

**205 CMR 212: ADDITIONAL INFORMATION AND COOPERATION**

212.01 Additional Information and Cooperation

212.01 Additional Information and Cooperation

- (1) The Commission, the Bureau or their agents and employees may request additional information and documents from an Applicant for a Sports Wagering License including all qualifiers, employee license, vendor license or registration, or any other license or registration required in accordance with M.G.L. c. 23N or 205 CMR throughout the application review process. Failure by the Applicant to timely submit the additional information as requested by the Commission, the Bureau or their agents and employees may be grounds for denial of the application.
- (2) All Applicants, licensees, registrants and qualifiers under M.G.L. c. 23N and 205 CMR shall comply with all requests of the Commission, the Bureau and their agents and employees for information and documents as authorized by M.G.L. c. 23N and 205 CMR.
- (3) Applicants, licensees, registrants and qualifiers shall respond within ten days or within the time specified in an information request by the Commission, the Bureau and their agents and employees under 212.01(1) and 212.01(2) to said information request.
- (4) All Applicants, licensees, registrants and qualifiers under M.G.L. c. 23N shall have a continuing duty to provide all information and documents requested by the Commission, Bureau, and their agents and employees and to cooperate in any investigation or hearing conducted by the Commission, Bureau, and their agents and employees, as authorized by M.G.L. c. 23N.
- (5) Once issued a positive determination of suitability, all Sports Wagering Operators and qualifiers shall have a continuing duty to maintain suitability in accordance with 205 CMR 215.00. The Sports Wagering Operator and each qualifier shall have a continuing duty to notify and update the Bureau, in writing, within ten days of the occurrence, unless an alternative filing time is authorized by the executive director, or where applicable, gaining knowledge of the following:
  - (a) Any denial, suspension or revocation by a Governmental Authority in any jurisdiction of a Sports Wagering related license, registration, certification, permit or approval held by or applied for by the Sports Wagering Operator or qualifier;
  - (b) Any discipline, including a fine or warning, related to Sports Wagering imposed upon the Sports Wagering Operator or qualifier by any Governmental Authority in any jurisdiction;

- (c) Any fine related to Sports Wagering assessed on any Sports Wagering entity owned or operated by the parent to the Sports Wagering Operator by any Governmental Authority in any jurisdiction.
- (d) Any arrest, indictment, charge or criminal conviction of any qualifier in any jurisdiction;
- (e) Any complaints, allegations, or notice of investigation thereof made or known to be contemplated by a Governmental Authority against the Sports Wagering Operator, qualifier, or any Sports Wagering entity owned or operated by the parent to the Sports Wagering Operator, of which the Sports Wagering Operator or qualifier is or should reasonably be aware, involving conduct that if substantiated could reasonably lead to potential revocation or suspension of the license or approval held by the Sports Wagering Operator, qualifier, or Sports Wagering entity owned or operated by the parent to the Sports Wagering Operator, in that jurisdiction and/or imposition of a fine of \$50,000 or greater;
- (f) Any reports, complaints, allegations, or material legal proceedings made, commenced, or known to be contemplated by a Governmental Authority against the Sports Wagering Operator or qualifier, of which the Sports Wagering Operator or qualifier is or should reasonably be aware, involving conduct that if substantiated could reasonably lead to potential criminal charges including, but not limited to, allegations of theft or embezzlement;
- (g) Any information known or that should reasonably be known to the Sports Wagering Operator or qualifier, including by way of receipt of a subpoena, that the Sports Wagering Operator or qualifier is or may be the subject of a criminal investigation by a law enforcement or regulatory agency;
- (h) Any exclusion or barring of a qualifier from any casino, gaming establishment, or gambling/gaming related entity, or Sports Wagering or Sports Wagering facility in any jurisdiction;
- (i) The termination, suspension from employment, or other discipline of any qualifier or Sports Wagering employee licensed in accordance with 205 CMR;
- (j) Any material pending legal proceedings required to be reported in accordance with 17 CFR 229.103 - (Item 103) Legal proceedings: For purposes of 205 CMR 212.01(5)(j) the registrant referred to in 17 CFR 229.103 - (Item 103) shall be both the Sports Wagering Operator and the parent company of the Sports Wagering Operator as determined by the Bureau. Additionally, the Sports Wagering Operator and each qualifier shall provide notice of any pending legal proceeding which includes any allegation of fraudulent conduct by the Sports Wagering Operator or a

qualifier, that may reasonably threaten the economic viability of the Sports Wagering Operator or a qualifier, or that alleges a pattern of improper conduct by the Sports Wagering Operator or a qualifier over a sustained period of time;

- (k) Any significant financial event related to a Sports Wagering Operator or entity qualifier. For purposes of 205 CMR 212.01(5)(k), a significant financial event means a merger, acquisition, consolidation, debt restructuring, material change in debt rating by major credit rating agencies (US/International), legal entity change, material ownership change, the assessment of a fine or penalty of \$250,000 or greater by the SEC or international equivalent, restatement of previously issued financial statement(s), late filing of financial statement(s) with the SEC or international equivalent, US or international equivalent bankruptcy petition, default of financial debt covenants and receivership, disposal of a material business segment or asset, or adverse action(s) taken by the IRS;
  - (l) Issuance of an “Adverse” or “Qualified” audit opinion, or the international equivalent, by an independent accountant to the Sports Wagering Operator or qualifier;
  - (m) A change in accounting firm engaged to perform attestation and/or assurance services for the Sports Wagering Operator or qualifier; and
  - (n) Issuance of a delisting notice from a United States or international stock exchange relative to the Sports Wagering Operator or qualifier.
- (6) If the Commission determines that an Applicant, licensee, registrant, or qualifier has knowingly withheld information, knowingly failed to provide information or documents requested by the Commission, Bureau, or their agents and employees, knowingly provided materially false or misleading information to the Commission, the Bureau or their agents and employees, or knowingly failed to cooperate with any investigation or hearing conducted by the Commission, Bureau, or their agents and employees, the Commission may, with respect to such Person:
- (a) Find that Person ineligible to hold a license or registration or be qualified in connection with a license;
  - (b) Suspend the relevant license, registration or qualification; or
  - (c) Revoke the relevant license, registration or qualification.

**205 CMR 214: SPORTS WAGERING APPLICATION FEES**

214.01 Application Fees  
 214.02 Additional Fees for Investigations

214.01 Application Fees

- (1) Pursuant to M.G.L. c. 23N, § 7(a), each Applicant for a Sports Wagering Operator License shall pay to the Commission a nonrefundable application fee of \$200,000 to defray the costs associated with the processing of the application and investigation of the Applicant; provided, however, that if the costs of the investigation exceed the initial application fee, the Applicant shall pay the additional amount to the Commission within 30 days after notification of insufficient fees or the application shall be rejected.
- (2) The Applicant shall pay the initial non-refundable application fee of \$200,000 by certified check or secure electronic funds transfer made payable to the "Massachusetts Gaming Commission." The Applicant shall submit this initial non-refundable application fee with or before its initial application.
- (3) All required application fees and community disbursements pursuant to 205 CMR 214.00 shall be non-refundable, due and payable notwithstanding the withdrawal or abandonment of any application.
- (4) In connection with an application for a Sports Wagering Operator License, the Applicant and its Affiliates shall be jointly and severally liable for any amounts chargeable to the Applicant pursuant to 205 CMR 214.00.
- (5) All fees in this section 205 CMR 214.00 shall be deposited into the Sports Wagering Control Fund established in M.G.L. c. 23N, § 15.

214.02 Additional Fees for Investigations

- (6) Pursuant to 205 CMR 214.00, the Applicant shall be responsible for paying to the Commission all costs incurred by the Commission, directly or indirectly, for conducting any investigation into an Applicant. As required by the procedure established pursuant to 205 CMR 114.04(5), the Applicant shall pay to or reimburse the Commission for all such investigation costs that exceed the initial application fee.
- (7) For purposes of 205 CMR 214.00, the costs for conducting any investigation into an Applicant shall include, without limitation:
  - (a) All costs for conducting an investigation into an Applicant and its qualifiers, the Applicant's Affiliates and Close Associates, and any other person subject to the jurisdiction of the Commission under M.G.L. c. 23N relating to the application in question; and

- (b) All fees for services, disbursements, out of pocket costs, allocated overhead, processing charges, administrative expenses, professional fees, and other costs directly or indirectly incurred by the Commission, including without limitation all such amounts incurred by the Commission to and through the Bureau, the Division, the Gaming Enforcement Unit, the Gaming Liquor Enforcement Unit, and any contract investigator.
- (8) The Commission in its discretion shall establish, and, post on its website, a schedule of hourly fees, wages, applicable fringe benefits, payroll taxes, overhead rates and other charges to be assessed by the Commission to Applicants for in-house personnel, services and work of the Commission, the Bureau, the Division, the Gaming Enforcement Unit, and the Gaming Liquor Enforcement Unit for conducting investigations into an Applicant pursuant to 205 CMR 214.00.
- (9) The Commission shall assess to the Applicant all other costs paid by or for the Commission, directly or indirectly, to any other Person for conducting an investigation into an Applicant plus an appropriate percent for overhead, processing and administrative expenses.

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**205 CMR 215: APPLICANT AND QUALIFIER SUITABILITY DETERMINATION, STANDARDS, AND PROCEDURES**

215.01 Affirmative Suitability Standards for Applicants and Qualifiers  
215.02 Persons required to be qualified.

215.01 Affirmative Suitability Standards for Applicants and Qualifiers

- (1) Durable finding of suitability.
  - (a) An Applicant or Qualifier shall have the duty to establish its suitability by clear and convincing evidence.
  - (b) No Applicant shall be determined to be suitable in accordance with this 205 CMR 215.01(1) unless and until all Qualifiers identified in 205 CMR 215.02 have been found by the Commission suitable in accordance with this 205 CMR 215.01(1).
  - (c) Before the Commission may determine that an Applicant or Qualifier is suitable in accordance with this 205 CMR 215.01(1), the Bureau shall conduct an investigation into the qualifications and suitability of the Applicant or Qualifier, consistent with 205 CMR 115.03(1). At the completion of the Bureau's investigation, it shall submit a written report to the Commission, which will include recommendations and findings of fact relative to the suitability of the Applicant or Qualifier for a Sports Wagering License.
- (2) Preliminary finding of suitability. Notwithstanding any other provision of 205 CMR 215.00, the Commission, in its sole discretion, may determine in accordance with 205 CMR 215.01(5) that an Applicant or Qualifier is suitable in accordance with this 205 CMR 215.01(2) if the Applicant or Qualifier certifies:
  - (a) that it understands it may be denied a Sports Wagering License or have a Sports Wagering License revoked if it has willfully, knowingly, recklessly, or intentionally provided false or misleading information to the Commission;
  - (b) that, under pains and penalties of perjury, to the best of its reasonable knowledge and belief, it is suitable to hold a license pursuant to M.G.L. c. 23N, §§ 5, 6, and 9(a), and 205 CMR 215.01(3)-(4); and
  - (c) (for an Applicant): the Applicant certifies, under pains and penalties of perjury, that to the best of its reasonable knowledge and belief, all of its Qualifiers are also suitable to hold a license pursuant to M.G.L. c. 23N, §§ 5, 6, and 9(a), and 205 CMR 215.01(3)-(4).
- (3) In determining whether an Applicant or Qualifier is suitable, the Commission shall evaluate and consider the overall reputation of the Applicant and its

Qualifiers, if any, including, without limitation, and on the basis of a report from the Bureau, sworn attestations, or other information or evidence available to the Commission:

- (a) the integrity, honesty, good character and reputation of the Applicant and its Qualifiers;
  - (b) the financial stability, integrity, and background of the Applicant and its Qualifiers;
  - (c) whether the Applicant and its Qualifiers have a history of compliance with gaming and Sports Wagering licensing requirements in other jurisdictions;
  - (d) whether the Applicant or any Qualifier, at the time of the request, is a defendant in litigation;
  - (e) whether the Applicant or any Qualifier is ineligible to hold a license under 205 CMR 215.01(4) and M.G.L. c. 23N, § 9(a);
  - (f) whether the Applicant or any Qualifier has been convicted of a crime of moral turpitude;
  - (g) whether, and to what extent, the Applicant or any Qualifier has associated with members of organized crime and other Persons of disreputable character; and
  - (h) the extent to which the Applicant and its Qualifiers have cooperated with the Bureau during the review of the Sports Wagering License Application.
- (4) The Commission shall determine that an Applicant is unsuitable if the Applicant or one of its Qualifiers:
- (a) has knowingly made a false statement of a material fact to the Commission;
  - (b) has had a license revoked by any Governmental Authority responsible for regulation of gaming or Sports Wagering activities;
  - (c) has been convicted of a felony or other crime involving embezzlement, theft, fraud, perjury or a gambling-related offense;
  - (d) has not demonstrated to the satisfaction of the Commission financial responsibility sufficient to adequately meet the requirements of the proposed enterprise;
  - (e) has Affiliates or Close Associates that would not qualify for a Sports Wagering License or whose relationship with the Applicant may pose an injurious threat to the interests of the Commonwealth.

- (5) Determinations of suitability, and further Commission review thereof shall be made in a manner consistent with 205 CMR 115.04 and 205 CMR 115.05.

215.02 Persons Required to be Qualified.

- (1) The following Persons shall be required to qualify as part of the Sports Wagering License review:
  - (a) If the Applicant is a corporation:
    - (i) Each officer;
    - (ii) Each inside director;
    - (iii) Any Person owning 10% or more of the common stock of the Applicant, or a holding, intermediary or subsidiary company of such company and who has the ability to control the activities of the Applicant; and
    - (iv) In the judgment of the Division of Licensing after consultation with the Bureau, any Person with significant and substantial responsibility for the Applicant's Business under the jurisdiction of the Commission or having the power to exercise significant influence over decisions concerning the Applicant's operations in the Commonwealth.
  - (b) If the Applicant is a limited liability corporation:
    - (i) Each member;
    - (ii) Each transferee of a member's interest;
    - (iii) Each manager; and
    - (iv) In the judgment of the Division of Licensing after consultation with the Bureau, any Person with significant and substantial responsibility for the Applicant's Business under the jurisdiction of the Commission or having the power to exercise significant influence over decisions concerning the prospective Applicant's operations in the Commonwealth.
  - (c) If the Applicant is a partnership:
    - (i) Each partner; and
    - (ii) In the judgment of the Division of Licensing after consultation with the Bureau, any Person with significant and substantial responsibility for the Applicant's Business under the jurisdiction of

the Commission or having the power to exercise significant influence over decisions concerning the Applicant's Operations in the Commonwealth.

- (2) Other Qualifiers. The Commission may, in its sole discretion, require other Persons that have a Business association of any kind with the Applicant to undergo a Qualifier review and determination process. These Persons may include, but are not limited to, holding, intermediary or subsidiary companies of the requestor.
- (3) Waivers. In addition to any other exception or exemption under 205 CMR 215.00, upon written petition, the Commission may waive the requirement to be qualified as a Qualifier under this Section 205 CMR 215 for:
  - (a) Institutional investors holding up to 15% of the stock of the Applicant, or holding, intermediary or subsidiary company thereof, upon a showing by the Person seeking the waiver that it purchased the securities for investment purposes only and does not have any intention to influence or affect the affairs or operations of the Applicant or holding, intermediary or subsidiary company thereof. Provided, however, any institutional investor granted a waiver which subsequently determines to influence or affect the affairs or operations of the Applicant, or a holding, intermediary or subsidiary company thereof shall provide not less than 30 days' notice to the Commission of such intent and shall file an application and may be subject to the licensing requirements of 205 CMR 210.00 through 218.00 before taking any action that may influence or affect the affairs of the Applicant or a holding, intermediary or subsidiary company; or
  - (b) Any Person who, in the opinion of the Bureau or the Commission, cannot exercise control or provide direction to an Applicant or a holding, intermediary or subsidiary company thereof.
  - (c) Any Person previously qualified pursuant to M.G.L. c. 23K or 205 CMR 116.00.
- (4) Qualification of New Qualifiers.
  - (a) No Person requiring qualification pursuant to 205 CMR 215.02(1)-(2) may perform any duties or exercise any powers relating to the position that said Qualifier is seeking to assume for a Sports Wagering Operator unless the Person notifies the Bureau in writing within 30 days of appointment to the position. Such notification shall be accompanied by the applicable Business entity or personal disclosure form specified by the Bureau. Following such notification and submission of the completed form, the Person may continue to perform duties and exercise powers relating to the position pending qualification.

- (b) A Person with reason to believe that his or her new position with a Sports Wagering Operator may require qualification pursuant to 205 CMR 215.02(1)-(2) shall notify the Bureau in writing within 30 days of appointment to the position. Such notification shall be accompanied by a summary of the responsibilities and/or features of the position. The Bureau shall determine whether the Person shall be designated a Qualifier pursuant to 205 CMR 215.02(1)-(2) and shall notify the Person of such designation in writing. Within 30 days of designation as a Qualifier, the Person shall submit a completed personal disclosure form. Following submission of the completed form, the Person may continue to perform duties and exercise powers relating to the position pending qualification.
  - (c) The Bureau shall review the forms submitted by the new Qualifier, as well as such other information that the Bureau may request, and, upon completion of its investigation, shall make a recommendation in accordance with 205 CMR 215.01(1)(c) whether the new Qualifier meets the standards for suitability.
  - (d) Upon notification by the Bureau of a determination that reasonable cause exists to believe the Qualifier may not ultimately be found suitable, an Applicant shall promptly remove the Qualifier from his or her position until such time as the Commission makes its final determination on suitability.
- (5) Internal Review of Determinations. An Applicant may ask for review of any determination made by the Bureau in accordance with 205 CMR 215.02(1)-(4) to the Commission, by filing a petition on a form prescribed by the Commission. The Commission shall decide the question at a public meeting on the matter at which it may allow representatives of the petitioner and Bureau to testify.

**205 CMR 215: APPLICANT AND QUALIFIER SUITABILITY DETERMINATION, STANDARDS, AND PROCEDURES**

215.01 Affirmative Suitability Standards for Applicants and Qualifiers  
 215.02 Persons required to be qualified.

215.01 Affirmative Suitability Standards for Applicants and Qualifiers

(1) Durable finding of suitability.

- (a) An Applicant or Qualifier shall have the duty to establish its suitability by clear and convincing evidence.
- (b) No Applicant shall be determined to be suitable in accordance with this 205 CMR 215.01(1) unless and until all Qualifiers identified in 205 CMR 215.02 have been found by the Commission suitable in accordance with this 205 CMR 215.01(1).
- (c) Before the Commission may determine that an Applicant or Qualifier is suitable in accordance with this 205 CMR 215.01(1), the Bureau shall conduct an investigation into the qualifications and suitability of the Applicant or Qualifier, consistent with 205 CMR 115.03(1). At the completion of the Bureau's investigation, it shall submit a written report to the Commission, which will include recommendations and findings of fact relative to the suitability of the Applicant or Qualifier for a Sports ~~Watering~~ ~~Wagering~~ License.

(2) Preliminary finding of suitability. Notwithstanding any other provision of 205 CMR 215.00, the Commission, in its sole discretion, may determine in accordance with 205 CMR 215.01(5) that an Applicant or Qualifier is suitable in accordance with this 205 CMR 215.01(2) ~~if the Applicant or Qualifier certifies based on a certification pursuant to 205 CMR 215.01(2)(a) and an investigatory report pursuant to 205 CMR 215.01(2)(b).~~

(a) To be found suitable in accordance with 205 CMR 215.01(2), the Applicant or Qualifier must certify:

- ~~(a)~~(i) that it understands it may be denied a Sports Wagering License or have a Sports Wagering License revoked if it has willfully, knowingly, recklessly, or intentionally provided false or misleading information to the Commission;
- ~~(b)~~(ii) that, under pains and penalties of perjury, to the best of its reasonable knowledge and belief, it is suitable to hold a license pursuant to M.G.L.c. 23N, §§ 5, 6, and 9(a), and 205 CMR 215.01(3)-(4); and

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~~(e)(iii)~~ (for an Applicant): the Applicant certifies, under pains and penalties of perjury, that to the best of its reasonable knowledge and belief, all of its Qualifiers are also suitable to hold a license pursuant to M.G.L.c. 23N, §§ 5, 6, and 9(a), and 205 CMR 215.01(3)-(4).

(b) Before the Commission may determine that an Applicant or Qualifier is suitable in accordance with this 205 CMR 215.01(2), the Bureau shall conduct an investigation into the qualifications and suitability of the Applicant or Qualifier. The investigation may be limited to a review of the Applicant or Qualifier's 205 CMR 215.01(2)(a) certification; an Applicant's self-disclosed licensing and compliance history in other jurisdictions; self-disclosed open litigation involving an Applicant; and an open-source check concerning the Applicant or, if a natural person, a Qualifier. At the completion of the Bureau's investigation, it shall submit a written report to the Commission, which will include recommendations and findings of fact relative to the suitability of the Applicant or Qualifier for a Sports Wagering License.

- (3) In determining whether an Applicant or Qualifier is suitable, the Commission shall evaluate and consider the overall reputation of the Applicant and its Qualifiers, if any, including, without limitation, and on the basis of a report from the Bureau, sworn attestations, or other information or evidence available to the Commission:
- (a) the integrity, honesty, good character and reputation of the Applicant and its Qualifiers;
  - (b) the financial stability, integrity, and background of the Applicant and its Qualifiers;
  - (c) whether the Applicant and its Qualifiers have a history of compliance with gaming and Sports Wagering licensing requirements in other jurisdictions;
  - (d) whether the Applicant or any Qualifier, at the time of the request, is a defendant in litigation;
  - (e) whether the Applicant or any Qualifier is ineligible to hold a license under 205 CMR 215.01(4) and M.G.L. c. 23N, § 9(a);
  - (f) whether the Applicant or any Qualifier has been convicted of a crime of moral turpitude;
  - (g) whether, and to what extent, the Applicant or any Qualifier has associated with members of organized crime and other Persons of disreputable character; and

- (h) the extent to which the Applicant and its Qualifiers have cooperated with the Bureau during the review of the Sports Wagering License Application.
- (4) The Commission shall determine that an Applicant is unsuitable if the Applicant or one of its Qualifiers:
  - (a) has knowingly made a false statement of a material fact to the Commission;
  - (b) has had a license revoked by any Governmental Authority responsible for regulation of gaming or Sports Wagering activities;
  - (c) has been convicted of a felony or other crime involving embezzlement, theft, fraud, perjury or a gambling-related offense;
  - (d) has not demonstrated to the satisfaction of the Commission financial responsibility sufficient to adequately meet the requirements of the proposed enterprise;
  - (e) has Affiliates or Close Associates that would not qualify for a Sports Wagering License or whose relationship with the Applicant may pose an injurious threat to the interests of the Commonwealth.
- (5) Determinations of suitability, and further Commission review thereof shall be made in a manner consistent with 205 CMR 115.04 and 205 CMR 115.05.

215.02 Persons Required to be Qualified.

- (1) The following Persons shall be required to qualify as part of the Sports Wagering License review:
  - (a) If the Applicant is a corporation:
    - (i) Each officer;
    - (ii) Each inside director;
    - (iii) Any Person owning, ~~or having another beneficial or proprietary interest in,~~ 10% or more of the common stock of the Applicant, or a holding, intermediary or subsidiary company of such company ~~and who has the ability to control the activities of the Applicant;~~ and
    - (iv) In the judgment of the Division of Licensing after consultation with the Bureau, any Person with significant and substantial responsibility for the Applicant's Business under the jurisdiction of the Commission or having the power to exercise significant

influence over decisions concerning the Applicant's operations in the Commonwealth.

- (b) If the Applicant is a limited liability corporation:
  - (i) Each member;
  - (ii) Each transferee of a member's interest;
  - ~~(iii)~~ Any other holder of a beneficial or proprietary interest of 10% or more in the Applicant;
  - ~~(iii)~~(iv) Each manager; and
  - ~~(iv)~~(v) In the judgment of the Division of Licensing after consultation with the Bureau, any Person with significant and substantial responsibility for the Applicant's Business under the jurisdiction of the Commission or having the power to exercise significant influence over decisions concerning the prospective Applicant's operations in the Commonwealth.
  
- (c) If the Applicant is a partnership:
  - ~~(i)~~ Each partner; ~~and~~
  - ~~(i)~~(ii) Any other holder of a beneficial or proprietary interest of 10% or more in the Applicant; and
  - ~~(ii)~~(iii) In the judgment of the Division of Licensing after consultation with the Bureau, any Person with significant and substantial responsibility for the Applicant's Business under the jurisdiction of the Commission or having the power to exercise significant influence over decisions concerning the Applicant's Operations in the Commonwealth.
  
- (2) Other Qualifiers. The Commission may, in its sole discretion, require other Persons that have a Business association of any kind with the Applicant to undergo a Qualifier review and determination process. These Persons may include, but are not limited to, holding, intermediary or subsidiary companies of the requestor.
  
- (3) Waivers. In addition to any other exception or exemption under 205 CMR 215.00, upon written petition, the Commission may waive the requirement to be qualified as a Qualifier under this Section 205 CMR 215 for:
  - (a) Institutional investors holding up to 15% of the stock of the Applicant, or holding, intermediary or subsidiary company thereof, upon a showing by the Person seeking the waiver that it purchased the securities for

investment purposes only and does not have any intention to influence or affect the affairs or operations of the Applicant or holding, intermediary or subsidiary company thereof. Provided, however, any institutional investor granted a waiver which subsequently determines to influence or affect the affairs or operations of the Applicant, or a holding, intermediary or subsidiary company thereof shall provide not less than 30 days' notice to the Commission of such intent and shall file an application and may be subject to the licensing requirements of 205 CMR 210.00 through 218.00 before taking any action that may influence or affect the affairs of the Applicant or a holding, intermediary or subsidiary company; or

- (b) Any Person who, in the opinion of the Bureau or the Commission, cannot exercise control or provide direction to an Applicant or a holding, intermediary or subsidiary company thereof.
- (c) Any Person previously qualified pursuant to M.G.L. c. 23K or 205 CMR 116.00.

(4) Qualification of New Qualifiers.

- (a) No Person requiring qualification pursuant to 205 CMR 215.02(1)-(2) may perform any duties or exercise any powers relating to the position that said Qualifier is seeking to assume for a Sports Wagering Operator unless the Person notifies the Bureau in writing within 30 days of appointment to the position. Such notification shall be accompanied by the applicable Business entity or personal disclosure form specified by the Bureau. Following such notification and submission of the completed form, the Person may continue to perform duties and exercise powers relating to the position pending qualification.
- (b) A Person with reason to believe that his or her new position with a Sports Wagering Operator may require qualification pursuant to 205 CMR 215.02(1)-(2) shall notify the Bureau in writing within 30 days of appointment to the position. Such notification shall be accompanied by a summary of the responsibilities and/or features of the position. The Bureau shall determine whether the Person shall be designated a Qualifier pursuant to 205 CMR 215.02(1)-(2) and shall notify the Person of such designation in writing. Within 30 days of designation as a Qualifier, the Person shall submit a completed personal disclosure form. Following submission of the completed form, the Person may continue to perform duties and exercise powers relating to the position pending qualification.
- (c) The Bureau shall review the forms submitted by the new Qualifier, as well as such other information that the Bureau may request, and, upon completion of its investigation, shall make a recommendation in accordance with 205 CMR 215.01(1)(c) whether the new Qualifier meets the standards for suitability.

- (d) Upon notification by the Bureau of a determination that reasonable cause exists to believe the Qualifier may not ultimately be found suitable, an Applicant shall promptly remove the Qualifier from his or her position until such time as the Commission makes its final determination on suitability.
- (5) Internal Review of Determinations. An Applicant may ask for review of any determination made by the Bureau in accordance with either 205 CMR 215.02(1)-(3) or 205 CMR 215.02(4)(b) to the Commission, by filing a petition on a form prescribed by the Commission. The Commission shall decide the question at a public meeting on the matter at which it may allow representatives of the petitioner and Bureau to testify.

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**205 CMR 219: TEMPORARY LICENSING PROCEDURES**

219.01 Eligibility to Request a Temporary License

219.02 Temporary License Request Process

219.01 Eligibility to Request a Temporary License

- (1) A Person shall be eligible to request a Temporary License if:
  - (a) The Commission deems it eligible in accordance with 205 CMR 218.07(1)(a); or
  - (b) The Commission awards it a Sports Wagering License in accordance with 205 CMR 218.07(1)(b).

219.02 Temporary License Request Process

- (1) Any Person who is eligible to request a Temporary License may submit a request for a Temporary License to the Executive Director on a form to be approved by the Commission. Such request shall be accompanied by an initial licensing fee of \$1,000,000 payable to the Commission.
- (2) Upon receiving a request for a Temporary License, the Executive Director or their designee shall within fourteen days determine whether the requestor is eligible to request a Temporary License and has paid the initial licensing fee as described in 205 CMR 219.02, and make a written recommendation to the Commission as follows:
  - (a) If the Executive Director determines that the requestor is eligible and has paid the initial licensing fee, they shall recommend to the Commission that the Commission issue the requested Temporary License.
  - (b) If the Executive Director determines that the requestor is not eligible or has not paid the initial licensing fee, they shall recommend to the Commission that the Commission deny the requested Temporary License.
- (3) Upon receiving a recommendation from the Executive Director in accordance with 205 CMR 219.02(2), the Commission shall, at an open public meeting held within fourteen days, either issue or deny the requested Temporary License.
  - (a) The Commission shall send written notice of the public meeting to the requestor at least seven days in advance of the meeting.
  - (b) The chair or their designee shall preside over the public meeting, and may in their discretion allow comment or presentations from representatives of the requestor or from the public.

- (4) Any Temporary License shall be subject to conditions in accordance with M.G.L. c. 23N and 205 CMR 220.

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SPORTS WAGERING: License Conditions

- 220.01 Conditions on All Licenses
- 220.02 Conditions on Temporary Licenses

220.01 Conditions on All Licenses

- (1) All Sports Wagering Licenses shall be issued subject to the following conditions:
  - (a) That the Operator comply with all terms and conditions of its license and operations certificate;
  - (b) That the Operator comply with G.L. c. 23N and all rules and regulations of the Commission;
  - (c) That the Operator make all required payments to the Commission in a timely manner;
  - (d) That the Operator maintain its suitability to hold a sports wagering license; and
  - (e) That the Operator conduct sports wagering in accordance with its approved system of internal controls, consistent with 205 CMR, and in accordance with its approved house rules, in accordance with G.L. c. 23N, § 10(a) and consistent with 205 CMR.
- (2) The Commission may impose any other conditions on particular licenses that it determines are appropriate to secure the objectives of G.L. c. 23N and 205 CMR.

220.02 Conditions on Temporary Licenses

In addition to the conditions set out in 205 CMR 220.01, all Temporary Licenses shall be issued subject to the condition that the Temporary License shall expire after the Commission makes a supplemental determination of suitability in accordance with 205 CMR 218.06(7), or one year, whichever is longer; provided, that the Temporary License shall expire after five years if the Commission has not made a supplemental determination of suitability in that time.

**205 CMR 221: SPORTS WAGERING LICENSE FEES**

- 221.01 Licensing and Assessment Fees
- 221.02 Payment of Fees
- 221.03 Annual Reconciliation of Commission Budget

**221.01 Licensing and Assessment Fees**

- (1) Upon submission of a request for a Temporary License pursuant to 205 CMR 219.00, the requestor shall pay an initial non-refundable license fee of \$1,000,000 to the Commission.
- (2) Within 30 days after the award of a Sports Wagering Operator License by the Commission, the Operator shall pay a license fee of \$5,000,000 to the Commission; provided, however, that any \$1,000,000 fee paid to the Commission because the Operator previously received a Temporary License shall be credited against that \$5,000,000. As a pre-condition of any award, the Commission may provide that such license fees be paid on an installment basis before the award is made and the license issued.
- (3) The following additional fees are due and payable to the Commission for each Sports Wagering Operator:
  - (a) An Annual Assessment as provided by M.G.L. c. 23N, § 15(c), to be determined by the Commission and calculated in accordance with M.G.L. c. 23N, § 15(c) to cover costs of the Commission necessary to maintain control over Sports Wagering, in proportion to each licensee's actual or projected Adjusted Gross Sports Wagering receipts; provided, however, that such assessment may be adjusted by the Commission at any time after payment is made where required to reflect the actual Adjusted Gross Sports Wagering Receipts, and accordingly, the payment of additional funds may be required or a credit may be issued towards the payment due the following year;
  - (b) An annual fee, as provided by M.G.L. c. 23N, § 15(e) reflecting each Operator that is not a Category 1 Sports Wagering Licensee's share of \$1,000,000 to be deposited into the Public Health Trust Fund; provided, however, that the Commission shall determine each Operator's share as their proportional share of anticipated or actual Adjusted Gross Sports Wagering Receipts; provided further, however, that such assessment may be adjusted by the Commission at any time after payment is made where required to reflect the actual adjusted gross sports wagering revenue; and
  - (c) any other such license fees required under M.G.L. c. 23N and required to be assessed by the Commission.

221.02 Payment of Fees

- (4) Except in the case of an assessment for fiscal years 2023 and 2024 the Annual Assessment due under 205 CMR 221.01(3)(a) shall be assessed on or about 30 days prior to the start of the Commission fiscal year. The Annual Assessment for each Operator shall be the difference between the Commission's projected costs to regulate Sports Wagering minus any other revenues anticipated to be received by the Commission related to Sports Wagering and assessed as provided in 205 CMR 221.01(3)(b). The Commission may assess the Annual Assessment on a *pro rata* basis commencing in fiscal year 2023 and will make such assessment each fiscal year thereafter. The Commission, in its sole discretion, may allow the Annual Assessment to be paid in one or more installments during the fiscal year.
- (5) All license fees and assessments due to the Commission shall be due and payable within 30 days of receipt of an invoice from the Commission.
- (6) All license fees and assessments shall be submitted in the form of a certified check or secure electronic funds transfer payable to the "Massachusetts Gaming Commission."
- (7) In the event that a licensee fails to pay any fees or assessments as provided in 205 CMR 221.01, the Commission may take any remedial action it deems necessary up to and including revocation of the Sports Wagering Operator License.

221.03 Commission Budget and Reconciliation

- (8) The Commission shall establish a budget for Sports Wagering in the course of establishing its overall budget pursuant to 205 CMR 121.03 and 121.04.
- (9) If at any time during the fiscal year the Commission determines that actual costs associated with Sports Wagering will exceed the projected costs and projected revenue associated with Sports Wagering in the budget the Commission will revise the Annual Assessment assessed to Operator and invoice each Operator for its proportional share of such costs.
- (10) Within 90 days of the close of each fiscal year the Commission will reconcile its actual costs to actual revenues. In no case will the Commission end a fiscal year on a negative basis. No commitment or expense shall cause the Sports Wagering Control Fund to end the fiscal year with a negative cash balance.
- (11) In the event that actual revenues exceed actual costs for a given fiscal year, the Commission in its sole discretion shall credit such Excess Assessment to the Annual Assessment due for the next fiscal year.
- (12) In the event that actual revenues associated with Sports Wagering are less than actual costs associated with Sports Wagering for a given fiscal year, the Commission will assess each Operator for its share of the excess costs (Excess Cost Assessment) in the same manner in which the Commission assessed the

Annual Assessment. Such Excess Cost Assessment shall be due and payable as part of the Annual Assessment due for the next fiscal year.

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