

CALIFORNIA HORSE RACING BOARD  
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## EXCHANGE WAGERING AD HOC COMMITTEE MEETING

of the California Horse Racing Board will be held on **Thursday, May 2, 2013**, commencing at **11:00 a.m.**, in the **Sunset Room** at **Hollywood Park Race Track, 1050 South Prairie Ave., Inglewood, 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 the following Exchange Wagering rules and the proposed revisions to these rules made in response to the Office of Administrative Law's (OAL) March 20, 2013 Decision of Disapproval of Regulatory Action.**

#### **Proposed CHRB Rules:**

- 2086, Definitions;
- 2086.5, Application for License to Operate Exchange Wagering;
- 2086.6, Operating Plan Required;
- 2086.7, Exchange Wagering Data;
- 2086.9, Financial and Security Integrity Audits Required;
- 2087.6, Cancellation of Matched Wagers;
- 2089, Error in Payments of Exchange Wagers;
- 2089.5, Requirements to Establishing Exchange Wagering Account;

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](http://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

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

DISCUSSION AND ACTION BY THE COMMITTEE REGARDING THE PROPOSED  
ADDITION OF THE FOLLOWING  
EXCHANGE WAGERING RULES AND THE PROPOSED REVISIONS TO THESE RULES  
MADE IN RESPONSE TO  
THE OFFICE OF ADMINISTRATIVE LAW'S (OAL) MARCH 20, 2013 DECISION OF  
DISAPPROVAL OF REGULATORY ACTION.

PROPOSED CHRB RULES:

- 2086, DEFINITIONS;
- 2086.5, APPLICATION FOR LICENSE TO OPERATE EXCHANGE WAGERING;
- 2086.6, OPERATING PLAN REQUIRED; 2086.7, EXCHANGE WAGERING DATA;
- 2086.9, FINANCIAL AND SECURITY INTEGRITY AUDITS REQUIRED;
- 2087.6, CANCELLATION OF MATCHED WAGERS;
- 2089, ERROR IN PAYMENTS OF EXCHANGE WAGERS;
- 2089.5, REQUIREMENTS TO ESTABLISHING EXCHANGE WAGERING ACCOUNT

Exchange Wagering Ad-Hoc Committee Meeting  
May 2, 2013

## BACKGROUND

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 consistent with this section, including the manner in which exchange wagers may be accepted and the requirements for any person to participate in exchange wagering. Business and Professions Code section 19604.5(m) states the Board shall promulgate administrative rules and regulations to effectuate the purposes of this section. At its November 2012 Regular Meeting the Board adopted the proposed addition of Article 27, Exchange Wagering, which comprises 25 regulations governing the conduct of exchange wagering in California. The exchange wagering rulemaking file was submitted to the Office of Administrative Law (OAL) on January 31, 2013. On March 20, 2013, the OAL disapproved the file. Of the 25 regulations submitted, the OAL cited necessity, clarity or consistency issues with eight regulations, as well as certain procedures of the Administrative Procedures Act (APA). The CHRB has 120 days from the date of the disapproval to correct and resubmit the rulemaking file. After a 15-day public comment period, during which only comments on the proposed revisions will be accepted, the corrected texts will be heard for adoption by the Board. Upon resubmission of a disapproved regulation the OAL shall only review the resubmitted regulation for those reasons expressly identified in the written opinion, or for those issues arising as a result of a substantial change to a provision of the resubmitted regulation.

## ANALYSIS

The OAL disapproval letter cited issues with eight of the 25 exchange wagering regulations. To address OAL's concerns staff has modified the texts of the eight regulations. The modified texts are:

**Rule 2086, Definitions:** The OAL stated Rule 2086 did not comply with the consistency standard of Government code section 11349.1(a)(4). The enabling statute, Business and Professions Code section 19604.5, uses the terms “*person*” and “*natural persons*”. However, only “*natural persons*” may hold accounts and place wagers through an exchange. The OAL stated the use of the term “*person*” in subsections 2086(h), (m), (p) and (s) was inconsistent with the enabling statute’s more specific statements that only “*natural persons*” may hold an exchange wagering account and place wagers through the exchange. To address the OAL’s concerns, staff modified the text of Rule 2086 to use the term “*natural person*” where necessary.

**Rule 2086.5, Application for License to Operate Exchange Wagering:** The OAL stated the regulation did not meet the clarity standard of Government Code section 11349.1. Subsection 2086.5(b) states the exchange wagering assessment fee is \$1,400,000 “*or an amount to be determined by the Board*”. The OAL provided that it was unclear what factors would be examined for the Board to determine it would modify the amount of the assessment fee. To address the OAL’s concerns, staff deleted the phrase “*or an amount to be determined by the Board*”. This means the assessment fee is as stated in the regulation and cannot be modified.

The OAL stated subsection 2086.5(b) requires an application for license to operate exchange wagering to be accompanied by a certified check in the amount of \$1.4 million. However, in the rulemaking record the Std. 399, Economic and Fiscal Impact Statement, shows the total annual estimate of program costs to regulate exchange wagering as \$510,000 which makes the \$1.4 million appear to exceed the reasonable costs of the program. Upon reexamination of estimated costs, the assessment fee for license to operate exchange wagering has been modified to \$500,000 per calendar year. This brings the regulation in line with the original estimates of the Std. 399, Economic and Fiscal Impact Statement.

To provide a clear method of distributing the assessment fee for license to operate exchange wagering amongst approved applicants, subsection 2086.5(b) has been modified to state that applications shall be accepted by the Board up to and including October 1 of each calendar year for the succeeding two year licensing period. Subsection 2086.5(e) has been modified to require the Board to hear the applications no later than 90 calendar days following October 1 of the calendar year in which the applications are submitted. This provides a date certain by which applications for license to operate exchange wagering must be submitted for consideration, as well as the time frame in which the applications will be heard. Establishing a specified timeframe for submission of an application provides the Board with the exact number of applicants to be considered for license for the succeeding year, and allows for the ability to accurately calculate the assessment fee amount due from each successful applicant. Subsection 2086.5(d) provides that not later than December 31 of each calendar year the Board shall apportion the succeeding one year \$500,000 assessment equally amongst the approved applicants. The apportionment is possible because the Board will have approved the applicants for the succeeding two year license period. This provision will also provide the applicants a date certain by which they will know the amount of their one-year assessment. The license period is two years, but the assessment is calculated on a calendar year basis because the number of exchange operators may vary by year, depending on the number of successful applicants.

Subsection 2086.5(c) stated the term of the exchange wagering license shall be not more than two years from the date it is issued unless otherwise determined by the Board. The OAL stated subsection 2086.5(c) could not easily be understood because it was unclear what factors would be considered as the basis upon which the Board would shorten or lengthen the term of license. To address OAL's concerns, staff modified subsection 2086.5(c) to delete the phrases "*not more than*" and "*unless otherwise determined by the Board*" to clarify that the term of an exchange wagering license is two years.

The OAL stated subsection 2086.5(d) did not meet the clarity standards of Government Code section 11349.1 since it could not easily be understood. The subsection provides the Board "*may approve*" the application, but it does not provide the reasons why the Board may or may not approve an application. To address OAL's concerns, staff deleted the word "*may*" and inserted the word "*shall*". This means the Board shall approve an application if it determines the applicant meets the criteria identified in its regulations and the enabling statute.

The form 299 (New 05/12) Application for License to Operate Exchange Wagering, was also amended – where appropriate - to reflect the changes made to Rule 2086.5.

**Rule 2086.6, Operating Plan Required:** The OAL stated Rule 2086.6 did not meet the clarity standard of Government Code section 11349.1, as there was no guidance provided as to the format required by the Board for an operating plan. In addition, it was unclear what additional information, beyond the "*minimum*" that was listed in the regulation, might be required or in what instance the Board might require any additional information. To address OAL's concerns, staff deleted the phrase "*in a format and containing such information as required by the Board.*" This means that the operating plan must contain at least the items listed in the regulation.

The OAL stated subsection 2086.6(i) did not meet the consistency standard of Government Code section 11349.1(a)(4). The proposed subsection 2086.6(i) provided that the operating plan and any subsequent updates or changes would be exempt from disclosure pursuant to Government Code section 6254(k). The OAL disapproval stated the subsection was not in harmony with Government Code subdivision 6254(k), and that no federal or state law exempting or prohibiting disclosure of the operating plan as a record could be located. To address OAL's concerns, staff proposes the deletion of subsection 2086.6(i).

**Rule 2086.7, Exchange Wagering Data:** The OAL stated Rule 2086.7 did not meet the clarity standard of Government Code section 11349.1. Subsection 2086.7(a) did not identify the data base "*designated by the Board*" as the entity to which an exchange operator must provide information. To address OAL's concerns, staff has modified subsection 2086.7(a) to identify CHRIMS Inc. as the nonprofit horse racing data base. The OAL also stated the regulation did not require an exchange operator to provide data, but only data interface. To address OAL's concerns, staff has modified subsection 2086.7(a) to require the exchange operator to provide data, as well as a data interface.

**Rule 2087.6, Cancellation of Matched Wagers:** The OAL stated subsection 2086.7(c) did not meet the clarity standard of Government Code section 11349.1 as an account holder might not understand when a payout was "*inappropriately disrupted*". There was no guidance as to when

any disruption was inappropriate. To address OAL's concerns staff has modified subsection 2086.7(c) to delete "*inappropriately disrupted*". The term "*not made*" has been inserted to make it clear that if a payout is not made due to the cancellation of a matched wager, the account holder who disputes such non-payment may submit a claim to the exchange provider.

**Rule 2089, Errors in Payments of Exchange Wagers:** The OAL stated subsection 2089(a) did not meet the clarity standard of Government Code section 11349.1 since it could not be easily understood by directly affected persons. The regulation provides when an account holder must be immediately notified of over or under payments. However, OAL stated the exchange provider and account holder would not be able to determine when the required notification must be made. To address OAL's concerns, staff has deleted the word "*immediately*" from subsection 2089(a) and inserted the phrase "*within one business day*". This makes it clear that the exchange operator has one business day to notify the account holder of an overpayment. For consistency, staff modified subsection 2089(b)(1) to include the requirement that the exchange provider notify an account holder of an underpayment within one business day. Finally, OAL stated the use of the term "*person*" in subsection 2089(b)(4) was inconsistent with the enabling statute's more specific statements that only "*natural persons*" may hold an exchange wagering account and place wagers through the exchange. To address the OAL's concerns, staff modified subsection 2089(b)(4) to use the term "*natural person*".

**Rule 2089.5, Requirements to Establish an Exchange Wagering Account:** The OAL stated subsection 2089.5(j) did not comply with the consistency standard of Government Code section 11349.1(a)(4). The regulation requires the exchange provider to keep recordings "*for at least 180 days, unless otherwise directed by the Board*". The OAL stated the regulation failed to provide the factors that might necessitate the Board to direct an entity to keep recordings for a longer or shorter period of time. To address the OAL's concerns, staff modified subsection 2089.5(j) to specify the factors that would necessitate the Board to direct an entity to keep recordings for a longer or shorter period. Staff inserted the phrase "*for purposes including but not limited to conducting an investigation, an audit or an ongoing wagering inquiry.*"

**Rule(s) 2087, Suspending Markets; 2091.5, Suspending an Exchange Wagering Account; 2092.5, Prohibitions on Wagers to Lay a Horse to Lose, and Rule 2092.6, Suspension of Occupational License:** The OAL stated the regulations did not comply with the consistency standard of Government code section 11349.1(a)(4). The enabling statute, Business and Professions Code section 19604.5, uses the terms "*person*" and "*natural persons*". However, only "*natural persons*" may hold accounts and place wagers through an exchange. The OAL stated the use of the term "*person*" was inconsistent with the enabling statute's more specific statements that only "*natural persons*" may hold an exchange wagering account and place wagers through the exchange. To address the OAL's concerns, staff modified the text of Rules 2087, 2091.5, 2092.5 and 2092.6 to use the term "*natural person*" where necessary.

**Other modifications:** Rule 2086.9, Financial and Security Integrity Audits Required, was modified to create subsection 2086.9(c). Rule 2088.6, Cancellation of Unmatched Wagers, was modified for purposes of grammar.

## RECOMMENDATION

Staff recommends the Ad-Hoc Committee approve the revised regulations as submitted, and recommend to the full Board that it direct staff to initiate a 15-day public comment period.

CALIFORNIA HORSE RACING BOARD  
TITLE 4. CALIFORNIA CODE OF REGULATIONS  
PROPOSED ADDITION OF  
ARTICLE 27. EXCHANGE WAGERING  
RULE 2086. DEFINITIONS

Exchange Wagering Ad-Hoc Committee Meeting  
May 2, 2013

Single Underlined text represents the original language noticed to the public from May 11, 2012 to June 25, 2012.

Deletions to the original noticed text appear as ~~Double Strikethrough~~ and new and revised text appears as Double Underlined as noticed October 8, 2012 through October 22, 2012 and adopted at the November 15, 2012, regulatory hearing.

Deletions to the adopted text appear as ~~Italicized Double Strikethrough~~ and new and revised text appear as Italicized with Bolded Underlined.

2086. Definitions

As used in this article:

(a) “Back” means to wager on a selected outcome occurring in a given market.

(b) “Confidential information” means the following:

(1) the amount of money credited to, debited from, or present in any particular account holder's exchange wagering account;

(2) the amount of money wagered by a particular account holder on any races or series of races;

(3) the exchange wagering account number and personal identification number of an account holder;

(4) the identities of particular entries on which the account holder is wagering or has wagered; and

(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.

(c) “Credits” means all positive inflow of money to an exchange wagering account.

(d) “Debits” means all negative outflow of money from an exchange wagering account related to a wager placed from such account.

(e) “Declared Entry” means a horse withdrawn from a race in which its entry has been accepted.

(f) “Deposit” means a credit of money to an exchange wagering account from an account holder.

(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.

(h) “Exchange wagering” means a form of pari-mutuel wagering in which two or more natural persons place identically opposing wagers in a given market, as provided under Business and Professions Code section 19604.5.

(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.

(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.

(k) “Exchange wagering license application” means the application form CHRB 229 (New 5/12), Application for License to Operate Exchange Wagering, hereby incorporated by reference, which shall be available at the Board’s headquarters office.

(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.

(m) “Identically opposing wagers” means wagers in which one or more *natural* persons offer to lay a selected outcome at the same price at which one or more *natural* persons offer to back that same outcome, with the amount subject to the lay being proportionately commensurate to the amount subject to the back.

(n) “Lay” means to wager on a selected outcome not occurring in a given market.

(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) “Matched wager” means the wager that is formed when two or more *natural* persons, none of whom are the exchange provider or agents, are confirmed by the exchange provider as having placed identically opposing wagers in a given market on the exchange.

(q) “Means of personal identification” means the unique number, code, or other secure technology designated by an exchange wagering account holder to assure that only that account holder has access to his account.

(r) “Natural person” means a living, breathing human being, as opposed to a legal entity.

(s) “Net winnings” means the aggregate amounts payable to a *natural* person as a result of that person’s winning matched wagers in a pool less the aggregate amount paid by that *natural* person as a result of that *natural* person’s losing matched wagers in that pool.

(t) “Operating plan” means the plan submitted to the Board by an exchange provider detailing the proposed method of operation of the exchange.

(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.

(v) “Person” means any individual, partnership, corporation, limited liability company, or other association or organization.

(w) “Pool” means the total of all matched wagers in a given market.

(x) “Price” means the odds for a given exchange wager.

(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.

(z) “Withdrawal” means a payment from an exchange wagering account by the exchange provider to the account holder.

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  
 PROPOSED ADDITION OF  
ARTICLE 27. EXCHANGE WAGERING  
RULE 2086.5. APPLICATION FOR LICENSE TO OPERATE EXCHANGE WAGERING

Exchange Wagering Ad-Hoc Committee Meeting  
 May 2, 2013

Single Underlined text represents the original language noticed to the public from May 11, 2012 to June 25, 2012.

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Deletions to the adopted text appear as ~~Italicized Double Strikethrough~~ and new and revised text appear as Italicized with Bolded Underlined.

2086.5. Application for License to Operate Exchange Wagering.

(a) Prior to any exchange wagers being accepted, the applicant for license to operate exchange wagering must obtain a license from the Board.

(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. *Applications shall be accepted by the Board up to and including October 1 of each calendar year for the succeeding two year licensing period. 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.

(c) The term of the exchange wagering ~~License~~ license shall be ~~not more than~~ 2 years from the date the exchange wagering license is issued, ~~unless otherwise determined by the Board.~~

(d) To fulfill Business and Professions Code section 19604.5(e)(6), the total amount per calendar year to be assessed to operate exchange wagering is \$500,000. Not later than December 31 of each calendar year the Board shall apportion the succeeding one year \$500,000 assessment fee for licensure to operate exchange wagering equally amongst the approved applicants.

(1) Within seven business days of notification of the assessment fee amount, the approved applicant shall submit a certified check in the amount apportioned by the Board in accordance with subparagraph (d) above.

(~~e~~ e) The Board shall notify the applicant in writing within 30 calendar days from the receipt date if the application is deficient. No later than 90 calendar days following October 1 of the calendar year in which the application was submitted ~~the receipt of the application~~, the Board shall make a final determination on the application. The Board ~~shall~~ ~~may~~ approve the application if, after reasonable investigation and inspection, as it deems appropriate, it determines that the applicant has demonstrated that exchange wagers placed through the exchange will be accurately processed and that there will be sufficient safeguards to protect the public and to maintain the integrity of the horse racing industry in this state. If the Board denies an application, the applicant has 30 calendar days, from the receipt of the Board's denial notification, to request a reconsideration of the Board's decision. The request must be in writing and sent to the Board's headquarters office. The Board shall respond in writing to the reconsideration request within 30 working days from the receipt date of the request. If

reconsideration is denied, the applicant may file for judicial review in accordance with Government Code section 11523.

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

Reference: Sections 19593 and 19604.5,  
Business and Professions Code.  
Section 11523, Government Code.

STATE OF CALIFORNIA  
CALIFORNIA HORSE RACING BOARD (CHRB)  
APPLICATION FOR LICENSE TO OPERATE EXCHANGE WAGERING  
CHRB-229 (New 5/12)

Application is hereby made to the California Horse Racing Board (CHRB) for approval to conduct exchange wagering in accordance with the California Business and Professions Code section 19604.5, Chapter 4, Division 8, California Code of Regulations, Title 4, Division 4, CHRB Rules and Regulations.

Applications shall be accepted by the Board up to and including October 1 of each calendar year for the succeeding two year licensing period.

~~Application must be filed not later than 90 days in advance of the date scheduled to conduct exchange wagering.~~

The applicant must supply complete responses. The information is to be provided as of the date of this application unless otherwise specified. The applicant may refer to an exhibit/attachment in response to a question; however, you must specify the page number and line in which the text is responsive.

NOTICE – By submitting the application the applicant consents to the jurisdiction of California courts and the application of California law as to all California wagers and operations.

To fulfill Business and Professions Code section 19604.5(e)(6), the total amount per calendar year to be assessed to operate exchange wagering is \$500,000. Not later than December 31 of each calendar year the Board shall apportion the succeeding one year \$500,000 assessment fee for licensure to operate exchange wagering equally amongst the approved applicants.

~~No application for a license to operate exchange wagering shall be granted unless the applicant has deposited with the Board 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), which provides that the Board may recover any costs associated with the licensing or regulation of exchange wagering from the exchange wagering licensee by imposing an assessment on the exchange wagering licensee in an amount that does not exceed the reasonable costs associated with the licensing or regulation of exchange wagering. Funds received pursuant to this subdivision shall be deposited in the Horse Racing Fund, to be available upon appropriation by the Legislature for the sole purpose of regulating exchange wagering.~~

**1. APPLICANT INFORMATION**

Company name:

Facility address:

City:

State:

Zip Code:

Phone:

Fax:

Website:

**CHRB CERTIFICATION**

Application received:	Hearing date
Cashier check received:	Approved date:
Reviewed:	License number:

County:

**2. CONTACT PERSON (authorized representative)**

Name and title of contact:

Business name and address:

City: State: Zip Code:

Phone: Fax: County:

Email address:

**3. CALIFORNIA AGENT FOR RECEIPT OF SERVICE OF PROCESS**

Name and title of contact:

Business name and address:

City: State: Zip Code:

Phone: Fax: County:

Email address:

**4. MANAGEMENT PERSONNEL**

**NOTICE TO APPLICANT:** All management personnel responsible for the California operations must be CHRB licensed. Business and Professions Code section 19604.5 (e) (5) provides the Board may reasonably require licensure or registration of officers or directors of any exchange wagering licensee.

List name, title, email address, phone and license number for all management personnel directly involved in management of exchange wagering. Identify which management staff is responsible for California operations:

<u>Name and title</u>	<u>Email address</u>	<u>Phone</u>	<u>License No.</u>	<u>Responsible for California Operations</u>
				<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No

**5. DATE OF OPERATION**

**NOTICE TO APPLICANT:** CHRB Rule 2086.5 provides the term of the exchange wagering license shall ~~not~~ be ~~more than~~ two years from the date the exchange wagering license is issued, ~~unless otherwise determined by the Board.~~

A. Dates applicant is proposing to conduct exchange wagering:

Beginning date:

Ending date:

B. Dates exchange wagering will not be conducted:

C. Indicate the days and hours exchange wagering will be conducted below:

<u>Days:</u>	<u>Hours:</u>
<u>Sunday</u>	
<u>Monday</u>	
<u>Tuesday</u>	
<u>Wednesday</u>	
<u>Thursday</u>	
<u>Friday</u>	
<u>Saturday</u>	

**6. BUSINESS STRUCTURE**A. Identify your business structure (below):

- Corporation (complete subsection B and E)  
 LLC (complete subsection C and E)  
 Other (Specify and complete subsection D and E)

B. **CORPORATION**

1. Registered name of the corporation:
2. State and/or country where incorporated:
3. Registry or file number for the corporation:
4. Names of all officers and directors, titles, and the number of shares of the corporation held by each:
5. Names (true names) of all persons, other than the officers and directors listed above, that hold 5% or more of the outstanding shares in the corporation and the number of shares held by each:
6. Number of outstanding shares in the corporation:
7. Are the shares listed for public trading?     Yes     No  
If yes, on what exchange and how is the stock listed:
8. Name of the custodian of the list of shareholders and/or the transfer agent for the share holdings of the corporation:
9. If more than 50% of the shares are held by a parent corporation or are paired with any other corporation or entity, give the name of the parent and/or paired corporation or entity:

- A. Is parent and/or paired corporation or entity a publically traded or privately held company that guarantees the obligation of the applicant? If no, proceed to section E.

If yes, answer questions 10-17.       Yes       No

10. Registered name of the corporation:
11. State and/or country where incorporated:
12. Registry or file number for the corporation:
13. Names of all officers and directors, titles, and the number of shares of the corporation held by each:
14. Names (true names) of all persons, other than the officers and directors listed above, that hold 5% or more of the outstanding shares in the corporation and the number of shares held by each:
15. Number of outstanding shares in the corporation:
16. Are the shares listed for public trading?       Yes       No
17. If yes, on what exchange and how is the stock listed:
18. Name of the custodian of the list of shareholders and/or the transfer agent for the share holdings of the corporation:
19. Attach a business plan to include a detailed budget that shows anticipated revenue, expenditures and cash flow by month projected for the term of the approval.

### C. LLC

1. Registered name of the LLC:
2. State and/or country where articles of organization are filed:
3. Registry or file number for the LLC:
4. Attach a list of the names of all members (including individuals (true names), corporations, other LLCs and or foreign entities), titles, and the number of shares of the LLC held by each:
5. Are the shares listed for public trading?       Yes       No  
If yes, on what exchange and how is the stock listed:
6. If more than 50% of the shares are held by a parent corporation or are paired with any

other corporation or entity, give the name of the parent and/or paired corporation or entity:

A. Is parent and/or paired entity either a publically traded or privately held company that guarantees the obligation of the applicant? If no, proceed to section E. If yes, answer questions 7-13

Yes  No

7. Registered name of the LLC/Corporation:
8. State and/or country where articles of organization are filed:
9. Registry or file number for the LLC:
10. Attach a list of the names (true names) of all members (members may include individuals, corporations other LLCs and foreign entities), titles, and the number of shares of the LLC held by each:
11. Are the shares listed for public trading?  Yes  No
12. If yes, on what exchange and how the stock is listed:
13. Attach a business plan to include a detailed budget that shows anticipated revenue, expenditures and cash flow by month projected for the term of the approval.

**D. OTHER**

1. Name(s) of partners/sole proprietor:
2. If a partnership, attach partnership agreement.
3. Attach a business plan to include a detailed budget that shows anticipated revenue, expenditures and cash flow by month projected for the term of the approval.

**E. FINANCIAL INFORMATION** <sup>3</sup>

1. Attach the most recent audited annual financial statement or financial report for the applicant. Attach a separate audited annual financial statement for the applicants California operations. The financial statement or financial report shall include all relevant financial information specific to the applicant including:
  - Statement of Financial Position: also referred to as a balance sheet. Statement should report on applicant's assets, liabilities, contingent liabilities and ownership equity as of the date of the prepared statement.
  - Statement of Comprehensive Income: also referred to as Profit and Loss ("P&L") Statement. Statement should include report on applicant's income, expenses, and profits.

- Profit and Loss statement for prior two years and Profit and Loss statement for projected year.
  - Statement of Changes in Equity: to include the changes of the applicants' equity through the reporting period.
  - Statement of Cash Flows: to include a report of the applicant's cash flow activity, particularly its operating investing and financing activities during the reporting period.
  - Copy of a report made during the preceding 12 months to shareholders in the corporation and/or the Securities and Exchange Commission and/or the California Corporations Commission.
2. Provide certification from the Chief Financial Officer that the account holders' funds will not be commingled with any other funds pursuant to CHRB rule 2086.6.

*\*NOTICE TO APPLICANT: The financial information provided pursuant to subsection (E) above is exempt from disclosure pursuant to Government Code section 6254(k) and non-disclosable to the public.*

## 7. ORGANIZATIONAL INFORMATION

- A. Provide a detailed organizational chart for the applicant company and parent company if applicable.
- B. List all jurisdictions inside and outside of the United States in which you offer exchange wagering to patrons.
- C. Does the applicant or parent company hold a financial interest in the following (mark all that apply):
- Race track
  - Casino
  - Advance deposit wagering

If you have indicated you have an interest in any of the above identify name and address of business interest.

- D. What contributions is the applicant making to the California horse racing industry?
- E. Has there been any action initiated against the applicant its parent, any of its directors, partners, officers or subsidiary corporation this year, or in the last year, by any court or regulatory agency? If so, please identify the issue.

## **8. TRACK AGREEMENT AND HORSEMEN ORGANIZATION APPROVAL**

### **EXCHANGE WAGERING LICENSING REQUIREMENTS**

Business and Professions Code section 19604.5, identifies specific provisions that must be met before an exchange wagering provider may accept thoroughbred wagers on horse races from persons whose primary residence address is in the northern and central/southern zone of California; and specific requirements for quarter and standardbred wagers accepted from a resident whose primary residence address is in California:

Business and Professions Code section 19604.5 (b)(4) provides an exchange wagering licensee may only offer exchange wagering on thoroughbred horse races, conducted within or outside of this state, to persons whose primary residence address is in the northern zone of this state if it has an exchange wagering agreement with the racing association/fair located in the northern zone authorized by the Board when the exchange wagering licensee is offering exchange wagering to persons whose primary residence is in the northern zone of this state, and the horsemen's organization responsible for negotiating purse agreements for a live thoroughbred racing meeting.

Business and Professions Code section 19604.5 (b)(5) provides an exchange wagering licensee may only offer exchange wagering on thoroughbred horse races, conducted within or outside of this state, to persons whose primary residence address is in the central/southern zone of this state if it has an exchange wagering agreement with the racing association or racing fair located in the central/southern zone authorized by the Board, when the exchange wagering licensee is offering exchange wagering to persons whose primary residence is in the central/southern zone of this state, and the horsemen's organization responsible for negotiating purse agreements for a live thoroughbred racing meeting.

Business and Professions Code section 19604.5 (b)(6) provides an exchange wagering licensee may only offer exchange wagering on quarter horse races, conducted within or outside of this state, to persons whose primary residence address is in this state if it has an exchange wagering agreement with the racing association or racing fair located in the state authorized by the Board to conduct a live quarter horse racing meeting, when the exchange wagering licensee is offering exchange wagering to persons whose primary residence is this state, and the horsemen's organization responsible for negotiating purse agreements for the live quarter horse racing meeting.

Business and Professions Code section 19604.5 (b)(7) provides an exchange wagering licensee may only offer exchange wagering on standardbred horse races, conducted within or outside of this state, to persons whose primary residence address is in this state if it has an exchange wagering agreement with the racing association or racing fair located in the state authorized by the board to conduct a live standardbred racing meeting, when the exchange wagering licensee is offering exchange wagering to persons whose primary residence is this state, and the horsemen's organization responsible for negotiating purse agreements for the live standardbred racing meeting.

Business and Professions Code section 19604.5 (k) provides exchange wagers placed on a market after the start of a race shall be lawful 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.

**Identify the breed of races (8A through 8E) on which exchange wagering will be offered. Attach a copy of each agreement permitting these wagers.**

**(\* ) If you do not have the required agreements permitting you to accept wagers in compliance with Business and Professions Code section 19604.5, you must attach a letter addressing the status of the outstanding document(s). Please reference section 8 and the title of the outstanding agreement you are addressing. The letter must include the status of negotiations and the outstanding issues that need to be resolved and an estimated completion date for each outstanding agreement.**

**If the information required in response to 8A through 8E is in one agreement provide a single copy of the document.**

- A.  Thoroughbred wagers from persons whose primary residence address is in the northern zone of California.
1. Do you have an agreement with a racing association or fair that allows you to accept thoroughbred wagers in the northern zone?  Yes  No
    - a. If yes, identify which thoroughbred association or fair the agreement is with and provide a copy: \_\_\_\_\_
    - b. If no, see above instructions (\*).
  2. Do you have an agreement with the horsemen's organization that allows you to accept thoroughbred wagers in the northern zone?  Yes  No
    - a. If yes, provide a copy of the agreement.
    - b. If no, see above instructions (\*).
- B.  Thoroughbred wagers from persons whose primary residence address is in the central/southern zone of California.
1. Do you have an agreement with a racing association or fair that allows you to accept thoroughbred wagers in the central/southern zone?  Yes  No
    - a. If yes, identify which thoroughbred association or fair the agreement is with and provide a copy: \_\_\_\_\_
    - b. If no, see above instructions (\*).
  2. Do you have an agreement with the horsemen's organization that allows you to accept thoroughbred wagers in the central/southern zone?  
 Yes  No
    - a. If yes, provide a copy of the agreement.
    - b. If no, see above instructions (\*).
- C.  Quarter wagers from persons whose primary residence address is in California.
1. Do you have an agreement with a racing association or fair that allows you to accept quarter horse wagers in California?  Yes  No
    - a. If yes, identify which quarter association or fair the agreement is with and provide a copy: \_\_\_\_\_
    - b. If no, see above instructions (\*).
  2. Do you have an agreement with the horsemen's organization that allows you to accept quarter horse wagers in California?  Yes  No
    - a. If yes, provide a copy of the agreement.
    - b. If no, see above instructions (\*).
- D.  Standardbred wagers from persons whose primary residence address is in California.
1. Do you have a contract and/or agreement with a racing association, fair that allows you to accept standardbred wagers in California?  Yes  No

- a. If yes, identify which standardbred association/fair the agreement is with and provide a copy: \_\_\_\_\_
  - b. If no, see above instructions (\*).
2. Do you have an agreement with the horsemen's organization that allows you to accept standardbred horse wagers in California?  Yes  No
- a. If yes, provide a copy of the agreement.
  - b. If no, see above instructions (\*).
- E.  Wagers will be accepted after the start of the race.
1. Do you have an agreement that allows you to accept wagers after the start of the race with a racing association or fair that conducts the races?  Yes  No
- a. If yes, identify which association/fair the agreement is with and provide a copy: \_\_\_\_\_
  - b. If no, see above instructions (\*).
2. Do you have a contract and/or agreement with the horsemen's organization that allows you to accept wagers after the start of the race?  Yes  No
- a. If yes, provide a copy of the agreement.
  - b. If no, see above instructions (\*).

**9. LABOR ORGANIZATION**

**NOTICE TO APPLICANT:** Business and Professions Code section 19604.5 (f) (1) provides the Board shall not approve an application for an original or renewal license as an exchange wagering provider unless the entity, if requested in writing by a bona fide labor organization no later than ninety days prior to licensing, has entered into a contractual agreement with that labor organization.

- A. Do you have a labor agreement for the applied term of the application?  Yes  No
- 1. If yes, answer questions B – D.
  - 2. If no, answer question E.
- B. If yes, what is the name of the bona fide labor organization?
- C. What is the term of the agreement? (Begin date): \_\_\_\_\_ (End date): \_\_\_\_\_
- D. Provide a copy of the labor agreement.
- E. If no, have you been in contact with a labor organization?  Yes  No
- 1. If yes, what was the date of contact?
  - 2. Include a letter with your application titled (Labor Status) addressing the status of the current labor negotiations. Include, date of last negotiation contact, remaining issues that need to be resolved and an estimated completion date.

**10. ESTABLISHING EXCHANGE WAGERING ACCOUNTS**

**NOTICE TO APPLICANT:** CHRB Rule 2089.5 provides that specific provisions must be met to establish an exchange wagering account. Business and Professions Code section 19604.5 (c) provides in part only natural persons with valid exchange wagering accounts may place wagers through an exchange. To establish an exchange wagering account, a *natural* person shall be at least 18 years of age and a resident of California or of another jurisdiction within which the placement of exchange wagers would not be unlawful under United States federal law or the law of that jurisdiction.

- A. Provide a detailed listing of the procedures to be used for establishing an account (must comply with rule 2089.5):
- B. Provide a copy of the form and terms of agreement used to establish an account for an account holder.
- C. Name and address of the third party you will use to verify identity, residence and age verification:

**11. LOCATION AND PHYSICAL PLANT**

- A. Do you have a call center to accept verbal wagers?  Yes  No  
If so, what is the name, address and phone number of the location?
- B. What is the website address available for patrons to place wagers:
- C. Do you have a location in which patrons can place a wager in person:  Yes  No  
If so, what is the name, address and phone number of the location?

**12. OPERATION OF EXCHANGE WAGERING ACCOUNTS**

- A. Submit a copy of your detailed operating plan pursuant to CHRB Rule 2086.6. Plan must include all items outlined in CHRB Rule 2086.6 including:
  - 1. a detailed report of the daily operation of the exchange
  - 2. a description of policy to prevent commingling of account holders' funds with any other funds.
  - 3. management policy of customer accounts including deposit, withdrawals, debits and credits.
- B. List the type of deposits you will accept:
- C. Identify any fees or transaction-related charges and the amount that will be assessed:

**13. SECURITY POLICY**

**NOTICE TO APPLICANT:** Business and Professions Code section 19604.5 (d) provides in part the Board shall approve, as part of the exchange wagering licensee's application for an exchange wagering license, security policies and safeguards to ensure player protection and integrity, including, but not limited to, provisions governing the acceptance of electronic applications for *natural* persons establishing exchange wagering accounts, location and age verification confirmation for *natural* persons establishing exchange wagering accounts, the use of identifying factors

to ensure security of individual accounts, and the requirements for management of funds in exchange wagering accounts. An exchange wagering licensee may not accept a wager, or series of wagers, if the results of the wager or wagers would create a liability for the exchange wagering account holder that is in excess of the funds on deposit in the exchange wagering account of that holder.

- A. Attach your security access policy and safeguards pursuant to Business and Professions Code section 19604.5 (d). Policy must include the following:
  - 1. Description of the technology to ensure identity, residence, and age verification when an account is established:
  - 2. Description of the technology to ensure confidentiality of the means of personal identification:
  - 3. Methods available for account holders to withdraw funds from their account:
  
- B. Attach a copy of your information security incident management policy.
  - 1. Have you had any computer related security issues this year, or in the last year, with data, data storage or hardware?  Yes  No
  - 2. If yes, please identify the issue.
  
- C. Provide the name, address, phone number and hours of operation of the location in which the physical and electronic data will be will be stored:

**14. ENFORCEMENT OVERSIGHT**

**NOTICE TO APPLICANT:** Business and Professions Code section 19604.5 (d) provides in part the Board shall approve, as part of the exchange wagering licensee's application for an exchange wagering license, security policies and safeguards to ensure player protection and integrity. CHRB Rule 2091.5 (b) states the exchange provider shall immediately notify the Board if it suspends an account due to probable fraud in connection with exchange wagering. The provider shall also submit to the Board a written account of the suspension.

- A. Identify the physical location of the applicant's security oversight operation.
  
- B. Attach an organizational chart including chain of command and contact information (phone number and email address) for key members of the applicant's security oversight operation.
  
- C. Describe what forensic and analytical tools will be used for the oversight/enforcement of exchange wagering security.

**15. CONTRACTS AND AGREEMENTS**

- A. List name, address and phone number of all organizations you will contract with to facilitate exchange wagering:

<u>Company name, address and phone:</u>	<u>Describe services:</u>

**16. ADVERTISING**

- A. Name and address of the advertising agency you will use:
- B. Describe marketing strategies planned for exchange wagering:
- C. What marketing contribution is the applicant making to the California horse racing industry?
- D. What innovative programs have been created by the applicant to help invigorate the California horse racing industry?
- E. Will there be rebate programs offered? If so, identify the programs.

**17. CERTIFICATION**

I hereby certify under penalty of perjury that I have examined this application, that all of the foregoing statements in this Application are true and correct, and that I am authorized to attest to this application.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Title

\_\_\_\_\_  
Date

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

Exchange Wagering Ad-Hoc Committee Meeting  
 May 2, 2013

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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 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, 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 provided under Business and Professions Code section 19604.5(d), 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 natural persons whose principal residence is outside of the state, which for the purposes of these rules, shall apply only to wagering on 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  
 TITLE 4. CALIFORNIA CODE OF REGULATIONS  
 PROPOSED ADDITION OF  
ARTICLE 27. EXCHANGE WAGERING  
RULE 2086.7. EXCHANGE WAGERING DATA

Exchange Wagering Ad-Hoc Committee Meeting  
 May 2, 2013

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2086.7. Exchange Wagering Data.

(a) For the purposes of ~~pari-mutual~~ pari-mutuel accounting and settlement of exchange revenues according to contract, as well as reporting and analysis of data related to exchange wagering, the exchange provider shall furnish the nonprofit horse racing data base, CHRIMS Inc., as designated by the Board with ~~the following~~ a data interface and the following listed data in a format agreed upon by the exchange provider and CHRIMS Inc. ~~the nonprofit horse racing data base~~:

(1) A daily reconciliation of the amounts settled by the exchange provider and its account holders, including but not limited to:

(A) Race date, event, race number, wagering interests, breed type;

(B) Post time of race, start time of race, finish time of race;

(C) Winning, losing and net wagers;

(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;

(F) Cancellations of wagers made by customers on betting interest, or interests during one event, if any;

(G) Zip code of each account holder;

(H) Percentage or flat fee paid to source of event;

(I) Percentage or flat fee rebated to each account holder, if any.

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  
 PROPOSED ADDITION OF  
ARTICLE 27. EXCHANGE WAGERING  
RULE 2086.9. FINANCIAL AND SECURITY INTEGRITY AUDITS REQUIRED

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Rule 2086.9. Financial and Security Integrity Audits Required.

(a) Ninety One hundred twenty days after the end of each calendar year the exchange provider shall submit to the Board an annual audited financial statement for its California operations.

(b) On a calendar year basis the provider shall undergo the Statement on Standards for Attestation Engagements 16 (SSAE 16) audits:

(1) Service Organization Controls I (SOC I) and;

(2) Service Organization Controls II (SOCII) reports.

(c) The SOC I and SOC II reports shall be submitted to the Board ninety days after the end of the calendar year.

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  
 PROPOSED ADDITION OF  
ARTICLE 27. EXCHANGE WAGERING  
RULE 2087. SUSPENDING MARKETS

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2087. Suspending Markets.

(a) An exchange provider may suspend a market at any time, including after the race is declared official but before winning wagers are credited, if the provider has reason to suspect that fraud or any other action or inaction by any *natural* person connected with the race raises questions about the integrity and fairness of the market.

(b) The provider shall immediately notify the Board by means of electronic mail any time a market is so suspended. Upon settlement of the market the provider shall submit to the Board a written account of the suspension that at a minimum provides the following information:

- (1) The market suspended;
- (2) The date and time of the suspension;
- (3) The reason for suspending the market;
- (4) The results of the investigation;
- (5) How the market was settled.

(c) Upon the completion of an investigation, the exchange provider shall settle the market as appropriate.

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  
 PROPOSED ADDITION OF  
ARTICLE 27. EXCHANGE WAGERING  
RULE 2087.6. CANCELLATION OF MATCHED WAGERS

Exchange Wagering Ad-Hoc Committee Meeting  
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2087.6. Cancellation of Matched Wagers.

(a) An exchange provider may cancel or void a matched wager or part of 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 *natural* person placing a wager through the exchange has breached any term of the *natural* 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~~ section, 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 *not made 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  
 PROPOSED ADDITION OF  
ARTICLE 27. EXCHANGE WAGERING  
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~~ offers an unmatched wager may cancel ~~that~~ unmatched wager at any time without cause 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  
 PROPOSED ADDITION OF  
ARTICLE 27. EXCHANGE WAGERING  
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 account holder, the exchange provider may prohibit the withdrawal of funds equal to the overpayment. The exchange provider shall ~~immediately~~ within one business day notify the account holder of the overpayment and shall be entitled to recover from such account holder the amount of the overpayment.

(1) An account holder who disputes an overpayment may, within 90 calendar days of the date of the overpayment, request in writing that the Board determine the validity of such overpayment.

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

(1) Within one business day ~~The~~ the exchange provider shall notify the account holder of such underpayment.

(12) 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.

(23) 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.

(34) Any *natural* 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.

(45) 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 *in* 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  
 PROPOSED ADDITION OF  
ARTICLE 27. EXCHANGE WAGERING  
RULE 2089.5. REQUIREMENTS TO ESTABLISH AN EXCHANGE WAGERING  
ACCOUNT

Exchange Wagering Ad-Hoc Committee Meeting  
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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 state may establish exchange wagering accounts provided it is not unlawful under United States federal law or the law of that jurisdiction state to place an exchange wager provided, however, that these rules shall apply only to wagering on California races. 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~~ finds that any information supplied by the prospective account holder is untrue or incomplete, or for any other reason as determined by the exchange provider.

(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 for purposes including but not limited to

conducting an investigation, an audit or an ongoing wagering inquiry. 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.

(l) No employee or agent of the exchange provider shall divulge any confidential information related to the placing of any exchange wager or any confidential information related to the operation of the exchange wagering system without the consent of the account holder, except to the account holder as required by this article, the Board, and as otherwise required by state or federal law.

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  
 PROPOSED ADDITION OF  
ARTICLE 27. EXCHANGE WAGERING  
RULE 2091.5. SUSPENDING AN EXCHANGE WAGERING ACCOUNT

Exchange Wagering Ad-Hoc Committee Meeting  
 May 2, 2013

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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 *natural* 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  
 PROPOSED ADDITION OF  
ARTICLE 27. EXCHANGE WAGERING  
RULE 2092.5. PROHIBITIONS ON WAGERS TO LAY A HORSE TO LOSE

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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 *natural* 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 *natural* persons named in subsection (a) through (a)(7) of this regulation instruct another *natural* 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  
 PROPOSED ADDITION OF  
ARTICLE 27. EXCHANGE WAGERING  
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 occupational license of any natural person if, after a preliminary hearing, it determines there is probable cause to believe that such natural 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, provided that any such suspension under this section shall be limited to ten days and, if probable cause that a violation has occurred has been found, a hearing under Business and Professions Code section 19461 to determine whether a licensee has committed a violation of the rules must be held before any further discipline may be imposed.

(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.