



## Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

**Sean McCullough**, Director

### MEMORANDUM

**TO:** Andromeda Morrison, Ohio Casino Control Commission

**FROM:** Joseph Baker, Business Advocate

**DATE:** November 23, 2021

**RE:** **CSI Review – OCCC 2021 5YR Batch 5 – Ohio Administrative Code 3772-10 – Internal Control Systems (3772-10-01, 3772-10-02, 3772-10-03, 3772-10-04 (rescind & new), 3772-10-05, 3772-10-06, 3772-10-07, 3772-10-08, 3772-10-09, 3772-10-10, 3772-10-11, 3772-10-12, 3772-10-13 (rescind & new), 3772-10-14, 3772-10-15, 3772-10-16, 3772-10-17, 3772-10-18, 3772-10-19, 3772-10-20, 3772-10-21, 3772-10-22, 3772-10-23 (rescind & new), 3772-10-24, 3772-10-25, 3772-10-26, 3772-10-27, 3772-10-28, & 3772-10-30**

On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Commission as provided for in ORC 107.54.

### Analysis

This rule package consists of 5 new, 20 amended, and 9 rescinded rules proposed by the Ohio Casino Control Commission (Commission), as part of the statutory five-year review process. This rule package was submitted to the CSI Office on October 4, 2021, and the public comment period was held open through October 15, 2021. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI office on October 4, 2021.

The rules in this package establish requirements for casino operators regarding internal controls, such as financial management practices, reporting of information to the Commission, facility access limitations, auditing responsibilities, and address other casino operator responsibilities.

Ohio Administrative Code (OAC) 3772-10-01 establishes definitions related to internal controls

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for casino operators. The rule is amended to remove unnecessary definitions and streamline language. OAC 3772-10-02 requires casino operators to submit written internal controls for approval by the Commission and requires the Commission to approve amendments to internal control plans. The rule is amended to simplify language and remove unnecessary provisions. OAC 3772-10-03 requires casino operators to maintain an organizational chart demonstrating the functions and duties for personnel, to make the chart available to the Commission upon request, and to maintain a surveillance department and internal audit department with separate oversight over various casino divisions. Should a vacancy in a specified position take place, the operator must notify the Commission. The rule also specifies that casino personnel be trained in all policies and procedures relevant to the individual's role. The rule is amended to streamline language and remove a duplicative paragraph.

The Commission recommends the rescission of OAC 3772-10-04 in the proposed package and the adoption of a new section in its place. The new rule requires casino operators to perform and pass a controlled demonstration prior to opening to the public. The Commission states in the BIA that this rule previously was included as 3772-10-27 and is unchanged from the previous section except for clarifying modifications. OAC 3772-10-05 requires casino operators to maintain forms necessary to account for gaming and financial activities. The rule is amended to simplify language. OAC 3772-10-06 requires casino operators to file reports with the commission monthly and annually, including a balance sheet statement, an income statement, a cash flow statement, and any other report required by the executive director of the Commission. The rule is amended to adopt clarifying changes.

OAC 3772-10-07 requires casino operators to have annual statements audited by an independent certified public accounting firm in accordance with generally accepted accounting standards and specifies special financial evaluations that must be performed during the audit. The rule also limits the same firm from conducting the audit for more than five consecutive years. The rule also requires the casino operator to conduct an independent information technology audit and permits the executive director to require a special audit of a casino operator at any time with the scope, procedures and reporting requirements of the audit determined by the executive director. The rule is amended to include the requirement that casino operators conduct an information technology audit once per licensure period, and to allow casino operators to notify the Commission regarding which auditor is used to perform the evaluation after the financial audit is performed, rather than requesting approval prior to commencing the audit. The Commission maintains the authority under the rule to decertify an audit agreement if it poses a material risk to the integrity of casino gaming.

OAC 3772-10-08 requires casino operators to monitor and review game operations and to compare monthly results with historical averages. If the monthly rate deviates by more than four percent

from the historical average, the casino operator must notify the Commission and conduct an investigation. The rule is amended to adopt technical changes and to permit casino operators to utilize historical averages as a baseline for determining whether casino games are performing appropriately instead of theoretical expected payout percentages.

OAC 3772-10-09 requires casino operators to maintain procedures for the issuance and recording of cash and non-cash gifts and is amended for clarification. OAC 3772-10-10 specifies that casino operators may process financial transactions for patrons and outlines procedural requirements if the casino operator offer this service. The rule is amended to streamline requirements by incorporating language from proposed rescinded OAC 3772-10-13 relating to the maintaining of receipts documenting deposits or withdrawals. OAC 3772-10-11 is a new rule (renumbered from OAC 3772-10-23) that permits casino operators to extend credit to patrons in a commercially responsible manner, and outlines information that must be maintained and recorded by the operator if it chooses to do so. The rule differs from existing 3772-10-23 due to changes that streamline and clarify language.

OAC 3772-10-12 is also a new rule (renumbered from OAC 3772-10-26) and outlines the responsibilities of casino operators to maintain and secure access to assets and restricted areas. The rule requires the operator to notify the commission if a sensitive key or lock becomes lost or compromised and to conduct an audit or test of the physical inventory count of sensitive keys or locks that access assets or restricted areas. The rule differs from previous OAC 3772-10-26 to no longer require that a casino operator notify the Commission in writing if an electronic access device becomes compromised (the operator must still deactivate the compromised electronic access device) and to adopt clarifying changes. The Commission proposes to rescind OAC 3772-10-13 and replace it with a new rule (renumbered from OAC 3772-10-24) that specifies casino operator requirements to maintain a signature card for each employee and the responsibilities of employees, when signing documents, to do so in a certain manner. New rule OAC 3772-10-13 differs from OAC 3772-10-24 due to streamlining of the previous language.

OAC 3772-10-14 specifies audit standards for casino operator internal controls and is amended to simplify and remove unnecessary language. OAC 3772-10-15 requires casino operator information technology departments to provide software and hardware to the Commission to enable access to the casino operator's electronic system from the Commission's office, to back up certain data, maintain logs of employee access to certain portions of facilities, and outlines other casino operator administrative responsibilities regarding information technology. The rule is amended to require the casino operator to provide the Commission with remote access to the operator's electronic system, to remove a requirement that vendors log remote-access sessions, and to streamline language. OAC 3772-10-16 specifies standards regarding casino facility cashier's

cages, main banks and count rooms, such as that each casino facility have a main cashier's cage adjacent to the gaming floor, that it be equipped with security controls, that casino operator access controls detail the restrictions to this part of the facility, and that the casino operator offer services to convert cashless wagering instruments to cash at all times the casino is open for business. The rule is amended to include the provision requiring the casino to make conversion of cashless wagering to cash available to customers and to remove unnecessary language. OAC 3772-10-17 requires various accounting controls for the cage, main bank, and redemption kiosks at the casino. The rule is amended to streamline language. OAC 3772-10-18 states that casino operators must obtain the approval of the Commission with respect to the procedures for removing table drop games and electronic gaming bill validator canisters from table games or electronic gaming equipment. The rule is amended to adopt minor changes to simplify the rule and to remove a requirement that a table-games supervisor be present when drop boxes are emptied and to instead permit any tables-games employee to be present.

OAC 3772-10-19 states that casino operators must detail the count procedures for proceeds from gaming and that the counting process must be conducted by a team of at least three employees that is independent of the cashier's cage, accounting department, audit functions, and of the transactions being reviewed and counted. The rule also specifies other protections for the counting of casino gaming proceeds, such as access limitations to the count room. The rule is amended for housekeeping, according to the Commission. OAC 3772-10-20 requires casino operators to record any currency that was inserted into a casino game but not found inside of the drop box of validator canister. The rule is amended to streamline language. OAC 3772-10-21 specifies that casino operator internal controls detail the procedures for manual payouts and outlines minimum standards for those procedures. The rule is amended to require that the surveillance department at the casino monitor payouts over \$10,000 and offer security escorts to individuals who receive manual payouts, and to adopt clarifying changes.

OAC 3772-10-22 prohibits employees of casino operators from soliciting any tips or gratuities and those acting in a supervisory capacity from accepting any tips or gratuities. The rule permits tips and gratuities to table game dealers, but requires that they be deposited in a transparent, locked box, and that all tips received by table game dealers be pooled among relevant employees, unless received during player against player contests. The Commission proposes to rescind and replace OAC 3772-10-23 with a new rule that permits the Commission to decertify a casino operator contract if it becomes aware that the contractor violated statutes or rules of the state or federal government and requires casino operators to deposit unclaimed funds in the unclaimed funds trust fund and to comply with directives from the tax commissioner. Finally, the Commission proposes to rescind existing OAC 3772-10-24, 3772-10-25, 3772-10-26, 3772-10-27, 3772-10-28, and 3772-10-30 as these provisions have either been adopted into other rules (rendering these

provisions duplicative), or are no longer necessary.

During early stakeholder outreach, the Commission sent the proposed rules to the stakeholder list maintained by the Commission, which includes individuals associated with Jack Entertainment, Konami Gaming, Genesis Gaming, Galaxy Gaming, Penn National Gaming, Play AGS, International Game Technology, Aristocrat, Hard Rock Casino Cincinnati, GameCo, and others. In addition, the Commission invited stakeholders to comment during the Commission's public meeting on September 15, 2021. No early stakeholder comments were provided. No comments were received during the CSI public comment period.

According to the BIA, the business community impacted by the rules includes casino operators in Ohio. The adverse impacts to business include the costs of submitting and maintaining required information relating to internal controls, the costs of preparing and submitting an organizational chart, the costs of maintaining and reporting gaming and financial activities, costs of filing monthly and annual financial reports, costs of conducting an independent annual audit, costs of completing an information technology and surveillance system audit, costs of securing casino facilities and reporting security issues to the Commission, costs of maintaining and preparing signature cards for employees, costs of establishing and maintaining information technology internal controls and providing the Commission with remote access to the system, the costs of complying with accounting methods, counting methods, access limitations and reporting responsibilities for facilities at the casino operator that directly handle finances, the costs of adhering to Commission policies with respect to the emptying of table drop boxes or electronic gaming equipment canisters, and costs of providing security escorts to patrons who request manual payouts and surveillance department monitoring of individuals who obtain payouts of over \$10,000. The Commission states in the BIA that the adverse impact to business is necessary to protect the public welfare from unregulated gaming as well as fraud and abuse and to comply with the requirements of the Commission as specified in the Ohio Constitution.

### **Recommendations**

Based on the information above, the CSI Office has no recommendations on this rule package.

### **Conclusion**

The CSI Office concludes that the Casino Control Commission should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.