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DEMAREST



A GUIDE TO THE  
**NEW REGULATION OF  
SPORTS BETTING AND  
ONLINE CASINO GAMES**  
KNOW THE RULES OF THE GAME

## INTRODUCTION

Sports betting and online casino games were among the top regulatory topics in 2023.

The long-awaited “New Sports Betting Law” ([Law No. 14.790/2023](#)), was published on December 20, 2023, and is expected to stimulate an already booming market that generates more than BRL 120 billion each year ([BNL Data](#)).

In order to maintain Brazilian operations, international companies need authorization from the Ministry of Finance, which will only be granted to companies incorporated under Brazilian law, and headquartered and managed in Brazil. Failing to comply with these regulations can result in numerous penalties, such as fines of up to BRL 2 billion.

Our team of experts has created a Q&A guide on the main requirements and restrictions brought by the New Sports Betting Law.

This guide will be revised and updated progressively, as the Ministry of Finance must still regulate several matters within this context.



## MAIN QUESTIONS AND ANSWERS

### 1. Which authority regulates and oversees the matter?



Ministry of Finance (Secretariat of Prizes and Betting).

### 2. Which types of gaming and betting does the New Sports Betting Law address?

- **Sports betting (real sporting events)**

- **Online gaming events** – casino games or gambling.

The new law also defines the modality of games called “**fantasy sport**”, but exempts it from authorization by the Ministry of Finance.



### 3. Can a company based abroad obtain authorization from the Ministry of Finance?



**No.**

To be eligible, legal entities must be incorporated under Brazilian law, headquartered and managed in Brazil, and compliant with the Ministry of Finance’s regulation.

<sup>1</sup> E-sports that involve online matches with human players, in which:

- Teams are formed of at least two human players, whose performance is predominantly based on knowledge, statistical analysis, strategy and skill;
- There are pre-established rules;
- Guaranteed winnings do not depend on the number of players or the amount collected from registration fees; and
- Results do not depend on the performance of a single player.

#### 4. What is the main requirement for a company to start operations in Brazil?

Companies must obtain **authorization from the Ministry of Finance**, and this authorization:



Will not be subject to a minimum or maximum number of operators;



Will be strictly personal, non-negotiable and non-transferable; and



Can be granted for five years at the Ministry of Finance's discretion.

The company must pay up to BRL 30 million to obtain the authorization to use 3 trademarks in its electronic channels (website, app).

#### 5. What are the main requirements for obtaining authorization?

The New Sports Betting Law **sets 9 general requirements**, and the Ministry of Finance's Normative Ordinance No. 1,330/2023 **sets 13 requirements** to obtain authorization.

The Ministry of Finance will publish new regulations to address the current requirements, including the list of documents to request authorization and the requirements for foreign companies that intend to set up subsidiaries in Brazil.

Regarding the operators' corporate structure, here are the main criteria:



**A Brazilian partner must hold at least 20% of the company's capital<sup>2</sup>;**



Controlling partners and shareholders (individually or as members of the controlling group) cannot hold a direct or indirect interest in a Football Corporation (SAF) or professional sports organization or manage a Brazilian sports team;



Companies whose authorizations (in other jurisdictions) have been revoked in the last five years will not be eligible.

<sup>2</sup> This requirement is generating a lot of discussion and doubts and should be better detailed in future regulations from the Ministry of Finance.

## MAIN QUESTIONS AND ANSWERS

### 6. What is the deadline for complying with the new regulation?



Companies will have **at least six months** to comply with the Ministry of Finance's conditions and deadlines to operate in Brazil under the new regulation. The rules for the countdown and possible extension of this period will be better defined in future regulations

### 7. Must companies implement compliance policies?

**Yes.**

Companies must prove that they have policies, procedures and internal controls in place for:



Establishing customer service and ombudsman channels;



Preventing money laundering, financing of terrorism and proliferation of weapons of mass destruction;



Promoting responsible gambling and preventing gambling disorders;



Ensuring betting integrity and preventing any type of match-fixing and fraud;



Protecting personal data according to the Ministry of Finance's requirements under the Brazilian General Data Protection Law; and implementing domestically or internationally certified cyber and information security measures.

The Ministry of Finance will consider all current regulations to establish requirements and guidelines to implement policies and assess their efficiency.

## 8. Are there advertising restrictions?

**Yes.**

Sports betting communication, advertising, and marketing are subject to several legal restrictions. Violators may face penalties.

Companies must not advertise a trademark, symbol, trade name, or electronic channels without authorization.

Companies that advertise irregularly will face penalties from authorities (notified by the Ministry of Finance):



**Companies that run advertising campaigns, including application service providers (ASP):** Irregular campaigns will be banned.



**Internet service providers (ISPs) and application service providers (ASPs):** Irregular websites and applications will be blocked or removed, respectively.



**ASPs that offer third-party applications:** Irregular sports betting apps will be removed.

Additionally, operators, their controllers and subsidiaries are prohibited from acquiring, licensing or funding the acquisition of sports events broadcasting rights.

## 9. What are CONAR's restrictions and penalties against irregular advertising?

The Brazilian Advertising Self-Regulation Council's ("CONAR") code prohibits sports betting advertising campaigns from:

- Excessively encouraging betting;
- Using minors as a target audience; and

- Featuring individuals who are or appear to be younger than 21 years old.

CONAR may demand modifications or even suspend the campaign under Article 50 of the Brazilian Advertising Self-Regulation Code.

## MAIN QUESTIONS AND ANSWERS

### 10. What are the rules for digital influencers and ambassadors?

Sports betting companies can sponsor digital influencers, ambassadors, affiliates, partners and the like if their advertising content complies with the following rules:



Consumers must be able to clearly and immediately distinguish advertising campaigns from any other editorial content.



Social media ads can only be run on pages, blogs, channels, profiles, or through influencers whose target audience does not involve minors.



Social media profiles and websites that advertise betting must be officially verified as the service's owners (through a seal or icon) according to each platform's criteria or must include an "official profile" description informing users that these are the brand's official communication channels.





## 11. What are the main advertising restrictions?

Whether online or offline, in major outlets or on social media, through third parties or influencers, ambassadors, affiliates, partners or the like, advertising campaigns **cannot**:



Promise easy, guaranteed and high-value winnings;



State, imply or lead consumers to believe that game results can be controlled or anticipated;



Allow minors to participate in betting or be targeted as potential bettors through ads run via any channel, program or media aimed at minors;



Offer credit or loans to consumers, who must eventually reimburse operators or third parties and may consequently fall into debt.



## MAIN QUESTIONS AND ANSWERS

### 12. Who cannot participate in betting?

The following individuals must not participate in direct or indirect (through intermediate parties) betting:



Individuals under 18 years old;



Individuals that hold or might hold any influence on the results of a real sports-themed event that has been subject to a fixed-odds betting lottery;



Owners, managers, directors, employees or any individuals that hold influence within the operator;



Government agents whose work is related to betting regulation, control and oversight;



Individuals diagnosed with gambling addiction by a certified mental health professional; and



Individuals that have or might obtain access to computerized fixed-odds betting systems;



Other individuals under the Ministry of Finance's regulation.

Any bets these individuals place will be deemed null and void. This ban extends to spouses, partners, and relatives (lineal and collateral kinship until the second degree), which reinforces the importance of implementing internal controls.

### 13. Do companies need to verify the bettors' identity?



**Yes.**

Under the new law, betting operators must implement identification and facial recognition technology to verify the bettors' identities.

These procedures may also involve cross-checks with public and private databases and other channels listed in the user's registration.

#### 14. Will bettors' profiles and behavior be monitored?

**Yes.**

The Ministry of Finance will regulate the operators' duty to implement efficient procedures to monitor bettors' activities once they open an account. This measure seeks to prevent or address any betting-related damage.

Companies must monitor:



Spending amounts and habits;



Any contact initiated by bettors; and



Playing time;



Use of gambling management tools.



Behavioral indicators;

#### 15. What are the restrictions on the betting operators' conduct?

Betting operators **must not**:



Offer advanced funds, bonuses or advantages, even through a promotion or advertisement;



Establish or authorize the establishment, on its premises, of any business or legal representative that grants credit to or purchases receivables (factoring) on behalf of bettors.



Enter into a partnership, an agreement, contract or any business arrangement aimed at enabling easier access to credit or factoring operations for bettors; and

#### 16. How will the operators' gross gaming revenue be taxed?

Social contributions will be levied on the operators' gross gaming revenue at 12%. Additionally, operators will be subject to the Corporate Income Taxes (IRPJ and CSLL) and the Social Contributions on Gross Revenue (PIS and COFINS).

The Brazilian Congress is currently assessing the possibility of including a Services Tax (ISS) levy on betting.

## MAIN QUESTIONS AND ANSWERS

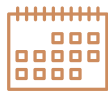


### 17. Which taxes are levied on winnings?



Income tax (IRPF) will be levied at 15% on net winnings from fixed-odds sports betting and fantasy sports.

### 18. Is there a deadline for bettors to receive their winnings?



**Yes.**

Bettors must claim bet winnings within **90 days** after the operator announces the respective real sports event results. Otherwise, bettors will lose their rights to the winnings or a refund.

### 19. What are the main consumer-related focus points?



Under the Consumer Protection Code, the main concerns are advertising campaigns with abusive or misleading advertising and binding offers.

In case of abusive or misleading advertising, offenders may face **a fine and two to six months in prison**. In the case of binding offers, betting operators must provide their advertised services (e.g., payment plans) exactly as announced.

## 20. Will there be an inspection fee?



**Yes.**

The Ministry of Finance will collect a monthly fee (BRL 54,419.56 - BRL 1,944,000.00) based on the operators' net revenue.

## 21. What are the main tax-related aspects in M&A operations and when establishing local entities?



Assessing tax efficiency will be essential to:

- Incorporate local entities in Brazil, which will require a tax impact assessment of the contribution of international assets and transactions to enable the transfer of the necessary assets to the Brazilian entity, such as software licensing, royalties, and provision of technical services; and
- M&A transactions in Brazil and the potential tax deductions related to the goodwill amortization in equity acquisitions, when specific legal conditions are met.

## 22. Are there restrictions on betting-related transactions?



**Yes.**

Under the new law, payment transactions cannot involve companies unauthorized by the Ministry of Finance to operate fixed-odds sports betting platforms. This measure aims to ensure security and transparency in financial transactions.

As a result, payment institutions (including banks) must not provide financial transaction services to these companies.

Likewise, only authorized payment institutions and banks may provide financial services and digital accounts for bettors to transfer funds and use or withdraw bet-related winnings.

## MAIN QUESTIONS AND ANSWERS

### 23. What are the penalties for violating the new law?

Individuals and legal entities that violate the new law are subject to the following penalties (cumulatively or individually):



Warnings;



Legal entity: fine of 0.1% to 20% on proceeds (after taxes) of the fiscal year before the sanctioning proceeding is filed. The fine must not be lower than the proceeds (if this amount can be defined), nor exceed BRL 2 billion per violation;



Individuals or legal entities: fine of BRL 50,000.00 to BRL 2 billion per violation;



Partial or full suspension of operations for up to 180 days;



Annulment or revocation of authorizations, concessions, registrations, accreditations, etc.;



A ten-year ban (as a maximum deadline) from obtaining new authorizations, grants, permits, accreditation, registration, etc.;



Ban on specific activities or operations for up to ten years;



A five-year ban (as a maximum deadline) from bidding in public procurement proceedings with the federal government; and

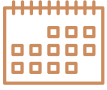


A 20-year ban (as a maximum deadline) from working in management, administrative, or government positions listed in the articles of incorporation of a legal entity that operates or provides lottery services.

These penalties apply to any individuals or legal entities that:

- Operate in the fixed-odds sports betting sector without the Ministry of Finance's authorization; and
- Serve in any management or board positions listed in the articles of incorporation of a legal entity governed by the Ministry of Finance.

## 24. What is the adjustment deadline for financial institutions authorized by the Central Bank of Brazil (BC)?



According to the new law, these institutions must not operate with companies that are not authorized by the Ministry of Finance to offer betting services. However, financial institutions will have at least **90 days after the Ministry of Finance starts the betting operators' accreditation process** to adjust to the new regulation.

This measure is aimed at smoothing over this regulatory transition and a specific deadline will be set by the Ministry of Finance. As such, financial institutions must carefully monitor the Ministry of Finance's and the BC's regulatory updates regarding this matter.



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