


Brazil's President enacted Provisional Presidential Decree No. 1,182/2023 on July 25, 2023, which partially amends Federal Law No. 13,756/2018 that **regulates sports betting**. The Provisional Presidential Decree will remain in effect for up to 120 days, or until it is approved by the National Congress, whichever comes first.

Please find below the **highlights**:

AUTHORIZATION TO OPERATE SPORTS BETTING IN BRAZIL

 Law No. 13,756 deems sports betting as a public service granted and overseen by the Federal Government in a competitive environment. The Ministry of Finance is responsible for authorizing, regulating, supervising, and monitoring the operation of private entities.

The Provisional Presidential Decree does not specify the authorizations validity period or the amount that the operator must pay to obtain it, which will be determined by the Ministry of Finance.

Foreign companies are authorized to operate sports betting through a subsidiary or branch established in Brazil. They are also subject to meeting specific requirements to be set by the Ministry of Finance's regulations.

- The Ministry of Finance may, when exercising its supervisory activities, order the suspension or prohibition of bets in specific events occurring during the match other than the particular prognosis of the final result.

GROSS GAMING REVENUE (GGR)

Under the proposed legislation, the sports betting operator is entitled to 82% of the GGR, with the difference being destined as follows: (i) 10% to the Social Security System; (ii) 3% to the Ministry of Sports; (iii) 2.55% to the National Fund of Public Security; (iv) 1.63% to football clubs and athletes; and, (v) 0.82% to basic education.

ADVERTISING



The Provisional Presidential Decree prohibits unauthorized operators from commercially advertising their services. This prohibition also applies to acquiring, licensing, or financing to purchase rights to sports events held in Brazil.

Communication, advertising, and marketing actions by authorized operators must comply with the Ministry of Finance's regulations, including the code of conduct and dissemination of good practices.

The Provisional Presidential Decree also provides that the National Council for Advertising Self-Regulation (CONAR) may establish additional restrictions, guidelines, and issue specific recommendations in addition to the regulation by the Ministry of Finance.

COMPLIANCE AND ANTI-MONEY LAUNDERING



The operator must promote informative and preventive campaigns to prevent pathological gambling, using codes of conduct and good practices.



The operator must be a member of a sports integrity monitoring entity.



The Ministry of Finance is responsible for regulating, monitoring, and applying administrative sanctions to operators who violate anti-money laundering procedures set forth by Federal Law 9,613/98 (i.e., implementing an anti-money laundering internal policy, adopting know-your-client and know-your-partner procedures, recording, analyzing, and reporting suspicious financial activities to the Financial Activities Control Council).

RESTRICTIONS ON BETTORS AND OPERATORS

The following persons, among others, are prohibited from betting, either directly or indirectly:

- Minors.
- Owners, administrators, officers, and their respective spouses and relatives of sports betting operators.
- Managers or employees of sports betting operators.
- Those who have or may have any influence on the outcome of sports events, such as referees, sports managers, coaches, athletes, or competitors.
- Public agents directly involved in the regulation, control, or oversight of the activity.



CONFLICT OF INTEREST

The partner or controlling shareholder of a sports betting operator cannot have a direct or indirect participation in the so-called football corporations ("SAF") or in professional sports organizations, nor can they act as a manager of a Brazilian sports team.

PAYMENT FLOW

The payment flow between operators and gamblers must only occur through bank accounts registered at financial institutions authorized to operate by the Brazilian Central Bank.

SANCTIONS

The following sanctions may be applied to those who violate the provisions of the Provisional Presidential Decree:

- warning.
- fine between 0.1% and 20% of the proceeds from the total collection, after deduction of income tax and social security contributions, relating to the latest fiscal year prior to the offense. If the amount cannot be calculated, the fine will be at least R\$ 50,000 and at most R\$ 2 billion.
- partial or total suspension of activities for up to 180 days.
- withdrawal of authorization to operate sports betting in Brazil.
- prohibition from obtaining a new authorization to operate sports betting in Brazil for a maximum period of 10 years.
- prohibition from participating in bidding for the concession of public services of the Federal Government for a minimum term of 5 years.
- prohibition (of natural persons) from acting as director, administrator, or member of the governing body of a legal entity that exploits any lottery modality for a maximum period of 20 years.

Furthermore, the Ministry of Finance may require internet providers to block access to unauthorized operators' websites.

TAX

In addition to part of the GGR being destined to the National Security Agency and other entities, the legislation also established that the operator would be subject to paying the taxes of regular companies established in Brazil, such as the Corporate Income Tax (CIT), Social Contribution Tax (SCT) and turnover taxes (PIS and COFINS). The operator is also liable for withholding taxes at source upon prizes.

BILL OF LAW 3,626/2023

The Federal Government has also presented Bill of Law No. 3,626/2023 to amend and improve the legislation on sports betting and commercial promotions (Provisional Presidential Decree No. 2,158/2001, Law No. 5,768/1971 and Law No. 13,756/2018). The bill includes the following rules, among others:

- Authorized operators' obligation to adopt integrity programs, with policies, procedures and internal controls aimed at preventing money laundering, terrorism proliferation and proliferation of weapons of mass destruction, manipulation of results and other frauds.
- Authorization for the Ministry of Finance to apply precautionary measures, such as the temporary deactivation of tools, equipment, systems, or other objects and components intended for the operation of machines and installations.
- The possibility of signing agreements in sanctioning processes, in line with a recent trend in the Brazilian administration, would allow the Ministry of Finance and the operator to negotiate the replacement of the sanction provided for in Law 13,756 (with the wording of the Provisional Presidential Decree).

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