

Status of Regulation CGCC-2

07/17/02 CGCC-2 was adopted by the Commission as a final regulation at the Commission's July 17th public meeting, pursuant to compact section 8.4.1(c). This regulation currently applies to all compacted Tribes in California.

Uniform Tribal Gaming Regulation CGCC-2.

Registration of Qualified Bondholders.

- (a) This regulation authorizes any entity described in subsection (f) of this regulation (and only such an entity) that is an actual or prospective holder of any bond issued by or on behalf of a Compacted Tribe to register as a Financial Source with the California Gambling Control Commission. Registration and renewal of registration under this regulation shall constitute a determination of suitability under section 6.5.6 of the Tribal-State Gaming Compacts (Compact). If an entity is properly registered under this regulation, no other person with respect to such entity that is identified in section 6.4.7 of the Tribal-State Gaming Compact shall be required to be separately licensed or registered. However, nothing in this regulation requires a Tribal Gaming Agency to use the procedures set forth in this regulation in lieu of a specific determination of suitability under section 6.5.6.
- (b) For purposes of sections 6.4.1, 6.4.3, and 6.4.8 of the Compact, a Tribal Gaming Agency shall be deemed to satisfy suitability standards of the Compact and the requirements for a background investigation for any Financial Source to be registered under this regulation if the Tribal Gaming Agency reasonably determines that the applicant Financial Source meets the requirements for registration under this regulation. For purposes of section 6.4.7 of the Compact, an entity described in subsection (f) of this regulation shall be required to submit as its application for licensure as a Financial Source only that information which is required to be submitted to the California Gambling Control Commission, together with any other information or documentation that the Tribal Gaming Agency may require.
- (c) To obtain registration under this regulation, a Tribal Gaming Agency shall submit to the California Gambling Control Commission the license application submitted by the Financial Source to the Tribal

Gaming Agency, together with a completed application for registration setting forth the name of the applicant, the address of the applicant's principal place of business, evidence that the applicant is eligible for registration as a Financial Source under this regulation, a statement signed by an authorized officer or other designee of the applicant committing the applicant to notify the Tribal Gaming Agency and the California Gambling Control Commission promptly of any termination of the applicant's eligibility under this regulation, and any other matters deemed appropriate by the Tribal Gaming Agency. The application shall be in substantially the form as set forth in subsection (n) of this regulation.

- (d) As a condition of using the registration procedure set forth in this regulation, a Tribal Gaming Agency shall provide prior written notice to the California Gambling Control Commission identifying the specific issue of bonds as to which it intends to provide for licensing and registration under this regulation. If the bond indenture includes or is to include the provisions specified in subsection (g) of this regulation, a copy of the bond indenture or proposed bond indenture in substantially final form containing such language shall be submitted with the written notice. Provided the notice is received by the Commission at least 15 days prior to the filing of an application for registration under this regulation (or such shorter period as the Commission may in its discretion allow), the Commission shall register an applicant under this regulation within five working days following receipt of notice of licensure from the Tribal Gaming Agency, unless the Commission, or an officer or employee designated by the Commission, provides notice to the Tribal Gaming Agency licensing the applicant that there is insufficient evidence of, or factual questions concerning, the applicant's eligibility for registration.
- (e) Registration of an eligible Financial Source under this regulation shall be automatically renewed every two years, so long as licensure of the Financial Source by the Tribal Gaming Agency remains effective, provided, however, that registration shall terminate and shall not be renewed upon a determination by the California Gambling Control Commission that the registered Financial Source fails to meet or has ceased to meet the eligibility criteria of subsection (f) of this regulation. Prior to any non-renewal of registration under this subsection (e), the California Gambling Control Commission shall

notify the Tribal Gaming Agency of each affected Tribe and afford each such Tribe an opportunity to be heard on the matter.

- (f) Any of the following entities (including all wholly-owned subsidiaries), acting for its own account or the accounts of other entities specified in this subsection (f), that in the aggregate owns at least one hundred million dollars (\$100,000,000) of securities of issuers that are not affiliated with the entity shall be deemed to qualify for registration under subsection (d) of this regulation:
- (1) Any federal-regulated or state-regulated bank or savings association or other federal- or state-regulated lending institution.
 - (2) Any company that is organized as an insurance company, the primary and predominant business activity of which is the writing of insurance or the reinsuring of risks underwritten by insurance companies, and that is subject to supervision by the Insurance Commissioner of California, or a similar official or agency of another state.
 - (3) Any investment company registered under the federal Investment Company Act of 1940 (15 U.S.C. sec. 80a-1 et seq.).
 - (4) Any retirement plan established and maintained by the United States, an agency or instrumentality thereof, or by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees.
 - (5) Any employee benefit plan within the meaning of Title I of the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. sec. 1001 et seq.).
 - (6) Any securities dealer registered pursuant to the federal Securities Exchange Act of 1934 (15 U.S.C. sec. 78a et seq.).
 - (7) Any entity, all of the equity owners of which individually meet the criteria of this subsection (f).

- (g) If any bond issued by or on behalf of a Compacted Tribe (or beneficial ownership therein) is transferred, subsequent to its sale to the initial holder, to a transferee holder that is not licensed or that is not exempt from licensing pursuant to Compact section 6.4.6, then neither that transferee holder nor any person acting on behalf of that transferee holder shall have any right to enforce any payment obligation relating to the bond as against any revenues, property, or rights of the Compacted Tribe or any branch, department, agency, instrumentality, division, subsidiary, enterprise, authority or wholly-owned corporation or business of the Compacted Tribe until such time as the transferee holder is licensed by the Tribal Gaming Agency of the Compacted Tribe; provided, however, that any obligation of payment to a holder that has been determined to be unsuitable, pursuant to Compact section 6.5.6 shall be governed by Compact section 6.4.6. If the terms of the bond indenture for the bond (1) include the foregoing limitation of this subsection and (2) prohibit the trustee for the bond and the Compacted Tribe (or any branch, department, agency, instrumentality, division, subsidiary, enterprise, authority, wholly-owned corporation or business of the Compacted Tribe) from making any payment of principal or interest on the bond (i) as a result of any enforcement action commenced by or on behalf of the trustee or any holder or (ii) after payment of the bond has been accelerated because of a default under the bond indenture, except to a holder that is licensed or exempt from licensure pursuant to Compact section 6.4.6, then the holding of the bond by a transferee holder without licensing as provided in Compact section 6.4.6 shall not cause a breach of the Compact and shall not affect the validity, enforceability or payment obligations of any other bond.
- (h) Notwithstanding any other provision of this regulation, the following persons and entities shall not be deemed to be Financial Sources subject to licensing under Compact section 6.4.6 or a determination of suitability under Compact section 6.5.6, including registration under this regulation, solely by reason of meeting the criteria set forth in paragraph (1) or (2), as follows:
- (1) Any securities dealer registered pursuant to the federal Securities Exchange Act of 1934 (15 U.S.C. sec. 78a et seq.) acting in one or more transactions to purchase from any person

and resell bonds issued by or on behalf of a Compacted Tribe, if, no later than thirty (30) days after the securities dealer acquires the bonds, fully offsetting sales of such bonds are made to one or more entities specified in subsection (f) of this regulation or to other persons or entities that are either (i) licensed pursuant to Compact section 6.4.6 and found suitable pursuant to Compact section 6.5.6, including registration under this regulation, or (ii) exempt from licensing pursuant to Compact section 6.4.6.

- (2) Any person acting solely as a “clearing corporation,” as defined in California Uniform Commercial Code section 8102, paragraph (5), with respect to any bonds issued by or on behalf of a Compacted Tribe that are issued in so-called “book-entry” form.
 - (i) For purposes of this regulation, bonds shall be deemed to be issued by or on behalf of a Compacted Tribe if issued by the Compacted Tribe or by any branch, department, agency, instrumentality, division, subsidiary, enterprise, authority, wholly-owned corporation or business of the Compacted Tribe.
 - (j) Nothing in this regulation shall be construed to supersede or limit the authority otherwise of a Tribal Gaming Agency to make discretionary exclusions from the licensing requirements of Compact section 6.4.6, where expressly permitted by those provisions.
 - (k) As used in this regulation:
 - (1) “Bond” means any security within the meaning of the Securities Act of 1933 (15 U.S.C. 77a et. seq.) that constitutes an evidence of indebtedness issued pursuant to a trust indenture between the issuer of the security and a trustee who has a right to enforce the terms of the bonds on behalf of all holders of the bonds.
 - (2) “Compacted Tribe” means any federally recognized Indian tribe that has entered into a Compact with the State of California, including any tribe operating fewer than 350 Gaming Devices.

- (3) “Initial holder” means with respect to any issue of bonds, any holder of record of a registered bond of the issue and any beneficial owner of a book-entry bond of the issue who, in either case, acquired its interest in the bond in connection with the initial sale thereof from the issuer or from a placement agent, underwriter or similar intermediary for the initial sale, directly or indirectly.
 - (4) “Holder” means the record or beneficial owner of a bond.
 - (5) “Transferee holder” means a holder acquiring record or beneficial ownership of a bond from the initial holder or any subsequent holder.
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- (l) The California Gambling Control Commission agrees that it will not limit or alter the rights vested by this regulation in any holder and that each such holder will be deemed to have relied on this subsection.
 - (m) Nothing in this regulation shall modify or otherwise affect the rights and obligations of the State or any Compacted Tribe under Compact sections 9.0 through 9.4.
 - (n) An application for registration under this regulation shall be in substantially the following form:

APPLICATION FOR REGISTRATION AS A FINANCIAL SOURCE

The applicant described below hereby applies to the California Gambling Control Commission (Commission) for registration as a Financial Source under Regulation CGCC-2 of the Commission.

Part I - Applicant Information	
Applicant Name:	Date of Application
Applicant's Form of Incorporation or Organization	
Applicant's Place of Incorporation or Organization	
Applicant's Principal Place of Business Address (street, city, state, ZIP)	
Authorized Contact Person	
Title	Telephone Number ()
Name of the Tribe to which financing being provided	

Part II - Eligibility Requirements
Attached as <u>Exhibit A</u> to this application is the application for licensing submitted by the Applicant to the Tribal Gaming Agency of the Tribe named in Part I pursuant to Section 6.4.6 of the Tribal-State Gaming Compact between such Tribe and the State of California
Attached as <u>Exhibit B</u> to this application
(a) Evidence that the applicant (including all wholly-owned subsidiaries), acting for its own account or the accounts of other entities specified in clause (b) below, owns in the aggregate at least \$100,000,000 of securities of issuers that are not affiliated with the applicant; and (b) Evidence that the applicant is one of the following types of entities (as indicated by applicant): <ul style="list-style-type: none"> <input type="checkbox"/> A federal-regulated or state-regulated bank or savings association or other federal- or state-regulated lending institution; <input type="checkbox"/> A company that is organized as an insurance company, the primary and predominant business activity of which is the writing of insurance of the reinsuring of risks underwritten by insurance companies, and that is subject to supervision by the Insurance Commissioner of California, or a similar official or agency of another state; <input type="checkbox"/> An investment company registered under the federal Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.); <input type="checkbox"/> A retirement plan established and maintained by the United States of America, an agency or instrumentality thereof, or by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees; <input type="checkbox"/> An employee benefit plan within the meaning of Title I of the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.); <input type="checkbox"/> A securities dealer registered pursuant to the federal Securities Exchange Act of 1934 (15 U.S.C. Section 78a et seq.); or <input type="checkbox"/> An entity, all of the equity owners of which individually meet the criteria of this Part II.

Part III - Representation and Agreement Regarding Eligibility
The undersigned hereby represents on behalf of the applicant that the applicant is eligible to register as a Financial Source under Regulation CGCC-2. In addition, the undersigned hereby agrees on behalf of the applicant to notify the Tribal Gaming Agency of the Tribe named in Part I of this application and the California Gambling Control Commission promptly in writing of any termination of the applicant's eligibility for registration under Regulation CGCC-2.

The undersigned hereby declares that s/he is an authorized officer or designee of the applicant with full authority to execute and submit on behalf of the applicant to be registered as a Financial Source within the meaning of Regulation CGCC-2.

 Signature _____
 Title

 Name of individual (please type or print) _____
 Name of Company (please type or print)