

1 **BEFORE THE NEVADA GAMING COMMISSION**

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3 IN THE MATTER OF THE ADOPTION
4 OF AMENDMENTS TO NEVADA
5 GAMING COMMISSION REGULATIONS
6 NGC 1, NGC 14.260, NGC 14.290 and Gaming Control Board Technical Standard 1.010
7 GOVERNING DEBIT ACCESS INSTRUMENTS
8 AND WAGERING ACCOUNTS

9
10 **PETITION FOR ADOPTION OF AND AMENDMENT TO REGULATIONS**

11 **I.**

12 **Introduction**

13 Priorities First LLC, utilizing Vegas Game Point LLC as a licensed Distributor, brings this Petition
14 requesting the adoption of amendments to the Nevada Gaming Commission (“NGC”) Regulations as follows: (1)
15 amendment of NGC Regulation 1 to add a definition of "Debit Instrument" and "Debit Card;” (2) amendment of
16 NGC § 14.260 and NGC § 14.290 to authorize the use of Debit Cards at gaming tables for the sole purpose of
17 purchasing gaming chips with a preset cap limit in place; and (3) to reflect a concurrent request that the Nevada
18 Gaming Control Board ("GCB" or "Board") Chairman amend the Technical Standards adopted pursuant to NGC
19 Regulation 14.050.

20 Any interested person may file a petition requesting adoption, amendment, or repeal of a regulation
21 pursuant to Nevada Revised Statute (NRS) 463.145(d). Priorities First LLC is a licensee and therefore an interested
22 person pursuant to NGC § 2A.010 (5) with standing to bring this Petition. In accordance with the requirements of
23 NRS 463.14S(d), this Petition includes the following: the reasons for the request and current status of Nevada's
24 Laws and Regulations, the substance or nature of the regulation, amendment or repeal requested, and reference to
25 the authority of the Commission to take the action requested.

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II.

The Reason for the Request

Electronic transactions are replacing cash as a means of payment in the general economy. One study predicts that, as a percentage of retail spending, cash will decline from 12.6% in 2010 to 9.8% in 2015.¹ On April 07, 2015 in conjunction with the Electronic Transactions Association, The Strawhecker Group (TSG) released its latest economic indicators info graphic [“The Comeback of Consumer Spending”](#). TSG forecasts compelling growth for the payments industry. Their research finds that the U.S. Economy is growing at a strong pace. Consumer confidence, GDP, and unemployment are all experiencing a positive performance in 2014 and the first quarter of 2015. Consumer spending represents nearly 70% of GDP and 70% of consumer spending is done electronically.² The reasons for the preferred use of electronic payments are increased convenience and increased security – for both payer and payee alike. The casino gaming industry in Nevada is a unique exception to this trend. The vast majority of casino gaming transactions are conducted in cash, the only exceptions being credit play and front money. One consequence of the electronic payments trend is that consumers carry only a small amount of cash with them. As a result, when they enter a casino for gaming play, patrons often have to get cash in the casino (via the ATM, check cashing, or cash advance transaction). One source states that more than 60% of all wagering funds come from cash sourced within the casino itself.³

The reliance on cash as the dominate method of exchange in Nevada casinos has adverse consequences for casino companies and casino patrons. For casino companies, the major adverse consequence is the costs related to borrowing the money and handling the money. Priorities First LLC estimates that one Nevada gaming company incurred approximately \$35 million in expenses related to the borrowing and handling of its cash. For casino patrons, there are costs as well. Priorities First LLC calculates that the average cash access transaction, including a cash advance, in a casino can cost the patron anywhere from \$8.40 – \$58.00 in fees for a single transaction.

¹ <http://www.atmmarketplace.com/article/178763/study-U-S-consumer-use-of-cash-expected-to-decline-by-nearly-200-billion-by-2015>

² <http://www.electran.org/tsg-releases-latest-economic-indicators-infographic-at-transact-15/>

³ Global Cash Access Holdings, Inc., “Investor Presentation,” March 2012

1 Finally, cash presents safety risks for casino patrons. Numerous reports of gaming patrons being robbed
2 have been published throughout the United States. In September 2010, a man was robbed and killed outside a
3 southern California casino by a person who followed him from the casino.⁴ In May 2010, a casino patron was
4 robbed and beaten in the restroom at a casino in Las Vegas, Nevada.⁵ In February 2014, an elderly man was
5 followed from a casino in Pennsylvania and robbed of \$27,000 cash.⁶ In May 2015, a casino patron was robbed at
6 gunpoint in Philadelphia for \$12,000 cash.⁷ The suspect was apprehended in the casino bathroom.

7 As for the casinos, one benefit is that a patron using a Debit Card helps to reduce the possibility of money
8 laundering which also helps to ease Homeland Security concerns. In March 2001, The Nevada Gaming Control
9 Board filed a complaint against Bally's Las Vegas, accusing the Strip casino of violating regulations aimed at
10 stopping money laundering.⁸ In August 2013, Las Vegas Sands Corp ([LVS.N](http://www.lvs.com)) agreed to pay the Justice
11 Department more than \$47 million over anti-money laundering lapses.⁹ Debit Cards will also help aid the casino
12 with their compliance of Title 31. Casinos will still be required to obtain the necessary patron information when
13 appropriate. However, as an added layer of security, the patrons Social Security Number is already on file with their
14 banking institution.

15 Credit and Debit Cards are the primary tools used in electronic payments. Unfortunately, Nevada casinos
16 and casino patrons can not take full advantage of using credit and debit cards because Nevada law explicitly
17 prohibits the use of credit cards to transfer money directly to a game or gaming devices per NRS 14.260 sub section
18 7 and NRS 463.3557. However, prepaid / debit cards were approved for implementation for Sightline Payments
19 LLC in February of 2014, and per NRS 463.3558 are permitted to be used, provided they are approved by the Board.

20 ⁴ http://www.cbsnews.com/2100-201_162-6833477.html

21 ⁵ <http://www.hawaiinewsnow.com/story/18661446/vegas-beating-victim-from-aiea-sues-casino-for-negligence>

22 ⁶ <http://pittsburgh.cbslocal.com/2014/02/28/man-accused-of-robbing-rivers-casino-patrons-to-stand-trial/>

23 ⁷ <http://philadelphia.cbslocal.com/2015/05/16/police-sugarhouse-casino-patron-robbed-at-gunpoint/>

24 ⁸ http://www.casinowatch.org/loss_limit/casinos_crime.html

25 ⁹ <http://www.reuters.com/article/2014/08/15/us-banks-casinos-analysis-idUSKBN0GF0BV20140815>

1 Because the prepaid / Debit Card is issued by a bank, all of the information that is required by banks in order to open
2 an account must be obtained in order to get the card (name, address, date of birth, and SSN) thus making it
3 absolutely no different than a regular “Debit Card.” The steps that a patron must take to open up a prepaid / Debit
4 Card account are exactly the same as opening a regular bank account, and the prepaid card is considered a “Debit
5 Card.” The money that is loaded onto a prepaid card comes from a deposit made in that bank that can very easily
6 come in the form of the patrons paycheck, again no different than making a deposit at the patrons own personal
7 bank, exactly the same. Just like a regular debit card the deposit is insured up to the FDIC limits, and the card
8 benefits from Federal Reserve Regulation “E” protection against lost or stolen cards. This is a Debit Card.

9 One of the reasons traditional debit cards have not been authorized in the past comes from concerns about
10 responsible gaming. Priorities First, LLC submits that the use of a Debit Card will not increase the issue of problem
11 gambling. Certain proposals that were pursued in the past did not take the implications of problem gambling into
12 consideration and were rejected by the Nevada regulators. Underlying concerns about previous proposals was the
13 presumption that the Debit Card was attached to the patron’s main bank account, with the risk that a patron could
14 gamble away every day funds. Due to banking institutions now setting a daily limit on the amount of funds an
15 individual can withdraw in a single day ranging anywhere from \$200-\$500, along with transfer and withdrawal
16 limits imposed by the U.S. Governments Federal Banking Regulation “D”¹⁰, the aforementioned concern is no
17 longer an issue. These preset limits were put in place to prevent an individual from exhausting their bank accounts
18 in a moment of weakness. In order for these limits to be changed the patron must physically contact their bank to
19 increase their daily limit. For the patron a few security measures of using their Debit Card is that (1) Funds are
20 secured and accessible only by the patron using their personal “Pin-Debit Bank Card” and entering their personal
21 PIN number at the gaming position. (2) Unlike a credit card, patrons gain access to their personal funds and no
22 future debt is incurred. (3) A patron is gaining access to his or her own money and not incurring a loan or house
23 credit. (4) When a patron uses Priorities First, LLC system the LCD read out on the terminal device will read: “you
24 have had “#’ transactions today would you like to proceed Yes or No?” (5) If the patron continues, and a request for

25 ¹⁰ <http://www.federalreserve.gov>

1 funds is approved, a Gaming Ticket is produced (rather than cash) and the patron still must make the decision to
2 proceed. As an added layer of protection for the patron, Priorities First, LLC will require the patron to produce
3 identification that matches the name on the Debit Card, and will place a cap of \$1,000 on the total amount a patron
4 can withdraw per table rating¹¹. Once the patron has reached the \$1,000 cap, and has no more chips available for
5 play, the patron will be required to physically get up from their seat and have their rating closed. A concern for
6 Nevada regulators in the past has been that the patron must have time and / or a break in play to consider whether
7 getting more funds for gaming is a responsible action. By implementing these steps Priorities First, LLC has
8 satisfied the requirements of the patron having time and / or a break in play to consider whether to continue their
9 gaming activities.

10 The proposed use of Debit Cards at gaming tables affords significant benefits to patrons, gaming operators
11 and gaming regulators. For gaming operators, the benefits are decreased expenses associated with borrowing and
12 handling of cash, as well as increased security measures against money laundering. For patrons, a Debit Card is a
13 much more secure and convenient way to access personal funds for gaming purposes, and will allow them to
14 conduct their gaming purchases in the exact same way as they conduct the majority of their everyday purchases. For
15 gaming regulators, the use of a Debit Card creates a computerized record that is able to assist in a variety of
16 regulatory activities including auditing transactions and resolving patron disputes.

17 The Board and Commission, per NGC Regulations 5A.120 (4) (d) and 22.160(1) (e), have approved the use
18 of Debit Instruments in conjunction with interactive wagering and race and sports pool wagering. Interactive sports
19 wagering decisions are made at a much faster pace than any table game decision. The proposal would allow the use
20 of Debit Cards for purchasing chips at table games on the casino floor, in conjunction with a preset \$1,000 limit per
21 rating in addition to what is currently authorized. The petition recognizes a Debit Card as a type of debit instrument
22 so that, in addition to being covered by the Nevada Regulations, their use will be covered by Nevada's criminal
23 statutes. Specifically, Petitioner recognizes that a "Debit Card" is defined as a type of "Debit Instrument" in order

24 ¹¹ A "rating" is generated by the floor supervisor when a player buys in at any table game on the casino floor. This "rating" allows the casino to
25 track the total buy in, average bet, and time played for each individual player at the table.

1 that NRS Chapter 465, "Crimes and Liabilities Concerning Gaming," will apply to Debit Access Instruments. NRS
2 465.080(1) & (6) addresses crimes related to counterfeiting debit instruments or possessing paraphernalia for
3 manufacturing counterfeit debit instruments. In addition, NRS 465.088 provides for increased penalties for
4 violations of NRS 465.070 to 465.085, inclusive. Coverage by the criminal statutes will provide additional assurance
5 that the integrity of a Debit Card Instrument will be maintained. In summary, it is Priorities First, LLC position that
6 a Debit Card does not pose any additional risk to those at risk for problem gambling, while at the same time
7 providing significantly enhanced convenience and safety for the vast majority of gaming patrons.

8 III.

9 **The Substance or Nature of the Regulation, Amendment, or Repeal Requested**

10 The proposed amendments generally authorize the use of a Debit Card in table games gaming activities and
11 also ensures that the criminal protections of NRS Chapter 465 apply, safeguarding their gaming activities and
12 assuring the integrity of the gaming industry in Nevada.

13 NRS 463.01469 defines "Debit Instrument" as "a card, code, or other device with which a person may
14 initiate an electronic transfer of money to a game or gaming device. However, this term is not defined in the
15 Commission's Regulations. Technical Standard 1.010(9) provides the following definition: "Debit Instrument"
16 means a card, code or other device with which a person may initiate an electronic funds transfer or a wagering
17 account transfer." The Petitioner is concurrently with this petition also requesting that the Board Chairman propose
18 an amendment to the definition pursuant to the provisions of NGC Regulation 14.050 to be consistent with the
19 Commission's new definition as described below.

20 Petitioner proposes an amendment to NGC Regulation 1 that defines "Debit Instrument" consistent with
21 the statutory definition and defines "Debit Card" as an acceptable form of debit instrument. The amendment adding
22 the definition of "Debit Instrument" defines it as "A card, code, or other device with which a person may initiate an
23 electronic funds transfer or a wagering account transfer. This term includes, without limitation, a prepaid access
24 instrument." Prepaid Access Instrument (which is the same as a debit card) is then defined as "a card, code,
25 electronic serial number, mobile identification number, personal identification number or similar device that allows
patron access to funds that can be retrieved or transferred at some point in the future through such a device. This

1 provision is consistent with the existing provisions in Regulations 5A, 14 and 22 regarding wagering accounts. The
2 amendment also restricts the use of a Debit Card to table games only, with a preset cap of \$1,000 per rating. Once
3 the \$1,000 preset cap is reached a patron must physically remove themselves from the gaming table and have their
4 rating closed. This provision forces the patron to take time to reconsider whether or not to continue engaging in table
5 games play.

6 **Petitioner proposes** that the Commission amend NGC 14.260 to read (new is underlined):

7 3. "Except as otherwise provided in subsection 4," the Chairman shall not grant an approval pursuant to
8 subsection 1 (Applications for approval of associated equipment) or waive such approval requirement
9 pursuant to subsection 2 (upon written request from the manufacturer or distributor of associated
10 equipment, or as the chairman otherwise deems reasonable, may waive the approval requirements for
11 associated equipment) with respect to any associated equipment that, when installed, will allow a patron to
12 use a debit instrument for purposes of making electronic funds transfers from an independent financial
13 institution to a gaming device through a cashless wagering system until such time as the appropriate
14 regulations for such transfers are adopted.

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16 **Petitioner proposes** that the Commission add to NGC 14.260, subsection 4: The Chairman may grant
17 approvals pursuant to subsection I or waive such approval requirements pursuant to subsection 2 with respect to the
18 use of a Debit Card at gaming tables in conjunction with an approved preset \$1,000 withdrawal limit and
19 requirements of a patron physically removing themselves from the gaming table upon exhaustion of preset limit.

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21 **Petitioner proposes** that the Commission amend NGC 14.290 as follows (new is underlined):

22 1. "Except as otherwise provided in subsection 2, or regulation 14.260(4), a licensee shall not install or use
23 associated equipment without prior written approval of the chairman or his designee, unless the chairman
24 has waived the approval requirement pursuant to subsection 2 of regulation 14.260. Applications for
25 approval to install or use associated equipment shall be made and processed in such manner and using such
forms as the chairman may prescribe. The chairman shall not approve any use or installation(s) of

1 associated equipment that allow a patron to use a debit instrument for purposes of making electronic funds
2 transfers from an independent financial institution to a gaming device through a cashless wagering system
3 until such time as the appropriate regulations for such transfers are adopted.
4

5 2. The chairman may grant approvals for the use of, or installation of, equipment used in conjunction with
6 a Debit Card instrument for table game use in conjunction with an approved preset \$1,000 per rating wagering
7 withdrawal limit.

8 The Proposed Language for the amendments is attached as "Exhibit1."

9 It should be noted that for purposes of explanation, Priorities First LLC has included methodology,
10 technology, and process it intends to use if the Commission adopts these amendments; however, the amendments
11 have been drafted so that any cash access service provider could use their methodologies, technologies, and
12 processes in respect of a Debit Card Instrument, provided they can satisfy these Regulations and the Board's
13 technical standards. The regulations are not crafted to provide any advantage to one licensee over another.

14 **IV.**

15 **The Authority of the Commission to Take the Action Requested**

16 The Commission is authorized to take action pursuant to the Nevada Revised Statutes. NRS 463.150(1)
17 provides that, "The Commission shall, from time to time, adopt, amend or repeal such regulations, consistent with
18 the policy, objects and purposes of this chapter as it may deem necessary or desirable in the public interest in
19 carrying out the policy and provisions of this chapter." See also NRS 463.145(1). NRS 463.1409(1) provides that,
20 "The provisions of this chapter with respect to state gaming licenses and manufacturer's, seller's and distributor's
21 licenses must be administered by the Board and the Commission, which shall administer them for the protection of
22 the public and in the public interest in accordance with the policy of this state." Further, NRS 463.143 provides that,
23 "The Commission may exercise any proper power and authority necessary to perform the duties assigned to it by the
24 Legislature, and is not limited by any enumeration of powers in this chapter."

25 The Commission is authorized to take action pursuant to the Regulations of Nevada Gaming Commission.
NGC § 1.010 provides in part that:

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