

**Title 11—DEPARTMENT OF PUBLIC SAFETY**  
**Division 45—Missouri Gaming Commission**  
**Chapter 40—Fantasy Sports Contests**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Gaming Commission (MGC) under section 313.955, RSMo Supp. 2016, the commission adopts a rule as follows:

11 CSR 45-40.030 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 3, 2016 (41 MoReg 1315–1316). Changes have been made to the text of the proposed rule, so it is reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** A public hearing was held on this proposed rule on November 2, 2016. Two people commented on this proposed rule at the public hearing and also submitted those comments in writing. The MGC staff commented on this rule.

**COMMENT #1:** Derek Hein, on behalf of DraftKings, noted concerns with subsection (1)(F) as follows: “DraftKings offers its users site credits that can only be used to enter contests on the site, but cannot be withdrawn as cash. For clarity, we suggest that these site credits be explicitly excluded from these requirements.”

**RESPONSE:** The language of the rule mirrors the Missouri Fantasy Sports Consumer Protection Act. The Missouri Gaming Commission does not have the authority to alter or vary from the provisions of the statute. No changes were made as a result of this comment.

Due to the similarity of the following two (2) comments, they are addressed with one (1) response.

**COMMENT #2:** Sean Ostrow, on behalf of FanDuel, stated, “This section requires a FSCO to submit their internal procedures for the most important consumer protections for approval by the MGC. We believe this is an important provision, however, we have concerns that subsection (4), which restricts the FSCO from altering such procedures until such changes are approved by the Commission, is too restrictive to allow us to operate effectively. Because we are at heart a technology company in a rapidly evolving industry, we must have the capacity to innovate and adapt to rising challenges and make changes as necessary to comply with other state regulatory obligations. For the benefit of customers across the nation, there may be instances in which we must modify internal procedures without undue delay. We believe that having to seek Commission approval prior to implementation of such a procedural change would be counter-productive to the stated goal of consumer protection. As long as the stated objectives are met, we believe we should have the ability to make necessary changes without prior authorization from the MGC. We propose that subsection (4) be rewritten as follows – *‘Once approved, no licensed operator shall alter its procedures in a manner which substantially affects the stated objective of such procedures as described in subsections (1)(A) through (H) unless and until the change is approved by the commission. For alterations to procedures which do not substantially affect the*

*stated objective, the licensed operator shall notify the commission within thirty (30) business days of such alteration.’ ”*

COMMENT #3: Regarding 11 CSR 45-40.030(4) and (5), Derek Hein of DraftKings stated, “As a technology company that operates in a rapidly changing industry, DraftKings must have the ability to quickly implement procedural changes to serve customers across the world. We believe that requiring operators to seek prior approval of MGC for implementation of procedure changes could potentially be burdensome and counter-productive to the goal of protecting consumers. DraftKings suggests the current language be amended to require operators to provide notice of procedure changes within fifteen days of implementing such a change.”

RESPONSE: Section 313.915, RSMo requires the commission to approve specific types of procedures relating to consumer protection prior to operating in Missouri. Those procedures are outlined in section (1) of this rule. Any change to those procedures without commission approval would not comply with the statute. The Missouri Gaming Commission does not have the authority to alter or vary from the provisions of the statute. No changes were made as a result of this comment.

COMMENT #4: The MGC noted that the Revisor of the *Missouri Revised Statutes* renumbered the sections of the statute created by HB 1941, the Missouri Fantasy Sports Consumer Protection Act (The Act).

RESPONSE AND EXPLANATION OF CHANGE: The Commission revised section (1)(F) and the authority section of this rule to reference the renumbered sections of The Act.

### **11 CSR 45-40.030 Commission Approval of Procedures**

(1) Prior to operating in Missouri, each applicant for a Fantasy Sports Contest Operator (FSCO) License shall submit procedures to the commission that—

(F) Ensure registered players can withdraw the funds maintained in their individual accounts, whether such accounts are open or closed, within five (5) business days of the request being made, unless the licensed operator believes in good faith that the registered player engaged in either fraudulent conduct or other conduct that would put the licensed operator in violation of sections 313.900 to 313.955, RSMo, in which case the licensed operator may decline to honor the request for withdrawal for a reasonable investigatory period until its investigation is resolved if it provides notice of the nature of the investigation to the registered player. For the purposes of this provision, a request for withdrawal will be considered honored if it is processed by the licensed operator but delayed by a payment processor, credit card issuer, or by the custodian of a financial account;

*AUTHORITY: sections 313.915, 313.920, 313.950, and 313.955, RSMo 2016. Emergency rule filed August 29, 2016, effective Sept. 8, 2016, expires March 6, 2017. Original rule filed Aug. 29, 2016.*