

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Casino Control Commission (“Commission”)

Regulation/Package Title: 2016 Five Year Review Batch Three (Records retention requirements; Institutional investor; Institutional investor suitability or qualification; Duty to update information; Rescission of designation as an institutional investor; Records retention requirements for a casino operator, management company, holding company, and gaming-related vendor licensee; Passive investor; Key employee license required; Key employee license application, license period and provisional license; Key employee fees; Duty to update information; Affirmative license standards; Key employee temporary credential; Gaming-related vendor license; Gaming-related vendor license application, license period, and license renewal; Gaming-related vendor fees; Duty to update information; Affirmative license standards; Casino gaming employee license required; Casino gaming employee license application, license period, and provisional license; Casino gaming employee fees; Duty to update information; Affirmative license standards; Casino gaming employee license temporary credential; Forms, records, and documents.)

Rule Number(s): 3772-1-07; 3772-3-01; 3772-3-02; 3772-3-03; 3772-3-04; 3772-3-05; 3772-3-06; 3772-5-01; 3772-5-02; 3772-5-03; 3772-5-04; 3772-5-05; 3772-5-06; 3772-6-01; 3772-6-02; 3772-6-03; 3772-6-04; 3772-6-05; 3772-8-01; 3772-8-02; 3772-8-03; 3772-8-04; 3772-8-05; 3772-8-06; 3772-10-05;

Date: August 23, 2016

Rule Type:

New

5-Year Review

Amended

Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

This batch includes rules relating to records retention; qualification of institutional investors; and licensure of key employees, gaming-related vendors, and casino gaming employees. Many of these amendments are small housekeeping changes to tighten up and clarify rule language. In addition to the items specifically listed below, many of the amendments remove the terms “applicant or licensee” and instead use the name of the entity in an effort to streamline and clarify Ohio Adm. Code 3772 in its entirety. Another consistent change made to streamline these rules is the removal of the term “management company,” where appropriate. In Ohio Adm. Code 3772-1-01(B)(2), the term “casino operator” is defined to include “management company,” unless the context clearly indicates otherwise, allowing for this change. Further, several amendments are made to Ohio Adm. Code Chapters -3, -5, -6, and -8 for consistency with previous amendments.

- **3772-1-07 (new)**, titled “Records retention requirements.” Although this is a new rule, the language is largely adopted from Ohio Adm. Code 3772-3-05, which will be rescinded. Some further portions of current Ohio Adm. Code 3772-3-05 will also be moved into Ohio Adm. Code 3772-10-05 to accomplish the rescission. The substance of the rule requires casino operators, holding companies, and gaming-related vendors to retain and maintain certain records relating to the conduct of casino gaming and has been in place since casino gaming commenced in Ohio. The purpose of the amendment is to streamline the existing rule and to move the rule into Ohio Adm. Code Chapter 1 “General Provisions” from Chapter 3 “Institutional Investors and Records Retention.” This enables Chapter 3 to contain rules solely pertaining to institutional investors.
- **3772-3-01 (amendment)**, titled “Institutional investor.” This rule clarifies that the statutory definition of institutional investor applies for rules adopted thereunder. The amendment deletes unnecessary language, streamlining the rule.
- **3772-3-02 (amendment)**, titled “Institutional investor suitability or qualification.” This rule provides the process by which an entity can be presumed to be suitable or qualified as an institutional investor pursuant to R.C. Chapter 3772 and the rules adopted thereunder. The process consists of submitting documentation sufficient to establish qualifications as an institutional investor, a completed certification form, and submission of any other records required by the Commission. The amendment to this rule removes a notification process the Commission is required to follow when a request is made for information marked by an applicant as protected from disclosure. This same amendment was previously made to Ohio Adm. Code 3772-4-01. The purpose of deleting this provision is to remove a superfluous step in the public records process. The certification form, which is attached as an appendix to this rule is also being amended. The purpose of this amendment is to add a line in which the investor states which entity they are an investor in, allowing for a more efficient review process.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

- **3772-3-03 (amendment)**, titled “Duty to update information.” This rule specifies the circumstances under which an investor must notify the Commission of a change in certain information, including changes in percentage of ownership, name changes, non-routine gaming agency investigations, and administrative actions taken by gaming agencies against the investor. The amendment to this rule streamlines rule language and clarifies that the duty extends to institutional investors of gaming-related vendors, as well as casino operators and management companies.
- **3772-3-04 (amendment)**, titled “Rescission of designation as an institutional investor.” This rule specifies under which circumstances the Commission’s designation as an institutional investor may be rescinded. These circumstances are if the investor notifies the Commission or the Commission discovers that the investor intends to exercise influence over the affairs of the entity. The purpose of this rule is to ensure that institutional investors are not actually engaged in or participating in the conduct of casino gaming without the appropriate license issued under R.C. Chapter 3772. The amendment to this rule streamlines rule language and clarifies that the duty extends to institutional investors of gaming-related vendors, as well as casino operators and management companies.
- **3772-3-05 (rescind)**, titled “Records retention requirements for a casino operator, management company, holding company, and gaming-related vendor licensee.” This rule is being rescinded. The language of the rule is being moved to Ohio Adm. Code 3772-1-07 and 3772-10-05. The purpose of the amendment is to streamline the Administrative Code and to move the rule’s language into Ohio Adm. Code Chapter 1 “General Provisions” from Chapter 3 “Institutional Investors and Records Retention.” The rule itself will be reserved for future use.
- **3772-3-06 (amendment)**, titled “Passive investor.” This rule specifies that investors who do not meet the institutional investor threshold shall not exercise influence over the affairs of an entity. Investors who do so will no longer be considered passive investors. The purpose of this rule is to ensure that passive investors are not actually engaged in or participating in the conduct of casino gaming without a license issued under R.C. Chapter 3772. The amendment solely streamlines rule language.
- **3772-5-01 (amendment)**, titled “Key employee license required.” This rule lists the positions for which a key employee license is required. The amendment to this rule largely consists of the streamlining changes noted above, allowing for the deletion of “applicant or licensee” and “management company.” Additionally, there are some minor changes to the list of employees required to obtain a key employee license. For example, the list is amended to clarify the already-ongoing practice of requiring marketing directors to obtain a key employee license. The purpose of this rule is to ensure that those people who have the power to exercise significant influence over entities engaged in casino gaming are suitable to do so, through the Commission’s key employee licensure process.

- **3772-5-02 (amendment)**, titled “Key employee license application, license period and provisional license.” This rule describes the key employee licensure process and states that key employees can apply by submitting the application, paying the application fee, and providing the Commission with any other requested information. The rule also provides specifics as to when an entity engaged in casino gaming in Ohio may pay the application fee on behalf of the employee and specifies that the license expires after three years. The amendment to this rule largely consists of the streamlining and consistency changes noted above, including removing a notification process in dealing with public records requests, which was previously made to Ohio Adm. Code 3772-4-01 and to other rules in this batch. The rule also extends the time period in which a licensee must apply for a renewal to one-hundred-and-twenty days before expiration from ninety to allow the Commission enough time to obtain statutorily-required criminal record checks and appropriately review the application. The purpose of this rule is to ensure that those people who have the power to exercise significant influence over entities engaged in casino gaming are suitable to do so, through the Commission’s key employee licensure process.
- **3772-5-03 (amendment)**, titled “Key employee fees.” This rule sets the key employee application fee at \$2,000.00 and the license fee at \$500.00. The rule further clarifies under what circumstances entities engaged in casino gaming may pay the fee on behalf of the employee. The amendment to this rule largely consists of the streamlining changes noted above, in addition to other small grammatical changes. The purpose of this rule is to set fees commensurate with the investigation and licensure costs that the Commission incurs during the licensing investigation.
- **3772-5-04 (amendment)**, titled “Duty to update information.” This rule sets out the information that a key employee must update the Commission about should that information change, including changes of contact information, bankruptcies, and criminal charges or convictions, among others. The amendment to this rule largely consists of the streamlining and consistency changes noted above. The amendment also clarifies that the licensee must update the Commission on criminal convictions and not just charges. This clarifies a current practice. The purpose of this rule is to ensure that the Commission’s information remains current with respect to each licensee’s suitability.
- **3772-5-05 (amendment)**, titled “Affirmative license standards.” This rule echoes many of the statutory requirements for licensure found in R.C. 3772.10, including the factors the Commission shall consider in making a licensure determination and the requirement that the applicant establish suitability by clear and convincing evidence. The amendment to this rule largely involves small housekeeping changes, in addition to extending the period over which the Commission must consider whether the individual has been a defendant in litigation from ten years to fifteen. The purpose of this rule is to ensure that those people who have the power to exercise significant influence over entities engaged in casino gaming are suitable to do so, through the Commission’s key employee licensure process.

- **3772-5-06 (amendment)**, titled “Key employee temporary credential.” This rule specifies that key employees must always display their credential issued by the Commission. The rule further provides for how a key employee may obtain a temporary credential. The amendment removes a prohibition on back-of-house entry for unlicensed employees, as a recognition that not all employees with access to the back of house may be licensed. Further, the amendment requires that employees using temporary credentials must apply for a duplicate credential within three days of using the temporary credential. This amendment is in response to a practice the Commission noted, where certain employees would be issued a temporary credential and never reapply for a duplicate permanent credential. The purpose of this rule is to ensure that key employees are easily identifiable.
- **3772-6-01 (amendment)**, titled “Gaming-related vendor license.” This rule specifies who shall obtain a gaming-related vendor license, largely by echoing the definition found in R.C. 3772.01. The amendment to this rule specifies that lessors of casino facilities are considered gaming-related vendors. The purpose of this rule is to ensure that those entities engaged in providing gaming-related goods or services are suitable to do so. This allows the Commission to pursue its constitutionally mandated mission of ensuring the integrity of casino gaming.
- **3772-6-02 (amendment)**, titled “Gaming-related vendor license application, license period, and license renewal.” This rule describes the gaming-related vendor licensure process and states that gaming-related vendors can apply by submitting the application, paying the application fee, and providing the Commission with any other requested information. The amendment to this rule largely consists of the streamlining and consistency changes noted above, including removing a notification process in dealing with public records requests, which was previously made to Ohio Adm. Code 3772-4-01 and to other rules in this batch. The rule also extends the time period in which a licensee must apply for a renewal to one-hundred-and-twenty days before expiration from ninety to allow the Commission enough time to obtain statutorily-required criminal records checks and appropriately review the application. The purpose of this rule is to ensure that those entities engaged in providing gaming-related goods or services are suitable to do so.
- **3772-6-03 (amendment)**, titled “Gaming-related vendor fees.” This rule sets the gaming-related vendor application fee at \$10,000.00 and the license fee at \$15,000.00. The amendment to this rule consists of solely small housekeeping changes. The purpose of this rule is to set fees commensurate with the investigation and licensure costs that the Commission incurs during the licensing investigation.
- **3772-6-04 (amendment)**, titled “Duty to update information.” This rule sets out the information that a gaming-related vendor must update the Commission about should that information change, including changes of identifying information, bankruptcies, and criminal charges or convictions, among others. The amendment to this rule largely consists of the streamlining and consistency changes noted above. The amendment also clarifies that the licensee must update the Commission on criminal convictions and not

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

just charges. This clarifies a current practice. The amendment also eliminates a superfluous provision, stating that the Commission shall comply with the public records law. The purpose of this rule is to ensure that the Commission remains up to date on any information that may affect the vendor's suitability.

- **3772-6-05 (amendment)**, titled “Affirmative license standards.” This rule echoes many of the statutory requirements for licensure found in R.C. 3772.10, including the factors the Commission shall consider in making a licensure determination and the requirement that the applicant establish suitability by clear and convincing evidence. The amendment to this rule largely involves small housekeeping changes. The purpose of this rule is to ensure that those engaged as gaming-related vendors are suitable to do so, through the Commission's licensure process.
- **3772-8-01 (amendment)**, titled “Casino gaming employee license required.” This rule specifies those employees who must obtain a license to engage in the conduct of casino gaming. The amendment to this rule largely eliminates redundancies in positions and matches language used elsewhere in the Administrative Code. The purpose of this rule is to ensure that those persons who are engaged in the conduct of casino gaming are suitable to do so.
- **3772-8-02 (amendment)**, titled “Casino gaming employee license application, license period, and provisional license.” This rule describes the casino gaming employee licensure process and states that casino gaming employees can apply by submitting the application, paying the application fee, and providing the Commission with any other requested information. The rule also provides for specifics as to when an entity engaged in casino gaming in Ohio may pay the application fee on behalf of the employee and specifies that the license expires after three years. The rule also extends the time period in which a licensee must apply for a renewal to one-hundred-and-twenty days before expiration from ninety to allow the Commission enough time to appropriately review the application. The purpose of this rule is to ensure that those persons who are engaged in the conduct of casino gaming are suitable to do so.
- **3772-8-03 (amendment)**, titled “Casino gaming employee fees.” This rule sets the initial casino gaming employee application fee at \$250.00 and the license fee at \$250.00. Further, the rule sets the renewal casino gaming employee application fee at \$100.00 and the licensure fee at \$50.00. In addition, the rule clarifies under what circumstances entities engaged in casino gaming may pay the fee on behalf of the employee. The amendment to this rule largely consists of the streamlining changes noted above, in addition to other small grammatical changes. The purpose of this rule is to set fees commensurate with the investigation and licensure costs that the Commission incurs during the licensing investigation.
- **3772-8-04 (amendment)**, titled “Duty to update information.” This rule sets out the information that a casino gaming employee must update the Commission about should that information change, including changes of contact information, bankruptcies, and

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

criminal charges or convictions, among others. The amendment to this rule largely consists of the streamlining and consistency changes noted above. The amendment also clarifies that the licensee must update the Commission on criminal convictions and not just charges. This clarifies a current practice. The purpose of this rule is to ensure that the Commission remains up to date on any information that may affect the employee's suitability.

- **3772-8-05 (amendment)**, titled "Affirmative license standards." This rule echoes many of the statutory requirements for licensure found in R.C. 3772.10, including the factors the Commission shall consider in making a licensure determination and the requirement that the applicant establish suitability by clear and convincing evidence. The amendment to this rule largely involves small housekeeping changes, mostly changing the term "applicant" to "individual." The purpose of this rule is to ensure that those people who engage in casino gaming are suitable to do so, through the Commission's licensure process.
- **3772-8-06 (amendment)**, titled "Casino gaming employee license temporary credential." This rule specifies that casino gaming employees must always display their credential issued by the Commission when on duty. The rule further provides for how an employee may obtain a temporary credential. The amendment removes a prohibition on back-of-house entry for unlicensed employees, as a recognition that not all employees with access to the back of house may be licensed. Further, the amendment requires that employees using temporary credentials must apply for a duplicate credential within three days of using the temporary credential. This amendment is in response to a practice the Commission noted, where certain employees would be issued a temporary credential and never reapply for a duplicate permanent credential. The purpose of this rule is to ensure that casino gaming employees are easily identifiable.
- **3772-10-05 (amendment)**, titled "Forms, records, and documents." This rule is being amended to help accomplish the rescission of Ohio Adm. Code 3772-3-05, from which the language is largely adopted. Portions of this rule related to records retention have been moved to new rule Ohio Adm. Code 3772-1-07. This rule contains internal control requirements for the use and retention of the records required to be retained by Ohio Adm. Code 3772-1-07 and contains requirements related to the receipt, control, and issuance of prenumbered forms and the internal controls required for doing so. Finally, the rule also describes the forms and procedures necessary for each casino operator to maintain with respect to accounting for gaming and financial activities. The purpose of this rule is to ensure that all casino operators have proper internal controls in place regarding record retention, the handling of prenumbered accounting forms, and which accounting procedures and forms are required at each casino facility.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

R.C. 3772.01; 3772.03; 3772.033; 3772.05; 3772.10; 3772.13; 3772.131; 3772.15; 3772.17; 5903.03.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

- 3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program? If yes, please briefly explain the source and substance of the federal requirement.**

Not applicable.

- 4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

This question does not apply to these amendments because the federal government does not regulate casino gaming in this state. Rather, casino gaming is permitted pursuant to Article XV, Section 6(C) of the Ohio Constitution and is controlled by Ohio's Casino Control Act (i.e., R.C. Chapter 3772).

- 5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

Article XV, Section 6(C) of the Ohio Constitution and/or R.C. Chapter 3772 require the Commission to ensure the integrity of casino gaming and to prescribe rules for how casino gaming should be conducted, including licensing key employees, gaming-related vendors, and casino gaming employees; ensuring the suitability of institutional investors; and establishing practical record retention for potential reviews and inspection. To ensure the integrity of casino gaming, it is imperative to protect casino patrons and to ensure that all casino employees and gaming-related vendors meet the requirements for licensure in order to conduct casino gaming in the state of Ohio. These rules and the amendments made thereto are designed to continue to effectuate this constitutional and statutory mandate.

- 6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

Overall, the Commission will measure the success of these amended rules in terms of whether they help to ensure the integrity of casino gaming. This can be done in two ways: First, through evaluating whether the administrative cost of implementing and enforcing the proposed rules outweighs their public benefit. Second, through analyzing the regulated community's comments about requests for waivers or variances from these rules once they are implemented.

Development of the Regulation

- 7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

If applicable, please include the date and medium by which the stakeholders were initially contacted.

Casino Operators

- Penn National Gaming, Inc. (Hollywood Casinos Columbus and Toledo)
- JACK Entertainment, LLC (JACK Cincinnati and Cleveland Casinos)

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

In addition to an opportunity to comment at the Commission's public meeting on June 15, 2016, stakeholders were provided an opportunity to comment on the amendments via e-mail on August 10, 2016. A copy of the e-mail is incorporated as Attachment A. Comments were requested to be submitted by 5:00 PM on August 12, 2016.

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

The Commission has received no feedback on these changes.

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

This question does not apply to these amendments because no scientific data was necessary to develop or measure their outcomes. Instead, the Commission staff reviewed how other jurisdictions approached records retention; institutional investor qualification; and key employee, gaming-related vendor, and casino gaming employee licensure. Further, the Commission staff considered whether existing rules were the most efficient means by which to maintain the integrity of casino gaming and whether any waivers or variances had been requested and granted to the regulated community. In so doing, the Commission was able to use, as much as possible, rules the regulated community is accustomed to, with minor adaptations to remain in compliance with Ohio law.

10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

The Commission staff reviewed the rules adopted in other jurisdictions, including Kansas and New Jersey. Further, the Commission staff considered whether any waivers or variances to existing rules that had been requested and granted. The rules and their amendments are a conglomeration of the rules used in other jurisdictions with adaptations made for Ohio law.

11. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

These amendments are not performance-based because they govern minimum standards for casino employee and gaming-related vendor licensure, institutional investor qualification and record retention requirements. However, Ohio Adm. Code 3772-1-04 allows the casino operators and gaming-related vendors to seek waivers and variances from these rules, which the Commission will evaluate on a case-by-case basis and may grant, as long as it determines that doing so is in the public's best interest. Past performance of a casino may be considered in determining whether a waiver from any specific provisions of these rules could be granted.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

This question does not apply to the majority of these amendments because no other regulations, in these areas, currently exist with respect to casino gaming in this state, which the Commission has sole authority over. However, as this package amends existing administrative rules, several within the package bring clarity to requirements in R.C. Chapter 3772 and Ohio Adm. Code 3772 to avoid duplication or conflict.

13. Please describe the Agency’s plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

The amendments in this package largely relate to qualification and licensing, which are handled by the Commission’s licensing staff, who are then managed by a single director in the Commission’s main office. Further, to ensure ongoing compliance with all amendments in this package, there are gaming agents and financial auditors observing, evaluating, and investigating casino operations. These rules will be overseen by the Commission legal staff in the Commission’s central office in Columbus, Ohio, where the Executive Director, his division directors, and legal staff can coordinate a consistent response and conduct outreach to the regulated community.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. Identify the scope of the impacted business community;

Those engaged in the industry of casino gaming in the State of Ohio, specifically casino operators, gaming-related vendors, and institutional investors.

b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and

The nature and potential adverse impact from these amendments includes the cost of each application and license fee for initial and renewal key employees, gaming-related vendors, and casino gaming employees. In addition to licensing fees, key employees, gaming-related vendors, and casino gaming employees, as well institutional investors, will incur any such administrative costs relating to the submission of applications or receiving qualification. Furthermore, each casino operator may face costs for employee time and payroll.

c. Quantify the expected adverse impact from the regulation.

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

3772-1-07 Records retention requirements. (new)

This rule will require casino operators, holding companies, and gaming-related vendors to retain and maintain certain records relating to the conduct of casino gaming. The substance of this new rule has been in place since casino gaming commenced in Ohio. The amendment streamlines the existing rule and moves the language from Ohio Adm. Code Chapter 3 into Chapter 1, allowing Chapter 3 to contain only rules pertaining to institutional investors.

Although the rule is new, the language itself was adopted almost entirely from Ohio Adm. Code 3772-3-05. For example, the five-year retention period previously found in Ohio Adm. Code 3772-3-05 can also be found in this new rule. Any amendments from the previous rule's language to the language now encompassing this rule are simply streamlining changes. Because the substance of this rule has largely existed since casino gaming commenced, casino operators, holding companies, and gaming-related vendors already have systems in place to ensure adequate records retention. As such, the Commission does not anticipate any negative economic impact to the regulated community because the amendment does not impose any new restrictions. Rather, it clarifies existing language and more accurately reflects the Commission's interpretation and expectation.

3772-3-01 Institutional investor. (amendment)

This rule clarifies that the statutory definition of institutional investor found in R.C. 3772.01(O), applies to rules adopted under R.C. Chapter 3772. The only change to this rule deletes some unnecessary language in order to streamline it. Therefore, the Commission anticipates no adverse impact to business.

3772-3-02 Institutional investor suitability or qualification. (amendment)

This rule provides the process by which an entity can be presumed to be suitable or qualified as an institutional investor pursuant to R.C. Chapter 3772 and the rules adopted thereunder. The amendment to this rule removes a notification process the Commission is required to follow when a request is made for information marked by an applicant as protected from disclosure, previously done in Ohio Adm. Code 3772-4-01. The purpose of deleting this provision is to remove a superfluous step in the public records process. The Commission does not anticipate an adverse impact on business from this amendment, as the removed language relates solely to Commission internal policy and the change simply streamlines the rule.

3772-3-03 Duty to update information. (amendment)

This rule specifies the circumstances under which an investor must notify the Commission of a change in certain information, including changes in percentage of ownership, name changes, non-routine gaming agency investigations, and administrative actions taken by gaming agencies against the investor. The amendment to this rule streamlines rule language and clarifies that the duty extends to

institutional investors of gaming-related vendors, as well as casino operators and management companies, which reflects present practice.

Given that the amendment is solely intended to streamline and clarify the rule's language, the Commission does not anticipate an adverse impact on business from the amendment. Providing information updates to the regulator is common in the casino industry. Negligible costs of compliance include certain administrative costs related to the preparation and submission of update notifications, which, as described in the rule, are only necessary in certain circumstances.

3772-3-04 Rescission of designation as an institutional investor. (amendment)

This rule specifies under which circumstances the Commission's designation of a person as an institutional investor may be rescinded. The amendment to this rule streamlines rule language and clarifies that the rule applies to institutional investors of gaming-related vendors, as well as casino operators and management companies, which reflects present practice.

Given that the amendment is solely intended to streamline and clarify the rule's language, the Commission does not anticipate an adverse impact on business. Institutional investor suitability standards are common in the casino industry. Given the highly regulated nature of the casino industry, it is imperative to guarantee that institutional investors are not influencing the day-to-day operations of casino operators, management companies, or gaming-related vendors without proper regulatory oversight. Any impact on business from rescinding designation is justified in order to safeguard the integrity of casino gaming and to assure that all entities participating in the operation of casino gaming are held to the same standards. Further, so long as entities continue to meet the definition of institutional investor, no adverse impact to business will occur.

3772-3-05 Records retention requirements for a casino operator, management company, holding company, and gaming-related vendor licensee. (rescind)

Currently, this rule specifies the records retention requirements casino operators, management companies, holding companies, and gaming-related vendors must comply with. This rule is being rescinded and the language is being moved to Ohio Adm. Code 3772-1-07 and 3772-10-05. Because the rule language is simply being moved to different sections of the Ohio Adm. Code for efficiency, the Commission anticipates no adverse impact to business due to this rule change.

3772-3-06 Passive investor. (amendment)

This rule specifies that investors who do not meet the institutional investor threshold shall not exercise influence over the affairs of an entity. Investors who do so will no longer be considered passive investors. The only changes to this rule clarify or delete unnecessary language in order to streamline it.

Given that the amendment is solely intended to streamline and clarify the rule's language, the Commission does not anticipate an adverse impact on business. Institutional investor suitability standards are common in the casino industry. Given the highly regulated nature of the casino industry, it is imperative to guarantee that passive investors are not influencing day-to-day operations of casino operators, management companies, or gaming-related vendors without proper regulatory oversight. Any impact on businesses from losing their designation as a passive investor is justified in order to safeguard the integrity of casino gaming and to assure that all entities participating in the operation of casino gaming are held to the same standards. Further, so long as entities continue to meet the definition of a passive investor, no adverse impact to business will occur.

3772-5-01 Key employee license required. (amendment)

This rule lists the positions for which a key employee license is required. The amendment to this rule largely consists of streamlining changes, allowing for the deletion of "applicant or licensee" and "management company." Additionally, there are some minor changes to the list of employees required to obtain a key employee license.

Given that the amendment is mainly intended to streamline and clarify the rule's language, the Commission does not anticipate an adverse impact on business. While marketing director is a new term added to this list, it is solely a clarification. The Commission has already interpreted the rule to include marketing directors, and they have been required to be licensed by the Commission since casino gaming commenced in Ohio. Requiring licensure of casino key employees is common in the casino industry, making costs associated with this type of regulation integral to each company's business model. Further, R.C. 3772.13 mandates that a person employed as a key employee of a casino operator, management company, or holding company must be validly licensed by the Commission. This rule merely amplifies that statutory requirement.

3772-5-02 Key employee license application, license period and provisional license. (amendment)

This rule describes the key employee licensure process and states that key employees can apply by submitting the application, paying the application fee, and providing the Commission with any other requested information. The rule also provides specifics as to when an entity engaged in casino gaming in Ohio may pay the application fee on behalf of the employee and specifies that the license expires after three years. The amendment to this rule largely consists of streamlining and consistency changes, including removing a notification process in dealing with public records requests. The rule also extends the time period in which a licensee must apply for a renewal to one-hundred-and-twenty days before expiration from ninety.

Given that the amendment is mainly intended to streamline and clarify the rule's language, the Commission does not anticipate an adverse impact on business. Requiring licensure of casino key employees is common in the casino industry in every jurisdiction in which they operate. This rule merely amplifies the statutory requirement in R.C. 3772.13, which mandates that a person employed as a key employee of a casino operator, management company, or holding company must be validly licensed by the Commission. Because the Commission is statutorily required to properly license key employees, the benefit of allowing the Commission extra time to adequately ensure the suitability of such employees far outweighs the burden of requiring submission thirty days earlier. Further, the individuals impacted by that extension are only renewal applicants, and they may continue to hold a license for the duration of the renewal investigation so long as they timely submitted the renewal application.

3772-5-03 Key employee fees. (amendment)

This rule sets the key employee application fee at \$2,000.00 and the license fee at \$500.00. The rule further clarifies under what circumstances entities engaged in casino gaming may pay the fee on behalf of the employee. The amendment to this rule largely consists of streamlining changes, in addition to other small grammatical changes.

Given that the amendment is solely streamlining and clarifying, the Commission does not anticipate an adverse impact on business from the amendment. The rule itself is required by statute under R.C. 3772.13(F) and R.C. 3772.17(E), which mandate that the Commission must license and set both application and licensing fees to cover all actual costs generated by each license and all background checks. Further, given the highly regulated nature of the industry and the high costs of processing and reviewing these applications, these fees are both customary and justified in the casino industry.

3772-5-04 Duty to update information. (amendment)

This rule sets out the information that a key employee must update the Commission about should that information change, including changes of contact information, bankruptcies, and criminal charges or convictions, among others. The amendment to this rule largely consists of streamlining and consistency changes. The amendment also clarifies that the licensee must update the Commission on criminal convictions and not just charges, which is current practice.

Given that the amendment is solely intended to streamline and clarify the rule's language, the Commission does not anticipate an adverse impact on business from the amendment. Providing suitability updates is common in the casino industry. Under Article XV, Section 6(C) of the Ohio Constitution and R.C. 3772., the Commission is required to ensure the integrity of casino gaming in the state of Ohio. In order to do so, the Commission must continually ensure that those individuals who have the power to exercise significant influence over entities engaged in casino gaming are

suitable to do so. Further, the duty to update key employee information with the Commission is on the individual themselves, not casino operators, management companies, or gaming-related vendors. Entities benefit from this rule by gaining assurance that they are employing responsible individuals to conduct gaming in their facilities.

3772-5-05 Affirmative license standards. (amendment)

This rule echoes many of the statutory requirements for licensure found in R.C. 3772.10, including the factors the Commission shall consider in making a licensure determination and the requirement that the applicant establish suitability by clear and convincing evidence. The amendment to this rule largely involves small housekeeping changes, in addition to extending the period over which the Commission must consider whether the individual has been a defendant in litigation from ten years to fifteen.

The Commission does not anticipate an adverse impact on business from the amendment. Amending the rule to allow the Commission to review an additional five years of litigation has no impact on business, due to the language solely pertaining to the individual. Further, this amendment is purely to mirror language on the actual application and it has already been the practice for applicants to submit fifteen years' worth of information. This change simply allows the Commission to ensure the integrity of casino gaming by requiring that those people who have the power to exercise significant influence over entities engaged in casino gaming are suitable to do so. Additionally, given that this rule merely mirrors statutory language, sets standards for licensure without requiring any specific submissions, and is not unique to the casino industry, the Commission does not anticipate any adverse impact on business.

3772-5-06 Key employee temporary credential. (amendment)

This rule specifies that key employees must always display their credential issued by the Commission. The rule further provides for how a key employee may obtain a temporary credential. The amendment removes a prohibition on back-of-house entry for unlicensed employees, as a recognition that not all employees with access to the back of house may be licensed. Further, the amendment requires that employees using temporary credentials must apply for a duplicate credential within three days of using the temporary credential.

The Commission does not anticipate a negative impact to business from these amendments. In order to ensure the integrity of casino gaming, all key employees must receive proper credentials and wear them at all times when in the casino facilities. This ensures that patrons are interacting with licensed employees and that only licensed individuals are conducting casino gaming. The employee is still able to work while waiting for their new credentials, but the amendment clarifies the

importance that licensees wear their own credential with their photograph at all times and that the temporary credential does not replace the permanent ones.

3772-6-01 Gaming-related vendor license. (amendment)

The Commission does not anticipate an adverse impact on business from the amendment. While “lessors of casino facilities” is new language added to this rule, it is solely a clarification to reflect present practice and the accepted policy that lessors of casino facilities have fallen under this rule and have been required to be licensed by the Commission since casino gaming commenced in Ohio. Requiring licensure of gaming-related vendors is common in the casino industry. Therefore, the cost associated with this type of regulation is integral to each company’s business model. Further, R.C. 3772.09(A) mandates that all gaming-related vendors must first obtain a license from the Commission in order to participate in casino gaming in Ohio. This rule merely amplifies that statutory requirement.

3772-6-02 Gaming-related vendor license application, license period, and license renewal. (amendment)

This rule describes the gaming-related vendor licensure process and states that gaming-related vendors can apply by submitting the application, paying the application fee, and providing the Commission with any other requested information. The amendment to this rule largely consists of streamlining and consistency changes, including removing a notification process in dealing with public records requests. The amendment also extends the time period in which a licensee must apply for a renewal to one-hundred-and-twenty days before expiration from ninety.

Given that the amendment is mainly intended to streamline and clarify the rule’s language, the Commission does not anticipate an adverse impact on business. Requiring licensure of gaming-related vendors is common in the casino industry. This rule merely amplifies the statutory requirement in R.C. 3772.09(A), which mandates that all gaming-related vendors must first obtain a license from the Commission in order to participate in casino gaming in Ohio. Because the Commission is statutorily required to properly license gaming-related vendors, the benefit of allowing the Commission extra time to adequately obtain all relevant information and investigate in order to ensure the suitability of such vendors far outweighs the burden of requiring submission thirty days earlier. Further, the entities impacted by that extension are only renewal applicants, and they may continue to hold a license for the duration of the renewal investigation so long as they timely submitted the renewal application.

3772-6-03 Gaming-related vendor fees. (amendment)

The amendment to this rule consists of solely small housekeeping changes so the Commission does not anticipate an adverse impact on business. The rule itself is required by statute under R.C. 3772.17(D), which mandates that the Commission set a licensing fee and may charge an application fee in an amount necessary to process a

gaming-related vendor license application. This rule carries out this statutory requirement by setting fees commensurate with the investigation and licensure costs that the Commission incurs during the licensing investigation. Given the highly regulated nature of the industry and the high costs of processing and reviewing these applications, these fees are both customary and justified in the casino industry.

3772-6-04 Duty to update information. (amendment)

This rule sets out the information that a gaming-related vendor must update the Commission about should that information change, including changes of identifying information, bankruptcies, and criminal charges or convictions, among others. The amendment also clarifies that the licensee must update the Commission on criminal convictions and not just charges, which is current practice. The amendment also eliminates a superfluous provision, stating that the Commission shall comply with the public records law.

Given that the amendment is solely intended to streamline and clarify the rule's language, the Commission does not anticipate an adverse impact on business from the amendment. Providing suitability updates is common in the casino industry. Under Article XV, Section 6(C) of the Ohio Constitution and R.C. 3772., the Commission is required to ensure the integrity of casino gaming in the state of Ohio. In order to do so, the Commission must continually ensure that those vendors who have the power to exercise significant influence over entities engaged in casino gaming are suitable to do so.

3772-6-05 Affirmative license standards. (amendment)

This rule echoes many of the statutory requirements for licensure found in R.C. 3772.10, including the factors the Commission shall consider in making a licensure determination. Given that there are no substantive changes and the rule merely amplifies a statutory requirement, the Commission does not anticipate an adverse impact on business from the amendment.

3772-8-01 Casino gaming employee license required. (amendment)

This rule specifies those employees who must obtain a license to engage in the conduct of casino gaming. The amendment to this rule largely eliminates redundancies in positions and matches language used elsewhere in the Administrative Code.

Given that the amendment is mainly intended to streamline and clarify the rule's language, the Commission does not anticipate an adverse impact on business. Requiring licensure of casino gaming employees is common in the casino industry, making costs associated with this type of regulation nominal and built into their business models. Further, R.C. 3772.131 mandates that all casino gaming employees are required to have a casino gaming license. This rule merely amplifies that statutory requirement.

3772-8-02 Casino gaming employee license application, license period, and provisional license. (amendment)

This rule describes the casino gaming employee licensure process and states that casino gaming employees can apply by submitting the application, paying the application fee, and providing the Commission with any other requested information. The rule also provides for specifics as to when an entity engaged in casino gaming in Ohio may pay the application fee on behalf of the employee and specifies that the license expires after three years. The rule also extends the time period in which a licensee must apply for a renewal to one-hundred-and-twenty days before expiration from ninety to allow the Commission enough time to appropriately review the application.

Given that the amendment is mainly intended to streamline and clarify the rule's language, the Commission does not anticipate an adverse impact on business. Requiring licensure of casino gaming employees is common in the casino industry. This rule merely amplifies the statutory requirement in R.C. 3772.131, which mandates that all casino gaming employees are required to have a casino gaming license. Because the Commission is statutorily required to properly license casino gaming employees, the benefit of allowing the Commission extra time to adequately ensure the suitability of such employees far outweighs the burden of requiring submission thirty days earlier. Further, the individuals impacted by that extension are only renewal applicants and they may continue to hold a license for the duration of the renewal investigation so long as they timely submitted the renewal application.

3772-8-03 Casino gaming employee fees. (amendment)

This rule sets the initial casino gaming employee application fee at \$250.00 and the license fee at \$250.00. Further, this rule sets the renewal casino gaming employee application fee at \$100.00 and the licensure fee at \$50.00. These renewal amounts were previously reduced from \$250.00 each and were amended in 2015 with the support of the stakeholders. The rule further clarifies under what circumstances entities engaged in casino gaming may pay the fee on behalf of the employee. The amendment to this rule largely consists of streamlining changes, in addition to other small grammatical changes.

The Commission does not anticipate an adverse impact on business from the amendment. The rule itself is required by statute under R.C. 3772.131(E) and R.C. 3772.17(F), which mandate that the Commission must license and set both application and licensing fees to cover all actual costs generated by each license and all background checks. Given the highly regulated nature of the industry and the high costs of processing and reviewing these applications, these fees are both customary and justified in the casino industry.

3772-8-04 Duty to update information. (amendment)

This rule sets out the information that a casino gaming employee must update the Commission about should that information change, including changes of contact information, bankruptcies, and criminal charges or convictions, among others. The amendment to this rule largely consists of streamlining and consistency changes. The amendment also clarifies that the licensee must update the Commission on criminal convictions and not just charges, which is current practice.

Given that the amendment is solely intended to streamline and clarify the rule's language, the Commission does not anticipate an adverse impact on business from the amendment. Providing suitability updates is common in the casino industry in every jurisdiction in which they operate. Under Article XV, Section 6(C) of the Ohio Constitution and R.C. 3772., the Commission is required to ensure the integrity of casino gaming in the state of Ohio. In order to do so, the Commission must continually ensure that those people who engage in casino gaming are suitable to do so. Further, the duty to update casino gaming employee information with the Commission is on the individual themselves, not casino operators, management companies, or gaming-related vendors. As such, businesses actually benefit from this rule, by ensuring that they are employing suitable individuals to conduct gaming in their facilities.

3772-8-05 Affirmative license standards. (amendment)

This rule echoes many of the statutory requirements for licensure found in R.C. 3772.10, including the factors the Commission shall consider in making a licensure determination. Given there are no substantive changes and the rule merely amplifies a statutory requirement, the Commission does not anticipate an adverse impact on business from the amendment.

3772-8-06 Casino gaming employee license temporary credential. (amendment)

This rule specifies that casino gaming employees must always display their credential issued by the Commission when on duty. The rule further provides for how an employee may obtain a temporary credential. The amendment removes a prohibition on back-of-house entry for unlicensed employees, as a recognition that not all employees with access to the back of house may be licensed. Further, the amendment requires that employees using temporary credentials must apply for a duplicate credential within three days of using the temporary credential.

The Commission does not anticipate a negative impact to business from these amendments. In order to ensure the integrity of casino gaming, all casino gaming employees must receive proper credentials and wear them at all times when in the casino facilities. This ensures that patrons are interacting with licensed employees and that only licensed individuals are conducting casino gaming. The employee is still able to work while waiting for his new credentials, but the amendment clarifies the importance that licensees wear their own credential with their photograph at all times and that the temporary credential does not replace the permanent ones.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

3772-10-05 Forms, records, and documents. (amendment)

This rule is being amended to help accomplish the rescission of Ohio Adm. Code 3772-3-05, from which the language is largely adopted. Portions of this rule related to records retention have been moved to new rule Ohio Adm. Code 3772-1-07. This rule contains internal control requirements for the use and retention of the records required to be retained by Ohio Adm. Code 3772-1-07 and contains requirements related to the receipt, control, and issuance of prenumbered forms and the internal controls required for doing so. Finally, the rule also describes the forms and procedures necessary for each casino operator to maintain with respect to accounting for gaming and financial activities.

The Commission does not anticipate an adverse impact on business from the amendment. The language being moved to or from this rule is simply being moved from one section of the Ohio Adm. Code to another for efficiency. The amendment makes no substantive change to the overall duties of the impacted stakeholders. Specific, detailed records requirements are common in the casino industry. Further, guaranteeing appropriate record keeping and retention aids the Commission in carrying out its statutorily mandated duty of ensuring the integrity of casino gaming.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

Each of the amendments to this package are needed to correct current issues, such as clarifying the Commission's interpretation of a particular rule and developing a more uniform, streamlined set of rules. Additionally, the regulatory intent justifies any adverse impact because Article XV, Section 6(C) of the Ohio Constitution and R.C. Chapter 3772. require the Commission to ensure the integrity of casino gaming, specifically by licensing and ensuring certain other minimum standards for operators are met.

Moreover, the regulatory intent justifies any adverse impact because casino gaming is a highly regulated industry. Unregulated gaming poses a threat to the public welfare and raises the potential for fraud and abuse. To mitigate these threats, the Commission, like other gaming regulatory bodies, is using its regulatory authority to establish a best practice framework for casino operators.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

Yes (indirectly), though it is unlikely this will be necessary since these proposed regulations only impact businesses in the casino industry, few of which likely constitute a small business. These amendments indirectly provide exemption or alternative means of compliance through Ohio Adm. Code 3772-1-04, which permits the Commission, upon written request, to grant waivers and variances from the rules adopted under R.C. Chapter 3772, including these rules,

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

if doing so is in the best interest of the public and will maintain the integrity of casino gaming in the State of Ohio.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

Though it is unlikely R.C. 119.14 will apply to these amendments because the rules only impact businesses in the casino industry, none of which likely constitute a small business, the Commission will adhere to the statutory requirements thereunder, if applicable.

To the extent R.C. 119.14 would apply to a violation of these amendments, the Commission will provide verbal and written notification to the small business in an attempt to correct the paperwork violation. Thereafter, the Commission would allow the small business a reasonable time to correct the violation. The Commission and its staff would also offer any additional assistance necessary to aid in remediation of the violation. No further action would be taken unless the small business fails to remedy the violation within the reasonable time allotted by the Commission.

18. What resources are available to assist small businesses with compliance of the regulation?

The Commission and its staff are dedicated to working with members of the regulated community and the public to effectively and efficiently regulate casino gaming in this state. As a result, the following resources are available:

- Commission's mailing address:
10 W. Broad Street, 6th Floor
Columbus, Ohio 43215
- Commission's toll free telephone number: (855) 800-0058
- Commission's fax number: (614) 485-1007
- Commission's website: <http://www.casinocontrol.ohio.gov/>
- Commission's email: info@casinocontrol.ohio.gov

Also, all members of the regulated community and public may, in accordance with rule 3772-2-04, request to address the Commission during a public meeting. Finally, all members of the regulated community may, pursuant to rule 3772-1-04, request waivers and variances from Commission regulations.

From: Cox, William
To: "LisaPowers@jackentertainment.com"; "RobertWamsley@jackentertainment.com"; "Lynne.Mackin@pngaming.com"; [Jessica McGrady](#)
Cc: [Sam Porter III \(Samuel.Porter@pngaming.com\)](#); [Martin, Patrick](#); [Donahue, Craig](#); [Siba, Michelle](#); [Barron, John](#)
Subject: 5 Year Review Rule Changes: Chapters 3, 5, 6, and 8
Date: Wednesday, August 10, 2016 11:46:00 AM
Attachments: [image001.png](#)
[5YR Batch 3.pdf](#)

Good Morning RCOs,

As you know, every state agency is required to review its administrative rules at least once every 5 years. Of late, the Commission has been conducting this review and moving rules through the filing process with which you are all very familiar. At the June commission meeting, we put up for approval Chapters -3, -5, -6, and -8, as well as rule 10-05 and new rule 1-07. We received no comment at this meeting or during the CSI review period. However, we want to give you another chance to comment on the rules outside of the formal process.

You'll notice that most of the changes are not substantive in nature but rather some minor language changes to harmonize these rules with the rest of the Casino Control Law. **If you do have comments or suggestions that you would like to provide regarding the language, please send them to me via email by 5:00pm on Friday.** If you just have a question or need additional clarification, you may contact me at 614-387-0482.

Best,



William J. Cox

Assistant General Counsel
Ohio Casino Control Commission
(614) 387-0482

William.Cox@casinocontrol.ohio.gov