

NEW JERSEY IS WINNING THE REGULATORY RACE

The Garden State's hardline stance on the activities of its operators both nationwide and worldwide will one day shape how other states enforce regulations inside and outside their borders, writes Ifrah PLLC's **Rachel Hirsch**

The end of summer new proposed changes by the New Jersey Division of Gaming Enforcement (DGE) to the state's online gambling regulations. In September, NJ DGE director David Rebeck authorized a document entitled "Gaming Operation Accounting Controls and Standards; Internet Wagering," in which the agency proposes several new rules, along with amendments to current regulations. Among other things, the proposed changes allow unlimited bet-behind wagers in live dealer blackjack games, require casinos to hire an information security officer, and create permanent ACH payment regulations. Although the proposed changes are relatively minor, they will affect online casinos and how they operate. These changes further cement the NJ DGE as the regulatory leader that other states will watch when it comes to creating online gambling legislation within their own borders.

Perhaps the most important proposed rule change involves the state's increasingly popular live dealer offerings. In August 2016, Golden Nugget launched the first online live dealer product in the country, expanding its portfolio of over 300 games. The launch allowed patrons to play, from their computer or smartphone, blackjack, American roulette, and dragon bonus baccarat table games with real dealers anywhere in New Jersey. In partnership with Ezugi NJ, Golden Nugget's online live dealer creates an immersive experience for players to play live table games outside of the casino, all as if they were on the casino floor. Golden Nugget built a sophisticated studio inside its Atlantic City casino to offer the digital platform. Ezugi NJ – the company providing the technology – runs the game in real time so players can place real-money bets and interact with real dealers at the Golden Nugget, as well as other

players at the table. Earlier this year, Betfair Casino launched its own live dealer format, offering blackjack, roulette, and baccarat. In addition to sharing the same studio as Golden Nugget, Betfair's site shares liquidity with Golden Nugget across two blackjack tables, roulette, and baccarat. And because the two casinos share an identical interface and sync their operational hours, players can easily transition between the two sites.

The success of the live dealer format is due in part to a countermeasure instituted by both Golden Nugget and Betfair to deal with the potential problem that accompanies shared liquidity: overcrowding. That countermeasure is the Bet Behind side bet. As the name implies, Bet Behind enables players not seated at the main game to bet on hands being played at those tables. Bet Behind players follow the same exact decisions as the main table player, allowing the non-seated players to wage along with the actions of the seated player. Additionally, even seated players can take advantage of the Bet Behind feature, allowing them to bet on their tablemates. The concept of betting behind is not unique to New Jersey — it has been commonplace in European online casinos for years. When a live dealer table is fully occupied, other players using the online casino can elect to bet behind a seated player rather than wait for an open seat.

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Currently, only Golden Nugget Casino and Betfair Casino – both of which operate under Golden Nugget's (the land-based casino) interactive gaming license – offer live dealer games. The addition of live dealer technology has propelled the Golden Nugget licensee group to the top of the market in terms of monthly revenue reports. Recognizing the value of the product, the DGE's first rule proposal seeks to allow online gaming providers to offer a “bet behind” wagering feature when live blackjack is available. The new proposed rules will not only help to further the success of Golden Nugget's live dealer gaming, but they may also encourage other casinos to try the format.

Another DGE proposal makes an information security officer (ISO) a requirement for all casinos. The ISO “is responsible for the integrity and security of all casino computer systems, including the protection against data breaches.” The proposal requires the ISO to be separate from the IT department within the casino. This person will be in charge of setting security policies for computers and can be employed by the corporate holding company or the casino licensee of New Jersey. The individual has to report to the board of directors within the audit committee, unless they are allowed to report to another area as specified by the DGE.

Also of significance is New Jersey's proposed amendment turning temporary allowances for ACH transfers into permanent regulations. Debit and credit card transactions are the most commonly used form of ACH transfer. Under the proposed amendment, operators would be required also to block a customer's account after five failed ACH transfer attempts. The measure is an attempt to help to prevent fraud.

Among the other regulatory changes put forth are: making temporary regulations

about progressive slot jackpots permanent; forcing online gambling users to establish a residential address and disallowing PO boxes; clarifying responsible gambling protocols and codifying how users may suspend their accounts without self-excluding; and setting up requirements for remote gaming systems to ensure the security of their systems. The public comment period for these proposed changes is open through 4 November, 2017.

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While the proposed regulations seek to add new dimensions to New Jersey's online gambling market, the DGE is taking strides on policing the activities of its operators. In a letter dated 29 September, 2017, David Rebeck warned the state's online gambling licensees to stop doing business in Australia or face potential regulatory action. He laid the groundwork for this warning in April 2016, when he issued an advisory bulletin clarifying the DGE's stance on New Jersey licensees and license applicants who operate in “grey market” jurisdictions, which are defined as “jurisdictions where the laws were ambiguous or not enforced.” In the bulletin, Rebeck warned that, if a grey market started to take steps to enforce its gaming regulations, then the DGE would consider it a black market, and New Jersey licensees or applicants would not be permitted to operate there. Australia was one of these grey markets until mid September this year, when its Interactive Gambling Amendment Bill 2016 took effect. After communicating with Australian authorities, Rebeck

issued a letter giving licensees 15 days from 29 September to: explain how they are blocking people in Australia from accessing their sites; say when these steps will be completed; and, if the operators are still allowing Australians on their site, to explain why. Rebeck warned: “Failure to do so may result in the DGE taking regulatory action against your company, including finding your company unsuitable for licensure in New Jersey.”

New Jersey's proposed regulatory changes, coupled with ongoing enforcement of its operators, continue to solidify the state's role as an industry leader. As additional states go online, they will look at these types of regulations, however minor, to guide them in regulating their own operators. And New Jersey's hardline stance on the activities of its operators both nationwide and worldwide will help to shape how other states enforce their regulations both inside and outside of their borders.



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