account wagering licensee shall not open the account and shall require verification through the Federal government's standards for evaluating and confirming government issued identification and credentials (U.S. Department of Homeland Security Employment Verification Form I-9). In addition, a multi-jurisdictional account wagering provider shall use the services of an independent third party to perform identity and verification services with respect to establishing an account for any person who is a resident of the State of New York, as prescribed by Racing, Pari-Mutuel Wagering and Breeding Law Section 1012-a(3).

[(6) Account is non-transferable.]

[(7)] (6) The [authorized pari-mutuel wagering entity] account wagering licensee shall issue a card or other document representative of the account.

[(8)] (7) The [authorized pari-mutuel wagering entity] account wagering licensee shall provide to the account holder rules governing the conduct of account wagering.

[(9)] (8) The [authorized pari-mutuel wagering entity] account wagering licensee shall notify the account holder whenever rules have changed and provide a copy of such changes.

[(10)] (9) The [authorized pari-mutuel wagering entity] account wagering licensee may require a minimum balance consistent with their internal controls.

[(11)] (10) Bank account number and other necessary information shall be provided if the account holder desires to make electronic fund transfers.

An application may be accepted or rejected by the account wagering licensee as set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1012(8)(c).

[(b)] (c) *Bearer Accounts.*

(1) Notwithstanding the provisions of subdivision [(a)] (b) of this section, an [authorized pari-mutuel wagering entity] account wagering licensee may establish an account for a customer without collecting the information found in paragraphs [(a)(2)-(5)] (2) through (5) of subdivision (b) of this section provided that:

(i) [The] the account can [only] be used only in person through a teller or [self service] self-service machine at a duly approved location; and

(ii) [The] the account cannot be used for internet and telephone wagering.

(2) The [authorized pari-mutuel entity] account wagering licensee shall issue [a] an account card (or other document representative of such account) and PIN for each bearer account.

(3) The [authorized pari-mutuel entity] account wagering licensee may establish guidelines for the expiration of such accounts consistent with its approved plan of operation.

(4) A wager placed through a bearer account cannot be cancelled once the account holder has accepted [it] such wager and [it] such wager has been processed by the [authorized pari-mutuel wagering entity] account wagering licensee.

(5) [All] In addition to the requirements of Racing, Pari-Mutuel Wagering and Breeding Law section 1012, all other provisions of this [Subchapter] Part shall apply to bearer accounts, [except] with the exception of the following:

(i) withdrawals shall be made only in person [and may be paid in cash to the] by the person bearing the account card (or other document [issued in paragraph (2) of this subdivision and after] representative of such account), upon verification of the PIN, at a facility approved by the commission;

(ii) account statements pursuant to section 4500.13 of this Part are not required to be mailed but must be made available to the person possessing the card issued in paragraph (2) of this subdivision;

(iii) the provisions of sections 4500.5 and 4500.6 of this Part do not apply; and

(iv) accounts shall [only] be closed only in person by the account holder by presenting the account card [issued] (or other document representative of such account) and after verification of the PIN or pursuant to other applicable provisions of the law.

§ 4500.5. Official address.

The address listed on the account wagering application is deemed the account holder's official address for purposes of this section. The [authorized pari-mutuel wagering entity] account wagering licensee shall use the official address for all mailings, including notices, checks, withdrawal slips, account statements and other correspondence.

§ 4500.6. Changes to account information.

The [authorized pari-mutuel wagering entity] account wagering licensee shall provide a method for the account wagering holder to make official changes to his or her account information. The method shall include the name, date, address, [and] social security number, account wagering identification number, PIN and signature.

§ 4500.7. Right to refuse an account.

(a) The [authorized pari-mutuel wagering entity] account wagering licensee may [exclude anyone from opening] refuse an account to anyone, based on business judgment.

(b) The [authorized pari-mutuel wagering entity] account wagering licensee shall refuse an account to:

- (1) known or reputed bookmakers;
- (2) any person who engages in any activity that is deemed to be a gambling offense as defined in Article 225 of the Penal Law of the State of New York;
- (3) a known fugitive from justice; and
- (4) persons on the entity's self-exclusion list.

§ 4500.8. Segregation of funds.

The [authorized pari-mutuel wagering entity] account wagering licensee shall, upon receipt of money from account holders and related winning wagers, deposit such money within 72 hours in a segregated bank account, kept and maintained by the [authorized pari-mutuel wagering entity] account wagering licensee until appropriately distributed.

§ 4500.9. Conduct of wagering.

(a) Account wagers shall be transacted through only an account wagering center.

(b) The [authorized pari-mutuel wagering entity] account wagering licensee may accept account wagers via any wired or wireless communications device, including but not limited to wireline telephones, wireless telephones, and the internet subject to applicable laws, rules and [the] its approved plan of operation.

(c) The account wagering licensee shall not permit any person other than the person in whose name an account has been established to issue wagering instructions relating to that account or otherwise engage in wagering transactions relating to that account.

[(c)] (d) The [authorized pari-mutuel wagering entity] account wagering licensee shall:

- (1) require the account holder to provide the account wagering identification number and PIN before an account wager is accepted;
- (2) confirm all account wagering transactions before acceptance of an account wager;
- (3) verify that the account has sufficient funds to pay for the wager. No wager or portion of wager shall be accepted if the account fails to have sufficient funds to cover the wager;
- (4) debit the total amount of the wager from the account immediately after verifying the wager;
- (5) not accept any account wager if the recording devices are inoperable; and
- (6) not cash or accept any public assistance check or electronic benefit transfer device issued by a public welfare official or department, or agent thereof, as and for public assistance, as proscribed by section 151 of the Social Services Law. Any entity that violates this paragraph shall be disciplined by the commission. Such discipline may include one or more of the following actions:
 - (i) revocation of a license;
 - (ii) suspension of a license;
 - (iii) a fine; or
 - (iv) issuance of a public or private letter of reprimand to be placed in the file of the licensee.

(e) The account wagering licensee may permit an account wager to be cancelled before the start of the race but after such licensee has accepted and processed such wager, subject to the following limitation: for wagers greater than \$500 in win, place and show pools on any betting entry, and for wagers greater than \$50 on any one combination in multiple, exotic or super-exotic pools, the account holder's request to cancel shall be referred to such licensee's management. Management shall refuse any cancellation that may cause substantial altering of odds, prices or betting totals, and shall certify in writing to the commission its finding either accepting or rejecting such request.

§ 4500.10. Record of wager; pari-mutuel tickets.

For purposes of this [section] Part, all wagers placed through the account wagering system are deemed pari-mutuel tickets and are subject to all rules and laws governing pari-mutuel tickets.

§ 4500.11. Withdrawals and other debits to accounts.

(a) [Excepting] For all accounts except bearer accounts, withdrawals may be made by completing a request for withdrawal [in accordance with procedures set forth in a plan of operation approved by the

commission. The request for withdrawal shall include, at a minimum:] from the account wagering account, consistent with the account wagering licensee's plan of operation, by only the means set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1012(5).

- [(1) the account holder's name,
- (2) account identification number,
- (3) account holder's signature, (except for electronic fund transfers) and
- (4) date the request for withdrawal was made.

(b) Fund transfers may be made via alternate means pursuant to an approved plan of operation.

(c) (b) Withdrawals can be for all or any portion of the account holder's balance.

[(d)] (c) The [authorized pari-mutuel wagering entity] account wagering licensee shall process all requests for withdrawals made via mail within five business days of receiving the request. All other requests for withdrawals shall be processed immediately. If the request is incomplete or required information is missing, the [authorized pari-mutuel wagering entity] account wagering licensee must notify the account holder of the required information as soon as possible.

[(e)] (d) If the account does not contain sufficient funds to cover the requested withdrawal, the [authorized pari-mutuel wagering entity] account wagering licensee shall release the remaining funds and notify the account holder.

§ 4500.12. Credits to accounts

(a) [Deposits to existing accounts may be made by an account holder in the form of cash, cash equivalent, check, or other method as specified in the plan of operation.] As prescribed by Racing, Pari-Mutuel Wagering and Breeding Law § 1012(7), the account holder's deposits to the wagering account shall be submitted by the account holder to the account wagering licensee and shall be in the form of one of the following:

- (1) cash given to the account wagering licensee;
- (2) check, money order, negotiable order of withdrawal, or wire or electronic transfer, payable and remitted to the account wagering licensee; or
- (3) charges made to an account holder's debit or credit card upon the account holder's direct and personal instruction, which instruction may be given by telephone communication or other electronic means to the account wagering licensee or its agent by the account holder if the use of the card has been approved by the account wagering licensee.

(b) Deposits shall be credited to the account promptly after receipt and verification of funds.

(c) Funds from winning wagers shall be credited to the account immediately after a race is declared official. [However, funds] Funds from winning wagers subject to Internal Revenue Service reporting requirements, however, shall be held and not available for use until compliance with applicable Internal Revenue Service reporting requirements.

(d) Credits for other transactions are [only] permitted only to the extent of the account wagering licensee's approved plan of operation.

§ 4500.13. Account statements.

(a) The [authorized pari-mutuel wagering entity] account wagering licensee shall no less than once per calendar month make available a statement to each account holder detailing the month's beginning and ending balances and each debit and credit by date.

(b) Upon written demand, the [authorized pari-mutuel wagering entity] account wagering licensee shall make available to the account holder any monthly statement from the current or the previous calendar year.

(c) Upon written demand, the [authorized pari-mutuel wagering entity] account wagering licensee shall make available to the account holder a statement beginning on the last day of the prior period through the date of written demand.

§ 4500.14. Recordkeeping.

(a) The [authorized pari-mutuel wagering entity] account wagering licensee shall [maintain a] keep a system of accounts that maintain a separate record of revenues and an accounting of costs in regard to the operation of the wagering provider. This system shall include a correct and complete record of every deposit, withdrawal, wager, winning payoff and other credit and [debts] debit to [an] each wagering account for a period of three years. In addition, the account wagering licensee shall keep such records segregated according to its operations involving wagering accounts held by residents of New York State.

(b) The [authorized pari-mutuel wagering entity] account wagering licensee shall ensure that wagers are accepted only at designated telephone numbers and account wagering centers.

(c) The [authorized pari-mutuel wagering entity] account wagering licensee shall record account wagering accounts as a separate liability on its books and records.

§ 4500.15. Confidentiality of accounts.

The [authorized pari-mutuel wagering entity] account wagering licensee, its employees and agents may not divulge any account information without the express written permission of the account holder except to the commission, by commission order, or as may otherwise be prescribed by law.

§ 4500.16. Closing of accounts.

Excepting bearer accounts, accounts may be closed at the request of an account holder made in-person or by mail or other method consistent with the plan of operation. For those requests made by mail, [authorized pari-mutuel wagering entities] account wagering licensees shall mail to the account holder's official address or send via electronic funds transfer to the account specified in the account wagering application all funds within five business days of receiving such request. All other requests shall be processed immediately.

§ 4500.17. Dormant accounts.

The authorized pari-mutuel wagering entity shall deactivate all accounts if there is no account wagering activity during a period of 36 consecutive months. [All monies in such dormant accounts shall be distributed in accordance with section 1012 of the Racing, Pari-Mutuel Wagering and Breeding Law.] Such dormant accounts shall be treated as abandoned property pursuant to section 300 of the Abandoned Property Law, as prescribed by Racing, Pari-Mutuel Wagering and Breeding Law section 1012(11).

§ 4500.18. Surcharge.

Any regional off-track-betting corporation may suspend surcharge of accounts pursuant to section 1012 of the Racing, Pari-Mutuel Wagering and Breeding Law and consistent with such corporation's plan of operation.

§ 4500.19. Vouchers.

A voucher is a document or card produced by a pari-mutuel system device, with a value printed on its face, that is recorded in and redeemed through the pari-mutuel system.

(a) Vouchers are not accounts or account wagers for purposes of this section.

(b) Vouchers may only be used to place wagers in-person and only pursuant to an approved plan of operation.

§ 4500.20. Reports to commission.

No later than March 15 of each year, the [authorized pari-mutuel wagering entity] account wagering licensee shall file with the commission a report detailing the following for the previous calendar year in which account wagering was offered:

(a) total handle bet through the account wagering system;

(b) total handle segregated by telephone, internet and other means;

(c) total handle segregated by track;

(d) the beginning number of accounts, total accounts opened and closed and the ending number of accounts; and

(e) any other report as may be prescribed by the commission.

§ 4500.21. Yearly audit.

[Authorized pari-mutuel wagering entities] Account wagering licensees shall audit or cause to have audited the account wagering system data input and account updates not less than once during each calendar year. Such reports shall be provided to the commission upon request.

§ 4500.22. [Disputes/complaints/adjustments] Disputes, complaints and adjustments.

(a) Subject to applicable laws, customer disputes concerning account transactions shall be addressed by the mutuel department supervisor, or such other pari-mutuel supervisor as may be designated by the [authorized pari-mutuel wagering entity's] account wagering licensee's management. Such designation must be in writing. The mutuel department supervisor or appropriate designee shall approve all final resolutions of account disputes. Documentation of all disputes and final resolutions shall be maintained by the [authorized pari-mutuel wagering entity] account wagering licensee for a period of three years from the end of the year the dispute was resolved.

(b) Disputed transactions that lead to an adjustment shall be audited by internal audit within 30 days of the adjustment.

§ 4500.23. Cooperation with officials.

If the commission determines that a certain computer printout, mutuel report, or other totalisator or mutuel record is needed to perform the official's regulatory duties, the official shall request the item from the mutuel manager or his or her designee and/or totalisator company representative. On receipt of a request under this section, the mutuel manager and/or totalisator company representative shall make the information available to the official no later than the deadline established by the official or provisions of this Subchapter.