

[Non-official translation from Portuguese]

**PROPOSED DRAFT DECREE**

**Regulates fixed-odds betting lottery,  
referred to in Article 29 of Law No.  
13,756 of 12<sup>th</sup> December 2018.**

**THE PRESIDENT OF THE REPUBLIC**, using the authority conferred upon him by Article 84, Clauses IV and VI, subparagraph "a", of the Federal Constitution, and in view of the provisions of Articles 29 to 35, and Annex, of Law No. 13,756 of 12<sup>th</sup> December 2018,

**DECREES:**

**CHAPTER I**

**GENERAL PROVISIONS**

**Article 1** - This Decree regulates the fixed-odds betting lottery, referred to in Article 29 of Law No. 13,756, of 12<sup>th</sup> December 2018.

**Sole Paragraph.** The lottery referred to in the **caption**, created as a public service exclusive to the Federal Union, is to be operated exclusively in a competitive environment, throughout the entire national territory.

**Article 2** – This Decree will use the following definitions:

**I** – regulator: body responsible for regulating, authorizing, standardizing and supervising the activities related to Fixed-Odds Betting;

**II** – fixed-odds betting lottery: lottery modality consisting in a betting system relative to real sports-themed events, in which is defined at the moment the bet is placed, how much the bettor can win should the prognostic be correct;

**III** – bettor: individual aged eighteen years old or older, who placed a bet online or purchased a printed ticket at a land-based point of sale;

**IV** – operator: corporate entity or consortium, group or conglomerate of companies with authorization to operate fixed-odds lottery in physical and virtual media;

**V** – service provider to operator: individual or corporate entity rendering services to the operator;

**VI** – dealer: individual or corporate entity authorized by the operator, at his/her/its own risk, to sell fixed-odds bets to the public;

**VII** – virtual bet: that placed directly by the bettor online, before or during the real event to which the bet refers;

**VIII** – physical bet: that placed in person by purchasing a printed ticket, before or during the real event to which the bet refers;

**IX** – fixed-odds: multiplication factor of the amount wagered that defines the amount to be received by the bettor, in case of winnings, for each unit of national currency wagered;

**X** – responsible gaming: that which takes into account the operator’s social responsibility to adopt guidelines and practices aimed at preventing gaming disorders and protecting vulnerable persons, minors and the elderly; and

**XI** – real sports-themed events: any and all event, competition or act that is part of sporting competitions, tournaments, games or events with human interaction, whether individual or collective, including in virtual media, excluding those exclusively involving the participation of minors, promoted in accordance with the rules established by a sporting organisation or its affiliated organisations, or, as the case may be, in accordance with the rules of any other competent sporting organisation, the outcome of which is unknown at the time of the bet.

## CHAPTER II AUTHORIZATION

**Article 3** - The operation of the public fixed-odds betting lottery service, at federal level, depends on the discretionary authorization by the Federal Executive Branch, without limitation to the number of authorizations and will be performed by corporate entities offering services to bettors located in the national territory.

**Paragraph 1.** The authorization will be valid for five years.

**Paragraph 2.** The payment of BRL 22,200,000.00 (twenty-two million, two hundred thousand *reais*) by the interested party is a condition precedent for the granting of an authorization;

**Paragraph 3.** A foreign company may be authorized to operate the fixed-odds betting lottery provided that it opens a branch in Brazil and has sufficient capital and economic and financial capacity to support the activity to be performed.

**Paragraph 4.** The authorization referred to in this article requires the appointment, by the operator, of at least one legal representative, one accounting representative, one ombudsman and one compliance officer, established in Brazil.

**Article 4** – The application for authorization must be submitted to the regulator accompanied by the following documents:

**I** – for the corporate entity applying for the authorization, and controller thereof (as may be the case):

**a)** criminal, administrative, civil and financial clearance certificates and also tax clearance certificate;

**b)** copy of the articles of association; and

**c)** proof of sufficient economic and financial capacity to support the fixed-odds betting it intends to operate in the country, which must be expressed by the ratio between corporate capital and maximum betting volume, as per the provisions of a norm issued by the regulator;

**II** – for the controlling shareholders, the occupants of executive board positions, as well as the legal, accounting, ombudsman and compliance representatives of the company applying for the authorization and of its controller (as may be the case):

**a)** criminal, administrative, civil and financial clearance certificates and tax clearance certificate; and

**b)** documentation evidencing the inexistence of conviction by a final and conclusive decision (not subject to appeal), or issued by a collegial body, as from the conviction until the expiration of eight years after the sentence has been served, for crimes:

1. against life, personal dignity, popular economy, public faith, public administration, public or private assets, the tax system, the financial system, capital markets, the environment, and public health;

2. contemplated by Law No. 11,101, of 9<sup>th</sup> February 2005;

3. of an electoral nature, for which the law imposes penalties involving imprisonment;

4. of abuse of authority, in cases where there is a conviction of loss of public office or disqualification from holding public office;

5. of laundering or concealing assets, rights and monies;

6. of narcotics and drug trafficking, racism, torture, terrorism and financing thereof, heinous crimes and human trafficking.

7. of reduction to a condition analogous to slavery;

8. of criminal association.

**III** – others that may be required by any norm issued by the regulator.

**Paragraph 1.** The application for authorisation and the required documents must be in Portuguese or officially translated [into Portuguese if in a foreign language].

**Paragraph 2.** The regulator will have thirty days, counted as from the date the application is filed, to review the conformity of the documentation submitted with the requirements of the headings of the **caption**.

**Paragraph 3.** Once the requirements set out in the headings of the **caption** are deemed to have been satisfied, the applicant will be informed and notified to provide evidence, as per the provision of the regulatory norms as to:

**I** – its technical qualification;

**II** – the provision of a bank or financial guarantee;

**III** – the structure and means required to comply with requests from the competent authorities, in particular as regards the provision of data and information in compliance with the deadlines, form and conditions established by the legislation, irrespective of the location or environment where the operator is based or where its operations are hosted;

**IV** – the international certification of its systems; and

**V** – the absence of incompatibility or conflict of interest regarding other activities conducted by the operator, its controllers or executives.

**Paragraph 4.** The regulator will have sixty days to conclude the review of the authorisation application, counted as from the date all information and documents referred to in paragraph 3 are delivered.

**Paragraph 5.** Whenever necessary and at any time, the regulator shall notify the applicant, preferably by e-mail, to correct, adjust or supplement manifestations, documents or information pertaining authorisation applications, in which case the deadlines contemplated in Paragraphs 2 and 4 will be suspended and run again on the date the requested adjustment is filed.

**Paragraph 6.** Should it decide to grant the authorization, the regulator shall notify the applicant to prove payment of the amount referred to in Paragraph 2 of Article 3.

**Paragraph 7.** The authorisation shall be granted by means of a specific act, which must be published in the Federal Official Gazette within ten days from the date proof of payment is submitted by the applicant.

**Paragraph 8.** Absence of manifestation by the regulator within the deadlines indicated in this article will not entail tacit authorization, which shall be regulated by the term to be contemplated by article 30 of this Decree, in observance of the Article 10 of Decree No. 10,178 of 2019.

**Paragraph 9.** The authorisation application deemed to be fraudulent or containing adulterated information will be rejected, after due verification by the Ministry of Economy.

**Paragraph 10.** Authorisations ultimately granted and which fall under the situation described in Paragraph 9 shall be revoked.

**Paragraph 11.** The regulator shall issue a norm to classify the exercise of economic activity for the purposes of Article 3 of Decree No. 10,178 of 2019.

**Article 5.** The authorisation may only be transferred by the operator with the regulator's prior authorisation.

**Sole Paragraph.** For the purposes of the caption, a transfer is deemed to be any corporate restructuring which may result in the exploitation of the fixed-odds betting lottery by another agent, as a result of a merger, spin-off, entry of assets or any other type of restructuring, as well as transfer, in any legal form, of a direct or indirect equity interest in the operating agent.

### CHAPTER III

#### COMPETENCE

**Article 6.** The Ministry of Economy is competent to:

**I** – authorize, standardize, regulate, supervise and inspect the exploitation of the fixed-odds betting lottery;

**II** – regulate, inspect and apply administrative sanctions, pursuant to Law No. 9,613, of 3<sup>rd</sup> March 1998, in relation to the duties contemplated in its Articles 10 and 11;

**III** – apply administrative sanctions to t fixed-odds betting lottery operators;

**IV** - prohibit, under its own act, the placing of fixed-odds bets on certain sport-themed events; and

**V** – issue supplementary rules with a view to complying with the provisions of this Decree.

**Sole Paragraph.** The structure of the Ministry of Economy responsible for the exercise of the authority relative to lottery modalities shall seek to segregate functions, notably to prevent conflicts of interest, including between attributions of formulation and enforcement.

### CHAPTER IV

#### SUPERVISION AND INSPECTION

**Article 7.** The operator shall make available to the regulator information:

**I** – collected, held, obtained or produced by a corporate entity, body, organization, including acting internationally, which consolidates information for analysis, deterrence, detection, inhibition or prevention of irregularities in the operation of lotteries;

**II** – related to systems for capturing bets and paying prizes;

**III** – relating to suspicious activities that could compromise the integrity of a sporting event;

**IV** – concerning the certification of physical equipment and software used by the operator.

**V** – concerning its service providers and dealers;

**VI** – concerning the validation of bets placed;

**VII** – concerning complaints made by bettors;

**VIII** – provided for in a norm issued by the regulator.

**Paragraph 1.** The operator shall use auditable systems, to which the regulator must have unlimited, continuous and live access.

**Paragraph 2.** The operator must establish a specific communication channel to prioritize the regulator’s demands.

**Article 8.** The operator must provide clarifications and furnish, for inspection or examination, all elements necessary for the inspection exercise.

**Article 9.** Once the inspection procedures have been initiated, they may last for as long as is necessary to clarify the facts, in compliance with the provisions of Law No. 9,873, of 23<sup>rd</sup> November 1999.

**Article 10.** The operator must adopt effective controls that enable it to prevent situations of non-compliance with the legislation.

**Article 11.** The regulator must issue regulations providing for measures that the operator must adopt to avoid the direct or indirect participation, including through intermediaries, in the capacity of bettor, of:

**I** – owner, director, officer, manager or employee of the operator;

**II** - servant acting directly in the regulation of the activity in the federal direct or indirect public administration.

**III** – a person under the age of eighteen years;

**IV** – a person who has or can have access to the fixed-odds betting lottery’s information systems;

**V** – a person who has or can have any influence on the outcome of a real, sports-themed event that is the object of fixed-odds betting lottery, including:

**a)** persons holding positions as sports managers, sports technicians, coaches, professional or amateur sports practitioners;

**b)** referee or equivalent;

- c) sports entrepreneur; and
  - d) responsible for the organizing body of a competition or sporting event.
- VI - other cases to be defined by the Regulator.

## CHAPTER V

### OPERATOR'S OBLIGATIONS

#### SECTION I

##### Responsible Gaming and Betting Integrity

**Article 12.** The operator, while exploiting the fixed-odds betting lottery, either land-based or online, must promote informative and preventive actions to raise the awareness of bettors and prevent pathological gaming disorders, with the development of codes of conduct and the dissemination of good practices.

**Sole Paragraph.** The operator, for the purposes of the **caption**, must:

**I** – promote responsible gaming practices and disseminate the necessary information to bettors prior to the commencement of lottery activities;

**II** – obtain international certifications about responsible gaming, whenever required by a norm issued by the regulator;

**III** – adopt measures for assuring the prevention of gaming disorders and the protection of vulnerable persons, minors and the elderly;

**IV** – prevent attempts of fraud and adopt applicable treatment measures, as the case may be, with the due forwarding of the occurrence to the competent authority;

**V** – prevent the placing of fixed-odds bets on real sports-themed events which exclusively involve the participation of minors;

**VI** – draft monthly technical reports, to be submitted to the regulator, detailing the attempts of fraud identified and the prevention measures adopted;

**VII** – implement a policy of communication with the bettor, containing information on responsible gaming and the dangers of gaming addiction, which must be made available on the operator's website.

**VIII** – indicate the channels for complaints, which must be accessible to bettors on the operator's website.

**IX** – develop and implement a training programme for executives, employees, service providers and dealers, aimed at enabling them to promote responsible gaming in the context of the operation of the fixed-odds betting lottery; and

**X** – issue guidelines so that the development of lottery products and remote channels, as well as communication, advertising and marketing actions incorporate measures related to the promotion of responsible gaming.

**Article 13.** The operator must adopt security and integrity mechanisms when conducting fixed-odds bets.

**Paragraph 1.** The sporting events which are the object of betting must include actions to mitigate the manipulation of results and corruption in real sport-themed events, by the operator of fixed-odds betting, in compliance with the provisions of articles 41-C, 41-D and 41-E of Law No. 10,671, of 15<sup>th</sup> May 2003.

**Paragraph 2.** The operator must evidence to the Ministry of Economy, prior to commencing the commercialisation of bets, that it is a member of or has a contractual relationship with international sports integrity monitoring bodies.

## SECTION II

### Advertising

**Article 14.** Communication, advertising and marketing actions of the fixed-odds betting lottery must promote awareness of responsible gaming, pursuant to the provisions of this Decree and of a norm issued by the Ministry of Economy.

**Article 15.** Commercial advertising for the fixed-odds betting lottery must be accompanied by clauses warning of the dangers of irresponsible gaming.

**Sole Paragraph.** The warning clauses referred to in the caption must:

**I** – be communicated in spoken and written form, whenever possible according to the characteristics of the communication action.

**II** – appear on printed tickets and electronic betting environments, as well as on graphic items and operator’s commercial advertising material; and

**III** – appear on the opening page, legibly and prominently, when the communication is made on websites.

**Article 16.** It is forbidden to conduct an advertising campaign for the fixed-odds betting lottery the content of which:



- I – depicts gaming as an alternative for personal, professional or educational problems;
- II – suggests that gaming is a solution for financial concerns, an alternative to employment, or a form of reaching financial stability;
- III – depicts gaming as a priority in life;
- IV - depreciates the image of those who refrain from betting;
- V – suggests the possibility of the bettor being capable of mastering sports betting through the development of personal skills;
- VI – establishes a connection between gaming and personal and financial success;
- VII – links gaming to criminal actions;
- VIII – encourages criminal or antisocial behaviour;
- IX – includes the participation of, or is aimed at, children or teenagers; and
- X – contains false or misleading information.

**Article 17.** An operator authorized to exploit the fixed-odds betting lottery must promote annual public awareness campaigns on the risks and consequences of pathological gaming.

## CHAPTER VI

### PREVENTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM AND PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

**Article 18.** The operation of the fixed-odds betting lottery is conditional to the adoption and implementation of policies, procedures and internal controls aiming at preventing money laundering and the financing of terrorism as well as preventing frauds, as established in the rules issued by a norm of the Ministry of Economy, relative to compliance with the duties set forth in articles 10 and 11 of Law No. 9,613 of 1998.

## CHAPTER VII

### COLLECTION PROCEEDS, PLACING OF BETS AND PAYMENT OF PRIZES (PAYOUT)

**Article 19.** It is the operator's responsibility, in accordance with the regulations issued by the Ministry of Economy to:

- I – effect payment of prizes;

**II** – collect social security contribution and the amounts relative to social transfers provided for in the legislation, levied on the collection proceeds; and

**III** – collect income tax levied on the payout.

**Article 20.** Income tax shall be levied on the amount of winnings from prizes resulting from bets placed in the fixed-odds betting lottery, both for resident and non-resident bettors, at the rate defined in the legislation in force and to be withheld by the operator at source.

**Sole Paragraph.** Income tax levied on payout resulting from bets in the fixed-odds betting lottery shall be levied on the amount of the winnings exceeding the value of the first bracket of the monthly Individual Income Tax – (IRPF) sliding scale.

**Article 21.** For the purposes of article 20, “winnings” is deemed as the difference between the amount of the prize minus the amount wagered or the payout amount minus the sum of the amounts wagered in the case of identical bets placed on the same event.

**Article 22.** The operator must adopt procedures for identifying and qualifying the bettor that ensure the nominative character of the bet and registration thereof, either physically or digitally, so that only the identified bettor can claim a prize.

**Sole Paragraph.** In land-based and online bets, the identification of whoever presents himself/herself to place the bet, in his own name or in the name of a third party, will be required, including by providing the Individual Taxpayer Number - CPF and, if foreign, the passport or official identification document, the foreign bettor's country of residence and his/her Tax Identification Number (NIF).

**Article 23.** Land-based or online bets shall only be commercialised, and payments of fixed-odds betting lottery prizes shall only be made, to persons aged 18 or more, which such information being registered with due visibility in the land-based and online channels.

**Paragraph 1.** Payment of bets shall be accepted by any payment method authorized by the Brazilian Central Bank.

**Paragraph 2.** The Brazilian Central Bank, in compliance with the guidelines established by the National Monetary Council, will determine the rules for the implementation of control mechanisms aimed at preventing financial institutions issuing credit or debit cards, as well as any other payment institution, from authorizing transactions with credit or debit cards or electronic money aiming at participating in games of chance by electronic means administered by an unauthorized company.

**Article 24.** The operator must provide online and telephone assistance to the bettor, to clarify queries relative to the operation of the fixed-odds betting lottery.

**Paragraph 1.** Information related to betting, captured in physical and virtual media, shall be published on the world wide web, on the operator's website, in order for the clear and precise understanding of the betting system by consumers, and must contain, at least, the following data:

**I** – how to bet;

**II** – fixed-odds established for each bet; and

**III** – form and place of receiving prizes.

**Paragraph 2.** For the purposes of the caption, the provisions of the Decree No. 6,523, of 31<sup>st</sup> July 2008 shall apply to the operator.

**Article 25.** Prizes expire after ninety days, counted as from the date of the first disclosure of the result of the last real event object of the bet, with the time bar being interrupted in the following cases:

**I** - delivery of the physical bet to receive the prize at a location previously designated by the operator for the payment of prizes; or

**II** - start of the online prize receipt procedure, duly identified in the operator's tracking system.

## CHAPTER VIII

### MONETARY ADJUSTMENT

**Article 26.** The following shall be monetarily updated annually, based on the reference rate of the Special Settlement and Custody System - SELIC, accrued in the previous year, up to 31<sup>st</sup> January, under a specific norm issued by the Ministry of Economy:

**I** - the inspection fee amounts referred to in Article 32 of Law No. 13,756 of 2018, contemplated in its Annex; and

**II** - the authorization fee to operate the fixed-odds betting lottery, provided for in Paragraph 2 of Article 3.

## CHAPTER IX

### FINAL AND TRANSITIONAL PROVISIONS

**Article 27.** Non-compliance by the operator with the obligations provided for in this Decree shall trigger the application of administrative sanctions by the regulator.

**Article 28.** The Ministry of Economy shall establish conditions and terms, not less than six months, for companies operating the fixed-odds betting lottery in Brazil to adapt to the provisions of this Decree.

**Article 29.** The bodies and entities of the federal public administration of which the actions are directly or indirectly related to lottery activities shall provide the support and information requested by the Ministry of Economy for the exercise of its authority in relation to the matter.

**Sole Paragraph.** The Ministry of Economy may, notwithstanding the provisions of the caption, articulate with other public or private bodies or entities to perform the activities under its authority, including the information technology structures necessary for the exercise of regulation.

**Article 30.** The Ministry of Economy may, individually or in conjunction with other public bodies or entities, modulate or exclude the application of rules under its authority in relation to operators who fit into the hypotheses provided for in the scope of experimental regulatory environment programs (regulatory sandbox).

**Paragraph 1.** The articulation referred to in the caption may be governed by technical cooperation agreements, or equivalent instruments, entered into between the bodies and entities involved, with due regard to their authorities.

**Paragraph 2.** For the purposes of the provisions of this article, an experimental regulatory environment (regulatory sandbox) is deemed to be the set of simplified special conditions for participating corporate entities to receive temporary authorization from bodies or entities with sectoral regulatory competence to develop models of innovative businesses and test experimental techniques and technologies, by meeting criteria and limits previously established by the regulatory body or entity and by means of a facilitated procedure.

**Paragraph 3.** The Ministry of Economy shall provide for the operation of the experimental regulatory environment program for fixed-odds betting lottery operators, establishing, among other aspects:

- I – the criteria for selection or qualification of regulated entities;
- II – the duration and scope of modulation or departure from the incidence of norms; and
- III – the norms covered.

**Article 31.** In the first twelve months of validity of this Decree, the regulator may restrict the authorizations referred to in Article 4, upon justification and a previously established timeframe.

**Article 32.** The deadline provided for in Paragraphs 2 and 4 of Article 4 shall be extended for an equal term in the first year of validity of this Decree.

**Article 33.** The Ministry of Economy shall issue supplementary rules within a period of up to one hundred and twenty days, counted as from the date of publication of this Decree.

**Article 34.** Authorized operators must register on the Consumidor.gov.br platform, pursuant to Decree No. 8,573, of 19<sup>th</sup> November 2015.

**Article 35.** This Decree becomes effective ninety days as from the date of its publication.