

Care Entry Level Examination as set forth in N.J.A.C. 13:44F-4.1 and 4.2.

(c) It is the applicant's responsibility to provide timely and complete evidence of the education, training, and/or experience gained in the military for review and consideration.

(d) If the applicant's military training, education, or experience, or a portion thereof, is not deemed to be substantially equivalent to that required for licensure, the Board shall credit whatever portion of the military training, education, or experience that is substantially equivalent towards meeting the requirements under N.J.A.C. 13:44F-4.1 for the issuance of the license.

(e) Satisfactory evidence of such education, training, or experience shall be assessed on a case-by-case basis.

(a)

NEW JERSEY RACING COMMISSION
Off-Track Wagering and Account Wagering
Readoption: N.J.A.C. 13:74

Proposed: October 20, 2014, at 46 N.J.R. 2102(a).

Adopted: March 18, 2015, by the New Jersey Racing Commission,
 Frank Zanzuccki, Executive Director.

Filed: March 18, 2015, as R.2015.d.058, **without change**.

Authority: N.J.S.A. 5:5-30 and 5:5-127 et seq.

Effective Date: March 18, 2015.

Expiration Date: March 18, 2022.

Summary of Public Comment and Agency Response:

The New Jersey Racing Commission received one written comment on November 12, 2014, from a person or entity identifying herself as "Jean Public," Flemington, New Jersey.

COMMENT: The commenter expresses her opposition to extending the Off-Track and Account Wagering rules past their expiration date of March 19, 2015. The reasons given for the commenter's opposition do not in any way relate to off-track or account wagering. Instead, the commenter expresses a general dissatisfaction with horse racing, complaining about the alleged brutality and abuse of racehorses and the lack of adequate retirement facilities for these horses. The commenter sees no social or economic value in horse racing and argues that it should be shut down.

RESPONSE: The Commission rejects this comment as it has no relevance to the readoption of the off-track and account wagering rules. The Commission does not agree that horse racing has no value or that horse racing should be shut down.

Federal Standards Statement

A Federal standards analysis is not required because the readopted rules are authorized by the provisions of the Off-Track and Account Wagering Act, P.L. 2001, c. 199, and are not subject to any Federal requirements or standards.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 13:74.

(b)

NEW JERSEY RACING COMMISSION
Exchange Wagering
Adopted New Rules: N.J.A.C. 13:74C

Proposed: June 16, 2014, at 46 N.J.R. 1424(a).

Adopted: December 3, 2014, by the New Jersey Racing Commission,
 Frank Zanzuccki, Executive Director.

Filed: March 20, 2015, as R.2015.d.064, **with a non-substantial change** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 5:5-185.

Effective Date: April 20, 2015.

Expiration Date: April 20, 2022.

Summary of Public Comments and Agency Responses:

The Jockey's Guild, Inc., 448 Lewis Hargett Circle, Suite 220, Lexington, KY 40503 submitted multiple written comments. Terence J. Meyocks, National Manager of the Jockey's Guild, submitted written comments by letter dated August 15, 2014. Thomas M. Kennedy, Esq., from Kennedy, Jennik & Murray, P.C. submitted written comments on behalf of the Jockey's Guild by letter dated September 22, 2014. Thomas M. Murray, Esq. from Kennedy, Jennik & Murray, P.C. submitted written comments on behalf of the Jockey's Guild by letter dated October 10, 2014. Because there are substantial similarities in the written comments set forth in each of the three letters, the Commission has collated and summarized the comments received on behalf of the Jockey's Guild into the following 17 comments and responded to them as set forth herein.

COMMENT 1: The commenter states that the Commission should reject the proposed exchange wagering rules because they fail to address issues involving the application of general rules of racing before New Jersey racetracks can be allowed to implement this form of wagering. As an example, the commenter points to racing rules which authorize the imposition of fines and suspensions on jockeys for excessive use of the riding crop especially, the commenter notes, if it is evident that the horse will not finish in the money. The commenter expresses concern that once exchange wagering is implemented, discipline could be imposed if a jockey does not continue to urge the horse until it crosses the finish line in cases where the horse could not win, place, or show. The commenter states that the proposed rules do not address whether the rules of racing, such as those applicable to the use of a riding crop and the urging of a horse, are going to be modified.

RESPONSE: The Exchange Wagering Act, at N.J.S.A. 5:5-173, grants the Commission full power to prescribe rules, regulations, and conditions under which exchange wagering may be conducted in this State. The Racing Act, at N.J.S.A. 5:5-30, grants the Commission full power to prescribe rules, regulations, and conditions under which all horse races shall be conducted in the State of New Jersey. The commenter correctly points out that the proposed rules do not modify or affect the rules of racing that govern other racing jurisdictions. The Commission does not have the authority to regulate the conduct of racing in other states or countries. As a result, the proposed rules do not affect the regulation of racing in other jurisdictions or other regulatory authorities' interpretation or implementation of their racing rules.

New Jersey's rules of racing require that all horses shall be ridden out in every race. See N.J.A.C. 13:70-11.9(a). New Jersey's rules also require that a jockey shall put forth every reasonable effort and exercise the greatest diligence in riding a race. See N.J.A.C. 13:70-11.10. If, in the opinion of our stewards, a jockey does not put forth every reasonable effort or use proper diligence in the riding of a race, the stewards have the authority to penalize the jockey pursuant to these rules according to the gravity of the offense. As is the case with all racing licensees, jockeys are responsible for being familiar with the rules governing racing in the jurisdiction where the race takes place.

COMMENT 2: Pointing out that the permissible exchange wagering markets, envisioned in N.J.A.C. 13:74C-5.1(a), (b), and (c) (offtime market, antepost market, and finish market) apply to horse races conducted within and outside of the State of New Jersey, the commenter indicates that this Commission will be regulating a new form of wagering that is available for all races simulcast in New Jersey, which races include all thoroughbred and quarter horse racing in the United States. The commenter states that its concerns about serious contraindications in the rules of racing, as expressed in Comment 1, are particularly acute if the Commission approves exchange wagering without any coordination with other states' regulatory authorities regarding how those states will include the new exchange wagering format within their reviews of the conduct of jockeys.

RESPONSE: As explained in the Response to Comment 1, the Commission does not have the authority to regulate racing in other jurisdictions. Each racing commission must promulgate, apply, and interpret the rules governing racing within its jurisdiction. All racing

licensees are responsible for being familiar with the rules governing racing in the jurisdiction where the race takes place.

The Commission also points out that N.J.A.C. 13:74C-5.2 mandates that before any market, including those specified in N.J.A.C. 13:74C-5.1, may be offered, the exchange wagering licensee or any exchange wagering management agent must file a written petition with the Commission to obtain its approval of the market. Pursuant to N.J.A.C. 13:74C-5.2(b), any such petition shall include "a certified statement by the petitioner, that the market is in compliance with all laws that may be implicated thereby."

COMMENT 3: The commenter states that the proposed rules must be amended to clarify issues pertaining to the conduct of jockeys during races because it would be unfair and unsafe to expose jockeys to contradictory regulatory requirements requiring split second decisions during a race.

RESPONSE: The Commission disagrees with the comment. As explained in the Response to Comment 1, all racing licensees are responsible for being familiar with the rules governing racing in the jurisdiction where the race takes place.

COMMENT 4: The commenter expressed concern that exchange wagering makes it more likely that a jockey will be disciplined any time a favored horse has a bad day. Citing examples when favorite horses have finished last or had an "off" day for unexplainable reasons, the commenter states that exchange wagering will result in pressures to unfairly discipline jockeys and predicts that the possibility of unfair disciplines will increase significantly.

RESPONSE: As explained in the Response to Comment 1, New Jersey's rules of racing require that all horses shall be ridden out in every race and require that a jockey shall put forth every reasonable effort and exercise the greatest diligence in riding a race. N.J.A.C. 13:70-11.9; N.J.A.C. 13:70-11.10. The proposed rules, which implement exchange wagering, do not modify New Jersey's rules governing the conduct of races. Races conducted in other jurisdiction are subject to the rules of that jurisdiction.

COMMENT 5: The commenter states that the proposed rules do not ensure that jockeys, owners, and trainers will be protected "from unfair and unwarranted accusations of improper interference with betting results." Pointing out that multiple persons who deal with a horse prior to a race are in a position to alter the race's outcome, the commenter asserts that the exchange wagering related cases in Britain, where this form of wagering is legal, demonstrate the need for express rules that protect licensees from unfounded assertions of improper conduct. According to the commenter, there have been numerous cases in Britain, which has far fewer race days than the United States, where the reputations of innocent trainers and jockeys have been harmed even though the individuals have not been involved in anything illegal. The commenter asserts that jockeys, owners, and trainers can become hostages to betting patterns they have no knowledge of or control over and that their reputations can be tarnished even if there is no evidence supporting the charges.

Pointing to information which Betfair gave to the Jockey's Guild which indicated that "the BHA conducted a total of 628 investigations into corrupt betting activity" during the period of 2001 to 2011, the commenter indicates that 131 of these cases involved persons using betting exchanges and that 13 of the cases resulted in serious disciplinary action being taken against the jockey trainer or owner. The commenter states that there were approximately 72,000 races run in the United Kingdom during this period of time, notes that this number of races is fewer than the number of races run in the United States in a two-year period and comments that there were 43,139 races in the United States in 2013 alone.

RESPONSE: The Commission believes that the proposed rules require sufficient safeguards to maintain the integrity of the horse racing industry in this State. The Commission does not agree that the rules must be modified to protect racing licensees from unfounded assertions of improper conduct. The Commission cannot prevent accusations against racing licensees, whether founded or unfounded. The Commission will continue to enforce its rules of racing and conduct investigations where warranted pursuant to the rules currently in place which the Commission believes adequately protects the integrity of racing. The Commission has the authority to amend its rules if and as necessary. The Commission also

references Comment 6 of Betfair and TVG summarized below, which appears to be offered in response to this comment.

COMMENT 6: The commenter cites a 2011 article titled "British View on Exchange Wagering" by Ray Paulick in which the former Director of the British Horseracing Authority allegedly took the position that whereas the audit trails provided by the exchanges help the authorities catch some persons who seek to cheat or profit from a horse losing, they do not help the authorities to catch all of them, pointed out that the policing costs of exchange wagering are significant and stated that it would be naive to think that "it won't be the same in the U.S."

RESPONSE: The Commission believes that the proposed rules establish procedures that will ensure that wagers placed through the proposed exchange wagering system will be accurately processed and require sufficient safeguards to maintain the integrity of the horse racing industry in this State. The Commission adds that pursuant to N.J.A.C. 13:74C-3.4 and 3.5(a), the exchange wagering licensee shall be directly responsible for the timely payment of all Commission costs and expenses related to the investigation, regulatory oversight, and regulatory administration of the exchange wagering system which shall be paid from exchange revenues as authorized in N.J.S.A. 5:5-180.a and 171.b.

COMMENT 7: The commenter states that the proposed rules do not set forth how investigations of irregular betting patterns will be handled, who has the authority to oversee the investigations, what the penalties will be for violations, and what circumstances will allow for the suspension of licensed individuals, including jockeys. The commenter states that these questions must be answered.

Indicating that the proposed rules allow exchange wagering to take place on races outside of New Jersey where the races would be governed by the rules of other states, the commenter asserts that this Commission's lack of jurisdiction over these races causes major concerns because the proposed rules do not set forth how investigations of irregular betting will be handled, who will have regulatory authority over the investigations, who will be responsible for the costs, what penalties will be imposed if a violation of that jurisdiction's rules is found, and what circumstances allow for the suspension of licensees.

RESPONSE: The Commission disagrees with the commenter's position that the proposed rules must set forth provisions applicable to investigations. The Racing Commission employs an in-house investigative unit, which is responsible for assisting in maintaining the integrity of the sport. The unit is assigned duties as needed and has extensive investigative experience. The unit also assists other law enforcement authorities and the track security units in conducting their duties.

Although the Commission does not have the regulatory authority to conduct investigations into races that take place in other racing jurisdictions, it is important to note that other racing jurisdictions have their own investigative resources.

COMMENT 8: The commenter states that the proposed rules should not be implemented because they are "an unconstitutional delegation of rulemaking power to private parties and an improper grant of rulemaking authority by the Commission to the New Jersey Sports and Exposition Authority." According to the commenter, N.J.A.C. 13:74C-2.1(b)8 outsources the critical role of creating written internal control procedures to private individuals by permitting the Authority to enter into written agreements to turn over the exchange wagering license to a private entity in the role of an exchange management agent or exchange services agent and to allow that private entity to promulgate their own internal control procedures. The commenter points out that these written internal control procedures include critical roles such as insuring that wagers are accurately processed, maintaining wagering integrity and wagering recordkeeping, ensuring that the system operates with fiscal soundness and technological reliability and insuring sufficient safeguards are in place to maintain the integrity of New Jersey's horse racing industry. The commenter states that outsourcing written internal control procedures to private parties constitutes "mere goal setting" and not substantive regulation.

Recognizing that the Commission must nevertheless approve the written internal control procedures, the commenter asserts that approval does not cure the improper delegation of rulemaking authority because New Jersey's courts have held that review of the delegated functions by

the administrative agency empowered to promulgate the rule does not cure the improper delegation of authority.

In support of this assertion, the commenter cites three court decisions. First, the commenter cites *New Jersey Department of Transportation v. Brzoska*, 139 N.J. Super. 510 (App. Div. 1976) for the proposition that the power to decide licensure may not be delegated to a private person or body which is not subject to public accountability, particularly, where adequate legislative standards inhibiting arbitrary or self-motivated action are absent. Second, the commenter cites *Mercer County #4, N.J. Civil Service Ass'n v. Alloway*, 119 N.J. Super. 94 (App. Div. 1972), *aff'd o.b.*, 61 N.J. 516 (1972) for the proposition that power delegated to an administrative agency by statute cannot be subdelegated in the absence of legislative intent allowing it to do so. Finally, citing *Santaniello v. New Jersey Department of Health and Senior Services*, 416 N.J. Super. 445 (2010), in which the court upheld administrative rules requiring hospital medical directors to recertify Emergency Medical Technicians in accordance with detailed criteria for measuring the EMT's competence, the commenter asserts that the proposed exchange wagering rules do not set forth similarly specific standards and questions whether the proposed rules create adequate standards for private parties to fulfill the intended purpose of exchange wagering.

Pointing out that the Exchange Wagering Act, N.J.S.A. 5:5-168 et seq., grants the Commission full power to prescribe rules, regulations, and conditions under which exchange wagering may be conducted in the State, the commenter argues that there is no indication that the Legislature intended that this power be effectuated by allowing others to draft and recommend regulations. In support of this argument, the commenter quotes four statutory provisions within the Exchange Wagering Act where the Legislature clearly expressed its intent that the Commission promulgate exchange wagering rules and regulations: N.J.S.A. 5:5-169(d), 5:5-173(a), 5:5-173(b), and 5:5-185. The commenter notes that no language in the Act explicitly or implicitly grants the Commission the power to subdelegate rulemaking Authority or to any other entity.

RESPONSE: The Commission disagrees with the commenter's view that the proposed rules improperly delegate rulemaking authority to the exchange wagering licensee or the exchange wagering agent. The proposed rules, at N.J.A.C. 13:74C-2.1(b)8, require that the exchange wagering licensee attach written internal control procedures setting forth the procedures to be implemented: to effectively operate and manage the exchange wagering system; to insure that wagers placed through the exchange wagering system will be accurately processed and that all aspects of wagering integrity and wagering recordkeeping will be maintained; to effectively insure that the exchange wagering system operates with fiscal soundness and technological reliability; and to effectively insure that there will be sufficient safeguards to maintain the integrity of the horse racing industry in this State. If the Authority intends to enter into a written agreement with an exchange management agent and/or exchange services agent, N.J.A.C. 13:74C-2.1(b)8 provides that the Authority may satisfy this requirement by including the internal control procedures of the exchange management agent and/or the exchange service agent with its own internal control procedures. Under such circumstances, N.J.A.C. 13:74C-2.1(b)8 requires that the Authority, at a minimum, include a certification that it has reviewed the internal control procedures of such exchange management agent, and/or exchange services agent, and finds them to be sufficient. In addition, the rule requires that the internal control procedures of the Authority shall further include sufficient provisions to insure that the Authority, as the exchange wagering licensee, maintains meaningful and adequate oversight controls with respect to both the exchange wagering system and its exchange wagering license.

The Commission also disagrees with the commenter's interpretation of law. The case law cited by the commenter is inapposite. In *New Jersey Department of Transportation v. Brzoska*, *supra*, 139 N.J. Super. at 513, the court struck down a regulation promulgated by the Commissioner of Transportation which granted airport owners uncontrolled discretion to prevent the issuance of a fixed base operator's license. Here, the Commission has fully retained its authority to grant the exchange wagering license and has not delegated discretion to any entity to interfere with its licensing decision.

In *Mercer Council No. 4, New Jersey Civil Service Ass'n v. Alloway*, *supra*, 119 N.J. Super. at 96, the court held that the Civil Service Commission and its Chief Examiner and Secretary cannot legally assign statutorily delegated duties and functions to operating departments outside of Civil Service. Here, the Commission is not assigning any delegated duties or functions to the exchange wagering licensee or the exchange wagering agent. The Commission is merely requiring the submission of written internal control procedures for its review and approval.

In *Santaniello v. New Jersey Department of Health and Senior Services*, *supra*, 416 N.J. Super. at 455, the court upheld administrative rules requiring hospital medical directors to recertify Emergency Medical Technicians because the rules required that the Department exercise the ultimate decision-making authority. Here, in the proposed rules, the Commission has clearly retained all decision-making authority in regards to the issuance of the exchange wagering license.

Finally, the Commission points out that the provisions of N.J.A.C. 13:74C-2.1(b)8 requiring written control procedures to be included with the application for a license are consistent with its regulation of off-track-wagering and account wagering. See N.J.A.C. 13:74-2.1(d) (requiring written internal control procedures to be attached to the initial off-track wagering license application); N.J.A.C. 13:74-3.1(d) (requiring written internal control procedures to be attached to the initial account wagering license application). See also N.J.A.C. 13:70-29A.4 and 13:71-27A.4 (requiring written internal control procedures for single pool wagering).

COMMENT 9: The commenter states that the proposed rules do not establish procedures to effectively operate and manage the exchange wagering system and insure that wagers placed through the system will be accurately processed. According to the commenter, the proposed rules do not ensure that all aspects of wagering integrity and recordkeeping will be maintained, that the system will operate with fiscal soundness and technological reliability, or that the integrity of this State's horse racing industry will be maintained.

The commenter states that the proposed rules require that applicants seeking exchange wagering licensure must demonstrate that they will accomplish the purposes set forth in the rules by clear and convincing evidence. The commenter indicates that this is "an illusory requirement" which does not take the place of the Commission doing the hard regulatory work necessary to develop the procedures and requirements for exchange wagering to take place in this State. According to the commenter, by proposing these rules, the Commission has effectively "bound itself to the applicants who are motivated by private interest" in contravention of legislative intent and the State constitution.

RESPONSE: The Commission believes that the proposed rules establish procedures to effectively operate and manage the exchange wagering system, insure that wagers placed through the system will be accurately processed, maintain all aspects of wagering integrity and sufficient record keeping, ensure the fiscal soundness and technological reliability of the system, and maintain the integrity of the New Jersey racing industry. The Commission again points out that N.J.A.C. 13:74C-2.1(b)8 requires that the applicant for the exchange wagering license shall attach written internal control procedures for its review and approval and that this mandate is consistent with the regulatory requirements applicable to off-track-wagering, account wagering and single pool wagering. See the Response to Comment 8 above.

The Commission points out that the licensure application process set forth in N.J.A.C. 13:74C-2.1 is rigorous, requiring the applicant to demonstrate its suitability for a license by clear and convincing evidence. For example, N.J.A.C. 13:74C-2.1(d) places the burden on the Authority to establish, by clear and convincing evidence, that it and its employees are qualified in all aspects to hold the appropriate license; the issuance of an exchange wagering license to the Authority will not be inimical to the best interests of the public and the horse racing industry in this State; wagers placed through the exchange wagering system will be accurately processed and that there will be sufficient safeguards to maintain the integrity of the horse racing industry in this State; and all of the requirements of the Exchange Wagering Act and the Commission's rules have been met.

The proposed rules also establish a rigorous approval process if the Authority seeks to employ an exchange wagering management agent or

an exchange wagering services agent. Pursuant to N.J.A.C. 13:74C-3.2(a)1, “[i]n the event the exchange wagering licensee intends to enter into a written agreement with an exchange management agent, the parties to the proposed agreement shall file a joint petition with the Commission seeking approval for such.” N.J.A.C. 13:74C-3.2(a)2 provides that the Commission “shall not approve such a written agreement unless it is demonstrated, by clear and convincing evidence, that: both the written agreement and the written internal control procedures of the exchange wagering licensee set forth sufficient provisions to insure that the exchange wagering licensee maintains meaningful and adequate oversight controls with respect to both the exchange wagering system and its exchange wagering license; and that the written internal control procedures of the exchange management agent set forth procedures to be implemented, as may be appropriate considering the functions to be performed by the exchange management agent, to effectively operate the exchange wagering system. . . .” Prior to acting on any such joint petition, N.J.A.C. 13:74C-3.2(a)5 and (b)5 require that the Commission shall conduct an investigation into the qualifications of the exchange wagering management agent or exchange services agent, respectively. These rules also mandate that the Commission shall not approve any such written agreement unless the exchange management agent or exchange services agent demonstrates, by clear and convincing evidence, that it and its employees are suitable to perform the functions subject of the written agreement and to hold a license to engage in such activities.

Finally, the Commission also points out that N.J.A.C. 13:74C-3.5(b) requires that one year from the date when the exchange wagering system first became operational, the exchange wagering licensee shall ensure that a comprehensive audit of the exchange revenues accumulated during such time period is performed by an outside and independent certified public accountant acceptable to the Commission.

COMMENT 10: Pointing out that New Jersey will be one of the first states in the nation to implement exchange wagering when the proposed rules are adopted, the commenter states that it is important to the integrity and future health of the horse racing industry that the proposed rules be done properly. The commenter indicates that the grant of power to Betfair and the New Jersey Sports and Exposition Authority to initially determine the applicable regulations creates a problem because once Betfair and the Authority propose actual procedures and regulations, it will be difficult for the Commission to effectively consider regulatory alternatives. The commenter adds that if the exchange wagering system does not work properly, other states will likely benefit, learn from New Jersey’s experience, and may take business away from New Jersey racing.

RESPONSE: The Commission repeats its disagreement that the proposed rules contain insufficient details to ensure exchange wagering will be conducted in New Jersey under conditions that will enhance the sport of horse racing and protect the integrity of the sport. The Commission believes that pursuant to the proposed rules, the exchange wagering system will operate properly and points out that it has the authority to amend the rules if and when necessary.

COMMENT 11: The commenter states that one of its previously unanswered questions is whether this Commission has contacted its counterpart in Britain, Australia, and Hong Kong and obtained input on the proposed rules.

RESPONSE: The Commission notes that the proposed rules have been promulgated to implement New Jersey law set forth in the Exchange Wagering Act, N.J.S.A. 5:5-168 et seq. Although Commission staff has discussed exchange wagering generally with the British Horseracing Authority, staff has not discussed the proposed rules with regulatory bodies in Australia and Hong Kong.

COMMENT 12: The commenter also asks why there are not more jurisdictions allowing exchange wagering on horse racing if it is as lucrative as Betfair and Monmouth Park have lead the Commission to believe.

RESPONSE: The comment is not relevant to the proposed rules.

COMMENT 13: The commenter also asks what has been the Thoroughbred Racing Protective Bureau’s (TRPB’s) involvement in the enactment of the proposed rules, whether the Commission has consulted the TRPB, and has the TRPB voiced any concerns?

RESPONSE: The Commission has not consulted with the TRPB regarding the proposed rules.

COMMENT 14: The commenter also asks whether the Organization of Racing Investigators has been consulted about the implementation of exchange wagering, asserting that they will be the individuals that will be responsible and involved in the investigations in the event of irregular betting patterns.

RESPONSE: As discussed above in the Response to Comment 7, the Commission employs an in-house investigative unit which is responsible for assisting in maintaining the integrity of the sport. This unit is assigned duties as needed and has extensive investigative experience. The Commission has not consulted with the Organization of Racing Investigators.

COMMENT 15: The commenter also asks whether the amount of money generated by exchange wagering is “truly going to be worth jeopardizing the public perception and the confidence in the betting public?”

RESPONSE: The Commission again states its position that the proposed rules adequately ensure the integrity of the exchange wagering system as well as the integrity of the horse racing industry.

COMMENT 16: The commenter states that exchange wagering appears to be very complicated and raises many questions with regard to what is to be expected and how wagers will be placed. The commenter indicates a belief that the Commission itself does not have a clear understanding of what exchange wagering entails. Referencing a question asked the Committee at its October 1, 2014, meeting regarding the three types of bets that would be allowed, the commenter states that because the Commission representatives could not answer the question, the question was directed to counsel for Betfair, which is a private party that already has a contract in place with Monmouth Park to administer exchange wagering, for an answer. According to the commenter, this is a telling example that the Commission has not fulfilled the Legislature’s direction “to use its ‘full power to prescribe rules, regulations and conditions under which the exchange wagering license is issued or renewed in this State.’”

RESPONSE: The Commission is fully familiar with the regulatory requirements set forth in the proposed rules and believes that it has fulfilled its legislative directive to “prescribe rules, regulations and conditions under which the exchange wagering license is issued or renewed in this State.”

COMMENT 17: The commenter states that the concerns it has raised regarding the delegation of rulemaking authority coupled with its concerns about the perception of the sport along with unanswered questions it has presented are far too great to allow the proposed rules to be adopted.

RESPONSE: The Commission again states its position that the proposed rules adequately ensure the integrity of the exchange wagering system and horse racing industry and points out that it has the authority to amend the rules if and when necessary.

The Council on Compulsive Gambling of New Jersey, Inc., 3635 Quakerbridge Road, Suite 7, Hamilton, NJ 08619 (CCGNJ) submitted multiple written comments. Donald Weinbaum, Executive Director of CCGNJ, submitted written comments by letters dated August 14, 2014, and October 9, 2014. Because there are substantial similarities in the written comments set forth in each of the two letters, the Commission has collated and summarized the comments received on behalf of the CCGNJ into the following six comments and responded to them as set forth herein.

COMMENT 1: The commenter states that its concerns are related to what is missing from the proposed rules rather than what is set forth therein. Pointing out that the proposed rules’ Social Impact statement acknowledges that a potential does exist for negative implications for those with a compulsive gambling addiction, the commenter notes that exchange wagering may be done in person, by telephone or online. The commenter suggests that the rules promulgated by the New Jersey Division of Gaming Enforcement (DGE) for the regulation of Internet casino gaming should be used as a guide for the exchange wagering rules. Pointing out that the DGE worked with the CCGNJ to try to ensure that the Internet gaming rules adhered to guidelines established by the National Council on Problem Gaming (NCPG), the commenter suggests

that the proposed exchange wagering rules should mirror the Internet gaming rules in terms of player protection as well as providing responsible gaming provisions and awareness for problem gamblers. Citing the requirement of internal control procedures set forth in N.J.A.C. 13:74C-2.1(b) and 2.2(d), the commenter states that these internal controls should require procedures detailing protections for problem gamblers which include limits on spending, mandatory time outs, and awareness/help messages being displayed on the wagering screen (including the 1-800-GAMBLER phone number) and argues that these internal control procedures should be submitted to the Commission for approval. The commenter suggests that it would be appropriate to include some of the language used by the DGE regarding Internet gaming to help universalize the protections afforded problem gamblers in New Jersey through common and consistent rules.

RESPONSE: As with any expansion of legalized gambling, potential does exist for negative implications to those with a compulsive gambling addiction. The proposed new rules contain a provision which allows an individual to place himself or herself on a self-exclusion list. N.J.A.C. 13:74C-4.1(b) provides that a person on the self-exclusion list established is prohibited from establishing an exchange wagering account. The Commission believes that this requirement will reduce the potential for such negative social implications.

In the racing industry, the Commission's statutory authority is limited to requiring the establishment of a self-exclusion list of persons who voluntarily seek to be excluded from entry into permitted racetracks, licensed off-track wagering facilities located in this State, the account wagering system, and the exchange wagering system. A person may request placement on the self-exclusion list by acknowledging in a manner to be established by the Commission that the person is a problem gambler and by agreeing that, during a period of voluntary exclusion, the person may not collect winnings or recover losses resulting from his or her wagers.

The Commission has promulgated rules set forth at N.J.A.C. 13:74A specific to the self-exclusion list. These rules establish procedures for placements on, and removals from, the list of self-excluded persons; establish procedures for the transmittal to the permitted racetracks, licensed off-track wagering facilities, the account wagering system and the exchange wagering licensee of identifying information concerning persons on the self-exclusion list; and require permitted racetracks, licensed off-track wagering facilities, the account wagering system, and the exchange wagering licensee to establish procedures designed, at a minimum, to remove persons on the self-exclusion list from targeted mailings or other forms of advertising or promotions and deny such persons access to credit, complimentary, check cashing privileges, club programs, and other similar benefits.

Although the commenter suggests that the Commission amend the proposed exchange wagering rules to require internal control procedures detailing protections for problem gamblers that include limits on spending, mandatory time outs, and awareness/help messages being displayed on the wagering screen (such as the 1-800-GAMBLER phone number) and to include some of the language used by the DGE regarding Internet gaming to universalize the protections afforded problem gamblers in New Jersey, the Commission is not prepared to impose these requirements on the exchange wagering licensee at this time. The gambler awareness provisions proposed by the CCGNJ do not exist in connection with other wagering within the Commission's regulatory authority.

However, the Commission is sensitive to the comments raised and will explore establishing a committee consisting of a staff representative to be selected by the Executive Director, a representative of the CCGNJ, and industry representatives for the purpose of determining if an industry consensus of voluntarily compliance with the CCGNJ's concerns is feasible.

COMMENT 2: The commenter states that the racing self-exclusion program, referenced within the proposed exchange wagering rules at N.J.A.C. 13:74C-4.1, is not well known, recommends that the Commission consider extending the self-exclusion ineligibility for exchange wagering to anyone on the larger DGE casino self-exclusion list, and vice-versa, and urges both agencies to explore what regulatory and statutory steps might be necessary to effect this change.

RESPONSE: The Commission thanks the commenter for the recommendations and points out that additional rulemaking with DGE input would be necessary in order to extending the self-exclusion ineligibility for exchange wagering to anyone on the larger DGE casino self-exclusion list and vice-versa. The Commission may consider amendments after exchange wagering is fully implemented and the need for further protections for problem gamblers has been assessed. For now, the exchange wagering licensee is subject to the requirements set forth in N.J.A.C. 13:74C-4.1(b) and casinos remain subject to DGE's rules.

COMMENT 3: The commenter suggests that it would be appropriate to treat the funding of problem gambling services as a cost of doing business with a small percentage of the total moneys produced by exchange wagering be devoted to problem gambling services and awareness programs.

RESPONSE: The Commission thanks the commenter for the comment and points out that any such funding must first be authorized by the Legislature.

COMMENT 4: The commenter states its understanding that the legislative committees that reviewed the exchange wagering legislation believed that the legislation's language afforded sufficient flexibility to allow many of the concerns raised by the commenter to be addressed in rulemaking.

RESPONSE: The Commission thanks the commenter but notes that it is not prepared to impose these additional requirements on the exchange wagering licensee at this time.

COMMENT 5: The commenter also recommends that the Commission review the Internet Responsible Gambling Standards developed by the NCPG in conjunction with CCGNJ and other state affiliates and provided the Commission with a copy of the standards. The commenter points out that the Internet Responsible Gambling Standards are relatively recent and did not exist when the Commission promulgated its account wagering rules.

RESPONSE: The Commission thanks the commenter for the recommendation. However, as discussed above, the Commission is not prepared to impose these requirements on the exchange wagering licensee at this time.

COMMENT 6: Noting other comments by members of the horse racing industry that indicate that exchange wagering is likely to attract a much broader and younger population of wagers than traditional parimutuel wagering, which is an average of 18 years younger and more heavily involved in the financial markets, the commenter states that this particular group appears to mirror the population of young, tech savvy individuals who are at greater risk of developing gambling problems since stock and commodity gambling currently represents one to two percent of CCGNJ's 1-800-GAMBLER call volume.

RESPONSE: The Commission thanks the commenter for its input and may consider amendments after exchange wagering is fully implemented and the need for further protections for problem gamblers has been assessed.

Drew J. Couto, Esq. from Couto & Associates, 755 West A Street, Suite 100, San Diego, CA 92101 submitted written comments on behalf of Global Betting Exchange Technologies (GBET) by letter dated August 14, 2014. The Commission has summarized the written comments into the following 12 comments and responded to them as set forth herein.

COMMENT 1: Noting that it is the vendor selected by the New York Racing Association to provide an advance deposit account wagering platform, the commenter requests that the Commission revise N.J.A.C. 13:74C-1.1, Definitions, to define "antepost market." The commenter states that notwithstanding N.J.A.C. 13:74C-5.1(a)2, where the term "antepost market" is explained, this term should be specifically defined to better inform and protect those who place exchange wagers. The commenter suggests that the term "antepost market" be defined to mean "the 'Market' comprised of single wagers made on an outcome that includes both that a selected entry will run a race, and that the selected entry will finish the race in the selected position of win, place or show. If either of those conditions does not occur then the wager is deemed to be a losing wager." The commenter suggests that the description of "antepost market" set forth in proposed rule N.J.A.C. 13:74C-5.1(a)2 should be clarified.

RESPONSE: The Commission believes that the description of antepost market set forth in N.J.A.C. 13:74C-5.1(a)2 clearly sets forth the requirement that an exchange wager placed in this market includes both that the selected horse will run in the race and that the selected horse will finish the race in the selected position of win, place or show. If either the selected horse does not run in the race or the selected horse does not finish in the selected position, then the wager in the antepost market shall be deemed a losing wager.

COMMENT 2: The commenter states that the Commission should revise N.J.A.C. 13:74C-1.1, Definitions, to define the term "best execution." According to the commenter, "best execution" is a process commonly used by exchange wagering providers worldwide to facilitate the matching of "two non-identical wagers at better wagering value/odds for at least one, or both, of the players backing or laying a selection than that offered by either player or players." The commenter suggests two alternative definitions of "best execution" for consideration of the Commission.

RESPONSE: The Commission believes that the proposed rules effectively implement exchange wagering and disagrees that the concept or term "best execution" should be defined or included in the proposed rules at this time. The Exchange Wagering Act defines "exchange wagering" to mean "a form of parimutuel wagering in which two or more persons place identically opposing wagers in a given market." See N.J.S.A. 5:5-170. The term "identically opposing wagers" is defined to mean "wagers in which one or more persons offer to lay a selected outcome at the same price . . ." *Ibid*. The proposed rules implement the statutory requirement that identically opposing wagers will be matched. The process of "best execution" suggested by the commenter, which facilitates the matching of "nonidentical wagers at better wagering value/odds for at least one, or both, of the players" is neither required by New Jersey law nor a process which the Commission wishes to require at this time.

COMMENT 3: The commenter states that if the Commission does not establish a "best execution" process, there will be an unavoidable conflict among, or violation of, the rules pertaining to "identically opposing wagers" and "matched wagers." The commenter asserts that the Commission should not allow licensees/agents to independently determine how identically opposing wagers are matched or formed because inconsistent and non-uniform application of such exchange wagering practices will confuse the wagering public to its detriment. To remedy the risk to the wagering public, the commenter suggests that the term "matched wager" be defined to mean "the wager that is formed when two or more persons are confirmed by the exchange wagering licensee as having placed identically opposing wagers or which are otherwise formed through 'best execution' in a given market on the exchange."

RESPONSE: The Commission believes that the proposed rules effectively implement exchange wagering, and the rules pertaining to "identically opposing wagers" and "matched wager" are accurate and clear. N.J.A.C. 13:74C-1.1 defines "identically opposing wagers" to mean "wagers in which one or more persons offer to lay a selected outcome at the same price at which one or more persons offer to back that same outcome, with the amount subject to the lay being proportionately commensurate to the amount subject to the back." The rule defines "matched wager" to mean "the wager that is formed when two or more persons are confirmed by the exchange wagering licensee as having placed identically opposing wagers in a given market on the exchange." The Commission does not believe that either definition must be revised to include the process of "best execution" as suggested by the commenter. As set forth in the Response to Comment 3 of this commenter, the process of "best execution" which provides for the matching of nonidentical wagers is neither required by New Jersey law nor a process which the Commission wishes to require at this time.

COMMENT 4: Highlighting language in N.J.A.C. 13:74C-4.5(a) that states that the exchange wagering licensee shall be satisfied that "the wager is of a type that can be identically matched within a given market to an identically opposing exchange wager or exchange wagers," the commenter asks whether the intent of this language is to prevent a licensee from utilizing "best execution" practices to match appropriate wagers. The commenter also asks whether the Commission intends to

allow the exchange wagering licensee to adopt "best execution" as an accepted practice as part of the Term and Conditions that account holders will be asked to execute prior to establishing an account.

RESPONSE: The details of the exchange wagers that will be allowed will be reviewed during the license application process. Specifically, N.J.A.C. 13:74C-5.1 requires Commission approval of markets. Before a market can be approved, N.J.A.C. 13:74C-5.2 requires that the exchange wagering licensee or the exchange management agent file a written petition with the Commission which identifies the type of market, includes a narrative description of the possible exchange wagers that can be placed within the market and sets forth the rules for such exchange wagers. The Commission believes that the proposed rules effectively implement exchange wagering and disagrees that the concept or term "best execution" should be defined or included in the proposed rules at this time.

COMMENT 5: Regarding the provision in proposed N.J.A.C. 13:74C-4.7(c) requiring the exchange wagering licensee to maintain a printable record of the entire transaction, the commenter asks whether the licensee is required to contemporaneously print a record for each exchange wager or transaction placed by computer or other electronic means or is required to simply maintain a "printable record" of such wagers and transactions.

RESPONSE: N.J.A.C. 13:74C-4.7(c) requires the exchange wagering licensee to maintain a printable record of exchange wagers or transactions made by computer or other electronic means approved by the Commission. The licensee is responsible for verifying that the printable record system is operable and shall not accept wagers or transactions if it is not.

COMMENT 6: The commenter asks whether proposed rule N.J.A.C. 13:74C-4.8 is intended to preclude exchange wagering licensees from recovering payment error. Stating that if this is not the Commission's intent, the commenter offers proposed language as N.J.A.C. 13:74C-4.8(c) which would authorize the exchange wagering licensee to recover the amount of an overpayment error, if the exchange wagering licensee notifies the Commission and account holder of the overpayment and submits proof of the overpayment to both. The commenter also proposes language stating that within seven calendar days from notification of the overpayment, any account holder who disputes the overpayment must request in writing that the Commission determine the validity of the overpayment and that the failure to file such request shall constitute a waiver of the claim.

RESPONSE: N.J.A.C. 13:74C-4.8(a) requires that the exchange wagering licensee shall be responsible for all overpayments or underpayments that occur in the payment of amounts of exchange wagers regardless of cause. As a result, the exchange wagering licensee is prohibited from recovering overpayments and shall ensure that underpayments are paid in full.

COMMENT 7: The commenter asks whether the term "finish market," as described in proposed N.J.A.C. 13:74C-5.1(a)3, is intended to describe a market that differs from what is commonly referred to as an "in-play" market or an "in-running market." The commenter also asks how a "finish market" is different from an "in-play" market or an "in-running market."

RESPONSE: The proposed rules only use the term "finish market," which is clearly described in N.J.A.C. 13:74C-5.1(a)3, to be a market which "remains open after the off-time and closes for exchange wagering at the official finish of the race." The proposed rule do not establish an "in-play" market or an "in-running market."

COMMENT 8: The commenter requests clarification of the process set forth in proposed rule N.J.A.C. 13:74C-5.2 for Commission approval of market on out-of-State races. Specifically, the commenter asks whether the Commission has the authority to authorize the exchange wagering licensee to facilitate exchange wagers among account holders on out-of-State races. Citing the Federal Interstate Horseracing Act, the commenter indicates that it is concerned that stakeholders in out-of-State jurisdictions may not have approved exchange wagering on their races or that these stakeholders may have approved exchange wagering under different economic terms or models.

RESPONSE: The Exchange Wagering Act, N.J.S.A. 5:5-171, expressly authorizes the acceptance of exchange wagers placed by residents of this State on the results of horse races conducted in this State

or in jurisdictions outside of this State provided that the exchange wagers comply with the provisions of the Interstate Horseracing Act of 1978, 15 U.S.C. §§ 3001-3007, and any other applicable Federal laws. As discussed above in the Response to GBET's Comment 4, N.J.A.C. 13:74C-5.1 requires Commission approval of markets. Before a market can be approved, N.J.A.C. 13:74C-5.2 requires that the exchange wagering licensee or the exchange management agent file a written petition with the Commission which identifies the type of market, includes a narrative description of the possible exchange wagers that can be placed within the market, states whether the same market has been offered to the public in any other jurisdiction, and contains a certified statement by the petitioner that the market is in compliance with all laws that may be implicated.

Interstate exchange pools are addressed in N.J.A.C. 13:74C-5.10, which authorizes the Commission to approve the establishment of an interstate exchange wagering pool "where the exchange wagering licensee demonstrates by clear and convincing evidence that a proposed interstate exchange pool is consistent with law in all respects..."

The Commission believes that the mandates in N.J.A.C. 13:74C-5.2 and 5.10 will adequately ensure that exchange wagers are accepted in compliance with all State and Federal law.

COMMENT 9: Indicating its belief that the Commission does not intend to enact rules controlling the conduct of exchange wagers in a manner that impacts the regulation and conduct of lawful races in any other jurisdiction, the commenter asks the Commission to clarify that proposed N.J.A.C. 13:74C-5.2(b) does not authorize a regulatory approval scheme that would be problematic for out-of-State regulators and stakeholders.

RESPONSE: The commenter correctly points out that the proposed rules do not modify or affect the rules of racing that govern other racing jurisdictions. As explained in the Response to Comment 1 of the Jockey's Guild, the Commission does not have the authority to regulate racing in other jurisdictions. Each racing commission must promulgate, apply, and interpret the rules governing racing within its jurisdiction. All racing licensees are responsible for being familiar with the rules governing racing in the jurisdiction where the race takes place.

As set forth in the Response to GBET's Comment 8, the Commission believes that the mandates in N.J.A.C. 13:74C-5.2 and 5.10 will adequately ensure that exchange wagers are accepted in compliance with State and Federal law, including the Interstate Horseracing Act.

COMMENT 10: The commenter states that active exchange wagering account holders often cancel unmatched wager offerings that receive little or no play in a market and then offer new or repriced wagering opportunities as a means to stimulate matched wagers, to manage their risk or to hedge their bets. Citing the provision in proposed rule N.J.A.C. 13:74C-5.6 allowing the exchange wagering provider to close or suspend any exchange wagering account if it suspects that the account holder is abusing the cancellation privilege pursuant to or in furtherance of fraudulent activity or it determines that the frequency of such cancellations negatively impacts the exchange or any given market, the commenter states its concern that this regulatory provision provides the exchange wagering licensee with too much discretionary control over valid account holder play and will unnecessarily discourage active play by account holders.

RESPONSE: N.J.A.C. 13:74C-5.6(b) allows an exchange wagering account holder to cancel an unmatched wager at any time without cause. The commenter correctly points out that N.J.A.C. 13:74C-5.6(b) authorizes the exchange wagering licensee to close or suspend any exchange wagering account if it determines that the account holder is abusing the cancellation privilege. The Commission disagrees with the comment that this regulatory provision provides the exchange wagering licensee with too much discretionary control over valid account holder play and will unnecessarily discourage active play by account holders. The Commission believes that the need to maintain the integrity of the exchange wagering system warrants a broad grant of discretion to the exchange wagering licensee to suspend and close accounts, especially if the cancellation privilege is abused in furtherance of fraudulent activity or where the frequency of such cancellations negatively impacts the exchange or any given market.

The Commission also points out that pursuant to N.J.A.C. 13:74C-4.9(a), an exchange wagering account holder may file any complaint concerning the exchange wagering system with the Commission in writing or by computer. This rule also requires that the application to establish an exchange wagering account shall notify the applicant of this right and shall include the address and email address of the Commission for this purpose.

COMMENT 11: The commenter asks the Commission to clarify the regulatory provision in proposed N.J.A.C. 13:74C-5.11 authorizing the exchange wagering licensee to impose surcharges on exchange wagering accounts. Specifically, the commenter asks whether this provision authorizes the exchange wagering licensee to impose an undefined "premium charge" or other surcharge on the net winnings of account holders after the wagers have been placed and paid. As an example, the commenter points out that if the exchange wagering licensee is allowed to impose a monthly premium charge or surcharge, an account holder who experiences a successful month could be assessed a premium in excess of his net winnings for the balance of the year. According to the commenter, these after-the-fact assessments significantly undermine a player's ability to predict or calculate their investment and net return prospectively before placing the wager since the surcharge amount is subject to the discretion of the exchange wagering licensee and is unknown.

RESPONSE: N.J.A.C. 13:74C-5.11 authorizes the exchange wagering licensee "to impose and collect exchange revenues, in the form of a surcharge or surcharges associated with exchange wagering accounts and exchange wagers." Pursuant to the rule, permissible surcharges include surcharges imposed in connection with the submission of exchange wagers for processing and surcharges as an assessment on any exchange wagering account holder's winnings. The rule clearly states that all surcharges shall be subject to the approval of the Commission both as to type and amount. Pursuant to this provision, the Commission will review, assess, and approve the type and amount of surcharges when the exchange wagering licensee presents them to the Commission for approval.

COMMENT 12: Referencing the term "net winnings" within the proposed rules, the commenter requests clarification from the Commission as to whether this term limits the compensation of industry stakeholders to revenues derived solely from a percentage of account holders' net winnings or does it permit the exchange wagering licensee and other New Jersey horse racing industry stakeholders to implement an alternative economic model by which significantly greater revenues are retained by the industry.

RESPONSE: The use of the term "net winnings" within the proposed rules is clear. N.J.A.C. 13:74C-1.1 defines "net winnings" to mean "the aggregate amounts payable to a person, through an exchange wagering account established by that person consistent with this chapter, as a result of that person's winning matched wagers in a pool, less the aggregate amount paid by that person as a result of that person's losing matched wagers in that pool." N.J.A.C. 13:74C-4.4(c) provides that "[f]ollowing the exchange wagering licensee's proper debit of an exchange wagering account, for an exchange wager or wagers properly accepted by the exchange wagering licensee pursuant to N.J.A.C. 13:74C-4.3, the net winnings due shall be credited to the exchange wagering account of the exchange wagering account holder who won the wager, less any applicable takeout, or transaction or other fees due the exchange wagering licensee, as provided for pursuant to N.J.A.C. 13:74C-5.9(b) and 5.11." N.J.A.C. 13:74C-5.9(b) authorizes the exchange wagering licensee to retain, withhold, or takeout any amounts from exchange wagers. However, if the exchange wagering licensee determines to do so, the exchange wagering licensee must obtain approval in advance from the Commission as required by N.J.A.C. 13:74C-5.11.

The Commission does not understand the commenter's request to clarify whether the term "net winnings" limits the compensation of industry stakeholders to revenues derived solely from a percentage of account holders' net winnings or does it permit the exchange wagering licensee and other New Jersey horse racing industry stakeholders to implement an alternative economic model.

The commenter's request for clarification appears to be more related to the use of the term "net exchange revenues" in the proposed rules.

N.J.A.C. 13:74C-1.1 defines “net exchange revenues” to mean “those exchange wagering revenues that remain after certain deductions are made from exchange revenues, as required by N.J.A.C. 13:74C-3.5(a)1 through 5, and which are to be distributed between and amongst the exchange wagering licensee and racetrack permitholders pursuant to N.J.A.C. 13:74C-3.5(a)6.” Pursuant to N.J.A.C. 13:74C-3.5(a)6, “[t]he balance of the exchange revenues remaining after the distribution of the payments described in (a)1 through 5 above, that is, the net exchange revenues, shall be distributed pursuant to (d) or (e) below, as appropriate.”

N.J.A.C. 13:74C-3.5(d) provides that “[w]ithin one year from the date when the exchange wagering system first became operational, the exchange wagering licensee shall enter into a written business agreement with all racetrack permitholders for the distribution of the net exchange revenues remaining after the distributions required by (a)1 through 5 above.” In the event that the exchange wagering licensee and racetrack permitholders are unable to arrive at a fully executed business agreement within one year from the date when the exchange wagering system first became operational, N.J.A.C. 13:74C-3.5(e) requires the exchange wagering licensee to notify the Commission in writing of such inability, within one year and 10 days from the date that the exchange wagering system first became operational and the Commission will then, in such event, assume permanent responsibility for annually distributing the net exchange wagering revenues amongst the exchange wagering licensee and the permitholders in accordance with the provision set forth therein.

John Hindman, Senior Vice President and General Counsel of TVG, 6701 Center Drive West, Suite 800, Los Angeles, CA 90045 submitted written comments on behalf of TVG by letter dated September 26, 2014. The Commission has summarized the written comments into the following eight comments and responded to them as set forth herein.

COMMENT 1: Indicating that he received a copy of Thomas M. Kennedy’s letter to Executive Director Frank Zanzuccki, dated September 22, 2014, on behalf of the Jockey’s Guild regarding its “Supplemental Comments” about the Commission’s proposed exchange wagering rules, the commenter states, generally, his belief that the letter grossly mischaracterizes the proposed rules themselves, the nature of the licensing process set forth in the rules, the diligence of Commission staff in constructing the proposed rules, and the verbal remarks made by John Hindman at the Commission’s September 17, 2014, meeting. Specifically, the commenter states that the Jockey’s Guild’s conclusion that the proposed rules are “mere goal setting and not substantive regulation,” see *supra* Jockey’s Guild’s Comment 8, is not borne out by any fair reading of the rules.

RESPONSE: The Commission agrees with the comment for the reasons set forth in the response to the Jockey’s Guild’s Comment 8 and for the reasons set forth generally in the Responses above.

COMMENT 2: The commenter itemizes an “exhaustive list of requirements” that the proposed rules require of the exchange wagering licensee or its agents. Citing N.J.A.C. 13:74C-5.2, the commenter points out that before an exchange wager can be accepted, the exchange wagering licensee and its agent (if applicable) must file a written petition with the Commission that identifies the type of market for which approval is sought. The petition must include a statement of rules for each wager, proof that the wager type has been offered without incident in other jurisdictions, the minimum and maximum dollar amount accepted for the wager, and certifications that the wager has been tested and that the wager is lawful, all of which must be approved by the Commission.

RESPONSE: The Commission agrees with the commenter that the proposed rules adequately prescribe conditions that will effectively implement and regulate exchange wagering.

COMMENT 3: The commenter points out that N.J.A.C. 13:74C-4.1, 4.3 and 4.10 prescribe procedures which the exchange wagering licensee must follow regarding who may participate in exchange wagering; N.J.A.C. 13:74C-4.1 and 4.2 set forth the requirements for the application form, which must be approved by the Commission, that must be used in establishing an account; N.J.A.C. 13:74C-4.2 sets forth requirements, which must be included in exchange wagering account rules, that must be supplied to each account applicant; N.J.A.C. 13:74C-4.3 sets forth mandates for how the exchange wagering account must operate; N.J.A.C. 13:74C-4.4 addresses how credits to an exchange wagering account must

be made and how winning exchange wagers must be paid; N.J.A.C. 13:74C-4.5 governs how account debits must be made when exchange wagers are placed and when wagering accounts must be suspended by the exchange wagering licensee; N.J.A.C. 13:74C-4.7 sets forth requirements for how exchange wagering records must be maintained; N.J.A.C. 13:74C-4.8 addresses how overpayment and underpayment errors must be handled; and N.J.A.C. 13:74C-4.9 prescribes how account holder complaints must be handled.

RESPONSE: The Commission agrees with the comment which accurately points out the location of numerous regulatory requirements in the proposed rules. The Commission believes that the proposed rules will effectively implement exchange wagering and ensure that the wagers are accurately processed.

COMMENT 4: The commenter states that the proposed rules contain precise and unambiguous required procedures regarding: technological breakdowns in N.J.A.C. 13:74C-5.3; market suspensions and market voiding which require specific Commission authorization in N.J.A.C. 13:74C-5.4; the cancellation of unmatched wagers which require an immediate report to the Commission in N.J.A.C. 13:74C-5.6; finalization of exchange wagers and the cancellation of matched wagers under limited circumstances either at the order of the Commission or with notice to the Commission in N.J.A.C. 13:74C-5.7; and the handling of scratches and non-starters in N.J.A.C. 13:74C- 5.8. The commenter adds that pursuant to N.J.A.C. 13:74C-5.12, no hardware or software changes to any components of the exchange wagering system may be made without Commission approval after successful testing - and then only if such change would be consistent with the integrity of the exchange wagering system.

RESPONSE: The Commission agrees with the comment which accurately points out the location of numerous regulatory requirements in the proposed rules. The Commission believes that the proposed rules will effectively implement exchange wagering and ensure that the wagers are accurately processed.

COMMENT 5: The commenter states that proposed rules N.J.A.C. 13:74C-6.1 through 6.14 set forth a clear and comprehensive regime related to Commission licensing of all specified individuals involved with the operation of an exchange wagering system.

RESPONSE: The Commission agrees with the comment.

COMMENT 6: The commenter states that in addition to all of these specific requirements, the proposed rules, at N.J.A.C. 13:74C-2.1(d), clearly state that those seeking an exchange wagering license must prove by clear and convincing evidence to the Commission that (i) employees are qualified to hold the license, (ii) the issuance of the license will not be inimical to the best interests of the public and the horse racing industry in this State, (iii) wagers placed through the exchange wagering system will be accurately processed and that there will be sufficient safeguards in place to maintain the integrity of the horse racing industry in New Jersey, and (iv) all of the requirements of the Exchange Wagering Act and the Exchange Wagering Rules, including the approval of the Attorney General of New Jersey, have been met. The commenter points out that “[f]ar from delegating its responsibilities to private parties, the Commission will have both the opportunity and obligation to review and assess the sufficiency of the evidence submitted by the applicant(s) demonstrating compliance with each of these requirements.”

RESPONSE: The Commission agrees with the comment.

COMMENT 7: In seeking to clarify his remarks at the Commission’s September 17, 2014, meeting, which were made to rebut the notion that by adopting the proposed rules, the Commission would be authorizing the immediate inception of exchange wagering on horse races in New Jersey without any further input from or oversight by the Commission, the commenter states his intent was to point out that the adoption of the proposed rules is but one step in an exhaustive process set out by the Commission itself to ensure that exchange wagering is conducted in a lawful manner that is consistent with the Exchange Wagering Act and that is beneficial to the horse racing industry in New Jersey.

RESPONSE: The Commission agrees that the adoption of the proposed rules is but one step in an exhaustive process intended to ensure that exchange wagering is conducted in a lawful manner which will benefit the horse racing industry in New Jersey.

COMMENT 8: In response to the statement by the Jockey's Guild that the Commission is not "doing the hard work necessary to develop the procedures and requirements necessary for exchange wagering to take place in New Jersey," see *supra* Jockey's Guild's Comment 9, the commenter states that the Commission has clearly set forth an accountable structure for the effective regulation of exchange wagering in New Jersey, has not outsourced any role in regulating the activity, and has followed an appropriately deliberative process in making its rules.

RESPONSE: The Commission thanks the commenter and agrees with the comment.

John Hindman, Senior Vice President and General Counsel of TVG, 6701 Center Drive West, Suite 800, Los Angeles, CA 90045 submitted written comments on behalf of TVG and Betfair by letter dated October 10, 2014. The Commission has summarized the written comments into the following six comments and responded to them as set forth herein.

COMMENT 1: The commenter states that he disagrees with the Jockey's Guild's comment that by requesting internal control procedures, the Commission is somehow outsourcing the regulation of exchange wagering. See *supra* Jockey's Guild's Comment 8. Noting Betfair's involvement with Internet casino wagering in New Jersey, the commenter points out that the DGE followed the same regulatory protocols as the Commission has with the proposed exchange wagering rules by setting precise standards and requesting that the applicant demonstrate by clear and convincing evidence that it is capable of meeting those standards. The commenter states that this approach is also similar to countless other regulatory processes across the country both within and outside the gambling environment.

RESPONSE: The Commission agrees that the proposed rules contain effective regulatory requirements which were carefully considered and which are consistent with the regulatory protocol of other regulatory bodies such as the DGE.

COMMENT 2: In response to the Jockey's Guild's integrity arguments, the commenter stresses that there is no evidence in jurisdictions around the world where exchange wagering has existed in a regulated environment for years to suggest that exchange wagering makes jockeys more vulnerable to corrupt behavior than other forms of wagering.

RESPONSE: The Commission thanks the commenter and repeats its belief that the proposed rules contain sufficient regulatory provisions to protect the integrity of exchange wagering and the State's horse racing industry.

COMMENT 3: The commenter states that separate rules of racing for jockeys related solely to exchange wagering would be unnecessary and counterproductive, as the rules of racing in each state already set forth clear guidelines related to jockey conduct, such as the requirement to persevere with a sound mount to achieve the best possible placing. The commenter adds that with exchange wagering technology, in those unfortunate instances when jockeys act unprofessionally, evidence of unusual wagering is readily discoverable in a timely fashion to the regulator.

RESPONSE: As discussed above, the Commission agrees that separate rules of racing for jockeys related solely to exchange wagering would be unnecessary and counterproductive. See the Responses to Jockey's Guild's Comments 1 through 4.

COMMENT 4: In responding to responsible wagering concerns raised by the CCGNJ, the commenter indicates that Betfair and TVG are committed to responsible wagering, staff training, and the advertisement of self-help measures to those in need and states that Betfair and TVG expect to include detailed information regarding these issues in the application process. The commenter notes that whether it is the 4NJBets project or Betfaircasino.com in New Jersey, it is beyond dispute that Betfair and TVG have met high standards in this area.

RESPONSE: The Commission thanks the commenter and, as discussed above in the Response to CCGNJ's Comment 1, intends to explore establishing a committee consisting of a Commission staff representative, a representative of the CCGNJ, and industry representatives, including representatives from Betfair and TVG, for the purpose of determining if an industry consensus of voluntarily compliance with the CCGNJ's concerns is feasible.

COMMENT 5: The commenter states that regarding its provision of exchange wagering services to New Jersey residents, Betfair and TVG intend to create additional employment at the Monmouth Park phone bank and would make available all of the same data and records to the Commission related to exchange wagering that they currently do for 4NJBets.com. The commenter adds that it is the intention of Betfair and TVG to provide New Jersey residents with the best possible customer experience.

RESPONSE: The Commission thanks the commenter for these comments.

COMMENT 6: Referencing a British Horseracing study of 628 total investigations into suspicious activity in horse racing from 2003 to 2011, the commenter states that 76 percent of these investigations did not involve exchange wagering in any way. The commenter notes that of the 131 cases involving individuals using betting exchanges, only 13 cases (around 10 percent) resulted in disciplinary action against a trainer, owner or jockey. Pointing out that a total of 72,000 races was conducted during the study, the commenter states that .18 percent of the races were investigated as a result of suspicious activity on a betting exchange and only .02 percent resulted in any disciplinary action. Finally, the commenter points out that corrupt behavior is already illegal under existing New Jersey law and that exchange wagering has been conducted internationally on races within the United States for years without a single report of corruption.

RESPONSE: The Commission thanks the commenter for this comment and notes that this comment appears to be offered in response to the Jockey's Guild's Comment 5, which is summarized above.

Federal Standards Statement

The adopted new rules do not contain any standards or requirements which exceed standards or requirements imposed by Federal law, specifically, the provisions of the Interstate Horse Racing Act of 1978, 15 U.S.C. §§ 3001-3007, as amended. The adopted new rules relate to exchange wagering by residents of this State on the results of horse races conducted in this State, or jurisdictions outside this State, which shall be conducted pursuant to and in compliance with the provisions of the Interstate Horse Racing Act of 1978, as well as the Exchange Wagering Act and the adopted new rules. As a result, an explanation or analysis of the adopted new rules pursuant to N.J.S.A. 52:14B-22 et seq./Executive Order No. 27 (1994) is not required.

Full text of the adoption follows (addition to proposal indicated in boldface with asterisks ***thus***; deletion from proposal indicated in brackets with asterisks *[thus]*):

CHAPTER 74C EXCHANGE WAGERING

SUBCHAPTER 1. GENERAL PROVISIONS

13:74C-1.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Act" means the Exchange Wagering Act, P.L. 2011, c. 15 (N.J.S.A. 5:5-168).

"Authority" means the New Jersey Sports and Exposition Authority created by section 4 of P.L. 1971, c. 137 (N.J.S.A. 5:10-4).

"Back" means to wager on a selected outcome occurring in a given market.

"Commission" means the New Jersey Racing Commission, created by section 1 of P.L. 1940, c. 17 (N.J.S.A. 5:5-22).

"Commission Executive Director" means the Executive Director of the Commission.

"Corrective wager" means an exchange wager placed by the exchange wagering licensee in a given market, under circumstances approved by the Commission, in order to address the impact on that market of the cancellation or voiding of a given matched wager or given part of a matched wager.

"Dormant account" means an exchange wagering account, established pursuant to the Act and this chapter, which has remained inactive for a continuous period of 24 months in that, during such 24-month continuous

period, no valid exchange wagers were made utilizing funds in that account, no valid deposits or credits were made to the exchange wagering account, and no valid debits or withdrawals were made to the exchange wagering account.

“Exchange” means a system operated by the exchange wagering licensee in which the exchange wagering licensee maintains one or more markets in which residents of this State may back or lay a selected outcome on horse races conducted within and outside this State.

“Exchange management agent” means a qualified person or entity who the exchange wagering licensee enters into a written management agreement with, to conduct or operate the exchange for it, and/or to act as its agent in all exchange wagering matters approved by the Commission. An exchange management agent may also, but is not required to, directly provide the services of an exchange services agent.

“Exchange revenues” means all charges and fees of any kind assessed or collected by the exchange wagering licensee, in connection with the submission of any exchange wagers to the exchange wagering licensee, by residents of this State.

“Exchange services agent” means a qualified person or entity who the exchange wagering licensee, or exchange management agent on behalf of the exchange wagering licensee, enters into a written services agreement with, to directly provide the computer hardware and software, technological services, and related support services, which services are necessary for aspects of the conduct or operation of exchange wagering.

“Exchange wagers” means wagers, by residents of this State, on the results of horse races conducted in this State or jurisdictions outside this State, which wagers are submitted (in person, by direct telephone call, or by communication through computer or other electronic media approved by the Commission) to and accepted by the exchange wagering licensee to be posted, that is, matched and pooled, in a market or markets on an exchange.

“Exchange wagering” means the form of parimutuel wagering, authorized by this chapter, in which two or more persons place identically opposing wagers in a given market, and which wagering is conducted by the exchange wagering licensee pursuant to a valid exchange wagering license issued by the Commission, and pursuant to and in compliance with the Act, this chapter, any conditions established by the Commission therefor, and the provisions of the Interstate Horse Racing Act of 1978, 15 U.S.C. §§ 3001-3007, as amended.

“Exchange wagering account” means the account established with the exchange wagering licensee by a person, who is a New Jersey resident, through which exchange wagers may be made by the account holder.

“Exchange wagering licensee” means the Authority, provided that the Commission has granted its approval for the Authority to establish an exchange as provided for in this chapter. “Exchange wagering licensee” may also mean a successor in interest to the Authority, as defined in this subchapter.

“Exchange wagering system” means a system through which exchange wagers are processed.

“Hub facility” means a facility in this State that acts as an intermediary between each in-State wagering track or wagering outlet, and an in-State sending track or host facility or out-of-State sending track or host facility, with respect to the transmission of parimutuel wagering data and other information related to pari-mutuel wagering, in connection with the type of pari-mutuel wagering conducted pursuant to N.J.A.C. 13:70, 71, 72, 73, 74, and 74B.

“Identically opposing wagers” means wagers in which one or more persons offer to lay a selected outcome at the same price at which one or more persons offer to back that same outcome, with the amount subject to the lay being proportionately commensurate to the amount subject to the back.

“Internal control procedures” means the written procedures required to be maintained and updated as necessary, for Commission approval, by the exchange wagering licensee, any exchange management agent employed by the exchange wagering licensee, and any exchange services agent employed by the exchange wagering licensee or exchange management agent, that set forth procedures to effectively operate and manage the exchange wagering system as provided for in this chapter, including: to insure that wagers placed through the exchange wagering system will be accurately processed and that all aspects of wagering

integrity and wagering recordkeeping will be maintained; to effectively insure that the exchange wagering system operates with fiscal soundness and technological reliability; and to effectively insure that there will be sufficient safeguards to maintain the integrity of the horse racing industry in this State. Where an exchange management agent or exchange services agent is employed in connection with the exchange wagering system, the internal control procedures of the exchange wagering licensee shall also include meaningful and adequate oversight controls with respect to both the exchange wagering system and its exchange wagering license.

“Interstate exchange pool” means an exchange wagering system established within this State or in another state or foreign nation within which is combined unmatched wagers on one or more horse races in order to form identically opposing wagers.

“Lay” means to wager on a selected outcome not occurring in a given market.

“Market” means, in relation to a given horse race or a given set of horse races, a particular outcome that is subject to exchange wagering as determined by the exchange wagering licensee.

“Matched wager” means the wager that is formed when two or more persons are confirmed by the exchange wagering licensee as having placed identically opposing wagers in a given market on the exchange.

“Net exchange revenues” means those exchange wagering revenues that remain after certain deductions are made from exchange revenues, as required by N.J.A.C. 13:74C-3.5(a)1 through 5, and which are to be distributed between and amongst the exchange wagering licensee and racetrack permitholders pursuant to N.J.A.C. 13:74C-3.5(a)6.

“Net winnings” means the aggregate amounts payable to a person, through an exchange wagering account established by that person consistent with this chapter, as a result of that person’s winning matched wagers in a pool, less the aggregate amount paid by that person as a result of that person’s losing matched wagers in that pool.

“Off-time” means the official time when wagering is ceased prior to the start of a horse race, or in the event the transmission of data conveying the official time of cessation of wagering to the exchange wagering licensee is interrupted or corrupted, the time wagering ceases in accordance with the internal control procedures of the exchange wagering licensee.

“Parimutuel” means any system whereby wagers with respect to the outcome of a horse race are placed with, or in, a wagering pool conducted by an authorized person or entity, and in which the participants are wagering with each other and not against the person or entity conducting the wagering pool.

“Pool” means the total of all matched wagers in a given market.

“Price” means the odds for a given exchange wager.

“Racetrack permitholder” means an entity, which holds a racetrack permit, issued by the Commission, to operate the Atlantic City Race Course, Freehold Raceway, Monmouth Park, New Meadowlands Racetrack, or any other racetrack for which a permit to lawfully conduct racing may be issued by the Commission, who are each eligible to enter into a business agreement with the exchange wagering licensee, pursuant to this chapter, as concerns participation in exchange wagering and the distribution of net exchange wagering revenues.

“Successor in interest” means the person or entity to whom, with the prior approval of the Commission and Attorney General, the initial exchange wagering license, or the renewed exchange wagering license, has been transferred or assigned.

“Supervisor of Mutuels” means the Commission employee, who reports to the Commission Executive Director, and who acts on behalf of the Commission in overseeing the conduct of parimutuel wagering in this State, including exchange wagering.

“Totalisator” means a computer situated within the in-State hub facility that, among other things, directly or indirectly through one or more totalisators receives parimutuel wagering information, calculates payoffs for winning parimutuel tickets, generates reports with respect to such information, and in the event that the transmission of data from a sending or host racetrack has been interrupted, automatically ceases wagering in accordance with the internal control procedures of the hub facility, in connection with the type of parimutuel wagering conducted pursuant to N.J.A.C. 13:70, 71, 72, 73, 74, and 74B.

“Unmatched wager” means a wager or portion of a wager placed in a given market within an exchange that does not become part of a matched wager because there are not one or more available exchange wagers in that market with which to form one or more identically opposing wagers.

13:74C-1.2 Applicability

The rules in this chapter are applicable only to exchange wagering. This chapter shall be applicable to all persons licensed by the Commission in connection with exchange wagering, and every patron and account holder of the exchange wagering system.

SUBCHAPTER 2. APPLICATION FOR INITIAL EXCHANGE WAGERING LICENSE; APPLICATION FOR RENEWAL OF EXCHANGE WAGERING LICENSE

13:74C-2.1 Exchange wagering initial license application process

(a) The Authority shall make an application for an initial exchange wagering license, on a form prescribed by the Commission, accompanied by a non-refundable filing fee of \$2,500. The initial exchange wagering license shall be issued for a term of one year, which in the Commission’s discretion, may be extended until December 31st of the year within which the initial exchange wagering license expires. The Commission shall extend the initial license period where the Authority, by clear and convincing evidence, establishes to the Commission’s satisfaction that to do so would not negatively impact the integrity of the exchange wagering system.

(b) An application for an initial exchange wagering license shall not be considered complete unless:

1. The Authority demonstrates, and the Commission investigation into the application confirms, that the requirements of the Act have been satisfied;

2. The Authority has completely answered each question within the application and complied with the requirements of this section;

3. The Authority sets forth information about the operation of the exchange, the Authority’s participation therein, the participation of other persons or entities in the operation of the exchange, information to establish that wagers placed through the exchange wagering system will be accurately processed, and information to establish that there will be sufficient safeguards to maintain the integrity of the horse racing industry in this State;

4. The Authority sets forth information establishing that the Commission’s grant of the exchange wagering license to the Authority will serve to promote the economic future of the horse racing industry in this State, foster the potential for increased commerce, the employment and recreational opportunities in this State, and to preserve the State’s open spaces;

5. The Authority discloses whether it shall conduct or operate the exchange itself, or whether, pursuant to and as authorized by N.J.A.C. 13:74C-3.2, it intends to enter into a written agreement with an exchange management agent and/or exchange services agent;

6. The Authority discloses the physical location of all hardware and software, and administrative offices of the exchange wagering system, and whether or not the exchange wagering platform shall be stand-alone or shall integrate with a totalisator system;

7. The Authority discloses the number of jobs which the exchange wagering system is expected to generate, as well as employ in terms of pre-existing jobs, and whether the related job functions are proposed to occur in this State or outside the State;

8. The Authority attaches written internal control procedures of the Authority that set forth the procedures to be implemented: to effectively operate and manage the exchange wagering system; to insure that wagers placed through the exchange wagering system will be accurately processed and that all aspects of wagering integrity and wagering recordkeeping will be maintained; to effectively insure that the exchange wagering system operates with fiscal soundness and technological reliability; and to effectively insure that there will be sufficient safeguards to maintain the integrity of the horse racing industry in this State. Where the Authority intends to enter into a written agreement with an exchange management agent and/or exchange services agent, the

Authority may satisfy this requirement by including the internal control procedures of each such person or entity with its application. However, in such case, the Authority shall include with its application its own internal control procedures, which at a minimum include a certification that it has reviewed the internal control procedures of such exchange management agent, and/or exchange services agent, and finds them to be sufficient, and such internal control procedures of the Authority shall further include sufficient provisions to insure that the Authority, as the exchange wagering licensee, maintains meaningful and adequate oversight controls with respect to both the exchange wagering system and its exchange wagering license; and

9. The initial application shall be accompanied by a certification, signed by a high managerial agent of the Authority, attesting that the disclosures within the application and within its attachments are true, accurate, and complete.

(c) Following a determination that the application for an initial exchange wagering license is complete, the Commission Executive Director shall within 14 days review the application in accordance with the Act to insure that the application is in due form and meets the requirements of law in all respects. Upon the Commission Executive Director being satisfied that these requirements are met, the Commission shall within 60 days thereof consider the application at a public meeting, and no later than 30 days from the closing of the record of the public meeting where the Commission considers the application, the Commission shall make a final determination on the application. The Commission’s final determination may prescribe such conditions or terms as the Commission deems appropriate.

(d) The Commission may refuse to issue a license if it shall find that the Authority has failed to demonstrate its suitability for a license by clear and convincing evidence. The Authority shall bear the burden of establishing to the Commission, by clear and convincing evidence, that:

1. It and its employees are qualified in all aspects to hold the appropriate license;

2. The issuance of an exchange wagering license to the Authority will not be inimical to the best interests of the public and the horse racing industry in this State;

3. Wagers placed through the exchange wagering system will be accurately processed and that there will be sufficient safeguards to maintain the integrity of the horse racing industry in this State; and

4. All of the requirements of the Act and this chapter have been met, including the approval of the Attorney General.

(e) The Commission’s determination on the application shall be submitted to the Attorney General for review and approval, within 14 days following the Commission’s determination. The determination of the Commission shall be deemed approved by the Attorney General if not affirmatively approved or disapproved by the Attorney General within 14 days of the date of submission. The Commission shall issue the license to the Authority, to establish the exchange, upon approval of the Attorney General. The Attorney General shall approve the Commission’s determination where the Attorney General, in his or her discretion, finds that the Commission’s determination was consistent with the Act and this chapter. The decision of the Attorney General shall be deemed a final decision, and the Attorney General may prescribe such conditions or terms as he or she deems appropriate.

13:74C-2.2 Exchange wagering license application renewal process

(a) The procedures in this section shall apply where the Authority has been granted an initial exchange wagering license, and seeks to renew that license, or where a successor in interest to the exchange wagering license makes proper application to the Commission for the transfer or assignment of said license, or for the renewal of said transferred or assigned license.

(b) The applicant may apply for a renewal license of either a one-year or two-year duration, on a form prescribed by the Commission, accompanied by a non-refundable filing fee of \$2,500 for each year that the license is to be effective. In the event the applicant requests a renewal license to be effective for two years, the Racing Commission may elect to grant a license for only one year, where it finds that any significant problems associated with or encountered by the exchange wagering system, which occurred between 12 months preceding the filing date of

the applicant's renewal application and the date upon which the Commission considers such renewal application, require the imposition of a license condition for remedial action on the part of the applicant during the license renewal period. In such event, the applicant shall be reimbursed \$2,500 of the \$5,000 filing fee paid in connection with such application.

(c) The applicant shall file with the Commission a complete exchange wagering renewal application, on a form prescribed by the Commission, no earlier than 90 days prior to the date upon which it is issued and outstanding exchange wagering license is due to expire, and no later than 75 days prior to the date upon which it is issued and outstanding exchange wagering license is due to expire. The renewed exchange wagering license shall expire on the 31st of December during the last year for which it is effective.

(d) An application for a renewal exchange wagering license shall not be considered complete unless:

1. The applicant demonstrates that the requirements of the Act have been satisfied;

2. The applicant has completely answered each question within the application and complied with the requirements of this section;

3. The applicant sets forth information about the operation of the exchange, the applicant's participation therein, the participation of other persons or entities in the operation of the exchange, the participation of each racetrack permit holder in the sharing of net exchange revenues, information to establish that wagers placed through the exchange wagering system will be accurately processed, and information to establish that there will be sufficient safeguards to maintain the integrity of the horse racing industry in this State;

4. The applicant sets forth information establishing that the Commission's grant of the exchange wagering license to the applicant will serve to promote the economic future of the horse racing industry in this State, foster the potential for increased commerce, employment, and recreational opportunities in this State, and preserve the State's open spaces;

5. The applicant discloses whether it shall conduct or operate the exchange itself, or whether, pursuant to and as authorized by N.J.A.C. 13:74C-3.2, it intends to enter into a written agreement with an exchange management agent and/or exchange services agent;

6. The applicant discloses the physical location of all hardware and software, and administrative offices of the exchange wagering system, and whether or not the exchange wagering platform shall be stand-alone or shall integrate with a totalisator system;

7. The applicant discloses the number of jobs that the exchange wagering system has generated or is expected to generate, as well as employ in terms of pre-existing jobs, and whether the related job functions are proposed to occur in this State or outside this State;

8. The applicant attaches a written internal control procedures of the applicant, which set forth the procedures to be implemented: to effectively operate and manage the exchange wagering system; to insure that wagers placed through the exchange wagering system will be accurately processed and that all aspects of wagering integrity and wagering recordkeeping will be maintained; to effectively insure that the exchange wagering system operates with fiscal soundness and technological reliability; and to effectively insure that there will be sufficient safeguards to maintain the integrity of the horse racing industry in this State. Where the applicant with prior Commission approval has entered into, or intends to enter into, a written agreement with an exchange management agent and/or exchange services agent, the applicant may satisfy this requirement by including the sufficient internal control procedures of each such agent with its application. However, in such case, the applicant shall include with its application its own internal control procedures, which at a minimum include a certification that it has reviewed the internal control procedures of such exchange management agent, and/or exchange services agent, and finds them to be sufficient, and such internal control procedures of the applicant shall further include sufficient provisions to insure that the applicant, as the exchange wagering licensee, maintains meaningful and adequate oversight controls with respect to both the exchange wagering system and its exchange wagering license;

9. The applicant attaches a written report to its application identifying in detail any significant problems associated with or encountered by the exchange wagering system during the 12-month period preceding the date of the filing of the application with the Commission;

10. The application form shall be accompanied by a certification, signed by a high managerial agent of the applicant, attesting that the disclosures within the application and within its attachments are true, accurate, and complete.

(e) Following a determination that the application for the exchange wagering license is complete, the Commission Executive Director shall within 14 days review the application in accordance with the Act to insure that the application is in due form and meets the requirements of law in all respects. Upon the Commission Executive Director being satisfied that these requirements are met, the Commission shall within 60 days thereof consider the application at a public meeting, and no later than 30 days from the closing of the record of the public meeting where the Commission considers the application, the Commission shall make a final determination on the application. The Commission's final determination may prescribe such conditions or terms as the Commission deems appropriate.

(f) The Commission may refuse to issue a license if it shall find that the applicant has failed to demonstrate its suitability for a license by clear and convincing evidence. The applicant shall bear the burden of establishing to the Commission, by clear and convincing evidence, that:

1. It and its employees are qualified in all aspects to hold the appropriate license;

2. The issuance of an exchange wagering license to the applicant will not be inimical to the best interests of the public and the horse racing industry in this State;

3. Wagers placed through the exchange wagering system will be accurately processed and that there will be sufficient safeguards to maintain the integrity of the horse racing industry in this State; and

4. All of the requirements of the Act and this chapter have been met, including the approval of the Attorney General.

(g) The Commission's determination on the license renewal application shall be submitted to the Attorney General for review and approval, within 14 days following the Commission's determination. The determination of the Commission shall be deemed approved by the Attorney General if not affirmatively approved or disapproved by the Attorney General within 14 days of the date of submission. The Commission shall issue the renewal license to the applicant, to establish the exchange, upon approval of the Attorney General. The Attorney General shall approve the Commission's determination where the Attorney General, in his or her discretion, finds that the Commission's determination was consistent with the Act and this chapter. The decision of the Attorney General shall be deemed a final decision, and the Attorney General may prescribe such conditions or terms, as he or she deems appropriate.

SUBCHAPTER 3. TRANSFER OR ASSIGNMENT OF EXCHANGE WAGERING LICENSE TO A SUCCESSOR IN INTEREST; OPERATION OF EXCHANGE WAGERING SYSTEM BY PERSON OR ENTITY OTHER THAN THE EXCHANGE WAGERING LICENSEE; IN-STATE REQUIREMENT FOR EXCHANGE WAGERING SYSTEM COMPONENTS; REGULATORY COSTS; EXCHANGE WAGERING SYSTEM REVENUE DISTRIBUTION

13:74C-3.1 Transfer or assignment of exchange wagering license

(a) The initial exchange wagering license, or the renewed exchange wagering license, may not be transferred or assigned from the Authority to a successor in interest, or from an approved successor in interest to a subsequent successor in interest, absent compliance with this section, and the prior approval of the Commission and Attorney General.

(b) The current licensee, and a proposed successor in interest to the exchange wagering license, shall file a written joint petition with the Racing Commission, requesting that the exchange wagering license be transferred or assigned to the proposed successor in interest. The petition

shall explain the proposed transaction between the current licensee and successor in interest, including any consideration between the parties directly or indirectly related to the transaction, and shall set forth any experience of the proposed successor in interest in racing and exchange wagering. The joint petition shall be accompanied by a completed exchange wagering license application of the proposed successor in interest, as provided for in N.J.A.C. 13:74C-2.2.

(c) Prior to acting upon an application for the transfer or assignment of the exchange wagering license to a successor in interest, the Commission shall initiate an investigation into the qualifications of the proposed successor in interest as it determines appropriate, at cost to the proposed successor in interest. The Commission shall not approve such a transfer or assignment unless the proposed successor in interest is determined as qualified to hold a license by the Commission to engage in such activities.

(d) The Commission shall not approve a transfer or assignment of the exchange wagering license to a successor in interest unless the successor in interest demonstrates, by clear and convincing evidence, that the requirements of N.J.A.C. 13:74C-2.2(f) have been met.

(e) The Commission may prescribe such conditions or terms, as the Commission deems appropriate, in approving a transfer or assignment of the exchange wagering license to a successor in interest.

(f) Unless otherwise approved by the Commission, and in addition to the requirements imposed upon the holder of the exchange wagering license by the Act and this chapter, a successor in interest to such license shall be responsible for any regulatory requirements or conditions that were imposed upon the prior exchange wagering licensee before the transfer or assignment of the exchange wagering license to the successor in interest.

13:74C-3.2 Operation of exchange wagering system by person or entity other than the exchange wagering licensee; exchange management agent; exchange services agent

(a) The exchange wagering licensee may employ an exchange management agent, subject to the following requirements:

1. In the event the exchange wagering licensee intends to enter into a written agreement with an exchange management agent, the parties to the proposed agreement shall file a joint petition with the Commission seeking approval for such. Through the petition, the parties shall specify whether the exchange management agent is to conduct or operate the exchange wagering system for the exchange wagering licensee, whether the exchange management agent will act as agent for the Authority in all matters approved by the Commission, and whether the exchange management agent will employ other persons or entities to perform any of its duties. With the prior approval of the Commission, the exchange wagering licensee and exchange managing agent may enter into such a written agreement. Notwithstanding this ability, exchange wagering shall only be conducted by the exchange wagering licensee pursuant to a valid exchange wagering license issued by the Commission, which shall at all times be held by the exchange wagering licensee.

2. The Commission shall not approve such a written agreement unless it is demonstrated, by clear and convincing evidence, that: both the written agreement and the written internal control procedures of the exchange wagering licensee set forth sufficient provisions to insure that the exchange wagering licensee maintains meaningful and adequate oversight controls with respect to both the exchange wagering system and its exchange wagering license; and that the written internal control procedures of the exchange management agent set forth procedures to be implemented, as may be appropriate considering the functions to be performed by the exchange management agent, to effectively operate the exchange wagering system; to insure that wagers placed through the exchange wagering system will be accurately processed and that all aspects of wagering integrity and wagering recordkeeping will be maintained; to effectively insure that the exchange wagering system operates with fiscal soundness and technological reliability; to effectively insure that there will be sufficient safeguards to maintain the integrity of the horse racing industry in this State; and to effectively insure compliance with this chapter. As required by N.J.A.C. 13:74C-2.1(b)8 and 2.2(d)8, the internal control procedures of the exchange wagering licensee shall include a certification that it has reviewed the internal

control procedures of the exchange management agent and finds them to be sufficient.

3. The written agreement between the exchange wagering licensee and exchange management agent shall with specificity designate which functions related to the exchange wagering system shall be maintained or retained by the exchange wagering licensee, and which functions related to the exchange wagering system shall be performed by the exchange management agent.

4. The written agreement between the exchange wagering licensee and exchange management agent shall contain provisions that clearly provide for the portion of exchange wagering revenues payable to the exchange management agent as compensation.

5. Prior to acting upon a joint petition to approve such a written agreement, the Commission shall initiate and conduct an investigation into the qualifications of the person or entity subject of the exchange management agent license application, at cost to such person or entity. The Commission shall not approve any such written agreement unless the exchange management agent demonstrates, by clear and convincing evidence, that it and its employees are suitable, in terms of background and qualifications, to perform the functions subject of the written agreement, and to hold a license by the Commission to engage in such activities.

6. The Commission may prescribe such conditions and terms, as the Commission deems appropriate, in approving any written agreement pursuant to this section.

7. Unless otherwise approved by the Commission, a person or entity approved by the Commission as an exchange management agent shall be responsible for any regulatory requirements or conditions previously imposed upon the exchange wagering licensee, as concerns the particular functions assumed by such person or entity.

(b) The exchange wagering licensee may employ an exchange services agent, subject to the following requirements:

1. In the event the exchange wagering licensee intends to enter into a written agreement with an exchange services agent, the parties to the proposed agreement shall file a joint petition with the Commission seeking approval for such. Through the petition, the parties shall specify the services that the exchange services agent is to furnish. With the prior approval of the Commission, the exchange wagering licensee and exchange services agent may enter into such a written contract or written agreement. Notwithstanding this ability, exchange wagering shall only be conducted by the exchange wagering licensee pursuant to a valid exchange wagering license issued by the Commission, which shall at all times be held by the exchange wagering licensee.

2. The Commission shall not approve such a written agreement unless it is demonstrated, by clear and convincing evidence, that: the written agreement, and the written internal control procedures of the exchange wagering licensee, set forth sufficient provisions to insure that the exchange wagering licensee maintains meaningful and adequate oversight controls with respect to both the exchange wagering system and its exchange wagering license; and that the written internal control procedures of the exchange services agent set forth procedures to be implemented, as may be appropriate considering the functions to be performed by the exchange services agent, to effectively operate the exchange wagering system; to insure that wagers placed through the exchange wagering system will be accurately processed and that all aspects of wagering integrity and wagering recordkeeping will be maintained; to effectively insure that the exchange wagering system operates with fiscal soundness and technological reliability; to effectively insure that there will be sufficient safeguards to maintain the integrity of the horse racing industry in this State; and to effectively insure compliance with this chapter. As required by N.J.A.C. 13:74C-2.1(b)8 and 2.2(d)8, the internal control procedures of the exchange wagering licensee shall include a certification that it has reviewed the internal control procedures of the exchange wagering services agent and finds them to be sufficient.

3. The written agreement between the exchange wagering licensee and exchange services agent shall with specificity designate which functions related to the exchange wagering system shall be maintained or retained by the exchange wagering licensee, and which functions related to the

exchange wagering system shall be performed by the exchange services agent.

4. The written agreement between the exchange wagering licensee and exchange services agent shall contain provisions that clearly provide for the portion of exchange wagering revenues payable to the exchange services agent as compensation.

5. Prior to acting upon a joint petition to approve such a written agreement, the Commission shall initiate and conduct an investigation into the qualifications of the person or entity subject of the exchange services agent license application, at cost to such person or entity. The Commission shall not approve any such written agreement unless the exchange services agent demonstrates, by clear and convincing evidence, that it and its employees are suitable, in terms of background and qualifications, to perform the functions subject of the written contract or agreement, and to hold a license by the Commission to engage in such activities.

6. The Commission may prescribe such conditions and terms, as the Commission deems appropriate, in approving any written agreement pursuant to this section.

7. Unless otherwise approved by the Commission, and in addition to the requirements imposed upon the holder of the exchange wagering license by the Act and this chapter, a person or entity approved by the Commission as an exchange services agent shall be responsible for any regulatory requirements or conditions previously imposed upon the exchange wagering licensee, as concerns the particular functions assumed by such person or entity.

(c) Where the exchange wagering licensee employs an exchange management agent, and such person or entity does not also function as an exchange services agent, nothing contained in this section shall be interpreted to prohibit the exchange management agent from entering into a written agreement with an exchange services agent, for the provision of such services in connection with the exchange wagering system, if such action is authorized as part of the agreed-to duties it performs on behalf of the exchange wagering licensee. In such event, the exchange wagering licensee, exchange management agent, and exchange services agent shall participate as joint parties to the petition required to be filed with the Commission required by (b)1 above, and it must be demonstrated to the Commission that the exchange services agent is qualified to perform its proposed functions. In such event, the joint petition shall additionally include the written agreement intended to be entered into between the exchange management agent and exchange services agent, which written agreement must be approved by the Commission. The written agreement shall, with specificity, designate which functions related to the exchange wagering system shall be maintained or retained by the exchange management agent, which functions related to the exchange wagering system shall be performed by the exchange services agent, and it shall also contain provisions that clearly provide for the compensation payable to the exchange services agent. In such case, the joint petition shall additionally include: the internal control procedures of the exchange services agent; a certification of the exchange management agent that said internal control procedures have been incorporated within its own internal control procedures; and the certification of the exchange wagering licensee required by (b) above and N.J.A.C. 13:74C-2.1(b)8 and 2.2(d)8.

(d) Nothing contained in this section shall be interpreted from prohibiting an exchange management agent from also functioning as an exchange services agent, provided it demonstrates to the Commission, by clear and convincing evidence, that it is qualified to perform both the functions of an exchange management agent and exchange services agent, and provided that each aspect of this section is complied with. A person or entity approved by the Commission to provide both such services shall be licensed by the Commission as both an exchange management agent and as an exchange services agent, as required by N.J.A.C. 13:74C-6.1(d).

(e) Nothing contained in this section shall be interpreted to prohibit the exchange wagering licensee from conducting or operating the exchange itself, from acting in all exchange wagering matters approved by the Commission itself, and from providing exchange wagering service provider services itself, where the Commission finds that the exchange wagering licensee is qualified in all respects to perform such functions.

13:74C-3.3 In-State requirement for exchange wagering administrative offices and components of exchange wagering system; waiver criteria

(a) The exchange wagering licensee, and any person or entity approved by the Commission as an exchange management agent or exchange services agent, shall each maintain an office or offices in this State, which office may comprise a single location. The Commission shall have unrestricted access to such premise or premises at all times. All business activities and functions related to the exchange wagering system, including the performance of job responsibilities incident to the exchange wagering system, the maintenance and keeping of all records related to the exchange wagering system, and all hardware or software components necessary for the operation of the exchange wagering system, shall be conducted and situated at such in-State location or locations. However, the exchange wagering licensee, or the exchange wagering licensee and any exchange management agent or exchange services agent, may respectively file a written petition or written joint petition with the Racing Commission to waive the requirement that all such exchange wagering business activities and functions be conducted and situated in-State. The Commission shall grant such a waiver, as to a particular business activity and function related to the exchange wagering system, where the Commission determines that the petitioner has established, by clear and convincing evidence, that:

1. The business activity and function proposed to be conducted outside this State may be conducted at such location consistent with law in all respects;

2. The business activity and function proposed to be conducted outside this State will not prevent or negatively implicate the ability of wagers placed through the proposed exchange wagering system to be accurately processed;

3. The business activity and function proposed to be conducted outside this State is not inconsistent with maintaining the integrity of the horse racing industry in this State;

4. The business activity and function proposed to be conducted outside this State will not unreasonably negatively impact employment opportunities in this State;

5. The business activity and function proposed to be conducted outside this State may be monitored and reviewed by the Commission, by electronic or other means from an in-State location selected by the Commission, to the satisfaction of the Commission; and

6. The business activity and function proposed to be conducted out-of-State shall not be inconsistent with the Commission's ability to readily investigate any related aspect of the exchange wagering system.

(b) Prior to the Commission's grant of any waiver of the in-State requirement of (a) above, the Commission Executive Director or his or her designee(s) shall conduct an investigative on-site inspection of each location outside this State where business activities and functions are proposed to be conducted and/or situated. Following such inspection, the Commission Executive Director shall cause to be filed a written report on the results of the investigative on-site inspection with the Commission.

(c) Notwithstanding (a) and (b) above, in the event the technological requirements of the exchange wagering system require integration with a totalisator system, the totalisator shall be located in this State and, in such case, the exchange wagering system shall utilize the same totalisator situated in the hub facility licensed by the Commission pursuant to N.J.A.C. 13:74-8.1. Nothing contained in this subsection shall be interpreted to prohibit the exchange wagering system from utilizing technology not requiring integration with a totalisator system, and therefore comprising a stand-alone system that does not include a totalisator as one of its components.

13:74C-3.4 Racing Commission regulatory costs

(a) Except as provided in (b) and (c) below, or as otherwise provided in this chapter, the exchange wagering licensee shall be directly responsible for the timely payment of all Commission costs and expenses related to the investigation, regulatory oversight, and regulatory administration of the exchange wagering system. Such costs shall be reimbursed to the exchange wagering licensee, from exchange revenues, as authorized by N.J.S.A. 5:5-180a and 5:5-171.b and N.J.A.C. 13:74C-3.5.

(b) Notwithstanding the provisions of (a) above, in the event the business activity and functions associated with the exchange wagering system are proposed to be conducted or situated outside this State, and a petition is filed with the Commission for such approval consistent with N.J.A.C. 13:74C-3.3, the person or entity who is proposed to directly provide those out-of-State services in connection with the exchange wagering system shall be responsible for the payment to the Racing Commission of the regulatory costs associated with compliance with N.J.A.C. 13:74C-3.3(b).

(c) Notwithstanding the provisions of (a) above, provided that the Commission grants a related waiver of the in-State requirement for business activities and functions pursuant to N.J.A.C. 13:74C-3.3, the person or entity who is to directly provide those services outside this State, in connection with the exchange wagering system, shall be responsible for the direct payment to the Commission of all regulatory costs associated with compliance with N.J.A.C. 13:74C-3.3(a)5. Such person or entity shall additionally be responsible for any investigative and travel-related costs associated with the Commission's investigation into any matter reasonably resulting or associated with the business activities and functions approved by the Commission to be conducted or situated outside this State.

13:74C-3.5 Required distributions of certain exchange revenues and net exchange wagering revenues; audit requirement

(a) The exchange wagering licensee shall distribute the exchange revenues in accordance with the following priority categories:

1. The exchange wagering licensee shall be entitled to reimbursement, for regulatory costs paid to or on behalf of the Commission, as required by N.J.A.C. 13:74C-3.4;

2. The exchange wagering licensee shall pay any person or entity it retained to conduct any audit required by (b) below;

3. Pursuant to any Commission approved written agreement, authorized by N.J.A.C. 13:74C-3.2, the exchange wagering licensee shall pay the reasonable and necessary fee due any person or entity it engages as an exchange wagering agent and/or exchange wagering services agent;

4. The exchange wagering licensee shall retain its reasonable and necessary actual expenses incurred in administering, marketing, and operating the exchange wagering system;

5. After each of the payments pursuant to (a)1 through 4 above are made from the exchange revenues, the exchange wagering licensee shall distribute 50 percent of the remaining exchange revenues as payments to overnight purses pursuant to the formula set forth in (c) below; and

6. The balance of the exchange revenues remaining after the distribution of the payments described in (a)1 through 5 above, that is, the net exchange revenues, shall be distributed pursuant to (d) or (e) below, as appropriate.

(b) One year from the date when the exchange wagering system first became operational, the exchange wagering licensee shall cause a comprehensive audit to commence regarding the exchange revenues accumulated during such time period, to be performed by an outside and independent certified public accountant acceptable to the Commission. The exchange wagering licensee shall file with the Commission, no later than eight months from the date when the exchange wagering system first became operational, a written petition identifying the proposed outside certified public accountant, as well as an alternative, for approval by the Commission. The Commission shall find the outside certified public accountant, proposed by the exchange wagering licensee, to be acceptable where the licensee establishes by clear and convincing evidence that the proposed outside certified public accountant is qualified to perform the audit, and that there are no conflicts of interest present that would preclude it from performing the audit. Such comprehensive audit shall accurately disclose the exchange revenues accumulated and distributed or available for distribution pursuant to (a)1 through 5 above during the first year of operation of the exchange wagering system, as well as the net exchange revenues available for distribution pursuant to (a)6 above. The certified public accountant shall conclude his or her work within one year and three months from the date when the exchange wagering system first became operational, and on or before such date, shall file a written report with the exchange wagering licensee with a copy to the Commission. The Commission may, in its discretion, require additional audits of any aspect

of the exchange wagering system, to be performed by an outside and independent certified public accountant, and to be paid for by the exchange wagering licensee as required by (a)2 above, as part of the license conditions it imposes on the exchange wagering licensee.

(c) The portion of exchange revenues, to be distributed to overnight purses pursuant to (a)5 above, shall be distributed between the standardbred and thoroughbred overnight races as follows. Of such monies distributed to overnight purses, all moneys derived from exchange wagering on thoroughbred races shall be paid to overnight purses for thoroughbred races at each permitted racetrack in the State where such racing is conducted, and all monies derived from exchange wagering on standardbred races shall be paid to overnight purses for standardbred races at each permitted racetrack in the State where such racing is conducted, and none of these funds may be used, directly or indirectly, for purposes other than overnight purses. However, starting ***[(three years from the effective date of these rules)]* *April 20, 2018***, this formula for allocating overnight purse monies from exchange wagering may be modified by the mutual written agreement of the Standardbred Breeder's and Owner's Association of New Jersey, Inc., and the New Jersey Thoroughbred Horsemen's Association, Inc., provided that such agreement does not include provisions that allow for these funds to be used, directly or indirectly, for purposes other than overnight purses, and provided that such agreement does not exclude the use of such funds in connection with any permitted racetrack in this State.

(d) Within one year from the date when the exchange wagering system first became operational, the exchange wagering licensee shall enter into a written business agreement with all racetrack permitholders for the distribution of the net exchange revenues remaining after the distributions required by (a)1 through 5 above.

(e) In the event that the exchange wagering licensee and racetrack permitholders are unable to arrive at a fully executed business agreement within one year from the date when the exchange wagering system first became operational, as set forth in (d) above, the exchange wagering licensee shall notify the Commission in writing of such inability, within one year and 10 days from the date that the exchange wagering system first became operational. The Commission, in such event, shall assume permanent responsibility for annually distributing the net exchange wagering revenues amongst the exchange wagering licensee and the permitholders. Prior to rendering its decision, the Commission, in its discretion, may retain an outside expert, with knowledge of standardbred racing and thoroughbred racing, and the wagering incident thereto, for the purposes of conducting proceedings and/or mediating between the exchange wagering licensee and racetrack permitholders, and rendering to the Commission a non-binding written recommendation on how the net exchange revenues should be allocated amongst the exchange wagering licensee and racetrack permitholders. The services of such expert shall be paid for by the exchange wagering licensee, and such costs shall be reimbursed to it from exchange revenues, as regulatory costs pursuant to (a)1 above. After providing the exchange wagering licensee and each racetrack permitholder with a copy of the written recommendation of any retained outside expert, and the opportunity to provide comment in writing to the Commission regardless of whether the Commission retains such an expert, the Commission shall at a public meeting render a decision distributing the net exchange revenues amongst the exchange wagering licensee and the racetrack permitholders, as it deems appropriate. In arriving at its decision, the Commission shall consider the following factors:

1. That the exchange wagering licensee is entitled to a reasonable profit as a result of its offering of exchange wagering to the wagering public;

2. That, after any allocation of net exchange revenues to the exchange wagering licensee pursuant to (e)1 above, the portion of net exchange wagering revenues remaining shall be allocated for distribution between the standardbred racing industry and thoroughbred racing industry based upon the proportionate total net exchange wagering revenues wagered on each horse breed. For example, if \$1,000 of the net exchange revenues remains available for distribution pursuant to this subsection, and \$600.00 of that amount was derived from exchange wagering placed on thoroughbred races, and \$400.00 was derived from exchange wagers placed on standardbred races, \$600.00 shall be allocated to the

thoroughbred racing industry and \$400.00 shall be allocated to the standardbred industry, for further distribution as set forth in (e)3 below;

3. The amount of net exchange wagering revenues available to the thoroughbred industry and standard industry, as determined by the application of the formula set forth in (e)2 above, shall be distributed to those permitholders within each breed who offer exchange wagering to the public. In determining the amount of net exchange wagering revenues to be distributed between the eligible permitholders within each horse breed, the following factors shall be considered:

i. The number of live race dates conducted by each permitholder during the year where the net exchange revenues were accumulated;

ii. Of the total exchange wagering available for distribution within each horse breed, the percentage amount thereof placed on the race product offered by each eligible permitholder, during the year where the net exchange wagering revenues were accumulated; and

iii. The respective contribution that each eligible racetrack permitholder has made, during the year where the net exchange revenues were accumulated, considering the total operations of each eligible permitholder in this State, including its operation of Racing Commission licensed off-track wagering facilities, and the impact of such operations, to: promoting the economic future of the horse racing industry in this State, to fostering the potential for increased commerce, employment and recreational opportunities in this State, and to preserve the State's open spaces.

(f) Nothing contained in this section shall be interpreted as prohibiting the exchange wagering licensee and racetrack permitholders from presenting for the Commission's consideration at any time, a fully executed written business agreement recommending how the net exchange wagering revenues should be distributed amongst them, for any year or years. However, where such an agreement is not presented within one year from the date that the exchange wagering system first became operational, pursuant to (d) above, such agreement shall not be binding on the Commission in its determination on how to distribute the net exchange revenues.

SUBCHAPTER 4. STANDARDS FOR EXCHANGE WAGERING SYSTEM

13:74C-4.1 Establishment of an exchange wagering account

(a) A person may only place an exchange wager, from a location within this State, if he or she has established an exchange wagering account in accordance with the Act and this chapter. To establish an exchange wagering account, a person must be a New Jersey resident and 18 years of age or older. An exchange wagering account shall be established in the name of a natural person only, and shall not be assigned or otherwise transferred. A natural person may only hold and maintain one exchange wagering account at any time. An exchange wagering account shall be established with and through the exchange wagering licensee, and no person or entity other than the exchange wagering licensee shall accept an exchange wager from a person within this State. An exchange wagering account shall not be assignable or transferrable.

(b) A person on the self-exclusion list established pursuant to N.J.S.A. 5:5-65.1 is prohibited from establishing an exchange wagering account. Any person not in good standing with the Commission shall not be entitled to open or maintain an exchange wagering account. The exchange wagering application form shall include questions directed toward determining if the applicant is qualified to receive an account in view of this section.

(c) An exchange wagering account may be established by a prospective account holder completing an application form developed by the exchange wagering licensee, and approved by the Commission. The application is to be submitted, together with the prospective account holder's principal residence address and a signed certification including proof of age and residency of the applicant, to the exchange wagering licensee for processing consistent with its internal control procedures, the Act, and this chapter. The exchange wagering licensee shall have discretion to accept an exchange wagering application from an applicant either appearing in-person, by telephone, sent by mail, or by electronic media approved by the Commission, including the internet and by wireless devices, to any of the following locations in this State: the in-

State premises of the exchange wagering licensee; or such other location approved by the Commission. All account wagering applications shall be processed and maintained at a location as required by N.J.A.C. 13:74C-3.3.

(d) The signed certification of an applicant, which shall accompany an application to establish an exchange wagering account, shall include a statement that a false or misleading statement made in regard to an application may subject the applicant to prosecution, to an enforcement action initiated by the Commission consistent with this chapter, and to rejection of the application or cancellation of the exchange wagering account by the exchange wagering licensee without notice.

(e) An exchange wagering account application shall include or be accompanied by notice, as approved by the Commission, that the address provided by the prospective account holder in the application shall be deemed the proper address for the purposes of mailing checks, account withdrawals, notices, including as concerns dormant accounts, and the mailing of other materials.

(f) The exchange wagering licensee shall provide the prospective account holder, at the time of the opening of an exchange wagering account, with the operation rules adopted by the exchange wagering licensee concerning exchange wagering account deposits, exchange wagering account withdrawals, the disclosure requirements of N.J.A.C. 13:74C-5.8(b), a non-accumulation of interest disclosure as to exchange wagering accounts, maintenance requirements of the exchange wagering account including rules concerning dormant accounts, credit or debit card usage rules, a procedure to amend an exchange wagering account application to update the exchange wagering account holder's address or other information required by the exchange wagering licensee, any reporting obligations of the exchange wagering licensee for taxation purposes, the requirement that exchange wagers be placed by exchange wagering account holders from a location within this State, the dispute resolution procedure adopted by the exchange wagering licensee pursuant to N.J.A.C. 13:74C-4.7, the complaint procedure to the Commission as set forth in N.J.A.C. 13:74C-4.9, and any other aspects of the operation of the exchange wagering account as determined by the exchange wagering licensee. The exchange wagering account holder shall be deemed to have accepted the rules of exchange wagering account operation upon opening or not closing the account. The exchange wagering licensee shall notify the exchange wagering account holder whenever the rules governing the exchange wagering account are changed, which notification shall occur before the new rules become effective, so as to allow sufficient opportunity for the exchange wagering account holder to close his or her exchange wagering account in advance of those new rules becoming effective.

(g) Nothing contained in this section shall be interpreted to disallow the exchange wagering licensee and account wagering licensee from developing and submitting to the Racing Commission for approval: a single application form that would allow an eligible New Jersey resident to establish, by and through such application, separate account wagering and exchange wagering accounts; or a single application form, which would allow an eligible New Jersey resident to establish a single exchange wagering account from which both exchange wagers and account wagering wagers could be made. The Commission shall in either case approve such an application where, by clear and convincing evidence, it is demonstrated that each of the requirements of the Act and this chapter, and each of the requirements of the Off-Track and Account Wagering Act, P.L. 2001, c. 199, and N.J.A.C. 13:74, have been satisfied.

13:74C-4.2 Review of exchange wagering account application by exchange wagering licensee; discretionary suspension or closure of exchange wagering account by exchange wagering licensee

(a) The exchange wagering licensee shall accept or reject an application for an exchange wagering account after receipt and review of the application for compliance with the Act and this chapter. The exchange wagering licensee shall verify the identification, residence, and age of the exchange wagering account applicant using methods and technologies approved by the Commission, and shall insure that the acceptance of such application would be consistent with the Act, this chapter, and the internal control procedures of the exchange wagering

licensee. Any prospective account holder who provides false or misleading information on the application is subject to rejection of the application or suspension or closing of the exchange wagering account, by the exchange wagering licensee, without prior notice.

(b) The exchange wagering licensee may additionally reject an exchange wagering application at its discretion. The exchange wagering licensee may, as permitted pursuant to (a) above, suspend or close an exchange wagering account, including where the exchange wagering account holder attempts to place an exchange wager or exchange wagers with an insufficient account balance, where the exchange wagering account holder acts contrary to N.J.A.C. 13:74C-5.6(b), or where the exchange wagering licensee otherwise determines that such action would be consistent with its proper conduct and operation of the exchange wagering system.

(c) The decision of the exchange wagering licensee to reject an application for an exchange wagering account, or to suspend or close an account, shall not be the subject of any appeal to the Commission, and shall constitute a final decision on the part of the exchange wagering licensee.

(d) Where the exchange wagering licensee suspends an exchange wagering account for a period of 48 hours or longer, or closes an exchange wagering account pursuant to this chapter, it shall file a written report with the Commission Supervisor of Mutuels identifying: the name of the exchange wagering account holder; the address of the exchange wagering account holder; the date of the suspension or closure of the exchange wagering account; and the reason for the suspension or closure of the exchange wagering account.

13:74C-4.3 Restrictions on placing and accepting exchange wagers

(a) The exchange wagering licensee shall only accept wagers from New Jersey residents who have established an exchange wagering account in accordance with the Act and this chapter. Only the holder of an exchange wagering account shall place an exchange wager, and an exchange wagering account holder shall only place an exchange wager from a location within the physical borders of this State. Prior to making any account inquiry or requesting any exchange wagering account transaction, other than for an account deposit or account withdrawal, an exchange wagering account holder shall provide his or her confidential personal identification number, to be selected in a manner subject to the discretion of the exchange wagering licensee consistent with its internal control procedures, and such other information as required by the exchange wagering licensee, which may include the account holder's confidential exchange wagering account number. The exchange wagering licensee shall not provide any account information or consummate any such account transaction unless the exchange wagering account holder first provides the correct confidential personal identification number and satisfies any other requirements of the exchange wagering licensee. The exchange wagering licensee may not accept a wager, or series of wagers, in an amount in excess of the cleared funds on deposit and available within the exchange wagering account of the exchange wagering account holder who desires to place the exchange wager. The exchange wagering licensee may not, directly or indirectly, itself extend credit to an exchange wagering account holder.

(b) Unless otherwise approved by the Commission, or authorized by this chapter, no person, corporation, or other entity shall directly or indirectly act as an intermediary, transmitter, or agent in the placing of wagers for a holder of an exchange wagering account. An exchange wagering account holder may place exchange wagers in person, by direct telephone call, or by communication through computer or other electronic media approved by the Commission.

(c) Unless a waiver of such requirement is granted by the Commission, all persons or entities accepting exchange wagers on behalf of the exchange wagering licensee shall do so at a location within this State, as required by N.J.A.C. 13:74C-3.3.

(d) No exchange wager may be accepted after the time for taking the particular type of exchange wagers ends, which time shall be specified in the exchange wagering licensee's petition to the Commission for approval of that particular type of market, to be filed pursuant to N.J.A.C. 13:74C-5.2.

(e) The exchange wagering licensee, its employees, and agents shall not disclose any information related to the placing of any exchange wager or wagers, or any information related to a person's exchange wagering account, without the consent of the exchange wagering account holder, except to the exchange wagering account holder as authorized by this chapter, to the Commission, or as otherwise required by law.

13:74C-4.4 Credits to an exchange wagering account and payments on winning exchange wagers

(a) Subject to the right of the exchange wagering licensee to refuse for any reason all or any part of any deposit to an exchange wagering account, and consistent with the internal control procedures of the exchange wagering licensee, an exchange wagering account holder may make a deposit into his or her exchange wagering account by remitting funds to the exchange wagering licensee.

(b) Any funds intended for deposit by an exchange wagering account holder into his or her exchange wagering account shall be made payable to the exchange wagering licensee in the form of: cash deposit utilizing a properly completed and executed deposit slip approved by the Commission; a credit or debit card or cards specifically approved by the exchange wagering licensee, upon the account holder's direct and personal instructions (which instructions may be given by telephone or other electronic means); check, money order, negotiable order of withdrawal utilizing a properly executed deposit slip approved by the Commission, or wire transfer or electronic transfer. A deposit to an exchange wagering account shall only be accepted where the exchange wagering account holder first provides a correct account number and a correct confidential personal identification number for the account. A receipt for each deposit shall be issued to the exchange wagering account holder, but the receipt need not reflect the current account balance. A deposit to an exchange wagering account, by credit card or debit card, shall only be accepted by the exchange wagering licensee in a maximum amount consistent with its internal control procedures, as approved by the Commission, for each exchange wagering account holder. The funds deposited into an exchange wagering account shall not bear interest to the exchange wagering account holder. The internal control procedures of the account wagering licensee shall set forth procedures addressing such interest funds, which shall in all cases be disbursed as exchange revenues, for distribution as provided in N.J.A.C. 13:74C-3.5.

(c) Credit for winnings from wagers placed with funds in an exchange wagering account shall be promptly posted to the exchange wagering account by the exchange wagering licensee, consistent with its internal control procedures. Following the exchange wagering licensee's proper debit of an exchange wagering account, for an exchange wager or wagers properly accepted by the exchange wagering licensee pursuant to N.J.A.C. 13:74C-4.3, the net winnings due shall be credited to the exchange wagering account of the exchange wagering account holder who won the wager, less any applicable takeout, or transaction or other fees due the exchange wagering licensee, as provided for pursuant to N.J.A.C. 13:74C-5.9(b) and 5.11.

(d) Credit for refunded exchange wagers shall be promptly posted to the wagering account by the exchange wagering licensee, consistent with its internal control procedures.

(e) An exchange wager account holder may not place an exchange wager drawn upon sums deposited into his or her exchange wagering account, regardless of the manner of deposit of those funds, unless the deposit has first been administratively processed by the exchange wagering licensee, the funds subject of the deposit have been credited to the exchange wagering account of the exchange wagering account holder, the funds subject of the deposit have satisfied any banker's or other required clearance, and the funds subject of the deposit are actually available within the exchange wagering account. Holding periods shall be determined by the exchange wagering licensee, who shall make such information available to the exchange wagering account holder upon request.

13:74C-4.5 Debits to an exchange wagering account and placing of exchange wagers; required suspensions of exchange wagering accounts by exchange wagering licensee

(a) Upon receipt by the exchange wagering licensee of an exchange wager placed in accordance with the Act, this chapter, and the internal

control procedures of the exchange wagering licensee, the exchange wagering licensee shall promptly debit the exchange wagering account holder's exchange wagering account in the amount of the wager. As condition precedents to debiting any account, the exchange wagering licensee shall first be satisfied and determine that there are sufficient funds in the exchange wagering account to cover the amount of the exchange wager, as well as any additional applicable transaction or other fees due the exchange wagering licensee as provided for or authorized by this chapter, and that the wager is of a type that can be identically matched within a given market to an identically opposing exchange wager or exchange wagers.

(b) An exchange wagering account holder may request a withdrawal of the available funds in his or her exchange wagering account or any portion thereof. If there are sufficient funds in the exchange wagering account to cover the withdrawal amount requested, after taking into consideration any existing exchange wagers made by the exchange wagering account holder, the exchange wagering licensee shall authorize a disbursement of the amount requested to the exchange wagering account holder consistent with its internal control procedures and where the exchange wagering account holder provides to the exchange wagering licensee: proper identification; a correct confidential account number; a correct personal identification number; and a properly completed and executed withdrawal slip on a form approved by the Commission. Where a withdrawal is requested by an exchange wagering account holder by telephone, or by other electronic means as approved by the Commission, an executed withdrawal form will not be required where the exchange wagering account holder has previously and in writing authorized the exchange wagering licensee to accept withdrawal requests by such approved electronic means.

(c) No later than three business days following the receipt of a properly completed and executed withdrawal form, which shall be processed by the exchange wagering licensee at a location consistent with the requirements of N.J.A.C. 13:74C-3.3, the exchange wagering licensee shall cause the withdrawal amount to be issued and sent, in an amount no more than that requested, and payable to the holder of the exchange wagering account. The withdrawal amount may be issued, in the discretion of the exchange wagering licensee, by cash, by check, or by electronic transfer. If the withdrawal amount is issued by means of check, such disbursement shall be sent to the address specified in the exchange wagering account application of the exchange wagering account holder, and made payable to the exchange wagering account holder in the amount requested and available in his or her exchange wagering account. The address provided by the exchange wagering account holder in the application to establish the exchange wagering account shall be deemed to be the proper address for this purpose, unless the exchange wagering account holder has properly amended his or her exchange wagering account application to reflect a new address consistent with the procedures established by the exchange wagering licensee for such purpose. All other methods of withdrawal payments shall be properly recorded by the exchange wagering licensee, consistent with its internal control procedures.

(d) Notwithstanding its receipt of a properly completed exchange wagering account withdrawal request, the exchange wagering licensee shall suspend an exchange wagering account, or decline to fulfill a withdrawal request, where it reasonably suspects either fraud, that the exchange wagering account holder was ineligible to make one or more of the exchange wagers made from the exchange wagering account, or where the Commission Executive Director has notified the exchange wagering licensee that the Commission is conducting an investigation into the exchange wagering account or exchange wagering system, and directs in writing that the exchange wagering licensee suspend the exchange wagering account, or not to fulfill any withdrawal requests associated with the particular exchange wagering account.

13:74C-4.6 Dormant exchange wagering accounts

(a) The exchange wagering licensee, consistent with this chapter and its internal control procedures, may in its discretion cause a dormant exchange wagering account to be closed.

(b) The exchange wagering licensee, at least 30 days before the date on which any dormant account is to be closed, shall forward by regular

and certified mail to the address of the exchange wagering account holder, as set forth in the exchange wagering account holder's exchange wagering account application (or properly amended exchange wagering account application), notice of the date on which the exchange wagering account shall be closed. The notice shall specify that, upon any closure of the exchange wagering account, the funds within the exchange wagering account shall be disbursed as set forth in (c) below. The notice shall further provide what actions the exchange wagering account holder must take, consistent with the internal control procedures of the exchange wagering licensee, in order for the exchange wagering account holder to secure the funds in the exchange wagering account prior to its closure, or alternatively and subject to the discretion of the exchange wagering licensee, to cause the exchange wagering account not to be closed and remain an active exchange wagering account.

(c) Where an exchange wagering account is closed consistent with this section, the funds that were within the closed exchange wagering account shall be disbursed as exchange revenues, for distribution as provided in N.J.A.C. 13:74C-3.5.

13:74C-4.7 Exchange wagering system records maintenance; exchange wagering account disputes

(a) The exchange wagering licensee shall maintain complete records of every deposit, withdrawal, wager, and winning payoff for each exchange wager, which records shall be made available to the Commission upon request. Such records shall be stored and maintained at a location required by N.J.A.C. 13:74C-3.3.

(b) For exchange wagers and other transactions made by direct telephone call, the exchange wagering licensee shall make a voice recording of the entire transaction and shall not accept any such exchange wager or transaction if the voice recording system is inoperable. The voice recording of the exchange wagering account holders' finalization of the wager shall be deemed to be the actual wager or record of transaction, regardless of what wager was entered by and into the exchange wagering system. The voice recording records shall be made available to the Commission upon request.

(c) For exchange wagers or transactions made by computer or other electronic means approved by the Commission, the exchange wagering licensee shall maintain a printable record of the entire transaction and shall not accept any such exchange wager or transaction if the printable record system is inoperable. The record of the finalization of the wager shall be deemed to be the actual wager or record of transaction, regardless of what wager was entered by and into the exchange wagering system. The records shall be made available to the Commission upon request.

(d) For exchange wagers or transactions made by an exchange wagering account holder in-person, the exchange wagering licensee shall maintain a printable record of the entire transaction and shall not accept any such exchange wager or transaction if the printable record system is inoperable. The record of the finalization of the wager shall be deemed to be the actual wager or record of transaction, regardless of what exchange wager was entered by and into the exchange wagering system. The records shall be made available to the Commission upon request.

(e) The exchange wagering licensee shall provide each exchange wagering account holder, upon reasonable request and consistent with its internal control procedures, with a statement of account showing each exchange wagering deposit, each exchange wagering account withdrawal, each credit to the exchange wagering account, and each debit to the exchange wagering account made during the time period reported by the account statement. The exchange wagering account holder may dispute any transaction in accordance with the exchange wagering licensee's dispute resolution procedure, which procedure shall be set forth in the exchange wagering licensee's internal control procedures. In any dispute initiated in accordance with such procedure, or as otherwise permitted by the exchange wagering licensee in its discretion, the exchange wagering account holder shall have the right to review the voice recording or printable record of his or her exchange wagering account transaction or exchange wager as described in (b), (c), and (d) above. The decision of the exchange wagering licensee as to any dispute shall not be the subject of any appeal to the Commission, and shall constitute a final decision on the part of the exchange wagering licensee. The records referred to in this subsection shall be made available to the Commission upon request.

(f) The exchange wagering licensee shall maintain all records required by this section for a period of time consistent with the ability of an exchange wagering account holder to dispute a transaction consistent with its internal control procedures and, except as otherwise noted within this subsection, for a period of not less than six months from the date of the related exchange wagering transaction. All telephone voice recordings of exchange wagering transactions shall be maintained for a period of not less than 30 days from the date of the related exchange wagering transaction. All exchange wagering account applications or amendments thereto shall be retained by the exchange wagering licensee for a minimum period of one year following the rejection of the application by the exchange wagering licensee, or where an exchange wagering account has been established, for a minimum period of one year following the closure of the related exchange wagering account.

13:74C-4.8 Responsibility for overpayment and underpayment errors

(a) If an error occurs in the payment of amounts of exchange wagers, regardless of cause, the exchange wagering licensee shall be responsible for such overpayment or underpayment.

(b) Nothing contained in this section shall be interpreted to preclude the exchange wagering licensee from entering into a written contract or written agreement, with another person or entity, including any exchange management agent or exchange services agent, requiring reimbursement to the exchange wagering license for its overpayment or underpayment of exchange wagers.

13:74C-4.9 Exchange wagering account holder complaints to Commission

(a) An application to establish an exchange wagering account shall contain or be accompanied by a statement, as approved by the Commission, advising the prospective applicant that an exchange wagering account holder may file any complaint, as may concern the exchange wagering system, with the Commission in writing or by computer. The statement shall include the present address of the Commission for such purpose, and the email address of the Commission for such purpose.

(b) The exchange wagering licensee, its employees and agents shall not have direct access to the complaints submitted by exchange wagering account holders as a result of the filing of such a complaint with the Commission. The Commission Executive Director shall provide a copy of each complaint to the exchange wagering licensee unless, in his or her discretion, he or she determines that to do so would be inconsistent with a Commission investigation or criminal investigation.

13:74C-4.10 Exchange wagering by certain persons prohibited

(a) In addition to the prohibitions set forth in N.J.A.C. 13:74C-4.1(b), a person who has been excluded by the Commission from appearing at any premises subject to the jurisdiction of the Commission pursuant to this chapter or N.J.A.C. 13:70, 71, 72, or 74, including, but not limited to, the premises of off-track wagering facilities, racetracks, licensed farms, non-licensed farms where racehorses are situated, and casino simulcast facilities, shall not be permitted to open or to maintain an exchange wagering account.

(b) Nothing contained in this chapter shall be interpreted to preclude the Commission from initiating a hearing with regard to an exchange wagering account holder whose continued participation in the exchange wagering system would be inimical to the integrity of exchange wagering or racing, or who is in violation of the Act, this chapter, or N.J.A.C. 13:70, 71, 72, or 74, for the purpose of excluding the exchange wagering account holder from participating in racing, maintaining an exchange wagering account, and appearing at any premises subject to the jurisdiction of the Commission.

(c) No Commission licensee may at any time, directly or indirectly, place an exchange wager in connection with any race or races where that licensee has performed any service whatsoever, or will participate in the race, where that service performed or participation would be pursuant to the license or licenses issued to such person by the Commission. For example, a Commission-licensed trainer who trains a horse that participates in race x may not place an exchange wager in connection with race x, or an exchange wager where the outcome of the exchange wager is dependent on the outcome of multiple races that involve race x,

such as an exchange wager, which relates to the outcome of races x and y; a Commission-licensed veterinarian who treats a horse in connection with race x may not place an exchange wager in connection with race x; and a jockey or driver who participates in race x may not place an exchange wager in connection with race x. However, a Commission licensee who has no involvement whatsoever in any race or race subject of an exchange wager, or who will have no involvement in any race or race subject of an exchange wager, may place an exchange wager in connection with such race or races, provided he or she does so through his or her properly established exchange wagering account.

(d) The employees of the exchange wagering licensee, or any exchange management agent or exchange services agent, shall not be permitted to have or maintain an exchange wagering account.

SUBCHAPTER 5. CONDUCT OF EXCHANGE WAGERING

13:74C-5.1 Permissible market types

(a) The following market types shall be permissible within the exchange established by the exchange wagering licensee, subject to compliance with the procedure set forth at N.J.A.C. 13:74C-5.2:

1. Off-time market, which is a market within the exchange through which an exchange wagering account holder may back or lay a selected outcome on horse races conducted within and outside this State, and where the market is closed for exchange wagering at off-time;

2. Antepost market, which is a market within the exchange through which an exchange wagering account holder may back or lay a selected outcome on horse races conducted within and outside this State. In an antepost market, the exchange wager is placed in advance of the closing of entries on an outcome, and the exchange wager includes both that the selected horse will run the race and that the selected horse will finish the race in the selected position of win, place, or show. An antepost market closes for exchange wagering at the close of entries;

3. Finish market, which is a market within the exchange through which an exchange wagering account holder may back or lay a selected outcome on horse races conducted within and outside this State, and which market remains open after the off-time and closes for exchange wagering at the official finish of the race; and

4. Such other new markets as may be proposed by the exchange wagering licensee to the Commission through the filing of a written petition, pursuant to N.J.A.C. 13:74C-5.2, and which are approved by the Commission. The Commission shall approve a new market where the exchange wagering licensee demonstrates to the Commission's satisfaction, by clear and convincing evidence, that the new market is in compliance with the Act and this chapter, that the offering of exchange wagering through the new market will be accurately processed, that all aspects of wagering integrity and wagering recordkeeping will be maintained, that the offering of the new market will not negatively impact the fiscal soundness and technological reliability of the exchange wagering system, that the new market will not create undue confusion to the wagering public, and that the new market will not be inimical to the best interests of racing.

13:74C-5.2 Procedure for Commission approval of markets

(a) Before any market, including those specifically identified in N.J.A.C. 13:74C-5.1, may be offered for exchange wagering for the first time within the exchange, the exchange wagering licensee, and/or the exchange management agent where such is employed by the exchange wagering licensee, shall file a written petition with the Commission. In the filing of any such petition, any exchange services agent may participate as a joint petitioner.

(b) The petition shall identify the type of market for which Commission approval is sought, as identified in N.J.A.C. 13:74C-5.1, and shall include: a narrative description of the possible exchange wagers that can be placed within the market, including a statement of rules for such exchange wagers; a statement as to whether the same market has been offered to the public in any other jurisdiction, by any person or entity, and whether such offering encountered any known technological or practical problems; a statement as to whether any exchange services agent employed by the exchange wagering licensee has itself offered the market in another jurisdiction and, if so, whether any problems were encountered with the market; the minimum and maximum dollar amount of the

exchange wagers that will be accepted for the market; a certified statement that the hardware and software components of the exchange wagering system have been successfully tested to handle the market; the particular race or races in connection with which the market is proposed; and a certified statement by the petitioner that the market is in compliance with all laws that may be implicated thereby.

(c) In considering any petition filed pursuant to this section, the Commission may impose such conditions on approval as it deems reasonable and necessary to insuring the integrity of the exchange wagering system and horse racing industry in this State, including that the exchange wagering system be subject to independent testing for technological and wagering data reliability, in connection with any proposed market, before the market is approved, at cost to the exchange wagering licensee.

(d) Where the Commission approves a market, the Commission Executive Director or designee shall have discretion to subsequently approve written applications of the exchange wagering licensee or exchange management agent to offer that same market in connection with other races or groups of races, provided that the market subject of such application comprises the same exchange wager (including the rules for the exchange wager to be offered within the given market) as previously approved by the Commission. In its written application to the Commission Executive Director, the exchange wagering licensee or any exchange management agent shall: identify the market type; that the Commission has previously approved the market; state that the market is comprised of the same exchange wager (including the rules for the exchange wager to be offered within the given market) as previously approved by the Commission; identify the races for which exchange wagering will be offered in the market, and include a statement as to whether any technological or other problems arose in connection with the offering of such market in the matter previously approved by the Commission or Commission Executive Director. In acting on such application, the Commission Executive Director may approve the application, refer the application to the Commission for consideration, or deny the application for good cause. In approving any such application, the Commission Executive Director may impose conditions as he or she deems reasonable and necessary to insure the integrity of the exchange wagering system and horse racing industry in this State.

(e) Nothing contained in this section shall be interpreted to preclude the Commission or Commission Executive Director from ordering that an approved market, or previously approved market, be discontinued where the continuance thereof would be inconsistent with the integrity of the exchange wagering system, including its wagering and technological reliability aspects, or the maintenance of the integrity of the horse racing industry in this State.

13:74C-5.3 Procedure in the event of a minor technological breakdown of the exchange wagering system, not requiring the suspension or voiding of the market

(a) In the event of a minor technological breakdown associated with the exchange wagering system, which renders the exchange wagering system non-functional, and where the exchange wagering licensee determines that the nature and degree of the minor technological breakdown does not require a suspension or voiding of the market as authorized by N.J.A.C. 13:74C-5.4, the exchange wagering licensee shall:

1. Cause all matched wagers, as of the time of the failure, to remain matched, and to be paid in accordance with the established price for such wagers and the internal control procedures of the exchange wagering licensee applicable to matched wagers; and

2. Cause all unmatched wagers to be cancelled.

(b) In the event the exchange wagering licensee acts pursuant to this section, it shall promptly file with the Commission Supervisor of Mutuels a written report detailing the action taken and the reasons in support of such action.

13:74C-5.4 Market suspensions and market voiding; procedure

(a) The exchange wagering licensee may suspend a market on its own accord and at any time, including after the race is declared official but before winning exchange wagers are credited, for good cause. For the purposes of this section, good cause shall exist where: the exchange wagering licensee has reasonable cause to suspect that fraud or any other

action or inaction by any natural person connected with the race raises questions about the integrity and fairness of the market; the exchange wagering licensee has reasonable cause to conclude that a material technological breakdown associated with the exchange wagering system exists or has arisen, which technological breakdown is of such magnitude that the implementation of the exchange wagering system's breakdown procedure as set forth in N.J.A.C. 13:74C-5.3, would be inadequate. The exchange wagering licensee may also suspend a market for other reasons where, upon emergent application, it demonstrates to the satisfaction of the Commission Supervisor of Mutuels that a failure to suspend a market will likely negatively impact the integrity of the exchange wagering system and the horse racing industry in this State.

(b) In the event the exchange wagering licensee suspends a market pursuant to (a) above, it shall immediately notify the Commission Supervisor of Mutuels of such action in writing, by electronic mail. In addition, the exchange wagering licensee shall promptly file a written report with the Commission Supervisor of Mutuels which, at a minimum, identifies the market suspended, the date and time of the suspension, the reason for the market suspension, the reasons why the implementation of the procedure set forth in N.J.A.C. 13:74C-5.3 would have been insufficient; the results of the related due diligence investigation conducted by the exchange wagering licensee, and a proposal for settling the market. Upon satisfactory review of the Commission Supervisor of Mutuels, and his or her written authorization, the exchange wagering licensee shall settle the market.

(c) An entire market may only be voided, upon application to the Commission Executive Director or designee, where the exchange wagering licensee demonstrates to the satisfaction of the Commission Executive Director that a material and irreparable technological breakdown of the exchange wagering system occurred, and that, due to the nature thereof and circumstances present, it would prove insufficient for the exchange wagering licensee to implement the procedure set forth in either N.J.A.C. 13:74C-5.3, or in (a) or (b) above. In approving any such application, the Commission Executive Director may impose conditions as he or she deems reasonable and necessary to insuring the integrity of the exchange wagering system and the horse racing industry in this State.

13:74C-5.5 Corrective wagers permissible under certain circumstances

(a) The exchange wagering licensee may, under circumstances set forth in its internal control procedures as approved by the Commission pursuant to N.J.A.C. 13:74C-2.2, cause a corrective wager to be placed in a given market provided the placement of such wager is necessary to address the impact on that market of the cancellation or voiding of a given wager or given part of a matched wager, and provided that the cancellation or voiding of such given wager is due to the exchange wagering licensee's mistaken acceptance thereof.

(b) Corrective wagers may only be placed in a manner where no exchange revenues accrue to the exchange wagering licensee, any exchange management agent, or any exchange services agent.

(c) In the event the exchange wagering licensee causes a corrective wager to be placed pursuant to (a) above, it shall promptly cause to be filed with the Commission Supervisor of Mutuels a written report detailing the action taken, and the reasons in support of such action.

13:74C-5.6 Cancellation of unmatched wagers

(a) The exchange wagering licensee may cancel an unmatched wager at any time, without cause, before it is matched to form one or more identically opposing wagers.

(b) An exchange wagering account holder who offers an unmatched wager may cancel that unmatched wager at any time, without cause, before it is matched by the exchange wagering licensee to form one or more identically opposing wagers. However, the suspected abuse of this cancellation privilege by an account holder, including, but not limited to, where any such cancellation is made pursuant to or in furtherance of fraudulent activity related to horse racing or the exchange wagering system, or where the frequency of such cancellations is determined by the exchange wagering provider to negatively impact the exchange or any given market, shall serve as a basis for the closure or suspension of the exchange wagering account pursuant to N.J.A.C. 13:74C-4.2.

(c) In the event the exchange wagering licensee cancels an unmatched wager, as authorized by this section, the exchange wagering licensee shall promptly cause to be filed with the Commission Executive Director a written report detailing the action taken, and the reasons in support of such action.

13:74C-5.7 Finalization of exchange wagers; cancellation of matched wagers under limited circumstances

(a) Except as provided in (b) below, once an unmatched wager is confirmed by the exchange wagering licensee as having been matched to an identically opposing wager in a given market on the exchange, and a matched wager is thereby formed, such matched wager shall be final and shall not be canceled.

(b) The exchange wagering licensee shall only cancel a matched wager, or part of a matched wager, if such cancellation is ordered by the Commission or, where in its sole discretion, the exchange wagering licensee determines that:

1. There is a technological failure of the exchange wagering system and the entire market, within which the exchange wager was made, must as a result be voided in accordance with the procedure at N.J.A.C. 13:74C-5.4(c);

2. There is good cause to suspect that a person placing a wager through the exchange wagering system has acted in violation of the terms and conditions entered into with the exchange wagering licensee at the time such person's exchange wagering account was established, or at the time the terms thereof were amended;

3. It is in the interest of maintaining the integrity and fairness in a particular market, including as provided in N.J.A.C. 13:74C-5.8(a); or

4. Human error, by the exchange wagering licensee, occurred in the recording of the exchange wager.

(c) In the event the exchange wagering licensee cancels a matched wager as authorized by this section, the exchange wagering licensee shall promptly cause to be filed with the Commission Supervisor of Mutuels a written report detailing the action taken and the reasons in support of such action.

13:74C-5.8 Non-starters and declared or scratched entries

(a) Except in the case of an antepost market, matched wagers on non-starters, and declared or scratched entries, shall be voided by the exchange wagering licensee.

(b) In the event of a non-starter, declared, or scratched entry, the price of all other matched wagers existing at the time the declared or scratched entry occurred, or the non-starter declared, may be reduced proportionally by the exchange wagering licensee or exchange wagering services agent, in accordance with its internal control procedures, to reflect the increased probability that those outcomes will become winning outcomes. All exchange wagering account applicants shall be advised of this possibility, as part of the application disclosures required by N.J.A.C. 13:74C-4.1(f).

13:74C-5.9 Exchange wagering pools; no takeout requirement

(a) Notwithstanding any other law or rule to the contrary, the exchange wagering licensee shall not be required to include any pools of exchange wagers in the wagering pools at the track conducting the races. However, in the event that the exchange wagering licensee determines to do so, the exchange wagering licensee shall obtain approval in advance from the Commission.

(b) Notwithstanding any other law or rule to the contrary, the exchange wagering licensee shall not be required to retain, withhold, or takeout any amounts from any exchange wagers. However, in the event that the exchange wagering licensee determines to do so, the exchange wagering licensee shall obtain approval in advance from the Commission, as required by N.J.A.C. 13:74C-5.11.

13:74C-5.10 Interstate exchange pools permissible

Where approved by the Commission, and where the exchange wagering licensee demonstrates by clear and convincing evidence that a proposed interstate exchange pool is consistent with law in all respects, an interstate exchange pool may be offered. An interstate exchange pool may be established in this State, in another state, or a foreign nation. Regardless of where established, the unmatched exchange wagers of New Jersey exchange wagering account holders shall be matched with

unmatched exchange wagers, within the interstate exchange pool, to form identically opposing matched wagers.

13:74C-5.11 Imposition of exchange wagering surcharges permitted

Subject to approval of the Commission, both as to type and amount, the exchange wagering licensee may impose and collect exchange revenues, in the form of a surcharge or surcharges associated with exchange wagering accounts and exchange wagers. Permissible surcharges shall include, but not be limited to, surcharges in connection with the submission of exchange wagers to the exchange wagering licensee for processing, and the assessment of a surcharge on any exchange wagering account holder's winnings. Any imposed surcharges shall constitute exchange revenues and be distributed in accordance with N.J.A.C. 13:74C-3.5.

13:74C-5.12 Changes to exchange wagering hardware or software infrastructure components; successful testing requirement

No change may be made to the exchange wagering hardware or software infrastructure components unless the exchange wagering licensee first submits to the Commission Supervisor of Mutuels a certified written statement setting forth with specificity the changes proposed to be made to such infrastructure and a certification that the proposed change was the subject of successful testing. The Commission Supervisor of Mutuels, in consultation with the Commission Executive Director, may require that additional testing be conducted by the exchange wagering licensee, before the change is implemented, where to do so would be consistent with the integrity of the exchange wagering system.

13:74C-5.13 Race information availability

The exchange wagering licensee's internal control procedures shall set forth what race information, if any, it shall make available to exchange wagering account holders. In the event the exchange wagering licensee elects not to provide race information to exchange wagering account holders, or if the Commission determines that the race information the exchange wagering licensee elects to make available to exchange wagering account holders is insufficient, the Commission may in its discretion impose a license condition on the exchange wagering licensee requiring that race information, including the nature and extent of such race information, be provided by the exchange wagering licensee to exchange wagering account holders. In determining whether to impose such a condition, the Commission shall consider whether such provision of such race information to exchange wagering account holders will foster and enhance the exchange wagering system, alleviate the potential for confusion amongst the exchange wagering account holders, whether the race information is otherwise reasonably and readily available to the exchange wager account holders from a source other than the exchange wagering licensee, and the position of the exchange wagering licensee.

SUBCHAPTER 6. LICENSING; PENALTIES FOR VIOLATIONS; HEARING PROCESS

13:74C-6.1 Persons required to have licenses

(a) The exchange wagering licensee shall be licensed in accordance with the Act and this chapter. Any appeal of a final decision on such a license application, or renewal license application, shall be to the Superior Court of New Jersey, Appellate Division.

(b) A successor in interest, to whom an initial exchange wagering license or renewed exchange wagering license is to be transferred or assigned, shall be licensed in the same capacity, and at the same license application filing fee cost, as the holder of the license subject of the transfer or assignment, in accordance with N.J.A.C. 13:74C-2.2 and 3.1.

(c) All employees of the exchange wagering licensee who perform duties in connection with the exchange wagering system, including those with supervisory or oversight responsibilities regardless of location, shall take out an exchange wagering identification license at an annual fee of \$25.00.

(d) A person or entity who is the subject of a written agreement, pursuant to N.J.A.C. 13:74C-3.2, shall be licensed as an exchange management agent or exchange services agent, as determined by the Commission, at an annual fee of \$50.00.

(e) All employees of an exchange management agent or exchange services agent, including those with supervisory or oversight responsibilities regardless of location, shall take out an exchange wagering identification license at an annual fee of \$25.00.

(f) Unless the Commission or Commission Executive Director determines the issuance of a license to be unnecessary, following the filing of a petition of a prospective applicant for an exemption from the exchange wagering vendor license requirements of this subsection and in consideration of the nature of the service provided and volume of business to be conducted, the following vendors shall be required to take out a license from the Commission: any vendor who maintains an on-site presence at the premises of either the exchange wagering licensee, any exchange management agent, or any exchange services agent; any vendor who supplies racing-related or exchange-wagering-system-related wagering equipment, supplies, information, or data to the exchange wagering licensee, any exchange management agent, or any exchange services agent, in connection with the exchange wagering system. The annual fee for such exchange wagering vendor license shall be \$50.00.

(g) The Commission shall have the discretion to require, based upon the nature of service provided or volume of business, that any other vendor to the exchange wagering licensee, or in connection with the exchange wagering system, take out an exchange wagering vendor license for the requisite \$50.00 annual fee. The exchange wagering licensee, any exchange management agent, and any exchange services agent, by March 15 of each year, shall each file with the Commission a report identifying the name of each non-licensed vendor with whom it did business in an aggregate amount of \$10,000 or more for the preceding calendar year, the nature of the vendor's business, the principal address and telephone number of the vendor, and whether or not the business relationship is continuing in nature.

(h) An individual or vendor, who is licensed by the Commission pursuant to N.J.A.C. 13:70, 71, 72, or 74 and who is 18 years of age or older, shall not be required to take out a license pursuant to this chapter where the job responsibilities for which the license was issued by the Commission are substantially similar to those that are to be performed pursuant to this chapter as determined by the Commission Executive Director. However, such a vendor or individual must first have his or her license properly endorsed by the Commission at no charge, and is also subject to all other requirements of this chapter consistent with the license endorsement.

(i) An individual or vendor, who is licensed by the Commission pursuant to this chapter, shall not be required to take out a license pursuant to N.J.A.C. 13:70, 71, 72, or 74, where the job responsibilities for which the license pursuant to this chapter was issued are substantially similar to those that are to be performed pursuant to N.J.A.C. 13:70, 71, 72, or 74 as determined by the Commission Executive Director. However, such a vendor or individual must first have his or her license properly endorsed by the Commission at no charge, and is also subject to all other requirements of N.J.A.C. 13:70, 71, 72, or 74 consistent with the license endorsement.

13:74C-6.2 Duration of license

All licenses issued pursuant to this chapter shall be effective from January 1st to December 31st of the same year, except as provided in N.J.A.C. 13:74C-2.1 and 2.2(b).

13:74C-6.3 License fee payment

All license fee costs shall be paid when the license application is filed with the Commission, and shall be non-refundable for any reason, including the denial of the license applied for.

13:74C-6.4 Collection and dissemination of Social Security numbers

(a) The Commission may request Social Security numbers to be furnished for use in determining a license applicant's eligibility for licensure. No application shall be denied for failure to comply with such request, provided that a person may be required to submit such other information as the Commission may require in order to determine an applicant's eligibility for licensure.

(b) Any form used by the Commission to request submission of a Social Security number shall include the following:

1. A statement that the provision of a Social Security number is voluntary;

2. A citation to this section, which authorizes the Commission to request the Social Security number; and

3. A statement that the Commission will use Social Security numbers as a secondary internal identifier for the following purposes: credit checks, background checks, and other such investigations.

13:74C-6.5 Fingerprint and photograph requirement

All persons licensed by the Commission in connection with the exchange wagering system are required to be fingerprinted and photographed. The applicant must pay for the cost of fingerprints and for the related criminal history check consistent with the fee structure of the reviewing State and Federal agency.

13:74C-6.6 Age requirements

No application for a license shall be considered or granted to a person who is not 18 years of age or older.

13:74C-6.7 Badges

(a) All Commission licensed personnel employed at the premises of the exchange wagering licensee, at the premises of any exchange management agent, and at the premises of any exchange services agent, shall be required to wear upon their outside apparel in prominent position an identification tag which may be devised or authorized by the exchange wagering licensee, as approved by the Commission, and to carry on their person and produce to the Commission, upon request, the authorized badges containing picture identification supplied by the Commission. In the event the exchange wagering licensee elects not to devise or authorize such an identification tag, all such Commission-licensed personnel shall instead be required to wear upon their outside apparel in a prominent position the authorized badges containing picture identification supplied by the Commission. In the event any such employees are required to wear Commission identification tags or the equivalent, as a result of licensure by the Commission in another capacity, the required exchange wagering identification tag shall be endorsed to reflect the other category of Commission licensure, in a uniform manner acceptable to the Commission. Notwithstanding anything in this section to the contrary, the penalty for an individual's failure to comply with this section shall be \$15.00 for a first violation; \$25.00 for a second violation; \$50.00 for a third violation; and a \$100.00 fine and seven day license suspension for each violation thereafter.

(b) The requirement of this section may be waived by the Commission as concerns employees who conduct any functions in connection with the exchange wagering system, where those functions are performed out-of-State, as approved by the Commission pursuant to N.J.A.C. 13:74C-3.3.

13:74C-6.8 Refusal to issue or renew license

(a) The burden shall rest on each applicant to show that he or she is qualified in every respect to receive the license applied for. Ability, as well as good character and integrity, must be clearly shown by the applicant in order to receive the license applied for.

(b) The Commission may investigate the applicant or any person named in the application, with respect to such person's background, good character, qualifications, financial responsibility, criminal record, subversive record, and other reports concerning such persons, in order to determine whether the applicant is qualified to receive the license applied for.

(c) The Commission may refuse to issue or renew a license, or may suspend a license issued pursuant to this chapter, if it shall find that the applicant is not of good character, is not qualified to hold the license applied for, or that the applicant, or any person who is a partner, agent, or employee or associate of the applicant, has been convicted of a crime in any jurisdiction, or is associating or consorting with any person or persons who has been convicted of a crime or crimes in any jurisdiction, or is consorting with, or has consorted with bookmakers, touts, or persons of similar pursuits, or is financially irresponsible, or has been guilty of or attempted any fraud or misrepresentation in connection with racing, breeding, or otherwise, or has violated or attempted to violate any law with respect to racing in any jurisdiction or any rule, regulation, or order of the Commission, or shall have violated any rule of racing, which shall

have been approved or adopted by the Commission, or has been guilty of or engaged in similar, related or like practices.

(d) In considering an application for a license, the Commission or Commission Executive Director may require that the applicant appear before the Commission, the Commission Executive Director, or a designee for an interview in connection with the license application. An applicant has the unqualified duty to cooperate with the Commission in connection with its investigation into any application for a license and a license shall be denied where the applicant fails to do so.

(e) Any person making any false, untrue, or misleading statements on a license application, or in connection with any written or oral examination in connection with an application for a license, shall be denied a license and is subject to the additional penalties set forth in N.J.A.C. 13:74C-6.10.

(f) Where a license is denied, the Commission Executive Director shall cause a ruling to be issued reflecting the license denial. An applicant who has been denied a license may appeal the license denial to the Commission in accordance with N.J.A.C. 13:74C-6.12.

13:74C-6.9 License conditions

The Commission shall have the discretion to impose conditions upon any license necessary to effectuate the purposes of the Act and this chapter.

13:74C-6.10 Suspension or revocation of a license; penalties for violations

(a) Any license issued pursuant to this chapter, considering the particular facts present and the nature of the violation, may, following the conduct of a hearing, be suspended for a finite period of time, suspended indefinitely, or permanently revoked; and a monetary fine issued, or a letter of reprimand issued, at any time for: misconduct or malfeasance; conduct detrimental to racing; failure to comply with any license condition; violation of any rule or order of the Commission; failure to comply with the requirements of the Act and this chapter; fraudulent activity; bribery; financial irresponsibility, meaning the accumulation of unpaid obligations, or the issuance of drafts or checks that are dishonored or on which payment is refused, or conduct otherwise displaying financial irresponsibility reflecting on the exchange wagering system; failure to cooperate with the Commission in any investigation as required by N.J.A.C. 13:74C-6.11; or any attempt to commit, or participation in any conspiracy to commit, any of the above-listed acts.

(b) Any fine imposed as a result of a violation of this chapter shall not exceed \$5,000 per violation. Where the violation is ongoing in nature, a fine not to exceed \$5,000 per day may be imposed. A penalty of revocation may only be ordered by the Commission.

(c) Where a license suspension or license revocation is ordered, the licensee subject to the action shall be ordered not to appear at any premises subject to the jurisdiction of the Commission.

(d) In imposing any penalty, the imposition of remedial conditions may be ordered.

(e) A licensee, subject to compliance with the requirements and procedures set forth in N.J.A.C. 13:71-26.9, may have his or her license suspended immediately when the licensee is indicted in this State for a crime of the first, second, third, or fourth degree, or is indicted for a similar crime under Federal law or the law of another state or country.

(f) Where a penalty is imposed as a result of a violation of this chapter, the Commission Executive Director shall cause a ruling to be issued reflecting the violation and penalty ordered.

13:74C-6.11 Duty to cooperate; knowledge of violations

(a) A licensee who shall come into possession of knowledge concerning any violation of N.J.A.C. 13:70, 71, 72, 73, or 74, or the rules of racing or any violation of law in connection with the Act and this chapter, the running of a race, or the wagering or exchange wagering conducted in connection with the running of a race, shall immediately report the information to the Commission for investigation and such action as the case may warrant.

(b) A licensee has the duty to fully cooperate in any investigation being conducted by the Commission, including as concerns the Act and this chapter.

(c) A licensee shall give every possible cooperation, aid, and assistance to any department, bureau, division, officer, agent, or inspector, or any other person connected with the United States government or with this State, or who may be acting in cooperation therewith, who may be investigating or prosecuting any matter involving a violation of law, or any other rules or regulations of the Commission, including the Act and this chapter.

13:74C-6.12 Hearing requirement and procedure

(a) Pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, the Commission may directly conduct a hearing to determine if a violation of its rules has occurred. Upon a finding of violation(s), the Commission may directly impose any of the penalties set forth in N.J.A.C. 13:74C-6.10. Alternatively, the Commission or the Commission Executive Director may refer the matter to the Office of Administrative Law for a recommended decision.

(b) Except as provided in N.J.A.C. 13:74C-6.1(a), any person who has been denied a license may appeal such determination by filing a written request with the Commission Executive Director within 10 days of the license denial decision. In such event, the Commission Executive Director shall cause the matter to be referred to the Office of Administrative Law for a recommended decision.

(c) Any appeal of a final decision of the Commission, as concerns a license denial or imposed penalty, shall be to the Superior Court of New Jersey, Appellate Division.

(d) The license applicant or licensee shall be responsible for any costs incurred in connection with any hearing or appeal proceeding pursuant to this section.

13:74C-6.13 Stay requests and determinations

Where a penalty has been issued or adopted in a Commission final decision, the licensee may submit a written request to the Commission Executive Director for a stay pending appeal to the Appellate Division of the Superior Court of New Jersey, which written request shall set forth all facts and arguments in support of the stay request. The Commission Executive Director may deny a stay request if he or she determines that the grant of a stay would be adverse to the best interests of exchange wagering, adverse to the best interests of racing, or inimical to the integrity of racing. The decision of the Commission Executive Director on the stay request shall constitute a final decision, which may be appealed to the Superior Court of New Jersey, Appellate Division.

13:74C-6.14 Reciprocity

Full force and effect shall be given to the denial, revocation, or suspension of any license by any other racing commission, or other regulatory body, with the responsibility to oversee the conduct of racing, off-track-wagering, account wagering, or exchange wagering.

(a)

DIVISION OF CONSUMER AFFAIRS NEW JERSEY BOARD OF ELECTRICAL CONTRACTORS

Notice of Administrative Correction Credit towards Licensure for Education, Training, and Experience Received while Serving as a Member of the Armed Forces

N.J.A.C. 13:31-2.6

Take notice that the Board of Electrical Contractors has found an error in the text of N.J.A.C. 13:31-2.6(a). As adopted effective March 16, 2015 (see 46 N.J.R. 1930(a) and 47 N.J.R. 651(b)), N.J.A.C. 13:31-2.6(a) allows qualifying applicants to apply to the Board for recognition of the applicant's training, education, and experience received while serving as a member of the Armed Forces as being substantially equivalent to the training, education, and experience required for certification. However, the rule text reference to "certification" is incorrect; the correct term is