

AMENDMENT TO THE MACAU FINANCIAL SYSTEM ACT



PREVENTION AND CONTROL OF THE CONSUMPTION OF ALCOHOLIC BEVERAGES BY MINORS



"PREVENTION AND CONTROL OF THE CONSUMPTION OF ALCOHOLIC BEVERAGES BY MINORS"

“ Prohibition for Minors – At Last

Law n° 19/2023, on the Prevention and Control of the Consumption of Alcoholic Beverages by Minors, was published on May 8th 2023 and will come into effect on November 4th. Responding to a long-felt need in Macau, this Law establishes the prohibition of the sale or provision of alcoholic beverages to minors, in order to face the growing trend of consumption of alcoholic beverages by minors with all the consequent disadvantages of this consumption, for minors themselves and for Public Health in general.

- Definitions

The Law defines minors as all individuals under 18 years of age and Alcoholic beverages as all beverages containing a volume of alcohol greater than 1.2%, with the exception of medicines from both Chinese medicine and Western medicine.

- Prohibitions

The Law prohibits the sale or provision, with or without commercial purposes, of alcoholic beverages in Health establishments and in places intended for minors, namely schools (up to Secondary Education) and other education and assistance establishments for minors.

The sale or provision of alcoholic beverages in vending machines is also prohibited (unless they have a way of controlling the buyer's age).

The sale of Alcoholic Beverages to minors over the Internet or by mail is also prohibited, and the seller must ensure a way of controlling the age of the buyer.

Minors are prohibited from marketing Alcoholic Beverages, either as employees of others or as self-employed entrepreneurs.

- Control and Information

Internet and mail sellers are obliged to implement a buyer age control system. It is not clear from the law whether the buyer's statement when entering a website is sufficient or whether a more sophisticated system is needed to ensure that the customer is not a minor.

Sellers in physical locations are required to post signs in these locations that prohibit the sale of alcoholic beverages to minors.

In self-service commercial establishments, places where alcoholic and non-alcoholic beverages are displayed must be well signposted and delimited.

Alcoholic drinks must also have the percentage of alcohol they contain clearly and visible, even when the drinks are mixed.

- Advertising

The advertising law is also amended, making it necessary that the advertising of alcoholic beverages always have a clearly visible mention of the prohibition of sale or provision of alcoholic beverages to minors.

- Penalties and Supervision

Violation of the law can result in fines of up to MOP200,000. In certain cases, the seizure of objects and the prohibition of the sale of alcoholic beverages may also be applied as accessory sanctions.

The application and supervision of this diploma are the responsibility of the Health Services, the Institute of Municipal Affairs, Tourism and the Police.

It is expected that the authorities will raise awareness and publicize with traders and the general public in order to make sure that violations of the law when it comes into force are non-existent or residual.

Portuguese and Chinese translations of the article are available here:

- 《未成年人禁酒令- 終於出台》

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- "Lei Seca para Menores – Finalmente"

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Decree-Law no. 32/93/M, of 5 July, as amended from time to time, establishes the Macau Financial System Act (the "FSI") as the main piece of legislation to be considered by any (prospective) operator in the finance & banking industry who intends to operate in Macau. It will soon be subject to substantial changes.

The Legislative Assembly has already voted in general by the plenary and approved the new law ("Law") that will amend the FSI. The draft of the Law will be subject to -

further vote and approval in the specialty and publication. No dates are set for the special voting and publication, meaning that relevant operators may still rely on the current FSI. However, we must remember that new rules will soon enter into force, which must be considered before and while operating in Macau's banking and finance industry.

The current draft of the Law, once enacted, will introduce changes to the following areas:

- licensing procedure;
- new type of banking license;
- issuance of bonds;
- development of fintech;
- supervision procedures and rules;
- administrative procedures; and
- sanctions.

The Law aims to make the licensing procedure more flexible by implementing a new type of license – “bank with restricted scope of activity” license – among other measures.

This will allow the Macau Monetary Authority (“AMCM”) and ultimately, the Chief Executive, to better assess the specific scope of activity of the applicants’ proposal and perform the corresponding assessment.

Currently, all applications for a banking license are subject to one standard (the one applicable to the universal banking license), meaning that even if the applicants’ prospective activity is restricted, they will be subject to scrutiny based on the assumption that they will be a full-service bank. With this new type of license, the level of scrutiny will be adapted to the specific proposed activity of the applicant.

The public issuance of bonds will be streamlined. Currently, the procedure provided in the FSI (and ancillary laws and regulations) requires authorization from the Chief Executive. The Law cancels this requirement and provides for a registration-based procedure.

The Law also takes into consideration recent technological advances. To this effect, it introduces an entire section on fintech and allows non-financial institutions to hold a temporary license to perform activities connected to developing new technologies that will ultimately develop the financial industry.

Among other changes, the Law also increases the minimum share capital of banks, highlights the need to consider the shareholding structure and corporate governance when assessing license applications, clarifies aspects that have to be considered for applicants’ suitability and qualification, streamlines procedures about exemption requests for risk exposure calculations and reinforces sanctions applicable to violations.

It should be noted that the Law may still be subject to some changes before its approval in the specialty.

Portuguese and Chinese translations of the article are available here:

- 《對澳門金融體系法的修訂》
- "Alteração ao Regime Jurídico do Sistema Financeiro de Macau"

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presented at the Lawyers' Day 2023
Seminar**

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