

LEGAL ALERT

JANUARY 22nd, 2026

NEW INTERMINISTERIAL ORDINANCE CGU/AGU No. 1/2025 ON LENIENCY AGREEMENTS UNDER LAW 12,846/2013

On December 23, 2025, the new Interministerial Ordinance CGU/AGU No. 1/2025¹ ("Ordinance No. 1/2025") was published to regulate and consolidate the criteria and procedures for the negotiation, execution, and monitoring of leniency agreements provided for in Law No. 12,846/2013 – the Anti-Corruption Law² – as regulated by Decree No. 11,129/2022³.

In this new ordinance, in addition to innovations and updates, procedures of the Office of the Comptroller General (CGU) and the Office of the Attorney General (AGU) that were previously dispersed across other normative acts are consolidated⁴. Thus, the new rule enhances legal security and predictability in the execution of leniency agreements, facilitating coherent reading and understanding of the procedures by legal entities.

1. Changes and Innovations of Ordinance No. 1/2025

Below are the main changes and innovations introduced by Ordinance No. 1/2025:

(i) **Coordination between CGU, AGU, and MPF.** Article 1, §4 of Ordinance No. 1/2025 expressly refers to the negotiation and execution of leniency agreements in a coordinated manner with the Federal Public Prosecutor's Office (MPF), in accordance with the rules and procedures established in the cooperation agreement entered into by the CGU, AGU, and MPF⁵. This regulatory provision is another demonstration of institutional effort to simplify processes, increase predictability and legal security, and mitigate potential procedural divergences related to the negotiation and execution of leniency agreements.

¹ Interministerial Normative Ordinance CGU/AGU No. 1, of December 19, 2025. Available at: https://in.gov.br/web/dou/_portaria-normativa-interministerial-cgu/agu-n-1-de-19-de-dezembro-de-2025-677644031

² Law No. 12,846, of August 1, 2013. Available at: https://www.planalto.gov.br/ccivil_03/_ato2011-2014/2013/lei/L12846.htm

³ Decree No. 11,129, of July 11, 2022. Available at: https://www.planalto.gov.br/ccivil_03/_Ato2019-2022/2022/Decreto/D11129.htm

⁴ This regulation repeals and replaces Interministerial Normative Ordinance No. 36/2022, Normative Instruction CGU/AGU No. 2, of May 16, 2018, and Joint Ordinance CGU/AGU No. 4, of August 9, 2019.

⁵ Technical Cooperation Agreement CGU/AGU/MPF of April 25, 2025. Available at:

https://repositorio.cgu.gov.br/bitstream/194943/1/ACT_CGU_AGU_MPF_2025.pdf. For further information on this Cooperation Agreement, the law firm Maeda, Ayres e Sarubbi Advogados published, on April 30, 2025, a Legal Alert addressing its main aspects: <https://maedaayres.com.br/wp-content/uploads/2025/05/MAS-Review-ALERTA-Acordo-de-Cooperacao-Tecnica-CGUAGUMPF-Leniencia.pdf>

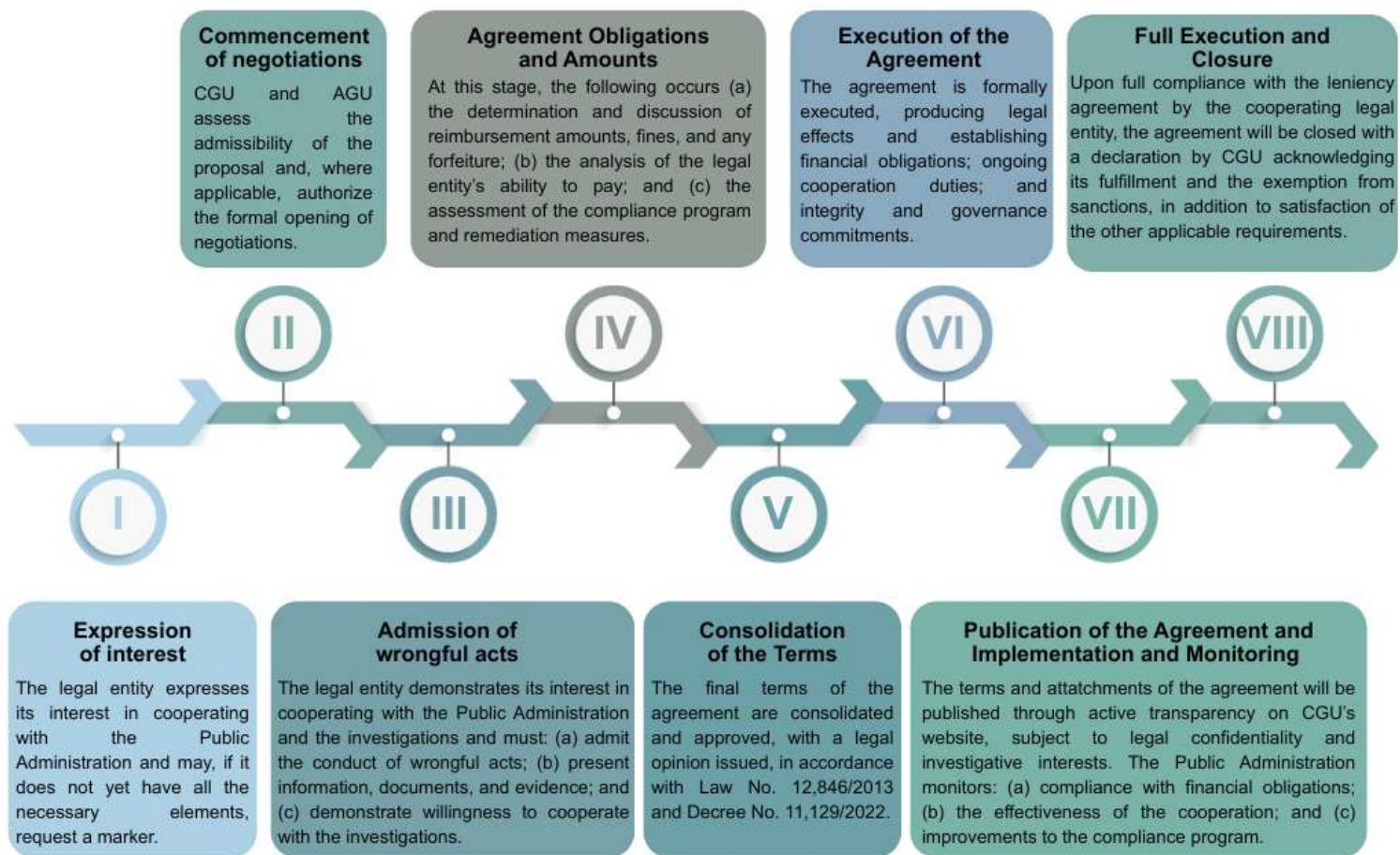
- (ii) **Possibility of entering into a commitment agreement (*termo de compromisso*).** Article 3, §4 of Ordinance No. 1/2025 provides that, if the requirements for entering into a leniency agreement are not met, the possibility of entering into a commitment agreement with the interested legal entity may be assessed. This provision reinforces the possibility of resolving matters between the State and the legal entity in a simpler and faster manner, ensuring that the case is appropriately directed towards a negotiated solution.
- (iii) **Introduction of the “marker” mechanism.** One of the main innovations of Ordinance No. 1/2025 was the creation of a declaration attesting to self-reporting, commonly known as a “marker.” Provided for in Article 6, the declaration allows the legal entity to record the timeliness of its interest in cooperating, even in situations in which it does not yet have all the elements necessary to enter into a leniency agreement. During this phase, the shared information is protected and cannot be used for other purposes if the agreement is not executed, which strengthens legal security and encourages self-reporting.
- (iv) **Objective criteria for calculating financial obligations.** Articles 29 to 32 of Ordinance No. 1/2025 set forth: (a) criteria for calculating undue economic advantage; (b) parameters for forfeiture of assets, rights, or values; (c) the methodology for analyzing the legal entity's ability to pay; and (d) conditions for installment payment of pecuniary obligations, including extended deadlines in exceptional cases. These provisions provide greater transparency and objectivity in quantifying the economic effects of the violation.
- (v) **Transparency and confidentiality rules.** Articles 39 to 46 establish detailed rules on how agreements and their attachments must be published through active transparency on CGU's website, subject to legal confidentiality and investigative interests. Thus, Ordinance No. 1/2025 defines clearer criteria on the publicity of leniency agreements, balancing the principle of transparency with the need to protect confidential or sensitive information, especially information that could compromise ongoing investigations or enforcement strategies.
- (vi) **Prevention of double jeopardy (*bis in idem*).** Articles 54 to 56 expressly provide mechanisms to avoid double sanctioning of the legal entity (*non bis in idem*), through the offsetting of amounts paid in other administrative or judicial spheres, provided that the interested legal entity proves payment of the sanction, its legal nature, and demonstrates identity of facts. The new ordinance also provides for international crediting of sanctions where reciprocity exists between countries, allowing amounts paid abroad for the same facts to be offset.

The provisions of Ordinance No. 1/2025 take effect on the date of publication and apply to ongoing negotiations, without affecting executed leniency agreements. Additionally, the following are revoked:

(a) Normative Instruction CGU/AGU No. 2, of May 16, 2018⁶; (b) Joint Ordinance CGU/AGU No. 4, of August 9, 2019⁷; and (c) Interministerial Normative Ordinance CGU/AGU No. 36, of December 7, 2022⁸.

2. Flowchart

To facilitate understanding of the stages for negotiating, executing, and monitoring leniency agreements under Ordinance No. 1/2025, further details are provided below:



In general, Ordinance No. 1/2025 represents a significant advance in the regulation of leniency agreements by consolidating rules, introducing mechanisms that increase predictability in the decision-making process, and strengthening legal security. Among the positive aspects are the encouragement of qualified self-reporting, economic objectivity, and prevention of double jeopardy.

⁶ Normative Instruction No. 2, of May 16, 2018. Available at: https://repositorio.cgu.gov.br/bitstream/1/33688/8/Instrucao_Normativa%20_2_2018.pdf

⁷ Joint Ordinance No. 4, of August 9, 2019. Available at: https://repositorio.cgu.gov.br/bitstream/1/34882/5/Portaria_Conjunta_4_2019.pdf

⁸ Interministerial Normative Ordinance No. 36, of December 7, 2022. Available at: https://repositorio.cgu.gov.br/bitstream/1/69016/4/Portaria%20_Normativa_36

Furthermore, by establishing more mature and clear guidelines, the new ordinance may serve as a reference for similar initiatives by states and municipalities, contributing to a greater cohesion of the leniency regime in the country.

However, it is important to note that the complexity of the instrument and the scope of financial and governance obligations require that the decision to enter into a leniency agreement be carefully assessed, taking into account the legal, economic, and reputational risks, costs, and impacts for the legal entity.

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Bruno Maeda

+55 11 3578-6665 / 95029-9005
bruno.maeda@maedaayres.com

Carlos Ayres

+55 11 3578-6665 / 98711-0591
carlos.ayres@maedaayres.com

Erica Sarubbi

+55 11 3578-6665 / 95784-1202
erica.sarubbi@maedaayres.com

Fernanda Bidlovsky

+55 11 3578-6665 / 95304-7744
fernanda.bidlovsky@maedaayres.com

Beatrice Yokota

+55 11 3578-6665 / 98152-6025
beatrice.yokota@maedaayres.com

Renato Machado de Souza

+55 11 3578-6665 / 61 99292-9090
renato.machado@maedaayres.com

Olivia C. Branco

+55 11 3578-6665 / 93800-5842
olivia.branco@maedaayres.com

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