

E-book

REGULATION OF SPORTS BETTING IN BRAZIL

1. REGULATORY OVERVIEW

It's no longer news that the sports betting sector in Brazil generates billions of reais every year. However, until recently, Brazilian legislation prohibited this practice, a change that occurred initially with the implementation of Law No. 13.756/18, which legalized fixed-odds sports betting. This was followed by Law 14.790/2023, commonly referred to as the "Betting Law", which represents significant progress in regulating the sector, providing for a licensing process, compliance requirements, taxes, protection measures, transparency, penalties and sanctions, among other issues.

In this context, following the advent of the "Betting Law", in order to regularize the market and ensure that operators comply with the provisions of Federal Law No. 14,790/2023, the Secretariat of Prizes and Betting (SPA), linked to the Ministry of Finance, published SPAMF Ordinance No. 827/2024, which establishes the criteria and guidelines for authorizing the commercial exploitation of fixed-quota sports betting by private companies in Brazil. This Ordinance also includes annexes detailing the authorization procedure, providing model documents and instructions to be followed, with the aim of facilitating the process.

If authorized by the Ministry of Finance, companies will be able to operate legally in Brazil from January 2025. Websites that operate without authorization will be subject to penalties, with fines ranging from R\$50,000.00 to R\$2 billion per infraction. As of October 2024, bets (online betting companies) that have not filed an application for authorization to operate in Brazil will have their activities suspended and the websites of unauthorized companies will be taken offline by the National Telecommunications Agency (Anatel). Companies that are suspended will be able to apply for authorization later, but in addition to being subject to penalties, they will have a longer process in which to analyze the requirements.

With the recent law, the requirement for authorization and the growth of the business, several ordinances have been issued defining clear rules for the market, creating the legal and fiscal foundations for operation, which are detailed by subject below:

| Subject | Regulation |
|------------------------------------|---|
| Laboratory certification | <u>SPA/MF Regulation No. 300, of February 29, 2024</u> - Defines the requirements for approving laboratories responsible for certifying online gaming and betting platforms. |
| Payments | <u>SPA/MF Regulation No. 615, of April 16, 2024</u> - Establishes rules on the means of payment accepted in the operation of fixed-odds betting. |
| Betting system | <u>SPA/MF Regulation No. 722, of May 2, 2024</u> - Establishes requirements for the operation of the Betting Management System (SGAP). |
| Documents for authorization | <u>SPA/MF Regulation No. 827, of May 21, 2024</u> - Specifies the requirements that operators must meet in order to obtain authorization from the SPA. |
| Preventing money laundering | <u>SPA/MF Regulation No. 1.143, of July 11, 2024</u> - Regulates measures to prevent money laundering and other financial crimes related to gambling. |
| Online games and live studios | <u>SPA/MF Regulation No. 1.207, of July 30, 2024</u> - Defines guidelines for live broadcasts in specialized studios, as well as rules for auditing and certification. |
| Social application of resources | <u>SPA/MF Regulation No. 1.212, of July 30, 2024</u> - Rules on how to distribute funds collected for social purposes as provided for in Law No. 14.790/2023 |
| Supervision and monitoring | <u>SPA/MF Regulation No. 1.225, of July 31, 2024</u> - Defines procedures and requirements for monitoring and inspecting betting activities. |
| Responsible gaming and advertising | <u>SPA/MF Regulation No. 1.231, of July 31, 2024</u> - Rules on responsible advertising, marketing actions and protection of consumer rights, impacting the digital market and digital influencers. |
| Sanctions | <u>SPA/MF Regulation No. 1.233, of July 31, 2024</u> - Regulates the sanctioning regime applicable to the quota betting market. |

2. AUTHORIZATION FOR COMMERCIAL EXPLOITATION

- **SPA/MF Ordinance No. 827/2024** specifies the operational rules and requirements for obtaining authorization, with the aim of ensuring that companies operate within the legal and operational limits defined by the SPA. The process for obtaining authorization to operate fixed odds betting follows the procedure below:

Application protocol:

It must be done in the Betting Management System (SGAP), with all the required documentation, and filed by a legal representative of the applicant.

Forwarding to the Ministry of Sport:

Within 15 days, the SPA electronically forwards the request to the Ministry of Sport for its opinion on the sports disciplines sought.

The Ministry of Sport will have up to 45 days to give its opinion, guaranteeing the legality of the planned modalities.

Payment of the Analysis Fee:

As soon as it receives the opinion from the Ministry of Sport, the company has 15 days to pay the authorization analysis fee. After this payment, the process is sent for technical analysis.

Publication of Authorization

Once all the steps have been completed and approval has been granted, the SPA will publish the company's authorization in the Federal Official Gazette. This document allows operations to begin.

Hypotheses of Rejection

- The request for authorization may be rejected in the following cases:

Insufficient documentation: When the documents submitted are insufficient or do not comply with regulatory requirements.

Absence of Additional Information: If the company does not provide additional information requested during the analysis process.

2.1 HOW TO OBTAIN AUTHORIZATION

General Requirements:

- The company must be incorporated in accordance with Brazilian law, i.e. it must be a limited company or a joint stock company.
- The company's headquarters and administration must be in Brazilian territory, guaranteeing national control over the operation.
- Subsidiaries of foreign companies are allowed, as long as they respect the minimum participation of a Brazilian with at least 20% of the share capital.

Deadline for Regularization:

- Companies that were already operating before the Law need to regularize their situation by December 31, 2024.

Required Documents:

- **Application Form:** The form must be completed in accordance with the template provided by the SPA and contain detailed information on the controlling shareholders and holders of qualifying holdings.

- **Proof of Share Capital:** The company must have a minimum share capital of R\$30 million already paid in and a financial reserve of R\$5 million.
- **Certificates and declarations:** Certificates of tax and labor regularity, declaration of the lawful origin of the funds and the suitability of the controllers are mandatory.

2.2 MAIN REQUIREMENTS AND COMPLIANCE CRITERIA

Rules for Audits

- Independent audits are mandatory to validate financial operations and guarantee the integrity of bets, as established by SPA/MF Ordinance No. 1,207/2024.
- Audits need to be conducted by companies with proven experience and should be carried out periodically, guaranteeing transparency.

Advertising and Marketing:

- Advertising must follow ethical standards, according to SPA/MF Ordinance No. 1,112/2024. This includes avoiding content aimed at minors or people susceptible to gaming addiction.
- Warning messages should be present in all advertising campaigns, promoting responsible gambling.
- Digital influencers: Communication, publicity and advertising and marketing actions for fixed-odds lotteries that present gambling as socially attractive or contain statements by well-known personalities or celebrities that suggest that gambling contributes to personal or social success or to improving financial conditions are prohibited. Campaigns about gambling that suggest easy winnings or associate the idea of success, encourage excessive practices, establish links with personal and financial success, and induce the belief that gambling can be an alternative to employment or a solution to financial problems are prohibited. Another prohibition is the call to action (e.g. "Click here and start playing!").

Transparency and Reporting:

- Periodic reports, in accordance with SPA/MF Ordinance No. 1,225/2024, must be submitted to the Ministry of Finance. These reports include:

Financial Report: Complete data on financial operations, showing the origin and destination of funds.

Operational Integrity Report: Information on the practices adopted to ensure that bets are conducted fairly and without manipulation.

2.3 OPERATIONAL PROCEDURES

Bettor Service Channels:

- A customer service channel must be available 24 hours a day, 7 days a week, as established by SPA/MF Ordinance No. 1,231/2024. This service must offer assistance with questions, complaints and technical problems.

Limitation of Trademarks:

- Each company can exploit up to three trademarks on its electronic channels. All betting sites must have the "bet.br" domain, as stipulated by SPA/MF Ordinance No. 722/2024.

2.4 PENALTIES AND SANCTIONS

Penalties for Irregularities:

- Companies that fail to comply with the rules will be subject to fines, suspension of their license and, in extreme cases, cancellation of their authorization to operate, according to SPA/MF Ordinance No. 1,233/2024.

Termination of Authorization:

Authorization can be terminated in situations such as:

Expired Term: At the end of the five-year authorization **period**, if there is no request for renewal.

Failure to comply with rules: If the requirements are not met, the authorization can be revoked.

Supervening factors: Reasons of public interest may justify the revocation of the authorization.

3. ROLE OF GOVERNMENT BODIES

SPA (Prize and Betting Office): Responsible for analyzing authorization requests and monitoring compliance with the established rules.

Ministry of Sport: Defines the sports that can be bet on and keeps an up-to-date list available to the public.

Federal Attorney General's Office (AGU): Acts to resolve any conflicts between the bodies involved in the regulation of betting, especially in disagreements between the SPA and the Ministry of Sport.

4. FINAL CONSIDERATIONS

Points of Attention for Companies that already operate the activity or wish to obtain authorization:

- **Compliance with Standards:** Maintaining compliance with all legal and regulatory requirements is key to avoiding penalties and ensuring safe operation, without prejudice to implementing strict anti-money laundering measures, including customer verification and transaction monitoring.

5. LEGAL ADVICE AND SUPPORT:

- Specialized legal advice is recommended, especially given the complexity of regulatory requirements. Compliance depends on a detailed understanding of the applicable laws and regulations. Campos Thomaz Advogados has in-depth knowledge of the subject, with a dedicated team to monitor the market, regularization and compliance of the activity.

