

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

PROPOSED RULE

11 CSR 45-40.060 Cash Reserve and Segregated Account Requirements

PURPOSE: This rule addresses the minimum cash reserve and segregated account requirements and the required procedures and documentation for those reserves and segregated accounts.

(1) The licensed operator shall maintain in the form of cash or cash equivalents the amount of the deposits made to the accounts of Missouri fantasy sports contest players for the benefit and protection of the funds held in such accounts. For purposes of this rule cash equivalents are investments with an original maturity of three (3) months or less.

(2) Funds held in player accounts of Missouri residents shall be protected as set forth herein. A fantasy sports operator shall maintain a reserve in the form of cash, cash equivalents, or a combination thereof to protect player funds in one of the following ways:

(A) Cash Reserve.

1. The amount of the reserve shall be equal to, at a minimum, the sum of all registered players' funds held in player accounts of Missouri residents.

2. The reserve agreements must reasonably protect the reserve against claims of the operator's creditors other than the authorized players for whose benefit and protection the reserve is established, and must provide the following:

A. The reserve shall be established and held in trust for the benefit and protection of authorized players to the extent the licensed operator holds money in player accounts for players;

B. The reserve must not be released, in whole or in part, except upon written instruction or approval of the commission. The reserve must be available within ninety (90) days of written demand or written instruction. If the reserve is released to the commission, the commission may interplead the funds in the circuit court of Cole County for distribution to the authorized players for whose protection and benefit the account was established and to the other such persons as the court determines are entitled thereto, or shall take such other steps as necessary to effect the proper distribution of the funds, or may do both;

C. The licensed operator may receive income accruing on the reserve, without obtaining permission from the commission; and

D. The licensed operator has no interest or title to the reserve.

3. The reserve must be held or issued by a federally insured financial institution and must be established pursuant to a written agreement between the licensed operator and the financial institution.

4. The proposed reserve arrangement is not effective for purposes of complying with section 313.930.3(4), RSMo until the commission's written approval has been obtained.

5. The reserve arrangement agreements may be amended only with the prior written approval of the commission.

(B) Special purpose segregated account with a separate corporate entity.

1. A fantasy sports contest operator may establish a special purpose segregated account that is maintained and controlled by a properly constituted corporate entity that is not the fantasy sports contest operator and whose governing board includes one or more corporate directors who are independent of the fantasy sports contest operator and of any corporation related to or controlled by the fantasy sports contest operator.

2. The special purpose segregated account with a separate corporate entity must hold, at a minimum, the sum of all authorized player funds held in player accounts of Missouri residents for use in fantasy sports contests.

3. The special purpose segregated account must reasonably protect the funds against claims of the operator's creditors other than the authorized players for whose benefit and protection the special purpose segregated fund is established, and must provide that:

A. The segregated account is established and held in trust for the benefit and protection of authorized players;

B. The fantasy sports contest operator may receive income accruing on the segregated account. However, the fantasy sports contest operator has no interest in or title to the segregated account; and

C. The funds in the segregated account held for the benefit of Missouri residents may only be distributed for the following:

(I) For payment to players upon completion of fantasy sports contests or otherwise for the reconciliation of player accounts;

(II) For income earned on the account, to the fantasy sports contest operator;

(III) To the Missouri Gaming Commission in the event that the fantasy sports operator's license expires, is surrendered, or is otherwise revoked. The Missouri Gaming Commission may interplead the funds in the Cole County Circuit Court for distribution to the authorized players for whose protection and benefit the account was established and to other such persons as the court determines are entitled thereto, or shall take such other steps as necessary to effect the proper distribution of the funds, or may do both; or

(IV) As authorized in writing in advance by any agreement approved by the Missouri Gaming Commission.

4. The corporate entity must require a unanimous vote of all corporate directors to file bankruptcy.

5. The corporate entity must obtain permission from the Missouri Gaming Commission prior to filing bankruptcy or entering into receivership.

6. The corporate entity must have articles of incorporation that prohibit commingling of funds with that of the fantasy sports contest operator except as necessary to reconcile the accounts of players with sums owed by those players to the fantasy sports contest operator.

7. The corporate entity must be restricted from incurring debt other than to fantasy sports players pursuant to the rules that govern their accounts for contests.

8. The corporate entity must be restricted from taking on obligations of the fantasy sports contest operator other than obligations to players pursuant to the rules that govern their accounts for contests.

9. The corporate entity must be prohibited from dissolving, merging or consolidating with another company without the written approval of the Missouri Gaming Commission while there are unsatisfied obligations to fantasy sports contest players.

(3) If, at any time, the licensed operator's total available cash and cash equivalent reserve is less than the amount required by section 313.930, RSMo, the licensee shall notify the commission of this deficiency within forty-eight (48) hours.

(4) Each licensed operator shall continuously monitor and maintain a record of all player deposits and its cash reserves to ensure compliance with the cash reserves requirement.

(5) The licensed operator shall provide the commission with documentation of both the amount of deposits in players' accounts and the amount in cash reserves as of the last day of each month by the fifteenth day of the following month.

AUTHORITY: sections 313.930, 313.1010, and 313.1020, RSMo (HB 1941, Second Regular Session, Ninety-eighth General Assembly, 2016). Emergency rule filed August 29, 2016, effective Sept. 8, 2016, expires March 6, 2017. Original rule filed Aug. 29, 2016.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule may cost five (5) fantasy sports contest operators ten thousand five hundred twenty-five dollars (\$10,525) in the aggregate.

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for Wednesday, November 2, 2016, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*