

Brazilian sports betting reform

Brazil

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With the enactment of Law 13,756 on 12 December 2018, Brazil has taken a big step towards regulating and legalising sports betting.

Until now, gambling has been heavily restricted in Brazil; limited to the lottery operated by state financial institution, Caixa Economica Federal, and on/off track and online horse race betting. More recently, there has been a surge in the popularity of international sports betting websites. Their offering of gambling to consumers in Brazil is widely considered to be illegal, but there has been no enforcement action taken against them to date.

However, with the government seeking new sources of revenue to plug its budget deficit, there have been various initiatives to liberalise different types of gambling. The President's approval of this law should open up a very promising betting market, which may include physical betting shops and online gambling.

Legalising sports betting

The new law establishes a framework for future regulation of sports betting and fixed odds betting. With the president's approval, a two year period has been triggered for the Ministry of Finance to flesh out the details of how to implement the law, including whether, how and how many licences will be issued. This period can be extended for a further two years, if required.

Total sports betting stakes will be allocated as follows under the new regime:

	Physical Betting Shops	Online Gambling
Prize payouts and income tax retention	min. 80%	min. 89%
Sports, education, public security and social security	6%	3%
Gambling operator costs and profit	max. 14%	8%

Winnings not claimed by bettors, within the limitation period, will be paid to the Treasury and used to fund central government contributions to the Student Financing Fund – FIES.

Whilst the Law offers specifics with regards to the fiscal regime, various factors have been left to the Ministry of Finance to determine the most suitable model to apply in Brazil. It will be interesting to see the approach of the incoming Bolsonaro government to this question, when it takes office on 1 January 2019. Whilst the Ministry of Finance is generally expected to be economically liberal, and the incoming government will face the same budget pressures as the current one, Bolsonaro was elected with strong support from evangelical Christians and other social conservatives, who may resist gambling liberalisation.

The government could appoint Caixa Economica Federal as the national lottery operator, creating a sports-betting monopoly. However, considering their privatisation tendencies, it seems likely that the elected government would choose to license multiple operators. Considering immediate budgetary considerations, those licences may also be subject to the payment of significant up-front fees. It is unclear though whether online and physical betting would be licensed separately or jointly, what geographical restrictions might apply within Brazil, how many licences would be awarded, and whether they would be under an authorization or concession model.

Another issue of interest to the global gambling industry will be the impact of this legislation on enforcement of unregulated, overseas sports betting sites. Considering their incentive to maximise tax revenues, the government is likely to try to discourage offshore betting. This may include commencing criminal proceedings against bettors in Brazil and enforcement action against those connected with offshore betting providers. They may introduce IP blocking to prevent access to foreign sites and explore cross-border collaboration with other governments to clamp down on betting operators that do not comply with new Brazilian regulations.

With a fanatical football culture and a population of 200 million, the author of the Law, Senator Flexa Ribeiro has estimated the Brazilian online sports gambling market to be worth R\$4.3 billion (US\$1.1 billion) per year. The approval of this law is therefore a significant development for the sector globally. However, much has yet to be determined, which will affect the availability and profitability of investment opportunities. It is therefore advisable for international sports betting companies to seek to engage with the incoming government, to make the case for their investment and revenue-generating capacity and to contribute their international experience in the process of defining the regulations needed to implement this new law.

KEY CONTACTS



Ted Rhodes

Partner, Rio de Janeiro

Office Managing Partner

+55 21 3722 9831

ted.rhodes@cms-cmck.com



David Zeffman

Partner, London

Head of Gambling and Sport

+44 20 7067 3198

david.zeffman@cms-cmno.com



[Carolina Uribe](#)

Lawyer, Rio de Janeiro

Office Manager

+55 21 3722 9830

Carolina.Uribe@cms-cmno.com
