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NEVADA GAMING COMMISSION REGULATORY ADOPTION PRESENTS NEW OPPORTUNITIES FOR WAGER FUNDING

by Gregory R. Gemignani, Taylor Anello, Jennifer J. Gaynor, and Patrick Sullivan

On June 25th, 2020, the Nevada Gaming Commission held a hearing in which it adopted amendments to the Nevada Gaming Regulations to permit the direct or indirect electronic funding of wagering on a game or gaming device.

What does this mean for Nevada gaming operators?

To understand the impact of this change, it helps to look back at the history of Nevada’s regulation in this area. Nevada has long permitted electronic transfers to fund wagering accounts, particularly for use with race and sports wagering, mobile gaming, and interactive gaming. In fact, Nevada’s initial regulations regarding account funding for telephone-based wagering, , date back to 1972. And in 1985, the issue of funding wagering accounts was refined and applied to mobile wagering and interactive wagering (online poker).

Such electronic transfers, however, were for use only with account-based wagering, which is a form of wagering where a patron places wagers against the sums the player has on account with the gaming operator. For example, a patron can establish a sports wagering account with a sports pool operator in Nevada, then place sports wagers with the operator using the account funds.

This means that although funding and collecting winnings via electronic transfer has been permitted for decades, such funding mechanisms have, until now, been associated with wagering accounts that are likely to have few transactions with financial institutions. For example, a sports bettor may add \$10,000 to their sports wagering account via wire transfer from their bank. Once the deposit is made into the wagering account, the bettor will wager, win, and lose money without any interaction with their bank. Only when the player adds more funds to their wagering account, or transfers funds back out of their wagering account, is there any interaction with banks, payment processors, or anyone outside the sports pool business.

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The changes that were adopted by the Commission will now permit Nevada regulators to approve cashless wagering systems that allow the direct and indirect funding of wagers on games and gaming devices. These changes help to open the door for new forms of cashless wagering systems to facilitate funding wagers, which can allow for enhanced compliance, address health and safety concerns, and provide for advanced operating efficiencies.

Of course, as with most things gaming-related, cashless wagering systems are highly regulated and a license is required to make and distribute such systems for use in Nevada. Therefore, although a great opportunity exists for introducing new technologies, new financial services, and new entrants into the market, that opportunity comes with some regulatory overhead.

As discussed by Commission Member Kastaros, these amendments do not relieve any licensee or prospective licensee from complying with the obligations that are already outlined in the Regulations for cashless wagering systems or Technical Standard 3. Chairwoman Morgan echoed Member Kastaros, noting that Nevada’s gaming regulators view this amendment as a “first step” that merely removes a prohibition against direct transfers using debit instruments. Chairwoman Morgan also noted that the Board is open to holding workshops down the line to resolve any issues that may arise and to receive input from industry members, but that this amendment was necessary to open the door for approval of these new technologies.

Therefore, any operators in this space or who are looking to enter this space but see the need for additional regulatory amendments still have opportunity to provide their input to the Nevada Gaming Control Board and Commission. Additionally, as Nevada often leads the way in gaming regulation, the regulations adopted by Nevada are likely to be emulated (in whole or in part) by other jurisdictions. Therefore, the time is now for anyone interested in this new opportunity to become involved with the process.

At Dickinson Wright, our attorneys have been intimately involved in the gaming regulatory process in Nevada. We have represented the interests of dozens of clients before the Board and Commission as they revise and adopt new gaming regulations. Please contact us to learn more.

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