

940 CMR 34.00: FANTASY CONTEST OPERATIONS IN MASSACHUSETTS

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34.01: Purpose

940 CMR 34.00 is intended to protect Massachusetts consumers who play Fantasy Contests for Prizes from unfair and deceptive acts and practices that may arise in the gaming process. 940 CMR 34.00 is also intended to protect the families of persons who play Fantasy Contests to the extent that they may be affected by unfair and deceptive practices that lead to unaffordable losses.

34.02: Scope

940 CMR 34.00 defines unfair or deceptive acts or practices that violate M.G.L. c. 93A, § 2(a), but is not intended to define all Contests and related activities that violate the statute. Acts or practices not specifically proscribed in 940 CMR 34.00 are not to be treated, by implication, as permitted under or consistent with M.G.L. c. 93A, M.G.L. c. 12, § 11M1/2, or other applicable laws.

940 CMR 34.00 applies to acts or practices concerning Fantasy Contest Operators doing business in Massachusetts.

Nothing in this regulation may be interpreted as authorizing a wager, bet, or gambling activity that is prohibited by law.

34.03: Definitions

Account. Any record of financial or other transaction activity utilized by an Operator to hold or track an Account Holder's funds. Such Account may be established and funded by the Account Holder electronically through an Operator's Platform.

Account Holder. Any person physically located in, or who is a resident of, Massachusetts with an Account to enter Fantasy Contests on a Fantasy Contest Platform.

Beginner. Any Participant who has entered fewer than 51 contests offered by a single Operator who does not meet the definition of Highly-experienced Player by virtue of having won three Contest Prizes of \$1,000 or more.

Bonus Dollars. Any credit awarded by an Operator or its affiliates to a person that can be used to participate in a Contest.

Competition. Any real-world or simulated event, activity, or performance, or portion thereof, upon which the outcome of a Contest is based.

Contractor. Any person or corporate entity who works with an Operator pursuant to a contract, or any other agreement for consideration or remuneration, and who has access to non-public portions of the Operator's office, Platform, or information that is not publicly available.

Enterprise. Any business organization including, without limitation, its subsidiaries and parent entities, its owners, officers, partners and employees, as well as other related entities that share common ownership, control, or management.

Exempt Contest. A Fantasy Contest that meets one or more of the following criteria:

- (a) No Prize is awarded other than game-based virtual currency that cannot be redeemed for cash or merchandise, or exchanged for anything of value outside the context of gameplay;
- (b) The Contest is free to enter;
- (c) The Enterprise offering the Contest receives no compensation or anything else of value in connection with the Contest, regardless of the outcome of the Contest;
- (d) The Prize or Prizes offered are of no greater value than the lowest individual fee charged to a single Participant for entering or participating in the Contest; or
- (e) The Contest encompasses an entire season of the activity in which the underlying Competitions are being conducted, consists of at least 150 Competitions, with active roster management by Participants throughout the entire season, and the Prize or Prizes awarded, if any, are determined by agreement of the Participants only in order to distribute fully the Participants' contributions to a fund established to award a Prize or Prizes for the Contest.

Fantasy Contest or Contest. Any fantasy or simulated game or contest with one or more identifiable Participants competing against one or more other identifiable Participants, in which a Prize is always paid out or given to such winning Participant(s) and never kept by the Operator. For each Contest:

- (a) The value of all Prizes and awards offered to winning Participants must be established and made known to the Participants in advance of the Contest;
- (b) The award of a Prize reflects the relative knowledge and skill of the Participants in selecting and managing their Contest entries and shall be determined predominantly by the accumulated statistical performance or accumulated finishing positions of individuals in a Competition, including athletes in the case of sports events; and
- (c) No award of a Prize is based on the score, point spread, or any performance or performances of any single actual team or combination of such teams or solely on any single performance of an individual in any single Competition.

Highly-experienced Player. Any Account Holder who has:

- (a) entered more than 1,000 Contests offered by a single Operator; or
- (b) has won more than three Contests offered by a single Operator in which each Prize is valued at \$1,000 or more.

Once an Account Holder is classified as a Highly-experienced Player, that Account Holder will remain classified as such.

Minors. Persons younger than 21 years old.

Operator. Any Enterprise that offers, via the internet, mobile application, or other electronic or digital media or communication technologies, more than 10 Fantasy Contests each month to persons who include residents of Massachusetts. An Enterprise is not an Operator if it offers only Exempt Contests.

Participant. An Account Holder who has entered a Fantasy Contest.

Platform. Any website, application, widget, or other digital environment accessible via the internet, mobile, or wireless technology and providing access to a Fantasy Contest.

Prize. Anything of value, including but not limited to, money, cryptocurrency, gifts, awards, gratuities, goods, services, credits, merchandise, admission to another Contest, or anything else of value that may be transferred to or for the benefit of a winner of a Contest, regardless of whether such Prize is actually delivered to the winner.

Prominently Publish. To be placed in a clear and conspicuous manner, directly in a communication or via a hyperlink that is easily understandable and prominently labeled.

Promoter. Any person or corporate entity, who is not a Contractor, that offers advice on Contests to persons, including Account Holders and Participants, pursuant to a contract or any other agreement with an Operator for consideration or remuneration or pursuant to an Operator's sponsorship.

Script. Commands that an electronic device can execute that are used by an Account Holder to automate processes on a Platform.

Segregated Account. A financial account that segregates funds that are owned by Account Holders and that, by its terms, is restricted to funds owned by Account Holders in the United States, such that the Operator's operational funds may not be commingled.

34.04: Minors Prohibited from Participation in Contests; Prohibition of Contests Based on Student Competitions

With respect to Account Holders and to any other person present in Massachusetts:

(1) No Engagement by Minors. An Operator shall not allow a Minor to create an Account or enter or engage in any Contest.

(2) Refunds of Deposits by Minors. Upon discovering that an Account is held by or has been used by a Minor, an Operator shall promptly refund any money held in that Account, whether or not the Minor has entered into or attempted to enter into any Contests. An Operator may refuse to award a Prize to a Minor upon a good-faith determination, following reasonable investigation, that the Minor misrepresented their age in order to enter the Contest. Such Prize must be awarded to another Participant in the Contest who would have won the Prize had the Minor not participated.

(3) No Contests Based on Amateur or Student Competitions. Operators shall not permit entry in Contests that are based on Competitions involving amateur, college, high school, or student Competitions, including sports.

(4) Preventing Platform Access by Minors. Operators shall maintain commercially and technologically reasonable measures to prevent Minors from accessing Platforms, including but not limited to:

- (a) Utilizing multi-factor authentication or biometric authentication each time an Account Holder signs into an Account;
- (b) Notifying the Account Holder of unusual activity or access to the Account through alternate means of contact;
- (c) Employing a mechanism to lock an Account at the Account Holder's discretion or, in the event that suspicious authentication activity is detected, such as three consecutive failed access attempts in a 30-minute period, until the Account Holder's identity and credentials can be verified;
- (d) Restricting the allowed number of sign-ins on an Account to one device at any given time;
- (e) Periodically reverifying the Account Holder's identity;
- (f) Immediately reverifying the Account Holder's identity upon developing reasonable suspicion that an Account has been compromised;
- (g) Closing the Account of an Account Holder discovered to be a Minor or who facilitates the participation of a Minor in Contests, and banning anyone who facilitates the participation of a Minor in Contests from further engaging in Contests;

(h) Prominently Publishing on the Operator’s Platform when a person signs up for an Account, and periodically thereafter to Account Holders, the minimum age for participation and warning that facilitation of Contest participation by a Minor can result in permanent Account termination and a prohibition against opening new Accounts for both the Minor upon reaching the legal age to engage in Fantasy Contests and any facilitator, as well as the ineligibility to collect Prizes.

34.05: Prohibition on Unfair and Deceptive Offerings

It shall constitute an unfair or deceptive act or practice in violation of M.G.L. c. 93A, § 2, for any person, Operator, or Enterprise to offer or facilitate any of the following:

- (1) A Contest mimicking or that is substantially similar to single-game bets, teasers, parlays, over-under, moneyline, pools, exchange wagering, in-game wagers, proposition bets, straight bets, or any other “sports wagering” activity, as defined by M.G.L. c. 23N, § 3 and regulations promulgated by the Massachusetts Gaming Commission;
- (2) A Contest in which the Operator or its affiliates keep any portion or all of a Prize;
- (3) A Contest that allows an Operator as a Participant pursuant to 940 CMR 34.13(1), unless specifically authorized and conducted in compliance with 940 CMR 34.13(2);
- (4) A Contest that includes or whose outcome depends on trading or resale of preexisting Contest entries;
- (5) A Contest in which the Prize amount fluctuates until the end of the Contest period;
- (6) A Contest that does not require active management or decision-making by the Participant, or where the Participant is not allowed to adjust their roster after the initial team selection prior to when a Contest locks;
- (7) A Contest upon which the outcome depends on the performance of any individual against a specified numerical threshold for performance, or a specific Competition outcome, rather than the cumulative performance of multiple individuals over time;
- (8) A Contest upon which the outcome depends on horse or greyhound races;
- (9) A Contest in which the Prize is determined by multiplying the entry fee based on an individual’s performance in a single Competition, such as a prediction of whether an athlete’s performance exceeds or falls below a specified threshold during a single Competition;
- (10) A Contest in which Participants make entries during the Competition or immediately before specific portions of a Competition;
- (11) A Contest in which Participants compete for the opportunity to enter another Contest or tournament requiring a higher entry fee or for a higher Prize;
- (12) A Contest upon which the outcome depends on any Competition that would be prohibited or illegal if it were to occur in Massachusetts;
- (13) A Contest that includes, or where the outcome depends on, games of chance or other offerings that are not based on any skill of the Participant, including but not limited to slot machines, roulettes, or any Contest or entry that is determined by random or pseudo-random outcome generators, such as spin-to-win, lottery, or any other casino-style game as defined by M.G.L. c. 23K, § 3 and regulations promulgated by the Massachusetts Gaming Commission; or
- (14) Any Contests without registering as an Operator with the Massachusetts Gaming Commission pursuant to 205 CMR 240.01(3).

34.06: Protection of Account Holder Funds and Accounts

(1) Protections for Accounts.

(a) Funds in Accounts must either be held:

1. in trust for the Account Holder in a Segregated Account; or
2. in a special purpose Segregated Account that is maintained and controlled by a properly constituted corporate entity that is not the Operator and whose governing board includes one or more corporate directors who are independent of the Operator and of any corporation related to or controlled by the Operator. Said corporate entity must require a unanimous vote of all corporate directors to file bankruptcy and must have articles of incorporation that prohibit commingling of funds with those of the Operator except as necessary to reconcile the Accounts of Account Holders with sums owed by those Account Holders to the Operator. Said special purpose corporate entity must also be:

- a. Restricted from incurring debt other than to Account Holders pursuant to the rules that govern their Accounts;
- b. Restricted from taking on obligations of the Operator other than obligations to Account Holders pursuant to the rules that govern their Accounts; and
- c. Prohibited from dissolving, merging, or consolidating with another company (other than a special purpose corporate entity established by another Operator that meets the requirements of this section) while there are unsatisfied obligations to Account Holders.

(b) Operators shall maintain, implement, and Prominently Publish procedures that:

1. Prevent unauthorized withdrawals from Accounts by Operators or others;
2. Make clear that the funds in the Segregated Account do not belong to the Operator and are not available to creditors other than the Account Holder whose funds are being held;
3. Prevent commingling of funds in the Segregated Account with other funds including, without limitation, funds of the Operator, or funds used for sports wagering if the Operator also offers sports wagering as defined by M.G.L. c. 23N, § 3 and regulations promulgated by the Massachusetts Gaming Commission, or funds used for Exempt Contests as applicable pursuant to 940 CMR 34.14;
4. Prevent unauthorized or fraudulent withdrawals from an Account;
5. Comply with the obligations of 940 CMR 34.16 and 34.20(6) for responding to and reporting on complaints from Account Holders that their Accounts have been misallocated, compromised, or otherwise mishandled;
6. Allow Account Holders to withdraw funds maintained in their Accounts, whether such Accounts are open or closed at any time and for any reason immediately without requiring additional customer service interaction to initiate the withdrawal. Such requests for withdrawals must be honored by the later of five business days of the request or 10 business days of submission of any tax reporting paperwork required by law, unless the Operator believes in good faith that the Account Holder engaged in either fraudulent conduct or other conduct that would put the Operator in violation of 940 CMR 34.00, in which case the 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 Account Holder. For the

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purposes of 940 CMR 34.06(1)(b)(6), a request for withdrawal will be considered honored if it is processed by the Operator but delayed by a payment processor, or by the custodian of a financial account; and

7. Allow any Account Holder to permanently close their Account at any time and for any reason immediately without requiring additional customer service interaction to initiate the closure. These procedures shall allow for closure by any means including, without limitation, by an Account Holder on any Platform used by that Account Holder to make deposits into an Account.

(2) Payment of Prizes on Closed Accounts. If a Prize is awarded to an Account Holder with a closed Account, that Prize, to the extent it consists of funds, shall be distributed by the Operator within five business days, provided, however, if an Account is closed based on the Operator's good-faith belief, after investigation, that the Account Holder has engaged in fraud or has attempted to engage in Contests that would put the Operator in violation of 940 CMR 34.00, then such Prize may be withheld from the Account Holder and awarded to another Participant in the Contest who would have won the Prize had that Account Holder not participated.

(3) Unclaimed Funds in Accounts.

(a) Subject to the provisions of M.G.L. c. 200A, §§ 7 and 8A, and 960 CMR 4.00, if an Account remains unclaimed for three years after the balances are payable or deliverable to the Account Holder, the Operator shall presume the Account to be abandoned.

(b) The Operator shall report and deliver all funds in Accounts presumed abandoned to the Treasurer of the Commonwealth as provided for by M.G.L. c. 200A, §§ 7 and 8A, and 960 CMR 4.03.

(c) Subject to M.G.L. c. 200A, § 7A and 960 CMR 4.03, at least 60 days prior to reporting any Accounts to the Treasurer, the Operator shall provide notice to the Account Holder's last known physical and email address and conduct due diligence to locate the Account Holder.

(4) Publication of Terms, Conditions, and Rules. Operators shall Prominently Publish all contractual terms and conditions and rules of general applicability that affect an Account at all times, including before registration. Presentation of such terms, conditions, and rules at the time of on-boarding a new Account Holder will not suffice. Operators shall notify Account Holders in writing by email or in-app messaging of any material changes to the terms and conditions, or other policies before such changes are implemented.

(5) Access to Account History. Operators shall provide an Account Holder access to their full Account history at any time. Operators shall take commercially and technologically reasonable measures to ensure Account history is updated contemporaneously or as close as possible to when a transaction occurs. The Account history shall include deposits, withdrawals, fees, Contest entries, and Prizes, in a searchable format with sufficiently detailed descriptions such that an Account Holder can understand the nature, date, time, and amount of each transaction. The Account history shall further display the cumulative of the above-referenced information in the form of "wins" and "losses" so that the Account Holder may easily discern their Account history.

(6) Sufficient Account Balance. Operators shall not accept Contest entries or withdrawals that would cause the available balance of an Account to fall below \$0. Any Account not updated when a transaction is completed shall be inoperable until the transaction is posted and the Account balance updated.

34.07: Account Creation and Limitations

(1) One Account per Account Holder. Operators shall not allow a person to establish more than one username or more than one Account with the Operator.

(2) Identification of Account Holders. Operators shall take commercially and technologically reasonable measures to electronically verify Account Holders' true identities and addresses at the time of Account establishment and shall use such information, at a minimum, to enforce 940 CMR 34.04.

(3) Basis to Refuse Account Registration. Operators shall refuse to establish an Account if it finds that any of the information supplied is untrue or incomplete absent good-faith error made by an Account Holder.

(4) Termination of Account Holders that Establish More than One Account. Operators shall maintain, implement, and Prominently Publish on the Platform procedures to terminate all Accounts of any Account Holder that establishes or seeks to establish more than one username or more than one Account, whether directly or by use of another person as proxy. Such procedures may allow an Account Holder that establishes or seeks to establish more than one username or more than one Account to retain one Account, provided that the Operator investigates and makes a good-faith determination that the Account Holder's conduct was not intended to obtain a competitive advantage.

(5) No Proxy or VPN Servers. Operators shall take commercially and technologically reasonable measures to not allow Account Holders to use a proxy server or VPN server for the purpose of misrepresenting their location in order to engage in Contests.

(6) No Proxy Account Holder. Operators shall take commercially and technologically reasonable measures to prevent one Account Holder from acting as a proxy for another. Such measures shall include, without limitation, use of geolocation technologies to prevent simultaneous logins to a single Account from geographically inconsistent locations.

(7) Accessibility of Contests. Any Contest shall only be accessible via an Account created pursuant to 940 CMR 34.00.

34.08: Requirements for Fair and Truthful Advertising

(1) Compliance with Existing Advertising Regulations Required. Operators shall comply with all regulations promulgated by the Attorney General's Office to the extent they concern advertising, marketing, branding, or other promotional activities, including 940 CMR 3.00 and 6.00. Nothing in 940 CMR 34.08 shall be construed as limiting an Operator's obligation to comply with any other federal, state, or local law.

(2) Operator Responsible for Advertising. Each Operator shall be responsible for the content and conduct of any and all Fantasy Contest advertising, marketing, branding, or promotional materials published, aired, displayed, disseminated, or distributed by or on its behalf whether conducted by the Operator, an Operator employee, or agent of the Operator, including any Contractor or Promoter.

(3) No Depiction of Minors. Advertisements, marketing, branding, or other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Operator shall not depict:

- (a) Any individual who is or appears to be a Minor, except live footage or images of professional athletes during Competitions on which Contests are permitted;
- (b) Any individual who is or appears to be a Minor in any way that appears to show or may be construed as the Minor participating in or endorsing Contests;
- (c) Students;
- (d) Schools or colleges; or
- (e) School or college settings, provided, however, that incidental depiction of non-featured Minors (*e.g.*, as a face in a crowd) will not be a violation of this subsection.

(4) No Endorsement by Minors, College Athletes, Colleges, or College Athletic Associations. Advertisements, marketing, branding, or other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Operator shall not state or imply endorsement by:

- (a) Minors (other than professional athletes who may be Minors);
- (b) Collegiate athletes;
- (c) Schools or colleges; or
- (d) School or college athletic associations.

(5) Age Requirement on Advertisements. Advertising, marketing, branding, or other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Operator shall state that Account Holders must be 21 years of age or older to hold an Account and participate in Contests in Massachusetts.

(6) Disclosing Financial Relationships. Any advertisement, testimonial, endorsement, or promotion for a Fantasy Contest or Platform shall disclose the identity of the Operator and whether a financial or other relationship exists between the Operator and any person providing the promotional content for the Operator that might materially affect the weight or credibility of the promotional content, including that of Promoters. Operators shall also comply with the Federal Trade Commission's Guide Concerning the Use of Endorsements and Testimonials in Advertising, 16 CFR Part 255, or any later update to this guide.

(7) Advertisements to Include Information to Promote Responsible Gaming. All advertisements published, aired, displayed, disseminated, or distributed by or on behalf of any Operator shall include and Prominently Publish the web address and phone number for the Massachusetts Problem Gambling Helpline using language provided by the Department of Public Health. If an advertisement is not of sufficient size or duration to reasonably permit

inclusion of such information, that advertisement shall refer to a website or application that does prominently include such information.

(8) Limitation on Representations about Prizes. Any representation concerning Prizes shall be accurate, not misleading, and capable of substantiation at the time the representation is made. An advertisement is misleading if it makes representations about average Prizes without equally prominently representing the average net Prizes of all Account Holders.

(9) Ad Tracking Disclosure Requirement. Operators shall accurately disclose and Prominently Publish on the Platform the categories of information collected about Account Holders and whether this information is used for targeted advertising. This disclosure shall include a method for Account Holders to opt out of targeted advertising by the Operator and its affiliates.

(10) Advertising Policies. Operators shall maintain and implement procedures that at a minimum:

(a) Prohibit unfair or deceptive advertisements, marketing, branding, or other promotional materials by or on behalf of any Operator, including but not limited to:

1. Promoting irresponsible or excessive participation in Fantasy Contests;
2. Suggesting that social, financial, or personal success is guaranteed by engaging in Fantasy Contests;
3. Implying or promoting Fantasy Contests as free of risk in general or in connection with a particular promotional offer, unless the Fantasy Contest truly carries no financial risk to the Account Holder;
4. Encouraging a person to “chase” losses or re-invest Prizes;
5. Suggesting that Fantasy Contests are a means of solving or escaping from financial, personal, or professional problems;
6. Portraying, suggesting, condoning, or encouraging Fantasy Contests as a rite of passage or signifier of reaching adulthood or other milestones;
7. Implying that the chances of winning increase with increased time spent engaging in Fantasy Contests, including entering more Fantasy Contests or entering Fantasy Contests with higher entry fees;
8. Being placed on any website or printed page or medium devoted primarily to responsible gaming;
9. Disseminating “limited-time” promotional offers that create a false sense of urgency without Prominently Publishing the expiration date (e.g. where there is no identified expiration date for the offer); or
10. Using Contractors or Promoters to provide purported expertise or Fantasy Contest advice if they are also employed by, contracted with, or otherwise compensated by a governing body for or an individual involved in a Competition, including those concerning sports, such as an athlete, sports agent, team employee, team representative, referee or league official, on which a Contest may be entered.

(b) Prohibit advising or encouraging Account Holders to enter a Fantasy Contest of any specific type, kind, subject, or amount with the following exceptions:

1. Advertising Fantasy Contests categorized for Highly-experienced Players to Highly-experienced Players, or

2. General advertising or promotional activities which may notify an Account Holder of the need to enter a specific Contest of a specific type, kind, subject, or amount in order for the Account Holder to receive a promotional benefit;
- (c) Prohibit targeted digital advertising or promotion of specific Contest entries or promotional offers to an Account Holder based on:
 1. A period of dormancy or non-use of a Platform;
 2. The Contests entered or promotional offers accepted by other Account Holders with a known or predicted social connection to the Account Holder;
 3. The communications of the Account Holder with any third party other than the Operator;
 4. The Account Holder's actual or predicted:
 - a. Income, debt, net worth, credit history, or status as beneficiary of governmental programs;
 - b. Medical status or conditions; or
 - c. Occupation.
 5. Any algorithm, automated decision-making, machine learning, artificial intelligence, or similar system that the Operator knew or should have known is reasonably expected to make the Platform addictive;
 6. Engagement or utilization of any measure described in 940 CMR 34.11(1), including those based on type of limit, frequency of engagement or utilization of self-imposed limitations, and frequency of changing limits, or 940 CMR 34.11(5), including duration of cool-off period, frequency of engagement or utilization of cool-off options, and frequency of changing cool-off periods, or any other measure intended to promote responsible gaming.

34.09: Restrictions on Advertising to Minors or at Schools or School Competitions

- (1) No Advertisements Targeted to Minors. Operators shall not advertise in publications or any other media that is (a) primarily aimed at, targeted to, or designed to appeal to Minors, or (b) where 25% or more of the audience is reasonably expected to be Minors.
- (2) No Promotional Activities at Schools or Colleges. Operators shall not advertise or run promotional activities at elementary or secondary schools, or on college campuses in Massachusetts.
- (3) No Promotion in Massachusetts of Contests that Include Amateur, College, High School or Student Competitions. Operators shall not run promotional activities in Massachusetts for Contests involving amateur, college, high school, or student Competitions, including sports. In the event a national Competition allows an amateur, college, high school, or other student to participate in the Competition, and preventing an advertisement on such Competition from being aired in Massachusetts is unreasonably burdensome, Operators shall Prominently Publish on the advertisement that the Contest and promotional activities are not offered in Massachusetts.
- (4) Restrictions on advertising affiliates. Operators shall not advertise through an affiliated entity or third party, including social media influencers, that have a consumer base or audience of which 25% or more of the audience is reasonably expected to be Minors.

(5) Restrictions on Brand Use. Operators shall not use or license for use any advertisements, including logos, trademarks, or brands, on products, clothing, toys, games, or game equipment designed or intended for Minors.

34.10: Promotional Offers

(1) Compliance with Existing Law on Promotional Offers. An Operator's promotional offers shall comply with 940 CMR 3.13(3) and 940 CMR 6.08 excepting §§ 6.08(3)(b) and (c), (5)(b) and (c), and (6).

(2) Pre-disclosure of Terms of Promotional Offers. Operators shall Prominently Publish and accurately disclose the material terms of all promotional offers at the time such offers are advertised and provide full disclosures of the terms of and limitations on the offer in a manner that is unavoidable before an Account Holder provides anything of value in exchange for the offer. If the material terms of a promotional offer cannot be fully and accurately disclosed within the constraints of a particular advertising medium (e.g., on a billboard), the promotional offer may not be advertised in that medium.

(3) Limitation of Delay of Implementation of Promotional Offers Available to New Customers. No promotional offer available to new Account Holders may contain terms that delay its full implementation by the Operator for a period of longer than 30 days or require the Account Holder to maintain an Account with the Operator for longer than 30 days to be eligible for the offer, regardless of the number of Contests entered during that period by the Account Holder.

(4) Prohibition on Promotions Based on Referrals. No promotional offer shall reward, be contingent upon, or otherwise relate to an Account Holder's referral of another person to the Operator or the Operator's Platform.

34.11: Protections for Associated Risks

(1) Self-Imposed Limitations. Operators shall offer settings that allow Account Holders to set Contest entry limits, usage limits, deposit limits, and limitations on entering Contests with fees above an established limit. Operators shall Prominently Publish on the Operator's Platform these and any other options for self-imposed limitations, including at the time an Account Holder establishes an Account, and shall honor any request for such limitations immediately without requiring additional customer service interaction to initiate the request. Operators shall offer options for time periods of daily, weekly, and monthly increments for any self-imposed limitation. Operators shall implement safeguards to prevent any Account Holder from violating their self-imposed limitations.

(2) Adjusting Self-Imposed Limitations. If an Account Holder requests a change to any self-imposed limitations, the Operator shall immediately honor and give effect to a more restrictive limitation. An Operator shall only implement and give effect to a less restrictive limitation after the previous limitation has expired and upon the Account Holder's confirmation of their request for the less restrictive limitation after the previous limitation has expired.

(3) Declining Self-Imposed Limitations. If an Account Holder declines to establish any limitations when establishing their Account, the Operator shall Prominently Publish a reminder of these options to the Account Holder at least once per month when the Account Holder is signed into the Operator's Platform.

(4) Displaying Responsible Gaming Resources. Operators shall Prominently Publish on the Operator's Platform responsible gaming resources. Such materials shall be placed, directly or *via* link, on one or more dashboards or on similar visualization tools that are properly labeled and clearly accessible from the home page landing screen of the Platform. Responsible gaming resources shall be from a reputable source, accessible in Massachusetts, on addictive gaming behavior, including at a minimum:

- (a) The link to and phone number for the Massachusetts Problem Gambling Helpline using language provided by the Department of Public Health;
- (b) The Massachusetts Attorney General's "Gambling Addiction Resources" webpage; and
- (c) The Massachusetts Council on Gaming and Health website.

(5) "Cool-off" Period. Operators shall offer settings that allow Account Holders to designate themselves as temporarily prohibited from the Operator's Platform. The designated timeframe for this temporary prohibition shall be referred to as the "cool-off" period. Operators shall Prominently Publish this option on the Operator's Platform, including at the time an Account Holder establishes an Account, and shall honor any request for a cool-off period immediately without requiring additional customer service interaction to initiate the request. Operators shall offer cool-off periods that include, at a minimum, timeframes of one hour, six hours, 12 hours, 24 hours, 72 hours, seven days, one month, three months, six months, and nine months. Notwithstanding the offered timeframes, the Operator shall allow an Account Holder to specify the timeframe for a cool-off period. Upon activation of a particular cool-off period, the Account shall be suspended until the expiration of the timeframe selected. At the time of selection, Operators shall also Prominently Publish information about the Massachusetts Gaming Commission's Voluntary Self-Exclusion program pursuant to 940 CMR 34.11(6). Upon activation, Operators shall send a confirmation email to the Account Holder ("Activation Confirmation Email"), which shall include the details of the cool-off period, a method for extending the timeframe, and responsible gaming resources as identified under 940 CMR 34.11(4). Operators shall implement safeguards to prevent any Account Holder from accessing their Account or engaging in activity that violates their cool-off period. In addition to the foregoing:

- (a) If an Operator is also licensed as a sports wagering operator pursuant to M.G.L. c. 23N, the Operator may extend the cool-off period to apply to sports wagering offered by that Operator.
- (b) Account Holders shall have the option to extend the cool-off period as often as they like.
- (c) If an Account Holder enters a Contest prior to selecting a cool-off period, but the Contest ends during the selected cool-off period, an Operator shall continue to deposit winnings for that Contest, if applicable. Notwithstanding any deposited winnings, the

Account Holder shall remain temporarily prohibited from the Platform throughout the duration of the cool-off period. An Operator shall include details of such circumstances in the Activation Confirmation Email.

(6) Advertising Prohibition to Self-Imposed Limitation and Cool-Off Enrollees. Operators shall not directly market a Contest or Platform by mail, phone, email, in-app or push notification, or in any other form of individually targeted advertisement or marketing material to an Account Holder if the Operator knew or should have known the person is in a cool-off period, would exceed any self-imposed limitations, or is otherwise barred from entering in that Contest.

(7) Massachusetts Gaming Commission Voluntary Self-Exclusion Program. Operators shall facilitate the execution of an Account Holder's request to self-exclude from Platforms of Operators registered pursuant to 205 CMR 240.01(3) at once by enrolling in the voluntary self-exclusion list facilitated by the Massachusetts Gaming Commission pursuant to M.G.L. c. 23N, § 13(e)(2) and 205 CMR 233.00. Operators shall Prominently Publish this option on the Operator's Platform, including at the time an Account Holder establishes an Account. An individual whose name is placed on the Massachusetts Gaming Commission's voluntary self-exclusion list shall be prohibited from holding an Account with an Operator registered pursuant to 205 CMR 240.01(3) for the duration of the exclusion period and until the completion of the reinstatement session required by 205 CMR 233.04(2). Operators shall ensure full compliance with the Massachusetts Gaming Commission's voluntary self-exclusion program, including the protections provided by 205 CMR 256.07.

(8) Requests for Exclusion Made by Third Parties. Operators shall maintain and implement and Prominently Publish procedures on the Platform for honoring requests made by third parties to permanently exclude, temporarily exclude pursuant to 940 CMR 34.11(5), or set deposit or Contest entry limits pursuant to 940 CMR 34.11(1) for Account Holders.

(a) These procedures shall include provisions for honoring requests to permanently and temporarily exclude Account Holders for whom the requestor can provide documentary evidence of sole or joint financial responsibility for the source of any funds deposited with an Operator for entering or engaging in Contests, including:

1. Proof that the requestor is jointly obligated on any financial account associated with the Account Holder's Account;
2. Proof of legal dependency of the Account Holder on the requestor under state or federal law; or
3. Proof of the existence of a court order or applicable law that makes the requestor wholly or partially obligated for the debts of the Account Holder for whom exclusion is requested.

(b) The procedures established under this subsection shall also provide for exclusion in situations in which the requestor can establish the existence of a court order requiring the Account Holder to pay unmet child support obligations. Any cool-off period may be commiserate with the length of any obligations identified under 940 CMR 34.11(8)(a).

(9) Refusal to Issue Prizes. Operators shall refuse to award any Prize to a winning Account Holder who participated in a Contest in violation of that Account Holder's self-imposed limitations pursuant to 940 CMR 34.11(1), cool-off period pursuant to 940 CMR 34.11(5), or

MGC self-exclusion pursuant to 940 CMR 34.11(7). Such Prize must be awarded to another Participant in the Contest who would have won the Prize had the Account Holder not participated in violation thereof.

(10) Unsubscribing from Advertisements. All direct advertising, marketing, branding, or promotional materials shall Prominently Publish a method allowing a person to unsubscribe from future advertising, marketing, branding, or promotional communications immediately without requiring additional customer service interaction to initiate the request.

(11) Employee Training on Problem Gaming. Operators shall train employees who develop Contests or advertising, marketing, branding, or promotional materials, or who interact with Account Holders, including customer service agents, as well as administrative and corporate staff members, on problem gaming within 30 days of beginning employment and annually thereafter. Such training shall include training on Operator policies and best practices for identifying and assisting Account Holders who may be or become problem gamers and teach skills and procedures specific to their position in order to respond to requests for responsible gaming information, and to reply appropriately if an Account Holder discloses they may have a problem. Training must be documented and reviewed annually by senior management.

(12) Limitations on Account Holder Deposits. Operators shall not allow an Account Holder to deposit more than \$1,000 in any calendar month, provided however that an Operator may maintain and implement and Prominently Publish procedures on the Platform for temporarily or permanently increasing an Account Holder's deposit limit, at the request of the Account Holder, above \$1,000 per calendar month.

(a) If implemented by an Operator, such procedures shall include:

1. Evaluation of information, including income or asset information, sufficient to establish that the Account Holder can afford losses that might result from entering or engaging in Contests at the deposit limit level requested; and
2. Obtaining the Account Holder's affirmative acknowledgement that the Account Holder has reviewed the responsible gaming resources pursuant to 940 CMR 34.11(4).

(b) When a temporary or permanent deposit level limit increase is approved, the Operator shall conduct an annual evaluation of information, including income or asset information, sufficient to establish an Account Holder's financial ability to afford losses at the deposit limit level in place. Absent such evaluation, the temporary or permanent deposit level increase shall not be extended.

(13) Prohibition on Credit Card and Cryptocurrency Deposits. No deposit into an Account may be made by credit card (either prepaid or through a credit line) or cryptocurrency, either directly or indirectly. If an Operator offers gift cards that can be used by Account Holders to fund Accounts, the Operator must prohibit the purchase of such gift cards using credit cards or cryptocurrency.

(14) Prohibition on Automatic Deposits. An Operator shall not allow an Account Holder to set a recurring or automatic deposit of funds into their Account. Each deposit of funds shall be one-time only, require the Operator to manually enter a deposit amount, and prompt the Account Holder to confirm the amount to complete the deposit.

(15) Limits on Bonus Dollars. Operators shall not offer or give Bonus Dollars to any person as a result of purchasing Operator-branded merchandise or any consumer good or product. Operators shall not give Bonus Dollars to a person as a result of engaging in sports wagering pursuant to G.L. c. 23N or casino gaming pursuant to G.L. c. 23K.

(16) Account Deposits. An Account shall be funded only using the following methods:

- (a) Electronic funds transfers (EFTs), including online and mobile payment systems;
- (b) Debit instruments, including debit cards and prepaid access instruments;
- (c) Bonus Dollars;
- (d) Contest payouts; or
- (e) Adjustments made by the Operator with documented notification to the Account Holder.

34.12: Prohibition on Extensions of Credit

Operators shall not extend credit to Account Holders.

34.13: Fairness of Contests

(1) No Contest Engagement by Employees and Others Affiliated with an Operator. No Operator employee, Operator principal, Operator officer, Operator director, or Contractor shall enter any Contest on the Operator's Platform or engage in a Contest outside the scope of their job duties and responsibilities. Nor shall such person enter or engage in a Contest through another person as a proxy. However, such individuals may (a) use test accounts in compliance with 940 CMR 34.13(2), or (b) enter or engage a private Contest on a Platform in which the individual's relevant affiliation with an Operator is fully disclosed to each Participant. Operators shall make these restrictions known to all affected individuals and Enterprises.

(2) Test Accounts. Operators shall implement and maintain procedures for establishing test accounts to be used by the Operator and the Attorney General's Office to test various components of an Operator's Platform. For all test accounts, the Operator shall:

- (a) Issue funds used for testing, including the identification of who may issue the funds and the maximum amount of funds that may be issued;
- (b) Assign each test account for use by only one individual, provided however that an Operator may establish a test account that may be shared by multiple users if each user's activities are separately logged;
- (c) Maintain a record of all test accounts, which shall include when they are active, to whom they are issued, and the employer of the individual(s) to whom they are issued;
- (d) Audit testing activity to ensure the accountability of funds used for testing; and
- (e) Prohibit the holder of a test account from winning a Prize. If the holder of a test account wins a Prize, such Prize must be awarded to the Participant in the Contest who would have won the Prize had the holder of the test account not participated.

(3) Disclosures Required of Promoters. No Promoter may enter any Contest on any Platform unless such Promoter has disclosed the following in connection with any public recommendation concerning Contest entry or engagement:

- (a) That the Promoter is also an Account Holder;

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- (b) The username that the Promoter uses for Contest engagement on any Platform;
- (c) That the Promoter may enter or engage, in connection with an Account, in Contests on which recommendations are offered;
- (d) That the Promoter may engage in Contests, in connection with an Account, selecting individuals in a Competition or strategies different from the recommendations made by the Promoter; and
- (e) That the Promoter's recommendations do not necessarily reflect the views of the Operator.

(4) No Operator Disclosure of Proprietary Information. No Operator employee, Operator principal, Operator officer, Operator director, or Contractor shall disclose proprietary or non-public information that may affect Contest engagement to any person permitted to engage in Contests. Operators shall make these restrictions known to all affected individuals and Enterprises.

(5) No Contest Engagement by Athletes and Others Connected with Competition Outcomes. No Operator shall allow any individual, including athletes, sports agents, team employees, team representatives, referees, or league officials, to enter or engage in Contests based on Competitions in the activity in which the individual participates or acts in a representative capacity. Nor may such individual enter or engage in such Contests through another person as a proxy. Operators will not be held liable for a violation of 940 CMR 34.14(5) if:

- (a) The Operator makes commercially reasonable efforts to obtain lists of such persons for the purpose of implementing this provision by monitoring for and excluding Accounts of such persons from entering or engaging in Contests based on Competitions in their respective activities;
- (b) The Operator makes these restrictions known to all affected individuals and Enterprises;
- (c) The governing body for the activity in which the individual, including athlete, sports agent, team employee, team representative, referee or league official, participates, maintains, and enforces a policy that excludes such individuals from entering Contests based on Competitions in that activity; and
- (d) The Operator, upon learning of a violation of 940 CMR 34.13(5), immediately bars the individual committing the violation from entering or engaging in any Contest by suspending such individual's Account and banning such individual from further Contest engagement, terminates any existing promotional agreements with such individual, and refuses to enter any new promotional agreements that compensate such individual.

(6) Restriction on Sharing Non-public Information that May Affect Contests. No Operator shall knowingly permit any individual directly involved in a Competition, including any athlete, sports agent, team employee, team representative, referee, or league official, to provide proprietary or non-public information to any Account Holder, or to provide such information to an Account Holder before such information is made public.

- (a) An Operator, upon learning of a violation of 940 CMR 34.13(6), shall bar the individual(s) committing the violation as well as the person(s) receiving such information from entering or engaging in any Contest by suspending the affected Account(s) and banning such individual(s) from further Contest engagement. The Operator shall also terminate any existing individual promotional agreements with any individual directly

involved in a Competition, including an athlete, sports agent, team employee, team representative, referee, or league official that violates 940 CMR 34.13(6) and shall refuse to make any new individual promotional agreements that compensate such individual.

(b) Operators shall make these restrictions known to all affected individuals and corporate entities.

(7) Beginner Contests. Operators shall develop Contests that are limited to Beginners and shall keep non-Beginner Participants from engaging, either directly or through another person as a proxy, in those Contests. An Operator shall suspend the Account of any non-Beginner Account Holder that enters a Beginner game directly or through another person as a proxy and shall ban such individual from further Contest engagement. An Operator may allow a non-Beginner who is not a Highly-experienced Player to enter up to 10 Beginner Contests based on Competitions of an activity for which that Account Holder has not already entered 20 Contests.

(8) Contests that Exclude Highly-experienced Players. Operators shall develop Contests in which Highly-experienced Players cannot, either directly or through another person as a proxy, enter. Operators shall suspend the Account of any Highly-experienced Player who enters a Contest which excludes Highly-experienced Players, directly or through another person as a proxy, and shall ban such individual from further Contest engagement.

(9) On-boarding Procedures for New Account Holders. On-boarding procedures for new Account Holders shall explain opportunities to learn about Contest entry and engagement and how to identify Highly-experienced Players, and shall recommend beginner Contests and low-cost private Contests with friends for their value as a learning experience.

(10) Prohibition of Scripts.

(a) Operators shall not permit unauthorized Scripts to be used on Platforms and shall use commercially reasonable efforts to monitor for and to prevent use of such Scripts.

(b) Operators shall bar any Account Holder, whether directly or by use of another person as proxy, found to be using an unauthorized Script from entering in any Contest by terminating such person's Account and by banning such individual from further Contest engagement.

(c) Operators shall not authorize Scripts that provide a Participant with a competitive advantage over another Participant.

(d) For purposes of 940 CMR 34.13(10), a Script will be treated as offering a competitive advantage for reasons including, but not limited to, its potential use to:

1. Facilitate entry of multiple Contests with a single line-up;
2. Facilitate changes in multiple line-ups at one time;
3. Facilitate use of commercial products designed and distributed by third parties to identify advantageous Contest strategies; or
4. Gather information about the performance of others for the purpose of identifying or entering Contests against Account Holders who are less likely to be successful.

(e) Authorized Scripts shall either be incorporated as a Contest feature or be Prominently Published on the Operator's Platform and thereby made available to all Account Holders.

(11) Rules on When Contests Lock.

- (a) As of the time a Contest locks, no further entries or substitution of Participants shall be accepted in connection with that Contest. Nor shall Participants be allowed to make further alterations or substitutions in connection with their entry or entries.
- (b) Operators shall Prominently Publish rules that govern when each Contest shall lock that may include rules for multiple lock times in situations in which underlying Competitions begin at different times. No lock times may occur after the commencement of any Competition to which that lock time applies.
- (c) Operators shall Prominently Publish Contest-specific information about the time that each Contest locks in connection with each Contest offered.
- (d) Operators shall strictly enforce all disclosed lock times.

(12) Identification of Highly-experienced Players. Operators shall identify Highly-experienced Players by a symbol attached to their username, or by other easily visible means, on the Operator's Platform.

(13) Restrictions on Number of Entries by Contest.

- (a) Operators shall not allow an Account Holder to submit more than one entry in any Contest involving 12 entries or less.
- (b) Operators shall not allow an Account Holder to submit more than two entries in any Contest involving 13 through 36 entries.
- (c) Operators shall not allow an Account Holder to submit more than three entries in any Contest involving 37 through 100 entries.
- (d) In any Contest involving more than 100 entries, Operators shall not allow an Account Holder to submit more than the lesser of:
 - 1. 3% of all entries; or
 - 2. 150 entries.
- (e) For all advertised Contests, the Operator shall Prominently Publish information about the maximum number of entries that may be submitted for that Contest.
- (f) Operators may establish Contests, representing less than 2% of the total number of Contests it offers, in which there is no restriction on the number of entries, provided however that:
 - 1. The Operator clearly discloses that there are no limits on the number of entries by each Account Holder in such Contest; and
 - 2. That the cost of participating in such Contest is \$100 or more per entry.

(14) Fill-Rate. Operators shall promptly, accurately, and regularly update the "fill rate" for any Contest it offers on each of its Platforms. For the purpose of 940 CMR 34.13(14), the term "fill rate" shall mean the number of entries that have been submitted for that Contest at a given time.

(15) Prohibition on Free/Discounted Entries Prior to Closing. Operators shall not offer free or discounted entries to fill a Contest in the three-hour period prior to the earliest lock time for that Contest, unless such free or discounted entries are made available pursuant to a plan that does not unreasonably disadvantage the Participants that have already entered that Contest. For the purposes of 940 CMR 34.13(15), an entry shall be considered "free" or "discounted" if it is less than the full entry fee for the Contest or if the full entry fee is collected subject to refund, Account credit, offset, or reimbursement on any basis.

(16) Disclosure of Material Terms and Conditions. Operators shall Prominently Publish all material terms and conditions for each Fantasy Contest, including eligibility requirements, the cost and entry restrictions to participate in the Contest.

34.14: Operators that Run Both Fantasy Contests and Exempt Contests

Any Operator that offers both Fantasy Contests and Exempt Contests shall:

- (1) Segregate access to Fantasy Contests from access to Exempt Contests on the Platform; and
- (2) Require separate input of personal and financial information during the Account creation process, separate identity verification processes, and separate login processes to access each Account, including separate passwords or separate account authentication processes, for entry into Fantasy Contests and Exempt Contests.

34.15: Operator Registration and Cessation

- (1) Notice of Registration. Operators shall provide a copy of the registration form submitted to the Massachusetts Gaming Commission to the Attorney General's Office contemporaneously with submission to the Massachusetts Gaming Commission pursuant to 205 CMR 240.01(3) or as soon as practicable for submission made prior to [effective date of amended regulations]. Submissions to the Attorney General's Office shall be submitted via email to civilgamingintake@mass.gov.
- (2) Notice of Cessation to AGO. If an Operator intends to cease offering Fantasy Contests in Massachusetts, the Operator must notify the Attorney General's Office in writing at least 90 days, or as soon as practicable, before the cessation and provide the following information:
 - (a) Date of cessation, information provided pursuant to 940 CMR 34.15(3), and any other pertinent information; and
 - (b) A description of how the Operator will ensure that all Contests are settled by the date of cessation and that Account funds will be fully distributed to the Account Holders subject to 940 CMR 34.15(4).
- (3) Notice of Cessation to Account Holders. An Operator that intends to cease offering Fantasy Contests in Massachusetts shall take all reasonable measures to notify Account Holders of how to withdraw their funds, including but not limited to the following information:
 - (a) Date by which Contest entries and deposits will be disabled, as well as by which all Prizes will be paid;
 - (b) Final date for submitting Account fund withdrawal requests, which shall be no less than one month following Contest entries and deposit disable date;
 - (c) Method for submitting Account fund withdrawals; and
 - (d) Statement describing what will occur if a withdrawal request has not been submitted by an Account Holder by the date as disclosed pursuant to 940 CMR 34.15(3)(b).
- (4) Undistributed Funds. For any funds that have not been withdrawn by the respective Account Holder, Operators shall ensure distribution of such funds in accordance with

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applicable federal and Massachusetts state law, including M.G.L. c. 200A, §§ 7 and 8A, and 960 CMR 4.03.

34.16: Tax Laws and Disclosures

(1) Obligation to Comply with Applicable Tax Laws Including Disclosures. Operators shall comply with all applicable tax laws and regulations including, without limitation, laws and regulations applicable to tax withholding and laws and regulations applicable to providing information about Prizes and withholdings to taxing authorities and to Account Holders.

(2) Disclosure of Potential Tax Liabilities. Operators shall disclose potential tax liabilities to Account Holders as part of the on-boarding process pursuant to 940 CMR 34.13(9) and again at the time of award of any Prize equal to or in excess of the threshold required for reporting under any applicable state or federal tax laws. Such disclosures shall include a statement that the obligation to pay applicable taxes on Prizes is the responsibility of the Account Holder and that failure to pay applicable tax liabilities may result in civil penalties or criminal liability.

34.17: Account Holder Complaint Procedures

(1) Opportunities for Account Holder Complaints. Operators shall maintain, implement, and Prominently Publish procedures by which an Account Holder may file a complaint with the Operator via internet chat, in writing, or by other means, about any aspect of the Platform and Contest operation.

(2) Responses to Complaints. Operators shall respond to such complaints in writing within 10 business days. If the relief requested in the complaint will not be granted, the response to the complaint shall state the reasons with specificity. If the response does not resolve the complaint, final resolution of a complaint shall not take more than 30 calendar days, unless additional information is necessary and requested pursuant to 940 CMR 34.17(3).

(3) Complaints Requiring Additional Information. If the response to a complaint is that more information is needed, the form and nature of the necessary information shall be specifically stated. When additional information is received, further response shall be provided within seven calendar days. If additional information is required from a third-party, Operators shall notify the Account Holder in its initial response to the complaint and keep the Account Holder informed as to the complaint status every seven calendar days thereafter and render a decision either within seven calendar days of receipt of such information or the 30 calendar days pursuant to 940 CMR 34.17(2), whichever is earlier.

34.18: Account Suspension and Restoration

Operators shall clearly disclose in their contractual terms and conditions and rules of general applicability the circumstances under which an Account can be suspended. Operators shall not unreasonably suspend an Account in accordance with the disclosed circumstances.

34.19: Data Privacy & Security Requirements

Operators and Contractors shall comply with all applicable state and federal requirements for data privacy and security, including M.G.L. c. 93H and 201 CMR 17.00.

34.20: Data Retention

(1) Account Information. Operators shall retain sufficient information to trace every deposit, withdrawal, Contest entry, issuance of Bonus Dollars, and payout into and out of an Account for at least 10 years from the date of each transaction.

(2) Prize Information. Operators shall retain data about the winner(s) of each Contest and the amount of any Prizes awarded to the winner(s) for at least 10 years from the date of the Contest. Operators shall maintain written records of all representations made concerning winnings and information sufficient to demonstrate their accuracy for at least six years.

(3) Advertising. Operators shall retain copies of all advertising, marketing, branding, or other promotional materials promoting or intending to promote any Fantasy Contest or Platform within Massachusetts, including a log of when, how, and with whom, those materials have been published, aired, displayed, or disseminated for at least six years from the date of the last use of that advertisement, which shall be made available to the Attorney General's Office upon request. To the extent that an advertisement cannot be maintained in its original form (e.g., billboards), the advertising copy shall be retained. For all directed or targeted advertising, marketing, branding, or promotional offers, Operators shall maintain records sufficient to describe all targeting parameters used, as well as efforts undertaken to comply with laws concerning advertising, including 940 CMR 34.08-34.11 and 34.14.

(4) Promotional Offers. Operators shall maintain a record of all promotional offers related to Fantasy Contests for at least six years from the date of the last use of that promotional offer. For each promotional offer, the Operator must document, at a minimum, the information listed under 940 CMR 34.10(2), as well as the following:

- (a) The name or identification of the promotional offer;
- (b) The current status of the promotional offer; and
- (c) The conditions or circumstances under which the promotion is or was displayed to an Account Holder.

(5) Self-Imposed Limitations. Operators shall maintain data and other information regarding self-imposed limitations and other related responsible gaming offerings for a period of at least 24 months and be made available to the Attorney General's Office upon request.

(6) Account Holder Complaints. All complaints received by an Operator from an Account Holder and the Operator's responses to complaints shall be retained for at least four years and made available to the Attorney General's Office upon request within seven days.

(7) Account Suspensions. Operators shall keep sufficient records to explain the specific reasons for an Account suspension for at least four years.

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34.21 Severability

If any provision of 940 CMR 34.00 or the application of such provision to any person, entity, or circumstances is held to be invalid, the validity of the remainder of 940 CMR 34.00 and the applicability of such provision to other persons, entities, or circumstances shall not be affected.

REGULATORY AUTHORITY

940 CMR 34.00: M.G.L. c. 93A, § 2.