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The _____ MICHIGAN GAMING _____ Newsletter



MICHIGAN GAMING CONTROL BOARD REQUESTS DAILY FANTASY REPORT

At the January 12, 2016 Michigan Gaming Control Board (“MGCB”) public meeting, Chairman Robert Anthony requested that MGCB staff complete a review of the current status of the daily fantasy sports industry. Executive Director Richard Kalm responded to the request by stating that he will work with MGCB staff to assemble a report on the industry and expects to present the findings by the March or May meeting.

Chairman Anthony noted that he is interested in gaining a better insight into the state of the industry, its impact on the state, as well as to the role that the agency has with respect to the emerging industry. Director Kalm stated that he would also include details on the impacts to the Detroit and tribal casinos and the status of legislation to address the industry.

Jurisdictions across the United States continue to consider whether and how the daily fantasy sports industry should be regulated. Public officials in some jurisdictions, such as Nevada, New York, and Texas, have claimed that the operations constitute wagering activity that either must be licensed or is illegal under current state laws. Others, such as Massachusetts and Indiana, have sought to clarify the operations as legal under existing law and institute regulations for consumer protection purposes.

Below is an overview of recent developments in key jurisdictions:

New York

On December 31, 2015 the New York Attorney General filed an amended complaint in the ongoing litigation alleging that Draft Kings and FanDuel are conducting illegal gambling operations. The amended complaint adds

claims seeking to require the operators to pay restitution to players and to pay a \$5,000 civil penalty for each violation of the state's business laws.

On January 11, 2016, Draft Kings and FanDuel were successful in an interlocutory appeal and will be able to maintain operations in the state during the litigation. An answer to the amended complaint has not yet been filed and it is expected that oral arguments will be heard sometime in the spring.

Indiana

On January 2016, two Indiana legislators issued a press release through the Indiana Legislators Republican Caucus inviting FanDuel (a NY-based company) to relocate to Indiana. Legislation was also introduced in both chambers (HB 1168 and SB 339) that would clarify that daily fantasy sports are not considered gambling under existing Indiana law and would create a regulatory division within the Indiana Horse Racing Commission to regulate operations. The legislation has been referred to committee in each respective chamber.

For more information on the legislation, please see the Volume 22, Issue 2 of [The Michigan Gaming Newsletter](#).

Texas

On January 19, 2016, the Texas Attorney General's office released an advisory opinion to the Texas House of Representatives stating that "a court would likely determine that participation in daily fantasy sports leagues is illegal gambling under section 47.02 of the Penal Code." The opinion, however, distinguishes between daily fantasy and season-long contests, finding that season-long contests are also likely illegal but that participants may fit within an exception to the law allowing for private games.

A copy of the opinion is available via the Texas Attorney General's website, [here](#).

Massachusetts

On January 12, 2016, the Massachusetts Attorney General held a public hearing on proposed

regulations to regulate daily fantasy sports under the state's consumer protection laws. Final regulations are expected to be released within the next few months. In addition, the MA Gaming Commission released a white paper on the topic with the goal of providing insight to the legislature and other policy makers on the topic.

For more information on the draft regulations, please see Volume 21, Issue 38 of *The Michigan Gaming Newsletter*, [here](#). A copy of the Massachusetts Gaming Commission white paper is available through the Commission's website, [here](#).

AGA RELEASES REPORT ON CASINO ANTI-MONEY LAUNDERING COMPLIANCE

Yesterday, the American Gaming Association ("AGA") released a report prepared by Ernst & Young evaluating the U.S. casino gaming industry's AML compliance. According to the AGA, the report, [Investing in America's Financial Security: Casinos' Commitment to Anti-Money Laundering Compliance](#), is "the most comprehensive examination ever conducted of the U.S. casino gaming industry's compliance with federal AML laws and regulations."

The report finds that casino gaming companies have significantly boosted their investment and vigilance to combat money laundering and terrorist financing in compliance with the federal Bank Secrecy Act (BSA) and associated AML regulations. It also finds that the industry has implemented a sweeping series of customer due diligence procedures to monitor illicit behavior, and has considerably increased the number of Currency Transaction Reports (CTRs) and Suspicious Activity Reports (SARs) filed with the federal government.

Notably, in December 2014, the industry released the [first-ever Best Practices for AML Compliance](#), which details the various ways in which gaming companies should strengthen their compliance programs and incorporate best practices. An [updated version](#) of the Best Practices was released last month.

“Gaming sets the standard for maintaining a strong culture of compliance through vigilant reporting, unprecedented investment in anti-money laundering compliance programs and a strong partnership with the federal government,” said Geoff Freeman, president and CEO of the AGA. “The casino gaming industry is dedicated to preventing money laundering, and this report proves it.”

This report comes ahead of the upcoming Financial Action Task Force (“FATF”) Mutual Evaluation, which will look at the U.S. systems for preventing criminal abuse of the financial system.

“In an environment where AML compliance is of paramount importance to the gaming industry, stakeholders have made great strides in preventing and detecting illicit behavior,” said Thomas Roche, Partner, Ernst & Young LLP, and the EY Global Gaming Services Leader. “These increased efforts have been acknowledged by regulators and law enforcement agents. Most regulators and officials we spoke with noted that casinos have improved the overall quality of regulatory filings pertaining to AML and continue to aid law enforcement investigation efforts.”

According to the FATF website, it conducts peer reviews of each country member on an ongoing basis to assess levels of implementation of the FATF Recommendations, providing an in-depth description and analysis of each country’s system and the financial sectors within them for preventing criminal abuse of the financial system.

FAFTA was established in July 1989 by a Group of Seven (G-7) Summit in Paris, initially to examine and develop measures to combat money laundering. The objectives of the FATF are to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system. Starting with its own members, the FATF monitors countries’ progress in implementing the FATF Recommendations; reviews money laundering and terrorist financing techniques and counter-measures; and promotes the adoption and implementation of the FATF Recommendations globally.

AGEM LEADERS DISCUSS GOALS, VARIABLE PAYBACK LEGISLATION EFFORTS

On Monday, January 18, 2016, Association of Gaming Equipment Manufacturers (“AGEM”) Executive Director Marcus Prater and President Tom Jingoli discussed their thoughts on the industry and gaming equipment developments on *Global Gaming Business’s Casino Talk* podcast.

“Marcus has done a great job bringing in new officers and molding the organization to keep our core focus, our pillars since our inception, to where we are now. We’re more branched out now. We’re more active in the political space,” stated Mr. Jingoli.

Both Mr. Jingoli and Mr. Prater cited the passage of Nevada Senate Bill 9, AGEM-supported legislation that authorizes skill-based wagering and variable payback activity, as one of the many recent achievements of the organization. “New Jersey was technically first, but Nevada was the first to change the law, then update the regulations, so that the suppliers have, with these regulations and technical standards, the road map we need,” stated Mr. Prater.

AGEM, through a specialized internal committee, plans to work with regulators to show the Nevada regulatory structure as a template for states such as Pennsylvania, Florida, New York, and others that have expressed interest in exploring the topic.

The approach in Nevada involved close communications with Nevada Gaming Control Board Chairman A.G. Burnett and senior staff in developing the draft policies. Mr. Jingoli noted this collaborative approach in introducing Senate Bill 9, which he and Mr. Prater have credited as part of the reasons for success of the legislation.

“This wasn’t just a manufacturer-centric group. We certainly worked with the Nevada Resort Association, we brought the operators in, so everybody was aware of what was going on....We didn’t want a bill to go in front of somebody in Carson City and say ‘what are these manufacturers trying to do, where are the operators at with this?’ So we packaged everything together so that when

it got in front of them, they could see it was a collaborative effort and not just the manufacturers.”

The legislation is aimed at allowing the industry to adapt to new challenges presented by a consumer base that is immersed in interactive content on phones, tablets, and consoles. Manufacturers, operators, and others have expressed excitement for the new types of games that may be developed under a skill-based or variable payback concept and the potential to transform the casino floor.

In addition to its legislative efforts, the group also discussed AGEM’s ongoing evaluation of online gaming developments and related federal legislation, its expanded relationship with *Global Gaming Business*, and upcoming industry events.

A recording of the interview is available on the *Global Gaming Business* magazine website, [here](#).