

CALIFORNIA HORSE RACING BOARD
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EXCHANGE WAGERING AD HOC COMMITTEE MEETING

of the California Horse Racing Board will be held on Wednesday, August 22, 2012, commencing at 10:00 a.m., at the Del Mar Surfside Race Place, (Downstairs General Admission Area) 2260 Jimmy Durante Blvd., Del Mar, California. Non-committee Board members attending the committee meeting may not participate in the public discussion, official committee vote or committee closed session.

AGENDA

1. Discussion and action by the committee regarding the proposed addition of Article 27, Exchange Wagering and the following proposed CHRB Rules governing exchange wagering in California: CHRB Rule 2086, Definitions; 2086.1, Authorization for Exchange Wagering; 2086.5, Application for License to Operate Exchange Wagering; 2086.6, Operating Plan Required; 2086.7, Exchange Wagering Data; 2086.8, Monitoring Systems and Notification; 2087, Suspending Markets; 2087.5, Antepost Market; 2087.6, Cancellation of Matched Wagers; 2088, Declared Entries; 2088.5, Cancellation of Unmatched Wagers; 2089, Error in Payments of Exchange Wagers; 2089.5, Requirements to Establishing Exchange Wagering Account; 2090, Posting Credits for Winnings from Exchange Wagers; 2090.6, Withdrawals by Account Holder 2091.5, Suspending an Exchange Wagering Account; 2091.6, Powers of the Board to Review and Audit Records; 2092, Exchange Wagers Placed After the Start of a Race; 2092.5, Prohibitions on Wagers to Lay a Horse to Lose; 2092.6, Suspension of Occupational License and Rule 2093, Certain Practices Related to Exchange Wagering.
2. **Public Comment:** The committee affords an opportunity to members of the public to address the committee on items of interest that are within the committee's jurisdiction.

Additional information regarding this meeting may be obtained from Jacqueline Wagner at the CHRB Administrative Office, 1010 Hurley Way, Suite 300, Sacramento, CA 95825; telephone (916) 263-6000; fax (916) 263-6042. A copy of this agenda can be located on the CHRB website at www.chrb.ca.gov. *Information for requesting disability related accommodation for persons with a disability who require aids or services in order to participate in this public meeting, should contact Jacqueline Wagner.

EXCHANGE WAGERING AD HOC COMMITTEE

Commissioner David Israel
Commissioner Richard Rosenberg
Kirk E. Breed, Executive Director

STAFF ANALYSIS

DISCUSSION AND ACTION BY THE COMMITTEE REGARDING THE PROPOSED ADDITION OF ARTICLE 27, EXCHANGE WAGERING AND THE FOLLOWING PROPOSED CHRB RULES GOVERNING EXCHANGE WAGERING IN CALIFORNIA: CHRB RULE 2086, DEFINITIONS; 2086.1, AUTHORIZATION FOR EXCHANGE WAGERING; 2086.5, APPLICATION FOR LICENSE TO OPERATE EXCHANGE WAGERING; 2086.6, OPERATING PLAN REQUIRED; 2086.7, EXCHANGE WAGERING DATA; 2086.8, MONITORING SYSTEMS AND NOTIFICATION; 2087, SUSPENDING MARKETS; 2087.5, ANTEPOST MARKET; 2087.6, CANCELLATION OF MATCHED WAGERS; 2088, DECLARED ENTRIES; 2088.6, CANCELLATION OF UNMATCHED WAGERS; 2089, ERROR IN PAYMENTS OF EXCHANGE WAGERS; 2089.5, REQUIREMENTS TO ESTABLISHING EXCHANGE WAGERING ACCOUNT; 2090, POSTING CREDITS FOR WINNINGS FROM EXCHANGE WAGERS; 2090.6, WITHDRAWALS BY ACCOUNT HOLDER; 2091.5, SUSPENDING AN EXCHANGE WAGERING ACCOUNT; 2091.6, POWERS OF THE BOARD TO REVIEW AND AUDIT RECORDS; 2092, DISTRIBUTION OF EXCHANGE REVENUES; 2092, EXCHANGE WAGERS PLACED AFTER THE START OF A RACE; 2092.5, PROHIBITIONS ON WAGERS TO LAY A HORSE TO LOSE; 2092.6, SUSPENSION OF OCCUPATIONAL LICENSE AND RULE 2093, CERTAIN PRACTICES RELATED TO EXCHANGE WAGERING.

Exchange Wagering Ad-Hoc Committee Meeting
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BACKGROUND

Senate Bill (SB) 1072, Chapter 283, Statutes of 2010, added Business and Professions Code section 19604.5 to provide that the Board has full power to prescribe rules, regulations and conditions under which exchange wagering may be conducted in California. Exchange wagering is a relatively new form of wagering which was introduced in the United Kingdom in 2000. Exchange wagering uses a "stock market model" to operate sports wagering. Exchange wagering account holders may buy and sell, or "back" and "lay" the outcome of horse races in a manner much like day trading on a stock exchange. Business and Professions Code section 19604.5(a)(7) defines exchange wagering as a form of pari-mutuel wagering in which two or more persons place identically opposing wagers in a given market.

Business and Professions Code section 19604.5(e)(2) provides that prior to the Board promulgating rules, regulations and conditions under which exchange wagering may be conducted in California, it shall consider studies or comments submitted by interested parties on the impact of exchange wagering on pari-mutuel wagering and the economics of the California horse racing industry. On August 2, 2011 the Board published a notice of intent to promulgate exchange wagering rules. The notice solicited written comments and studies concerning the impact of exchange wagering, and advised that all written materials would be used to develop rules and regulations that are in the best interest of the public and the California horse racing industry. The 45-day public notice period closed on September 26, 2011. Substantive comments were received from TVG-Betfair (TVG); Christensen Capital Advisors LLC; Global Betting

Exchange; Los Angeles Turf Club/Pacific Racing Association (LATC/PRA); Churchill Downs Incorporated; Thoroughbred Owners of California (TOC); California Thoroughbred Horsemen's Foundation; and CHRIMS, Inc. Several individuals also wrote to express opinions regarding exchange wagering. TVG, Christensen Capital Advisors LLC, Global Betting Exchange, and CHRIMS, Inc. offered positive comments and suggested exchange wagering regulations. LATC/PRA, Churchill Downs Incorporated and TOC questioned whether exchange wagering would benefit California horse racing. All comments were taken into consideration and used in drafting the proposed exchange wagering regulations that constitute the proposed addition of Article 27, Exchange Wagering.

On February 9, 2012 the Exchange Wagering Ad Hoc Committee (Ad Hoc committee) met at Santa Anita Park Race Track. The Ad Hoc committee heard testimony regarding exchange wagering from advance deposit wagering providers, racing associations, horsemen's organizations and betting exchange providers, as well as comments from CHRIMS, the Jockey's Guild and Horseplayer's Association of North America. The Ad Hoc committee also heard and discussed a presentation from the CHRB enforcement and audit staff regarding enforcement plans for monitoring exchange wagering in California. Following discussion by all concerned parties the Ad Hoc committee took no action, as an agreement between the parties had not been reached. Following the Ad Hoc committee meeting changes were made to certain proposed regulations in response to comments.

At the March 22, 2012 Regular Board Meeting staff was instructed to initiate a 45-day public comment period regarding the addition of Article 27, Exchange Wagering. During the public comment period written comments were received from a wide variety of interested industry parties.

At the June 28, 2012 hearing for adoption of Article 27, Exchange Wagering, the Board determined that it would hold an Ad Hoc committee meeting to review written comments received during the 45-day public comment period and to authorize modifications to proposed regulations where the Ad Hoc committee felt changes were appropriate. The Board directed staff to organize the comments so that only those relating directly to the text of proposed regulations were provided, and to modify the text of the regulations where it believed comments should be accepted.

ANALYSIS

Article 27, Exchange Wagering, is comprised of 25 proposed regulations governing the conduct of exchange wagering in California. During the 45-day public comment period comments were received on 22 of the 25 proposed regulations. After reviewing comments submitted during the 45-day public comment period, modifications were made to 13 of the proposed regulations. The proposed modifications are:

Rule 2086.6, Operating Plan Required, requires that an exchange wagering applicant submit an operating plan detailing its proposed method of operation as an exchange with any application for a new or renewal license. The proposed modification to Rule 2086.6 would change subsections:

- 2086.6(a)(2) to require the exchange provider to provide evidence that the account holders funds are held in a separate FDIC insured bank account and shall not be used for any purpose other than those required by account holders exchange wagering transactions. The addition of the phrase will emphasize that the account holders funds are separate from those of the exchange provider and may not be used for any purpose other than an account holders exchange wagering activities.
- 2086.6(h), which requires the exchange operator to provide its requirements for exchange wagering accounts established and operated for persons whose principal residence is *outside the state*. The proposed modification states: “which accounts may be utilized for wagers on California races only, and cannot be utilized to wager on non-California races.” This is in keeping with Business and Professions Code section 19604.5(b) which states that exchange wagering by residents of jurisdictions outside of California on the results of races conducted in California shall be lawful under specified conditions.

Rule 2086.8, Monitoring Systems and Notification, provides that the exchange provider will furnish full access to its monitoring system and that the provider shall immediately notify the Board of any wagering anomalies and agreed upon thresholds. The rule also requires the provider to establish and distribute criteria for anti-money laundering procedures and thresholds, and establish and distribute criteria for monitoring telephone records of account holders.

- The modification to subsection 2086.8(a)(3) deletes the word “occur” and is for purposes of grammar.

Rule 2087.5, Antepost Market, states that antepost markets are authorized and describes what constitutes an antepost market. The proposed modifications to Rule 2087.5 are:

- Subsection 2087.5(a) to state that antepost market wagers are wagers “placed in advance of the closing of entries.” This clarifies when antepost wagers are placed.
- The addition of subsection 2087.5(b), which states antepost wagers shall close for wagering at the close of entries.

Rule 2087.6, Cancellation of Matched Wagers, sets the conditions under which a matched wager may be cancelled or voided by an exchange provider, and requires the exchange provider to notify the Board of such cancellation, as specified. The proposed modification of Rule 2087.6 will:

- Add a requirement that the exchange provider must notify the Board in writing if it voids or cancels a matched wager due to technological failure. This is in addition to the requirement that the exchange provider notify the Board in writing if it voids or cancels matched wagers if the person who placed the wager has breached the terms of his agreement, or if the action is in the interest of the integrity or fairness of the market.

Rule 2088, Declared Entries, requires the exchange provider to void matched wagers on declared entries, except in an antepost market. The proposed modifications are:

- Change title of regulation to: “Non-Starters and Declared or Scratched Entries”. This is in response to a comment that stated it would be a more descriptive title.
- Add “non-starters” and “scratched” entries to subsection 2088(a).
- Add subsection 2088(b) to provide: 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/may not be reduced proportionally by the exchange provider in accordance with the terms set forth in its operating plan to reflect the increased probability that those outcomes will become winning outcomes.

This will allow the exchange provider to include a “reduction factor principal” in its operating plan.

Rule 2088.6, Cancellation of Unmatched Wagers, allows cancellation at any time of an unmatched wager by the exchange provider.

- Modify regulation to include account holder as a party who may cancel an unmatched wager.
- Modify regulation to remove “by the provider” in reference to matching wagers. The California Thoroughbred Trainers stated this sounded like the exchange provider was using its funds to match the wager.

Rule 2089, Errors in Payments of Exchange Wagers, sets the procedures for the exchange provider to remedy errors in payment of exchange wagers.

- Modify subparagraphs 2089(a)(1), (a)(2) and (a)(3) to allow more time for account holders to submit claims or request in writing that the Board determine the validity of the claim. A claim must be submitted in 90 calendar days versus 30; a claim not submitted within 90 calendar days shall be deemed waived; and if a claim is rejected the claimant has 45 calendar days to appeal to the Board versus 15 calendar days. The Los Angeles Turf Club commented the original periods of time were not sufficient.

Rule 2089.5, Requirements to Establish an Exchange Wagering Account, states what is necessary for a natural person to establish an exchange wagering account. The regulation also requires the exchange provider to comply with Internal Revenue Service reporting requirements, and requires the recording and retention of specified transactions and conversations.

- Modify subsection 2089.5(a) to state accounts of residents of another jurisdiction shall be used for wagering on California races only. This is in keeping with Business and Professions Code section 19604.5(b), which states exchange wagering by residents of

jurisdictions outside of California on the results of horse races conducted in California shall be lawful, as specified.

- Update subsection 2089.5(a) to provide that only natural persons may open an exchange wagering account. This is in keeping with Business and Professions Code section 19604.5(c).

Rule 2090, Posting Credits for Winnings from Exchange Wagers, provides the requirements for the posting of credits for winnings from matched wagers.

- Update subsection 2090(b) to add “antepost” to clarify that the subsection is referring to antepost wagers.

Rule 2091.5, Suspending an Exchange Wagering Account, states the circumstances under which an account may be suspended and requirements for notifying the Board when an account is suspended.

- Add new subsection 2091.5 to provide that funds in a suspended account shall be maintained by the exchange provider until such time as any investigation associated with the suspension is complete and/or the account is no longer suspended.

Rule 2092, Exchange Wagers Placed After the Start of a Race, provides the requirements for placing exchange wagers after a race has begun, including required approvals for such wagering to take place. The rule also states wagering after the conclusion of a race, or on a previously run race, is prohibited.

- Modify subsection 2092(a) to include racing association and horsemen’s organization. This clarifies that the racing association and horsemen’s organization must authorize the exchange provider to accept wagers placed on a market after the start of a live race. This is in keeping with Business and Professions Code section 19604.5(k)

Rule 2092.5, Prohibitions on Wagers to Lay a Horse to Lose, prohibits certain classes of licensees from placing wagers to lay a horse to lose, prohibits others from making such wagers on behalf of such licensees, and provides that only the owner of an account may use his account to place such a wager.

- Modify subsection 2092.5(a) to add substitute trainer, and the veterinarian or any assistant to the veterinarian providing services to the trainer who trains the horse.
- Modify subsection 2092.5(b) to clarify that the entire subsection 2092.5(a) is referenced.
- Modify regulation to add subsection 2092.5(d) and 2092.5(e) to clarify that Board Rule 1970, Wagering on Competing Horses, and Rule 1969, Wagering Prohibited, apply to exchange wagering.

If the modifications to the proposed texts are accepted by the Ad-Hoc committee, the proposed addition of Article 27 will need to be noticed for an additional public comment period. The public comments will be limited to the proposed modified texts.

RECOMMENDATION

This item is presented for Ad-Hoc committee discussion and action.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 27. EXCHANGE WAGERING
PROPOSED ADDITION OF
RULE 2086.6. OPERATING PLAN REQUIRED

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2086.6. Operating Plan Required.

As part of the exchange wagering license application, and any renewal application, the applicant shall submit a detailed operating plan in a format and containing such information as required by the Board. At a minimum, the operating plan shall address the following:

(a) A detailed report of the daily operation of the exchange.

(b) Management of customer accounts including deposits, withdrawals, debits and credits. This shall include:

(1) A policy to prevent commingling of funds; and

(2) Evidence of an established account with an Federal Deposit Insurance Corporation (FDIC) insured bank in which all funds of the account holders will be deposited. This shall include evidence that account holder's funds are segregated and held in a separate FDIC insured bank account of the exchange provider, and that the funds shall not be used for any purpose other than those required by the account holder's exchange wagering transactions.

(c) Technology and hardware and software systems information, which shall include a data security policy, as well as a policy for the notification of the Board and account holders of any unauthorized access that may compromise account holders' personal information.

(d) Financial information that demonstrates the financial resources to operate an exchange and a detailed budget that shows anticipated revenue, expenditures and cash flows by month projected for the term of the license.

(e) Document retention policies including those related to account holder personal information and wagering information.

(f) A customer complaint and conflict resolution process.

(g) Programs for responsible wagering.

(h) The requirements for exchange wagering accounts established and operated for persons whose principal residence is outside of the state, which accounts may be utilized for wagers on California races only, and cannot be utilized to wager on non-California races.

(i) The operating plan submitted pursuant to this regulation, and any subsequent updates or changes to such operating plan, shall be exempt from disclosure pursuant to Government Code section 6254(k) and non-disclosable to the public.

Authority: Sections 19420, 19440, 19590 and 19604.5,
Business and Professions Code.

Reference: Sections 19593 and 19604.5(e)(4),
Business and Professions Code.
Section 6254(k),
Government Code.

CALIFORNIA HORSE RACING BOARD
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 ARTICLE 27. EXCHANGE WAGERING
 PROPOSED ADDITION OF
RULE 2086.8. MONITORING SYSTEMS AND NOTIFICATION

Exchange Wagering Ad-Hoc Committee Meeting
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2086.8. Monitoring Systems and Notification.

(a) Pursuant to an agreement between the exchange provider and the Board, or its designee, the exchange provider shall:

(1) Furnish the Board and its designee full access to the provider's real-time monitoring system that displays all wagers made over a set amount approved by the Board in the operating plan, including online documentation and training;

(2) Provide immediate notification by email to the Board and its designee of any unusual wagering patterns;

(3) Provide immediate notification by email to the Board and its designee of when certain predetermined and agreed upon events occur as set out in the operating plan ~~occur~~;

(4) Establish and distribute criteria for anti money laundering procedures which include risk based systems for customer due diligence.

(5) Establish and distribute criteria for monitoring telephone records of account holders.

Authority: Sections 19420, 19440, 19590 and 19604.5,
Business and Professions Code.

Reference: Sections 19593 and 19604.5,
Business and Professions Code.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 27. EXCHANGE WAGERING
PROPOSED ADDITION OF
RULE 2087.5. ANTEPOST MARKET

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2087.5. Antepost Market.

(a) Antepost market wagers are authorized and are wagers placed in advance of the closing of entries where one single wager is made on an outcome that includes both:

(1) that the selected horse will run the race; and

(2) that the selected horse will finish the race in the selected position of win, place, or

show.

(b) Antepost markets close for wagering at the close of entries.

Authority: Sections 19420, 19440, 19590 and 19604.5,
Business and Professions Code.

Reference: Sections 19593 and 19604.5,
Business and Professions Code.

CALIFORNIA HORSE RACING BOARD
 TITLE 4. CALIFORNIA CODE OF REGULATIONS
 ARTICLE 27. EXCHANGE WAGERING
 PROPOSED ADDITION OF
RULE 2087.6. CANCELLATION OF MATCHED WAGERS

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2087.6. Cancellation of Matched Wagers.

(a) An exchange provider may cancel or void a matched wager if required by law or where, in its sole discretion, it determines:

(1) there is a technological failure and the market must be voided; or

(2) there is good cause to suspect that a person placing a wager through the exchange has breached any term of the person's agreement with the exchange provider;

(3) it is in the interest of maintaining integrity and fairness in a particular market; or

(4) human error by the exchange wagering provider in recording an exchange wager.

(b) If a matched wager is canceled or voided due to situations described in subparagraphs (a)(1), (a)(2) and (a)(3) of this regulation, the exchange provider shall notify the Board in writing of its actions and the circumstances that resulted in such action.

(c) An account holder who believes a payout was inappropriately disrupted due to the cancellation of a matched wager may submit a claim to the exchange provider in accordance with Rule 2089 of this article.

Authority: Sections 19420, 19440, 19590 and 19604.5, Business and Professions Code.

Reference: Sections 19593 and 19604.5(k), Business and Professions Code.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 27. EXCHANGE WAGERING
PROPOSED ADDITION OF
RULE 2088. NON-STARTERS AND DECLARED OR SCRATCHED ENTRIES

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2088. Non-Starters and Declared or Scratched Entries.

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

(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/may not be reduced proportionally by the exchange provider in accordance with the terms set forth in its operating plan to reflect the increased probability that those outcomes will become winning outcomes.

Authority: Sections 19420, 19440, 19590 and 19604.5,
Business and Professions Code.

Reference: Sections 19593 and 19604.5(k),
Business and Professions Code.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 27. EXCHANGE WAGERING
PROPOSED ADDITION OF
RULE 2088.6. CANCELLATION OF UNMATCHED WAGERS

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2088.6. Cancellation of Unmatched Wagers.

An unmatched wager may be cancelled by the exchange provider at any time before it is matched by the provider to form one or more identically opposing wagers.

The exchange provider or the account holder who offered the unmatched wager may at any time cancel an unmatched wager before it is matched to form one or more identically opposing wagers.

Authority: Sections 19420, 19440, 19590 and 19604.5,
Business and Professions Code.

Reference: Sections 19593 and 19604.5(j),
Business and Professions Code.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 27. EXCHANGE WAGERING
PROPOSED ADDITION OF
RULE 2089. ERRORS IN PAYMENTS OF EXCHANGE WAGERS

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2089. Errors in Payments of Exchange Wagers.

If an error occurs in the payment of amounts for exchange wagers, the following shall apply:

(a) In the event the error results in an over-payment to the individuals wagering, the exchange provider shall be responsible for such payment.

(b) In the event the error results in an under-payment:

(1) An account holder must submit a claim for the underpayment within ~~30~~ 90 calendar days inclusive of the date on which the alleged underpayment occurred. The exchange provider shall investigate such claims and shall pay each claim, or a part thereof, which it determines to be valid, and shall notify the claimant in writing if his claim is rejected as invalid.

(2) Any claim not filed with the exchange provider within ~~30~~ 90 calendar days inclusive of the date on which the alleged under-payment occurred shall be deemed waived and the exchange provider shall have no further liability therefore.

(3) Any person whose claim is rejected by the exchange provider may, within ~~15~~ 45 calendar days from the date he received the notice of rejection, request in writing that the Board determine the validity of the claim. Failure to file such request with the Board within the said time shall constitute a waiver of the claim.

(4) A hearing shall be held on each such rejected claim timely filed with the Board. The Board shall give notice of such hearing to the claimant and the exchange provider. The Board may determine a claim to be valid, in whole or in part, and thereafter order the exchange provider to pay to the claimant the amount of the claim determined to be valid, or may deny the claim I whole or in part. Any such determination shall be final and binding on all parties.

Authority: Sections 19420, 19440, 19590 and 19604.5,
Business and Professions Code.

Reference: Sections 19593 and 19604.5,
Business and Professions Code.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 27. EXCHANGE WAGERING
PROPOSED ADDITION OF
RULE 2089.5. REQUIREMENTS TO ESTABLISH AN EXCHANGE WAGERING
ACCOUNT

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2089.5. Requirements to Establish an Exchange Wagering Account.

(a) An exchange wagering account is necessary to place exchange wagers. Exchange wagering accounts may be established by residents of California. Residents of another jurisdiction may establish exchange wagering accounts provided it is not unlawful under United States federal law or the law of that jurisdiction to place an exchange wager and such accounts are used for wagering on California races only. An account may be established in person, by mail, telephone, or other electronic media including but not limited to the Internet. Only natural persons may open an account. An account shall not be assignable or otherwise transferable.

(b) The information required to establish an account shall include:

(1) The prospective account holder's full legal name.

(2) The principal residence address of the prospective account holder. Such address shall be deemed the address of record for mailing checks, withdrawals, statements, if any, of the account, notices, or other correspondence or materials. It is the responsibility of the account holder to notify the exchange provider of any address change.

(3) Telephone number.

(4) Social Security Number or Individual Tax Identification Number.

(5) Certification or other proof that the applicant is at least 18 years of age.

(c) An exchange provider shall employ electronic verification with respect to each prospective account holder's name, principal residence address, date of birth and social security number at the time of the account establishment by a Board-approved national, independent, individual reference company or another independent technology approved by the Board which meets or exceeds the reliability, security, accuracy, privacy and timeliness provided by individual reference service companies.

(d) An exchange provider may refuse to establish an account, or may cancel or suspend a previously established account, without notice, if it is found that any information supplied by the prospective account holder is untrue or incomplete.

(1) If the exchange provider cancels a previously established account, within five business days it shall return to the account holder at the address of record any funds held in the account.

(e) If an exchange provider or an affiliate of such provider is also licensed by the Board to conduct advance deposit wagering, the exchange provider may offer holders of existing advance deposit wagering accounts held with such exchange provider or such affiliate a convenient method of establishing an exchange wagering account by verifying information on file for the existing advance deposit wagering account.

(f) The exchange provider shall have the right to suspend or close any account at its discretion.

(g) The account applicant shall supply the exchange provider with a means of personal identification to be used by the account holder to access his account. Exchange wagering accounts are for the use only of the account holder and the account holder is responsible to

maintain the secrecy of the account number and means of personal identification. The account holder must immediately notify the exchange provider of any breach of security for the account.

(h) Each account shall have a unique identifying account number. The exchange provider shall inform the account holder of the assigned account number and provide a copy of the exchange provider's exchange wagering procedures, terms, and conditions, as well as any information that pertains to the operation of the account.

(i) Each exchange provider shall, at all times, comply with Internal Revenue Service (IRS) requirements for reporting and withholding proceeds from exchange wagers by account holders and shall, following the credit to an account for a winning exchange wager, send to any account holder who is subject to IRS reporting or withholding a Form W2-G summarizing the information for tax purposes. Upon written request by an account holder, the exchange provider shall provide the account holder with summarized tax information on exchange wagering activities.

(j) All wagering conversations, transactions or other wagering communications through the exchange wagering system, verbal or electronic, shall be recorded by means of electronic media, and the tapes or other records of such communications shall be kept by the entity for at least 180 days, unless otherwise directed by the Board. These tapes and other records shall be made available to the Board upon request or order by the Executive Director.

(k) Upon request of the account holder the exchange provider shall provide a statement detailing account activity for the immediate 30 days prior to the request. Unless the exchange provider receives written notice disputing the statement within 14 calendar days of the date a statement is forwarded, it shall be deemed to be correct.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 27. EXCHANGE WAGERING
PROPOSED ADDITION OF
RULE 2090. POSTING CREDITS FOR WINNINGS FROM EXCHANGE WAGERS

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2090. Posting Credits for Winnings from Exchange Wagers.

(a) Credit for winnings from matched wagers placed with funds in an account shall be posted to the account by the exchange provider after the race is declared official.

(b) Notwithstanding Rule 1955 of this division, where the outcome of a matched antepost wager can be determined with certainty by the exchange provider prior to the time that the race is declared official, the exchange provider may settle such matched antepost wager as soon as that outcome is determined with certainty.

Authority: Sections 19420, 19440, 19590 and 19604.5,
Business and Professions Code.

Reference: Sections 19593 and 19604.5,
Business and Professions Code.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 27. EXCHANGE WAGERING
PROPOSED ADDITION OF
RULE 2091.5. SUSPENDING AN EXCHANGE WAGERING ACCOUNT

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2091.5. Suspending an Exchange Wagering Account.

(a) An exchange provider may suspend any exchange wagering account if the provider has reason to believe that the account holder may have committed acts of fraud in connection with exchange wagering or any other action or inaction which threatens the integrity or fairness of any exchange wagering, or is otherwise ineligible to hold the account.

(b) The exchange provider shall immediately notify the Board by electronic mail if it suspends an account due to fraud in connection with exchange wagering or any other action or inaction which threatens the integrity or fairness of any exchange wagering. The provider shall also submit to the Board a written account of the suspension that at minimum states:

- (1) The name of the person whose account was suspended;
- (2) The date and time of the suspension;
- (3) The reason for suspending the account;
- (4) The results of any investigation associated with the suspension of the account.

(c) Funds in a suspended account shall be maintained by the exchange provider until such time as any investigation associated with the suspension is complete and/or the account is no longer suspended.

Authority: Sections 19420, 19440, 19590 and 19604.5,
Business and Professions Code.

Reference: Sections 19593 and 19604.5,
Business and Professions Code.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 27. EXCHANGE WAGERING
PROPOSED ADDITION OF
RULE 2092. EXCHANGE WAGERS PLACED AFTER THE START OF A RACE

Exchange Wagering Ad-Hoc Committee Meeting
August 22, 2012

2092. Exchange Wagers Placed After the Start of a Race.

(a) As reflected in the exchange provider's operating plan, and as approved authorized by the racing association and horsemen's organization, and as approved by the Board, an exchange provider may accept wagers placed on a market after the start of a live race but before the results of that race have been declared official.

(b) No exchange wagers shall be placed on a market after the conclusion of a live race.

(c) Exchange wagering on previously run races is prohibited.

Authority: Sections 19420, 19440, 19590 and 19604.5,
Business and Professions Code.

Reference: Sections 19593 and 19604.5(k),
Business and Professions Code.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 27. EXCHANGE WAGERING
PROPOSED ADDITION OF
RULE 2092.5. PROHIBITIONS ON WAGERS TO LAY A HORSE TO LOSE

2092.5. Prohibitions on Wagers to Lay a Horse to Lose.

(a) No exchange wager that lays a horse to lose may be made by a person who owns such horse in whole or in part, nor shall an exchange wager to lay the horse to lose be made by:

- (1) The trainer, or assistant trainer or substitute trainer who trains the horse;
- (2) The authorized agent who represents the owner of the horse;
- (3) The jockey or driver who rides or drives the horse;
- (4) The jockey agent who represents the jockey who rides the horse;
- (5) The valet who attends the jockey; or
- (6) Any stable employee of the trainer who trains the horse;
- (7) The veterinarian or any assistant to the veterinarian providing services to the trainer who trains the horse.

(b) Nor shall any of the persons named in subsection (a) through (a)(7) of this regulation instruct another person to lay a horse to lose on their behalf, or receive the whole or any part of any proceeds of such a lay.

(c) No exchange wagering account shall be used to lay a horse to lose, except by the account holder. All wagers that lay a horse to lose will be presumed to be effected by, and for the benefit of, the account holder.

(d) Nothing herein is intended to otherwise alter the applicability or application of Rule 1970.

(e) Individuals prohibited from wagering under Rule 1969 Shall be prohibited from placing an exchange wager while on duty at a race meeting or off-track wagering facility, including an out-of-state-Hub.

Authority: Sections 19420, 19440, 19590 and 19604.5,
Business and Professions Code.

Reference: Sections 19593 and 19604.5(e)(3)(A),
Business and Professions Code.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 27. EXCHANGE WAGERING
PROPOSED ADDITION OF
RULE 2092.6. SUSPENSION OF OCCUPATIONAL LICENSE

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2092.6. Suspension of Occupational License.

(a) The Board of Stewards may suspend the license of any person if, after a hearing, it determines there is probable cause to believe that such person may have has committed acts of fraud in connection with exchange wagering or any other action or inaction which threatens the integrity or fairness of any exchange wagering.

(b) Such suspension of license shall be for a period of time designated by the Board of Stewards, unless otherwise determined by the Board.

(c) The licensee may make an appeal to the Board by complying with the provisions of Rule 1761 of this division.

Authority: Sections 19420, 19440, 19460, 19461, 19590 and 19604.5,
Business and Professions Code.

Reference: Sections 19461, 19593 and 19604.5,
Business and Professions Code.

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Carlo Fisco Representing the California Thoroughbred Trainers	<p>2086. Definitions.</p> <p>As used in this article:</p> <p>(a) "Back" means to wager on a selected outcome occurring in a given market.</p> <p>(b) "Confidential information" means the following:</p> <p>(1) the amount of money credited to, debited from, or present in any particular account holder's exchange wagering account;</p> <p>(2) the amount of money wagered by a particular account holder on any races or series of races;</p> <p>(3) the exchange wagering account number and personal identification number of an account holder;</p> <p>(4) the identities of particular entries on which the account holder is wagering or has wagered; and</p> <p>(5) unless otherwise authorized by the account holder, the name, address, and all other information in possession of the exchange provider that would identify the account holder to anyone other than the Board or the exchange provider.</p> <p>(c) "Credits" means all positive inflow of money to an exchange wagering account.</p> <p>(d) "Debits" means all negative outflow of money from an exchange wagering account related to a wager placed from such account.</p> <p>(e) "Declared Entry" means a horse withdrawn from a race in which its entry has been accepted.</p> <p>(f) "Deposit" means a credit of money to an exchange wagering account from an account holder.</p> <p>(g) "Exchange" means a system operated by an exchange provider in which the provider maintains one or more markets in which account holders may back or lay a selected outcome.</p>	No new text provided.	This latest version no longer includes the definition "Corrective Wager" which was included in the prior two versions. "Corrective wager" is a device allowing the exchange provider to make the bets in order to balance unmatched bets. Although the definition of "Corrective Wager" is no longer included in the proposal regulations, there is nothing in the financial interaction with the betting systems. We have been told on previous occasions that Betfair, for example, does not make the market on races? Will it have market makers at the ready? None of these issues are addressed in the regulations despite the removal of the "Corrective Wagers" definition. Moreover, the definition of the "Corrective Wager" is in the exchange Wagering Law (B&P 19604.5). Why it no longer is in the regulations is not clear.	<p><u>No Change Recommended.</u></p> <p>The original proposal to add Article 27, Exchange Wagering, included a regulation that allowed the exchange provider to correct matched wager errors under specified circumstances. However, industry objections resulted in the withdrawal of the proposed regulation. Objections included the possibility of the exchange provider acting as a "market maker". Without the proposed regulation California exchange providers can only cancel such wagers made in error.</p> <p>Business and Professions Code section 19604.5(a)(3) does define "Corrective Wagers". However, it is not necessary to include the definition in the Board's regulations if it does not allow such actions by regulation. Business and Professions Code section 19604.5 (k) states the Board may prescribe rules governing when an exchange wagering licensee may place corrective wagers under circumstances approved in the rules adopted by the Board.</p>

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	<p>(h) "Exchange wagering" means a form of pari-mutuel wagering in which two or more persons place identically opposing wagers in a given market, as provided under Business and Professions Code section 19604.5.</p> <p>(i) "Exchange wagering account," "account" means the account established with an exchange provider by a natural person participating in exchange wagering. An account may only be established or maintained with an exchange provider by a natural person.</p> <p>(j) "Exchange wagering license applicant," "applicant" means any entity including, but not limited to, corporations, partnerships, limited liability companies, limited partnerships, or individuals that file an application with the Board to conduct exchange wagering.</p> <p>(k) "Exchange wagering license application" means the application form CHRB 229 (New 5/12), Application for License to Operate Exchange Wagering.</p> <p>(l) "Exchange wagering licensee," "exchange provider" means a person located within or outside of California that is authorized to offer exchange wagering to residents of California pursuant to Business and Professions Code section 19604.5 and this article.</p> <p>(m) "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.</p> <p>(n) "Lay" means to wager on a selected outcome not occurring in a given market.</p> <p>(o) "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 an exchange provider.</p> <p>(p) "Matched wager" means the wager that is formed when two or more persons are confirmed by the exchange provider as having placed identically opposing wagers in a given market on the exchange.</p> <p>(q) "Means of personal identification" means the unique number, code, or other secure technology designated by an</p>			

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	<p>exchange wagering account holder to assure that only that account holder has access to his account.</p> <p>(r) "Natural person" means a living, breathing human being, as opposed to a legal entity.</p> <p>(s) "Net winnings" means the aggregate amounts payable to a person 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.</p> <p>(t) "Operating plan" means the plan submitted to the Board by an exchange provider detailing the proposed method of operation of the exchange.</p> <p>(u) "Other electronic media" means any electronic communication device or combination of devices including, but not limited to, personal computers, the Internet, private networks, interactive television and wireless communication technologies, or other technologies approved by the Board.</p> <p>(v) "Person" means any individual, partnership, corporation, limited liability company, or other association or organization.</p> <p>(w) "Pool" means the total of all matched wagers in a given market.</p> <p>(x) "Price" means the odds for a given exchange wager.</p> <p>(y) "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.</p> <p>(z) "Withdrawal" means a payment from an exchange wagering account by the exchange provider to the account holder.</p>			
<p>Corbet, Steelman, & Spector</p> <p>On behalf of the Los Angeles Turf Club and the Pacific</p>	<p>2086. Definitions.</p> <p>(g) "Exchange" means a system operated by an exchange provider in which the provider maintains one or more markets in which account holders may back or lay a selected outcome."</p>	<p>(g) "Exchange" means a system operated by an exchange provider in which the provider maintains one or more markets in which account holders may back or lay a selected outcome. <u>An</u> exchange is one manner, but not the</p>	<p>The current definition unnecessarily restricts "Exchange" to an Internet only "activity. While the definition of "Exchange" does appear in the Exchange Wagering Statute, nowhere does the statute say that exchange</p>	<p><u>No change recommended.</u> This definition is taken directly from the statute.</p> <p>There is nothing in Article 27 that restricts exchange wagering to the</p>

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Racing Association.		<u>only manner, in which exchange wagering can be conducted."</u>	wagering must be conducted through an "Exchange".	Internet. Exchange wagering accounts may be established in person, account holders may make deposits in person, and the application for license to operate exchange wagering asks for the location where account holders may place exchange wagers in person.
Corbet, Steelman, & Spector On behalf of the Los Angeles Turf Club and the Pacific Racing Association	2086. Definitions. (i) "Exchange Wagering Account" "account" mean the account established with an exchange provider by a natural person participating in exchange wagering. An account may only be established or maintained with an exchange provider by a natural person."	(i) "Exchange wagering account," "account" means the account established with an exchange provider by a natural person participating in exchange wagering. An account may only be established or maintained with an exchange provider by a natural person. <u>With respect to exchange wagers placed with a licensed racing association at a racetrack, the only requirements for an exchange wagering account are that the person opening the account be at least 18 years of age, and a resident of California at the time when the wager is placed. None of the other account requirements set forth in these Rules shall be applicable to such wagers.</u>	The current definition unnecessarily restricts "Exchange Wagering" to an Internet only activity.	<u>No change recommended.</u> This definition is taken directly from the statute (19604.5(a)(18)), which is the governing statute for exchange wagering. There is nothing in Article 27 that restricts exchange wagering to the Internet. Exchange wagering accounts may be established in person, account holders may make deposits in person, and the application for license to operate exchange wagering asks for the location where account holders may place exchange wagers in person. It is not clear why exchange wagering accounts for such wagers placed at a live racetrack should be exempt from any of the account requirements contained in Article 27.
Corbet, Steelman, & Spector On behalf of the Los Angeles Turf Club and the Pacific Racing Association	2086. Definitions. (w) "Pool" Means the total of all matched wagers in a given market."	(w) "Pool" means the total of all matched wagers in a given market, <u>less the amounts retained pursuant to these Regulations and the Horse Racing Law. The term "pool" or "wagering pool" as used if these Rules shall be interpreted in a manner consistent with the interpretation of the term "pool" or "wagering pool" under the Interstate Horseracing Act.</u>	The rules regarding the use of "Pools" in exchange wagering must be greatly explained to make clear exactly what a "pool" is. Given the fact that the Exchange Wagering statute requires exchange wagers to be "placed with, or in, a wagering pool" in order to be valid, the proposed regulations will be ineffective if they don't make clear what constitutes a "pool". The present definition contained in the proposed regulations is inadequate, raising more	<u>No change recommended.</u> This definition is taken directly from the statute Business and Professions Code section 19604.5(a)(18), which is the governing statute for exchange wagering.. The Interstate Horseracing Act does not explicitly define "pool" or "wagering pool".

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			questions than it answers. Because the Exchange Wagering Statute expressly states that exchange must be conducted pursuant to and in compliance with the Interstate Horseracing Act, it is logical to incorporate the IHA's meaning of the term "pool" into the Rules.	
Couto & Associates Representing Global Betting Exchange	2086. Definitions. No comparable subsections in existing text.	<u>2086 (a) "Antepost wager," also known as a " future wager," means an exchange wager placed in advance of the closing of "entries" that requires both the selected horse to start and the outcome of its performance to occur in the exact manner selected, otherwise the wager is deemed to be a losing wager.</u> <u>2086 (c) "Best execution " means the process by which two wagers not identically opposed are matched by the exchange provider where the back price offered is less than the lay price offered. The price at which such bets are matched will be determined by the terms and conditions included in the provider's Operating Plan and published on the exchange provider's website, as approved by the Board.</u>	No rationale provided.	For Rule 2086(a) <u>Modify Rule 2087.5, Antepost Market,</u> to incorporate provision that an antepost wager is an exchange wager placed in advance of the closing of entries. For the proposed 2086(c) <u>No change recommended.</u> The proposed definition of "Best execution" is confusing and could be read to imply the exchange provider could become a "market maker". Under the statute exchange wagers cannot be matched unless they are identically opposing.
Couto & Associates Representing Global Betting Exchange	2086. Definitions. (b) "Confidential information" means the following: (4) the identities of particular entries on which the account holder is wagering or has wagered; and	(b) "Confidential information" means the following: (4) the identities of the particular <u>selected outcomes</u> entries on which the account holder is wagering or has wagered; and	No rationale provided.	<u>No change recommended.</u> The definition as written already precludes any disclosure of individuals and wagers on particular horses ("entries"). The substitution of "selected outcomes" for "entries" adds little additional protection.
Couto & Associates	2086. Definitions.	(eq) "Market" means, in relation to a given horse race or a given set of horse	No rationale provided.	<u>No change recommended.</u> The definition is taken from the statute

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Representing Global Betting Exchange	(o) "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 an exchange provider.	racas, a particular outcome that is subject to exchange wagering as determined by an exchange provider, and as agreed to by the parties pursuant to Business and Professions Code section 19604.5(b)(2).		19804.5(a)(13).. Business and Professions Code section 19604.5(b)(2) refers to the exchange wagering agreement as defined in subsection 19604.59(a)(9).
Couto & Associates Representing Global Betting Exchange	2086. Definitions. (p) "Matched wager" means the wager that is formed when two or more persons are confirmed by the exchange provider as having placed identically opposing wagers in a given market on the exchange.	(pr) "Matched wager" means the wager that is formed when two or more persons are confirmed by the exchange provider as having placed identically opposing wagers or which are formed through best execution in a given market on the exchange. The amount of a "matched wager" is equal to the backer's stake.	No rational provided.	No change recommended. The definition is taken from the statute 19604.5(a)(14). The addition of the phrases "...which are formed through best execution..." or "The amount of a "matched wager" is equal to the backer's stake." do not add clarity.
Couto & Associates Representing Global Betting Exchange	2086. Definitions. (s) "Net winnings" means the aggregate amounts payable to a person 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.	(su) "Net winnings" means the aggregate amounts payable to a person as a result of that person's winning matched wagers in a market pool less the aggregate amount paid by that person as a result of that person's losing matched wagers in that pool.	No rational provided.	No change recommended. This definition is taken from the statute 19604.5(a)(15). A "pool" is the total of all matched wagers in a given market. While a "market" is a particular outcome subject to exchange wagering. An account holder may have multiple wagers in any given pool.
Corbet, Steelman, & Spector On behalf of the Los Angeles Turf Club and the Pacific Racing Association	2086.1. Authorization for Exchange Wagering. (b) Despite subsection (a) of this regulation, a licensee may conduct exchange wagering on any horse race conducted outside of California where the licensee does not offer exchange wagering to residents of California on that race.	No new text provided.	This rule purports to allow an online exchange wagering operator licensed by California to accept wagers from non-California residents on non-California races creating a regulatory burden on the State of California with no benefit to the State of California, its citizens or its horse racing industry.	
Couto & Associates Representing Global Betting Exchange	No current proposed text. Rule 2086.2 is a proposal to add a rule to Article 27, Exchange Wagering.	<u>2086.2(a) Prior to an applicant accepting or otherwise facilitating any exchange wager, an Exchange Wagering Agreement executed by the applicant,</u>	No rational provided.	No change recommended. This proposal would direct what shall be contained in an agreement. However,

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		<p><u>the applicable licensed racing association or racing fair, and the horsemen's organization responsible for negotiating purse agreements for the breed on which exchange wagers are accepted must be filed with the Board.</u></p> <p><u>(b) Such exchange wagering agreements shall, at a minimum, include provisions setting forth the:</u></p> <p><u>(1) Precise markets and types of exchange wagers to be facilitated.</u></p> <p><u>(2) Economic terms under which exchange wagers may be taken or facilitated.</u></p> <p><u>(3) Calculation of any and all amounts earned and payable to the applicable racing association or racing fair and horsemen's organization.</u></p> <p><u>(4) Audit rights and conditions.</u></p> <p><u>(5) Allocation of data formatting and processing expenses.</u></p> <p><u>(6) Conditions controlling account data access and usage.</u></p> <p><u>(7) Duration</u></p> <p><u>(8) Contractual remedies.</u></p>		<p>such agreements are between the parties, and the Board's rules do not dictate what must be in a horsemen's agreement. However, Board Rule 2045, Prohibited Provisions of Horsemen's Agreements, states what shall <u>NOT</u> be in a horsemen's agreement.</p> <p>Business and Professions Code sections 19604.5(b)(4) through (b)(7) require track agreements and horsemen's approval before an exchange provider can conduct exchange wagering. The contents of the agreements are negotiated between the parties.</p> <p>Item #8 of the exchange wagering application for license, Form CHRB-229 (New 5/12) Application for License to Operate Exchange Wagering, requires proof of a track agreement and horsemen's approval.</p>
Carlo Fisco Representing the California Thoroughbred Trainers	<p>2086.5. Application for License to Operate Exchange Wagering.</p> <p>(b) An applicant must complete CHRB form 229 (New 05/12) Application for License to Operate Exchange Wagering, hereby incorporated by reference, which shall be available at the Board's headquarters office. The application must be filed not later than 90 days in advance of the scheduled start of operation. A certified check in the amount of \$1,400,000 payable to the California Horse Racing Board, or an amount to be determined by the Board to fulfill Business and Professions Code section 19604.5(e)(6), a detailed operating plan as described under Rule 2086.6, Operating Plan Required, and proof of the</p>	No new text provided.	Reference is made in subsection (b) to CHRB Form 229 (New 02/12). In other parts of the regulations and informative digest, this Form is cited with an effective date of (New 04/12) or (New 05/12). Whatever is the accurate date, it must be consistent throughout the packet.	<u>Modify regulations per comment</u> so dates are consistent. The correct date should be "5/12".

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	applicant's compliance with labor provisions of Business and Professions Code section 19604.5(f), must accompany the application.			
Couto & Associates Representing Global Betting Exchange	2086.5. Application for License to Operate Exchange Wagering. (b) An applicant must complete CHRB form 229 (New 05/12) Application for License to Operate Exchange Wagering, hereby incorporated by reference, which shall be available at the Board's headquarters office. The application must be filed not later than 90 days in advance of the scheduled start of operation. A certified check in the amount of \$1,400,000 payable to the California Horse Racing Board, or an amount to be determined by the Board to fulfill Business and Professions Code section 19604.5(e)(6), a detailed operating plan as described under Rule 2086.6, Operating Plan Required, and proof of the applicant's compliance with labor provisions of Business and Professions Code section 19604.5(f), must accompany the application.	(b) An applicant must complete CHRB form 229 (new 05/12) Application for License to Operate Exchange Wagering, hereby incorporated by reference, which shall be available at the Board's headquarters office. The application must be filed not later than 90 days in advance of the scheduled start of operation. A certified check in the amount of \$1,400,00 payable to the California Horse Racing Board, or an amount to be determined by the Board <u>A bond from a surety company admitted in the state of California or other form of financial security in the amount of \$ 500,000, or such other amount as is reasonably determined by the Board to fulfill Business and Professions Code section 19604.5(e)(6), must accompany the application,</u> a detailed operating plan required, and proof of the applicant's compliance with the labor provisions of Business and Professions Code section 19604.5(f), must accompany the applications.	No rationale provided.	<u>No change recommended.</u> A surety bond is a promise to pay an amount if a second party fails to meet an obligation. The purpose of the certified check required under Rule 2086.5 is to recover the costs to the Board for licensing and regulating exchange wagering (See Business and Professions Code section 19604.5(e)(6)). Regardless of the amount set for the license fee, a certified check is preferable to a surety bond or other form of financial security. The Board needs to access the funds and a certified check provides liquidity.
Corbet, Steelman, & Spector On behalf of the Los Angeles Turf Club and the Pacific Racing Association	2086.5. Application for License to Operate Exchange Wagering. (b) An applicant must complete CHRB form 229 (New 05/12) Application for License to Operate Exchange Wagering, hereby incorporated by reference, which shall be available at the Board's headquarters office. The application must be filed not later than 90 days in advance of the scheduled start of operation. A certified check in the amount of \$1,400,000 payable to the California Horse	(b) An applicant must complete CHRB form 229 (New 05/12) Application for License to Operate Exchange Wagering, hereby incorporated by reference, which shall be available at the Board's headquarters office. The application must be filed not later than 90 days in advance of the scheduled start of operation. A certified check in the amount of \$1,400,000 payable to the	The application fee of \$1,400,000 set forth in Rule 2086.5(b) may be appropriate for an online exchange wagering operator. However, it is clearly excessive in the case where a licensed racing association accepts exchange wagers through its windows at a racetrack facility. Accordingly, the application fee provision must be modified.	<u>No change recommended.</u> Regardless of where exchange wagering accounts are opened, or where an exchange wager is placed, the Board is still required by statute to license and regulate exchange wagering. Rule 2086.5 provides that the Board may modify the license fee. A racing association that intends to offer

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	Racing Board, or an amount to be determined by the Board to fulfill Business and Professions Code section 19604.5(e)(6), a detailed operating plan as described under Rule 2086.6, Operating Plan Required, and proof of the applicant's compliance with labor provisions of Business and Professions Code section 19604.5(f), must accompany the application.	California Horse Racing Board, or an amount to be determined by the Board to fulfill Business and Professions Code section 19604.5(e)(6), a detailed operating plan as described under Rule 2086.6, Operating Plan Required, and proof of the applicant's compliance with labor provisions of Business and Professions Code section 19604.5(f), must accompany the application. <u>In the case where a licensed racing association intends to accept exchange wagers through its windows at a race track facility, the application fee shall be waived in recognition of the fact.</u>		exchange wagering through its windows may request such a modification at the time its application for license to operate exchange wagering is heard.
Carlo Fisco Representing the California Thoroughbred Trainers	2086.6. Operating Plan. (i) The operating plan submitted pursuant to this regulation, and any subsequent updates or changes to such operating plan, shall be exempt from disclosure pursuant to Government Code section 6254(k) and non-disclosable to the public.	No new text provided.	Subsection (i) attempts to make the operating plan non-disclosable pursuant to Government Code section 6254. It is not clear how the exemption in Section 6254 applies to these records. No privilege is stated. The only privilege which seems remotely applicable is the "Trade Secrets" privilege and if so, the trade secrets would only apply to a small portion of the operating plan. Trade secrets should remain confidential. As for the remainder of the operating plan, there is no exemption from disclosure set forth in the Exchange Wagering Law. It is not clear how subsection (i) is harmonious with the Exchange Wagering Law. The trade secrets can be protected while making the remainder of the operating plan, including the critical budgetary estimates and wagering information, disclosable.	<u>No change recommended.</u> The operating plan is official information that the Board is requiring. The Board wants the applicant's operating plan, which will contain how the applicant will achieve its objective of offering exchange wagering to the public. A candid assessment has to be confidential.
Couto & Associates	2086.6. Operating Plan.	<u>(b)(2) Evidence of two established accounts with a Federal Deposit</u>	No rationale provided.	<u>Modify regulation</u> to specify that the segregated funds held in a separate

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Representing Global Betting Exchange	(b)(2) Evidence of an established account with a Federal Deposit Insurance Corporation (FDIC) insured bank in which all funds of the account holders will be deposited. This shall include evidence that account holder's funds are segregated and held in a separate FDIC insured bank account of the exchange provider.	<u>Insurance Corporation (FDIC) insured bank. In one account shall be deposited all funds of the account holders. In the other account shall be deposited all funds representing distributions required to be made to distributees pursuant to the Horse Racing Law. Evidence provided must confirm that funds in both accounts are to be held in trust by the exchange provider, and shall not be used for any purpose other than for payment to those account holders and/or distributees.</u>		<p>FDIC insured bank account of the exchange provider shall not be used for any purpose other than those required by the account holder's exchange wagering activities.</p> <p>Rule 2086.6 requires evidence of an established account with an FDIC insured bank in which account holder funds will be deposited. This includes evidence that account holders' funds are segregated and held in a separate account of the exchange provider.</p> <p>Regarding distributions pursuant to Horse Racing Law: Business and Professions Code section 19604.5(g) states: "<i>Notwithstanding any other law, rule, or regulation, an exchange wagering licensee shall not be required to...retain, withhold, or take out any amounts from any exchange wagers, except as expressly set forth in the applicable exchange wagering agreement.</i>"</p> <p>The Board's regulations do not currently require any funds to be held in trust.</p>
Couto & Associates Representing Global Betting Exchange	2086.6. Operating Plan. (i) The operating plan submitted pursuant to this regulation, and any subsequent updates or changes to such operating plan, shall be exempt from disclosure pursuant to Government Code section 6254(k) and non-disclosable to the public.	(i) The operating plan submitted pursuant to this regulation, and any subsequent updates or changes to such operating plan, shall be exempt from disclosure pursuant to Government Code section 6254(k) and non-disclosable to the public.	No rationale provided.	<u>No change recommended.</u> The operating plan is official information that the Board is requiring. The Board wants the applicant's operating plan, which will contain how the applicant will achieve its objective of offering exchange wagering to the public. A candid assessment has to be confidential.
Corbet, Steelman, & Spector	2086.6. Operating Plan.	(h) The requirements for exchange wagering accounts established and	Business and Professions Code section 19604.5(b) only permits exchange	<u>Modify text as a clarifying addition.</u>

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On behalf of the Los Angeles Turf Club and the Pacific Racing Association	(h) The requirements for exchange wagering accounts established and operated for persons whose principal residence is outside of the state.	operated for persons whose principal residence is outside of the state, <u>which accounts may be utilized for wagers on California races only, and cannot be utilized to wager on non-California races.</u>	wagering between residents of California and residents of another jurisdiction on races conducted in California. If the race is being conducted outside of California, wagering is only permitted between residents of California.	This is in keeping with Business and Professions Code section 19604.5(b)
Carlo Fisco Representing the California Thoroughbred Trainers	2086.7. Exchange Wagering Data. (a)(1) A daily reconciliation of the amounts settled by the exchange provider and its account holders, including but not limited to: (I) Percentage or flat fee rebated to each account holder.	No new text provided.	Subsection (a)(1)(I) speaks of "percentage or flat fee rebated to each account holder." It is not clear what is meant by "rebate." There is no other mention of the word or definition of "rebate" in either the Exchange Wagering Law or the proposed regulations. Is this the settled amount returned to a winning wager or is it some promotional inducement for wagering at certain levels? It is not clear since it only appears in this single isolated instance.	No change recommended. Rebates as percentages or flat fees paid to account holders are a business decision of the exchange operator. Exchange wagering operators may offer a rebates to account holders based on the amount they wager (percentage) or as a flat fees. The rebates could be settled amounts or an inducement to wager at certain levels. Business and Professions Code section 19604.5 does not prohibit rebates. The Board currently allows racing associations, advance deposit wagering providers, and satellites to offer rebates. In 2009 the Board repealed Rule 1950.1, Rebates on Wagers, to allow the industry to offer rebates.
Couto & Associates Representing Global Betting Exchange	2086.7. Exchange Wagering Data. (C) Winning, losing and net wagers;	(C) <u>Winning, losing, matched,</u> and net wagers;	No rational provided.	No change recommended. Including matched wagers does not add anything to the regulation. Exchange wagering requires that two or more persons must place identically opposing wagers in a given market for the wager to occur. A winning or a losing wager is the result of a matched wager. The total number of matched wagers would equal the net wagers.
Corbet, Steelman, &	2086.7. Exchange Wagering Data.	(D) Wagers by type before race; by	Added for Clarification.	No change recommended.

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Spector On behalf of the Los Angeles Turf Club and the Pacific Racing Association	(D) Wagers by type before race; by winning, losing, and net wagers, odds, amounts, backer, layer; (E) Wagers by type during race; by winning, losing and net wagers, odds, amounts, backer, layer; (H) Percentage or flat fee paid to source of event; (I) Percentage or flat fee rebated to each account holder	winning, losing, and net wagers, odds, amounts, backer, layer, <u>if applicable</u> ; (E) Wagers by type during race; by winning, losing and net wagers, odds, amounts, backer, layer, <u>if applicable</u> ;" (H) Percentage or flat fee <u>if permitted by law</u> paid to source of event; (I) Percentage or flat fee rebated to each account holder, <u>if permitted by law</u> .		It is not evident how the phrase "if applicable" will provide clarity to subsections (D) and (E). Business and Professions Code section 19604.5 does not prohibit rebates. The Board currently allows racing associations, advance deposit wagering providers, and satellites to offer rebates. In 2009 the Board repealed Rule 1950.1, Rebates on Wagers, to allow the industry to offer rebates.
Carlo Fisco Representing the California Thoroughbred Trainers	2086.8. Monitoring Systems and Notification. (a) Pursuant to an agreement between the exchange provider and the Board, or its designee, the exchange provider shall: (3) Provide immediate notification by email to the Board and its designee of when certain predetermined and agreed upon events occur as set out in the operating plan occur;	No new text provided.	Delete "occur" at the end of the sentence.	<u>Modify regulation for clarity.</u>
Carlo Fisco Representing the California Thoroughbred Trainers	2087. Suspending Markets. (c) Upon the completion of an investigation, the exchange provider shall settle the market as appropriate.	No new text provided.	Subsection (c) allows the exchange provider to settle the market " <i>upon the completion of an investigation</i> " related to fraud, etc. Since it is conceivable that a suspicious transaction would involve only a small fraction of the entire wagering pool, it is not clear why the payoffs for the remainder of the market would have to be delayed. Language to the effect, " <i>...or at the any appropriate time before completion of the investigation...</i> " following the opening clause would seem more in keeping with the practical reality of such situations. In this way, those account holders who had nothing to do with the suspicious wagers would not be unduly prejudiced by the delay in conducting an	<u>No change recommended.</u> Market suspension occurs when the suspected fraud is believed to be so widespread that it may have impacted the entire market, not just certain individuals in the market. The outcome from market suspension is that all the wagers are voided and refunded. Partial settlement of a suspended market implies that the exchange provider is able to identify the good wagers from the bad wagers before the investigation has concluded, which is unlikely in the event the fraud looks so widespread that the market is suspended in the first place.

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			investigation into the race.	
Couto & Associates Representing Global Betting Exchange	2087.5. Antepost Market. (a) Antepost market wagers are authorized and are wagers where one single wager is made on an outcome that includes both: (1) that the selected horse will run the race; and (2) that the selected horse will finish the race in the selected position of win, place, or show.	(a)Antepost or futures market wagers are authorized and are wagers where one single wager is made on an outcome that includes both: (1) that the selected horse will run the race; and, (2) that the selected horse will finish the race in the selected position of win, place, or show. <u>(b) if either of the conditions set forth above in subsection (a) do not occur the wager is deemed to be a losing wager.</u>	No rational provided.	<u>No change recommended.</u> The RCI has a Future Wager Pool. Calling Antepost wager a futures market may confuse patrons. The proposed subsection (b) is self evident.
Carlo Fisco Representing the California Thoroughbred Trainers	2087.5. Antepost Market. (a) Antepost market wagers are authorized and are wagers where one single wager is made on an outcome that includes both: (1) that the selected horse will run the race; and (2) that the selected horse will finish the race in the selected position of win, place, or show.	No new text provided.	Antepost wagers include a betting element related to whether the horse will even race. There is nothing in the Exchange Wagering Law which either defines or allows antepost wagers. There is nothing in the regulations which defines how these wagers will be kept separate from the regular exchange wagers. There is nothing to say when these pools open or close. How do antepost wagers deal with, for example, a horse which is declared a non-starter? Despite all this missing and necessary information, 2087.5 is the only proposed regulation which speaks of the antepost market. Finally and separately, there is tremendous potential for mischief if scratching a horse can mean winning a bet. This proposed rule needs further clarity and consistency.	<u>Modify regulation</u> to state that antepost wagering shall close at the time entries are closed. This is consistent with the modification to subparagraph (a). Closing entries occurs prior to drawing the card. Business and Professions Code section 19604.5 does not explicitly address antepost markets. However, 19604.5(b)(3) states that exchange wagering shall be conducted pursuant to rules and regulations promulgated by the Board. Business and Professions Code section 19604.5(e)(1) provides that the Board shall have full power to prescribe rules, regulations, and conditions under which exchange wagering may be conducted in California. Clearly, the Board may promulgate a regulation governing antepost wagers. An antepost wager is a "regular" exchange wager. A horse that fails to start for any reason will result in a losing

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				wager for the person who wagered the horse would start. <u>Antepost wagers close for wagering at the time entries are drawn for a card.</u> That limits anyone taking advantage of information about a horse that arises after entries are drawn. These types of wagers are currently run out of Las Vegas and traditional pari-mutuel pool for the Kentucky Derby.
Carlo Fisco Representing the California Thoroughbred Trainers	<p>2087.6. Cancellation of Matched Wagers.</p> <p>(a) An exchange provider may cancel or void a matched wager if required by law or where, in its sole discretion, it determines:</p> <p>(1) there is a technological failure and the market must be voided; or</p> <p>(2) there is good cause to suspect that a person placing a wager through the exchange has breached any term of the person's agreement with the exchange provider;</p> <p>(3) it is in the interest of maintaining integrity and fairness in a particular market; or</p> <p>(4) human error by the exchange wagering provider in recording an exchange wager.</p> <p>(b) If a matched wager is canceled or voided due to situations described in subparagraphs (a)(2) and (a)(3) of this regulation, the exchange provider shall notify the Board in writing of its actions and the circumstances that resulted in such action.</p> <p>(c) An account holder who believes a payout was inappropriately disrupted due to the cancellation of a matched wager may submit a claim to the exchange provider in accordance with Rule 2089 of this article.</p>	No new text provided.	<p>Subsection (b) sets forth the two instances where the exchange provider would have to notify the CHRB of an instance where a matched wager was cancelled. Subsection (b) purposely does not include the other two instances in which the provider can cancel a matched wager, namely, technological failure and human error. Nevertheless, it is clear why these should, under all circumstances, notify the CHRB to explain the cancellation of a matched wager. It is not clear why this would not be routinely done. Is an unreported cancellation beyond the scope of an audit or the reporting requirements of 2087.6?</p> <p>The language of subsection (c) is unclear and inconsistent with the title of this rule. Instead of saying "... who believes a payout was inappropriately disrupted..." It should read "... who believes a matched wager was appropriately canceled..." since that is the title of this regulation. Furthermore, "disruption" is not provided for and inconsistent with 2086.7, which does, on the other hand, seek all information concerning "cancellations." [2087.6(a)(1)(F).]</p>	<p><u>Modify regulation to include technical errors.</u></p> <p>Subsection 2087.6(b) currently does not require the exchange wagering provider to notify the Board if an exchange wager is cancelled due to a technical or human error. Staff agrees that technical errors should be reported. Current practice with regards to human error in pari-mutuel wagering is that such errors are not reported to the Board unless the customer raises an issue.</p>

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Couto & Associates Representing Global Betting Exchange	2088. Declared Entries. Except for in an antepost market, matched wagers on declared entries shall be voided by the exchange provider.	(a) Except for an antepost market, matched wagers on non-starters, declared, or scratched entries shall be voided by the exchange provider. (b) <u>In the event of a non-starter, declared or scratched entry, the price of all other matched wagers existing at the time that the declared or scratched entry occurred, or the non-starter declared, may/may not be reduced proportionally by the exchange provider in accord with the terms set forth in its Operating Plan to reflect the increased probability that those outcomes will become winning outcomes.</u>	No Rational Provided.	<u>Modify regulation per comment.</u> The proposal would allow an exchange wagering operator to include a "reduction factor" principle in its operating plan. The disclosure of this information is already required under the rules as written (Rule 2086.6 Operating Plan) and the Board currently has authority to approve its implementation. The proposed change would make this fact explicit in the rule.
Carlo Fisco Representing the California Thoroughbred Trainers	2088.6: Cancellation of Unmatched Wagers. An unmatched wager may be cancelled by the exchange provider at any time before it is matched by the provider to form one or more identically opposing wagers.	No proposed text	The language is misleading in that it seems to state that a wager is matched "by the provider." The rule should do away with "by the provider" which makes it sound as if the provider is matching the bet with its money.	<u>Modify regulation</u> to remove "matched by the provider and replace with "matched".
Couto & Associates Representing Global Betting Exchange	2088.6. Cancellation of Unmatched Wagers. An unmatched wager may be cancelled by the exchange provider at any time before it is matched by the provider to form one or more identically opposing wagers.	<u>An unmatched wager may be cancelled at any time before it is matched by:</u> (a) <u>the exchange provider, or,</u> (b) <u>by the account holder who offered the unmatched wager.</u>	None	<u>Modify regulation</u> to add subsection 2088.6(a) and (b).
Carlo Fisco Representing the California Thoroughbred Trainers	2089. Errors in Payments of Exchange Wagers. If an error occurs in the payment of amounts for exchange wagers, the following shall apply:	No proposed text.	This proposed regulation does not contemplate those instances in which only the exchange provider becomes aware of an underpayment. It places the burden of knowing about and filing a	<u>No change recommended.</u> Before a wager is matched the exchange provider tells the customer up front how much his account will be credited or

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	<p>(b) In the event the error results in an under-payment:</p> <p>(1) An account holder must submit a claim for the underpayment within 30 calendar days inclusive of the date on which the alleged underpayment occurred. The exchange provider shall investigate such claims and shall pay each claim, or a part thereof, which it determines to be valid, and shall notify the claimant in writing if his claim is rejected as invalid.</p> <p>(2) Any claim not filed with the exchange provider within 30 calendar days inclusive of the date on which the alleged under-payment occurred shall be deemed waived and the exchange provider shall have no further liability therefore.</p> <p>(3) Any person whose claim is rejected by the exchange provider may, within 15 calendar days from the date he received the notice of rejection, request in writing that the Board determine the validity of the claim. Failure to file such request with the Board within the said time shall constitute a waiver of the claim.</p>		<p>claim on an underpayment squarely and entirely in the account holder. Because it is entirely possible that the provider would be the first and only party to know of an underpayment, language should be included that the exchange provider must notify the CHRB anytime there is an underpayment. This would be consistent with the Exchange Wagering Law which mandates integrity of the system and protection of the public.</p>	<p>debited if the wager is matched. The odds are fixed by the account holder.</p> <p>The customer is aware of the amount to be received if the wager is successful or not.</p>
<p>Couto & Associates Representing Global Betting Exchange</p>	<p>2089. Errors in Payments of Exchange Wagers.</p> <p>(a) In the event the error results in an over-payment to the individuals wagering, the exchange provider shall be responsible for such payment.</p>	<p>(a) In the event the error results in an over-payment to the individuals wagering, the exchange provider shall be responsible for such payment. In the event an error results in the overpayment of funds to an account holder or holders wagering on the exchange, the exchange provider may prohibit the withdrawal of funds equal to the overpayment. Upon discovery of the error, the exchange provider shall immediately notify both the CHRB and account holder of the overpayment. Upon the submission of proof of such overpayment to the CHRB and affected account holder, the exchange provider shall be entitled to recover from such account holder the amount of the overpayment. Any account holder disputing the overpayment must request in writing within 7 calendar days of notification</p>	<p>No rationale provided.</p>	<p><u>No change recommended.</u></p> <p>This proposal puts the burden for disputing overpayments on the account holder. Current practice under Board Rule 1962, Payment for Errors, is that the association is responsible for overpayments.</p>

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		<u>that the Board determine the validity of the overpayment. Failure to file such request with the CHRB within such time shall constitute a waiver of the claim.</u>		
Corbet, Steelman, & Spector On behalf of the Los Angeles Turf Club and the Pacific Racing Association	2089. Errors in Payments of Exchange Wagers. If an error occurs in the payment of amounts for exchange wagers, the following shall apply: (b) In the event the error results in an under-payment: (1) An account holder must submit a claim for the underpayment within 30 calendar days inclusive of the date on which the alleged underpayment occurred. The exchange provider shall investigate such claims and shall pay each claim, or a part thereof, which it determines to be valid, and shall notify the claimant in writing if his claim is rejected as invalid. (2) Any claim not filed with the exchange provider within 30 calendar days inclusive of the date on which the alleged under-payment occurred shall be deemed waived and the exchange provider shall have no further liability therefore. (3) Any person whose claim is rejected by the exchange provider may, within 15 calendar days from the date he received the notice of rejection, request in writing that the Board determine the validity of the claim. Failure to file such request with the Board within the said time shall constitute a waiver of the claim.	If an error occurs in the payment of amounts for exchange wagers, the following shall apply: (b) In the event the error results in an under-payment: (1) An account holder must submit a claim for the underpayment within 30 <u>90</u> calendar days inclusive of the date on which the alleged underpayment occurred. (2) Any claim not filed with the exchange provider within 30 <u>90</u> days inclusive of the date on which the alleged under-payment occurred shall be deemed waived and the exchange provider shall have no further liability therefore. (3) Any person whose claim is rejected by the exchange provider may, within 15 <u>45</u> calendar days from the date he received the notice of rejection, request in writing that the Board determine the validity of the claim. Failure to file such request with the Board determines the validity of the claim..."	The time frames set forth in Rule 2089 are not sufficient to protect the public and must be extended.	<u>Modify regulation per comment.</u> Although original time frames are consistent with current Board regulations, increasing them will provide more protection for exchange wagering account holders.
Carlo Fisco Representing the California Thoroughbred Trainers	2089.5. Requirements to Establish an Exchange Wagering Account. (d) An exchange provider may refuse to establish an account, or may cancel or suspend a previously established account, without notice, if it is found that any information supplied by the prospective account holder is untrue or incomplete.	No proposed text.	This language has been changed slightly, namely, (d)(1). However, the regulation gives total discretion to the exchange provider to close accounts. Does not say what happens to the money in an account or what redress an account holder may have. Nor does it establish that the Board retains ultimate review.	<u>No change recommended.</u> Subsection 2089.5(d)(1) requires any money in a previously established account to be returned to the account holder within five business days. This rule is consistent with advance

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	(1) If the exchange provider cancels a previously established account, within five business days it shall return to the account holder at the address of record any funds held in the account.		While the Exchange Wagering Law does contain specific references to cancelled wagers, it says nothing about <i>cancelling accounts</i> .	deposit wagering Rule 2073, Operation of an Advance Deposit Wagering Account for all Entities, which allows the provider to close or suspend an account in the same manner as the proposed Rule 2089.5. Business and Professions Code section 19604.5(b)(3) states that exchange wagering shall be conducted pursuant to rules and regulations promulgated by the Board. Business and Professions Code section 19604.5(e)(1) provides that the Board shall have full power to prescribe rules, regulations, and conditions under which exchange wagering may be conducted in California. The Board has the ability to allow exchange wagering provider to close or suspend an account.
Couto & Associates Representing Global Betting Exchange	2089.5. Requirements to Establish an Exchange Wagering Account. (b) The information required to establish an account shall include: (1) The prospective account holder's full legal name. (2) The principal residence address of the prospective account holder. Such address shall be deemed the address of record for mailing checks, withdrawals, statements, if any, of the account, notices, or other correspondence or materials. It is the responsibility of the account holder to notify the exchange provider of any address change. (3) Telephone number. (4) Social Security Number or Individual Tax Identification Number. (5) Certification or other proof that the applicant is at least 18 years of age.	(b) The information required to establish an account shall include: (1) The prospective account holder's full legal name. (2) The principal residence address of the prospective account holder. Such address shall be deemed the address of record for mailing checks, withdrawals, statements, if any, of the account, notices, or other correspondence or materials. It is the responsibility of the account holder to notify the exchange provider of any address change. (3) Telephone number. (4) Social Security Number or Individual Tax Identification Number. (5) Certification or other proof that the applicant is at least 18 years of age. (6) <u>An affirmative representation that the applicant is not an agent for or otherwise acting on behalf of a third-</u>		<u>No Change recommended.</u> The proposed modification to Rule 2089.5 would greatly complicate the process to establish an exchange wagering account. Placing a lay wager is essential to exchange wagering. A matched wager requires a lay wager. It makes no sense to require prospective account holders to predetermine if they will make such wagers. If the Board were to adopt the proposed modifications every applicant would be required to fulfill them.

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		<p>party.</p> <p><u>(7) As a requirement to place lay wagers, the applicant must also provide the following information and written representations, executed under penalty of perjury:</u></p> <p><u>(A) The name(s) of any relative of the application licensed by the board.</u></p> <p><u>(C) That the applicant:</u></p> <p><u>(i) Has accurately and truthfully provided all information and will not take steps to conceal the applicant's true identity by using pseudonyms, false addresses, or by employing technical means to conceal one's identity, location, or effort to wager on behalf of a third-party.</u></p> <p><u>(ii) Shall not conspire or cooperate with any other individual(s) to ensure the success of an exchange wager to lay a horse.</u></p> <p><u>(iii) Shall not place an exchange wager to lay an entrant in a horse race where the applicant has obtained information directly or indirectly from that entrant's owner's authorized agent, trainer, jockey, jockey's agent, driver or stable employee, or any agent, representative, or relative thereof.</u></p> <p><u>(iv) Shall maintain a separate integrity account with the exchange provider utilizing funds separate and apart from those utilized for wagering purposes in an amount sufficient to ensure compliance with such representations and warranties, should the account holder's wager volume exceed \$2,500 of risk.</u></p> <p><u>(v) Has not been convicted of race fixing, bookmaking, or any crime</u></p>		

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		<p><u>involving gambling or moral turpitude in any jurisdiction, foreign or domestic.</u></p> <p><u>(c) Every exchange wagering provider shall obtain from those applicants seeking to engage in exchange wagering the written representations and warranties required under subsection (b) prior to the applicant being permitted to place any exchange wagers, and shall be required to maintain such documents as business records at all times, providing to the Board or its authorized agents true and accurate copies of any such documents and/or access to the original documents upon demand.</u></p>		
<p>Corbet, Steelman, & Spector</p> <p>On behalf of the Los Angeles Turf Club and the Pacific Racing Association</p>	<p>2089.5. Requirements to Establish an Exchange Wagering Account.</p> <p>(a) An exchange wagering account is necessary to place exchange wagers. Exchange wagering accounts may be established by residents of California. Residents of another jurisdiction may establish exchange wagering accounts provided it is not unlawful under United States federal law or the law of that jurisdiction to place an exchange wager. An account may be established in person, by mail, telephone, or other electronic media including but not limited to the Internet. An account shall not be assignable or otherwise transferable.</p>	<p>(a) An exchange wagering account is necessary to place exchange wagers <u>over the Internet.</u> Exchange wagering accounts may be established by <u>natural person</u> residents of California. Residents of another jurisdiction may establish exchange wagering accounts provided it is not unlawful under United States federal law or the law of that jurisdiction to place an exchange wager, <u>and provided these accounts are used for wagering on California races only.</u> An account may be established in person, by mail, telephone, or other electronic media including but not limited to the Internet. <u>A person opening an account with a licensed racing association, at a racetrack, must be 18 years of age and a resident of California, or present in California at the time when the wager is placed.</u></p>	<p>Clarification that the only requirements imposed by the Rules on accounts used for placing exchange wagers with a licensed racing association at a racetrack is that the person opening the account be 18 years of age, and a resident of California or present in California at the time when the wager is placed. Any further requirements with respect to this type of wager would be inconsistent with the underlying statute and therefore must be deleted.</p> <p>Clarifies that only natural persons may establish exchange wagering accounts.</p> <p>Business & Professions Code 19604.5(b) only permits exchange wagering between residents of California and resident of another jurisdiction on races conducted in California. If the race is being conducted</p>	<p>No change recommended.</p> <p>Under the proposed regulations exchange wagering is not limited to the Internet. This comment ignores subsection 2089.5(a) which states an exchange wagering account may be opened in person.</p> <p>Section 11 of Form CHRB-229 (New 5/12) Application for License to Operate Exchange Wagering contemplates that exchange wagering can be conducted in person</p> <p>Business and Professions Code section 19604.5(b)(8) states exchange wagers may be submitted in person.</p> <p>The proposed Rule 2089.6, Deposits to an Exchange Wagering Account, provides that exchange wagering</p>

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			outside California, wagering is only permitted between residents of California.	deposits may be made in person. This comment does not explain why exchange wagering accounts opened at racetracks should be treated differently from any other exchange wagering account. Modify regulation to include "natural person" and to state exchange wagering accounts opened by out-of-state residents may be used only to wager on California races.
Corbet, Steelman, & Spector On behalf of the Los Angeles Turf Club and the Pacific Racing Association	2089.5. Requirements to Establish an Exchange Wagering Account. (j) All wagering conversations, transactions or other wagering communications through the exchange wagering system, verbal or electronic, shall be recorded by means of electronic media, and the tapes or other records of such communications shall be kept by the entity for at least 180 days, unless otherwise directed by the Board. These tapes and other records shall be made available to the Board upon request or order by the Executive Director.	(j) All wagering conversations, transactions or other wagering communications through the exchange wagering system, verbal or electronic, shall be recorded by means of electronic media, and the tapes or other records of such communications shall be kept by the entity for at least 180 days, unless otherwise directed by the Board. These tapes and other records shall be made available to the Board upon request or order by the Executive Director. <u>This Rule shall apply only to exchange wagers placed through an Internet wagering account and does not apply to exchange wagers placed with a licensed racing association at a racetrack facility.</u> "	Modified to clarify that the Rule applies only to exchange wagers placed through an online exchange wagering account, and does not apply to wagers placed with a licensed racing association at a racetrack facility.	No change recommended. It is not clear why racing associations should be exempt from recording exchange wagering transactions. Rule 2089.5 does not necessarily require a voice recording. The requirement is consistent with current pari-mutuel practice in which the location, race, date and time of a wager placed on-track is electronically recorded. The only difference is that an exchange wager would identify the account holder making the transaction, while on-track pari-mutuel wagers do not identify the patron.
Carlo Fisco Representing the California Thoroughbred Trainers	2090. Posting Credits for Winning from Wagers. (a) Credit for winnings from matched wagers placed with funds in an account shall be posted to the account by the exchange provider after the race is declared official. (b) Notwithstanding Rule 1955 of this division, where the outcome of a matched wager can be determined with certainty by the exchange provider prior to the time that the	(b) Notwithstanding Rule 1955 of this division, where the outcome of a matched <u>ante-post</u> wager can be determined with certainty by the exchange provider prior to the time that the race is declared official, the exchange provider may settle such matched <u>ante-post</u> wager as soon as that	Allows the exchange provider to settle wagers before the race is official, contrary to Racing Rule 1955. Pari-mutuel wagers are settled after the race is declared official. This regulation seems incompatible with existing regulations. It is not clear why this is so important to the provider. The	Modify regulation to limit subsection 2090(b) to antepost wagers.

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	<p>race is declared official, the exchange provider may settle such matched wager as soon as that outcome is determined with certainty.</p>	<p>outcome is determined with certainty.</p>	<p>information in the informative digest is not helpful. It seems to limit scenario to antepost wagers only. But the language of the proposed regulation does not limit these payoffs to antepost wagers. If that is the case, it should so state. It is not clear if payoffs for regular exchange wagers will be allowed before the race is declared official. The only way a race can be "determined with certainty" is to have it declared official. That is the cornerstone of pari-mutuel wagering. Any claim that this regulation is consistent with existing pari-mutuel racing rules is not accurate. Even with the antepost wagers, a horse may be declared a non-starter long after it has crossed the finish line. Only when the race is declared official can the status and finish position of each horse be determined with certainty. In sum, 2090 cannot be reconciled with <i>Racing Rule 1955</i> using this language.</p>	
<p>Couto & Associates Representing Global Betting Exchange</p>	<p>2090. Posting Credits for Winnings from Exchange Wagers.</p> <p>(a) Credit for winnings from matched wagers placed with funds in an account shall be posted to the account by the exchange provider after the race is declared official.</p> <p>(b) Notwithstanding Rule 1955 of this division, where the outcome of a matched wager can be determined with certainty by the exchange provider prior to the time that the race is declared official, the exchange provider may settle such matched wager as soon as that outcome is determined with certainty.</p>	<p>(a) Credit for winnings from matched wagers placed with funds in an account shall be posted to the account by the exchange provider after the race is declared official.</p> <p><u>(b) Credit for any wagers on a scratched entry shall be posted to the account by the exchange provider immediately after the scratch.</u></p> <p>(bc) Notwithstanding Rule 1955 of this division, where the outcome of a matched <u>antepost</u> wager can be determined with certainty by the exchange provider prior to the time that</p>	<p>No rationale provided.</p>	<p>No change recommended for proposed new subsection 2090(b) as it is essentially the same concept as the existing subsection 2090(b).</p> <p>Modify regulation to add "antepost" to existing subsection 2090(b)</p>

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		the race is declared official, the exchange provider may settle such antepost matched wager as soon as that outcome is determined with certainty.		
Couto & Associates Representing Global Betting Exchange	2090.6. Withdrawals by Account Holder. (a) Withdrawals shall be completed within five business days after the exchange provider receives a request from an account holder by mail, by telephone, or other electronic media, accompanied by the valid account number and a means of personal identification or, if by mail, a signed completed withdrawal form. In the case of any withdrawal requested by mail, by telephone, or by other electronic media: (1) If sufficient funds are available, the exchange provider shall send a check payable to the account holder in the amount of the requested withdrawal to the address of record. (2) If sufficient funds are not available, the exchange provider shall, within five business days of receipt, provide notification to the account holder of insufficient funds and send a check payable to the account holder in the amount of the funds available to the address of record.	(a) Withdrawals shall be completed within five business days after the exchange provider receives a request from an account holder by mail, by telephone, or other electronic media, accompanied by the valid account number and a means of personal identification or, if by mail, a signed completed withdrawal form. In the case of any withdrawal requested by mail, by telephone, or by other electronic media, <u>the exchange provider shall send a check payable to the account holder in the amount of the requested withdrawal to the address of record.</u>	No rationale provided.	<u>No change recommended.</u> Rule 2090.6 already requires the exchange provider to send a check in the amount of the requested withdrawal to the address of record. See subsections 2090.6(a)(1) and (a)(2).
Couto & Associates Representing Global Betting Exchange	No current proposed text. Rule 2090.7 is a proposal to add a rule to Article 27, Exchange Wagering.	2090.7. Interest Bearing Accounts <u>The first \$250,000 in interest earned on accounts shall be transferred annually, split between the corresponding horsemen's welfare fund and the backstretch pension plan for the benefit of backstretch employees. Interest in excess of \$250,000 shall be transferred annually, split between the corresponding horsemen's organizations for purses as designated in Business and Professions Code Section 19613.</u>	No rationale provided.	<u>No change recommended.</u> This proposal is taken from Board Rule 2082, Interest Bearing Accounts, which requires ADW providers to distribute interest earned on accounts. However, this is also an issue that the racing association and horsemen can negotiate in the exchange wagering agreements required by the statute. Business and Professions Code section 19604.5(i)(2) states each exchange wagering licensee shall distribute the portions of the exchange wagering licensee's exchange revenues as may be

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				required pursuant to the exchange wagering agreement pursuant to paragraphs (2) to (7), inclusive, of subdivision (b).
Carlo Fisco Representing the California Thoroughbred Trainers	<p>2091.5. Suspending an Exchange Wagering Account.</p> <p>(a) An exchange provider may suspend any exchange wagering account if the provider has reason to believe that the account holder may have committed acts of fraud in connection with exchange wagering or any other action or inaction which threatens the integrity or fairness of any exchange wagering, or is otherwise ineligible to hold the account.</p> <p>(b) The exchange provider shall immediately notify the Board by electronic mail if it suspends an account due to fraud in connection with exchange wagering or any other action or inaction which threatens the integrity or fairness of any exchange wagering. The provider shall also submit to the Board a written account of the suspension that at minimum states:</p> <p>(1) The name of the person whose account was suspended;</p> <p>(2) The date and time of the suspension;</p> <p>(3) The reason for suspending the account;</p> <p>(4) The results of any investigation associated with the suspension of the account.</p>	No new text provided.	Again, there is no language prohibiting the provider from unilaterally taking money out of an account, in contravention of the Exchange Wagering Law which mandates protection for the public. At a minimum, funds in a suspended or closed account should be maintained until an investigation is complete and the account holder has had an opportunity to be heard. While the Exchange Wagering Law does contain specific references to cancelled <i>wagers</i> , it says nothing about cancelling or suspending <i>accounts</i> .	<u>Modify regulation</u> to require that funds in a suspended account must be maintained until the investigation is complete.
Carlo Fisco Representing the California Thoroughbred Trainers	<p>2091.6. Powers of the Board to Review and Audit Records.</p> <p>The Board shall have access for review and audit, to all records and financial information of an exchange provider. The information shall be made available upon notice from the Board, at all reasonable times to the extent such disclosure is not prohibited by law. Board access to and use of information concerning exchange wagering transactions and account holders shall be considered proprietary to the exchange provider and shall not be disclosed publicly except as may be required by law.</p>	No new text provided.	The essence of pari-mutuel wagering is complete public disclosure of wagers, pools, revenues and distributions. On the other hand, this section states that " <i>access to and use of information concerning exchange wagering transactions...shall not be disclosed publicly.</i> " As stated above, it does not appear that any privilege attaches to this information and thus would not be prohibited under the PRA. For industry stakeholders who are planning budgets	<p><u>No change recommended.</u></p> <p>Exchange wagering providers are not government entities and are not subject to the Public Records Act (PRA).</p> <p>To offer exchange wagering there must exist an agreement between the exchange provider and the applicable racing association or racing fair and the horsemen's organization. If the parties wish to have access to such financial</p>

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			and would like to review the exchange provider's estimations for the past and future wagering, this information seems critical and relevant. On balance, the public would be served by its disclosure as opposed to any potential harm to the exchange provider. To be sure, the provider should be able to protect its trade secrets with regards to software, etc. But the wagering and budgeting information should be disclosed. There is nothing in the Exchange Wagering Law which extends this protection to these records or which ordains these records as " <i>proprietary to the exchange provider.</i> " To that extent, this regulation is inconsistent with Exchange Wagering Law, pari-mutuel wagering and public disclosure laws.	information, they may require its disclosure under the agreements. The proposed Rule 2086.7, Exchange Wagering Data, requires the reporting of such data to the non-profit horse racing data base (CHRIMS). Racing associations have access to CHRIMS data.
Thoroughbred Owners of California	2091.6. Powers of the Board to Review and Audit Records. The Board shall have access for review and audit, to all records and financial information of an exchange provider. The information shall be made available upon notice from the Board, at all reasonable times to the extent such disclosure is not prohibited by law. Board access to and use of information concerning exchange wagering transactions and account holders shall be considered proprietary to the exchange provider and shall not be disclosed publicly except as may be required by law.	No new text provided.	The TOC object to that portion of proposed Rule 2091.6 that states that "use if information concerning exchange wagering transactions and account holders shall be considered proprietary to the exchange provider. "To the contrary, such data is the property of the industry participants who own the horses and put on the races, in other words, the data is needed to explore the means to expand our business and to improve the industry's marketing efforts. The TOC feels this rule should be modified or not even addressed in the regulations, but left to contractual agreement. However, if it is deemed proper to include it, then the tracks and horsemen must be included in the language.	<u>No change recommended.</u> To offer exchange wagering there must exist an agreement between the exchange provider and the applicable racing association or racing fair and the horsemen's organization. If the parties wish to have access to such financial information, they may require its disclosure under the agreements.
Carlo Fisco	2092. Exchange Wagers Placed After the Start of a Race.	No new text provided.	This regulation misstates the language of	<u>Modify regulation</u> in accordance with

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Representing the California Thoroughbred Trainers	<p>(a) As reflected in the exchange provider's operating plan, and as approved by the Board, an exchange provider may accept wagers placed on a market after the start of a live race but before the results of that race have been declared official.</p> <p>(b) No exchange wagers shall be placed on a market after the conclusion of a live race.</p> <p>(c) Exchange wagering on previously run races is prohibited.</p>		<p>the Exchange Wagering Law. The regulation states that these wagers are allowed "...as approved by the board..." while B&P section 19604.5(k) states that these wagers are allowed"... If authorized by the board, racing association, or racing fair conducting the races. and the horsemen's organization responsible for negotiating purse agreements for the breed on which the exchange wager is made." The proposed regulation should mirror the law and include the entities listed in the law.</p>	comment.
Couto & Associates Representing Global Betting Exchange	<p>2092.5. Prohibitions on Wagers to Lay a Horse to Lose.</p> <p>(a) No exchange wager that lays a horse to lose may be made by a person who owns such horse in whole or in part, nor shall an exchange wager to lay the horse to lose be made by:</p> <p>(1) The trainer or assistant trainer who trains the horse;</p> <p>(2) The authorized agent who represents the owner of the horse;</p> <p>(3) The jockey or driver who rides or drives the horse;</p> <p>(4) The jockey agent who represents the jockey who rides the horse;</p> <p>(5) The valet who attends the jockey; or</p> <p>(6) Any stable employee of the trainer who trains the horse.</p> <p>(b) Nor shall any of the persons named in subsection (a) of this regulation instruct another person to lay a horse to lose on their behalf, or receive the whole or any part of any proceeds of such a lay.</p> <p>(c) No exchange wagering account shall be used to lay a horse to lose, except by the account holder. All wagers that lay a horse to lose will be presumed to be effected by, and for the benefit of, the account holder.</p>	<p>(a) <u>In addition to the prohibitions set forth in Rule 1970, no exchange wager that lays a horse to lose may be made by a person who owns such a horse in whole or in part, nor shall an exchange wager to lay the horse be made by:</u></p> <p>(1) The trainer or assistant trainer who trains the horse, <u>and such prohibition extends to lay wagers placed on horses running under a substitute trainer pursuant to Rule 1896, whether such horse is competing in a race run in or out of State;</u></p> <p>(2) The authorized agent who represents the owner of the horse;</p> <p>(3) The jockey or driver who rides or drives the horse;</p> <p>(4) The jockey agent who represents the jockey who rides the horse;</p> <p>(5) the valet who attend the jockey; or</p> <p>(6) Any stable employee of the trainer who trains the horse;</p> <p><u>(7) The veterinarian providing services to the trainer of the horse; or;</u></p> <p><u>(8) Any relative, employee, or</u></p>	No rational provided.	<p>The proposed Rule 2092.5(a) addresses placing a lay wager on a horse to lose by a person who owns the horse in whole or in part. Rule 1970 talks about wagering on a competing horse to win. Both rules would apply to exchange wagering, but reference Rule 1970 in Rule 2092.5(a) is not necessary for the purposes of this regulation.</p> <p>Modify regulation to add "substitute trainer".</p> <p>Modify regulation to remove "or" from 2092.5(a)(5).</p> <p>Modify regulation to add veterinarian to subsection 2092.5(a)(7).</p> <p>Modify regulation to add proposed subsections 2092.5(e) and (f)</p>

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		<p>representative of such persons listed above.</p> <p>(b) Nor shall any of the persons named in subsection (a) of this regulation, <u>nor any relative, employee, or representative of such person</u> instruct another person to lay a horse to lose on their behalf, or receive the whole or any part of any proceeds of such a lay.</p> <p>(c) <u>No person named in subsection (a) of this regulation, nor any relative, employee, or representative of such person, shall be permitted to tout or otherwise recommend the placement of exchange wager to lay any entrant in a horse race when a horse owned in whole or part by that owner or the owner represented by that authorized agent, trained by that trainer or employed or serving as a stable employee thereof, ridden by that jockey or the jockey represented by that jockey's agent, or driven by that driver is entered in the same race.</u></p> <p>(d) No exchange wagering account shall be used to lay a horse to lose, except by the account holder. All wagers that lay a horse to lose will be presumed to be effected by, and for the benefit of, the account holder.</p> <p>(e) <u>Nothing herein is intended to otherwise alter the applicability or application of Rule 1970.</u></p> <p>(f) <u>Individuals prohibited from wagering under Rule 1969 Shall be prohibited from placing an exchange wager while on duty at a race meeting or off-track wagering facility, including an out-of-state-Hub.</u></p>		

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		<p><u>ALTERNATIVE PROPOSAL "B"</u> <u>In addition to the prohibitions set forth in Rules 1969 and 1970:</u> <u>(a) No racing official or assistant racing official, pari-mutuel employee, totalizator employee, simulcast facility supervisor or assistant simulcast facility supervisor, official camera operator, assistant starter, receiving or detention barn staff member, or employee of the Board shall make or place an exchange wager that lays a horse to lose while on duty at a race meeting or simulcast wagering facility.</u> <u>(b) No individual licensed by the Board as an owner, trainer, assistant trainer, authorized agent, jockey, driver, jockey's agent, valet, stable employee, veterinarian, or veterinarian assistant shall make or place an exchange wager that lays a horse to lose.</u> <u>(c) No Licensee or person named subsections (a) and (b) of this regulation, nor any relative, employee, or representative of such person, shall make or instruct another person to lay a horse to lose on their behalf, or receive the whole or any part of any proceeds of such a lay.</u></p>		
Couto & Associates Representing Global Betting Exchange	<p>2092.6. Suspension of Occupational License. (a) The Board of Stewards may suspend the license of any person if it determines there is probable cause to believe that such person may have committed acts of fraud in connection with exchange wagering or any other action or inaction which threatens the integrity or fairness of any exchange wagering. (b) Such suspension of license shall be for a period of time designated by the Board of Stewards, unless otherwise</p>	<p>(a) The Board of Stewards may suspend the license of any person if it determines there is probable cause to believe that such person has may have committed acts of fraud in connection with exchange wagering or any other action or inaction which threatens the integrity or fairness of any exchange wagering. (b) Such suspension of license shall be for a period of time designated not less</p>	No rationale provided.	<p><u>Modify</u> subsection 2092.6(a) in accordance with comment. <u>No change recommended</u> to subsection 2092.6(b). This is contrary to current practice.</p>

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	determined by the Board. (c) The licensee may make an appeal to the Board by complying with the provisions of Rule 1761 of this division.	than (1) year, as determined by the Board of Stewards, unless otherwise determined by the Board.		
Carlo Fisco Representing the California Thoroughbred Trainers	2092.6. Suspension of Occupational License. (a) The Board of Stewards may suspend the license of any person if it determines there is probable cause to believe that such person may have committed acts of fraud in connection with exchange wagering or any other action or inaction which threatens the integrity or fairness of any exchange wagering. (b) Such suspension of license shall be for a period of time designated by the Board of Stewards, unless otherwise determined by the Board. (c) The licensee may make an appeal to the Board by complying with the provisions of Rule 1761 of this division.	No new text provided	Because of the potential severity and/or duration of a penalty levied against a licensee pursuant to this regulation, a formal APA hearing should be required. when dealing with a recognized property right as exists in an occupational license, due process demands a formal hearing (See, Govt. Code 11410.10) Also, the "probable cause" standard set forth in this regulation is rendered substantially meaningless by the us of the word "may." This regulation should be revised to (1) delete the word "may" from the probable cause description so that it will read "... cause to believe that such person has committed acts of fraud..., " (2) require a formal hearing by the Stewards upon receipt of credible information of fraud, etc., and (3) include the provisions of Racing Rule 1762, <u>Temporary Stay Order</u> , which goes hand-in-hand with Racing Rule 1761. As set forth in the Racing rules, a licensee is afforded the opportunity to request a stay of any ruling, order or decision of the Stewards. The same should be true for these new regulations. Interestingly, the informative digest preamble on this section dispenses with the word "may" as suggested herein.	Modify regulation to insert "after a hearing". Stewards' hearings are APA hearings.
Broad & Gusman Representing the Jockeys' Guild.	2092.6. Suspension of Occupational License. (a) The Board of Stewards may suspend the license of any person if it determines there is probable cause to believe that such person may have committed acts of fraud in connection	(a) The Board of Stewards may suspend the license of any person if it determines there is probable cause to believe that such person has may have committed acts of fraud in connection with	The proposed rule permits the Stewards to suspend the license of any person if the Board determines that there is <u>probable cause to believe that such person may have committed</u> acts of	No change recommended. Probable cause is a substantial guarantee of due process for alleged rule violators and at the same time affords the Board

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	<p>with exchange wagering or any other action or inaction which threatens the integrity or fairness of any exchange wagering.</p> <p>(b) Such suspension of license shall be for a period of time designated by the Board of Stewards, unless otherwise determined by the Board.</p> <p>(c) The licensee may make an appeal to the Board by complying with the provisions of Rule 1761 of this division.</p>	<p>exchange wagering or any other action or inaction which threatens the integrity or fairness of any exchange wagering.</p> <p>(b) Such suspension of license shall be for a period of time designated by the Board of Stewards, unless otherwise determined by the Board.</p> <p>(c) The licensee may make an appeal to the Board by complying with the provisions of Rule 1761 of this division.</p>	<p>fraud in connection with exchange wagering or any other action or inaction which threatens the integrity or fairness of any exchange wagering. We believe that this regulation was intended to protect jockeys and other licensees from frivolous complaints based on unsubstantiated rumor or mere conjecture. Instead, the proposed regulation would create a weaker standard than now exists for other violations, all of which require proof of actual illegal conduct (See Rule 1405, 1484, and 1902).</p> <p>The proposed rule, insofar as it permits suspension or revocation of an occupational license on mere probable cause, is clearly constitutionally unsound. A licensed professional plainly has a property interest in the right to practice his profession that cannot be taken from him without due process. <i>Conway v State Bar</i>, 47 Cal.3d 1107, 767 P.2d 657 (1989). In <i>Barry v Barchi</i>, (1979) 443 US 55, the US Supreme Court upheld a trainer's pre-hearing suspension because a horse under his supervision had drugs in its blood. The Court noted that "under New York law, a license may not be revoked or suspended at the discretion of the racing authorities...<u>Rather, suspension may ensue only upon proof of certain contingencies.</u>" The proposed Exchange Wagering disciplinary proposal does not require proof of any contingencies that uphold a suspension, merely that the Stewards have probable cause to believe that a violation may have been committed. Licensees would</p>	<p>with the ability to move expeditiously to seek the suspension of CHRB licensees as applicable.</p>

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			be deprived of any meaningful due process in that event. The <i>Barry</i> Court further held that "the scheme violated due process because 'it [was] as likely as not' that the <u>trainer would irretrievably suffer the full penalty before the State would be put to its proof at a post-suspension hearing.</u> In the proposed rule the State would never be put to its proof since the threshold for discipline is not a rule violation but only reasonable suspicion that a rule may have been violated.	
Kennedy, Jennik & Murray	<p>2092.6. Suspension of Occupational License.</p> <p>(a) The Board of Stewards may suspend the license of any person if it determines there is probable cause to believe that such person may have committed acts of fraud in connection with exchange wagering or any other action or inaction which threatens the integrity or fairness of any exchange wagering.</p> <p>(b) Such suspension of license shall be for a period of time designated by the Board of Stewards, unless otherwise determined by the Board.</p> <p>(c) The licensee may make an appeal to the Board by complying with the provisions of Rule 1761 of this division.</p>	<p>(a) The Board of Stewards may suspend the license of any person if it determines there is probable cause to believe that such person may have <u>has</u> committed acts of fraud in connection with exchange wagering or any other action or inaction which threatens the integrity or fairness of any exchange wagering.</p> <p>(b) Such suspension of license shall be for a period of time designated by the Board of Stewards, unless otherwise determined by the Board.</p> <p>(c) The licensee may appeal the Board by complaining by complying with the provisions of Rule 1761 of this Division.</p>	<p>THE EXISTING RULES ARE ADEQUATE</p> <p>The existing Rules of racing in California provide the Board and the Stewards with ample power to enforce Exchange Wagering Regulations without the adoption of a special Exchange Wagering Rule. for instance, Rule 1405 provides that a "<u>Violation of any provision of this Division,</u> whether or not a penalty is fixed therein, <u>is punishable in the discretion of the Board by revocation or suspension of any license, by fine, or by exclusion from all racing enclosures under the jurisdiction of the Board, or by any combination of these penalties.</u> The Board may <u>independently punish any misconduct of any person connected with racing.</u>" Rule 1527 provides that the "stewards have general authority and supervision over all licensees and other persons attendant on horses, and also over the enclosures of any recognized meeting." Rule 1549 provides that a "racing official may recommend to the stewards that disciplinary action be imposed upon</p>	<u>No change recommended.</u>

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			<p>any licensee for a violation of any rule or regulation or for any other misconduct by such licensee."</p> <p>These broad grants of supervisory and disciplinary power will extend to any Exchange Wagering Rules that the Board adopts. It is simply unnecessary to adopt an additional disciplinary rule in connection with Exchange Wagering. Further, a perceived need to adopt a new disciplinary rule encourages speculation in the industry that the advent of Exchange Wagering is dangerous to licensee and will inevitably lead to new disciplinary actions against existing licensees.</p> <p>IF THE BOARD DOES NOT ADOPT A NEW DISCIPLINARY RULE, IT SHOULD REQUIRE DUE PROCESS AND AN ACTUAL FINDING OF A VIOLATION BEFORE DISCIPLINE CAN BE IMPOSED.</p> <p>The CHRB proposed rule permits discipline solely on the basis of reasonable cause. Proposed Rule 2092.7 (a) permits the Stewards to suspend the license of any person if the Board determines that there is <u>probable cause to believe that such person may have committed</u> acts of fraud in connection with Exchange Wagering or any other action or inaction which threatens the integrity or fairness of any Exchange Wagering.</p> <p>The proposed rule is a fundamental departure from the existing rules relating to discipline. Rules 1405, 1527, and 1549, quoted above, each require a showing that there has been a violation before discipline can be imposed by the</p>	

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			<p>Board of the Stewards. Under those rules, a determination that there is mere reasonable cause to believe that a violation has occurred will not support a license revocation or suspension.</p> <p>Other CHRB rules are consistent with this approach. Rule 1484 provides for a suspension " if any applicant for a license <u>is under suspension</u>, set down, ruled off, excluded from the enclosure, or otherwise barred <u>from any racing occupation</u> or activity requiring a license, it is prima facie evidence that he or she is unfit to be granted a license or unfit to hold a license or participate on raving in this State as a licensee during the term of any suspension or jurisdiction is thus prima facie evidence that a suspension should be imposed in California as well, but it requires a factual demonstration that there has been a prior suspension to invoke the California rule.</p> <p>While Sections 1528 and 1900 do not expressly state that discipline can only occur for violations of the rules of racing, their language assumes that there is a lawful basis for imposing discipline which in turn incorporated Rules 1405 and 1484. Section 1528 provides that "the stewards may suspend the license of anyone who they have the authority to supervise or they may impose a fine or they may exclude from all enclosures in this State or they may suspend, exclude and fine. All such suspensions, fines or exclusions shall be reported immediately to the Board." Section 1900 states that "any provision of any rule which is a ground for denial of a license is also a</p>	

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			<p>ground for suspension or revocation of a license."</p> <p>The only Rule which permits suspension "on reasonable cause" mandates that the accused have been indicted for a crime of moral turpitude. Rule 1902 stated that "No licensee shall engage in any conduct prohibited by this Division nor shall any licensee engage in any conduct which by its nature is detrimental to the best interests of horse raving including, but not limited to: <u>(b) indictment or arrest for a crime involving moral turpitude or which is punishable by imprisonment in the state or federal prison, when such indictment or arrest is the subject of notorious or widespread publicity in the news media, and when there is probable cause to believe the licensee committed the offenses charged. (c) Solicitation of or aiding and abetting any other person to participate in any act or conduct prohibited by this Division.</u>"</p> <p><u>Thus any discipline based on reasonable cause requires that there be an indictment or arrest for a crime involving moral turpitude which is subject of notorious or widespread publicity. Even then, a jockey cannot be suspended unless there is at least reasonable cause to believe that the licensee committed the offenses charged.</u></p>	
Carlo Fisco Representing the California Thoroughbred Trainers	<p>2093 Certain Practices Related to Exchange Wagering.</p> <p>(a) The exchange provider shall provide an account holder with information on the race, including the track where the race will take place and the names of the participating</p>	No new text provided.	Will exchange odds be displayed at the track; and if so, how? Will tracks enable Wi-Fi on their premises to allow for exchange bets while the bettor is on-track? If not, language is necessary	<p><u>No change recommended.</u></p> <p>These provisions were taken directly from the statute 19604.5(e)(3), which requires the Board to adopt them as</p>

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	<p>horses before the account holder may place an exchange wager.</p> <p>(b) The exchange provider shall require the account holder making the exchange wager to select the specific race and horse for the wager. The exchange provider may not offer automatic, quick-pick, or similar features to aid in the placing of an exchange wager.</p> <p>(c) The exchange provider shall not display the results of an exchange wager through the use of video or mechanical reels or other slot machine or casino game themes, including, but not limited to, dice games, wheel games, card games, and lotto.</p>		precluding such a possibility. Do these practices comply with Racing Rules 1950, etseq, which set forth the parameters for pari-mutuel wagering? If exchange wagering need not do so, the regulation should so state. Or, if it is in compliance, it should be stated.	regulations.
<p>Corbet, Steelman, & Spector</p> <p>On behalf of the Los Angeles Turf Club and the Pacific Racing Association</p>	No current proposed text. This is a proposal to add a rule to Article 27, Exchange Wagering.	<u>"Any exchange wagering license applicant must disclose any and all financial ties to the horse racing industry prior to approval of the exchange wagering license application."</u>	A rule must be added to require an exchange wagering applicant to disclose all financial ties such applicant has to the horse racing industry, to maintain the integrity of horse racing.	<u>No change recommended.</u> These disclosures are required under section 7 of the application for license to operate exchange wagering, Form CHRB-229 (New 5/12) Application for License to Operate Exchange Wagering.
<p>Corbet, Steelman, & Spector</p> <p>On behalf of the Los Angeles Turf Club and the Pacific Racing Association</p>	No current proposed text. This is a proposal to add a rule to Article 27, Exchange Wagering.	<u>"No exchange wagering applicant shall solicit the support of any horseman's group for its application through the payment of purse guarantees, or any other inducements, financial or otherwise, where such inducements would violate California Law."</u>	A rule must be added that explicitly prohibits an exchange wagering applicant from soliciting the consent of the applicable horsemen's group through the payment of purse guarantees or other inducements that violate California Law, to preserve the integrity of horse racing.	<u>No Change recommended.</u>
<p>Corbet, Steelman, & Spector</p> <p>On behalf of the Los Angeles Turf Club and the Pacific Racing Association</p>	No current proposed text. This is a proposal to add a rule to Article 27, Exchange Wagering.	<u>"An exchange wagering operator shall be required to pay any and all amounts required by statute to be paid by pari-mutuel operators."</u>	Rules must be added that require an exchange wagering operator to pay the same statutory amounts as are paid by pari-mutuel operators (e.g., stabling and vanning fees, license fees, and workers comp fees). Otherwise, an unfair advantage is being given to the exchange wagering operators, and pari-mutuel operators will be placed at a disadvantage.	<u>No change recommended.</u> Business and Professions Code section 19604.5(g) provides that an exchange wagering operator shall not be required to retain, withhold, or take out any amounts from any exchange wagers, except as expressly set forth in the applicable exchange wagering agreements.

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Corbet, Steelman, & Spector On behalf of the Los Angeles Turf Club and the Pacific Racing Association	No current proposed text. This is a proposal to add a rule to Article 27, Exchange Wagering.	<u>Any person laying a wager through an Internet exchange wagering account, or a racetrack licensed to engage in exchange wagering, must be licensed by the Board, and have passed a background investigation to be completed by the Board.</u>	A rule must be added that any person laying a wager through an online exchange wagering account or at a licensed racetrack must be licensed by the Board and have passed a background investigation by the Board.	<u>No change recommended.</u> The Board issues occupational licenses to persons who participate in a race meeting with pari-mutual wagering. Persons who wager are not participating in the race meeting. Because any person with an exchange wagering account can place a lay wager, this proposal would require that every exchange wagering account holder would have to receive a license. This would place an unreasonable burden on the Board, and the exchange providers.
Corbet, Steelman, & Spector On behalf of the Los Angeles Turf Club and the Pacific Racing Association	No current proposed text. This is a proposal to add a rule to Article 27, Exchange Wagering.	<u>"The decision by a racing association not to participate in any or all forms of exchange wagering shall not be considered by the Board in granting racing dates, and shall not be considered by Thoroughbred Owners of California in negotiating purse contracts."</u>	A rule must be added to clarify that the decision of a racing association not to participate in any or all forms of exchange wagering cannot be considered by the Board in granting racing dates, and cannot be considered by the TOC in negotiating purse contracts, or certain race tracks will be placed at a financial disadvantage.	<u>No change recommended.</u> Board Rule 2045, Prohibited Provisions of Horsemen's Agreements, states no horsemen's agreement shall include provisions that specify the type of pari-mutuel wagering to be conducted.
Corbet, Steelman, & Spector On behalf of the Los Angeles Turf Club and the Pacific Racing Association	No current proposed text. This is a proposal to add a rule to Article 27, Exchange Wagering.	<u>"It shall be the responsibility of the internet exchange wagering operator to insure that only natural persons hold online exchange wagering accounts. Furthermore, the accounts of an exchange provider shall be subject to (i) audit by the CHRB staff, and (ii) If CHRB staff declines to conduct an audit, audit by a third party auditor at the request of any racing association conducting live racing in the State. The audit shall be reasonably conducted in a manner designed to confirm compliance</u>	A rule must be added that only natural persons hold online exchange wagering accounts, and that such accounts are not held by a corporate or other legal entity.	<u>No change recommended.</u> Business and Professions Code section 19604.5(c) states only natural persons with valid exchange wagering accounts may place an exchange wager. Proposed Rule 2089.5 is being amended to state only natural persons may open an exchange wagering account. This is also in section 10 of Form CHRB-229 (New 5/12) Application for License to Operate Exchange Wagering.

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		of all accounts with the natural person requirement."		Business and Professions Code section 19604.5(a)(9)(B) states audit requirements are required to be in exchange wagering agreements. Audit requirements are found in the proposed Rules 2086.9, Financial and Security Integrity Audits Required, and 2091.6, Powers of the Board to Review and Audit Records.
Corbet, Steelman, & Spector On behalf of the Los Angeles Turf Club and the Pacific Racing Association	No current proposed text. This is a proposal to add a rule to Article 27, Exchange Wagering.	"Exchange Wagering may take place either via the Internet, through an exchange wagering operator, or at a race track licensed to accept exchange wagers."	As the Rules are currently written, they permit Exchange Wagering only by the Internet. The Rules should be modified to clarify that Exchange Wagering can take place at a race track.	No change recommended. The proposed exchange wagering regulations do not specify that exchange wagering must be conducted via the Internet. Section 11 of Form CHRB-229 (New 5/12) Application for License to Operate Exchange Wagering contemplates that exchange wagering can be conducted in person. Business and Professions Code section 19604.5(b)(8) states exchange wagers may be submitted in person. The proposed Rule 2089.6, Deposits to an Exchange Wagering Account, provides that exchange wagering deposits may be made in person.