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Executive Director

## FINAL DETERMINATION AND ORDER

**IN THE MATTER OF THE RENEWAL OF THE EXCHANGE WAGERING LICENSE, EXCHANGE MANAGEMENT AGENT LICENSE AND EXCHANGE SERVICES AGENT LICENSE FROM JANUARY 1, 2018 TO DECEMBER 31, 2018 PURSUANT TO N.J.A.C. 13:74C-2.2**

**WHEREAS**, in a Final Determination and Order, dated November 19, 2015, the New Jersey Racing Commission ("Commission") approved the issuance of the initial exchange wagering license to the New Jersey Sports and Exposition Authority ("Authority"), the issuance of the exchange management agent license to Darby Development LLC ("Darby") and the issuance of the exchange services agent license to Betfair US LLC ("Betfair");

**WHEREAS**, on April 15, 2016, the Commission issued the initial exchange wagering license, the exchange management agent license and the exchange services agent license, all of which were valid from April 18, 2016 to April 18, 2017;

**WHEREAS**, in a Final Determination and Order, dated April 3, 2017, the Commission extended the exchange wagering license, exchange management agent license and the exchange services agent license from April 18, 2017 through December 31, 2017 subject to the same conditions set forth in the Final Determination and Order, dated November 19, 2015;

**WHEREAS**, the issuance and extension of the initial licenses were approved by the Attorney General subject to the conditions set forth in the Final Determinations and Orders;

**WHEREAS**, the Authority, Darby and Betfair have filed applications with the Commission pursuant to N.J.A.C. 13:74C-2.2 seeking the renewal of their licenses;



**WHEREAS**, the Commission considered this matter at its public meeting on November 15, 2017;

**AND THE COMMISSION FINDING THAT** each of the applicants continues to meet all legal requirements set forth in the Exchange Wagering Act ("Act") and the rules of the Commission, inclusive of N.J.A.C. 13:74C-2.2, and that applicants are in substantial compliance with the conditions and terms imposed upon it in previous Final Determinations and Orders issued in connection with the exchange wagering licenses;

**AND THE COMMISSION FINDING THAT** the waiver of the in-state requirement of N.J.A.C. 13:74C-3.3 and the approval of the Off-Time, Finish and Antepost win, place and show markets, granted in the Final Determination and Order, dated November 19, 2015, shall continue through the term of renewal subject to the conditions set forth in Schedule A which is attached to this Final Determination and Order and incorporated herein ("Schedule A");

**IT IS THEREFORE ORDERED THAT** the exchange wagering license, the exchange management agent license and the exchange services agent license shall be renewed for January 1, 2018 through December 31, 2018 subject to the conditions set forth in Schedule A.

**IT IS FURTHER ORDERED THAT** the Commission reserves its right and ability, consistent with its broad regulatory authority, to modify these conditions and to impose additional conditions with regard to the approvals set forth in this Final Determination and Order.

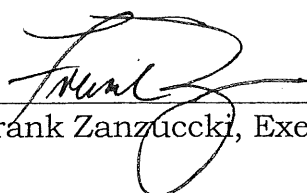
**IT IS FURTHER ORDERED** that the Commission delegates full authority to its Executive Director to execute this Final Determination and Order on the Commission's behalf, to modify the conditions and to impose additional conditions as he deems necessary and appropriate during the course of the license extension.

**IT IS FURTHER ORDERED** that this Final Determination and Order shall be subject to the review and approval of the Attorney General as required by N.J.S.A. 5:5-172 and N.J.A.C. 13:74C-2.2(g).

This Order memorializes the actions taken by the Commission at its public meeting on November 15, 2017.

NEW JERSEY RACING COMMISSION

By:

  
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Frank Zanzuccki, Executive Director

Dated: December 6, 2017

## Schedule A - Conditions

- 1) The Commission's Final Determination and Order shall be subject to the review and approval of the Attorney General as required by N.J.S.A. 5:5-172 and N.J.A.C. 13:74C-2.2(g).
- 2) The Commission's Final Determination and Order shall be subject to the approval of any other governmental entity necessary to the establishment and operation of the exchange wagering system.
- 3) The Authority, as the exchange wagering licensee, Darby, as the exchange management agent licensee, and Betfair, as the exchange services agent licensee, shall comply with the Act, the rules of the Commission, the Commission's Final Determination and Order, including these conditions, any directives or other orders of the Commission and all additional laws that may be applicable.
- 4) The Authority shall maintain meaningful and adequate oversight controls with respect to its exchange wagering license and the exchange wagering system.
- 5) The Authority shall maintain meaningful and adequate oversight controls over Darby, which is acting as the Authority's agent, as concerns Darby's management of the exchange wagering system and Darby's oversight of Betfair's operation of the exchange wagering system. The Authority and Darby shall maintain meaningful and adequate oversight controls over Betfair.
- 6) The Commission, its agents and representatives, in furtherance of its regulatory responsibilities, shall have unrestricted access to the exchange wagering system.
- 7) All employees of the exchange wagering licensee, exchange management agent licensee and exchange services agent licensee, including those with supervisory or oversight responsibilities, regardless of location, shall apply for and obtain an exchange identification license as required by N.J.A.C. 13:74C-6.1.
- 8) All vendors of the proposed exchange wagering system shall be licensed by the Commission as required by N.J.A.C. 13:74C-6.1 unless an exemption is granted.
- 9) The internal control procedures submitted by the Authority, Darby and Betfair are approved on a conditional basis.

- 10) The Authority shall maintain internal control procedures applicable to the self-exclusion list as required by N.J.A.C. 13:74C-4.1(b) and N.J.A.C. 13:74A-1.1 et seq.
- 11) The Authority shall continue to ensure that Betfair provides all reports required by the Commission's rules to the Commission in a format acceptable to the Commission's Executive Director.
- 12) Prior to offering, or otherwise participating in, interstate or international exchange pools, the Authority shall provide the Commission with a detailed request which includes the particular tracks involved and any supporting documentation.
- 13) No exchange wagering services or functions shall be provided or take place outside the State of New Jersey for the New Jersey exchange wagering system other than those identified in the Waiver Petition, as approved by the Commission in the Final Determination and Order, dated November 19, 2015, without following the procedures required by N.J.A.C. 13:74C-3.3.
- 14) Betfair shall make its facilities outside the State of New Jersey available for visitation and inspection on demand and Betfair shall be responsible for the payment of all costs associated therewith to the Commission.
- 15) No markets shall be offered to New Jersey residents other than the markets identified in the Markets Petition, as approved by the Commission in the Final Determination and Order, dated November 19, 2015, without first receiving Commission approval in accordance with N.J.A.C. 13:74C-5.2.
- 16) The Authority shall ensure that Betfair effectively maintains the Finish market to be offered to New Jersey account holders to ensure that wagering and the matching of wagers cease when the first horse in each offered race crosses the finish line.
- 17) Betfair may offer the core functions of the exchange wagering platform to external third parties through the use of an Advanced Programming Interface, thereby allowing high volumes of wagering or high speed wagering, subject to continued monitoring and testing and subject to Condition 29 below.

- 18) The exchange wagering license may not be transferred or assigned to a successor in interest absent the prior approval of the Commission and Attorney General.
- 19) The issuance of any exchange wagering license shall not constitute precedent in terms of any other application filed with the Commission for the issuance of an exchange wagering license.
- 20) The Authority and Darby shall ensure that Betfair continues to comply with its internal control procedures and Betfair's Proposed Procedure for Geolocation Matters, submitted to the Commission on August 25, 2015, to ensure that customers placing exchange wagers are doing so from a location within the State of New Jersey.
- 21) The Authority and Darby shall ensure that Betfair does not knowingly accept an exchange wager from a New Jersey resident account holder where that account holder seeks to place such wager while at a physical location outside New Jersey.
- 22) The Authority, Darby and Betfair shall ensure that the exchange wagering system maintains advanced geo-location software and controls in a manner that is satisfactory to the Commission's Executive Director and take reasonable measures intended to ensure that customers are not using technology to spoof their actual location. The Commission's Executive Director shall ensure that the software and controls continue to be tested and evaluated at the sole expense of the Authority and Betfair.
- 23) Betfair shall continue to make its BETMON (Bet Monitor) platform tools available to Commission staff.
- 24) The Authority shall inform the Commission as soon as is reasonably practicable, but in no event later than 24 hours from when Betfair first becomes aware, that any exchange activity is inconsistent with the integrity of racing or the provisions of the Act and N.J.A.C. 13:74C-1.1 et seq.
- 25) No change may be made to the New Jersey exchange wagering hardware or software infrastructure components unless the Authority complies with the requirements of N.J.A.C. 13:74C-5.12. Before approving the implementation of any equipment or software, the Commission's Executive Director may require such additional testing and changes to the

equipment and software as he determines appropriate.

- 26) No funds shall be made available for wagering in an exchange wagering account until the funds deposited into the account have satisfied any banker's or other required clearance and the funds are actually available within the exchange wagering account.
- 27) The Authority shall be responsible for the payment of all costs related to the Commission's continuing investigation, review, testing and regulation of the exchange wagering system.
- 28) The Commission's Executive Director shall order periodic testing and review of the New Jersey exchange wagering system for continued regulatory compliance, correct functionality, vulnerability assessment and information security and the Authority shall be responsible for the payment of such costs.
- 29) Betfair shall notify the Commission of any increase it intends to make to the maximum order and data refresh rate, which is currently operating at a maximum cycle of 10. Hz. Betfair shall not increase the maximum order and data refresh rate until it first obtains the Commission's approval.
- 30) Betfair shall notify the Commission before changes are made to high risk component categories so that the Commission can review the potential impact and decide if testing should be required.
- 31) The Authority shall cause a comprehensive audit to commence of the exchange wagering system regarding the exchange revenues accumulated from April 18, 2017 through December 31, 2018 to be performed by an outside and independent certified public accountant which has been approved by the Commission's Executive Director. The audit shall be filed with the Commission by May 1, 2019.
- 32) The Authority, Darby and Betfair shall make written submission and file for continued licensure for 2019 no later than October 15, 2018.