CALIFORNIA HORSE RACING BOARD - RULES NOTICED TO THE PUBLIC:

NOTE: Government Code section 11340.85 requires the Board to post all notices, initial statement of reasons and texts of rules noticed to the public **until 15 days after the proposed regulations are filed with the Secretary of State by the Office of Administrative Law**.

CALIFORNIA HORSE RACING BOARD
TITLE 4, DIVISION 4, CALIFORNIA CODE OF REGULATIONS
NOTICE OF PROPOSAL TO AMEND
RULE 1658. VESTING OF TITLE TO CLAIMED HORSE

The California Horse Racing Board (Board) proposes to add the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend Rule 1658, Vesting of Title to Claimed Horse. The proposed amendment provides that title to a claimed horse is vested in the claimant from the time the field has been dispatched and the horse becomes a starter unless the stewards void the claim under the provisions of Article 7, Claiming Races. The horse shall be returned to the original owner if it suffers a fatality during the running of the race, or if the racing veterinarian or official veterinarian places the horse on the veterinarian's list as unsound or lame before the horse is released to the successful claimant. The proposed amendment also deletes the phrase that states the successful claimant becomes the owner of the horse "…whether it is sound or unsound, or injured during the race or after it."

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, January 17, 2013,** or as soon after that as business before the Board will permit, at the **Santa Anita Park Race Track, 285 West Huntington Drive, Arcadia, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m., on December 31, 2012**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Erica Ward, Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone (916) 263-6025
Fax: (916) 263-6022
E-Mail: esward@chrb.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Section 19562, Business and Professions Code.

Business and Professions Code sections 19420 and 19440 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific section 19562, Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 19420 provides that jurisdiction and supervision over meetings in California where horse races with wagering on their results are held or conducted, and over all persons or things having to do with the operation of such meetings, is vested in the California Horse Racing Board. Business and Professions Code section 19440 provides that the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board shall include, but not be limited to, adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering. Business and Professions Code section 19562 states the Board may prescribe rules, regulations, and conditions, consistent with the provisions of this chapter, under which all horse races with wagering on their results shall be conducted in this State.

A claiming race is a race in which any of the horses entered may be purchased (claimed) out of the race by any person who is eligible to claim a horse at that meeting. Eligible persons are licensed horse owners or persons who hold "horse owner by open claim" certificates. To claim a horse, the interested party must ensure sufficient funds are on deposit with the paymaster of purses at the track where the horse is to be claimed. In addition, the interested party must properly complete the claim form. The properly completed form has to be dropped into the claiming box within a specified time. The moment the gate opens the person who has claimed the horse becomes its owner. However, if the horse wins the race or earns money, the purse goes to the owner who entered it in the race. If more than one person has put in a claim for the same horse, they "shake" for it (draw lots). The person who wins the shake becomes the owner. Under Rule 1658 the stewards shall void the claim if the horse suffers a fatality during the running of the race or before it is returned to be unsaddled.

Subsection 1658(a) currently provides that title to a horse which is claimed shall be vested in the successful claimant whether it is sound or unsound, or injured during the race or after it. The Board proposes to amend subsection 1658(a) to delete the provision that states the horse belongs to the successful claimant regardless of its condition. Subsection 1658(a) will be further amended to state that title to a horse which is claimed shall be vested in the successful claimant unless the claim is voided by the stewards under the provisions of Article 7, Claiming Races. Proposed changes to subsection 1658(b) provide that a claim may be voided, depending on the condition of the claimed horse following the race from which it was claimed. This necessitates the proposed changes to subsection 1658(a) and will bring the subsection in line with proposed changes to subsection 1658(b)

The Board proposes to amend subsection 1658(b) to add a provision that states the stewards shall void a claim and return the horse to its original owner if the racing veterinarian or official veterinarian places the horse on the veterinarian's list as unsound or lame before the horse is released to the successful claimant. The result of the proposed amendment to subsection 1658(b) is that any claimed horse that is found to be physically unfit for racing (following the race in which it was claimed) will remain in the control of the original owner and the claim will be voided.

POLICY STATEMENT OVERVIEW OF ANTICIPATED BENEFITS OF PROPOSAL

Rule 1658, Vesting of Title to Claimed Horse, states that title to a horse which is claimed shall be vested in the successful claimant from the time the field has been dispatched from the starting gate and the horse becomes a starter. The successful claimant becomes the owner of the horse whether it is sound or unsound, or injured

during the race or after it. However, the claim shall be void if the horse suffers a fatality during the running of the race or before it is returned to be unsaddled, or if the race is called off, canceled, or declared no contest.

A claiming race is a horse race in which each horse entered is made available for purchase, or claiming, at a fixed price which a buyer must agree to pay before the race is run. Claiming allows lesser quality horses to compete equally, as horses are entered for a price at which the owner or trainer feels is reasonable to lose it.

A claiming race is a venue through which a new owner may buy his first horse. It is also a venue where others claim (at bargain prices) horses they believe can compete at higher levels. However, claiming races can also be used by owners and trainers to rid themselves of horses whose performance is not what they expect, so the terms "*Caveat Emptor*" or "*Buyer Beware*" apply. The claimant does not get to examine the horse prior to putting in a claim, and the horse actually belongs to a successful claimant from the time the field is dispatched (unless there is reason to void the claim under the provisions of the rule).

The proposed amendment to Rule 1658 is intended to address the aspect of claiming races wherein some owners or trainers may intentionally attempt to rid themselves of horses whose performance is not what they expect. An amended subsection 1658(a) deletes the statement that proclaims the title to a horse which is claimed is vested in the successful claimant "…whether it is sound or unsound, or injured during the race or after it." Subsection 1658(a) has also been amended to state that the successful claimant becomes the owner of the claimed horse "unless the claim is voided by the stewards under the provisions of this article." An amended subsection 1658(b) provides that the stewards shall void the claim and return the horse to the original owner if the racing veterinarian or official veterinarian determines the horse will be placed on the veterinarian's list as unsound or lame before the horse is released to the successful claimant.

The proposed amendment of Rule 1658 will have the benefit of greatly reducing the "Buyer Beware" aspect of claiming. Claimants will know the horse they have claimed has had a post race inspection by the racing veterinarian or the official veterinarian and was found to be fit for racing. This will give prospective claimants increased confidence in California claiming races, which could attract new owners or out-of-state owners to California. Another benefit is that an owner or trainer will think twice before attempting to use a claiming race to rid himself of a horse that may be damaged. Under the current rule the horse belongs to the claimant as soon as it leaves the gate, regardless of its condition, and unless it suffers a fatality during the running of the race or before it can return to be unsaddled. This will no longer be the case with regards to horses whose condition is compromised. If a post race veterinarian's examination places the horse on the veterinarian's list the horse is returned to the original owner. A trainer or owner who runs a damaged horse in a claiming race will take the risk of having that horse returned if during the post race inspection it is found to be unsound. In addition to the benefit of ensuring sound horses are run in claiming races, the proposed regulation will have the benefit of helping to safeguard the health and welfare of jockeys and other horses in the race. Thoroughbred race horses can reach speeds in excess of 40 miles an hour, while quarter horses can run in excess of 50 miles an hour. At such speeds a horse that shows signs of distress or goes down in a race is a danger to its rider as well as other horses and riders competing in the race.

Consistency with existing state regulations: The Board does not believe that the proposed regulation is inconsistent or incompatible with existing state regulations.

DISCLOSURE REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Sections 17500 through 17630: none.

Other non-discretionary costs or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed amendment of Rule 1658 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

RESULTS OF ECONOMIC IMPACT ASSESSMENT

The results of the Board's Economic Impact Assessment as required by Government Code section 11346.3(b) are as follows:

There will be no impact on the creation or elimination of jobs within the state, the creation of new businesses, the elimination of existing businesses or the expansion of businesses in California. The proposed regulation will have a positive effect on the economic health of California's horseracing industry by helping to ensure that sound horses are entered in claiming races. This will help attract new and out-of-state owners to California claiming races, as there will be a greater assurance that the claimed horse will be fit to race. The proposed regulation will provide a benefit to the health and welfare of jockeys by reducing the possibility that an owner or trainer will knowingly enter a compromised horse in a claiming race. Worker safety will benefit if race track employees and jockeys are not riding or handling physically distressed or compromised race horses. The proposed regulation will not impact the state's environment.

Cost impact on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

The adoption of the proposed amendment of Rule 1658 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to amendment of Rule 1658 does not affect small businesses because horse racing is not a small business under Government Code Section 11342.610.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome on affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

CONTACT PERSON

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Erica Ward, Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6025
E-mail: esward@chrb.ca.gov

If the person named above is not available, interested parties may contact:

Harold Coburn, Manager, Policy and Regulations
Telephone: (916) 263-6397
E-mail: haroldc@chrb.ca.gov

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Erica Ward, or the alternative contact person at the address, phone number or e-mail address listed above.

AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation. Requests for copies of any modified regulations should be sent to the attention of Erica Ward at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS:

Requests for copies of the final statement of reasons, which will be made available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Erica Ward at the address stated above.

BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulation and the initial statement of reasons. The Board's web site address is: www.chrb.ca.gov.

INITIAL STATEMENT OF REASONS

RULE 1658. VESTING OF TITLE TO CLAIMED HORSE.

SPECIFIC PURPOSE OF THE REGULATION

The proposed amendment of Rule 1658, Vesting of Title to Claimed Horse, will modify subsection 1658(a) to: (1) delete the phrase that states the successful claimant becomes the owner of the horse "…whether it is sound or unsound, or injured during the race or after it" and (2) provide that title to a claimed horse is vested in the claimant from the time the field has been dispatched and the horse becomes a starter unless the stewards void the claim under the provisions of Article 7, Claiming Races. The proposed amendment will also modify subsection 1658(b) to: (1) provide that the stewards shall void the claim and return the horse to the original owner if the racing veterinarian or official veterinarian determines the horse shall be placed on the veterinarian's list as unsound or lame before it is released to the successful claimant, and (2) delete the provision that states the claim shall be void if the horse suffers a fatality before it is returned to be unsaddled.

NECESSITY

A claiming race is a race in which each horse entered is made available for purchase, or claiming, at a fixed price which a buyer must agree to pay before the race is run. Claiming races allow lesser quality horses to compete equally, as horses are entered for a price at which the owner or trainer feels is reasonable to lose them. A claiming race is a venue through which a new owner may buy his first horse. It is also a venue where owners find bargains by claiming horses they believe can compete at higher levels. Claiming races can also be used by owners and trainers to rid themselves of horses whose performance is not what they expect, so the terms "*Caveat Emptor*" or "*Buyer Beware*" apply. The claimant does not get to examine the horse prior to submitting a claim, and the horse actually belongs to a successful claimant from the time the horse becomes a starter. Subsection 1658(a) currently states that title to a horse which is claimed shall be vested in the successful claimant from the time the field has been dispatched from the starting gate and the horse becomes a starter. The successful claimant becomes the owner of the horse whether it is sound or unsound, or injured during the race or after it. Proposed amendments to subsection 1658(b) make this provision in subsection 1658(a) partially invalid. To keep subsection 1658(a) consistent with proposed changes to subsection 1658(b) the Board proposes to modify subsection 1658(a) to add a provision that states the successful claimant becomes the owner of the horse unless the claim is voided by the stewards under the provisions of this article (Article 7, Claiming Races). The stewards supervise race meetings, and are judges of all matters of fact with respect to the conduct of a meeting. As such, the stewards are the racing officials who can void claims in accordance with the provisions of horse racing law and the Board's rules and regulations. Subsection 1658(a) will also be amended to delete the phrase that states the successful claimant becomes the owner of the horse "…whether it is sound or unsound, or injured during the race or after it." It is necessary to delete the phrase because the proposed amendment of subsection 1658(b) requires that a claim be voided if during the post race examination the claimed horse is found to be unsound or lame. Deleting the phrase will keep subsection 1658(a) consistent with the amended subsection 1658(b).

The Board proposes to amend subsection 1658(b) to state that the horse shall be returned to the original owner if the stewards void the claim. This is a clarifying addition, as it is current practice to return the horse to the original owner if the stewards void a claim. Subsection 1658(b) has also been amended to delete the requirement that a claim be voided if the horse suffers a fatality before it is returned to be unsaddled. The Board determined it was necessary to delete the provision as it was a source controversy due to clarity issues. The American Association of Equine Practitioners recommends that when it can be done safely and humanely, all injured horses should be taken off the track, so they can be properly evaluated by the attending veterinarian(s). All major racetracks in California have followed that approach for many years. On-track euthanasia is warranted only when there is no reasonable alternative. Questions arose regarding whether the provision in subsection 1658(b) would be applied if a horse was vanned off the track and later euthanized. Furthermore, there was confusion about which barn such a horse should be taken to, and which veterinarian

would attend the horse. Did the claimant receive the horse, or did the previous owner, and who would decide to euthanize the horse? Some felt pressure would be placed on racetrack veterinarians to euthanize the horse on-track rather than van the horse off and let private veterinarians make that decision. To bring clarity to the issue, the Board determined it would add a new subsection 1658(b)(2) to state the stewards shall void a claim if the racing or official veterinarian determines the horse will be placed on the veterinarian's list as unsound or lame before the horse is released to the successful claimant. The veterinarian's list is a list of horses that are ineligible to enter in a race as a result of illness, injury, unsoundness or other medical condition. The decision to place a horse on the veterinarian's list for being lame or unsound is most often made immediately after the race or shortly thereafter. If a horse is so injured that it must be vanned off the track and evaluated for possible euthanasia it would certainly be placed on the veterinarian's list. The addition of subsection 1658(b)(2) will have the effect of eliminating the questions surrounding fatalities that occur after an injured horse has been removed from the track. Under the provisions of the new subsection 1658(b)(2) the stewards would void the claim and return the injured horse to the original owner.

BENEFITS ANTICIPATED FROM REGULATORY ACTION

The proposed amendment of Rule 1658 will have the benefit of greatly reducing the "Buyer Beware" aspect of claiming in this state. Claimants will know the horse they have claimed has had a post race inspection by the racing veterinarian or the official veterinarian and was found to be fit for further racing. This will give prospective claimants increased confidence in California claiming races, which could attract new owners or out-of-state owners to California. Another benefit is that the rule will protect horses that may be displaying signs of soreness or distress, as owners and trainer will be less likely to enter such horses in claiming races for the wrong reasons. An owner or trainer will think twice before attempting to use a claiming race to rid himself of a horse that may be damaged. Under the current rule the horse belongs to the claimant as soon as it leaves the gate, regardless of its condition, and unless it suffers a fatality during the running of the race or before it can return to be unsaddled. This will no longer be the case with regards to horses whose condition is compromised. If a post race veterinarian's examination places the horse on the veterinarian's list the horse is returned to the original owner. A trainer or owner who runs a damaged horse in a claiming race will take the risk of having that horse returned if during the post race inspection it is found to be unsound. In addition to the benefit of ensuring sound horses are run in claiming races, the proposed regulation will have the benefit of helping to safeguard the health and welfare of jockeys and other horses in the race. Thoroughbred race horses can reach speeds in excess of 40 miles an hour, while quarter horses can run in excess of 50 miles an hour. At such speeds a horse that shows signs of distress or goes down in a race is a danger to its rider as well as other horses and riders competing in the race. With fewer compromised horses running in claiming races, there may be fewer breakdowns during such races. This will have the benefit of increasing the public's confidence in the sport of horseracing.

RESULTS OF ECONOMIC IMPACT ASSESSMENT

The results of the Board's Economic Impact Assessment as required by Government Code section 11346.3(b) are as follows:

- The proposed regulation will not impact the creation or elimination of jobs within the State of California, or the creation of new businesses or the elimination of existing businesses or the expansion of businesses in California.
- The proposed amendment of Rule 1658 will not impact the creation of new businesses or eliminate existing businesses in California.
- Rule 1658 will not impact the expansion of businesses currently doing business in California.
- The proposed regulation may have a beneficial impact on the health and welfare of California residents who are persons directly involved with horses running in claiming races, as there will be fewer breakdowns and incidents involving compromised race horses. The proposed regulation will not benefit the State's environment.

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

In proposing the amendment of Rule 1658 the Board did not rely on any technical, theoretical or empirical study, report or similar document.

The adoption of Rule 1658 has no significant adverse economic impact on small business.

The adoption of Rule 1658 has no significant adverse economic impact on business.

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 regulation or would be more effective and less burdensome to affected private persons or businesses than the proposed regulation.

California Horse Racing Board
November 16, 2012

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 7. CLAIMING RACES.
PROPOSED AMENDMENT OF
RULE 1658. VESTING OF TITLE TO CLAIMED HORSE.

1658. Vesting of Title to Claimed Horse.

(a) Title to a horse which is claimed shall be vested in the successful claimant from the time the field has been dispatched from the starting gate and the horse becomes a starter; and said successful claimant becomes the owner of the horse unless voided by the stewards under the provisions of this article ~~whether it is sound or unsound, or injured during the race or after it~~. Only a horse which is officially a starter in the race may be claimed. A subsequent disqualification of the horse by order of the stewards or the Board shall have no effect upon the claim.

(b) The stewards shall void the claim and return the horse to the original owner if:

(1) T~~t~~he horse suffers a fatality during the running of the race or

(2) The racing or official veterinarian determine the horse will be placed on the Veterinarian's List as unsound or lame before the horse is released to the successful claimant. ~~before the horse is returned to be unsaddled.~~

(c) The claim shall be void if the race is called off, canceled, or declared no contest in accordance with Rule 1544 of this division.

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

Reference: Section 19562,
Business and Professions Code.

CALIFORNIA HORSE RACING BOARD
NOTIFICATION OF MODIFICATION OF THE FOLLOWING
TEXTS COMPRISING THE PROPOSED ADDITION OF
ARTICLE 27, EXCHANGE WAGERING
CHRB RULE 2086, DEFINITIONS; 2086.6, OPERATING PLAN REQUIRED; 2086.7, EXCHANGE WAGERING DATA; 2086.8, MONITORING SYSTEMS AND NOTIFICATION; 2086.9, FINANCIAL AND SECURITY INTEGRITY AUDITS REQUIRED; 2087.5, ANTEPOST MARKET; 2087.6, CANCELLATION OF MATCHED WAGERS; 2088, DECLARED ENTRIES; 2088.6, CANCELLATION OF UNMATCHED WAGERS; 2089, ERRORS IN PAYMENTS OF EXCHANGE WAGERS; 2089.5, REQUIREMENTS TO ESTABLISH AN EXCHANGE WAGERING ACCOUNT; 2089.6, DEPOSITS TO AN EXCHANGE WAGERING ACCOUNT; 2090, POSTING CREDITS FOR WINNINGS FROM EXCHANGE WAGERS; 2091.5, SUSPENDING AN EXCHANGE WAGERING ACCOUNT; 2092, EXCHANGE WAGERS PLACED AFTER THE START OF A RACE; 2092.5, PROHIBITIONS ON WAGERS TO LAY A HORSE TO LOSE; 2092.6, SUSPENSION OF OCCUPATIONAL LICENSE.

Pursuant to the requirements of Government Code section 11346.8(c), and section 44 of Title 1 of the California code of Regulations, the California Horse Racing Board (Board) is providing notice of changes that have been made to the texts of certain proposed regulations that comprise the proposed addition of Article 27, Exchange Wagering. The proposed regulations that have been modified are: Rule 2086, Definitions; 2086.6, Operating Plan Required; 2086.7, Exchange Wagering Data; 2086.8, Monitoring Systems and Notification; 2086.9, Financial Integrity and Security Audits Required; 2087.5, Antepost Market; 2087.6, Cancellation of Matched Wagers; 2088, Declared Entries; 2088.6, Cancellation of Unmatched Wagers; 2089, Error in Payments of Exchange Wagers; 2089.5, Requirements to Establish an Exchange Wagering Account; 2089.6, Deposits to an Exchange Wagering Account; 2090, Posting Credits for Winnings from Exchange Wagers; 2091.5, Suspending an Exchange Wagering Account; 2092, Exchange Wagers Placed After the Start of a Race; 2092.5, Prohibitions on Wagers to Lay a Horse to Lose; 2092.6, Suspension of Occupational License. The proposed addition of Article 27 is scheduled for a public hearing on **Thursday, November 15, 2012 at the Hollywood Park Race Track Sunset Room, 1050 South Prairie Avenue, Inglewood, California, at 9:30 a.m**., or as soon thereafter as the business before the Board will permit.

The proposal to add Article 27 was originally noticed on May 11, 2012. A hearing for adoption was held on June 28, 2012; however, the hearing was continued to August 23, 2012 at the Del Mar Surfside Race Place, 2260 Jimmy Durante Boulevard, Del Mar, California. The August 23, 2012 hearing was continued until Thursday, September 20, 2012, at the Sheraton Fairplex Conference Center, 601 West McKinley Avenue, Pomona, California. At the September 2012 hearing for adoption proposed changes to the texts of regulations comprising Article 27 were discussed. In response to the proposed changes, the texts of regulations described above have been modified and will be heard at the **November 15, 2012 Regular Board Meeting**.

Article 27 is comprised of 25 proposed regulations governing the conduct of exchange wagering in California. During the 45 day public comment period comments were received on 22 of the 25 proposed regulations. At the June 28, 2012 hearing for adoption Chairman Brackpool stated an Ad-Hoc Committee on Exchange Wagering would meet to review written comments and to authorize modifications to proposed exchange wagering regulations where the committee felt they were appropriate. At the June hearing for adoption the Board continued the hearing to the August 23, 2012 Regular Board Meeting. The Ad-Hoc Committee on Exchange Wagering met on August 22, 2012 to consider proposals to modify the exchange wagering regulations. During its meeting the committee directed interested parties to resubmit their comments in written form with texts that included underlines and strikeouts to delineate proposed modifications. The committee gave the parties until close of business on August 31, 2012 to resubmit their comments. At the August 23, 2012 hearing for adoption, the Board continued the hearing for adoption to the September 2012 Regular Board Meeting, at which time the Board would consider the proposed modifications.

The Board proposes to modify the following regulations:

Rule 2086, Definitions: The Board proposes to modify the language of subsection 2086(p), which provides a definition of "matched wager". The California Thoroughbred Trainers (CTT) expressed concern over the extent of an exchange provider's financial interaction with the wagering system. The main concern is that the exchange provider might employ "market makers" to make wagers on behalf of the exchange and influence account holder's wagering behavior. The CTT proposed that the language of subsection 2086(p) be amended to clarify that neither an exchange provider nor its agents may be parties to a matched wager. The Board agreed and proposes to modify subsection 2086(p) to read: "Matched wager" means the wager that is formed when two or more persons, none of whom may be an exchange provider or its agents, are confirmed by the exchange provider as having placed identically opposing wagers in a given market on the exchange.

Rule 2086.6, Operating Plan Required: The Board proposes to modify the language of subsection 2086.6(a)(2) as follows: (a)(2) Evidence of an established account with ~~an~~ a Federal Deposit Insurance Corporation (FDIC) insured bank in which all funds of the account holders will be deposited. This shall include evidence that account holders' funds are segregated and held in a separate FDIC insured bank account of the exchange provider, and that the funds shall not be used for any purpose other than those required by the account holders' exchange wagering transactions. Rule 2086.6 requires that the operating plan submitted by the applicant for license to operate exchange wagering include evidence of an established account with an FDIC insured bank in which account holder funds will be deposited. This includes evidence that account holders' funds are segregated and held in a separate account of the exchange provider. The proposed modification to subsection 2086.6(a)(2) would require the applicant to also provide evidence that the segregated funds shall not be used for purposes other than those required by the account holders' exchange wagering transactions. This is necessary to provide clarity that although account holders funds will be held in a separate FDIC insured bank account, their use will be limited to those required by the account holders exchange wagering transactions. The Board proposes to modify subsection 2086.6(c) to add a reference to Business and Professions Code section 19604.5(d). Churchill Downs Technologies Incorporated (CDTIC) suggested modifying subsection 2086.6(c) to expand on the requirement that the applicant submit a data security policy. The suggested text provided by CDTIC was that of Business and Professions Code section 19604.5(d). The Board agreed that for purposes of clarity it was necessary to describe what the required data security policy entailed. However, rather than insert the text of the statute under subsection 2086.6(c), a reference to the applicable subsection was added. This will provide interested parties with a means of determining the data security policy requirements. The Board proposes to modify subsection 2086.6(h), which requires the exchange operator to provide its requirements for exchange wagering accounts established and operated for persons whose principal residence is outside of California. The proposed modification states: 2086.6(h) The requirements for exchange wagering accounts established and operated for persons whose principal residence is outside of the state, which for purposes of these rules, shall apply only to wagering on California races. During discussions regarding the proposed addition of Article 27 it was suggested that subsection 2086.6(h) be amended to provide that accounts of persons whose principal residence was outside California may be utilized only for wagers on California races, and could not be used to wager on non-California races. This was based on one interpretation of Business and Professions Code section 19604.5(b). However, ODS Technologies LP and Betfair US LLC (TVG/Betfair) commented that in "…enacting Business and Professions Code section 19604.5(b), the California Legislature sought to make expressly legal exchange wagering where the wager had anything to do with California (i.e. where (i) the bettor was a resident of California, or (ii) the race is run in California, and declare the conditions under which such exchange wagering may take place). However, the California Legislature made no effort to declare, and would have had no jurisdiction to attempt to declare, what races *outside* California a bettor living *outside* California could bet on or the conditions for such a bet – any more so than the California Legislature could attempt to declare the conditions under which a resident of New Jersey could place a bet at a New Jersey satellite wagering facility on a race run in New York. The conditions under which a bettor located in New Jersey is legally able to place a bet on a race run in New York is a question of the application of New Jersey law (and New York law) and something which California law cannot attempt to regulate. Moreover, attempting to restrict the wagers which a California licensee could take from non-California residents on non-California races would put California licensees at a distinct competitive disadvantage to exchange wagering operators who are

licensed in another jurisdiction (e.g. New Jersey) and are able to accept exchange wagers from residents of every other state which may choose to legalize exchange wagering. It is appropriate for the Rules, therefore, to provide conditions applicable to exchange wagers placed by persons resident in jurisdictions outside California *solely* to the extent that such persons seek to place exchange wagers on races run in California." The Board agreed and proposes to modify subsection 2086.6(h) in accordance with the TVG/Betfair comment.

Rule 2086.7, Exchange Wagering Data. The Board proposes to modify Rule 2086.7 to correct the misspelling of "pari-mutuel" in subsection 2086.7(a).

Rule 2086.8, Monitoring Systems and Notification. The Board proposes to modify Rule 2086.8 to delete the word "occur" from subsection 2086.8(a)(3) for purposes of grammar.

Rule 2086.9, Financial Security and Integrity Audits Required. Rule 2086.9 requires specified audits of exchange wagering providers. Subsection 2086.9(a) currently requires that an annual financial statement for the exchange provider be submitted 90 days after the end of each calendar year. CDTIC recommended that the time period for submitting the financial statement be extended to 120 days as it was difficult to obtain audited statements in any time less than that amount of time. The Board determined that to provide exchange operators with sufficient time to obtain audited financial statements it would amend subsection 2086.9(a) to change the 90 day time period to 120 days. In addition, subsection 2086.9(a) was further amended to add the word "audited". This was done to ensure the annual financial statements will be conducted under generally accepted accounting principles (GAAP) which is a standard framework of accounting standards and procedures that companies use to compile financial statements. The modification is necessary to provide reliable numbers.

Rule 2087.5, Antepost Market. Rule 2087.5 states that antepost markets are authorized, and describe what constitutes an antepost market wager. The Board proposes to modify subsection 2087.5(a) to state the type of races on which an antepost market may be offered. At the August 22, 2012 Exchange Wagering Ad Hoc Committee meeting comments were offered that suggested it would be appropriate to limit the availability of antepost market wagers to significant races where there is more likely to be wide interest in which horses are entered. There was general acceptance of the concept among the committee and the industry. The proposed modifications to subsection 2087.5(a) would limit antepost markets to significant races only. The Board agreed and proposes to modify subsection 2087.5(a) to state that antepost market wagers are authorized on Grade 1/Group 1 or Grade 2/Group 2 stakes races. Grade 1/Group 1 is a term used for the highest level of stakes races. They attract the best horses and are run for very large purses. Some of the well known Grade 1/Group 1 stakes are the Kentucky Derby, Arkansas Derby, Belmont Stakes and Preakness Stakes. Grade 2/Group 2 stakes races are a cut below Grade 1/Group 1 stakes, but they attract a very talented group of horses. The Board proposes to modify subsection 2087.5(a) to add the word "exchange" before "wagers" to clarify that antepost market wagers are exchange wagers. Comments regarding Rule 2087.5 indicated that some parties were confused about the nature of the antepost market, and whether such wagers required a "back" and a "lay". Under Rule 2086, Definitions, "exchange wagering" is defined as a form of pari-mutuel wagering in which two or more persons place identically opposing wagers in a given market…" To provide clarity so there is no question that antepost markets are exchange wagers the Board determined it was necessary to insert the word "exchange". In conjunction with the addition of the word "exchange" the Board proposes to modify subsection 2087.5(a) to remove the phrase "…where one single wager is made…" This phrase was another source of confusion regarding the antepost market wager, as it caused some parties to believe the antepost market wager was not an exchange wager that required opposing wagers, or a person who backed the wager and a person who laid the wager. The antepost wager is a single wager that predicts a selected horse will run and that it will finish the race in the selected position of win, place, or show. However, that does not mean it requires only one party to place a wager. The antepost market requires opposing wagers; someone who wagers the horse will run the race and finish as specified, and someone who believes the horse will not run or will not finish as specified. To provide clarity about the antepost market wager the Board determined it was necessary to modify subsection 2087.5(a) to remove the phrase "…where one single wager is made…" Comments received during the 45-day public comment period indicated there was some confusion regarding when an antepost market wager may be

made, and when such wagers closed. The antepost market requires a wager on an outcome that includes whether the selected horse will run the race. To run in a race a horse must first be entered; therefore, it is logical to assume that antepost market wagers must be placed before entries close, and that no additional antepost wagers may be placed at the close of entries. After considering comments regarding Rule 2087.5 the Board determined it was necessary to modify the regulation to clearly state when antepost market wagers may be placed and when an antepost market would close. Subsection 2087.5(a) has been modified to provide that antepost wagers are placed in advance of the closing of entries. A new subsection 2087.5(b) has been added to the regulation to state that antepost markets close for wagering at the close of entries.

Rule 2087.6, Cancellation of Matched Wagers. Rule 2087.6 sets the circumstances under which a matched wager may be canceled, and requires the exchange provider to notify the Board of such cancellations as specified. A comment received from CDTIC stated the regulation was inconsistent with the provisions of Business and Professions Code section 19605.4(k) in that it did not provide for the cancellation of part of a matched wager, as did the enabling statute. The CDTIC commented the regulation should be modified to allow the exchange provider to cancel part of a matched wager. The Board agreed and has modified subsection 2087.6(a) to state that an exchange provider may cancel or void a matched wager or part of a matched wager, as specified. Subsections 2087.6(b) and 2087.6(c) were also modified to provide for the cancellation of part of a matched wager. Subsection 2087.6(b) requires the exchange provider to notify the Board if it cancels a matched wager if there was cause to suspect the person placing a wager breached any term of the person's agreement with the exchange provider or if it was in the interest of maintaining integrity and fairness in a particular market. Comments were received that stated the Board should also be notified if a matched wager was cancelled due to a technological failure and the market must be voided. Current pari-mutuel practices are such that if there is a technological failure the Board is notified. The Board agreed and modified subsection 2087.6(b) to require the exchange provider to notify the Board in writing if a matched wager or part of a matched wager is canceled due to technological failure. This will provide clarity regarding the circumstances under which the exchange provider must notify the Board when it cancels all or part of a matched wager, and it will be consistent with current practice regarding the reporting of technological failures that involve pari-mutuel wagering.

Rule 2088, Declared Entries. Rule 2088 requires the exchange provider to void matched wagers on declared entries, except in an antepost market. Comments were received that stated the title of the regulation should more properly be "Non-Starters and Declared or Scratched Entries" as matched wagers may be voided under all such scenarios. The Board agreed and proposes to modify the title of Rule 2088 to read: "Non-Starters and Declared or Scratched Entries". In addition, subsection 2088(a) has been modified to add "non-starters" and "scratched" entries. This will add clarity and it will be consistent with the modified title of the regulation. Additional comments were received that suggested a "reduction factor principal" be added to Rule 2088. The disclosure of this information is required in an exchange provider's operating plan under the proposed Rule 2086.6, Operating Plan Required. It would be considered part of the exchange provider's report of the daily operation of the exchange, and the Board has authority to approve its implementation. However, the principal is not made explicit in the proposed exchange wagering regulations. Under current practice, when a runner is scratched from the pari-mutuel pool, all of the odds are adjusted to reflect the removal of the scratched runner. Exchange wagering allows for a similar principal, which is called a reduction principal. The Board agreed and proposes to modify Rule 2088 to clearly permit an exchange wagering provider to include the reduction principal in its operating plan.

Rule 2088.6, Cancellation of Unmatched Wagers. The regulation allows the exchange provider to cancel an unmatched wager at any time. Comments were submitted that stated the account holder who offered the unmatched wager should also be allowed to cancel the wager before it is matched. The Board agreed and modified the text to include the exchange wagering account holder who offered the wager as a party who may cancel an unmatched wager. Comments from CDTIC stated the enabling statute provided that unmatched wagers may be cancelled at any time "without cause". CDTIC advised that the language of the regulation should be modified to be consistent with Business and Professions Code section 19604.5(j), as the omission of

the phrase could give rise to whether the Board intended its regulation to have a different meaning than that contemplated by the Legislature. To avoid potential misinterpretations, the CDTIC urged the Board to add "without cause" to the regulatory provision. The Board agreed and modified the regulation to include the phrase "without cause" for purposes of clarity and consistency. Comments from the California Thoroughbred Trainers (CTT) stated the phrase "…by the provider…" made it seem as if the exchange provider was matching the exchange wagers with its funds. The CTT stated the phrase was misleading and should be removed from the regulation for the purposes of clarity. The Board agreed and modified Rule 2088.6 to state that specified parties "…may cancel an unmatched wager at any time without cause before it is matched to form one or more identically opposing wagers…"

Rule 2089, Errors in Payments of Exchange Wagers. The proposed regulation sets the procedures for the exchange provider to remedy errors in payment of exchange wagers. Comments were received from the Los Angeles Turf Club that stated the proposed periods of time for the submission and vetting of account holder claims were not sufficient. The Board agreed and proposes to modify subparagraphs 2089(a)(2), (a)(3) and (a)(4) to allow more time for account holders to submit claims or request in writing that the Board determine the validity of such claims. A claim must be submitted in 90 calendar days versus 30; a claim not submitted within 90 calendar days shall be deemed waived; and if a claim is rejected the claimant has 45 calendar days to appeal to the Board versus 15 calendar days. Current practice under Board Rule 1962, Payment for Errors, provides that the racing association shall be responsible for errors resulting in an over-payment to ticket holders. One reason for this is that current pari-mutuel wagers are relatively anonymous transactions. One may place a wager at a window, and cash a winning ticket without providing a name or a means of identifying oneself. This makes it very difficult to correct errors in payments. However, all exchange wagering transactions are linked to the account holder. The exchange provider knows exactly how much a winning wager should pay, and the amounts credited to the account holder. If a discrepancy occurs it is easily rectified. Comments regarding Rule 2089 emphasized that because errors in on-track pari-mutuel payments cannot be fully rectified should not impact the ability of exchange providers and account holders to equitably correct such errors in the context of exchange wagering. The Board agreed and modified the text of Rule 2089 to provide that if an error results in an over-payment to the account holder, the exchange provider may prohibit the withdrawal of funds equal to the overpayment. The exchange provider shall also notify the account holder of the overpayment and shall be entitled to recover the amount of the overpayment. The Board also added a provision to allow the account holder to dispute an overpayment. Within 90 days of the overpayment the account holder may request in writing that the Board determine the validity of the overpayment. Additional comments from the CTT stated that the rule did not require the exchange provider to notify the account holder of an underpayment. The CTT stated this placed the burden of discovering the underpayment entirely on the account holder. The Board agreed and modified subsection 2089(b)(1) to require the exchange provider to notify the account holder of an underpayment.

Rule 2089.5, Requirements to Establish an Exchange Wagering Account. The proposed regulation states the requirements for a person to establish an exchange wagering account. The regulation also requires the exchange provider to comply with Internal Revenue Service reporting requirements, and requires the recording and retention of specified transactions and conversations. Subsection 2089.5(a) provides that residents of another jurisdiction may establish exchange wagering accounts provided it is not unlawful under United States federal law or the law of that jurisdiction. Comments were received that stated the use of "another jurisdiction" presented clarity issues as it was not evident if it included foreign countries or just other states in the United States. Those commenting were of the opinion that the Board should not leave the meaning of the phrase vague. The Board agreed and modified subsection 2089.5(a) to provide that residents of another state may establish exchange wagering accounts, as specified. During discussions regarding the proposed addition of Article 27 it was suggested that subsection 2089.5(a) be amended to provide that accounts of persons whose principal resident was outside California may be utilized only for wagers on California races, and could not be used to wager on non-California races. This was based on one interpretation of Business and Professions Code section 19604.5(b). However, ODS Technologies LP and Betfair US LLC (TVG/Betfair) commented that in "…enacting Business and Professions Code section 19604.5(b), the California Legislature sought to make

expressly legal exchange wagering where the wager had anything to do with California (i.e. where (i) the bettor was a resident of California, or (ii) the race is run in California, and declare the conditions under which such exchange wagering may take place). However, the California Legislature made no effort to declare, and would have had no jurisdiction to attempt to declare, what races *outside* California a bettor living *outside* California could bet on or the conditions for such a bet – any more so than the California Legislature could attempt to declare the conditions under which a resident of New Jersey could place a bet at a New Jersey satellite wagering facility on a race run in New York. The conditions under which a bettor located in New Jersey is legally able to place a bet on a race run in New York is a question of the application of New Jersey law (and New York law) and something which California law cannot attempt to regulate. Moreover, attempting to restrict the wagers which a California licensee could take from non-California residents on non-California races would put California licensees at a distinct competitive disadvantage to exchange wagering operators who are licensed in another jurisdiction (e.g. New Jersey) and are able to accept exchange wagers from residents of every other state which may choose to legalize exchange wagering. It is appropriate for the Rules, therefore, to provide conditions applicable to exchange wagers placed by persons resident in jurisdictions outside California *solely* to the extent that such persons seek to place exchange wagers on races run in California." The Board agreed and proposes to modify subsection 2089.5(a) in accordance with the TVG/Betfair comment to state "…provided, however, that these rules shall apply only to wagering on California races." Business and Professions Code section 19604.5(c) provides that only natural persons with a valid exchange wagering account may place a wager. Comments were received that suggested the concept be inserted in subsection 2089.5(a) to provide clarity regarding who may open an exchange wagering account. The Board agreed and modified subsection 2089.5(a) to state only natural persons may open an account. Subsection 2089.5(d) provides that an exchange provider may refuse to establish an account or cancel or suspend a previously established account if it is found that any information supplied by the prospective account holder is untrue or incomplete. Comments were received from CDTIC that stated it was not clear who would make such a determination. CDTIC declared the logical party to make such a determination would be the exchange provider and it urged the Board to amend the provision to designate the exchange provider as the party who would act under such circumstances. CDTIC also stated the exchange provider should be able to refuse to establish, or cancel or suspend an account for reasons other than the fact that the information supplied was untrue or incomplete. There could be any number of reasons an exchange provider might become concerned about establishing or maintaining an account. The CDTIC suggested that to ensure maximum integrity of the exchange system, the exchange provider should be able to deny or terminate accounts where such issues arose as well. The Board agreed and modified subsection 2089.5(d) to designate the exchange provider as the party who could refuse to establish an account, or cancel or suspend an account if it found that any information supplied was untrue or incomplete. The Board also modified subsection 2089.5(d) to allow the exchange provider to refuse to establish an account or cancel or suspend an account for any reason.

Rule 2089.6, Deposits to an Exchange Wagering Account. Rule 2089.6 provides how an exchange wagering account holder may make deposits to an account. The proposed regulation also states that funds in an account shall not bear any interest to the account holder and that the account holder may be liable for any charges imposed by the transmitting or receiving entity involved in wire or electronic transfer of funds. CDTIC commented that the exchange provider may not be set up to accept deposits in all the forms listed in the regulation, and it was appropriate that the provider have a voice in the form of deposits rather than being compelled to accept any form of deposit. The Board agreed and modified subsection 2089.6(a) to state the account holder's deposits to the account shall be submitted in the form of any of the following as may be accepted by the exchange provider.

Rule 2090, Posting Credits for Winnings from Exchange Wagers. The regulation states when credit for winning from matched wagers shall be posted to the account by the exchange provider. The regulation also states that the exchange provider may settle matched wagers prior to the time the race is declared official as soon as the outcome of such wager is known with certainty. Comments received from the CTT stated the provision that allowed matched wagers to be settled as soon as the outcome the wagers were known with certainty was not clear. It appeared the provisions referred to antepost wagers, but the language of the regulation did not limit the

settlement to such wagers. The CTT urged the Board to clarify the provision by inserting the word "antepost" were appropriate. The Board agreed and for purposes of clarity modified subsection 2090(c) to add "antepost". This makes it clear that where the outcome of a matched antepost wager can be determined with certainty prior to the time the race is declared official, the exchange provider may settle such matched antepost wager. Comments received from Global Betting Exchange (GBE) stated that inserting "antepost" in subsection 2090(c) negated the ability of exchange providers to post credits for any wagers on scratched entries except antepost wagers. For the sake of clarity and consistency GBE urged the Board to amend Rule 2090 to provide that credits for any wagers on scratched entries shall be posted to the account immediately after the scratch. The Board agreed and modified Rule 2090 to add a new subsection 2090(b) to provide that credits for wagers on scratched entries shall be posted to the account immediately after the scratch.

Rule 2091.5, Suspending an Exchange Wagering Account. The regulation provides that the exchange provider may suspend an account if it has reason to believe the account holder committed acts of fraud in connection with exchange wagering or any other action or inaction that threatened the integrity or fairness of exchange wagering. Rule 2091.5 also requires the exchange provider to notify the Board when it suspends an account under such circumstances. The CTT submitted comments stating there was no language in the proposed regulation that prohibited the exchange provider from unilaterally taking funds from a suspended account. The CTT contended that at a minimum the regulation should require the exchange provider to maintain the account until any investigation associated with the suspension was complete. The Board agreed and added subsection 2091.5 to require that funds in a suspended account be maintained by the exchange provider until any investigation associated with the suspension was complete and/or the account was no longer suspended.

Rule 2092, Exchange Wagers Placed After the Start of a Race. The regulation provides the requirements for placing exchange wagers after a race has started; including required approvals for such wagering to take place. The rule also states wagering after the conclusion of a race, or on a previously run race, is prohibited. Comments from the CTT stated the proposed regulation was not consistent with the enabling statute, which required the approval of the horsemen's organization and the racing association as well as the Board before an exchange provider could offer wagering during the course of a race. The CTT urged the Board to amend the language of subsection 2092(a) to include the racing association and the horsemen's organization as parties that must authorize wagering after the start of the race. The Board agreed and modified subsection 2092(a) to include the horsemen's organization and the racing association. The proposed changes to Rule 2092 will provide clarity and consistency regarding the approvals that must be obtained by the exchange provider before it may offer wagering after the start of a race.

Rule 2092.5, Prohibitions on Wagers to Lay a Horse to Lose. The regulation prohibits specified classes of licensees from placing wagers to lay a horse to lose, prohibits others from making such wagers on behalf of such licensees, and provides that only the account holder may use his account to place such a wager. Comments received from GBE proposed expanding the scope of the regulation to include other occupational license classifications that require close proximity to horses. The Board agreed and added the substitute trainer who trains the horse, and the veterinarian or any assistant to the veterinarian providing services to the trainer who trains the horse. GBE also stated the Board should include references to Rule 1969, Wagering Prohibited, and Rule 1970, Wagering on Competing Horse, to make it clear that applicability or application of Rule 1970 would not be altered by the adoption of Rule 2092.5, and to provide that persons prohibited from wagering under Rule 1969 would be prohibited from placing exchange wagers while on duty at a race meeting or off-track wagering facility, including an out-of-state hub. Rule 1969 prohibits specific classes of licensees from placing wagers on the results of races while on duty at a race meeting or simulcast wagering facility. Rule 1970 prohibits specified licensees who have a horse entered to race from wagering on competing horses to finish first. The Board agreed and added a new subsection 2092.5(d) and 2092.5(e).

Rule 2092.6, Suspension of Occupational License. The regulation provides that the board of Stewards may suspend the license of any person if after a hearing it determines there is probable cause to believe that such person may have committed acts of fraud in connection with exchange wagering or any other action or inaction

which threatens the integrity or fairness of any exchange wagering. Rule 2092.6 also provides that the licensee may make an appeal to the Board by complying with the provisions of Rule 1761, Appeal from Decision of Stewards. Comments from CDTIC stated that for purposes of clarity the word "occupational" should be inserted prior to "license" in subparagraph 2092.6(a). Otherwise, CDTIC claimed the subparagraph could be construed to include exchange wagering license held by the provider. The Board agreed and modified subsection 2092.6(a) to state that the Board of Stewards may suspend the occupational license of any person, as specified. Comments from the Jockeys' Guild (Guild) objected to the inclusion of Rule 2092.6 in Article 27. The Guild stated that although it believed the regulation was intended to protect jockeys and other licensees from frivolous complaints based on unsubstantiated rumor or mere conjecture, it instead created a weaker standard than currently existed for other violations, all of which required proof of actual illegal conduct. The suspension or revocation of an occupational license on mere probable cause was constitutionally unsound as a licensed professional had a property interest in the right to practice his profession that could not be taken without due process. The proposed regulation did not require proof of any contingencies that would uphold a suspension, merely that the stewards had probable cause to believe that a violation may have been committed. Licensees would be deprived of any meaningful due process in that event. Furthermore, the Guild contended that existing Board regulations provided the Board and its stewards with ample power to enforce exchange wagering regulations without adopting Rule 2092.6. The supervisory and disciplinary powers of the Board would extend to any exchange wagering rules that the Board adopted. At the August 22, 2012 Exchange Wagering Ad Hoc Committee meeting the Guild stated it was concerned that the proposed regulation did not reference the Administrative Procedures Act (APA); did not guarantee a subsequent hearing; and allowed for an unlimited suspension. The Guild believed the regulation was intended as a preliminary step to be followed by a hearing to satisfy the APA requirement. The Guild suggested the addition of a subsection that would state any suspension would be limited to ten days and if probable cause that a violation occurred was found a hearing under the APA would be held to determine whether a licensee committed a violation of the rules before any further discipline could be imposed. The Guild stated the notion of a reasonable cause determination was that it was a midway point and there would be a subsequent hearing in which there was an actual finding of a violation. The Board agreed and modified subsection 2092.6(a) to state the Board of Stewards may suspend the occupational license of any person if, after a preliminary hearing, it determined there was probable cause to believe that such person committed acts of fraud. The Board also modified subsection 2092.6(b) to limit the term of suspension to ten days, and to require a hearing under Business and Professions Code section 19461 to determine whether a licensee committed a violation of the rules before any further discipline may be imposed. Business and Professions Code section 19461 requires all proceedings to revoke a license to be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code.

Copies of the full texts of the regulations with the proposed changes indicated are attached for your review. Additions to the originally proposed language appear as double underlined text and deletions are shown in ~~strikeout~~.

Any interested person may submit a written statement relating to the modified language during the public comment period from **October 8, 2012** to **October 22, 2012**. The written comment period will close at **5:00 p.m. on October 22, 2012**. Submit written comments to:

Harold Coburn, Policy and Regulations Unit
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone (916) 263-6397
Fax: (916) 263-6042
E-mail: HaroldC@chrb.ca.gov

All written comments received by the CHRB by **5:00 p.m. on October 22, 2012**, which pertain to the indicated changes will be reviewed and responded to by the Board staff as part of the completion of the rulemaking file. Please limit your comments to the modification to the texts of the regulations which appear as either double underlined text or in ~~strikeout~~.

At the **November 15, 2012** public hearing interested parties may present statements or arguments orally or in writing about the proposed actions described in this notice. Please limit any comments at the hearing to the modification to the texts which appear as either double underlined text or in strikeout. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony at the hearing.

Questions concerning the proposed amendments may be addressed to Harold Coburn at (916) 263-6397, or at HaroldC@chrb.ca.gov, or at the address above. If Harold Coburn is not available, questions concerning the proposed amendments may be directed to Andrea Ogden at (916) 263-6000.

CALIFORNIA HORSE RACING BOARD
October 8, 2012

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

2086. Definitions

As used in this article:

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

(b) "Confidential information" means the following:

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

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

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

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

(5) unless otherwise authorized by the account holder, the name, address, and all other information in possession of the exchange provider that would identify the account holder to anyone other than the Board or the exchange provider.

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

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

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

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

(g) "Exchange" means a system operated by an exchange provider in which the provider maintains one or more markets in which account holders may back or lay a selected outcome.

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

(i) "Exchange wagering account," "account" means the account established with an exchange provider by a natural person participating in exchange wagering. An account may only be established or maintained with an exchange provider by a natural person.

(j) "Exchange wagering license applicant," "applicant" means any entity including, but not limited to, corporations, partnerships, limited liability companies, limited partnerships, or individuals that file an application with the Board to conduct exchange wagering.

(k) "Exchange wagering license application" means the application form CHRB 229 (New 5/12), Application for License to Operate Exchange Wagering.

(l) "Exchange wagering licensee," "exchange provider" means a person located within or outside of California that is authorized to offer exchange wagering to residents of California pursuant to Business and Professions Code section 19604.5 and this article.

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

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

(o) "Market" means, in relation to a given horse race or a given set of horse races, a particular outcome that is subject to exchange wagering as determined by an exchange provider.

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

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

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

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

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

(u) "Other electronic media" means any electronic communication device or combination of devices including, but not limited to, personal computers, the Internet, private networks, interactive television and wireless communication technologies, or other technologies approved by the Board.

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

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

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

(y) "Unmatched wager" means a wager or portion of a wager placed in a given market within an exchange that does not become part of a matched wager because there are not one or more available exchange wagers in that market with which to form one or more identically opposing wagers.

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

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

Reference: Sections 19593 and 19604.5,

Business and Professions Code.

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

2086.6. Operating Plan Required.

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

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

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

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

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

(c) Technology and hardware and software systems information, which shall include a data security policy as provided under Business and Professions Code section 19604.5(d), as well as a policy for the

notification of the Board and account holders of any unauthorized access that may compromise account holders' personal information.

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

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

(f) A customer complaint and conflict resolution process.

(g) Programs for responsible wagering.

(h) The requirements for exchange wagering accounts established and operated for persons whose principal residence is outside of the state, which for the purposes of these rules, shall apply only to wagering on California races.

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

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

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

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 27. EXCHANGE WAGERING
PROPOSED ADDITION OF
RULE 2086.7. EXCHANGE WAGERING DATA

2086.7. Exchange Wagering Data.

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

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

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

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

(C) Winning, losing and net wagers;

(D) Wagers by type before race; by winning, losing, and net wagers, odds, amounts, backer, layer;

(E) Wagers by type during race; by winning, losing and net wagers, odds, amounts, backer, layer;

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

(G) Zip code of each account holder;

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

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

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

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

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 27. EXCHANGE WAGERING
PROPOSED ADDITION OF
RULE 2086.8. MONITORING SYSTEMS AND NOTIFICATION

2086.8. Monitoring Systems and Notification.

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

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

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

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

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

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

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

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

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 27. EXCHANGE WAGERING
PROPOSED ADDITION OF
RULE 2086.9. FINANCIAL AND SECURITY INTEGRITY AUDITS REQUIRED

Rule 2086.9. Financial and Security Integrity Audits Required.

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

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

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

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

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

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

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

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

2087.5. Antepost Market.

(a) Antepost market wagers are authorized on Grade 1/Group 1 or Grade 2/Group 2 stakes races and are exchange wagers placed in advance of the closing of entries ~~where one single wager is made~~ on an outcome that includes both:

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

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

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

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

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

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

2087.6. Cancellation of Matched Wagers.

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

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

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

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

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

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

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

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

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

2088. Non-Starters and Declared or Scratched Entries.

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

(b) In the event of a non-starter, declared or scratched entry, the price of all other matched wagers existing at the time the declared or scratched entry occurred, or the non-starter declared, may/may not be reduced proportionally by the exchange provider in accordance with the terms set forth in its operating plan to reflect the increased probability that those outcomes will become winning outcomes.

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

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

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

2088.6. Cancellation of Unmatched Wagers.

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

The exchange provider or the account holder who offered the unmatched wager may cancel an unmatched wager at any time without cause before it is matched to form one or more identically opposing wagers.

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

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

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

2089. Errors in Payments of Exchange Wagers.

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

(a) In the event the error results in an over-payment to the ~~individuals wagering, the exchange provider shall be responsible for such payment~~ account holder, the exchange provider may prohibit the withdrawal of funds equal to the overpayment. The exchange provider shall immediately notify the account holder of the overpayment and shall be entitled to recover from such account holder the amount of the overpayment.

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

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

(1) The exchange provider shall notify the account holder of such underpayment.

(~~1~~2) An account holder must submit a claim for the underpayment within ~~30~~ 90 calendar days inclusive of the date on which the alleged underpayment occurred. The exchange provider shall investigate such claims and shall pay each claim, or a part thereof, which it determines to be valid, and shall notify the claimant in writing if his claim is rejected as invalid.

(~~2~~3) Any claim not filed with the exchange provider within ~~30~~ 90 calendar days inclusive of the date on which the alleged under-payment occurred shall be deemed waived and the exchange provider shall have no further liability therefore.

(~~3~~4) Any person whose claim is rejected by the exchange provider may, within ~~15~~ 45 calendar days from the date he received the notice of rejection, request in writing that the Board determine the validity of the claim. Failure to file such request with the Board within the said time shall constitute a waiver of the claim.

(~~4~~5) A hearing shall be held on each such rejected claim timely filed with the Board. The Board shall give notice of such hearing to the claimant and the exchange provider. The Board may determine a claim to be valid, in whole or in part, and thereafter order the exchange provider to pay to the claimant the amount of the claim determined to be valid, or may deny the claim I whole or in part. Any such determination shall be final and binding on all parties.

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

Reference: Sections 19593 and 19604.5,

Business and Professions Code.

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

2089.5. Requirements to Establish an Exchange Wagering Account.

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

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

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

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

(3) Telephone number.

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

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

(c) An exchange provider shall employ electronic verification with respect to each prospective account holder's name, principal residence address, date of birth and social security number at the time of the account establishment by a Board-approved national, independent, individual reference company or another independent

technology approved by the Board which meets or exceeds the reliability, security, accuracy, privacy and timeliness provided by individual reference service companies.

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

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

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

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

(g) The account applicant shall supply the exchange provider with a means of personal identification to be used by the account holder to access his account. Exchange wagering accounts are for the use only of the account holder and the account holder is responsible to maintain the secrecy of the account number and means of personal identification. The account holder must immediately notify the exchange provider of any breach of security for the account.

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

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

holder, the exchange provider shall provide the account holder with summarized tax information on exchange wagering activities.

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

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

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

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

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

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 27. EXCHANGE WAGERING
PROPOSED ADDITION OF
RULE 2089.6. DEPOSITS TO AN EXCHANGE WAGERING ACCOUNT

2089.6. Deposits to an Exchange Wagering Account.

Deposits to an exchange wagering account shall be made, in person, by mail, by telephone, or by other electronic media, as follows:

(a) The account holder's deposits to the account shall be submitted by the account holder to the exchange provider and shall be in the form of any ~~one~~ of the following as may be accepted by the exchange provider:

(1) cash given to the exchange provider;

(2) check, money order, negotiable order of withdrawal, or wire or electronic transfer, payable and remitted to the exchange provider; or

(3) charges made to an account holder's debit or credit card upon the account holder's direct and personal instruction, which instruction may be given by telephone communication or other electronic media to the exchange provider or its agent by the account holder if the use of the card has been approved by the exchange provider.

(4) the name and billing address for any credit card, debit card, bank account, or other method of payment through which an account holder funds or transfers from an account shall be the same as the account holder's registered name and address.

(b) Funds in an account shall bear no interest to the account holder.

(c) The account holder may be liable for any charges imposed by the transmitting or receiving entity involved in a wire or electronic transfer, and such charges may be deducted from the account holder's account.

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

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

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

2090. Posting Credits for Winnings from Exchange Wagers.

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

(b) Credit for any wagers on a scratched entry shall be posted to the account by the exchange provider immediately after the scratch.

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

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

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

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

2091.5. Suspending an Exchange Wagering Account.

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

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

(1) The name of the person whose account was suspended;

(2) The date and time of the suspension;

(3) The reason for suspending the account;

(4) The results of any investigation associated with the suspension of the account.

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The trainer, ~~or~~ assistant trainer or substitute trainer who trains the horse;

(2) The authorized agent who represents the owner of the horse;

(3) The jockey or driver who rides or drives the horse;

(4) The jockey agent who represents the jockey who rides the horse;

(5) The valet who attends the jockey; ~~or~~

(6) Any stable employee of the trainer who trains the horse~~.~~;

(7) The veterinarian or any assistant to the veterinarian providing services to the trainer who trains the horse.

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

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

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

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

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

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

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

2092.6. Suspension of Occupational License.

(a) The Board of Stewards may suspend the occupational license of any person if, after a preliminary hearing, it determines there is probable cause to believe that such person ~~may have~~ has committed acts of

fraud in connection with exchange wagering or any other action or inaction which threatens the integrity or fairness of any exchange wagering.

(b) Such suspension of license shall be for a period of time designated by the Board of Stewards, unless otherwise determined by the Board,. provided that any such suspension under this section shall be limited to ten days and, if probable cause that a violation has occurred has been found, a hearing under Business and Professions Code section 19461 to determine whether a licensee has committed a violation of the rules must be held before any further discipline may be imposed.

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

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

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

CALIFORNIA HORSE RACING BOARD
SUPPLEMENT TO THE INITIAL STATEMENT OF REASONS

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; RULE 2087.5, ANTEPOST MARKET; RULE 2087.6, CANCELLATION OF MATCHED WAGERS; RULE 2088, DECLARED ENTRIES; RULE 2088.6, CANCELLATION OF UNMATCHED WAGERS; RULE 2089, ERRORS IN PAYMENTS OF EXCHANGE WAGERS; RULE 2089.5, REQUIREMENTS TO ESTABLISH AN EXCHANGE WAGERING ACCOUNT; RULE 2089.6, DEPOSITS TO AN EXCHANGE WAGERING ACCOUNT; RULE 2090, POSTING CREDITS FOR WINNINGS FROM EXCHANGE WAGERS; RULE 2090.5, DEBITS TO AN EXCHANGE WAGERING ACCOUNT; RULE 2090.6, WITHDRAWALS BY ACCOUNT HOLDER; 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.

IDENTIFICATION OF RELIED UPON DOCUMENTS

Pursuant to the requirements of Government Code section 11346.8(d) the California Horse Racing Board (Board) is providing notice of materials added to the record after the close of the initial 45-day public comment period. In proposing the addition of Article 27, the Board reported that it relied on the results of its economic impact analysis prepared pursuant to Government Code section 11346.3(b), as a technical, theoretical, and/or empirical study, report or document relied upon. The Board also relied upon the following technical, theoretical, and/or empirical studies, reports or documents: Christiansen Capital Advisors LLC document: Exchange Betting and the United States Thoroughbred Racing Industry dated January 24, 2011; the TVG/Betfair document: Exchange Wagering in California dated October 2, 2011; the Churchill Downs Incorporated letter regarding exchange wagering dated October 2, 2011; and the Global Betting Exchange memorandum regarding draft California Exchange Wagering Regulations dated October 2, 2011.

These documents are accessible for public inspection during the 15 day availability period from **October 8, 2012 through October 22, 2012** at the California Horse Racing Board Headquarters Office, 1010 Hurley Way, Suite 300, Sacramento, California 95825.

Any interested person may submit a written statement relating to the documents during the 15 day availability period from **October 8, 2012** to **October 22, 2012**. The written comment period will close at **5:00 p.m. on October 22, 2012**. Submit written comments to:

Harold Coburn, Policy and Regulations Unit
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone (916) 263-6397
Fax: (916) 263-6042
E-mail: HaroldC@chrb.ca.gov

All written comments received by the CHRB by **5:00 p.m. on October 22, 2012**, which pertain to the relied upon documents will be reviewed and responded to by the Board staff as part of the completion of the rulemaking file. Please limit your comments to the relied upon documents referenced above.

CALIFORNIA HORSE RACING BOARD
October 8, 2012

CALIFORNIA HORSE RACING BOARD
TITLE 4, DIVISION 4, CALIFORNIA CODE OF REGULATIONS
NOTICE OF PROPOSAL TO ADD ARTICLE 27.
EXCHANGE WAGERING

The California Horse Racing Board (Board) proposes to adopt the regulations described below after considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to adopt Article 27, Exchange Wagering, of the California Code of Regulations (CCR), Title 4, Division 4. The proposed article would add Rules 2086, Definitions; 2086.1, Authorization for Exchange Wagering; 2086.5, Application for License to Operate Exchange Wagering; 2086.6, Operating Plan Required; 2086.7, Exchange Wagering Data; 2086.8, Monitoring Systems and Notification; 2086.9, Financial and Security Integrity Audits Required; 2087, Suspending Markets; 2087.5, Antepost Market; 2087.6, Cancellation of Matched Wagers; 2088, Declared Entries; 2088.6, Cancellation of Unmatched Wagers; 2089, Errors in Payments of Exchange Wagers; 2089.5, Requirements to Establish an Exchange Wagering Account; 2089.6, Deposits to an Exchange Wagering Account; 2090, Posting Credits for Winnings from Exchange Wagers; 2090.5, Debits to an Exchange Wagering Account; 2090.6, Withdrawals by Account Holder; 2091, Closing an Inactive Exchange Wagering Account; 2091.5, Suspending an Exchange Wagering Account; 2091.6, Powers of the Board to Review and Audit Records; 2092, Exchange Wagers Placed After the Start Of a Race; 2092.5, Prohibitions on Wagers to Lay a Horse to Lose; 2092.6, Suspension of Occupational License; and 2093, Certain Practices Related to Exchange Wagering.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, June 28, 2012**, or as soon after that as business before the Board will permit, at **Hollywood Park Race Track, 1050 South Prairie Avenue, Inglewood, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m., on June 25, 2012**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone (916) 263–6397
Fax: (916) 263–6022
E–Mail: HaroldC@chrb.ca.gov

AUTHORITY AND REFERENCE

Authority Cited Rules 2086; 2086.1; 2086.7; 2086.8; 2086.9; 2087; 2087.5; 2089; 2089.5; 2089.6; 2090; 2090.5; 2090.6; 2091; 2091.5: Sections 19420, 19440, 19590 and 19604.5, Business and Professions Code. Reference: Sections 19593 and 19604.5, Business and Professions Code. Sections 19420, 19440, 19590 and 19604.5 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific sections 19593 and 19604.5, Business and Professions Code.

Authority Cited Rule 2086.5: Sections 19420, 19440, 19590 and 19604.5, Business and Professions Code. Reference: Sections 19593 and 19604.5, Business and Professions Code, and section 11523, Government Code. Sections 19420, 19440, 19590 and 19604.5 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific sections 19593 and 19604.5, Business and Professions Code, and section 11523, Government Code.

Authority Cited Rule 2086.6: Sections 19420, 19440, 19590 and 19604.5, Business and Professions Code. Reference: Sections 19593 and 19604.5(e) (4), Business and Professions Code, and section 6254(k), Government Code. Sections 19420, 19440, 19590 and 19604.5 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific sections 19593 and 19604.5(e)(4), Business and Professions Code, and section 6254(k) Government Code.

Authority Cited Rules 2087.6, 2088 and 2092: Sections 19420, 19440, 19590 and 19604.5, Business and Professions Code. Reference: Sections 19593 and 19604.5(k), Business and Professions Code. Sections 19420, 19440, 19590 and 19604.5 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific sections 19593 and 19604.5(k), Business and Professions Code.

Authority Cited Rule 2088.6: Sections 19420, 19440, 19590 and 19604.5, Business and Professions Code. Reference: Sections 19593 and 19604.5(j), Business and Professions Code. Sections 19420, 19440, 19590 and 19604.5 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific sections 19593 and 19604.5(j), Business and Professions Code.

Authority Cited Rule 2091.6: Sections 19420, 19433, 19440, 19590 and 19604.5, Business and Professions Code. Reference: Sections 19593 and 19604.5(e) (4), Business and Professions Code. Sections 19420, 19433, 19440, 19590 and 19604.5 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific sections 19593 and 19604.5(e) (4), Business and Professions Code.

Authority Cited Rule 2092.5: Sections 19420, 19440, 19590 and 19604.5, Business and Professions Code. Reference: Sections 19593 and 19604.5(e) (3) (A), Business and Professions Code. Sections 19420, 19440, 19590 and 19604.5 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific sections 19593 and 19604.5(e)(3)(A), Business and Professions Code.

Authority Cited Rule 2092.6: Sections 19420, 19440, 19460, 19461, 19590 and 19604.5, Business and Professions Code. Reference: Sections 19461, 19593 and 19604.5, Business and Professions Code. Sections 19420, 19440, 19460, 19461, 19590 and 19604.5 authorize the Board to adopt the proposed regulation, which

would implement, interpret or make specific sections 19461, 19593 and 19604.5, Business and Professions Code.

Authority Cited Rule 2093: Sections 19420, 19440, 19590 and 19604.5, Business and Professions Code. Reference: Sections 19593 and 19604.5(e) (3), Business and Professions Code. Sections 19420, 19440, 19590 and 19604.5 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific sections 19593 and 19604.5(e) (3), Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 19420 provides that jurisdiction and supervision over meetings in this State where horse races with wagering on their results are held or conducted, and over all persons or things having to do with the operation of such meetings, is vested in the California Horse Racing Board. Business and Professions Code section 19433 states The Board may visit, investigate, and place expert accountants and such other persons as it may deem necessary in the office, track, or other place of business of any licensee for the purpose of satisfying itself that its rules and regulations are strictly complied with. Business and Professions Code section 19440 provides that the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board shall include, but are not limited to: (1) adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering. (2) Administration and enforcement of all laws, rules, and regulations affecting horse racing and pari-mutuel wagering. (3) Adjudication of controversies arising from the enforcement of those laws and regulations dealing with horse racing and pari-mutuel wagering. (4) Licensing of each racing association and all persons, other than the public at large, who participate in a horse racing meeting with pari-mutuel wagering. Business and Professions Code section 19460 states that all licenses granted under this chapter are subject to all rules, regulations, and conditions prescribed by the Board, and shall contain such conditions as are deemed necessary or desirable by the Board for the best interests of horse racing and the purposes of this chapter. Business and Professions Code section 19461 provides that every license granted under this chapter is subject to suspension or revocation by the Board in any case where the Board has reason to believe that any condition regarding it has not been complied with, or that any law or any rule or regulation of the Board affecting it has been broken or violated. Business and Professions Code section 19590 states the Board shall adopt rules governing, permitting and regulating pari-mutuel wagering on horse races under the system known as the pari-mutuel method of wagering. Business and Professions Code section 19593 provides that no method of betting, pool making, or wagering other than by the pari-mutuel method shall be permitted or used by any person licensed under this chapter to conduct a horse racing meeting. Business and Professions Code section 19604.5 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 license 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. Government Code section 6254(k) states that except as provided in sections 6254.7 and 6254.13, nothing in this chapter shall be construed to require disclosure of records that are any of the following: (k) Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege. Government Code section 11523 provides that judicial review may be had by filing a petition for a writ of mandate in accordance with the provisions of the Code of Civil Procedure, subject, however, to the statutes relating to the particular agency. Except as otherwise provided in this section, the petition shall be filed within 30 days after the last day on

which reconsideration can be ordered. The right to petition shall not be affected by the failure to seek reconsideration before the agency.

The Board proposes to add Article 27, Exchange Wagering. Article 27 is comprised of 25 proposed regulations related to the conduct of exchange wagering in California. The proposed addition of Article 27 is necessary to fulfill the provisions of Senate Bill (SB) 1072, Chapter 283, Statutes of 2010, which added Business and Professions Code section 19604.5 to require the Board to establish standards governing exchange wagering in California.

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.

The Board proposes to add Rule 2086.1, Authorization for Exchange Wagering, which 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.

The Board proposes to add Rule 2086.5, Application for License to Operate Exchange Wagering.
Rule 2086.5 requires an applicant to obtain a license from the Board prior to accepting any exchange wagers in California. 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. The regulation provides that the applicant must complete an application as specified and as provided by the Board. Rule 2086.5 also sets the application fee, and sets the term of an exchange wagering license at two years from the date the license is issued, unless otherwise determined by the Board. Finally, Rule 2086.5 provides the timeframes which the applicant and the Board must meet to complete the application process. The application for license, CHRB-229 (New 05/12) Application for License to Operate Exchange Wagering, is incorporated by reference because it would be cumbersome or otherwise impractical to publish the document in the California Code of Regulations.

The Board proposes to add Rule 2086.6, Operating Plan Required. The proposed regulation requires an applicant for an exchange wagering license, or an applicant for renewal of an exchange wagering license, to submit a detailed operating plan at the time of application. The operating plan must provide a detailed report of the daily operation of the exchange, as well as information regarding the management of customer funds, technology systems information, document retention policies and other items relating to the operation of the exchange, as specified. The operating plan and any subsequent update are exempt from disclosure, as specified. This will inform the Board of how the exchange operator intends to conduct its routine business.

The Board proposes to add Rule 2086.7, Exchange Wagering Data, which 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 Board proposes to add Rule 2086.8, Monitoring Systems and Notification, to require that the exchange provider and the Board enter into an agreement for access to the provider's real-time monitoring system, as well as online documentation and training. In addition, Rule 2086.8 requires immediate notification of the Board of unusual wagering patterns and predetermined events, as well as criteria for anti money laundering procedures and monitoring account holders' telephone records.

The Board proposes to add Rule 2086.9, Financial and Security Audits Required, which 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. A financial statement is a necessary tool that is used by the Board to verify that the exchange provider is able to meet its financial obligations, and has the assets to maintain its business. In addition, on a calendar year bases the exchange provider shall undergo the Statement on Standards for Attestation Engagements 16 audits: Service Organization Controls (SOC) I and SOC II, which shall be submitted to the Board ninety days after the end of the calendar year.

The Board proposes to add Rule 2087, Suspending Markets, which 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. Suspending a market will not affect the pari-mutuel pools conducted by the racetracks, advance deposit wagering providers or simulcast wagering facilities, as exchange wagering pools are separate. Rule 2087 also requires the exchange provider to immediately notify the Board if it suspends a market, and upon settlement of the market it must provide a written account of its actions, as specified. The account holder who believes a payout was inappropriately disrupted due to the suspension may make an appeal to the Board.

The Board proposes to add Rule 2087.5, Antepost Market. The regulation provides a definition of an antepost market, which is a wager unique to exchange wagering. The antepost (before post) wager 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). The antepost wager may be placed before a race is run.

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 and lists the 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. The regulation also provides for notification of the Board when a matched wager is cancelled. Under Rule 2087.6, an account holder may submit a claim to the exchange provider if he or she believes a payout was improperly disrupted due to the cancellation of 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 an unmatched wager at any time before it is matched to form one or more identically opposing wagers. This is 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 Board proposes to add Rule 2089, Errors in Payments of Exchange Wagers. Rule 2089 states what occurs when an error results in an overpayment, or what steps must be taken when an error results in an underpayment. Rule 2089 provides the timelines for an account holder to make a claim for underpayment, as well as the timelines the exchange provider must follow in responding to such claims. If the exchange provider rejects a claim for underpayment, Rule 2089 provides the procedures and timelines which the account holder must follow to request that the Board determine the validity of the claim.

The Board proposes to add Rule 2089.5, Requirements to Establish An Exchange Wagering Account, which specifies 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 proposed regulation provides that an exchange wagering account is necessary to place exchange wagers and provides the minimum necessary information the exchange provider must obtain from an individual who wishes to open an account, and requires the exchange provider to verify such information. The regulation allows the provider to refuse to establish an account, or cancel or suspend a previously established account if any of the information is found to be false or incomplete. Rule 2089.5 also provides that the exchange provider shall comply with Internal Revenue Service reporting requirements, as specified; must record and retain all wagering conversations and transaction, as specified; must provide statements to account holders, as specified; and shall not divulge confidential information related to the placing of exchange wagers or the operation of the exchange, except with the consent of the account holder, or as otherwise required under the law.

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. Rule 2089.6 requires that the name and billing address for any method of payment through which the account holder funds or transfers from an account shall be the same as the account holder's registered name and address. The rule also provides that an account shall bear no interest to the account holder, and the account holder may be liable for any charges imposed by the transmitting or receiving entity involved in a wire or electronic transfer.

The Board proposes to add Rule 2090, Posting Credits for Winnings from Exchange Wagers which 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. However, Rule 2090 also allows the exchange provider to post credits for winnings from matched wagers as soon as the outcome of the wagers can be determined with certainty. This allows for payment of winnings for certain exchange wagers, such as antepost wagers.

The Board proposes to add Rule 2090.5, Debits to an Exchange Wagering Account. The proposed regulation describes how an exchange wagering account is debited when an account holder properly places an exchange wager. The exchange provider will determine if there are enough funds in the account to cover the maximum amount the account holder may be liable for. If there are sufficient funds, the account will be debited for the total maximum amount. The regulation provides that wagers may be accepted only during the days and times designated as operating by the exchange provider, and that the exchange provider may declare the system closed for receiving wagers on any race or closed for all exchange wagers.

The Board proposes to add Rule 2090.6, Withdrawals by Account Holder. The proposed regulation states how account holders may make withdrawals from their accounts, including procedures the exchange provider must take if there are not sufficient funds in the account, and how the funds may be transmitted to the account holder. Rule 2090.6 also specifies that the account holder may be liable for any charges imposed by the transmitting or receiving entity involved in a wire or electronic transfer of funds.

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 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 proposed regulation allows an exchange provider to suspend an exchange wagering account if the provider has reason to believe the account holder may have committed fraud in connection with exchange wagering or any action which threatens the integrity or fairness of exchange wagering, or is otherwise ineligible to hold the account. Rule 2091.5 requires the exchange provider to immediately notify the Board if is suspends an account due to fraud or actions that threaten the integrity or fairness of any exchange wagering.

The Board proposes to add Rule 2091.6, Powers of the Board to Review and Audit Records. The proposed regulation provides that the Board shall have access for review and audit of all records and financial information of an exchange provider. Rule 2091.6 specifies that the information concerning exchange wagering transactions and account holders shall be considered proprietary and shall not be disclosed, except as required by law.

The Board proposes to add Rule 2092, Exchange Wagers Placed After the Start of a Race, to provide 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.

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.

The Board proposes to add Rule 2092.6, Suspension of Occupational License. The proposed regulation provides that the Board of Stewards may suspend the license of any licensee if it determines there is probable cause to believe the person has committed acts of fraud in connection with exchange wagering or any other action that threatens the integrity or fairness of any exchange wagering. Rule 2092.6 also states that the licensee may make an appeal to the Board, as specified.

The Board proposes to add Rule 2093, Certain Practices Related to Exchange Wagering. Rule 2093 fulfills the requirements of Business and Professions Code section 19604.5(e)(3), which requires the Board to promulgate certain regulations relating to exchange wagering. Rule 2093 requires the exchange provider to provide an account holder with information on the races on which wagering is available, as specified. The rule also requires the exchange provider to have the account holder making an exchange wager select the specific horse and race; prohibits the exchange provider from offering specified aids, such as an automatic quick pick, in the placing of a wager; and prohibits the exchange provider from displaying the results of an exchange wager through the use of specified technology, games or lotto.

EVALUATION OF PROPOSED REGULATIONS' COMPATIBILITY AND CONSISTENCY WITH EXISTING STATE REGULATIONS:

The Board has conducted a search and has determined that the proposed addition of Article 27 and the proposed regulations are the only regulations dealing with exchange wagering in California horse racing. Therefore, the proposed regulations are neither incompatible nor inconsistent with existing state regulations.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS:

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.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS:

The adoption of the proposed regulations will not eliminate jobs within California. An unknown number of jobs may be created in California to the extent that exchange wagering providers are licensed to operate in this State. The adoption of the proposed regulations will not eliminate existing businesses within California. To the extent that exchange providers may operate in California, the regulations may create new businesses. The regulations may have a positive effect on the expansion of certain horse racing related businesses currently doing business within California. Because the betting exchange is a business model for transacting pari-mutuel wagers through an Internet Web site or by telephone the proposed regulations may have some benefit for the

state's environment. Horse racing fans who wager through the betting exchange can wager from the convenience of their home, or anywhere they may connect with the Internet. This means exchange wagering account holders will not be forced to drive to traditional "brick and mortar" satellite wagering facilities or racetracks to place wagers. To the extent that exchange wagering account holders are not using automobiles to drive to "brick and mortar" wagering facilities, the environmental benefit will also have a positive benefit to the health and welfare of California residents.

DISCLOSURE REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17500 through 17630: none.

Other non–discretionary costs or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed Rules will not have a significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

Cost impact on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

The adoption of the proposed regulations will not eliminate jobs within California. An unknown number of jobs may be created in California to the extent that exchange wagering providers are licensed to operate in this State. The adoption of the proposed regulations will not eliminate existing businesses within California. To the extent that exchange providers may operate in California, the regulations may create new businesses. The regulations may have a positive effect on the expansion of certain horse racing related businesses currently doing business within California.

Effect on small businesses: none. The proposal to adopt Article 27 does not affect small businesses because horse racing is not a small business under Government Code Section 11342.610.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome on affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Harold Coburn, Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263–6397
E–mail: HaroldC@chrb.ca.gov

If the person named above is not available, interested parties may contact:

Erica Ward, Regulation Analyst
ESWard@chrb.ca.gov
Telephone: (916) 263–6025

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. Copies may be obtained by contacting Harold Coburn, or the alternative contact person at the address, phone number or e–mail address listed above.

AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed texts, the modified texts, with changes clearly marked, shall be made available to the public for at least 15 days prior to the
date on which the Board adopts the regulations. Requests for copies of any modified regulations should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulations for 15 days after the date on which
they are made available.

AVAILABILITY OF STATEMENT OF REASONS
Requests for copies of the final statement of reasons, which will be made available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Harold Coburn at the address stated above.

BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulations and the initial statement of reasons. The Board's web site address is: www.chrb.ca.gov.

INITIAL STATEMENT OF REASONS

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
RULE 2087.5, ANTEPOST MARKET
RULE 2087.6, CANCELLATION OF MATCHED WAGERS
RULE 2088, DECLARED ENTRIES
RULE 2088.6, CANCELLATION OF UNMATCHED WAGERS
RULE 2089, ERRORS IN PAYMENTS OF EXCHANGE WAGERS
RULE 2089.5, REQUIREMENTS TO ESTABLISH AN EXCHANGE WAGERING ACCOUNT
RULE 2089.6, DEPOSITS TO AN EXCHANGE WAGERING ACCOUNT
RULE 2090, POSTING CREDITS FOR WINNINGS FROM EXCHANGE WAGERS
RULE 2090.5, DEBITS TO AN EXCHANGE WAGERING ACCOUNT
RULE 2090.6, WITHDRAWALS BY ACCOUNT HOLDER
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.

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 Unites 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. The application for license, CHRB-229 (New 05/12) Application for License to Operate Exchange Wagering (CHRB-229), is incorporated by reference because it would be cumbersome or otherwise impractical to publish the document in the California Code of Regulations. 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 provide a certified check in the amount of $1.4 million as a license fee to fulfill Business and Professions Code section 19604.5(e)(6), which provides that the Board may recover any costs associated with the licensing or regulation of exchange wagering from the exchange wagering licensee. The subsection states the Board may determine another amount is appropriate. This provides the Board with flexibility to adjust the license fee if it determines circumstances warrant such an action. This may occur if the Board determines it will adjust the term of license. 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 shall be not more than two years from the date of issuance of the license. This is consistent with current Board practice regarding the term of license provided advance deposit wagering and minisatellite wagering entities. If the Board determines it is in the best interest of horseracing subsection 2086.5(c) allows the Board to modify the term of license. Subsection 2086.5(d) 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(d) 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(d).

Rule 2086.5 incorporates by reference the form CHRB-229. It is necessary to incorporate the form by reference as it would be cumbersome, unduly expensive, or otherwise impractical to publish the document in the California Code of regulations. 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, mangers, 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 of 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 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 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 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 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 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 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 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 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 2086.6, 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-mutual 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 if 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 with 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 of 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. 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
May 11, 2012

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

2086. Definitions

As used in this article:

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

(b) "Confidential information" means the following:

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

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

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

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

(5) unless otherwise authorized by the account holder, the name, address, and all other information in possession of the exchange provider that would identify the account holder to anyone other than the Board or the exchange provider.

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

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

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

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

(g) "Exchange" means a system operated by an exchange provider in which the provider maintains one or more markets in which account holders may back or lay a selected outcome.

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

(i) "Exchange wagering account," "account" means the account established with an exchange provider by a natural person participating in exchange wagering. An account may only be established or maintained with an exchange provider by a natural person.

(j) "Exchange wagering license applicant," "applicant" means any entity including, but not limited to, corporations, partnerships, limited liability companies, limited partnerships, or individuals that file an application with the Board to conduct exchange wagering.

(k) "Exchange wagering license application" means the application form CHRB 229 (New 4/12), Application for License to Operate Exchange Wagering.

(l) "Exchange wagering licensee," "exchange provider" means a person located within or outside of California that is authorized to offer exchange wagering to residents of California pursuant to Business and Professions Code section 19604.5 and this article.

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

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

(o) "Market" means, in relation to a given horse race or a given set of horse races, a particular outcome that is subject to exchange wagering as determined by an exchange provider.

(p) "Matched wager" means the wager that is formed when two or more persons are confirmed by the exchange provider as having placed identically opposing wagers in a given market on the exchange.

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

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

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

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

(u) "Other electronic media" means any electronic communication device or combination of devices including, but not limited to, personal computers, the Internet, private networks, interactive television and wireless communication technologies, or other technologies approved by the Board.

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

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

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

(y) "Unmatched wager" means a wager or portion of a wager placed in a given market within an exchange that does not become part of a matched wager because there are not one or more available exchange wagers in that market with which to form one or more identically opposing wagers.

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

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

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

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 27. EXCHANGE WAGERING
PROPOSED ADDITION OF
RULE 2086.1. AUTHORIZATION FOR EXCHANGE WAGERING

2086.1. Authorization for Exchange Wagering.

(a) Exchange Wagering may be conducted upon the approval of the Board as provided for in this article and under the provisions of Business and Professions Code sections 19604.5(b)(2) to (7), inclusive.

(b) Despite subsection (a) of this regulation, a licensee may conduct exchange wagering on any horse race conducted outside of California where the licensee does not offer exchange wagering to residents of California on that race.

Authority: Sections 19420, 19440, 19590 and 19604.5, Business and Professions Code.
Reference: Sections 19593 and 19604.5, Business and Professions Code.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 27. EXCHANGE WAGERING
PROPOSED ADDITION OF
RULE 2086.5. APPLICATION FOR LICENSE TO OPERATE EXCHANGE WAGERING

2086.5. Application for License to Operate Exchange Wagering.

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

(b) An applicant must complete CHRB form 229 (New 02/12) Application for License to Operate Exchange Wagering, hereby incorporated by reference, which shall be available at the Board's headquarters office. The application must be filed not later than 90 days in advance of the scheduled start of operation. A certified check in the amount of $1,400,000 payable to the California Horse Racing Board, or an amount to be determined by the Board to fulfill Business and Professions Code section 19604.5(e)(6), a detailed operating plan as described under Rule 2086.6, Operating Plan Required, and proof of the applicant's compliance with labor provisions of Business and Professions Code section 19604.5(f), must accompany the application.

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

(d) The Board shall notify the applicant in writing within 30 calendar days from the receipt date if the application is deficient. No later than 90 calendar days following the receipt of the application, the Board shall

make a final determination on the application. The Board may approve the application if, after reasonable investigation and inspection, as it deems appropriate, it determines that the applicant has demonstrated that exchange wagers placed through the exchange will be accurately processed and that there will be sufficient safeguards to protect the public and to maintain the integrity of the horse racing industry in this state. If the Board denies an application, the applicant has 30 calendar days, from the receipt of the Board's denial notification, to request a reconsideration of the Board's decision. The request must be in writing and sent to the Board's headquarters office. The Board shall respond in writing to the reconsideration request within 30 working days from the receipt date of the request. If reconsideration is denied, the applicant may file for judicial review in accordance with Government Code section 11523.

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

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

CALIFORNIA HORSE RACING BOARD
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PROPOSED ADDITION OF
RULE 2086.6. OPERATING PLAN REQUIRED

2086.6. Operating Plan Required.

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

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

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

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

(2) Evidence of an established account with an Federal Deposit Insurance Corporation (FDIC) insured bank in which all funds of the account holders will be deposited. This shall include evidence that account holder's funds are segregated and held in a separate FDIC insured bank account of the exchange provider.

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

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

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

(f) A customer complaint and conflict resolution process.

(g) Programs for responsible wagering.

(h) The requirements for exchange wagering accounts established and operated for persons whose principal residence is outside of the state.

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

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

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

CALIFORNIA HORSE RACING BOARD
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PROPOSED ADDITION OF
RULE 2086.7. EXCHANGE WAGERING DATA

2086.7. Exchange Wagering Data.

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

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

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

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

(C) Winning, losing and net wagers;

(D) Wagers by type before race; by winning, losing, and net wagers, odds, amounts, backer, layer;

(E) Wagers by type during race; by winning, losing and net wagers, odds, amounts, backer, layer;

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

(G) Zip code of each account holder;

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

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

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

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

CALIFORNIA HORSE RACING BOARD
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PROPOSED ADDITION OF
RULE 2086.8. MONITORING SYSTEMS AND NOTIFICATION

2086.8. Monitoring Systems and Notification.

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

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

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

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

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

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

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

Reference: Sections 19593 and 19604.5,

Business and Professions Code.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
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PROPOSED ADDITION OF
RULE 2086.9. FINANCIAL AND SECURITY INTEGRITY AUDITS REQUIRED

Rule 2086.9. Financial and Security Integrity Audits Required.

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

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

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

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

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

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

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

TITLE 4. CALIFORNIA CODE OF REGULATIONS
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PROPOSED ADDITION OF
RULE 2087. SUSPENDING MARKETS

2087. Suspending Markets.

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

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

(1) The market suspended;

(2) The date and time of the suspension;

(3) The reason for suspending the market;

(4) The results of the investigation;

(5) How the market was settled.

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

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

Authority: Sections 19420, 19440, 19590 and 19604.5, Business and Professions Code.
Reference: Sections 19593 and 19604.5(k), Business and Professions Code.

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

2087.5. Antepost Market.

(a) Antepost market wagers are authorized and are wagers where one single wager is made on an outcome that includes both:

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

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

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

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

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

2087.6. Cancellation of Matched Wagers.

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

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

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

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

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

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

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

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

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

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 27. EXCHANGE WAGERING
PROPOSED ADDITION OF
RULE 2088. DECLARED ENTRIES

2088. Declared Entries.

Except for in an antepost market, matched wagers on declared entries shall be voided by the exchange provider.

Authority: Sections 19420, 19440, 19590 and 19604.5,

Business and Professions Code.

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

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ARTICLE 27. EXCHANGE WAGERING
PROPOSED ADDITION OF
RULE 2088.6. CANCELLATION OF UNMATCHED WAGERS

2088.6. Cancellation of Unmatched Wagers.

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

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

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

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PROPOSED ADDITION OF
RULE 2089. ERRORS IN PAYMENTS OF EXCHANGE WAGERS

2089. Errors in Payments of Exchange Wagers.

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

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

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

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

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

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

(4) A hearing shall be held on each such rejected claim timely filed with the Board. The Board shall give notice of such hearing to the claimant and the exchange provider. The Board may determine a claim to be

valid, in whole or in part, and thereafter order the exchange provider to pay to the claimant the amount of the claim determined to be valid, or may deny the claim I whole or in part. Any such determination shall be final and binding on all parties.

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

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

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PROPOSED ADDITION OF
RULE 2089.5. REQUIREMENTS TO ESTABLISH AN EXCHANGE WAGERING ACCOUNT

2089.5. Requirements to Establish an Exchange Wagering Account.

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

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

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

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

(3) Telephone number.

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

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

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

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

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

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

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

(g) The account applicant shall supply the exchange provider with a means of personal identification to be used by the account holder to access his account. Exchange wagering accounts are for the use only of the account holder and the account holder is responsible to maintain the secrecy of the account number and means of personal identification. The account holder must immediately notify the exchange provider of any breach of security for the account.

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

(i) Each exchange provider shall, at all times, comply with Internal Revenue Service (IRS) requirements for reporting and withholding proceeds from exchange wagers by account holders and shall, following the credit

to an account for a winning exchange wager, send to any account holder who is subject to IRS reporting or withholding a Form W2-G summarizing the information for tax purposes. Upon written request by an account holder, the exchange provider shall provide the account holder with summarized tax information on exchange wagering activities.

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

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

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

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

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

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PROPOSED ADDITION OF
RULE 2089.6. DEPOSITS TO AN EXCHANGE WAGERING ACCOUNT

2089.6. Deposits to an Exchange Wagering Account.

Deposits to an exchange wagering account shall be made, in person, by mail, by telephone, or by other electronic media, as follows:

(a) The account holder's deposits to the account shall be submitted by the account holder to the exchange provider and shall be in the form of one of the following:

(1) cash given to the exchange provider;

(2) check, money order, negotiable order of withdrawal, or wire or electronic transfer, payable and remitted to the exchange provider; or

(3) charges made to an account holder's debit or credit card upon the account holder's direct and personal instruction, which instruction may be given by telephone communication or other electronic media to the exchange provider or its agent by the account holder if the use of the card has been approved by the exchange provider.

(4) the name and billing address for any credit card, debit card, bank account, or other method of payment through which an account holder funds or transfers from an account shall be the same as the account holder’s registered name and address.

(b) Funds in an account shall bear no interest to the account holder.

(c) The account holder may be liable for any charges imposed by the transmitting or receiving entity involved in a wire or electronic transfer, and such charges may be deducted from the account holder’s account.

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

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

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PROPOSED ADDITION OF
RULE 2090. POSTING CREDITS FOR WINNINGS FROM EXCHANGE WAGERS

2090. Posting Credits for Winnings from Exchange Wagers.

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

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

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

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

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PROPOSED ADDITION OF
RULE 2090.5. DEBITS TO AN EXCHANGE WAGERING ACCOUNT

2090.5. Debits to an Exchange Wagering Account.

Debits to an exchange wagering account shall be made as follows:

(a) Upon receipt by the exchange provider of an exchange wager properly placed, the provider shall determine whether there are sufficient funds in the account holder's wagering account to cover the maximum amount the account holder could be liable for based on the wager. If so, the wager shall be accepted. The exchange provider will debit the account holder's account the total maximum amount which the account holder could be liable for based on all exchange wagers placed by the account holder on races which have not yet been declared official.

(b) Wagers shall be accepted only during days and times designated as operating by the exchange provider.

(c) The exchange provider may at any time declare the system closed for receiving any wagers on any race or closed for all exchange wagering.

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

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

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PROPOSED ADDITION OF
RULE 2090.6. WITHDRAWALS BY ACCOUNT HOLDER

2090.6. Withdrawals by Account Holder.

(a) Withdrawals shall be completed within five business days after the exchange provider receives a request from an account holder by mail, by telephone, or other electronic media, accompanied by the valid account number and a means of personal identification or, if by mail, a signed completed withdrawal form. In the case of any withdrawal requested by mail, by telephone, or by other electronic media:

(1) If sufficient funds are available in the account, the exchange provider shall send a check payable to the account holder in the amount of the requested withdrawal to the address of record.

(2) If sufficient funds are not available in the account, the exchange provider shall, within five business days of receipt, provide notification to the account holder of insufficient funds and send a check payable to the account holder in the amount of the funds available to the address of record.

(3) A wire or electronic funds transfer, including but not limited through the automated clearing house system, may be used in lieu of a check, at the discretion of the account holder and the exchange provider, to deliver funds withdrawn from an exchange wagering account to a monetary account controlled by the account holder. The account holder may be liable for any charges imposed by the transmitting or receiving entity involved in a wire or electronic transfer, and such charges may be deducted from the account holder's account.

(b) Exchange wagering account holders may make withdrawals in person with such identification as required by the exchange provider, the valid account number, and a means of personal identification.

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

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

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PROPOSED ADDITION OF
RULE 2091. CLOSING AN INACTIVE EXCHANGE WAGERING ACCOUNT

2091. Closing an Inactive Exchange Wagering Account.

The exchange provider may close any exchange wagering account that has remained inactive for six months or longer. When an account is closed the exchange provider shall return any funds remaining in the account to the account holder at the address of record within five business days of closing the account.

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

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

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PROPOSED ADDITION OF
RULE 2091.5. SUSPENDING AN EXCHANGE WAGERING ACCOUNT

2091.5. Suspending an Exchange Wagering Account.

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

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

(1) The name of the person whose account was suspended;

(2) The date and time of the suspension;

(3) The reason for suspending the account;

(4) The results of any investigation associated with the suspension of the account.

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

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

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PROPOSED ADDITION OF
RULE 2091.6. POWERS OF THE BOARD TO REVIEW AND AUDIT RECORDS

2091.6. Powers of the Board to Review and Audit Records.

The Board shall have access for review and audit, to all records and financial information of an exchange provider. The information shall be made available upon notice from the Board, at all reasonable times to the extent such disclosure is not prohibited by law. Board access to and use of information concerning exchange wagering transactions and account holders shall be considered proprietary to the exchange provider and shall not be disclosed publicly except as may be required by law.

Authority: Sections 19420, 19433, 19440, 19590 and 19604.5, Business and Professions Code.

Reference: Sections 19593 and 19604.5(e)(4), Business and Professions Code.

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PROPOSED ADDITION OF
RULE 2092. EXCHANGE WAGERS PLACED AFTER THE START OF A RACE

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

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

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

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

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

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

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PROPOSED ADDITION OF
RULE 2092.5. PROHIBITIONS ON WAGERS TO LAY A HORSE TO LOSE

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

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

(7) The trainer or assistant trainer who trains the horse;

(8) The authorized agent who represents the owner of the horse;

(9) The jockey or driver who rides or drives the horse;

(10) The jockey agent who represents the jockey who rides the horse;

(11) The valet who attends the jockey; or

(12) Any stable employee of the trainer who trains the horse.

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

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

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

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

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PROPOSED ADDITION OF
RULE 2092.6. SUSPENSION OF OCCUPATIONAL LICENSE

2092.6. Suspension of Occupational License.

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

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

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

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

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

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PROPOSED ADDITION OF
RULE 2093. CERTAIN PRACTICES RELATED TO EXCHANGE WAGERING

2093. Certain Practices Related to Exchange Wagering.

(a) The exchange provider shall provide an account holder with information on the race, including the track where the race will take place and the names of the participating horses before the account holder may place an exchange wager.

(b) The exchange provider shall require the account holder making the exchange wager to select the specific race and horse for the wager. The exchange provider may not offer automatic, quick-pick, or similar features to aid in the placing of an exchange wager.

(c) The exchange provider shall not display the results of an exchange wager through the use of video or mechanical reels or other slot machine or casino game themes, including, but not limited to, dice games, wheel games, card games, and lotto.

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

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