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BY ELECTRONIC MAIL

February 26, 2025

Mr. Juan C. Santaella Marchán
Interim Executive Director
Puerto Rico Gaming Commission

Dear Mr. Santaella Marchán,

In accordance with the Rules, Regulations and Orders Review Policy of the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), established pursuant to Section 204(b)(4) of PROMESA, we have reviewed proposed *Equestrian Regulation on Electronic Video Games System* (the “Proposed Regulation”) to be issued by the Puerto Rico Gaming Commission (the “Gaming Commission”). The Proposed Regulation proposes to repeal the Equestrian Board’s Regulation No. 8859 of November 28, 2016 (“Regulation No. 8859”) and seeks to establish the rules to implement and maintain the Electronic Video Games System (“EGS”).

After reviewing the Proposed Regulation, the Oversight Board designates it as “**Rejected**” because it would reduce revenues to the Commonwealth and the Police Retirement Trust. The Oversight Board’s primary concern is that the increased number of EGS terminals per off-track betting (“OTB”) establishment could cannibalize casino slot machine and road gaming machine revenues, since a dollar spent on an EGS terminal is a dollar not spent on a casino or road gaming machine.

Regulation No. 8859 repealed the Equestrian Board’s Regulation No. 7625 of December 5, 2008, which had the purpose of establishing and maintaining an EGS. This mode of gaming is exclusive to those establishments operated by Equestrian Racing Agents, as established pursuant to Act 83-1987, also known as the *Puerto Rico Horse Racing Industry and Sport Act*, as amended by Act 139-2004.

Article 20 of Act 83-1987 states that an EGS may be established **exclusively** in OTB establishments where Equestrian Racing Agents¹ operate, with a maximum of 5,000 terminals across all Puerto Rico. Additionally, Regulation No. 8859:

- Establishes the concept of “regular” and “super-agency” OTB establishments;
- Limits the number of EGS terminals in a regular OTB establishment to 10;
- Limits the number of super agencies that may be licensed in the Commonwealth to no more than 50;
- Allows super-agencies establishments to each operate up to 30 EGS terminals.

The Proposed Regulation proposes to increase the maximum number of EGS terminals at regular OTB locations from 10 to 15, which would likely result in some super-agencies being reclassified as regular OTB establishments. This would free up some licenses for new super-agencies, which could then acquire more machines based on their new designation, since super-agencies may operate up to 30 EGS terminals without approval from the Gaming Commission’s Board of Commissioners.

Currently, 3,373 EGS terminals are operating at 383 licensed OTB establishments, though data indicates that there are 492 active OTB locations.² Only 13 super-agencies have installed the maximum of 30 EGS terminals, with the rest having at least 11 machines.³ Only 75 regular OTB establishments have installed the maximum of 10 EGS terminals.⁴

The Oversight Board’s primary concern with increasing the number of EGS terminals per OTB establishment is the potential cannibalization of casino slot machine and road gaming machine revenues. Crucially, for each dollar wagered at a casino slot, the Commonwealth General Fund receives \$0.55 after total wagers exceed \$315 million. In the case of licensed road gaming machines, each wagered dollar generates \$0.225 for the Commonwealth after the first \$12 million goes to the General Fund, with \$0.12 dedicated to the Police Retirement Trust.⁵ In contrast, no government funds are generated from EGS terminal wagers. This is exacerbated by the fact that EGS terminals can participate in progressive jackpot games and the limits on the prize awards may be larger than other slot machine options, which would encourage patronizing these machines over casino and road gaming machines.⁶

As a result, it is expected that EGS terminals at OTB establishments will continue to generate more revenue than standard slot machines. For instance, in its analysis of road gaming machines, the

¹ Defined as an independent contractor (natural or juridical person) designated by the Operator and authorized by the Gaming Commission to receive and pay those bets authorized by applicable law and regulations and offer EGS services in the off-track betting location they operate.

² See OACJ-NH-24-03: Petition to amend Regulation No. 8859 of November 28, 2026, known as the *Equestrian Regulation on Video Games System* for the purposes of increasing the limit of equestrian super-agencies..

³ *Id.*

⁴ *Id.*

⁵ See Act 112-2024, which amends Act 11-1933 and Act 40-2020, in order to legalize, collect, and distribute revenues from road gaming machines and use such revenues to fund police pensions.

⁶ Pursuant to Section 4.5 of Regulation No. 8859, the equestrian slot machines are able to offer progressive games with prior approval of the Gaming Commission’s Board of Commissioners.

Department of Treasury indicated that EGS terminals generated approximately \$54 per day in revenue, whereas standard road gaming machines generate only \$37 per day.⁷ This results **in the government losing between \$0.23 and \$0.55 for each dollar wagered on an EGS terminal.** See Appendix A for a comparison in revenue distribution rules for casino slots, road gaming machines, and equestrian slots.

In addition, the Oversight Board notes no General Fund or public sector revenue is generated from the operations of EGS terminals in OTB establishments. Pursuant to Act 83-1987, net revenues from EGS operations shall be deposited into an account created by the Operator,⁸ and shall be distributed as follows:⁹

1. If the EGS is operated by the Operator:
 - a. 15% for the Horse Racing Agent's commission
 - b. 15% for the Account for Horse Race Prizes, which is maintained by the racetrack
 - c. 70% for the Operator

2. If the EGS is operated by a Provider:¹⁰
 - a. 15% for the Equestrian Racing Agent's commission
 - b. 15% for the Account for Race Prizes, which is maintained by the racetrack
 - c. The remainder is divided between the Provider and the Operator as agreed between them.

This distribution is in stark contrast with casino slot machines and road gaming machines. Specifically, casino slot machines are projected to contribute \$62 million to the General Fund and \$71 million to University of Puerto Rico in Fiscal Year 2025, whereas road gaming machines will generate revenues for the Police Retirement Trust upon the implementation of Act 112-2024. To the extent the Proposed Regulation seeks to increase wagering activity at EGS terminals, casino slot and road gaming machine activity will be reduced, and Commonwealth and Police Retirement Trust revenues will be adversely affected.

In conclusion, expanding the number of EGS terminals in more profitable OTB locations is expected to increase revenue cannibalization, resulting in a decline in the revenues to the Commonwealth and the Police Retirement Trust. As such, the Proposed Regulation **is not approved and cannot be implemented.**

⁷ As confirmed by the Government in its PROMESA Section 204(a) submission for Act 112-2024.

⁸ Defines as a natural or legal person authorized to operate a racetrack in Puerto Rico and operate, with the required license, an EGS.

⁹ Before calculating net revenues: (i) the Operator or Equestrian Racing Agent shall discount the paid prizes (the amount to be distributed to the player on account of winnings shall not be less than 83% of the total value of the plays); and (ii) the Operator shall pay administrative costs to the Gaming Commission. This last provision is not established by law, but by regulations.

¹⁰ Defined as any person that designs, assembles and programs EGS terminals and any other electronic component or related equipment, and any person that owns or operates any tangible or intangible goods that form the EGS.

Mr. Santaella Marchán

February 26, 2025

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Please note the Oversight Board's review is solely limited to the Proposed Regulation's compliance with the applicable Fiscal Plan and no other matters. For the avoidance of doubt, the review performed by the Oversight Board does not constitute a legal review under applicable laws, rules, and regulations, both federal and local, including without limitation, compliance with any applicable labor laws, rules and regulations. Any material changes to the Proposed Regulation must be submitted to the Oversight Board for its review and approval **prior to adoption and publication.**

This review was conducted on the basis of information submitted by the Puerto Rico Gaming Commission. The Oversight Board has not independently verified the information included in the submission. Should the Oversight Board become aware of any inaccuracies or misrepresentations – whether intentional or not – it would re-evaluate its assessment.

This letter is delivered as of the date hereof and we reserve the right to provide additional observations and modify this letter based on information the Oversight Board was not directed to when the review was conducted. In addition, during the course of our review, we may receive information that we may determine to refer to the relevant authorities.

This letter is issued only to the Puerto Rico Gaming Commission and solely with respect to the Proposed Regulation.

Sincerely,



Robert F. Mujica, Jr.
Executive Director

APPENDIX A

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Table 1. Comparison of Revenue Distribution

	Casino Slots¹	Road Gaming Machines	Equestrian Slots
	Machine Operations		
Private sector share ²	55%	77.5%	100% ³
Government share	45%	22.5%	0%
General Fund	15.15%	1st \$12 million/\$0 after 1st \$12 million paid to GF	0%
Police Retirement Fund	0%	55% after 1st \$12 million paid to the General Fund	0%
UPR	45.45%		0%
Tourism	13.6%		0%
Municipalities	0%	40% after 1st \$12 million paid to the General Fund	0%
Gaming Commission	25.25%	5% after 1st \$12 million paid to the General Fund	Amount equivalent to the Gaming Commission's administrative costs.
	License Fee Distribution		
Machine license		\$400 per machine annually: <ul style="list-style-type: none"> • \$250 to General Fund • \$100 to Gaming Commission; • \$50 to Police Retirement Fund. 	
Wholesale Owners license		\$500 annually ⁴	
Business Owners license		\$0	
Suppliers and Distributors license		\$3,000 every 2 years ⁴	
Manufacturers license		\$3,000 every 2 years ⁴	
Casino Owners license	All license fees are paid to the General Fund: Less than \$25m annually = \$50k; \$25m<=gambled annually<\$50m = \$100k \$50m<=gambled annually<\$100m = \$150k Over \$100m = \$200k		
Racetrack License			\$250k annually ⁵

Video System Operating Company License			\$250k annually ⁵
Video System Gaming Provider License			\$100k annually ⁵
Other parameters			
Prize Limits per play	Not applicable	\$5k	Not applicable
Tax on Winnings	Subject to income tax reporting if winnings exceed income tax reporting threshold	2% collected at time of prize redemption if winnings exceed \$500	Subject to income tax reporting if winnings exceed income tax reporting threshold
Share of gross wagers paid out in prizes	83%	83%	83%
Computerized monitoring system		Requires internal monitoring system	All machines are connected to a centralized computer system
Number of Machines in Operation	approximately 6k ⁶	Limited to 25k/35k/45k ⁷	Limited to 5k
Governing Legislation	Act 221-1948	Act 11-1933	Act 83-1987

Notes:

1. The revenue distribution shown in Table 1 applies only when net revenues are greater than \$315 million but less than \$495 million.
2. This is understood to include the owners of the Hippodrome and OTB establishment owners.
3. See Section 21 of Act 83-1987.
4. The distribution of this revenue shall be used by the Gaming Commission for the implementation of Act 11-1933, as established by law.
5. See Section 12A and B of Act 83-1987. License fees are earmarked for the Gaming Commission budget.
6. Based on information provided by the Gaming Commission as of Quarter 1, 2024.
7. The initial allocation of road gaming licenses is limited to 25,000 machines. This is scheduled to increase to 35,000 (additional 10,000) 2 years after implementation of Act 112-2024 but only if it is determined that the issuance of additional licenses will not diminish the slot machine revenues dedicated to the General Fund. Three years after the implementation of Act 112, licenses will increase to 45,000 machine licenses after an additional evaluation is made which confirms that the additional machines will have no negative impact on General Fund revenue collections. No further increase in the number of licenses is included in the Act.