

nevada permits out-of-state hosting centers and regulates cloud computing

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The hallmark of an effective regulatory structure is the ability to embrace progress without compromising the underlying structure. Such a balancing poses a continuing challenge for regulators. If a regulator embraces advancement

but fails to regulate it effectively, the integrity of the industry can be jeopardized. In contrast, if a regulator exercises too much oversight, innovation can be stifled and the industry becomes stagnant. Fortunately, the Nevada Gaming Control Board

("Board") and Nevada Gaming Commission ("Commission") continue to strike this balance time and time again, most recently when amending Commission Regulations 1 and 5 to permit hosting centers to be located out-of-state.¹ As explained below, such amendments allow Nevada's gaming licensees to take advantage of recent technological developments, while maintaining a fair and effective level of regulatory oversight.



Prior to amending Commission Regulation 5, only hosting centers located within the State of Nevada were eligible to register with the Board. However, as of April 2022, hosting centers are now permitted to be located outside of Nevada provided the Board's oversight is not infringed and such operations comply with local and federal laws. That is, such hosting centers must not "present any unreasonable risks of an unsuitable method of operation or a violation of public policy of the state set forth in NRS 463.0129."² Further, hosting centers are now allowed to house associated equipment (in addition to cashless wagering systems, games, gaming devices and race book operations and sports pool operations).³ Such a change was enabled by the Nevada Legislature, which had previously determined that "technological advances have evolved which allow... associated equipment to be located at a hosting center."⁴

The aforementioned changes were sought by the gaming industry to accommodate technological advancements and will allow multi-jurisdictional gaming licensees to, among other things, consolidate certain technology in a central location. As Senior District Attorney General Magaw explained at a Regulatory Workshop in

February 2022, "[t]his is intended to reflect the modern realities of technology, mainly that secure data centers that can serve as a hosting center are located around the globe, and that provided that the centers can meet strict requirements of Nevada law to be registered, such centers should not be limited to the State of Nevada."⁵

Importantly, a hosting center, regardless of whether it is located in the State of Nevada or, as newly approved, outside the state, must be registered with the Board before it can house Nevada-regulated gaming equipment. In other words, Nevada gaming licensees may only store their Nevada-regulated equipment at hosting centers with active registrations. As detailed below, this registration requirement, while stringent, is not overbearing. As Chair Gibson noted at the regulatory workshop "My goal is not to overregulate these hosting centers."⁶



In order to register as a hosting center, the company, along with certain owners, operators and key employees must undergo investigation by the Board. Such persons will have to complete a short personal background form along with series of releases and submit fingerprint cards. The company will also have to provide a series of descriptions relating to the facility and services, which includes but is not limited to, a detailed location description outlining items such as the floor plan, power capabilities, telecommunication reliability, security descriptions relating to alarms, surveillance and access controls, disaster recovery capabilities and internal control procedures.⁷ Additionally, introduced as a new requirement, hosting centers will have to be in compliance with, and continue to remain in compliance with all applicable standards of the International

Organization for Standardization, including, without limitation, ISO/IEC 27001, 27002, and 27017, or the equivalent.⁸

Hosting centers located outside of Nevada bear an additional burden. Specifically, they will not be registered with the Board until they satisfy the burden of establishing that the new subject location is suitable, which includes, among other things, demonstrating that (1) the jurisdiction's laws, regulations, ordinances, and policies do not in any way limit or infringe on the ability of the Board and Commission to monitor, investigate, or enforce Nevada's requirements with regard to the hosting center's operations; and (2) the transactions to be processed at the hosting center will not violate the laws of the country, territory, or other recognized regional or tribal government where the hosting center is located and operated.⁹

Gaming licensees intending to partner with a hosting center must also abide by certain requirements. In particular, it is incumbent upon the licensees utilizing the hosting centers to



conduct certain due diligence to ensure their suitability. Such due diligence includes verifying that the hosting center will not have access to the software, applications or data contained on the regulated equipment housed at the hosting center and that the types of transactions to be processed at the hosting center do not violate the laws of the jurisdiction in which the hosting center is located.¹⁰

Companies looking to register as a hosting center must pay an initial one thousand-dollar (\$1,000) application fee (there is no annual renewal fee).



The investigation process is expected to take approximately six months with investigative fees set at ten thousand dollars (\$10,000). However, the cost of the investigation may increase to accommodate travel expenses for out-of-state companies. Barring any issues, registration approvals are expected to be issued administratively.

Once registered, the hosting center will be subject to several ongoing requirements, including, but not limited to, maintaining approved security features (access controls, alarm systems, surveillance, etc.) and approved Internal Control Procedures (visitor access, maintenance and access logs, due diligence performed on contractors and staff, emergency access procedures, etc.). The hosting center also has to agree to provide Board agents with immediate and unfettered access to any Nevada-regulated gaming equipment that is located at the hosting center. Moreover, at the beginning of each calendar year, a registered hosting center must inform the Board in writing of any changes in the information provided in its application for registration, and the applications for registration of any owner, operator, or person having significant involvement with the hosting center, or provide the Board with an affirmative statement indicating that there have been no changes to that information. If such information or statement is not timely filed with the Board, the hosting center's registration as well as the registrations of each owner, operator, and person having significant involvement with the hosting center will lapse.¹¹

To-date, only two hosting centers are registered in Nevada – Switch and Flexential. With the amendments to Commission Regulation 5 and the expansion of the ability for hosting centers to be located outside the boundaries of Nevada, the Board will undoubtedly see an influx of hosting centers apply for registration. Ultimately, gaming licensees will benefit from this progressive change as they will now have more options to choose from. Thus, Nevada's constant efforts of innovative reform continues to solidify Nevada's position as the gold standard of gaming.



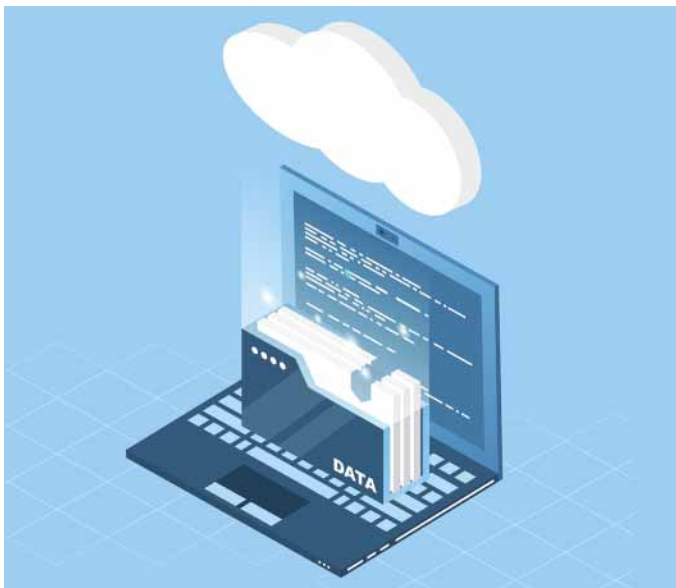
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¹ The amendments to Commission Regulation 5 also removed the requirements that wagering accounts be located in Nevada and include the regulation of cloud computing, which are other excellent developments that warrant articles of their own.

² Nev. Gaming Comm'n Reg 5.2305(2)(a)(3).

³ Nev. Gaming Comm'n Reg 1.137.

⁴ S.B. 72, 80th Sess. (NV. 2019).

⁵ Gaming Control Board Regulatory Workshop February 16, 2022.

⁶ Gaming Control Board Regulatory Workshop February 16, 2022.

⁷ A full list of such requirements can be found in Nev. Gaming Comm'n Reg 5.230(4)(c).

⁸ Nev. Gaming Comm'n Reg 5.230(3).

⁹ Nev. Gaming Comm'n Reg 5.2305(3).

¹⁰ Nev. Gaming Comm'n Reg 5.235.

¹¹ Nev. Gaming Comm'n Reg 5.230(4)(c)(7).