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Regulation of sports betting in Brazil: prevention and control of suspicious money laundering activities

Federal Law No. 14,790/2023, which rules over the operation of fixed-odds betting in Brazil - also known as sports betting -, has been recently regulated by Decree No. 1,143/2024 to establish the regulatory framework for specific policies, procedures and internal controls that must be adopted by betting operators in order to identify and prevent suspected activities involving money laundering, terrorist financing and proliferation of weapons of mass destruction (AML/CFT), pursuant to the requirements provided by Federal Law No. 9,613/1998 (Brazilian AML Law) and Federal Law No. 13,810/2019 (Terrorism Prevention).

The new rules for inspecting, monitoring and sanctioning failure to comply the provisions set forth in the Decree will be implemented by the Secretariat of Prizes and Betting of the Ministry of Finance (SPA/MF in Portuguese) as of January 1st, 2025, the date when betting operators will be required to submit an annual report to SPA/MF regarding compliance with the AML/CFT practices adopted in the previous year, including an internal assessment carried out in order to identify and measure the risks of their products and services. Operators will be responsible for defining the risk matrix.

This control will not be limited to the purposes of AML/CFT, since the new regulation also aims to prevent “other related offenses,” including those in which the operators’ managers may be criminally liable for crimes such as those against the financial system (Federal Law No. 7,492/1986).

The Decree also indicates that failure to comply with the rules may result in administrative sanctions under the Brazilian AML Law, ranging from warning and fine to the temporary prohibition of holding management positions in legal entities for up to 10 years, and the cancellation or suspension of the company’s authorization to perform its activities, run its operations or function.

In order to identify suspicious activities and report them to the Council for Financial Activities Control (COAF in Portuguese), betting operators must carry out an analysis of possible cases of attention regarding the bets and related operations, including **(i)** lack of an economic or legal basis for the transaction carried out by the gambler; **(ii)** sharing of false information or information that is difficult to verify; **(iii)** accounts opened in the name of a politically exposed person

(PEP); **(iv)** atypical allocation of funds; **(v)** contribution or withdrawal of funds in a short period of time; and **(vi)** improper use of an account by someone other than its holder.

If the gathered elements lead to the conclusion that there is evidence of ML/FT or other related criminal offenses within 30 days from the date of the bet or associated operation, the operator will have until the next working day to send the report to COAF. If no suspicious bets or operations are identified within a year, a non-occurrence report must be submitted to the SPA/MF.

Among other provisions, the internal AML/CFT policies include the development, implementation and execution of compliance programs regarding AML/CFT practices and other related crimes, which must be followed by employees, partners and third-party service providers, as well as the definition of roles and responsibilities in relation to the Decree's compliance.

Internal procedures are limited to systems of identification, qualification, and classification of risks arising from gamblers, platform users, employees, partners, and third-party service providers, as well as business activities, hiring of employees and financial and real estate transactions.

As for the minimum internal control requirements, the Decree expresses a concern

for the record, maintenance and monitoring of information related to the activities carried out by operators and financial institutions with which they maintain a relationship, as well as the registration of gamblers and the analysis of operations and activities that must be reported to COAF.

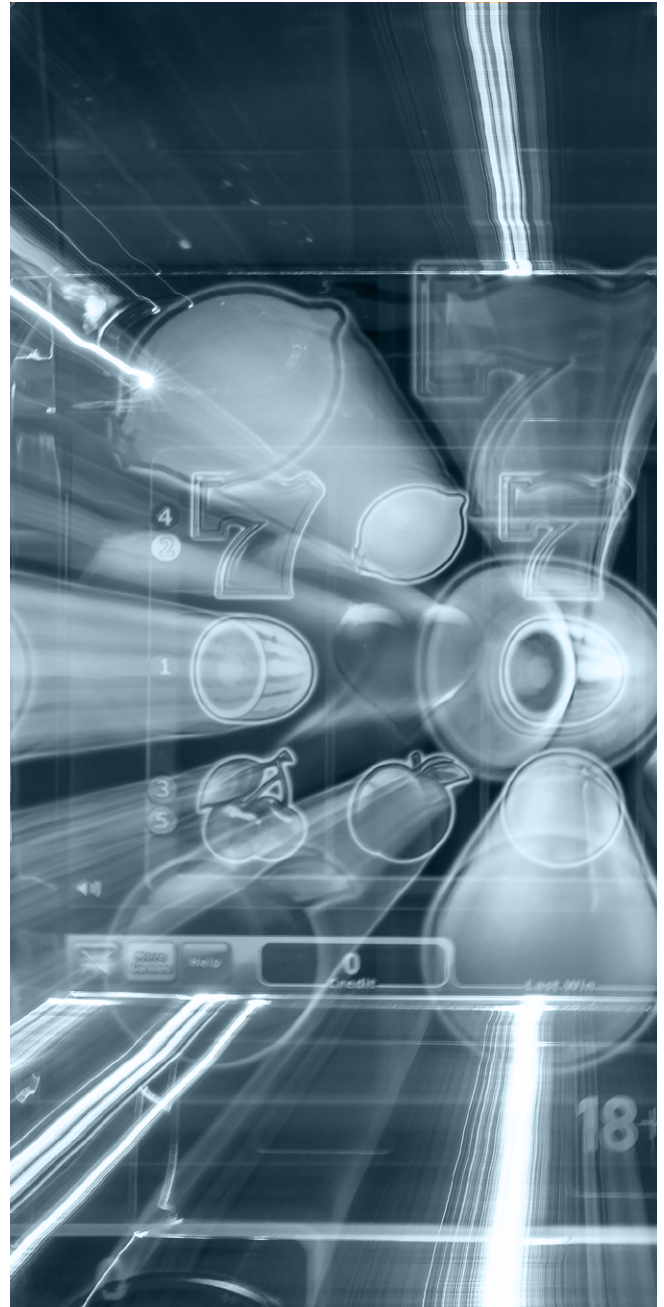
However, the control of the operations is not restricted to the guidelines of such Decree. Since the publication of Federal Law No. 14,790/2023, the Ministry of Finance has published eighteen decrees regarding the requirements that must be followed by sports betting and online gaming platforms. In this context, Decree No. 722/2024, which outlined the gambler's financial management requirements, states that all contributions and withdrawals of financial resources must be carried out "exclusively through wire transfer between the gambler's registered bank account and the operator's transactional account, both held with institutions authorized to operate by the Central Bank of Brazil, pursuant to Section 22 of Law No. 14,790, of 2023" (Section 21, Annex I). Implementing this requirement is one of the security mechanisms that can contribute to AML/CFT and support the policies, procedures and internal controls provided by Decree No. 1,143/2024.

Therefore, it can be noted that the set of regulations aims to improve the control of operations and prevent the practice of illicit conduct by gamblers.

These changes indicate Brazil's concern to meet the emerging demands of the global market. One example is the recent publication of the "National Money Laundering Risk Assessment (NMLRA)" by the US Treasury Department, which indicated that the rapid growth of the online sports betting sector and the lack of specific regulations contribute to a significant risk of money laundering¹.

In view of this scenario, several European countries have started to require betting operators to present AML/CFT rules in order to obtain an operating license. Malta and England, recognized as leaders in the regulation of the betting industry in Europe, set strict requirements aimed, among other things, at preventing money laundering².

In this regard, the new regulations reflect the need to standardize the due diligence procedure for betting operators and to reduce the risks of any possible administrative liability for non-compliance with the established parameters and of criminal liability for the practice of ML/FT and other related crimes.



1 U.S. DEPARTMENT OF THE TREASURY. **National Money Laundering Risk Assessment (NMLRA)**. United States, 2024. Available at: <https://home.treasury.gov/system/files/136/2024-National-Money-Laundering-Risk-Assessment.pdf>. Accessed on: 08/06/2024.

2 REGULATED UNITED EUROPE. **Gambling regulations in Europe 2024**. Available at: <https://rue.ee/gambling-regulations-in-europe-2024/>. Accessed on: 08/08/2024.

Decree No. 1,143/2024: AML/CFT rules for fixed-odds betting operators in Brazil

Internal Policies	Internal Procedures	Internal Control
<ul style="list-style-type: none"> Defining roles and resulting responsibilities related to the Decree's compliance Identifying, assessing, analyzing and mitigating risks related to new products, services, or technologies that could be used for ML/TF Developing, implementing, and executing compliance programs on AML/CFT, including integrity, good governance, and ESG agenda Regular and ongoing training on preventing ML/FT and related offenses, for employees, partners, and third-party service providers. 	<ul style="list-style-type: none"> Identifying, qualifying, and classifying the risk of gamblers, platform users, employees, partners, and third-party service providers This also includes assessing and classifying risks in their activities related to betting operations, business activities, contracts, product development, financial and real estate transactions, as well as hiring of employees, partners, and third parties. 	<ul style="list-style-type: none"> Recording and keeping information on operational, business and administrative activities, related to gamblers, platform users, employees, partners, and third-party service providers Periodically checking and monitoring compliance with the adopted policies, as well the payment and financial institutions compliance, ensuring authorization by the Central Bank of Brazil Monitoring the activities to communicate any suspicious transactions to COAF, as per the requirements set on Federal Laws No. 9,613/1998 and 13,810/2019.

Internal Policies	Internal Procedures	Internal Control
<p>An annual report must be forwarded to SPA by February 1st every year containing all information on the good practices adopted to comply with the AML/CFT policies and procedures.</p>	<p>An annual internal assessment must be made to identify and measure risks, based on a risk matrix, considering the risk profiles of gamblers and platform users, operators and their business, employees and transactions.</p>	<p>Betting operators must implement mechanisms to prevent the registration of people prevented from betting, as provided for in Federal Law No. 14,790/2023.</p>



Communication to COAF

As provided for in Federal Law No. 9,613/98, sports betting operators were already required to **report suspicious activities to COAF**.

Decree No. 1,143/2024 reinforced this obligation and indicated the main activities that must be analyzed by operators.

This analysis must be completed **within 30 days** of the bet or associated transaction, gathering elements to conclude whether there is evidence of ML/FT or related offenses. If no suspicious bets or operations are identified within a calendar year, the operator must submit a **non-occurrence communication to the SPA**.

Main suspicious factors set forth in Section 24 of the Decree

- Individuals located in **jurisdictions classified by FATF as high-risk or strategically deficient in AML/CFT matters**, or in jurisdictions designated by Brazil's Federal Revenue Service as tax havens or with privileged tax regimes
- Sharing of false information or information that is difficult to verify
- Incompatibility between the transactions carried out by gamblers and their usual pattern of activities
- Atypical allocation of funds

- Withdrawal of funds in a short period of time
- Improper use of the account by someone other than the holder
- Accounts opened in the name of a politically exposed person (PEP)



Asset freezing orders issued by the United Nations Security Council (UNSC)

Betting operators must adopt procedures, as provided for in Federal Law No. 13,810/2019, to urgently comply with resolutions and orders from the UNSC for the freezing of assets of any individuals or legal entities.

Procedures must include:

- Monitoring lists kept by the UNSC and its sanctions committees of individuals and entities affected by asset freezing orders; and
- Policies to comply with other rules set forth in Federal Law No. 13,810/2019.

SANCTIONS

Failure to comply with the AML and KYC requirements may result in the sanctions set forth in Federal Law No. 9,613/1998:

Warning;

Variable pecuniary fine not exceeding:

- a) the double of the transaction amount
- b) the double of the real profit obtained or that would presumably be obtained if the transaction was carried out
- c) the amount of R\$ 20 millions

Temporary prohibition for up to ten years from holding management positions in legal entities;

Cancellation or suspension of the company's authorization to perform its activity, run its operations or function.



SPA/MF will only implement the inspecting, monitoring and sanctioning rules for failure to comply with the provisions set forth in the Decree as of January 1st, 2025.



Sócios responsáveis pelo boletim

 Isadora Fingermann