

§1. DEFINITIONS.

The following words and terms shall have the following meanings unless the context indicates otherwise.

“Abandoned advance deposit wagering account” An advance deposit wagering account where there has been no activity by the account holder for three (3) years.

“Account” An account for advance deposit wagering with a specific identifiable record of credits, debits, deposits, wagers, and withdrawals established by an account holder and managed by the advance deposit wagering operator.

“Account applicant” A natural person who has submitted an account application to an advance deposit wagering operator.

“Account application” The form or forms approved by the Board for establishment of an account.

“Account holder” A natural person who successfully completed an account application and for whom the advance deposit wagering operator has opened an account.

"Advance deposit wagering" Has the same meaning as set forth in 8 M.R.S.A. §1001 (1-A)

“Advance deposit wagering facility” The actual location, equipment, and staff of an advance deposit wagering operator involved in the management, servicing and operation of advance deposit wagering.

"Advance deposit wagering licensee" A person that is chosen by competitive bid and licensed by the Board pursuant to Subchapter 7 of 8 M.R.S. Chapter 31 to conduct advance deposit wagering.

“Advance deposit wagering operator” Those persons or entities licensed by the Board with the authority to operate as approved by the Board, including, but not limited to, establishing and closing accounts, accepting deposits and wagers, issuing a receipt or other confirmation to the account holder evidencing such deposits and wagers, and transferring credits and debits to and from accounts.

“Board” Maine State Gambling Control Board created by 8 M.R.S. § 1002, or its designee.

“Confidential information” Confidential information includes:

- a. The amount of money credited to, debited from, withdrawn from, or present in any particular account holder's account;
- b. The amount of money wagered by a particular account holder on any race or series of races;
- c. The account number and secure personal identification code of a particular account holder;
- d. The identities of particular entries on which the account holder is wagering or has wagered; and
- e. Unless otherwise authorized by the account holder, the name, address, Social Security number in whole or in part and other information obtained in the opening of an account or otherwise in the possession of the advance deposit wagering operator that would identify the account holder to anyone other than the Board.

“Corporation” A business structure allowed by state statute that is recognized as a separate legal entity distinct from its members.

“Credits” All positive inflow of money to an account.

“Debits” All negative outflow of money from an account.

“Deposit” A payment of money by cash, check, money order, credit card, debit card, or electronic funds transfer made by an account holder to the account holder's account.

“Limited Liability Company” A business structure allowed by state statute and, having one or more members and a limited liability company agreement.

“Natural person” Any person at least eighteen (18) years of age, but does not include a custodian, beneficiary, joint trust corporation or other organization, including any corporation, partnership, limited liability company, trust, or estate.

"Net commission" Has the same meaning as set forth in 8 M.R.S.A. §1001 (29-C)

“Partnership” A relationship between individuals for the achievement of a specific goal.

“Person” means an individual or a business organization.

“Principal residence address” That place where the natural person submitting an account application has established a fixed and principal home to which the person, whenever temporarily absent, intends to return.

“Proper identification” A form of personal identification accepted in the normal course of business to establish that the natural person making a transaction is the account holder.

“Secure personal identification code” An alpha-numeric character code chosen by an account holder as a means by which the advance deposit wagering operator may verify a wager or account transaction as authorized by the account holder.

“Withdrawal” A payment of money from an account by the advance deposit wagering operator to the account holder when payment is requested by the account holder.

“Withdrawal slip” A form provided by the advance deposit wagering operator for use by an account holder in withdrawing funds from an account.

§2 LICENSING FOR ADVANCE DEPOSIT WAGERING.

No person may conduct advance deposit wagering activities within the State of Maine prior to receiving an advance deposit wagering license from the Board. Any person violating this section is subject to 8 M.R.S. § 1071(5).

§3 ADVANCE DEPOSIT WAGERING LICENSE.

Any person may request a license from the Board to conduct advance deposit wagering in accordance with 8 M.R.S. Chapter 31, and these rules. As part of the request, such person must submit a detailed plan of how its proposed advance deposit wagering system would operate. The Board may require changes in a proposed plan of operations as a condition of granting a request. No subsequent changes in the system's operation may occur unless prior approval is obtained from the Board after it receives a written request.

In order to be licensed by the Board to conduct advance deposit wagering, a person must agree to enter into a contract with the Board that obligates the advance deposit wagering licensee to follow the proposals made in the bid submitted in accordance with 8 M.R.S. Chapter 31. The contract must include a framework of reasonable financial penalties for the failure of the advance deposit wagering licensee to comply with the terms of the contract and rules of the Board. The advance deposit wagering applicant may not conduct advance deposit wagering prior to the execution of this contract.

§4 ADVANCE DEPOSIT WAGERING LICENSE APPLICATION.

An applicant for an advance deposit wagering license must complete an application provided by the Board, which application shall include, at a minimum the following information:

- A. Legal Name and Addresses - The legal name of the person(s) seeking the license, a full current address and addresses for the prior 15 years;
- B. Corporation - If the person seeking a license is a corporation: the names and addresses of all directors and officers, the date of incorporation and the place of incorporation;

- C. Partnership - If the person seeking a license is a partnership: the names and addresses of all partners. If a partner is a corporation, the date of incorporation, the place of incorporation and the names and addresses of all directors and officers;
- D. Limited Liability Company – If the person seeking a license is a limited liability company, the names and addresses of all members. If a member is a corporation, the date of incorporation, the place of incorporation and the names and addresses of all directors and officers;
- E. Race Tracks - The names of the race tracks the advance deposit wagering operator has contracts with or will have contracts with at the time the license is issued that allow the applicant to provide wagering on the product;
- F. Financial Information - Financial information that demonstrates the financial resources to operate advance deposit wagering;
- G. Certificate of authority to transact business in the State of Maine, unless the requirement for authority is subject to a statutory exception;
- H. A record of previous issuances and denials of or any adverse action taken against a gambling-related license or application under 8 M.R.S. Chapter 31 or in any other jurisdiction. For purposes of this paragraph, "adverse action" includes, but is not limited to, a condition resulting from an administrative, civil or criminal violation, a suspension or revocation of a license or a voluntary surrender of a license to avoid or resolve a civil, criminal or disciplinary action;
- I. Disclosure by the applicant if it or any account wagering affiliate has accepted a wager from a resident of the State of Maine within the past three (3) calendar years; and
- J. Any and all other information as the Board may require to determine the competence, honesty and suitability of the applicant as required by 8 M.R.S. § 1016.

§5 RESPONSIBILITIES OF ADVANCE DEPOSIT WAGERING LICENSEE

- A. Prior to licensing the prospective advance deposit wagering licensee must present to the Board a detailed plan of operation. The detailed plan of operation for an advance deposit wagering license must include, but is not limited to, the following information:
 - 1. The manner in which the wagering system will operate including any fees associated with the establishment and maintenance of an advance deposit wagering account;
 - 2. Programs for responsible wagering; and
 - 3. The protections provided to safeguard accounts, including a certification from the advance deposit wagering licensee that account funds will not be commingled with other funds.

The Board may require changes in a proposed plan of operations, as a condition of granting a license. No subsequent changes in the system's operation may occur unless

ordered by the Board or until approval is obtained from the Board after it receives a written request.

- B. An advance deposit wagering licensee shall submit quarterly reports to the Board providing amounts wagered by Maine residents, amounts wagered in Maine and other account wagering information as requested by the Board.
- C. An advance deposit wagering licensee shall not commingle account funds with other funds.
- D. An advance deposit wagering licensee that establishes account wagering shall establish and maintain a separate restricted account with a federally insured financial institution or a federally insured credit union that is authorized to do business in the State of Maine as defined in Maine Revised Statute, Title 9-B or is subject to a statutory exception for being authorized to do business in the state and with an office, registered agent and/or clerk within the state of Maine.
- E. The amount placed in the restricted account established in 5.D above shall be an amount equal to or greater than the total account wagering monies held by all account holders including amounts owed for winning wagers which have not yet been settled. The advance deposit wagering licensee shall provide the Board with all data used to calculate the restricted account amount and a bank statement showing the balance in the restricted account.
- F. The advance deposit wagering licensee shall calculate and submit to the Board the actual amount of the account balance on the last day of the month of the total account wagering monies held by all account holders including amounts owed for winning wagers which have not yet been settled. The advance deposit wagering licensee shall provide the Board with the report and all data used to calculate the balance within ten (10) business days of the end of the month for which the balance is determined.

The advance deposit wagering licensee shall submit to the Board a monthly bank statement by the 15th day of each month for the previous month.

- G. All systems used for processing wager transactions will be approved by the Board.
- H. An advance deposit wagering licensee shall maintain complete records of each account application and the opening of each account for the life of the account plus two (2) additional years. An advance deposit wagering licensee shall also maintain complete records of the closing of an account for two (2) years after closing. These records shall be provided to the Board upon request.
- I. An advance deposit wagering licensee shall maintain complete records of all transactions, including deposits, credits, debits, refunds, withdrawals, fees, wagers, rebates, and earnings for five (5) years. These records shall be provided to the Board upon request.

- J. All wagering conversations, transactions, or other wagering communications, verbal or electronic, shall be recorded by means of the appropriate electronic media, and the tapes or other records of the communications shall be kept by the advance deposit wagering licensee for a period of two (2) years. These tapes and other records shall be made available to the Board upon request.
- K. An advance deposit wagering licensee shall not accept wagers if the appropriate recording system is not operable.
- L. When an advance deposit wagering licensee ceases operating and its license lapses, is surrendered or is revoked, the Board may demand payment of the restricted account. The Board may interplead the funds in court for distribution to the patrons for whose protection and benefit the restricted account 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.

§6 INVESTIGATIONS OR INSPECTIONS.

The Board or its designee may conduct investigations and inspections of an advance deposit wagering licensee and request additional information from the person who made an advance deposit wager as it deems appropriate.

All of an advance deposit wagering licensee's records related to operations licensed under 8 M.R.S. Chapter 31 must be open to inspection and audit by the Board or its designee, and a license holder may not refuse the Board or its designee the right to inspect or audit the records. Refusal to permit inspection or audit of the records may constitute grounds for discipline of the advance deposit wagering licensee.

An advance deposit wagering licensee shall permit the Board or its designee unrestricted access, during regular business hours, including access to locked or secured areas, to inspect any facility and any equipment, records or items and materials used or to be used in the operation of equipment owned, distributed or operated by the advance deposit wagering licensee. An advance deposit wagering licensee shall consent in writing to the examination of all the advance deposit wagering licensee's books and records related to operations licensed under 8 M.R.S. Chapter 31 and shall authorize all third parties in possession or in control of those books and records to allow the Board to examine such books and records as the Board determines necessary.

§7 CLAIMS OF NON-PAYMENT.

An account holder, who is claiming that non-payment has occurred, must make a claim of non-payment to the Board.

Investigation of Claim - The Board will investigate the claim and provide the advance deposit wagering operator with an opportunity to respond thereto and submit any supporting documents or evidence it needs to defend the claim.

Board Determination - If the Board determines that the account holder is entitled to restitution, the advance deposit wagering operator has ten (10) business days to pay the amount determined by the Board.

§8 PROMOTE AND ADVERTISE.

The Board finds that the State of Maine has a compelling interest in deterring excessive use of alcohol and tobacco products, especially by minors. The Board finds that the State of Maine has a compelling interest in that advance deposit wagering is conducted by persons 18 years of age or older, as evidenced by the provisions in 8 M.R.S. Chapter 31, Subchapter 7 and 8 M.R.S. Chapter 11 that are applicable to persons younger than the age of 18.

All advertising, marketing and promotional materials (referred to collectively as “advertising”) related to advance deposit wagering shall be filed with the Board thirty (30) calendar days prior to use. This section can be waived, in writing, by the Board or its designee. Advertising materials that have been previously filed with the Board and that have not been substantially altered need not be pre-filed, but may be filed with the Board contemporaneously with distribution.

Advertising shall comply with the following standards:

- A. False, misleading and deceptive advertising is prohibited.
- B. Depictions of the use of alcohol and tobacco are prohibited.
- C. Depictions of persons under the age of 18 engaged in wagering are prohibited.
- D. Guarantees of success, riches or winnings are prohibited.
- E. Advertising must include a disclaimer as follows: “Persons under 18 years of age may not apply for an advance deposit wagering account or place advance deposits or wagers”
- F. Advertising must comply with all applicable Maine and federal laws.

On receipt of notice from the Board that advertising may be in violation of these rules or other laws of the State of Maine and upon request by the Board or its designee to do so, the advance deposit wagering licensee will suspend, or cause its agent or representative to suspend, the advertising campaign. Suspension of the use of the advertising materials in question will continue pending resolution of the matter, including any proceedings pursuant to 8 M.R.S. Chapter 31, Subchapter 5.

§9 ESTABLISHING AN ACCOUNT.

- A. An account application must be approved the Board and must include at a minimum the following information concerning the account applicant:
1. Full legal name;
 2. Principal residence address;
 3. Telephone number;
 4. Social Security number (last four digits, at a minimum);
 5. Proper State of Maine identification or certification demonstrating that the account applicant is at least eighteen (18) years of age; and
 6. As needed, any other information required by the Board or the advance deposit wagering operator.
- B. The advance deposit wagering licensee may utilize a third party approved by the Board to verify the age and address of each account applicant during the application process.
- C. The account application must be presented: (i) in person by the account holder to a commercial track, off-track betting facility or licensed casino for identity verification, or (ii) electronically through using an identity verification method approved by the Board.

§10 ACCOUNT INFORMATION.

Each account application may be subject to verification.

Advance deposit wagering accounts are non-transferable and non-assignable.

§11 IDENTIFYING AN ACCOUNT NUMBER.

Each account must have a unique identifying account number. The identifying account number may be changed at any time by the advance deposit wagering operator provided the advance deposit wagering operator informs the account holder in writing prior to the change.

§12 SECURE PERSONAL IDENTIFICATION CODE

The account applicant must supply the advance deposit wagering operator with an alpha-numeric code to be used as a secure personal identification code when the account holder is logging into his or her account or using his or her wagering account. The account holder has the right to change this code at any time.

§13 PRINCIPAL RESIDENCE

The principal residence address of the account holder will be established by reliance on the information submitted on the account application, certified by the account applicant and verified by the advance deposit wagering operator.

§14 INFORMATION RECEIVED BY ACCOUNT HOLDER

Upon approval of an account, the advance deposit wagering licensee must provide the account holder with the following:

- A. A unique account identification number;
- B. A copy of the advance deposit wagering rules and such other information and material that is pertinent to the operation of the account; and
- C. Such other information as the advance deposit wagering operator or Board may deem appropriate.

The advance deposit wagering licensee must distribute to account holders quarterly a statement of account activity including starting and ending balances, aggregate number of bets placed, dollar amount of bets won, and dollar amount of bets lost for the previous calendar quarter.

§15 CLOSE OR REFUSE TO OPEN AN ACCOUNT

The advance deposit wagering operator may close or refuse to open an account, for what it deems good and sufficient reason, and will order an account closed if it is determined that information that was used to open an account was false, or that the account has been used in violation of these rules. The advance deposit wagering operator must report accounts of State of Maine residents that were closed in the previous month to the Board no later than five (5) days of the end of the current month including the:

- A. Name of account holder;
- B. Address of account holder;
- C. Telephone and/or email contact information, if available; and

D. Reason for the closing.

§16 ACCOUNT HOLDER RESPONSIBILITIES

The advance deposit wagering operator must require the following as terms of service for holding an account:

- A. Accounts are for the personal use of the account holder;
- B. Security - The account holder is responsible for maintaining the secrecy of the account number and the personal identification code;
- C. Account Losses - Except where the advance deposit wagering operator or its employees or agents act without good faith or fail to exercise ordinary care, the advance deposit wagering operator is not responsible for any loss arising from the use by any other person or persons of an account holder's account; and
- D. Notification of Account Security Breach – The account holder must immediately notify the advance deposit wagering operator of a breach of the account's security.

§17 OPERATION OF AN ACCOUNT

Operator May Refuse Deposits - The advance deposit wagering operator may refuse deposits to an account for what it deems good and sufficient reason.

Operator May Suspend or Close Account - The advance deposit wagering operator may suspend or close any account at any time provided that within five (5) business days of closing the account the advance deposit wagering operator returns to the account holder all monies then on deposit by sending it to the principal residence address as listed on the account application.

§18 CREDITS TO AN ACCOUNT

After the initial establishment of an account, credits to an account may be made as follows:

- A. Deposits - deposits to an account by an account holder must be made in the following forms:
 - 1. Cash given to the advance deposit wagering operator, a commercial track, off-track betting facility, licensed casino or other entity that has been issued a Board license or has otherwise been approved by the Board;
 - 2. Personal or cashier check, or money order given or sent to an advance deposit wagering operator;
 - 3. Charges made to an account holder's credit card or debit card upon the direct and personal instruction of the account holder. Such instructions may be given by telephone or any electronic device to the advance deposit

wagering operator by the account holder if the use of the card has been approved by the advance deposit wagering operator;

4. Transfer by means of an electronic funds transfer from a monetary account controlled by an account holder to his or her account. The account holder is liable for any charges imposed by the transmitting or receiving entity with such charges to be deducted from the account. Transfers to an account by means of the electronic benefits transfer system administered by the Department of Health and Human Services under 22 M.R.S. Chapter 1, Subchapter 1-A are prohibited; and/or
5. Any other method as approved by the Board.

B. Credit for Winnings - Credit for winnings from wagers placed with funds in an account and credit for account wagers on entries that are scratched will be posted to the account by the advance deposit wagering operator.

C. Accordance with Financial Institution - Checks, money orders and other negotiable instruments will be posted to the credit of the account holder in accordance with financial institution funds availability schedules.

§19 DEBITS TO AN ACCOUNT

After the initial establishment of an account, debits to an account may be made as follows:

- A. Upon receipt by the advance deposit wagering operator of an account wager, the advance deposit wagering operator debits the account in the amount of the wager; or
- B. The advance deposit wagering operator may debit an account for fees for service or other transaction-related charges by the advance deposit wagering operator.

Account Withdrawals - An advance deposit wagering operator may authorize a withdrawal from an account when one (1) of the following exists:

- A. The account holder of an account appears personally at the advance deposit wagering operator's location and provides the following:
 1. Proper identification;
 2. The correct secure personal identification code; and
 3. A properly completed and signed withdrawal slip.
- B. The account holder sends to the advance deposit wagering operator a properly completed and signed withdrawal slip by any means electronic or otherwise.
- C. Upon receipt of a properly completed and signed withdrawal slip, and if there are sufficient funds in the account to cover the withdrawal, the advance deposit wagering operator must, within five (5) business days of its receipt, send a check or other form

of payment in readily available funds to the account holder. The check must be payable to the holder of the account and in the amount of the requested withdrawal.

- D. If funds are not sufficient to cover the withdrawal, the account holder will be notified in writing and those funds in the account will be withdrawn and sent to the account holder within the five (5) business days. Electronic funds transfers may be used for withdrawals in lieu of a check at the discretion of the account holder and the advance deposit wagering operator, subject to the same conditions described for electronic funds transfer credits.
- E. In the case of an abandoned advance deposit wagering account, the advance deposit wagering licensee shall send a notice to the account holder at the mailing address listed on the account application requesting that the account holder take steps necessary to close the account or indicate that he or she wishes to keep the account open. If the account holder fails to notify the advance deposit wagering licensee of his or her intentions after sixty (60) calendar days the advance deposit wagering licensee shall close the account and return all monies then on deposit by sending a check payable to the account holder at said mailing address. Any monies returned as undeliverable shall be considered "abandoned property" and will be subject to 33 M.R.S. Chapter 41. The advance deposit wagering license must forward a list of such accounts and balances to the Board.
- F. In the event an account holder is deceased, funds accrued in the account will be released to the decedent's legal representative upon receipt of a copy of a valid death certificate, tax releases or waivers, probate court authorizations or other documents required by applicable laws.

§20 WAGERS IN EXCESS OF ACCOUNT BALANCE

The advance deposit wagering operator will not accept wagers from an account holder in an amount in excess of the account balance.

With the exception of credits to an account allowed by §§ 19 and 23 of this rule, the advance deposit wagering operator will not extend credit to any account holders.

§21 ACCOUNTS WILL NOT BEAR ANY INTEREST

Monies deposited with the advance deposit wagering operator for advance deposit wagering must not bear any interest to the account holder.

§22 PAYMENTS ON WINNING PARI-MUTUEL WAGERS

Payments on winning pari-mutuel wagers and credits for account wagers on entries which are scratched must be posted to the credit of the account holder as soon as practicable after the race is declared official.

Payments on pari-mutuel wagers are subject to interception per 8 M.R.S. § 300 B.

§23 MAILING ADDRESS

The principal residence address, provided in writing by the account holder at the time of account application, is deemed to be the proper address for the purpose of mailing checks, statements of account, account withdrawals, notices, or other appropriate correspondence. The mailing of checks or other correspondence to the address given by the account holder is at the sole risk of the account holder.

§24 POWERS OF THE GAMBLING CONTROL BOARD TO REVIEW AND AUDIT RECORDS

The advance deposit wagering operator must give the Board access to all records and financial information related to operations licensed under 8 M.R.S. Chapter 31 for review and audit. The Board may require that the advance deposit wagering operator annually submit to the Board audited financial statements of the advance deposit wagering system.

§25 CONFIDENTIAL INFORMATION

No confidential information related to the placing of any wager or to the operation of the advance deposit wagering operator may be divulged by any employee or agent of the advance deposit wagering operator, except, as required by these rules, to the account holder or the Board, or as otherwise required by state or federal law or regulation or the rules of the Board.

§26 APPLICABLE LAWS, RULES, AND REGULATIONS

All advance deposit wagering operators must adhere to all applicable state and federal laws, rules, and regulations.

§27 COLLECTION OF PAYMENTS FROM ADVANCE DEPOSIT WAGERING LICENSEE

All fees, fines, charges, taxes, and penalties required by 8 M.R.S. Chapter 31 and rules adopted pursuant to Chapter 31 shall be submitted to the Board or as directed by the Board as they are due. Payment shall be in the form of certified check, cashier's check or money order made out to the "Treasurer State of Maine/Gambling Control Board." In lieu of these payment forms, the Board or State of Maine may accept an electronic wire transfer to a designated account.

Before 1:00 pm each Wednesday, the advance deposit wagering licensee shall submit the net commission for the previous week, Wednesday through Tuesday, to the Board in one payment for distribution by the Board in accordance with 8 M.R.S. § 1072.

§28 PENALTIES

Any person violating any of the provisions of these rules is subject to the penalties provided for in the contract between the Board and the advance deposit wagering licensee.

STATUTORY AUTHORITY: 8 M.R.S. § 1003(1)(B), (1)(L), (2)(U); 8 M.R.S. §§ 1071-1072

EFFECTIVE DATE: TBD