

**COMMENTS AND RESPONSES FOR PROPOSED REGULATIONS  
INFORMAL WORKSHOP/COMMENT PERIOD  
MINIMUM INTERNAL CONTROL STANDARDS (MICS) FOR GAMBLING ESTABLISHMENTS  
GAMBLING FLOOR OPERATIONS AND PLAY OF CONTROLLED GAMES.  
CGCC-GCA-2010-    -R**

**COMMENTS FROM WORKSHOP OF JANUARY 21, 2010**

The following comments/objections/recommendations were made regarding the proposed action, either in writing or orally, at the informal workshop on January 21, 2010.

1. As amended by this action, Section 12360(a) defines a “gaming activity” as the same as that which is defined in Title 11, CCR, Section 2010, subsection (f), which states that a gaming activity is any activity or event including, but not limited to, jackpots, bonuses, promotions, cashpots, tournaments, etc., that is appended to or relies upon any controlled game.

a. Alan Titus: In Section 2010, *tournaments* are included in the definition for *gaming activity*, yet tournaments are not appended to a controlled game, they actually *are* a controlled game.

**Response:** This comment was rejected. Any modification of Section 2010 should be addressed by the Bureau in a separate rulemaking.

2. As amended by this action, Section 12360(b) defines “House Rules” as a set of written policies and procedures, established by a gambling enterprise, which set general parameters for the play of controlled games.

a. Alan Titus: Not all house rules relate specifically to the play of controlled games. Some relate to general patron conduct, such as a *no photographs* rule.

**Response:** This comment was accepted and proposed Section 12360(b) amended to read that house rules are “a set of written policies and procedures, established by a gambling enterprise, which set general parameters under which that gambling enterprise operates.”

3. Section 12391(a) prohibits cardroom employees from playing controlled games while on duty, except for house prop players, and prohibits licensees from playing controlled games at any time.

a. Turlock Poker Room: We support this regulation. Cardroom owners and employees should not play, as it threatens the integrity of the game. How can one adequately manage staff while also focusing on playing a game?

b. Mark Kalegian: These regulations should be limited to problems that are shown to be widespread or systemic.

**Response (a. & b. above):** These comments were accepted and considered in the further development of this regulation.

4. Section 12391(a)(1) requires that all areas of a gambling establishment where controlled games are conducted be open to the public.

a. Alan Titus: There's no reason to apply this rule to areas that are not *currently* being used, such as tournament rooms. Suggest the phrase read: "... are *being* conducted ..."

**Response:** This comment was accepted and the regulation amended accordingly.

5. Section 12391(a)(2), in accordance with Title 11, CCR, Section 2050, requires cardrooms to have an owner-licensee or key employee on duty during all hours of operation to supervise the gambling operation and insure compliance with the Act, these regulations and any other provision of law.

a. Mark Kalegian: These duties are conducted by gambling floor employees.

b. Alan Titus: The Commission enforces the Act. The phrase "*and any other provision of law*" should be deleted.

**Response (a. & b. above):** These comments were accepted and Section 12391(a)(2) amended to simply require compliance with Title 11, CCR, Section 2050.

6. Section 12391(a)(3) prohibits cardroom employees from playing controlled games or participating in gaming activities while on duty, except for house prop players. Section 12391(a)(5) prohibits a licensee from playing any controlled game at any time.

a. Industry in general: Employees have always been allowed to play on breaks or when they have down time. Owners have always played, and patrons expect them to play.

b. Alan Titus: No authority to adopt this reg. The Act and Penal Code section 330.11 permit them to play.

c. David Fried: Employees and owners should be allowed to play any game as long as they do not occupy the player/dealer position, don't participate in jackpots, do not use house money, and all game rules apply.

d. Paul Chilleo: I have dealers and hosts playing while on the clock. If I change them back to props, it will cost me more money because hosts and dealers get part of their salary from the tip pool. As an owner, I get information from customers while playing.

e. Mark Kalegian: Owners should be allowed to play non-banked games.

f. Bureau: Changes are possible, but must prohibit employees and licensees from jackpots and California games. Dealers can't play while dealing.

**Response (a. - f. above):** These comments were accepted and Sections 12391(a)(3) and (a)(5) were consolidated into one section and amended to allow employees, while on duty, and licensees to play any controlled game, provided that they: not accept the deal in any game with a rotating player-dealer position; not participate as a player in any gaming activity; not use house funds; not be the house dealer for the game; and be subject to and comply with all house and game rules applicable to all players participating in the game. Paragraph (a)(5) was deleted, since it was consolidated with paragraph (a)(3), and subsequent paragraphs were renumbered accordingly.

7. Section 12391(a)(4) prohibits cardroom licensees and employees from forcing an employee to play controlled games on the premises of the gambling establishment during his or her non-work hours.

a. Industry in general: Industry generally supports this regulation.

**Response:** This comment of support was accepted and considered in the further development of this regulation.

8. Section 12391(a)(6) requires licensees to maintain a table log which tracks, by shift and date, the tables that were open, the games that were played at each table, table limits, table collection rates, the total time that all hands were played at each table, the employees assigned to each table, and the names and duty hours of the house prop players. Section 12391(a)(7) requires that the table logs be certified under penalty of perjury, and Section 12391(a)(8) requires that written table logs be stored chronologically.

a. Industry in general: Would be burdensome to create a written log for each table.

b. Alan Titus: Would be an inexact way of tracking table revenue. Should read: "The total time each table was *in use*." Dealers rotate between tables. The retention requirement for the table logs should be less than seven year standard.

c. David Fried: The tables that were open during a shift are already identified on the count sheets. The games that were played at each table can be identified by using the table number on the count sheets. Table limits are not currently tracked. Already have a collection rate schedule. Payroll records identify dealers by shift, and we have a table rotation schedule. No time records kept on when a dealer is at each table.

d. Bureau: May be willing to exclude requirement for a specific log, but info in (A), (B) & (C) must be made available to Bureau upon request. Don't need table limits and the house prop player portion could be relaxed, as long as there's an audit trail.

**Response (a. - d. above):** These comments were accepted and this regulation was amended to only require that specified information be maintained by shift and by date. The requirement for a table log and the tracking of table limits were deleted. Since there would be no table log, paragraphs (a)(7) and (a)(8) were also deleted and subsequent paragraphs renumbered accordingly.

9. Section 12391(a)(9) requires that the name of each game and gaming activity, the table limit(s), and the collection rate(s) applicable to each table be prominently displayed on that table and clearly visible from each seated player's position at the table.

- a. Alan Titus: Impractical that they be *clearly visible* to each *seated* player. *Prominently displayed* would be better. Duplicates Section 2070 in Title 11.
- b. David Fried: Duplicates Section 2070 in Title 11. Licensees should have only one place to view these regulations.
- c. Bureau: This information does not need to be displayed on a poker table. May be coming out of MICS and stay in Section 2070.

**Response (a. - c. above):** These comments were accepted. Paragraph (a)(9) was deleted and subsequent paragraphs renumbered accordingly.

10. Section 12391(a)(10) requires that licensees not have more tables in rooms where controlled games are conducted that that which is authorized by their license.

- a. Industry in general: Licensees should be allowed to label non-operational tables, without removing them from the premises.
- b. Alan Titus: Should state that the licensee not have on the *gambling floor*, more gaming tables that permitted by the license.
- c. Mark Kalegian: Some jurisdictions allow more tables on the floor to accommodate fluctuations.
- d. Bureau: Could allow tables to be labeled as non-operational.

**Response (a. - d. above):** These comments were accepted and the regulation amended to permit tables to be covered and labeled as non-operational.

11. Section 12391(a)(11) requires cardroom licensees to adhere to the provisions of a contract with a third party provider of proposition player services.

- a. Alan Titus: Licensees should be allowed to legally breach their contracts for legitimate business purposes.
- b. Bureau: May be willing to amend for this purpose.

**Response (a. & b. above):** These comments were rejected, as existing Section 12200.7(f) requires cardrooms to receive Commission approval to terminate a contract with a third party provider of proposition player services, and only after considering the results of an inquiry from the Bureau.

12. Section 12391(a)(12) requires that chips be purchased or redeemed only designated employees in the cage or on the gambling floor who have received the training required by federal regulations relating to the documentation of large cash transactions. This section also prohibits the sale or redemption of chips by a third party provider of proposition player services.

- a. Alan Titus: The second part of this regulation should be in prop player contract criteria regulations, not in cardroom MICS.
- b. David Fried: The second part of this regulation duplicates MICS I Section 12386(a)(6).

**Response (a. & b. above):** These comments were accepted and the second portion of this regulation was deleted, as Section 12386(a)(6) already prohibits the sale or redemption of chips by a third party provider of proposition player services.

13. Section 12391(a)(13) requires cardroom licensees to have policy and procedures that ensure compliance with existing regulations that require documentation of large cash transactions, specifically, section 12404.

- a. Alan Titus: Section 12404 does this on its own, without this duplication.

**Response:** This comment was rejected, as Section 12404 does not require cardrooms to have *policies and procedures* about large cash transactions. Having 12404 in MICS will help to ensure that employees understand their role in documenting these transactions. However, since paragraph (a)(13) deals with a subject that is similar to paragraph (a)(12), its contents were moved to paragraph (a)(12) and the subsequent paragraphs were renumbered accordingly.

14. Section 12391(a)(14) requires that cardrooms document complimentary items and services that are provided to patrons. Specifically, cardrooms would be required to establish criteria for awarding and redeeming complimentary items or services, limit the authority to approve complimentary items or services to owners or key employees, control personal information of patrons participating in a player rewards programs, report complimentary items and services in financial statements, and prepare quarterly reports regarding complimentary items or services.

- a. Industry in general: This regulation is overly burdensome and should focus on comps that are more significant than bottled water or coffee. Perhaps a dollar value threshold would work.
- b. Alan Titus: The awarding of comps is an external operational control, not a minimum internal control. Section 2071 pertains to game rules, whereas this regulation is about comps. Further, the regulation of comps is unnecessary and the reporting of patron's names violates privacy rights.
- c. David Fried: Why is this necessary? The Bureau already approves promotions. Comps of coffee/drinks are small in dollar value. This regulation should only require a policy that requires comps to be approved by management.
- d. Bureau: Don't need to know about coffee/drink comps. But larger comps are often listed as an expense, to reduce profit. In these cases, comp criteria should be established. A dollar value threshold may help

**Response (a. - d. above):** These comments were accepted and the proposed regulation amended to only require that cardrooms comply with specified federal laws and all regulations that relate to the provision or documentation of complimentary items or services to patrons.

15. Section 12391(a)(15) prohibits a cardroom licensee from providing funds to an employee for the purposes of playing a controlled game.

a. Alan Titus: Should read: "... shall not provide *house* funds to any person ..."

**Response:** This comment was accepted and the regulation amended accordingly.

b. Alan Titus: Cardrooms are only prohibited from having a financial interest in the outcome of those games that have a player-dealer position.

c. David Fried: Should read: "... for the purposes of playing a controlled game *with a player-dealer position, ...*" There is no legal prohibition of *staking* poker games with house-funded prop players.

d. Mark Kalegian: We assume that this regulation seeks to prohibit staking employees with money to play and then sharing in the outcome, while still allowing credit. If this assumption is incorrect, please advise.

e. Bureau: Other than credit, no employees should get house funds to play any game.

**Response (b. – e. above):** These comments were rejected. An employee playing with house funds not only gives the impression that the house has a financial interest in the game, but also increases the chances for an unfair decision against a patron who may have a game dispute with that employee. The Act requires the Commission to adopt regulations that ensure that gambling activities are fair to the public.<sup>1</sup>

16. Section 12391(b)(1) requires licensees in Tiers II through V to have at least one key employee in each room to oversee gambling operations.

a. Industry in general: What is a separate room?

b. David Fried: Should not be required in Tiers I- IV, where only one key employee is on duty for each shift.

**Response (a. & b. above):** These comments were accepted in part and the regulation amended to require only one key employee for two rooms when one room is clearly visible from the other.

c. Alan Titus: Floor persons were never intended by legislation to be licensed as key employees.

d. Bureau: Key employees are defined in the Act as those that supervise and make discretionary decisions, such as pit bosses. May need a definition for a floor person.

**Response (c. & d. above):** These comments were rejected in part. The Act only calls for a work permit or a key employee license, no distinction is made for a floor person. As stated in the

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<sup>1</sup> Business and Profession Code, sections 19801, subdivisions (g) and (h), and 19841, subsections (b) and (o).

Bureau's comment, floor persons should be keys if they *supervise* or make *discretionary decisions*.<sup>2</sup>

17. Section 12391(b)(2) requires a licensee to have at least one employee, for every ten poker game tables to oversee those gambling operations and Section 12391(b)(3) requires one employee for every five California game tables to oversee those gambling operations.

a. Alan Titus: The term *California game tables* should be defined.

**Response:** This comment was rejected, as a California game is already defined in Title 4, Section 12002(c).

b. Alan Titus: What does oversee mean? Would the dealer at each table qualify, since they oversee the game.

c. David Fried: These provisions should not apply to Tier II cardrooms, as they only have 6- 10 tables total.

d. Mark Kalegian: Would require an unprecedented amount of additional employees to supervise the play of games. No need for the distinction between poker and California game tables if the total number is eight or less

**Response (b. – d. above):** These comments were accepted in part and paragraphs (b)(2) and (b)(3) were consolidated into one paragraph which requires one employee for every eight tables, with no distinction between the types of games. As a result, paragraph (b)(3) was deleted.

18. Section 12392(a) requires cardrooms to implement house rules, written in English, which ensure the fair and honest play of controlled games.

a. Alan Titus: It should not be required that all house rules be in *writing*.

b. David Fried: Only those house rules required under subsection (d) should be made available upon request.

**Response (a. & b. above):** These comments were rejected. House rules should always be in writing, so they can be provided to patrons. Otherwise, cardrooms could just make them up on the spot. Further, all of a cardrooms house rules should be made available to patrons upon request, as there would be no other source from which to obtain them.

c. Alan Titus: Cardrooms should not be held to the absolute standard on *ensuring* fair and honest play. They can adopt house rules designed to *achieve* and *promote* fair and honest play.

d. Industry in general: Some cities require house rules to be posted, which could be unreasonable if this regulation gets too detailed.

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<sup>2</sup> Business and Profession Code, section 19805, subdivision (x).

**Response (c. & d. above):** These comments were accepted in part and the regulation amended to require that house rules *promote* the fair and honest of controlled games. The total content of Section 12392 was also reduced and simplified.

19. Section 12392(b) requires that the house rules address player etiquette and general rules so as to ensure the orderly conduct and control of controlled games.

a. Alan Titus: Cardrooms should not be held to the absolute standard on *ensuring* the orderly conduct and control of games.

**Response:** This comment was accepted and the regulation amended to require that house rules *promote* the orderly conduct of controlled games.

20. Section 12392(c) requires that house rules discourage players from speaking, during the play of a hand, in languages different from that which is customarily spoken in that gambling establishment, unless all persons at the gambling table and the key employee on duty understand and agree to the use of another language.

a. Alan Titus: The floor person should be included in the list of those that agree, since he is overseeing the games.

b. David Fried: Should read: "... requires players to speak in a common language during the play of a hand." If this change is made, the second part of the sentence is not needed.

**Response (a. & b. above):** These comments were accepted in part and the regulation amended to require that house rules discourage players from speaking, during the play of a hand, in a language that is not understood by all persons at the gaming table, including all players, the dealer, and the employees responsible for supervising and monitoring that gaming table.