

## INITIAL STATEMENT OF REASONS (REVISED)

### ARTICLE 27. EXCHANGE WAGERING

#### RULE 2086, DEFINITIONS

#### RULE 2086.1, AUTHORIZATION FOR EXCHANGE WAGERING

#### RULE 2086.5, APPLICATION FOR LICENSE TO OPERATE EXCHANGE WAGERING

#### RULE 2086.6, OPERATING PLAN REQUIRED

#### RULE 2086.7, EXCHANGE WAGERING DATA

#### RULE 2086.8, MONITORING SYSTEMS AND NOTIFICATION

#### RULE 2086.9, FINANCIAL AND SECURITY INTEGRITY AUDITS REQUIRED

#### RULE 2087, SUSPENDING MARKETS

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#### RULE 2089.5, REQUIREMENTS TO ESTABLISH AN EXCHANGE WAGERING ACCOUNT

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#### RULE 2091, CLOSING AN INACTIVE EXCHANGE WAGERING ACCOUNT

#### RULE 2091.5, SUSPENDING AN EXCHANGE WAGERING ACCOUNT

#### RULE 2091.6, POWERS OF THE BOARD TO REVIEW AND AUDIT RECORDS

#### RULE 2092, EXCHANGE WAGERS PLACED AFTER THE START OF A RACE

#### RULE 2092.5, PROHIBITIONS ON WAGERS TO LAY A HORSE TO LOSE

#### RULE 2092.6, SUSPENSION OF OCCUPATIONAL LICENSE

#### RULE 2093, CERTAIN PRACTICES RELATED TO EXCHANGE WAGERING.

### SPECIFIC PURPOSE OF THE REGULATIONS

The Board proposes to add Article 27, Exchange Wagering, to fulfill the requirements of Business and Professions Code section 19604.5, which states notwithstanding any other law, rule, or regulation, exchange wagering by residents of California and residents of jurisdictions outside of California on the results of horse races conducted in California, and by residents of California on the results of horse races conducted outside of California, shall be lawful provided that all of the following apply: (1) Exchange wagering shall only be conducted by an exchange wagering licensee pursuant to a valid exchange wagering license issued by the Board. (2) No exchange wagering licensee shall accept exchange wagers on races conducted in California from a resident of California or a resident of a jurisdiction outside California, or conducted outside California from a resident of California, unless an exchange wagering agreement exists allowing these wagers. (3) Exchange wagering shall be conducted pursuant to and in compliance with the provisions of the Interstate Horseracing Act of 1978 (15 U.S.C. Sec. 3001 et seq.), as amended, this section, all applicable federal laws, and rules and regulations promulgated by the Board pursuant to this section. Article 27 contains 25 proposed regulations relating to the operation of exchange wagering in California.

**PROBLEM:** Senate Bill (SB) 1072, Chapter 283, Statutes of 2010, added Business and Professions Code section 19604.5 to require the Board to establish standards governing exchange wagering in California. Pursuant to SB 1072, The Board proposes to add Article 27, Exchange Wagering, to its rules and regulations. The proposed regulations that comprise Article 27 are

intended to allow potential exchange wagering providers to apply for a license to operate exchange wagering in California; allow horse racing fans to open an exchange wagering account and participate in exchange wagering in California; and to provide for the oversight and administration of exchange wagering in California by the Board and by exchange providers.

## NECESSITY

The Board proposes to add Rule 2086, Definitions, to provide definitions of terms related to exchange wagering. The Board has determined it is necessary to define exchange wagering terms, as it is a form of pari-mutuel wagering that is not familiar to California residents. Because exchange wagering terminology is unique, and because the wagering public generally turns to the Board's rules and regulations if there is a question of procedure or meaning, the Board has determined that some of the definitions found in Business and Professions Code section 19604.5 must also be promulgated in Rule 2086. This will provide clarity for persons who may use the Board's regulations to engage in exchange wagering. Subsection 2086(n) is an example. The exchange wagering term "Lay" means to wager on a selected outcome not occurring in a given market. This is entirely new to California residents who currently engage in pari-mutual wagering, and if the term is not defined in the Board's rules governing exchange wagering, those attempting to understand Article 27, Exchange Wagering, may not know where to find its meaning. All definitions found in the proposed regulation are explanations of words or phrases used within the new Article 27.

Subsection 2086(k) incorporates by reference the form CHRB-229 Application for License to Operate Exchange Wagering (New 05/13) (CHRB-229). It is necessary to incorporate the CHRB-229 by reference as it would be cumbersome, unduly expensive, or otherwise impractical to publish the document in the California Code of regulations. Subsection 2086(k) defines "*exchange wagering license application*" and it contains the first reference in Article 27 to the CHRB-229; accordingly, subsection 2086(k) is where the incorporation by reference should occur. The cover page of the CHRB-229 provides general information regarding the application and informs the applicant that it must supply complete and up-to-date responses. There is also information on the cover page on how to complete the application. The instructions will help to prevent confusing attachments, and repetitive responses.

Part 1 of the CHRB-229 is to be completed by the applicant. The type of entity must be identified, and the address and other contact information, such as telephone and website are required. This information is necessary so the Board will know who the entity/applicant is, and how to contact the facility. This is consistent with current practice, as all applicant entities must supply such information when applying for license to conduct a race meeting, to operate as a minisatellite wagering facility, or to operate as an advance deposit wagering provider.

Part 2 of the CHRB-229 requires the applicant to provide information regarding a contact person. This is necessary so the Board will have an individual to contact if there are issues with the application. This is consistent with current practice, which requires applicant entities to provide contact person information.

Part 3 of the CHRB-229 requires the applicant to provide the name and title, business name and address, and other contact information, such as telephone, fax, and email address of the California agent for receipt of service of process. This provides the Board with an individual contact if there are legal documents regarding the business that need to be sent. This is consistent with current practice regarding application for license to operate as an advance deposit wagering provider.

Part 4 of the CHRB-229 requires the applicant to provide the name/title, email address, phone number, and CHRB license number of all the applicant's management personnel. This is necessary to provide the Board with the ability to determine who actually manages the exchange wagering entity and to verify such persons are licensed. This is consistent with current practice regarding application for license to operate as an advance deposit wagering provider.

Part 5 of the CHRB-229 requires the applicant to identify the dates it proposes to operate exchange wagering. This is necessary to inform the Board of when the applicant might apply for a renewal of license and captures the dates that the applicant will not be accepting wagers. This is consistent with current practice regarding applications for license to operate race meeting, and applications to operate a minisatellite wagering facility and as an advance deposit wagering provider.

Part 6 of the CHRB-229 requires the applicant to identify its business structure, and to identify all officers, directors, managers, as well as provide member or partner information. In addition, if a parent company, paired corporation or entity is involved, it must be listed. Entities that own 5 percent or more must provide full disclosure. This information is necessary because knowledge of the entity's business structure and the persons or entities involved with the applicant allows the Board to conduct a thorough investigation. This is consistent with current practice regarding applications for license to operate race meeting, and applications to operate a minisatellite wagering facility or to operate as an advance deposit wagering provider. Under "E" of Part 6, the applicant is required to attach its most recent annual financial statement, as well as other financial documents. The subsection indicates the items that must be included in the audited annual financial statement or financial report, including balance sheet, profit and loss statement, etc. The Board wishes to review such documents to determine the financial ability of the applicant to support a gaming activity. This is consistent with current practice regarding applications for license to operate race meeting, and applications to operate a minisatellite wagering facility or to operate as an advance deposit wagering provider.

Part 7 of the CHRB-229 requires the applicant to provide organizational information such as an organizational chart for the applicant company and the parent company, all jurisdictions in which the company will offer exchange wagering, what financial interests the applicant or parent company holds, contributions to the California horse racing industry, and whether any actions have been initiated against the applicant or its parent or subsidiary corporation in the last year. This information informs the Board of how the applicant entity is organized and if there have been any legal or financial issues with the entity. This information is necessary for the Board to be able to ensure the integrity of the exchange wagering entity. This requirement is consistent with current practice regarding an application for license to operate as a minisatellite wagering facility.

Part 8 of the CHRB-229 informs the applicant of the specific provisions identified under Business and Professions Code section 19604.5(b)(4) through (b)(7) that must be met before an exchange wagering provider may accept wagers on horse races from persons whose primary residence address is in California. This subsection spells out the licensing requirements the applicant must comply with before an exchange wagering provider may accept wagers and collects the documents required for licensing. Subsections A through E capture information regarding which wagers the applicant will accept. Subsections 1 and 2 of A through E collect a copy of the association/fair and horsemen agreements. If the applicant does not have the required documents to complete this section the applicant is asked to provide a status report on the outstanding documents. This is necessary to inform the Board if the applicant is in compliance with the provisions of Business and Professions code 19604.5 which is a requirement

of licensure for a potential exchange wagering provider. These requirements are consistent with current practice regarding an application to operate as an advance deposit wagering provider.

Part 9 of the CHRB-229 requires the applicant to comply with labor provisions identified under Business and Professions Code section 19604.5 (f)(1). Subsections A through D capture whether the applicant has a labor agreement, identifies the labor organization, states the term of the agreement and collects a copy of the labor document. If the applicant does not have the required documents to complete this section it is required to complete subsection E to determine if the applicant has been in contact with a labor organization and to collect a status report on the labor negotiations. This is necessary to inform the Board if the applicant is in compliance with the provisions of Business and Professions code 19604.5(f)(1) which is a requirement of licensure for a potential exchange wagering provider. These provisions are consistent with current practice regarding an application to operate as an advance deposit wagering provider.

Part 10 of the CHRB-229 requires the applicant to provide a listing of the procedures it will require to establish an account, collects a copy of the form and terms of agreement used to establish an account, including the name and address of the third party the applicant will use to verify the identity of the exchange wagering account applicant. This information is necessary so the Board will know that the provider is instituting safeguards to prevent minors from wagering. These provisions are consistent with current practice regarding an application to operate as an advance deposit wagering provider.

Part 11 of the CHRB-229 requires the applicant to identify the location of its physical plant. Information is collected on the call center location, the website address available for patrons to place wagers, and the location in which patrons can place a wager in person. This provides the Board with the address in which the applicant is doing business so that an investigation or audit may be performed.

Part 12 of the CHRB-229 requires the applicant to provide a copy of its operating plan pursuant to CHRB proposed Rule 2086.6. This section collects a copy of the operating plan, detailed report of the daily operation of the exchange, description of policy to prevent commingling of account holders' funds, management policy of customer accounts including deposits, withdrawals, debits and credits, list of type of deposits that will be accepted, and collects what fees the applicant plans to charge the wagering party. This information is necessary for the Board to know because the Board is obligated to ensure integrity in exchange wagering. These provisions are consistent with current practice regarding an application to operate as an advance deposit wagering provider.

Part 13 of the CHRB-229 requires the applicant to attach a copy of its security access policy and safeguards pursuant to Business and Professions Code section 19604.5(d). Subsection A requires a description of the technology used to ensure identity verification when an account is established; collects information on the technology to ensure confidentiality of the wagering party's personal information; and captures information on how account holders will withdraw funds from their accounts. Subsection B requires a copy of the applicant's information security incident management policy, questions if the applicant has had any computer related security issues for the current and prior year with data, data storage or hardware. Subsection C collects information on the location of where physical and electronic data will be stored. This information is necessary so the Board can determine the applicant is providing safeguards to protect the bettors' personal information. These provisions are consistent with current practice regarding an application to operate as an advance deposit wagering provider.

Part 14 of the CHRB-229 subsection A through C require the applicant to identify the physical location of the its security oversight operation; collects a copy of an organizational chart providing chain of command and contact information; and captures what forensic and analytical tools will be used for the oversight of exchange wagering security. This information is necessary to demonstrate the applicant is actively providing safeguards to ensure player protection and integrity.

Part 15 of the CHRB-229 requires the applicant to provide a listing including address and phone number of all organizations it will do business with to facilitate exchange wagering. This information is necessary so the Board is aware of whom the applicant has contracts and agreements with to assist in the conduct of its exchange. This provision is consistent with current practice regarding an application to operate as an advance deposit wagering provider.

Part 16 of the CHRB-229, subsections A through D, require the applicant to provide the name and address of the advertising agcy it will use; describe marketing strategies planned for exchange wagering; and to identify the marketing contributions and innovative programs created by the applicant to invigorate the California horse racing industry. Subsection D collects data on the rebate programs that the applicant will offer. This information is necessary so the Board can follow the contributions the applicant is making to the California horse racing industry and will be informed about any rebates to account holders the provider may offer. These provisions are consistent with current practice regarding an application to operate a race meeting and an application to operate as an advance deposit wagering provider.

Part 17 of the CHRB-229 requires the exchange wagering applicant to certify under penalty of perjury that the statements made on the CHRB-229 are true and correct. The certification requirement is consistent with current practice regarding applications for license to operate race meeting, and applications to operate a minisatellite wagering facility and as an advance deposit wagering provider.

Throughout the CHRB-229 are sections marked “Notice to Applicant.” These sections provide information and statements regarding the application, responsibilities of various parties to the application, and approvals and contracts that must be in place for the conduct of the exchange wagering. The notices predominantly refer to Business and Professions Code section 19604.5, which enables the operation of exchange wagering in California, and is the basis for the application’s requirements. They inform the applicants of their responsibilities under Business and Professions Code section 19604.5, and they help ensure compliance with the Board’s requirements.

The Board proposes to add Rule 2086.1, Authorization for Exchange Wagering. Subsection 2086.1(a) provides that exchange wagering may be conducted upon approval of the Board, as provided in Article 27, and under the provisions of Business and Professions Code section 19604.5(b)(2) to 19604.5(b)(7), inclusive. This makes it clear that exchange wagering will take place under Article 27, and specified sections of the Business and Professions Code. The Board has determined this is necessary because certain actions allowed under exchange wagering may seem to contradict other rules and regulations of the Board. An example of this is the proposed Rule 2092.5, Exchange Wagers Placed After the Start of a Race, which in accordance with Business and Professions Code section 19604.5(k), states exchange wagers may be allowed after the start of a race, as specified. However, Board Rule 1967, Closing of Wagering in a Race, requires the stewards to lock the pari-mutuel machines with the start of the race and close wagering in the race, after which no pari-mutuel tickets shall be sold for the race. The appearance of such conflicts is alleviated by stating that exchange wagering is authorized under Article 27 and in accordance with Business and Professions Code section 19604. Subsection

2086.1(b) states that despite subsection (a) of the 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. Most potential California exchange wagering providers currently offer exchange wagering in jurisdictions outside the United States. Subsection 2086.1 makes it clear that despite the requirement to hold a California exchange wagering license before the provider may offer exchange wagers to California residents, such a requirement does not preclude the entity from operating outside this state if its out-of-state operations do not offer such wagers to California residents.

The Board proposes to add Rule 2086.5, Application for License to Operate Exchange Wagering. Subsection 2086.5(a) states that a license must be obtained from the Board before exchange wagers may be accepted. This is consistent with Business and Professions Code section 19604.5(b)(1) which states that exchange wagering shall only be conducted by an exchange wagering licensee pursuant to a valid license issued by the Board. This is to ensure that entities offering exchange wagering are vetted and deemed suitable for license. It is also consistent with current Board practice, which requires racing associations, advance deposit wagering providers and simulcast operators to obtain a license from the Board prior to accepting wagers. Subsection 2086.5(b) provides the form number and title of the application for license to operate exchange wagering, and states that it may be obtained from the Board's headquarters office. This is necessary so that potential applicants will know which form they must complete, and where the form may be obtained. Subsection 2086.5(b) also states that the timeline for filing the application is 90 days in advance of the scheduled start of exchange wagering. This is consistent with current Board requirements for filing an application for license to operate a live race meeting, an advance deposit wagering application, and a satellite or minisatellite wagering application. The 90-day period provides staff with time to vet the application and to schedule a hearing for approval. Subsection 2086.5(b) requires the applicant to submit a detailed operating plan and proof that it has complied with the labor provisions of Business and Professions Code section 19604.5(f). The Board has determined the submission of an operating plan is necessary, as it will provide the Board with details about the exchange provider's business plan that may not be included in the application for license. This will help the Board in understanding the proposed day-to-day operation of the applicant. Business and Professions Code section 19604.5(f) requires the Board to deny an applicant a license unless it has entered into a contractual agreement with a bona fide labor organization that requested such an agreement 90 days prior to licensing. Therefore it is necessary for the Board to require confirmation of the applicant's compliance with the statute. Subsection 2086.5(c) states that the term of license is a maximum of 12 months, commencing the first day of the month following approval of the exchange wagering license. The term of license was originally set at two years, on a calendar year basis, with the possibility that exchange wagering providers could enter or leave the market at any time. Additionally, exchange wagering providers would have to pay their portion of the assessment fee upon approval. This model created confusion regarding how the assessment fee would be apportioned amongst current and new exchange wagering providers. There was also a lack of clarity about how the Board would refund previously paid assessment fees to existing operators if a new operator was approved. The transition to a 12-month term of license with assessment fees paid on a monthly basis provided clarity. Approved operators would no longer have to pay on an annual basis. This allows for the modification of the fees as exchange operators enter or leave the market. The 12 month term also provides the Board with the ability to regularly appraise and consider the effect of exchange wagering on California's horse racing industry. The exchange provider must pay its assessment fee on a month-to-month basis. Starting the term of license on the first day of the month following approval eliminates the need for the Board to prorate the new licensee's initial fee and to pay partial-month rebates to existing operators. It also provides sufficient time to notify existing exchange operators of the change to their monthly assessment. The word "*maximum*" is used to describe the 12 month term because

an original license to operate exchange wagering may be issued for less than 12 months. Subsection 2086.5(c)(1) provides that an original licenses to operate exchange wagering shall be issued to expire on the last day of the State of California's fiscal year in which it is issued. This means that the majority of original licenses will be issued for a period of less than 12 months. Only an original license approved in June to commence on July 1 will be issued for a maximum of 12 months. Subsection 2086.5(c)(1) states that subsequent approvals (renewals) of an exchange wagering license shall be for a period of 12 months beginning July 1 and ending June 30 to coincide with the State's fiscal year. This will bring all exchange wagering approvals in line with the State's fiscal year. Aligning the term of license with the State of California's fiscal year will provide clarity and consistency for the exchange operators, who will all know when applications for renewal must be submitted, and what the term of license will be. It will also aid in the Board's internal record keeping. Under Business and Professions Code section 19604.5(e)(6) the Board may recover any costs associated with the licensing or regulation of exchange wagering. Justifying expenditures and validating revenue on a fiscal basis is more manageable than when a calendar year is used. Taking in revenue on a calendar year basis forces the Board to make assumptions. The audit trail for exchange wagering revenue paid on a State of California fiscal year basis will also be less cumbersome.

Subsection 2086.5(d) provides that the total amount per fiscal year to be assessed to operate exchange wagering is \$500,000. The Board originally estimated the assessment fee at \$1.4 million for a two-year license. The estimate was based on initial consultations with the British Horse Racing Authority (BHA), a British entity with experience in regulating exchange wagering. However, the BHA has legal, investigative and support staff dedicated solely to exchange wagering, while the Board has since determined it will utilize existing staff whose duties will be expanded to include exchange wagering related activities. In addition, California's exchange wagering program may initially be much more limited than that of the BHA. After considering the needs of the Board and what it believes would be reasonable costs associated with the licensing and regulation of exchange wagering in California, the amount of the assessment fee was adjusted to the current estimate of \$500,000 per fiscal year. The assessment fee shall be equally apportioned amongst the approved applicants, and paid on a per month basis for the duration of the license. Monthly payments allow the Board to approve exchange wagering license applicants at any time of the year. If a new applicant is approved, the total assessment fee is divided amongst all approved applicants. If an exchange wagering operator were to relinquish its approval and cease operations in California, the monthly assessment fee payments would be adjusted accordingly amongst the remaining operators. In accordance with Business and Professions Code section 19604.5(e)(6), the Board has determined that the total amount per fiscal year to be assessed to operate exchange wagering is \$500,000. Exchange wagering is a form of pari-mutuel wagering that operates on a stock exchange model wherein account holders may set the odds and offer wagers regarding the outcome of a horse race. Exchange wagering also allows account holders to wager on a horse to lose. The ability to wager on a horse to lose has raised awareness of the possibility of race fixing, which makes ensuring the integrity of the wagering exchange a particularly important task. The wagering exchange is internet based, and the provider conducts extensive oversight of all wagering activity. The CHRB will actively interface with each exchange provider to ensure a sound monitoring system. To accomplish this, it will be necessary to dedicate CHRB staff and physical resources to real-time monitoring of exchange wagering activities. Current audit and enforcement staff must be trained in the intricacies of fraud investigation and online fraud trends and patterns related to exchange wagering. The current CHRB network will undergo modifications to be compatible with case management systems and the exchange providers' wagering platforms to conduct meaningful audits. The proposed addition of Rule 2086.8, Monitoring Systems and Notification, requires the exchange provider to furnish the Board and its designee with full access to the

provider's monitoring system, including online documentation and training. The Board anticipates redirecting a portion of its existing hardware resources to absorb these efforts for the launch of exchange wagering. However, system upgrades will be necessary to sustain a sophisticated bet monitoring platform. To accomplish software and hardware upgrades and ongoing maintenance of the same – including software license fees, the Board anticipates an annual cost of \$62,240.

The exchange operators' wagering software will be entirely new for Board staff. Traditional "brick and mortar" wagering, which is conducted at racetracks and simulcast facilities, is a relatively anonymous form of wagering in that the customer cannot be traced through the wager until the ticket is cashed. Advance deposit wagering, which relies on computer software to maintain accounts, uses the traditional form of pari-mutuel wagering, so wagers are part of the pari-mutuel pool and wagering patterns are not monitored unless there is an issue after the race.

The Board's auditing staff will be assigned bet monitoring responsibilities in real time, using software to ensure exchange wagering is conducted fairly, and to identify unusual or suspicious patterns, using predetermined thresholds that indicate possible fraud. Audit staff workload is expected to shift and increase to accommodate monitoring tasks, needing 50 additional hours each week. Audit staff will absorb 8 hours each day, or 40 hours each week, shared among existing audit staff. The Board proposes to use consultants to absorb 10 monitoring task hours each week.

CHRB enforcement workload is expected to increase by 42 hours a week. Existing investigators will absorb 32 hours each week (16 hours per region) and proposed consultants will manage 10 hours each week. Consultant workloads will include: assisting with data collection and archiving, shared drive data input for access by staff monitoring wagering patterns, and performance of tasks required to build solid investigative cases.

To handle monitoring and enforcement support workloads, the Board plans to procure, as needed, either State certified California Multiple Awards Schedules (CMAS) consultants or make an appointment from the ranks of seasonal State employees. CMAS consultant rates of this nature are currently averaging from a low of \$65.00 an hour for less skilled, to as much as \$95.00 an hour for highly skilled consultants who conduct case review and case oversight, the closest comparable description of duties to the monitoring and enforcement support tasks the Board requires. The Board anticipates procuring two CMAS consultants at \$65.00 an hour for no more than 40 hours per month for auditing, and 40 hours per month for enforcement, for an annual cost totaling \$62,400. The Board proposes to use consultants because it believes it is essential to evaluate program needs and understand how exchange wagering will affect California's horse racing industry before requesting additional state positions.

The Board's enforcement staff will investigate unusual wagering patterns, and prepare evidence statements and enforcement cases for hearings before contracted hearing officers and Boards of Stewards. The Board anticipates assigning stewards additional non-race working days to accommodate exchange wagering workload. Pursuant to Business and Professions Code section 19518, the Board contracts with stewards at the daily rate of \$525 through an annual State contract. Additional steward work days are estimated not to exceed twelve days a month at \$525 per day, for a total cost of \$6,300 per month, or \$75,600 annually.

Pursuant to Business and Professions Code section 19517.5, hearing officers are procured by the Board. Using a State contract they receive an hourly rate of \$187.00. The Board's hearing officers must have horse racing industry experience in adjudicating such matters such as race riding rules, riding techniques, horse eligibility, hidden ownership, fitness for duty, and other licensee proceedings. They conduct hearings to decide or recommend decisions concerning horse racing. With the advent of exchange wagering, the Board anticipates an increase in the filing of complaints and a corresponding increase in the processing of appeals. The workload for

hearing officer contractors who adjudicate disciplinary actions for exchange wagering is expected to average three cases per month, assuming ten hours each to conclude case evaluation, conduct hearings and prepare written decisions. At a rate of \$187 an hour, at 10 hours for each case worked, estimating no more than three exchange wagering cases a month, the Board estimates a \$67,320 annual cost for hearing officers. The Board anticipates absorbing any unanticipated costs associated with projected hearing officer expense.

Hearing reporters are competitively procured, resulting in an annual contract. Stewards' hearings require hearing reporters and transcript services, with rates that include \$7.00 transcript per page, as well as \$100 per hearing appearance fees. Because exchange wagering is a new and untested wagering platform, the Board anticipates longer than average exchange wagering hearings. This is due to an expectation that traditional hearing procedures and protocols will need refinement and customization to conform. There will be unknown stakeholders present and testifying, with a new set of violations. Using the increased hearing officer projected caseload average of three additional cases per month, or 36 cases per year, the hearing reporter expense is projected to be around \$12,600 per year.

Enforcement staff will require the use of witnesses in the investigation and resolution of rule violations. The Board reimburses witnesses at \$35 a day. The Board anticipates that the current daily witness fees may not be sufficient for anticipated high profile exchange wagering case loads. Using \$35 a day, the Board anticipates needing witnesses on average two days per month, or 24 days per year, for a total annual cost of \$840.

Department of Justice (DOJ) provides the Board with attorney general (AG) and legal services, with monthly costs currently averaging \$32,000 per month. To cut back on case expense, the AG's office has attempted to provide the Board with staff who possess racing industry knowledge. Due to the greater possibility for fraud in exchange wagering, the Board anticipates a rise in adjudication of disciplinary actions requiring AG expertise. A comparison of current AG billing statements indicates routine CHRB cases have concluded within 40 hours, to a high of 100+ hours for more complex cases. Using current year monthly average cost of \$32,000 a month, the Board conservatively anticipates an annual AG caseload increase of 35 percent per year. This results in a monthly increase of \$12,250 or an annual increase of \$147,000 to manage anticipated exchange wagering associated AG services.

Observed or reported offenses on California racetracks may result in administrative action against a licensee, or a complaint being filed with the Board of Stewards. If a stewards' decision is appealed, a hearing is held before a designated administrative law judge (ALJ) from the Office of Administrative Hearings (OAH). A CHRB case assigned to OAH could be a routine financial complaint or a complex drug positive finding that resulted in disqualification of the horse, forfeiture of purse monies, and even appeals to higher courts. OAH services include phases of hearing preparation, conducting administrative hearings, and preparing decisions for Board review. Requests for OAH services have been in decline; however, with the inception of exchange wagering, the Board anticipates increased ALJ assistance from OAH. In predicting the increase, the Board looked at the average annual cost as a basis for projecting increased OAH expenses. The Board anticipates requiring the services of ALJ's six times during a fiscal year, with 50 percent of the hearings at the high profile stage, demanding more ALJ commitment. The department anticipates \$5,000 in OAH service increases.

The primary duty of the Board's investigators, who are Peace Officer Standards and Training (POST) certified, is to enforce the provisions of the Business and Professions Code, the Penal Code and the California Code of Regulations relating to the sport of horse racing. The Board's current vehicle fleet includes two state leased vehicles assigned to its investigative staff. The exchange wagering program is expected to increase staff travel to manage enforcement

workload. An additional leased vehicle will aid in collection of witness statements, litigation preparation, collection of evidence, and gathering petitions, notices and communications necessary to prepare investigations. Currently a single leased vehicle, including fuel, is averaging \$833 per month. Using the same state lease rates, one additional vehicle would require \$10,000 in additional funds. No law enforcement vehicle enhancements are necessary for this vehicle request. The leased vehicle would be procured in accordance with state vehicle acquisition regulations, under the guidance of Department of General (DGS) Services Fleet Administration.

The exchange wagering program staff will include audits, licensing and enforcement. The current Sacramento headquarters office houses all audit staff. Licensing and enforcement staff is headquartered at live race meetings in northern and southern California. To ensure a greater sense of confidentiality for under-cover investigations, for the protection of sensitive case records and for interviews with informants, the Board is requesting to lease additional space in the current Sacramento headquarters building complex. The purpose is to concentrate exchange wagering staff in a suite with less public accessibility. The Board would comply with DGS real estate services space acquisition requisites, relying on DGS to validate total square feet and suite build out requirements. Using cost per square foot currently paid, the request is for an estimated 1956 square feet, for \$2,641 per month, or rounded to \$32,000 per year. Any required add on costs determined during lease negotiations are expected to be absorbed by existing resources.

Enforcement staff requires cash on hand to pay informants. Staff has consulted with DOJ in an effort to model the Board's informant cash program in accordance with the DOJ's. A staff custodian will be assigned for each region and will be responsible for making cash withdrawals, cash reconciliations, and maintaining an auditable record of account activity. Using DOJ as an example, each region's beginning account balance is: northern region, \$10,000 and southern region, \$15,000, for a statewide total of \$25,000. To ensure adequate checks and balances, Board accounting staff will schedule account reimbursements and review custodian withdrawal justifications, and audit staff will evaluate frequency of withdrawals and conduct period account reviews.

Subsections 2086.5(d)(1) and (d)(2) provide for assessment fee payment timelines and the dollar amounts to be paid monthly – dependent on the number of approved applicants. The payment timelines and the listing of possible monthly assessment fees are necessary so that applicants and licensees will know when payments are due, and that assessment fees will be based on the number of approved applicants. Subsection 2086.5(d)(2) states the monthly apportioned amount of the assessment is dependent on the number of approved applicants. The subsection provides a list of monthly assessment fees that would be incurred by one approve applicant to as many as five approved applicants. This provides clarity for applicants, as they will know the amount of their monthly fees when they apply for license to operate exchange wagering. Subsection 2086.5(d)(3) requires the Board to notify existing exchange wagering operators of an adjustment to the monthly assessment fees within seven business days. This gives the Board enough time to calculate the correct assessment fee based on the number of operators and to ensure all parties are properly notified. Subsection 2086.5(e) provides timelines for actions that must be taken by the Board and the applicant during the application process. This is necessary so the parties will know the deadlines they must meet in submitting and vetting applications for license to operate exchange wagering. The Board has 30 calendar days from receipt of the application to inform the applicant of deficiencies. This provides Board staff with time to vet the application and to work with the applicant to correct any problems. The Board must make a final determination on the application within 90 calendar days of its receipt. This provides the applicant with a date-certain for a decision regarding the application. If the application is denied, the applicant has 30 calendar days to request reconsideration. The Board shall respond in writing within 30 working days. If the request is denied, subsection 2086.5(e) states the applicant may file for judicial

review in accordance with Government Code section 11523. All of the timelines contained in subsection 2086.5(d) are consistent with current Board practice. Racing associations must submit applications for license to operate a race meeting at least 90 days in advance. Advance deposit wagering providers and minisatellite wagering facilities must follow the same time constraints contained in subsection 2086.5(e).

The Board proposes to add Rule 2086.6, Operating Plan Required. The proposed regulation requires an applicant for an exchange wagering license and any applicant for renewal of an exchange wagering license to submit a detailed operating plan at the time of application. Subsection 2086.6(a) calls for a detailed report of the daily operation of the exchange. This will inform the Board of how the exchange operator intends to conduct its routine business. Subsection 2086.6(b) through 2086.6(b)(2) asks for information regarding the management of customer accounts, including a policy to prevent commingling of funds and evidence of an established Federal Deposit Insurance Corporation (FDIC) insured bank account in which all funds are deposited. This ensures the exchange provider's funds are separated from the account holders' funds, and that funds held for account holders are protected to the limits provided by the FDIC. Subsection 2086.6(c) requires that the exchange wagering applicant provide information regarding technology and hardware and software systems. This shall include a data security policy, and a policy for notification of the Board and account holders of any unauthorized access compromising account holders' personal information. Exchange wagering relies heavily on technology, so it is necessary that the provider ensures data security. This requirement is also consistent with current Board regulations governing advance deposit wagering, which require the provider to establish security access policies and safeguards. Subsection 2086.6(d) requires the exchange wagering applicant to submit financial information demonstrating the financial resources to operate an exchange, as well as a budget detailing anticipated revenue, expenditures, and cash flows for the term of the license. This is necessary, as it will demonstrate to the Board that the applicant is solvent and has a business plan covering its anticipated revenues and expenditures. This is consistent with current Board practice regarding advance deposit wagering regulations, which require an applicant to supply financial data to demonstrate the resources to operate advance deposit wagering, as well as a detailed budget covering the anticipated month to month cash flows for the term of the license. Subsection 2086.6(e) requires the submission of the applicant's document retention policies including those related to account holder personal information. This is necessary so the Board can determine if the policies are adequate. Documents may be needed for investigations into unusual wagering patterns, and an adequate retention schedule will help protect the interests of account holders. Subsection 2086.6(f) requires the applicant to submit its customer complaint and resolution process. The exchange provider is the first entity account holders may turn to if they have a complaint, so it is necessary for the Board to determine the provider's complaint process is adequate. This is in keeping with current Board practice, which requires racing associations to maintain a place where complaints or claims of violations of the Board's rules or laws may be filed. In addition, the Board maintains an 800-number for patron complaints and comments. The number is posted throughout the tracks and it is located on the back of every occupational license. Subsection 2086.6(g) requires the applicant to talk about programs for responsible wagering. Horseracing is a sport wherein fans may place pari-mutual wagers on the outcome of races; however, the Board realizes that some fans may have problems with gambling. Under current practice the Board encourages racing associations and other providers to direct those with such problems to seek help. Board rules governing advance deposit wagering require that all advertising for advance deposit wagering providers contain contact information for a recognized problem gambling organization. The Board is active on the advisory group of the Office of Problem Gambling, which discusses priorities and strategies for educating and training individuals engaged in problem gambling-related issues. The Board's website also provides a link for problem gamblers. Subsection 2086.6(h) requires the applicant to provide the requirements to establish

exchange wagering accounts for persons whose principal residence is outside California. This will allow the Board to make comparisons to determine if in-state requirements are reasonable or out of line. Subsection 2086.6(i) provides that the operating plan and any subsequent changes are exempt from disclosure pursuant to Government Code section 6254(k) and non-disclosable to the public. This is necessary because the operating plans will contain proprietary information related to the operation of the exchange provider's business. This will allow for full disclosure to the Board without the prospect of such information being given to the exchange provider's competition.

The Board proposes to add Rule 2086.7, Exchange Wagering Data. Subsection 2086.7(a) requires an exchange provider to furnish the nonprofit horse racing data base designated by the Board with a data interface agreed upon by the nonprofit horse racing data base and the exchange provider. This is consistent with current practice; all California racetracks, simulcast facilities and advance deposit wagering providers participate in such a data interface. The purpose of the interface is pari-mutuel accounting, as well as reporting and analysis of data related to exchange wagering. The nonprofit horse racing data base is CHRIMS, Inc. (CHRIMS), which is a data base system available to the Board, all racing associations and other subscribers within the horse-racing industry. CHRIMS is structured to provide the data needed by mutuel, racing and accounting departments within the track, as well as horsemen's associations. Using software tools that have been developed specifically for the task CHRIMS loads and balances California pari-mutuel data daily. The database numbers reflect what has actually taken place in California racing and can be used to project any changes that might affect racing statistics. The Board has determined that it is necessary for the exchange provider to provide a data interface, as without the participation of exchange wagering providers CHRIMS data would not be complete and the industry would have only a partial understanding of daily pari-mutuel activity. Subsections 2086.7(a)(1) through 2086.7(a)(1)(I) list the information to be provided the nonprofit horse racing data base.

The Board proposes to add Rule 2086.8, Monitoring Systems and Notification. Subsection 2086.8(a) provides that the exchange provider and the Board or a designee will enter into an agreement. An agreement is necessary to formalize the required exchange of information, and so the parties will have a clear understanding of what is expected. Subsection 2086.8(a)(1) states what the agreement shall entail. The agreement shall require the exchange provider to furnish the Board or its designee full access to the provider's real-time monitoring system that displays wagers over an agreed upon amount, including online documentation and training. Although some exchange wagers may be made in person, the vast majority will be made by an electronic medium, and all exchange wager information is subject to the monitoring system. It is necessary for the Board to have access to the monitoring system, so that it can monitor exchange wagering that meets the agreed upon thresholds, and if necessary conduct investigations into account holders' activities. Online documentation and training on the provider's monitoring system is necessary so that Board employees will understand how to use the software and understand the data. Subsections 2086.8(a)(2) and 2086.8(a)(3) require the exchange provider to immediately notify the Board by electronic mail of any unusual wagering patterns, or when predetermined events occur. This may include such things as sudden large increases over the amounts normally wagered by an account holder, or account holders who start wagering only on horses ridden by a particular jockey or trained by a particular trainer. The Board believes it is necessary to be advised of such patterns so its investigative efforts may remain focused and used effectively. Notification by electronic mail will ensure there is a record of the communication. Additionally, electronic mail can be copied to more than one staff person. Subsections 2086.8(a)(2) and 2086.8(a)(3) state that the predetermined events must be set out in the operating plan. This is necessary to prevent the Board from being overwhelmed by notification of every little anomaly, and will allow the exchange provider and the Board to focus on meaningful events. Subsection

2086.8(a)(4) requires the exchange provider to establish and distribute criteria for anti money laundering procedures, including risk based systems for customer due diligence. This is necessary because gambling enterprises are venues through which persons may attempt to launder money. The Board believes a risk based system is required, as it is one that adapts to new and emerging hazards. Customer due diligence involves the determination of a customer's risks in terms of propensity to commit money laundering or identity theft; creating an expectation of a customer's transactional behavior; and monitoring a customer's transactions against expected behavior. Subsection 2086.8(a)(5) requires the exchange provider to establish and distribute criteria for monitoring telephone records of account holders. Exchange wagers may be placed by conventional land line telephones or by cell phones. All such transactions are recorded and retained by the exchange provider. The dissemination of criteria for monitoring telephone records of account holders is necessary so that account holders understand that transactions made by telephone are retained and may be subject to review. The Board must know the provider's criteria for monitoring telephone records so it may ensure such records are not abused, and so that it may have proper access to such records, if needed. Retaining telephone transactions will also provide protection for account holders, especially if there is a dispute over payment of funds.

The Board proposes to add Rule 2086.9, Financial and Security Audits Required. Subsection 2086.9(a) requires the exchange provider to submit to the Board an annual financial statement for its California operations ninety days after the end of each calendar year. Financial statements are necessary to provide a tool for the Board to verify that the exchange provider is able to meet its financial obligations, and has the assets to maintain its business. Requiring the licensee to provide financial statements is consistent with current Board practice, as racing associations, advance deposit wagering providers, minisatellite wagering entities, and other entities licensed by the Board must provide financial statements on a regular basis. Board Rule 1470, Accounting Practices and Responsibility, provides that the Board may require periodic audits to determine that associations have funds available to meet specified obligations. Subsection 2086.9(b) requires the exchange provider to undergo the Statement on Standards for Attestation Engagements 16 (SSAE 16) audits on a calendar year basis. The SSAE 16 audits consist of Service Organization Controls I (SOC I) and Service Organization Controls II (SOC II) reports. The reports shall be submitted to the Board ninety days after the end of the calendar year. The purpose of requiring exchange wagering providers to undergo the SSAE 16 audits is to assure California stakeholders that certain financial and internal control standards are met by the exchange entities. The SSAE 16 audit contains the requirements for a service auditor reporting on a service organization's controls for two types of engagements. An SOC I engagement reports on the fairness of the presentation of management's description of the organization's system and the suitability of the design of the controls to achieve the related control objectives included in the description as of a specified date. The SOC II engagement reports upon the fairness of the presentation of management's description of the service organization's system and the suitability of the design and operating effectiveness of the controls to achieve the related control objectives included in the description throughout a specified period. An example of another horse racing entity that undergoes an annual SOC audit is CHRIMS, the nonprofit horse racing data base. CHRIMS customers require that it undergo the audit because the data collected, and distributions calculated by CHRIMS account for a large portion of the customers respective revenue and expenses. Many horse racing associations also require their totalizator vendor to provide such audits. The Board's application for license to operate a race meeting requires the racing association to provide the name and contact information for the pari-mutuel audit firm engaged for the respective meeting. The pari-mutuel audits provide third party verification of the data collected and calculated by CHRIMS for wagering processed by California totalizator systems.

The Board proposes to add Rule 2087 Suspending Markets. Subsection 2087(a) provides that if the exchange provider has questions about the integrity and fairness of a market, it may suspend the market at any time, including after the race is declared official, but before winning wagers are credited. Exchange providers continually monitor races and exchange wagering in real time to ensure the integrity of the markets. This means the provider is usually the first party to detect unusual wagering patterns. If the provider notices any suspicious activity it must be able to act quickly, so the Board has determined it is necessary to allow the exchange provider to suspend a market at any time. Subsection 2087(b) requires the provider to notify the Board immediately by electronic mail any time a market is so suspended. Notification by electronic mail will provide a record of the time and date of notification, and it will allow the exchange provider to give as much detail (beyond the minimum required under the regulation) as it believes is necessary. The Board wants immediate notification so it can determine if it needs to pay close attention to the suspicious activity, as reported by the provider. Subsection 2087(b) also requires the provider to submit to the Board a written account of the suspension upon settlement of the market, and subsections 2087(b)(1) through 2087(b)(5) list the minimum information such notification shall include. While the provider may determine it needs to suspend a market, it must ultimately make a settlement. The Board has determined that it is necessary to require a written report of the suspension, the results of the provider's investigation and how the market was settled. This will provide a record of the event, which the Board can use to take further action, if necessary, and it will also help the Board to determine that account holders were treated fairly. Subsection 2087(c) requires the exchange provider to settle the market upon completion of an investigation. The Board does not want account holders to be left in uncertainty. If there was no untoward activity, the exchange wagers must be settled as appropriate, or the provider must work with the Board to take further action. Subsection 2087(d) states that an account holder who believes a payout was inappropriately disrupted due to the suspension of the market may make a claim under Rule 2089, Errors in Payment of Exchange Wagers. This provides an avenue for account holders who might dispute the provider's settlement of the suspended market.

The Board proposes to add Rule 2087.5, Antepost Market. The antepost wager is unique to exchange wagering. Subsections 2087.5(a) through 2087.5(a)(2) describe the antepost (before post) wager, which is a single wager that includes two outcomes: the selected horse will run the race, and it will finish in the position of win, place or show (first, second or third). Every race has a "scratch time" which is the time by which the withdrawal of horses from a race are made; however, horses may be scratched as late as the post parade, or from the gate before the start of the race. An antepost wager can be made before the event; well before horses are declared from the race. If one "backs" an antepost wager, one is wagering the horse will run, and it will place in a win, place or show position. If one "lays" and antepost wager, one is wagering that the horse will be declared from the race, or if it does run it will not win, place or show. Antepost wagers are currently offered in jurisdictions that allow exchange wagering. The Board determined it was necessary to add Rule 2087.5 to define antepost wagers. Rule 2087.5 is consistent with current the Board practice of promulgating rules regarding the types of wagers horseracing entities may offer patrons.

The Board proposes to add Rule 2087.6, Cancellation of Matched Wagers. Business and Professions Code section 19604.5(k) provides that the Board may prescribe rules governing when an exchange wagering provider may cancel or void a matched wager. The Board has determined that there may be occasions when an exchange provider must cancel a matched wager. Rule 2087.6 allows the exchange provider to cancel matched wagers if required by law, or in its sole discretion. Subsections 2087.6(a)(1) through 2087.6(a)(4) list circumstances under which a matched wager may be canceled. The circumstances include technological and human error, or circumstances that include breach of the exchange contract or the integrity or fairness of a market. This allows the exchange provider to effectively manage its business in cases of

errors, and it ensures the exchange can intervene where it detects possible dishonest activity. Subsection 2087.6(b) requires the exchange provider to notify the Board in writing if it cancels or voids a matched wager due to any of the circumstances listed in the regulation. The provider must inform the Board of its actions and the circumstances that resulted in the actions. This provides the Board with a record of the cancellation, and it allows the Board to determine if it needs to take further action. Subsection 2087.6(c) provides that an account holder who believes a payout was improperly disrupted due to the cancellation of a matched wager may submit a claim under Rule 2089, Errors in Payment of Exchange Wagers. This provides an avenue for account holders who might dispute the provider's actions in cancelling a matched wager.

The Board proposes to add Rule 2088, Declared Entries. The regulation provides that matched wagers on declared entries shall be voided, except in an antepost market. The declaration of a horse from a race automatically renders most matched wagers irrelevant. However, in the case of an antepost market, the declaration of the horse results in a payout to the account holder who laid the antepost wager. The Board determined it was necessary to add Rule 2088 to clarify this distinction.

The Board proposes to add Rule 2088.6, Cancellation of Unmatched Wagers. Rule 2088.6 states that the exchange provider may cancel unmatched wagers at any time. This consistent with Business and Professions Code section 19604.5(j), which provides that an exchange wagering licensee may cancel or allow to be canceled any unmatched wagers, without cause, at any time. The exchange operates by allowing account holders to postulate wagers in which the account holder sets the odds. For a wager to be matched, another account holder must accept the proposed odds. This can result in numerous unmatched wagers, as the odds offered are out of line with what most account holders will accept. Rule 2088.6 allows the exchange provider to manage the exchange and not be caught with numerous wagers that are unlikely to be matched. Cancellation of unmatched wagers may also be used in instances where the exchange provider believes it detects the potential for dishonest activity, or when an error has been made in posting the unmatched wager.

The Board proposes to add Rule 2089, Errors in Payments of Exchange Wagers. The regulation states what shall apply if an error occurs in the payment of amounts for exchange wagers. Subsection 2089(a) states that if the error results in an over-payment to the account holder, the exchange provider is responsible. This is consistent with current practice. Board Rule 1962, Payment for Errors, states that if the error results in an overpayment to ticket holders, the association shall be responsible. Subsections 2089(b)(1) through 2089(b)(4) describe the process for making claims of underpayment. Subsection 2089(b)(1) states the account holder shall make a claim within 30 calendar days from the date of the underpayment. This provides a clear time frame within which initial claims for underpayment may be made. The exchange provider must investigate the claim and pay the portion that it deems valid. If the claim is rejected, the exchange provider must notify the claimant in writing. This informs the exchange provider and the claimants of the steps that must be taken when a claim of underpayment is first made. Subsection 2089(b)(2) provides that any claim not filed within 30 calendar days of the underpayment shall be deemed waived and the exchange provider shall not have further liability. This is consistent with current practice, as Rule 1962 provides that if a claim for underpayment is not submitted to the racing association within 30 days of the date of the underpayment, it shall be deemed waived and the racing association shall have no further liability. The set period of time is necessary to let account holders know when they must act, and it provides certainty for the exchange provider who will not be subject to random claims months or years after the event. Subsection 2089(b)(3) states that persons whose claims are rejected by the exchange provider may, within 15 calendar days from the date of notice of rejection, request in writing that the Board determine the validity of the claim. This provides account holders with an appeal to the

Board if they believe their claims were unjustly rejected by the exchange provider. The Board has determined it is necessary to have claims submitted in writing so there will be a record of the request. The subsection also states that if the request is not received within the 15 calendar days, the claim shall be considered waived. This provides firm timelines for the Board and the account holder and it prevents the submission of miscellaneous claims well after the event. Subsection 2089(b)(4) requires the Board to hold a hearing on each claim filed. Notice shall be given to the exchange provider and the claimant, and the Board's determination of the claim's validity or its denial of the claim is final and binding on all parties. This is consistent with current practice under Rule 1962.

The Board proposes to add Rule 2089.5, Requirements to Establish an Exchange Wagering Account. Subsection 2089.5(a) provides that an exchange wagering account is necessary to place exchange wagers, and that such accounts may be established by residents of California and residents of another jurisdiction if it is not unlawful under federal law or the law of that jurisdiction to place an exchange wager. This is consistent with Business and Professions Code section 19604.5(c). The subsection also provides that an account may be established in person, by mail, telephone or other electronic media. The account may not be assigned or transferred. This is consistent with current practice, as under Rule 2074, Requirements to Establish an Advance Deposit Wagering Account with a California Entity, advance deposit wagering accounts may also be established in person, by mail or by other electronic media. Subsection 2089.5(b)(1) through 2089.5(b)(5) set forth the information required to establish an exchange wagering account. The information shall include: the applicant's full legal name; the applicant's principal residence address; telephone number; social security or tax identification number; and certification or proof of age. These requirements are also consistent with current practice under Rule 2074. The age requirement, in which an applicant must be at least 18 years of age, is also consistent with Business and Professions Code section 19604.5(c). The Board has determined that Rule 2089.5 is necessary to clearly inform applicants of the information they will need to supply to open an account. Subsection 2089.5(c) states that the provider shall employ electronic verification to validate the information provided at the time an account is established. The verification shall be conducted by a Board-approved national, independent, individual reference company, or another independent technology approved by the Board. This approval will occur at the time the exchange provider applies for a license to operate exchange wagering. This is consistent with current advance deposit wagering practices, which under Rule 2074 require independent electronic verification. In addition, Business and Professions Code section 19604.5(d) states that as part of the exchange wagering licensee's application, the Board shall approve security policies and safeguards to ensure player protection and integrity, including but not limited to, location and age verification confirmation for persons establishing exchange wagering accounts. Subsection 2089.5(d) states the exchange provider may refuse to establish an account or may cancel or suspend a previously established account, without notice if any information supplied is untrue or incomplete. This is necessary to ensure the submission of complete applications, and allows the provider to act where false information is supplied. This is also consistent with current practice under advance deposit wagering regulations, which allow the provider to refuse an account where the information provided is false or incomplete. Subsection 2089.5(d)(1) provides that within five business days the exchange provider shall return to the account holder any funds held in an account that it cancels. The Board has determined that it is necessary to let ex-account holders know how soon they may expect any funds remaining in cancelled accounts, and to provide direction to the exchange provider regarding the return of such funds. This is consistent with current practice under Board Rule 2073(a), Operation of an Advance Deposit Wagering Account for all Entities. Subsection 2089.5(e) provides that if the exchange provider or an affiliate is also licensed by the Board to conduct advance deposit wagering, the exchange provider or affiliate may verify the information on file for the existing advance deposit wagering accounts. This provides convenience for

persons who hold a current advance deposit wagering account by streamlining the process to also open an exchange wagering account. Subsection 2089.5(f) states the exchange provider shall have the right to suspend or close any account at its discretion. This is consistent with current practice under Rule 2073(a) which allows the advance deposit wagering entity to close or suspend accounts. There are many reasons an exchange provider may wish to close or suspend an account, and the Board has determined the provider must be able to take such an action. Subsection 2089.5(g) states the account holder shall provide the exchange provider with a means of personal identification to be used by the account holder to access his account. This is the equivalent of a password, which is commonly used to identify users. Business and Professions Code section 19604.5(d) requires the Board to approve exchange wagering provider security safeguards to ensure player protection, which shall include the use of identifying factors to ensure security of individual accounts. This requirement is consistent with current advance deposit wagering Rule 2074(g), which requires a means of personal identification. The subsections also states the account is for the use of the account holder only. The account holder is responsible for the secrecy of the account number and means of personal identification, and must notify the exchange provider of any breach in security. This is necessary to maintain the integrity of each exchange wagering account, and it is consistent with current advance deposit wagering requirements under Rule 2073(h). Subsection 2089.5(h) states each account shall have a unique identifying account number. The account holder shall be informed of the assigned number and provided a copy of the provider's exchange wagering procedures, terms and conditions, and any other information that pertains to the operation of the account. The Board has determined the account holder must be fully informed at the time the account is opened. Subsection 2089.5(h) is consistent with current advance deposit wagering practice under Rule 2074(h), which requires the advance deposit wagering provider to inform applicants of such information at the time the account is opened. Subsection 2089.5(i) requires the exchange provider to comply with Internal Revenue Service requirements for reporting and withholding proceeds from exchange winnings, and to provide account holders with a Form W2-G summarizing the required tax information. Upon the written request of the account holder, the exchange provider shall supply a summarized tax account of the account holder's wagering activities. These requirements are consistent with current advance deposit wagering provisions under Rule 2074(i). The Board has determined it is necessary place the requirements in Rule 2089.5 so the account holder will understand that the exchange provider is the entity that will furnish such information. Subsection 2089.5(j) requires the exchange provider to electronically record all wagering conversations, transactions or other wagering communications. The records of the communications shall be kept by the entity for at least 180 days, unless otherwise directed by the Board. Upon the request or order of the Executive Director, the exchange provider shall furnish the tapes and other records. The Board has determined it is necessary to record all such wagering transactions, and to retain such records for a certain period of time. The records may be used to assist in the conduct of investigations of wagering activities that may infringe on the integrity of horseracing. Conversely, the records may be used to protect the interests of account holders who may make claims to the Board against the exchange provider. The provisions of subsection 2089.5(j) are consistent with current advance deposit wagering requirements under Rule 2074(f). Subsection 2089.5(k) requires the exchange provider to forward an account activity statement to the account holder upon request. The statement shall be for the immediate 30 days prior to the request, and unless the account holder sends a written notice disputing the statement within 14 calendar days of the date of the statement, it shall be deemed correct. This subsection provides a timeframe within which an account holder must dispute a statement detailing account activities. The provision is consistent with current advance deposit wagering requirements under Rule 2074(i). Subsection 2089.5(l) provides that no confidential information related to the placing of an exchange wager, or the operation of the exchange wagering system may be divulged by an employee or agent of the exchange provider without the consent of the account holder, except to the account holder as required under Article 27, the Board or federal

statute. The Board has determined that this provision is necessary to protect the confidentiality of the account holder. The provision is consistent with current advance deposit wagering requirements under Rule 2074(k).

The Board proposes to add Rule 2089.6, Deposits to an Exchange Wagering Account. The regulation describes how exchange wagering account holders may make deposits to their accounts. Subsection 2089.6(a)(1) through 2089.6(a)(3) provide that deposits may be in the form of cash; checks or wire or electronic transfer payable and remitted to the exchange provider, as well as charges made to an account holder's debit or credit card upon the account holder's direct and personal instruction if the use of the card has been approved by the exchange provider. These provisions allow for numerous ways to deposit funds to an exchange wagering account and are consistent with current advance deposit wagering practices under Rule 2076, Deposits to an Advance Deposit Wagering Account with all Entities. Subsection 2089.6(a)(4) requires that the name and billing address for any credit card, debit card, bank account or other method of payment through which an account holder funds an account shall be the same as the account holder's registered name and address. This is necessary to help ensure that the deposits are made from accounts belonging to the exchange wagering account holder, and that they are from a legitimate source. This provision is consistent with current practice under advance deposit wagering Rule 2076. Subsection 2089.6(b) provides that funds in an account shall bear no interest to the account holder. This is consistent with current practice under advance deposit wagering Rule 2073(c). The exchange provider is not a bank, and it is expected that exchange wagering account holders will not typically keep sums of money in an account. Instead, as with advance deposit wagering, the account holders deposit money in an account, wager, and then withdraw the winnings. Subsection 2089.6(c) states that the account holder may be liable for any charges imposed by the transmitting or receiving entity involved in a wire or electronic transfer, and that such charges may be deducted from the account holder's account. The Board has determined that the exchange wagering account holder shall be liable for such charges, as the account holder is able to choose how he or she will fund an account. The exchange provider does not require funds to be deposited in a manner that will result in such charges. In addition, this provision is consistent with current practice under advance deposit wagering Rule 2076(a)(4).

The Board proposes to add Rule 2090, Posting Credits for Winnings from Exchange Wagers. Subsection 2090(a) provides that credit for winnings from matched wagers shall be posted to the account by the exchange provider after the race is declared official. This is consistent with Business and Professions Code section 19604.5(i)(1) which states the Board shall require the exchange provider to distribute all money in each pool at the conclusion of the race or races associated with the pool. In addition, it is consistent with current practice under Board Rule 1955, Distribution of Pools, which states that after the results of the race have been declared official, the pari-mutuel pools are subject to distribution to holders of pari-mutuel tickets entitled to share in the respective pools. Subsection 2090(b) provides that, notwithstanding Rule 1955, 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 provider may settle the matched wager as soon as the outcome is determined with certainty. This allows for the settlement of antepost markets, which will be allowed under Rule 2087.5. In backing an antepost market, one wagers that a certain horse will run in the race, and that it will finish in the win, place or show position. If the horse is declared prior to the running of the race, the exchange wagering account holder who laid the market wins the wager. As soon as the horse is declared from the race the exchange provider knows with certainty that the account holder who laid the antepost market won, and the antepost market may be settled.

The Board proposes to add Rule 2090.5, Debits to an Exchange Wagering Account. The regulation describes how the exchange provider will make debits to an exchange wagering account. Subsection 2090.5(a) provides that upon receipt of a properly placed exchange wager, the exchange provider will determine if there are sufficient funds in the account holder's account to cover the maximum amount the account holder could be liable for based on the wager. If there are sufficient funds, the wager will be accepted. The exchange provider will debit the account holder's account the total maximum amount of the liability based on all wagers on races that have not been declared official. It is necessary for the exchange provider to determine if the exchange wagering account holds sufficient funds because Business and Professions Code section 19604.5(d) provides that an exchange provider may not accept a wager if the results of the wager would create a liability for the exchange wagering account holder that is in excess of the funds on deposit in the exchange wagering account. This is also consistent with current advance deposit wagering practice under Rule 2077(a)(2), Placing an Advance Deposit Wager with all Entities. The Board has determined that it is necessary for the exchange provider to debit the account holder's account the total maximum amount of the liability based on all wagers on races that have not been declared official so that funding for any subsequent wagers must come from other funds in the account; this prevents the creation of a liability in the account. This is also consistent with current advance deposit wagering practice under Rule 2077. Subsection 2090.5(b) states that exchange wagers shall be accepted only during exchange provider designated operating days and times. At the time of application for license the exchange provider must inform the Board of its hours of operation. Deviation from operation of the entity must be approved by the Board. This is also consistent with current advance deposit wagering practice under Rule 2073(e). Subsection 2090.5(c) provides that the exchange provider may at any time declare the system closed for receiving wagers on any race or closed for all exchange wagering. This allows for unforeseen technical difficulties and the exchange provider's business decisions. Flexibility is granted the exchange provider should equipment fail, or the exchange provider determined it is not in its best interest to card a particular race or race program. This is also consistent with current advance deposit wagering practice under Rule 2073(e).

The Board proposes to add Rule 2090.6, Withdrawals by Account Holder. The regulation describes how exchange wagering account holders may make withdrawals from their exchange wagering accounts. Subsection 2090.6(a) states the exchange provider shall complete withdrawals within five business days of the receipt of a request from the account holder. The request may be made by mail, telephone or other electronic media and must be accompanied by a valid account number and a means of personal identification. If the request is made by mail, it must include a signed completed withdrawal form. This provides account holders with several methods of withdrawing funds from their accounts. Requiring the exchange provider to complete the withdrawal within five business days gives the provider ample time to ensure there are sufficient funds in the account, and it provides the account holder with a timeline within which they may expect payment. These provisions are consistent with current advance deposit wagering practice under Rule 2078, Withdrawals from an Advance Deposit Wagering Account with all Entities. Subsections 2090.6(a)(1) through 2090.6(a)(2) provide direction if the exchange wagering account contains sufficient funds, or if the exchange wagering account does not contain sufficient funds. Under subsection 2090.6(a)(1) if there are sufficient funds in the account the exchange provider shall send a check payable to the account holder in the amount requested. Under subsection 2090.6(a)(2), if there are not sufficient funds in the account, the exchange provider shall send a check payable to the account holder in the amount of the funds available to the address of record. These provisions are consistent with current advance deposit wagering practice under Rule 2078. Subsection 2090.6(a)(3) provides that the exchange provider may, at the direction of the account holder, use a wire or electronic funds transfer, including the automated clearing house system, in lieu of a check, to deliver funds withdrawn

from an account to a monetary account controlled by the account holder. This will allow the exchange provider to provide the convenience of depositing funds in an exchange wagering account directly into monetary accounts controlled by the account holder. The provision is consistent with current advance deposit wagering practice under Rules 2076 and 2078. Subsection 2090.6(a)(3) states the account holder may be liable for any charges imposed by the transmitting or receiving entity involved in a wire or electronic transfer. The charges may be deducted from the account holder's account. The Board has determined that the exchange wagering account holder shall be liable for such charges, as the account holder is able to choose how he or she receive withdrawn funds. The exchange provider does not require funds to be withdrawn in a manner that will result in such charges. In addition, this provision is consistent with current practice under advance deposit wagering Rule 2078. Subsection 2090.6(b) provides that the exchange wagering account holder may withdraw funds in person with such identification as required by the exchange provider. This is consistent with conventional pari-mutuel practice and with current advance deposit wagering practice under Rule 2078.

The Board proposes to add Rule 2091, Closing an Inactive Exchange Wagering Account. The regulation provides that the exchange wagering provider may close any exchange wagering account that has remained inactive for six months or longer. The six-month period is permissive, so the exchange provider may keep inactive accounts open well beyond the time allotted under Rule 2091. However, the rule provides clarity for the account holder and the exchange provider. Account holders who do not actively participate in exchange wagering for long periods of time know their accounts may be closed after six months of inactivity, and the exchange provider has the ability to expunge inactive accounts according to its business model. The six-month period is consistent with current advance deposit wagering practice under Rule 2073. If the exchange provider closes an inactive account, the funds remaining in the account must be returned to the account holder at the address of record within five business days of closing the account. This lets the account holder know when he or she may expect the funds, and it is consistent with current advance deposit wagering practice under Rule 2073.

The Board proposes to add Rule 2091.5, Suspending an Exchange Wagering Account. The regulation allows the exchange provider to suspend an account under specified conditions. Subsection 2091.5(a) provides that the exchange provider may suspend an exchange wagering account if it has reason to believe the account holder may have committed acts of fraud in connection with exchange wagering or other actions which threaten the integrity or fairness of any exchange wagering, or if otherwise ineligible to hold the account. Integrity and fairness are vital to the continued health and success of the horseracing industry. Exchange wagering providers are acutely aware of the necessity to maintain the integrity of the exchange, so they constantly monitor every aspect of exchange wagering. The Board has determined that if the exchange wagering provider believes an account holder is acting in a manner that threatens the integrity or fairness of any exchange wagering, the provider must be able to act, so it is necessary to allow the provider to suspend accounts. If an account holder is otherwise ineligible to hold an account, the exchange provider must be able to suspend the account to prevent unauthorized wagering by the account holder. These provisions are consistent with Business and Professions Code section 19604.5(e)(1), which states the Board shall have full power to prescribe rules and regulations and conditions under which exchange wagering may be conducted in California, including the requirements for any person to participate in exchange wagering. The ability of the exchange provider to suspend exchange wagering accounts is also consistent with current advance deposit wagering practice under Rule 2073, which allows the provider to suspend advance deposit wagering accounts. Subsection 2091.5(b) requires the exchange provider to immediately notify the Board by electronic mail if it suspends an account due to fraud in connection with exchange wagering or other actions which threaten the integrity of any exchange wagering. Immediate notification is necessary so the Board can determine if it needs to be involved in an investigation,

and so the Board can take action against licensees, if necessary. Notification by electronic mail will leave a record of the time and date of the notification. Electronic mail also provides documentation that can be used by the Board in an investigation. The exchange provider must submit to the Board a written account of the suspension. Subsections 2091.5(b)(1) through 2091.5(b)(4) state the minimum required information to be included in the written report. This is necessary so that the reports will be uniform and will provide information the Board considers essential.

The Board proposes to add Rule 2091.6, Powers of the Board to Review and Audit Records. The regulation provides that 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 request from the Board to the extent disclosure is not prohibited by law. Board access to and use of information concerning wagering transactions and an account holder is considered proprietary to the exchange provider and shall not be disclosed, except as required by law. This is consistent with Business and Professions Code section 19604.5(e)(4), which provides that the Board shall have full power to prescribe rules, regulations, and conditions under which all exchange wagering licenses are issued or renewed in California including requiring an annual audit of the exchange wagering. Requiring such audits is consistent with current Board practice. The Board routinely requires audits of racing associations, advance deposit wagering organizations, and horsemen's organizations, as well as other horseracing related entities under its jurisdictions. Such audits are necessary to ensure the viability of such entities and to protect the interests of licensees and the public at large. While the Board may require regular audits of horseracing entities, it also recognizes the necessity of maintaining the confidentiality of certain proprietary information. Under Rule 2091.6, information regarding wagering transactions and account holders is considered proprietary. This is consistent with current Board practice.

The Board proposes to add Rule 2092, Exchange Wagers Placed After the Start of a Race. Subsection 2092(a) states that an exchange provider may accept wagers placed on a market after the start of a live race but before the results are declared official, subject to the approval of the Board and as reflected in the provider's operating plan. This is consistent with Business and Professions Code section 19604.5(k). Under Business and Professions Code section 19604.5(k) the exchange provider must also have the approval of the horsemen's organization responsible for negotiating purse agreements and the racing association or racing fair conducting the races. Such approvals may be obtained while negotiating the agreements required prior to licensing as required under Business and Professions Code sections 19604.5(b)(2) to 19604.5(b)(7), inclusive. Subsection 2092(b) states no exchange wagers shall be placed on a market after the conclusion of a live race. Subsection 2092(c) states exchange wagering on previously run races is prohibited. This is consistent with current industry practice. In addition, Business and Professions Code section 19604.5(e)(3)(B) requires the Board to adopt regulations with the provisions contained in subsections 2092(b) and 2092(c).

The Board proposes to adopt Rule 2092.5, Prohibitions on Wagers to Lay a Horse to Lose. Exchange wagering allows account holders to place wagers to lay an entrant in a horse race. This translates to wagering against the horse; or that it will lose. Business and Professions Code section 19604.5(3)(A) requires the Board to adopt a regulation that prohibits an owner, authorized agent, trainer, jockey, jockey's agent, driver, or stable employee from placing an exchange wager to lay any entrant in a horse race that is owned in whole or part by that owner or the owner represented by that authorized agent, trained by that trainer or stable employee, ridden by that jockey or the jockey represented by that jockey's agent or driven by that driver. The Board has determined that it is necessary to promulgate a regulation that prohibits additional parties from placing a wager on a horse to lose. This will clarify who may not place such a wager on a horse entered to race, and to ensure the integrity of horseracing. Subsection

2092.5(a) states that the person who owns a horse in whole or in part may not make a wager that lays the horse. This is consistent with current Board practice. Rule 1970, Wagering on Competing Horse, prohibits owners that have a horse entered to race from wagering on any horse competing in the same race. Subsections 2092.5(a)(1) through 2092.5(a)(6) list other persons who are associated with the horse entered to race and who may not place a wager to lay the horse. These prohibitions are consistent with current practice under Board Rules 1692, Requirements for Horse, Trainer and Jockey; Rule 1970; and Rule 1971, Wagering by Jockey or Driver. Subsection 2092.5(b) states none of the persons listed in subsections 2092.5(a) through 2092.5(a)(6) shall instruct another person to lay a horse to lose on their behalf, or receive any part of any proceeds of such a lay. The Board has determined the provision is necessary to prevent persons associated with the race from damaging the integrity of the wagering exchange, and horseracing. Subsection 2092.5(c) provides that no exchange wagering account shall be used to lay a horse to lose, except by the account holder. All such wagers are presumed to be by and for the benefit of the account holder. The Board has determined this provision is necessary to prevent persons from using others' exchange wagering accounts to place wagers that would otherwise be prohibited. The restriction is consistent with current advance deposit wagering practice under Rule 2073(h).

The Board proposes to add Rule 2092.6, Suspension of Occupational License. Subsection 2092.6(a) states the Board of Stewards may suspend the license of any person if it determines there is probable cause to believe such persons may have committed acts of fraud in connection with exchange wagering or any other action or inaction which threatens the integrity or fairness of exchange wagering. Under the proposed Rule 2086.8, Monitoring Systems and Notification, the exchange entity must immediately notify the Board of any unusual wagering patterns or when certain predetermined events occur. If the exchange wagering entity suspects there is fraud, or any issues that raise questions about the integrity of a market, it may suspend markets under the proposed Rule 2087, Suspending Markets. The entity can take similar actions under the proposed Rule 2087.6, Cancellation of Matched Wagers, and the proposed Rule 2091.5, Suspending an Exchange Wagering Account. In each case, the exchange provider must provide notice to the Board of its actions and the reasons for such actions. This keeps the Board informed and if necessary it allows the Board to initiate an investigation into the exchange wagering activities of any licensees who may be involved. The Board has determined it is necessary to add Rule 2092.6 so that it may take action against the license of any licensee when it determines there is probable cause to believe that such person may have committed acts of fraud in connection with exchange wagering or any action which threatens the integrity or fairness of any exchange wagering. Probable cause refers to facts or evidence that could make a reasonable person believe that a crime or wrong doing has been committed. This requires that the Board meet a specific standard before it can take action. While allowing the Board to suspend a license, Rule 2092.6 also provides the licensee with certain safeguards. The Board may not suspend a license merely because it or the exchange provider suspects the licensee is involved in fraudulent exchange wagering activities; rather, the Board must have a level of reasonable belief, based on facts that can be articulated and that would lead a reasonable person to believe the charge is true. Suspension of a license by the Board of Stewards is consistent with current practice. Under Board Rule 1527, General Authority of Stewards, the stewards have general authority and supervision over all licensees and others attendant on horses, and also over the inclosures of any recognized meeting. Board Rule 1528, Jurisdiction of Stewards to Suspend or Fine, states the stewards may suspend the license of anyone whom they have the authority to supervise. Subsection 2092.6(b) provides that the licensee may make an appeal to the Board by complying with the provisions of Rule 1761, Appeal from Decision of Stewards. This provides another layer of protection for the licensee, and is consistent with current practice under Rule 1761, which sets forth the licensee's administrative appeal rights.

The Board proposes to add Rule 2093, Certain Practices Related to Exchange Wagering. Subsection 2093(a) states 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 horses before the account holder may place an exchange wager. This is consistent with the requirements of Business and Professions Code section 19604.5(e)(3), which states the Board shall adopt the provision as a regulation. Subsection 2093(b) states the exchange provider shall require the account holder to select the specific race and horse when making a wager, and that the exchange provider may not offer automatic quick-pick or similar features to aid in the placing of an exchange wager. This is consistent with the requirements of Business and Professions Code section 19604.5(e)(3), which states the Board shall adopt the provision as a regulation. Subsection 2093(c) states 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 dice games themes or other games, as specified. The subsection is consistent with the requirements of Business and Professions Code section 19604.5(e)(3), which states the Board shall adopt the provision as a regulation.

#### BENEFITS ANTICIPATED FROM THE REGULATORY ACTION.

The proposed addition of Article 27, exchange wagering, will implement the provisions of Business and Professions Code section 19604.5, which authorizes exchange wagering in California. The betting exchange is a business model for transacting wagers through an Internet Web site or by telephone. As in traditional pari-mutuel wagering, exchange wagering account holders wager against each other and not the wagering system operator. However, exchange wagering account holders propose their own prices or odds for each wager, which other account holders may accept or choose from other proposals. Once wagers have been matched on the exchange, the price or odds for those wagers are set. This form of pari-mutuel wagering is expected to have the benefit of attracting a new and younger demographic to California's horse racing industry. New horse racing fans that use exchange wagering may create a positive economic benefit for California racing associations in the form of increased commissions, and for California's horsemen in the form of increased purses. Improvements in the economic viability of California's horse racing industry will encourage owners and trainers to keep race horses in California, which will benefit the entire industry. A healthy horseracing industry benefits the communities in which California racetracks are located, and promotes agriculture and breeding of horses in this State. The proposed addition of Article 27 consists of 25 proposed regulations that will govern the conduct of exchange wagering in California. The regulations inform potential exchange wagering providers about the application process, and the Board's requirements for the administration of exchange wagering in California. This promotes openness and transparency for the exchange provider and exchange wagering account holders. The proposed regulations will also promote fairness in that the requirements to operate an exchange and to possess an exchange wagering account will be uniform.

#### TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS OR DOCUMENTS.

In proposing the addition of Article 27, the Board relied on the results of its economic impact analysis prepared pursuant to Government Code section 11346.3(b). The Board did not rely on any other technical, theoretical, and/or empirical study, reports or documents in proposing the addition of Article 27.

## ALTERNATIVE TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS OR BUSINESSES.

The Board has determined that there were no alternatives considered which would be more effective in carrying out the purposes of the proposed regulations or would be more effective and less burdensome to affected private persons or businesses than the proposed regulations.

## REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION.

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, the Board shall consider studies or comments submitted by interested parties on the impact of exchange wagering on pari-mutuel wagering. 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 public notice period closed on September 26, 2011. During the notice period comments/proposed regulations were received from Global Betting Exchange (GBE), an Ireland-based entity with exchange wagering interests. The GBE comment proposed amending the Board's advance deposit regulations that comprise Article 26, Advance Deposit Wagering, to incorporate requirements for exchange wagering. The Board did not adopt the GBE proposal. Although advance deposit wagering and exchange wagering can be conducted via the Internet and telephone, there are fundamental differences in the business models. The Board believed the GBE proposal would confuse patrons and potential exchange wagering providers, so it determined it would add Article 27, Exchange Wagering, rather than accept the GBE proposal. During the August 2, 2011 comment period TVG/Betfair (Betfair), the US affiliate of the British exchange wagering entity, Betfair Group plc, also submitted comments/proposed regulations. The Board accepted some of the Betfair submission, but did not adopt it entirely. Betfair proposed that the Board adopt regulations addressing the establishment of markets; facilities for exchange wagering; handling of dead heats; and procedures for correcting matched wager errors. Betfair also proposed regulations that allowed funds to be transferred between advance deposit wagering and exchange wagering accounts, as well as proposals for regulations governing collection and distribution of exchange revenues. The Board did not adopt these Betfair proposals as they were either duplicative of existing Board proposals, or the enabling statute. Others, such as the transfer of funds between advance deposit and exchange wagering accounts and the proposals for regulations regarding the collection and distribution of exchange revenues were not necessary for the purposes of enacting the exchange wagering statute and were matters best addressed in the required agreements between the exchange operator and the racing association, racing fair and horsemen. No subsequent alternative recommendations were made prior to the notice. The Board invites any interested party to submit comments which offer any alternative proposal.

California Horse Racing Board  
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