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Sent via Electronic Mail
Interactive Gaming Certificate Holders and Operators
Sports Wagering Certificate Holders and Operators

RE: Industry Guidance 2024-07
Administrative Clarification Regarding Player Funds Confiscations

Dear Certificate Holders and Operators:

The Pennsylvania Gaming Control Board ("Board" or "PGCB"), after reviewing the regulatory provisions of 58 Pa.Code § 812a.12 (relating to suspended accounts) and other relevant regulatory sections, hereby issues an Administrative Clarification regarding the confiscation of funds in a registered player's interactive gaming or interactive sports wagering account. By way of background, § 812a.12(a) of the Board's regulations requires that an interactive gaming system have the capability to place a player's account in a suspended mode. Such a suspension can be initiated by a certificate holder or operator when there is evidence of (1) illegal activity, (2) a negative account balance, or (3) a violation of the terms of service. Subsection (b) continues to state that an operator may not remove funds from a player's account that is in suspended mode without prior approval from the Board.

At this time, the Board will no longer require prior approval before a certificate holder or operator confiscates funds from a registered player's account when the account is suspended for fraudulent or illegal activity, including interactive gaming or interactive sports wagering by underage individuals. The certificate holder or operator shall ensure that all other requirements of subsection (b) are met in terms of restrictions on the registered player's account during a suspension and subsection (c) in terms of notice to the player of the suspension. After the certificate holder or operator's investigation but prior to any funds in a player's account being confiscated, a certificate holder or operator shall do the following:

1. To start the confiscation of player funds process, a Fraud Report and an Intent to Confiscate Player Funds form shall be completed and submitted through the PGCB iGaming Customer Service Portal. After 30 days have passed from the submission of the Fraud Report, if the Pennsylvania State Police do not contact the certificate holder or operator who filed the fraudulent activity report requesting the certificate holder or operator to halt the confiscation process, the certificate holder or operator can proceed to step 2.

2. The operator must notify the registered player by first class mail and e-mail that the certificate holder or operator intends to confiscate funds in the registered player's account and the amount subject to confiscation. In the notice to the registered player, provide information on how the player may file a challenge to contest the confiscation with the Board (58 Pa. Code § 491a.4; § 493a.4), with the email address for the Board Clerk (boardclerk@pa.gov), challenging the confiscation. The operator must also note the patron has 30 days to complete the filing of an appeal with the Board Clerk from the date the notice was issued.

After 45 days have elapsed from the date of the notice to the registered player, the certificate holder or operator may confiscate the funds in the registered player's suspended account. Any funds in the registered player's account that represent funds deposited shall not be subject to confiscation and must be returned to the player. For example, if a player's account balance is $10,000, with $4,000 representing deposits and $6,000 representing winnings, only the $6,000 in winnings may be confiscated. Additionally, any prior withdrawals made by a player prior to the account being suspended may be credited towards the player's deposit amount that is to be returned. For example, if a player's account balance was $12,000 and the current account balance is $10,000, with $4,000 having been deposited and $2,000 having been previously withdrawn, and therefore $8,000 representing winnings, only the $8,000 in winnings may be confiscated.

In addition to the foregoing, any funds that are confiscated by a certificate holder or operator must be accounted for on the relevant Monthly Interactive Gaming and/or Sports Wagering Reconciliation Returns filed with the Department of Revenue ("DOR") as an adjustment to revenue, and all applicable taxes shall be paid on the confiscated funds. This is to "zero-out" the transaction, given that deductions had been taken previously when the funds were originally paid out to the player. Also, any player's account that is in suspended status, pending investigation into fraudulent or illegal conduct and/or confiscation of funds shall not be subject to the Dormant Account provisions of § 812a.13.

Please note, these requirements shall apply only to interactive gaming and interactive sports wagering accounts when fraudulent, illegal, or underage gaming is involved. Any confiscations of player funds that occur for involuntary or self-excluded individuals, both interactive and land-based, or for underage gaming in land-based facilities, shall be handled in accordance with the current procedures set forth in Chapters 503a, 511a, and 513a.

Lastly, certificate holders must submit a PGCB Confiscated Player Funds Report to the Board on a monthly basis of funds they or their market access partner operators confiscated during the prior month. The purpose of this report is to notify the Board of confiscations and to provide supporting documentation for adjustments reported on the monthly reconciliation returns (iGaming slots, iGaming tables, and sports) filed with the DOR. Additionally, certificate holders must submit a DOR Confiscated Player Funds Report with their monthly reconciliation returns.

Funds confiscated for fraudulent activity, terms and conditions violations and underage violations must be documented on the reports by tax vertical. If the tax vertical where the funds to be confiscated cannot be derived due to churning of the funds or other issue, the funds must be reflected and pay taxes under the iGaming slots vertical.

Prior to commencing confiscations of player funds for fraudulent activity, the certificate holder or operator must update internal control § 812a.12(b) to reflect the process of confiscating player funds for fraudulent activity, including the designation of an employee responsible for overseeing the process. The required internal control update must be approved by the Board prior to initiating a confiscation of player funds related to fraudulent activity. All reports and documents related to the confiscation of player funds for fraudulent activity must be retained in accordance with Board regulations.

If you have any questions regarding this Administrative Clarification, you may direct them to Lee Copello, Director of iGaming Operations, via email at lcopello@pa.gov.

Sincerely,

Kevin F. O'Toole

Kevin F. O'Toole
Executive Director

KFO/cwz/lc

Enclosure

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