

## NOTICE OF PUBLIC HEARING

A public hearing will be held by the Ohio Casino Control Commission (“Commission”) on **Wednesday, June 22, 2022 at 2:00 p.m.** at its main office, located at 100 E. Broad Street, 20<sup>th</sup> Floor, Columbus, Ohio 43215. The purpose of the hearing is to solicit public comment on the rules contained in ERF package number 192782, 192772, 192773 summaries of which are below.

All interested parties are invited to attend the hearing and present testimony. Written comments may also be submitted to the attention of William Cox, Deputy General Counsel, Ohio Casino Control Commission, at 100 E. Broad Street, 20<sup>th</sup> Floor, Columbus, OH 43215, or by electronic mail at [rulecomments@casinocontrol.ohio.gov](mailto:rulecomments@casinocontrol.ohio.gov).

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### Rule Summaries

These rules are the Commission’s third batch of sports gaming rules, related to the sports gaming involuntary exclusion list, type C sports gaming proprietor and host licensure, voluntary exclusion program, and independent integrity monitoring. The rules are adopted pursuant to House Bill 29 of the 134<sup>th</sup> General Assembly (“HB 29”). That bill set a comprehensive licensing and regulatory framework for sports gaming, under the jurisdiction and broad rulemaking authority of the Commission. The bill also requires that this business sector start by January 1, 2023, under the Commission’s regulation. To implement HB 29 in a timely manner, Commission staff is advancing the below rules for approval. The summaries of the rules for consideration are detailed below.

#### *Involuntary Exclusion*

- **3775-1-09 (new), titled “Sports gaming involuntary exclusion list.”** This rule governs the sports gaming involuntary exclusion list and contains explicit statements that individuals on the list cannot enter a sports gaming facility and are prohibited from participating in sports gaming in the state. Under this rule, a sports gaming proprietor must notify the Commission if an individual on the involuntary exclusion list has entered the facility or has engaged in sports gaming conducted by the proprietor in Ohio. This rule does not preclude a sports gaming proprietor from ejecting an individual for any lawful reason. The purpose of this rule is to implement sections 3772.031, 3772.04, and 3775.13 of the Revised Code, which require the Commission to operate an involuntary exclusion list that proprietors must implement and abide by.

#### *Type C Sports Gaming Licensing*

- **3775-4-04 (new), titled “Type C sports gaming proprietor licensure.”** This rule governs the application and licensure of type C sports gaming proprietors. The rule states that these applicants must complete any applicable forms, pay an application fee of fifteen

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thousand dollars, and establish their suitability by clear and convincing evidence. In evaluating an applicant, the Commission will consider several statutory factors and factors common in the gaming industry, including those related to suitability and economic development. In addition, the rule outlines certain statutory requirements licensees must undertake upon licensure, including payment of license fees and a surety bond to ensure all annual-installment license fees are made. Lastly, the rule requires licensees to enter a valid a contract with the state lottery commission to operate lottery sports gaming pursuant to Chapters 3770 and 3775 of the Revised Code. The purpose of this rule is to implement R.C. sections 3770.24, 3775.03, 3775.04, and 3775.041 and to ensure that only eligible, suitable, and otherwise qualified persons are operating sports gaming self-service or clerk-operated sports gaming terminals in Ohio.

- **3775-4-07 (new), titled, “Type C sports gaming host licensure.”** This rule governs the application and licensure of type C sports gaming hosts. The rule states that these applicants must complete any applicable forms and pay an application fee of one thousand dollars. In evaluating an applicant, the Commission will consider several factors, including, whether the applicant has been issued a liquor permit or lottery sales license in the state. In addition, the Commission will consider whether the applicant has or will enter into an agreement with a type C sports gaming proprietor to offer sports gaming at its facility and whether the lottery commission recommends the applicant. Lastly, the rule describes the procedure for requesting renewal of a host license. The purpose of this rule is to implement R.C. sections 3770.25, 3775.03, 3775.04, and 3775.07 and to ensure that only eligible persons are engaged in offering self-service or clerk-operated sports gaming terminals in their Ohio liquor permit premises.

#### *Voluntary Exclusion Program and Responsible Gambling Plans*

- **3775-12-01 (new), titled, “Sports gaming voluntary exclusion program.”** This rule states that the sports gaming voluntary exclusion program (“VEP”) established by R.C. 3775.02 is to be operated in the manner described in chapter 3772-12 of the Administrative Code which governs the Ohio VEP. The Ohio VEP is the combined VEP governing the state’s casinos, video lottery terminal facilities, and now sports gaming facilities. The purpose of this rule is to implement Chapter 3775.02 of the Revised Code and to provide a consistent set of rules governing the state’s VEP.
- **3772-12-01 (amendment), titled, “Definitions, purpose, and scope of the Ohio voluntary exclusion program.”** This rule governs the establishment of the Ohio voluntary exclusion program, of the “Ohio VEP,” administered in tandem with the Lottery Commission. Participants in the Ohio VEP agree to exclude themselves from all casino facilities and video lottery terminal facilities in the state, called “excluded facilities.” The rule also provides that participation in the program does not prohibit anyone from entering an excluded facility for purposes of employment. The amendment adds the sports gaming voluntary exclusion program to the combined “Ohio VEP”. In addition, the amendment adds sports gaming facilities to the list of “excluded facilities”.

Lastly, the amendment defines “Excluded entity” which includes all casino facilities, video lottery terminals, and all sports gaming conducted by sports gaming proprietors in the state. The purpose of this rule is to implement the Ohio VEP, while leaving open employment options for the participating individuals along with helping curtail disordered gambling in the state. Moreover, the rule, and this Chapter in general, is part of the Commission required rules under both R.C. 3772.03 and 3775.02.

- **3772-12-02 (amendment), titled, “Ohio VEP application.”** This rule details the method to apply for the Ohio VEP, the minimum lengths of time applicants may select for exclusion, and that if an individual completes the application while impaired then it will be rejected. The amendment expands application availability by creating an online VEP portal system which can be used to submit an Ohio VEP application, including amending certain aspects of the commissions’ staff duties—which will be automated when individuals sign up via the online portal. The purpose of this rule is to give patrons who feel they may have a gambling problem the ability to voluntarily exclude themselves for the individual’s selected minimum length of time, aiding in combatting disordered and problem gambling in Ohio. Moreover, the rule, and this Chapter in general, is part of the Commission required rules under both R.C. 3772.03 and 3775.02.
- **3772-12-03 (amendment), titled, “Responsibilities of voluntarily excluded individuals.”** This rule details the obligations of excluded individuals during their selected exclusion period. It also details the consequences for an excluded individual should the individual violate the terms of the program, including potential criminal trespass charges and the forfeiture of anything of value that has been converted into or attempted to be converted into a wagering instrument. The rule also states that a participant may always request to extend the length of exclusion but may not seek to shorten the minimum length of said exclusion. The amendment mainly adds language to streamline and incorporate the sports gaming voluntary exclusion program into the rule. The amendment also discerns the location of where seized funds will be deposited. For example, seized assets at a casino facility will be deposited in the state problem gambling fund and seized funds at a lottery terminal facility will be deposited to the state lottery for use in problem gambling prevention. All other seized assets, including those related to online sports gaming, will be deposited into the problem sports gaming fund. Lastly, the amendment clarifies that a sports gaming wager that is pending at the time of a participant’s enrollment into the Ohio VEP may not be cancelled by either party. The purpose of this rule is to ensure that individuals participating in the Ohio VEP follow the rules of the program, hopefully assisting them on their journey to responsible gambling. Moreover, the rule, and this Chapter in general, is part of the Commission required rules under both R.C. 3772.03 and 3775.02.
- **3772-12-04 (amendment), titled, “Responsibilities of excluded entities or facilities.”** This rule prescribes the minimum responsibilities of excluded entities and facilities to ensure compliance with the Ohio VEP. The rule provides that excluded entities and facilities must maintain a system for indicating whether an individual is in the Ohio VEP and that the entities must check and update their database with changes to the list at least once every seven days. The rule also currently describes the reporting procedures for

when an Ohio VEP individual is found on the premises of a casino. The amendment streamlines language, adds “excluded entities”, and adds that those VEP members found to be engaging in sports gaming through an online sports pool must be reported to the Commission within 72 hours—while retaining immediate notification for casino, where the Commission has law enforcement officers staffed 24/7. The amendment also requires excluded entities and facilities to provide a quarterly report of the number of Ohio VEP participants who were denied entry or sign-in to a casino facility, sports gaming facility, or online sports pool—helping the commissions study the efficacy of the program. Lastly, the amendment explicitly states no pending wager can be voided by either party during the participant’s enrollment in the Ohio VEP. The purpose of this rule is to ensure that casino and sports gaming facilities help individuals on the VEP on their journey to responsible gambling. Moreover, the rule, and this Chapter in general, is part of the Commission required rules under both R.C. 3772.03 and 3775.02.

- **3772-12-05 (amendment), titled, “Removal from the Ohio voluntary exclusion program.”** This rule prescribes how participants in the Ohio VEP may remove themselves from the program. The rule states that participants will not automatically be removed from the program upon the expiration of the selected exclusion; rather each participant must request removal from the Ohio VEP. The amendment removes the requirement that lifetime VEP members must undergo a problem gambling assessment with a medical professional prior to being removed from the program, as the commission is working on educational videos and materials that will instead be incorporated into the Ohio VEP portal for all participants seeking enrollment or removal in the program. The purpose of this rule is to ensure an efficient VEP removal process, while providing for appropriate safeguards, including requiring an individual to make an affirmative choice to opt back into gambling. Moreover, the rule, and this Chapter in general, is part of the Commission required rules under both R.C. 3772.03 and 3775.02.
- **3772-12-06 (amendment), titled, “Disordered and problem gambling plan.”** This rule details the procedures that must be included in each excluded entity’s and excluded facility’s disordered and problem gambling plan, as it relates to their status as an entity regulated by the Commission. This rule provides procedures regarding the implementation and enforcement of the Ohio VEP, providing responsible gambling materials to patrons, and the excluded entity’s and excluded facility’s commitment to preventing underage gambling and gambling by persons who are impaired by drugs or alcohol. The amendment replaces the term “compulsive gambling” with “disordered gambling,” which respects the updated appropriate terminology in this area. In addition, the amendment adds those sports gaming excluded entities and facilities to the list of those that must submit the plan. Lastly, the amendment further clarifies the information which must be provided to the Commission in the quarterly and annual reports. The purpose of this rule is to ensure that excluded entities and facilities are aiding the Commission in productively combatting disordered and problem gambling. Moreover, the rule, and this Chapter in general, is part of the Commission required rules under both R.C. 3772.03 and 3775.02.
- **3772-12-07 (amendment), titled, “Prior voluntary exclusions.”** This rule is a

grandfather provision that allows participants who joined the OCCC VEP prior to March 1, 2019, and have not yet sought removal, to continue their exclusion from only the four casino facilities. If the individual chooses to join the Ohio VEP, the length of exclusion the individual indicates on the Ohio VEP application supersedes the individual's previously selected length of exclusion and expands the list of excluded properties to include all excluded entities and facilities. The new rule allows participants of the "Ohio VEP" who joined after March 1, 2019, and prior to the effective date of this rule, and have not sought removal, to continue their participation and voluntary exclusion from only the four casino facilities and seven video lottery terminal facilities in the state of Ohio. The amendment allows individuals to still join the updated Ohio VEP and the length of exclusion the individual indicates on the updated Ohio VEP application supersedes the individual's previously selected length of exclusion and expands the list of excluded properties to include the excluded entities and facilities which are casinos, sports gaming facilities, or online sports pools. This will allow individuals to make affirmative choices as to what gambling they may be able to engage in responsibly and does not change the rules of their original commitment with the state. The purpose of this rule is to maintain the Commission's commitment to currently existing voluntarily excluded individuals and Ohio VEP participants, while providing them with the opportunity to participate in the updated Ohio VEP, upon an informed decision. Moreover, the rule, and this Chapter in general, is part of the Commission required rules under both R.C. 3772.03 and 3775.02.

### *Integrity Monitoring*

- **3775-14-01 (new), titled, "Independent integrity monitor certification."** This rule governs the certification process for integrity monitors in sports gaming. The rule states integrity monitors must request certification, undergo a compliance investigation, and pay a fee of five thousand dollars to the Commission. The certification period is five years and the results from a compliance investigation completed within the year prior to a renewal request may be applied to the renewal certification request at the executive director's discretion. The purpose of this rule is to implement R.C. 3775.02's requirement that the Commission, or an independent integrity monitor observe sports gaming activity to identify unusual betting patterns and to give prospective integrity monitors an overview of the certification process.
- **3775-14-02 (new), titled, "Compliance investigation of an independent integrity monitor."** This rule governs the compliance investigation that independent integrity monitors must undergo to verify compliance with Chapter 3775. The rule states integrity monitors should clearly identify those portions of information submitted that it deems to be confidential or trade secrets as some of the non-confidential information submitted could be open to public inspection under the Public Record's Act. Additionally, this rule describes the integrity monitor's information that may be reviewed as a part of the investigation, including, the business structure, policies related to conflicts of interest, sufficient staff and equipment, and financial viability to conduct all required monitoring. The purpose of this rule is to provide transparency of the compliance investigation and

ensure only qualified integrity monitors are certified to monitor sports gaming in the state, in accordance with R.C. 3775.02.

- **3775-14-03 (new), titled, “Requirements of certification.”** This rule governs the requirements for an independent integrity monitor to be certified in the state, including being independent of any entity being monitored. The rule also provides that integrity monitors must maintain IT security, and make available to the Commission all policies, procedures, equipment, and analysis methods. The independent integrity monitor must notify the executive director immediately if it fails to maintain compliance with these requirements. The purpose of this rule ensure only qualified integrity monitors are certified and clearly lay out all requirements to meet R.C. 3775.02.
- **3775-14-04 (new), titled, “Duties of a certified independent integrity monitor.”** This rule states the duties and responsibilities of independent integrity monitors in sports gaming. The integrity monitor must analyze reports of unusual sports gaming activity it receives to identify any suspicious sports gaming activity. This rule provides that certified integrity monitors must provide reports of any suspicious sports gaming activity to its contracted sports gaming proprietors, all certified independent integrity monitors, and appropriate sports governing bodies. The rule also spells out the record retention requirements and that integrity monitors must maintain a training program for its employees. The purpose of this rule is to clearly lay out the responsibilities for certified independent integrity monitors and ensure that the appropriate parties are notified if there is any suspicious sports gaming activity—ensuing R.C. 3775.02’s requirements related to integrity monitoring.
- **3775-16-10 (new), titled, “Integrity monitoring.”** This rule provides that each sports gaming proprietor must contract with a certified independent integrity monitor for the purposes of monitoring sports gaming conducted in this state. The sports gaming proprietor must have procedures in place to identify unusual sports gaming activity, including when it receives reports of unusual reports regarding other proprietors from its certified integrity monitor. Moreover, the rule spells out a requirement that certain employees conducting monitoring activities must hold a sports gaming employee license—echoing statutory language regarding required occupational licensure. This rule also clarifies and lists the specific information that each sports gaming proprietor must provide to its contracted integrity monitor, including, time, odds, location, wager amount, wager type, and team the wager was placed upon in reporting unusual activity. Lastly, this rule allows sports gaming proprietors to suspend their related offerings if they receive a report of suspicious betting activity. Proprietors may not cancel previously accepted wagers unless the cancellation is approved by the executive director. The purpose of this rule is to implement R.C. 3775.02’s requirements regarding sports gaming proprietor duties and required procedures and to ensure the prompt identification of suspicious sports gaming activity.