

**CHAPTER 183. SECONDARY PARI-MUTUEL ORGANIZATIONS—
TEMPORARY REGULATIONS**

Sec.	
183.1.	General provisions.
183.2.	License costs and fees.
183.3.	Application requirements.
183.4.	Review and approval.
183.5.	Good-faith cooperation.
183.6.	Waiver.
183.7.	Additional application information.
183.8.	SPMO operations.
183.9.	Penalties and enforcement.

§ 183.1. General provisions.

(a) *New application*: As set forth in sections 9322 and 9351 of the act, a SPMO seeking to engage in electronic wagering or otherwise offer ADW to individuals within this Commonwealth, as defined in the act, must apply to the Commission for an electronic wagering license by submitting a completed license application as approved by the Commission.

(1) An incomplete application shall not be reviewed or considered for licensure.

(2) A SPMO may not begin wagering operations until approved by the Commission or its designee.

(b) *Annual Renewal applications*: An electronic wagering license issued to a secondary pari-mutuel organization shall be renewed annually. An electronic wagering renewal application shall be submitted on or before 120 days before the expiration of the license term. If the renewal application is approved by the Commission, the license renewal shall take effect January 1.

(c) The following shall apply to a secondary pari-mutuel organization:

(1) Each SPMO employee directly or indirectly responsible for the acceptance of wagers on horse races or the transmittal of wagering information to and from the Commonwealth must be properly licensed.

(2) A secondary pari-mutuel organization must comply with each rule and regulation of the Commission.

§ 183.2. License costs and fees.

(a) The applicant shall submit, along with its license application, the applicable license fees set forth in section 9352 of the act (relating to licensing costs and fees). The applicant shall also pay all costs incurred by the Commission in reviewing an application for an initial license, including any legal and investigative costs and the cost of other necessary outside professionals and consultants.

(1) Any portion of the payment not required to complete the investigation shall be refunded to the applicant within 20 days of the granting, withdrawal or rejection of the initial license application.

(2) To the extent additional costs will be necessary, the applicant shall reimburse the Commission in an amount reasonably requested by the Commission within 10 days of receipt of the request. Failure to submit an additional requested payment shall result in suspension of the processing of the license application and may result in denial of the license.

(b) For purposes of a renewal license, the SPMO shall submit a renewal application, along with the applicable renewal fee and costs for the review of the renewal license as set forth in the act.

§ 183.3. Application requirements.

(a) A SPMO application for an initial or renewal license shall be in the form and manner prescribed by the Commission in accordance with this chapter. The Commission may deny a license to an applicant that provides false or misleading information or omits material information from the application. The SPMO application shall include all of the following:

(1) The applicant's legal name.

(2) The location of the applicant's principal office.

(3) The name, address and date of birth of each principal with a 5% or greater share of ownership or beneficial interest in the applicant.

(4) Audited financial statements for the last 3 years or, if the applicant does not have audited financial statements, financial and other pertinent information as required by the Commission to determine that the applicant is financially capable of operating as a going concern and protecting accounts.

(5) A detailed plan of how the wagering system will operate. The Commission may require changes in the proposed plan of operations as a condition of granting a license. There shall not be subsequent material changes in the plan of operations unless ordered by the Commission or until approved by the Commission after receiving a written request.

(6) A list of all personnel processing wagers on races made by residents of this Commonwealth. This list shall be kept current and be provided to the Commission upon request.

(7) Copies of all documents required under this subsection by the Commission.

(8) Certification of compliance with totalisator standards and licensing requirements adopted by the Commission.

(9) A type II SAS 70 report or other independent report in a form acceptable to the Commission completed within the preceding 12 months, to assure adequate financial controls are in place in the secondary pari-mutuel organization.

(10) An agreement to allow the Commission to inspect and monitor each facility used by the secondary pari-mutuel organization for accepting, recording or processing pari-mutuel wagers accepted in this Commonwealth.

(11) Certification of the use of a pari-mutuel system which meets all requirements for a pari-mutuel system utilized by a licensed racing entity in this Commonwealth.

(12) Written evidence of tax compliance as set forth in section 9361 of the act (relating to tax compliance requirement).

§ 183.4. Review and approval.

(a) The Commission shall determine the suitability, fitness and experience of a SPMO and its key employees, consistent with the public interest, convenience and necessity and the best interests of racing generally, including, the provisions set forth in section 9318(e) and (f) of the act (relating to licenses for horse race meetings) and the following:

(1) Meeting general industry standards for business and financial practices, procedures and controls.

(2) Possession of a wagering system that ensures that all wagering information is transmitted to and calculated in the appropriate host track pool.

(3) Utilization of a totalisator system that meets wagering-industry standards and certification criteria.

(4) Meeting general industry standards for physical security of computerized wagering systems, business records, facilities and patrons.

(5) Having no indications of improper manipulation of a secondary pari-mutuel organization's wagering system, including software.

(6) Having policies and procedures that ensure a secondary pari-mutuel organization's key individuals have applied and are eligible for all required occupational licenses.

(7) Having an annual independent audit with no audit opinion qualifications that reflect adversely on integrity.

(8) Having a system that verifies the identity of each person placing a wager and requires the person placing a wager to disclose each beneficial interest in a wager the secondary pari-mutuel organization accepts.

(9) Having a real-time independent monitoring system to monitor wagering activity to detect suspicious patterns, including any that might indicate criminal activity or regulatory violations. The system must verify each transaction performed by the totalisator system and provide expeditious notice of any discrepancies or suspicious activity to the host track, wagering site, due diligence investigating body and any affected regulatory agency.

(10) Having a satisfactory record of customer relations, including no excessive unresolved patron complaints concerning the secondary pari-mutuel organization's business practices.

- (11) Holding required permits, licenses, certifications or similar documents that may be required by a racing, gaming or other pari-mutuel wagering jurisdiction.
 - (12) Having sufficient measures to protect customer funds from being commingled with other moneys.
 - (13) Publicizing and providing a sufficient program for customer self-exclusion and wagering limitation.
 - (14) Having expertise in pari-mutuel wagering and being technologically capable of participating in simulcast and wagering activities.
- (b) As set forth in section 9353(b) of the act (relating to license application procedures), the Commission may also consider the following information in making a determination for a SPMO's initial license or renewal application:
- (1) The integrity of the applicant and its principals, including:
 - (i) Whether the applicant or its principals are unsuitable.
 - (ii) Whether the applicant or its principals have been a party to litigation over business practices, disciplinary actions over a business license or refusal to renew a license.
 - (iii) Whether the applicant or its principals have been a party to proceedings in which unfair labor practices, discrimination or violation of government regulations pertaining to racing or gaming laws was an issue or bankruptcy proceedings.
 - (iv) Whether the applicant or its principals have failed to satisfy judgments, orders or decrees.
 - (v) Whether the applicant or its principals have been delinquent in filing tax reports or remitting taxes.
 - (2) The quality of physical facilities and equipment.
 - (3) The financial ability of the applicant to conduct wagering.
 - (4) The protections provided to safeguard accounts, including a certification from the licensee's chief financial officer that account funds will not be commingled with other funds as required under this chapter.
 - (5) The management ability of the applicant and its principals.
 - (6) Compliance of the applicant with applicable statutes, charters, ordinances and administrative regulations.
 - (7) The efforts of the applicant to promote, develop and improve the horse racing industry in this Commonwealth.
 - (8) The efforts of the applicant to safeguard and promote the integrity of pari-mutuel wagering in this Commonwealth.
 - (9) The economic impact of the applicant upon the Commonwealth.
 - (10) The secondary pari-mutuel organization and the secondary pari-mutuel organization's owners and sources of funds must have sufficient financial means to participate in simulcast and wagering activities, including sufficient assets and means to pay industry-related debts and obligations and to fund the operations of the secondary pari-mutuel organization.

§ 183.5. Good-faith cooperation.

The secondary pari-mutuel organization must be fully cooperative and act in good faith with all disclosure and other duties involved in a due diligence investigation, voluntarily submit to regulatory and investigating body oversight, permit inspection of each business record upon request by a regulatory authority or investigating body, promptly honor regulatory or investigating body requests for wagering patterns or other information and, after reasonable notice, permit full access to each facility and property by a regulatory authority or investigating body.

§ 183.6. Waiver.

(a) A due diligence investigation may rely on an investigation and oversight conducted by a Commission-approved entity.

(b) The Commission may not consent to the acceptance of an interstate off-track wager by a secondary pari-mutuel organization that has not been determined to be suitable under this section.

§ 183.7. Additional application information.

(a) The Commission may request additional information from an applicant if the additional information would assist the Commission in deciding whether to issue or renew a license, including all of the following:

- (1) Copies of any documents used by the applicant in preparing the application.
- (2) A list of each contract between the applicant and a third party related to operations. The Commission may review the contracts at any time upon request.

§ 183.8. SPMO operations.

(a) Before doing business in this Commonwealth all of the following are required of a SPMO licensee:

- (1) Be qualified to do business in this Commonwealth.
- (2) Submit a copy of each document required to be filed with the Department of Revenue and each document related to an audit or investigation by any Federal, State or local regulatory agency to the Commission.
- (3) Remit to the Commission a copy of each document required to be filed with any Federal, State or local regulatory agency.

(b) *Operational Requirements:*

- (1) A licensee shall submit quarterly reports to the Commission providing amounts wagered by residents in this Commonwealth and amounts wagered on races in this Commonwealth.

(2) A licensee shall contribute to the horsemen's purse account in accordance with section 9331(d) of the act (relating to pari-mutuel wagering at nonprimary locations) as directed by the Commission.

(3) A licensee shall not commingle account funds with other funds.

(4) A licensee shall provide quarterly financial statements to the Commission for the first calendar year of operation if the licensee does not have audited financial statements for the last 3 years as referenced in section 9353(a)(4) of the act (relating to license application procedures).

(5) A licensee shall use and communicate pari-mutuel wagers to a totalisator licensed by the Commission.

(6) A licensee shall operate and communicate with the totalisator in a way as not to provide or facilitate a wagering advantage based on access to information and processing of wagers by account holders relative to individuals who wager at licensed racing entities or simulcast facilities.

(7) All personnel processing wagers made by residents of this Commonwealth shall be licensed by the Commission.

(8) Accounts shall only be accepted in the name of an individual and shall not be transferable. Only individuals who have established accounts with a licensee may wager through a licensee.

(9) Each account holder shall provide personal information as the licensee and the Commission require, including all of the following:

- (i) Name.
- (ii) Principal residence address.
- (iii) Telephone number.
- (iv) Social Security number.
- (v) Date of birth.
- (vi) Other information necessary for account administration.

(10) The information supplied by the account holder shall be verified by the licensee using means acceptable to the Commission.

(11) The licensee shall provide each account holder a secure personal identification code and password to be used by the account holder to confirm the validity of every account transaction.

(12) An employee or agent of the licensee shall not disclose any confidential information except as follows:

- (i) To the Commission.
- (ii) To the account holder as required by this chapter.
- (iii) To the licensee and its affiliates.
- (iv) To the licensed racing entity as required by the agreement between the licensee and the licensed racing entity.
- (v) As otherwise required by law.

(13) The licensee shall provide each account holder a copy of account holder rules and the terms of agreement and other information and materials that are pertinent to the operation of the account.

(14) The licensee may refuse to establish an account if it is found that any of the information supplied is false or incomplete or for any other reason the licensee deems sufficient.

(15) Each account shall be administered in accordance with the account holder rules and the terms of agreement provided to account holders, including:

- (i) Placing of wagers.
- (ii) Deposits to accounts.
- (iii) Credits to accounts.
- (iv) Debits to accounts.
- (v) Refunds to accounts.
- (vi) Withdrawals from accounts.
- (vii) Minimum deposit requirements.
- (viii) Fees per wager.
- (ix) Rebates.

(16) Each licensee shall have protocols in place and shall publicize to its account holders when the wagers are excluded from a host racetrack's wagering pool. These protocols shall include an immediate electronic mail message to affected account holders and immediate posting on the licensee's publicly accessible Internet web site.

(17) A licensee shall maintain complete records of the application and the opening of an account for the life of the account plus 2 additional years. A licensee shall also maintain complete records of the closing of an account for 2 years after closing. These records shall be provided to the Commission upon request.

(18) A licensee shall maintain complete records of all transactions, including deposits, credits, debits, refunds, withdrawals, fees, wagers, rebates and earnings for 2 years. These records shall be provided to the Commission upon request.

(19) All wagering conversations, transactions or other wagering communications, verbal or electronic, shall be recorded by means of the appropriate electronic media and the tapes or other records of the communications shall be kept by the licensee for a period of 2 years. These tapes and other records shall be made available to the Commission upon request.

(20) The recording of the confirmation of the transaction, as reflected in the voice or other data recording, shall be deemed to be the actual wager regardless of what was recorded by the totalisator.

(21) A licensee shall not accept wagers if its recording system is not operable.

(22) The Commission may monitor the equipment and staff and review the records of a licensee and any of the transactions conducted by the licensee with regards to wagers made by residents of this Commonwealth.

(23) A licensee may suspend or close any account for violation of the account holder rules and the terms of agreement or any other reason it deems sufficient, if the licensee returns to the account holder all money then on deposit within 7 calendar days.

§ 183.9. Penalties and enforcement.

All of the following apply:

(1) The Commission shall have all of the rights, powers and remedies necessary to carry out this chapter and to ensure compliance with this chapter, including revocation, suspension or modification of a license and the imposition of fines under section 9325 of the act (relating to power of commission to impose fines).

(2) With respect to an individual or entity that offers pari-mutuel wagering to residents of this Commonwealth without a license issued by the Commission, the Commission may take the measures deemed necessary, including referral to the appropriate regulatory and law enforcement authorities for civil action or criminal penalties.

(3) Upon the finding of a violation by a secondary pari-mutuel organization of this chapter or of a Commission regulation or order or upon the finding of unlicensed electronic or advanced deposit account wagering by an individual or entity, the Commission may impose a fine as authorized under section 9325 of the act.

[Next page is 185-1.]