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# INSURANCE AND OPEN SUPPLEMENTARY SOCIAL SECURITY

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## 1) NATIONAL COUNCIL OF PRIVATE INSURANCE CNSP RESOLUTION NO. 345, OF 5/2/2017

CNSP Resolution no. 345, published on 5/04/2017, “provides for coverages that may be offered to closed social security entities by insurers authorized to operate in the field of personal insurance and the corresponding insurance or reserve fund plans.”

All coverages provided for were already being offered. In this regard, it is interesting reminding CNPS

Resolution No. 119/2004 and CNPC Resolution No. 10/2004.

In this context, on the one side, the edition of a rule that, once again, is intended to organize the relationship between insurers and closed supplementary social security entities may foster the development of such products.

On the other side, it seems that the alternatives of the closed system and their participants were limited as to the establishment of partnerships with insurers and open social security entities.

Clear examples are the rules, according to which “Art. 3 (...) Par. 3 The insurers will transfer the indemnities directly to the Closed Supplementary Social Security Entity - EFPC for it to make the payment to the beneficiaries, according to the criterion defined in the insurance or reserve fund contract. Par. 4 In exceptional cases, the insurer will pay the indemnity directly to the beneficiary, should there is no link between the beneficiary and the EFPC.” These rules cause a clear increase in the operating and credit risks of the insurers and open supplementary social security entities, because, although they hold a legal

relationship directly with the participants, they have no means to fulfill their obligations to them.

Examples that are even more difficult to understand as something positive for the development of such partnerships are, among others, the limitation to the occasions on which the insurance may be taken out by each participant (art. 5) and the prohibition against the use of tables that may be updated (art. 15), a huge advancement conquered by the open entities by virtue of the specificity that, differently from the closed entities, once a plan is taken out, the open entities cannot change their actuarial table during the accumulation phase.

Anyway, in spite of the problems indicated above, the edition of the rule, should it not prevent the insurers and open supplementary social security entities from making insurance and plans available, may lend certainty for the closed entities to contract such insurance and plans.

## 2) CNSP RESOLUTION No. 346, OF 5/2/2017

Provides for the Internal Regulation of the Private Insurance Superintendence - SUSEP, approved according to the annexes I and II thereto, and CNSP Resolution no. 338/2016, which previously dealt with the Internal Regulation, was revoked.

Annex I to the new Resolution that contains the Internal Regulation remains unchanged exactly as it was in CNSP Resolution no. 338/2016.

On the other side, Annex II to the revoked Resolution contained an organization chart of SUSEP's internal structure whereas Annex II to the new Resolution has a table of the at-will appointments and the positions of trust of SUSEP.

To check the full text of the Annexes please access <http://www2.susep.gov.br/bibliotecaweb/docOriginal.aspx?tipo=1&codigo=40420>.

### 3) PRIVATE INSURANCE SUPERINTENDENCE/CONDUCT SUPERVISION BOARD - SUSEP/DICON No. 003, OF 5/4/2017

Provides for delegation of authority to the General Coordinator of the Conduct Monitoring Coordination Office.

The Director of Conduct Supervision of SUSEP, delegated to the General Coordinator of the Conduct Monitoring Coordination Office authority to suspend, temporarily or permanently, the products marketed by the supervised markets.

The sub-delegation is limited to the cases in which the reasons for the suspension arise from nonconformities related to Contractual Conditions/Regulation and/or Technical Actuarial Notes of the products, detected during the technical analysis phase.

It may be expected that, as the impact of the sub-delegation, the development of the marketing

suspension procedures will become faster. The inspection entities should pay close attention to this.

### 4) DECREE OF 5/10/2017

The President of Brazil decided, in view of the provisions in art. 3 of Regulation Structure approved by Decree no. 8722/2016, remove Ms. Helena Mulim Venceslau from the position of Director of SUSEP as of May 10, 2017. She was replaced by Mr. Marcelo Augusto Camacho Rocha.

### 5) IRB-BRASIL RESSEGUROS S/A – NOTICE OF CALL OF 5/9/2017

IRB called an Extraordinary Meeting held on 5/19/2017, at 10 AM, at the head office of the Company, at Avenida Marechal Câmara, no 171, 8o andar, Rio de Janeiro, RJ.

The purpose of the Meeting was to resolve on the following matters: (i) ratification of the approval of the application for registration as a public corporation, Category A, with the Securities and Exchange Commission of Brazil - CVM, according to CVM Instruction no. 480, of 12/7/2009; such approval was given at the 49th Annual Meeting, held on 8/21/2015; (ii) ratification of the approval of the application to CVM for authorization to make public offerings of distribution of securities, according to CVM Instruction no. 400, of 12/29/2003; the approval was given at the 49th Annual Meeting held on 8/21/2015, and (iii) ratification of the approval of the Company's adhesion to the special segment of listing of BM&FBOVESPA S.A. - Stock, Commodities and Futures Exchange, called New Market, occurred at the 49th annual Meeting held on 8/21/2015.

The Notice of Call may be checked on <http://pesquisa.in.gov.br/imprensa/jsp/visualiza/index.jsp?jornal=3&pagina=90&data=15/05/2017>.

The IPO was approved at the Special Meeting. However, as reported by the press, in view of the current political instability of Brazil, the shareholders

opted to postpone the listing, for the third time, until a more favourable occasion.

## 6) SUSEP CIRCULAR No. 550, OF 5/10/2017

Amends SUSEP Circular no. 535/2016.

Adds to art. 15 of SUSEP Circular no. 535/2016 that the personal insurance plans may not have coverages that are not comprised in the line of Closed Supplementary Social Security Entity - Persons EFPC (22), in addition to the lines of Collective Persons Group (09) and Individual Persons Group (13), previously contemplated.

Along this same line, the Circular also adds mention of the line Persons EFPC to art. 22 and Annex 1 to SUSEP Circular no. 535/2016.

The same criteria set for the accounting of coverages belonging to the Collective Persons and Individual Persons Groups was extended to the line of EFPC persons.

The insurance coverage for disability of a EFPC participant and insurance coverage for death of an EFPC participant or beneficiary must be accounted for in the EFPC Life of the Persons Group Line (2293); the survival coverage of a EFPC beneficiary must be accounted for in the Survival Line of the beneficiaries of the EFPC Persons Group (2201); and the biometric flow – EFPC and biometric index – EFPC coverages must be accounted for in the respective EFPC Persons Group Lines (2202 and 2203).

## 7) SUSEP CIRCULAR No. 551, OF 5/17/2017

Provides for the issuance and distribution of professional identity cards of insurance brokers.

On July 3, 2017, SUSEP will start issuing, through a hired entity, the professional identity cards of insurance brokers.

The identity card will be paid by the applicant and the amount will be posted on SUSEP website.

The insurance brokers will also apply for the professional identity card on SUSEP website.

The cards will be distributed by the Brazilian Institute of Self-Regulation of the Insurance Brokerage, Reinsurance, Capitalization and Open Supplementary Social Security Market [Instituto Brasileiro de Autorregulação do Mercado de Corretagem de Seguros, Resseguros, de Capitalização e de Previdência Complementar Aberta - Ibracor), upon a technical cooperation agreement.

The brokers not interested in the professional card may prove their qualification by means of a certificate that may be obtained on SUSEP website.

## 8) SUSEP CIRCULAR No. 552, OF 5/17/2017

Provides for the new register of insurance, capitalization and open supplementary social security brokers, whether individuals or entities and their premises.

The period for the insurance brokers/individuals' enrollment in the new register runs from June 1, 2017 to September 30, 2017, and the period for the brokers/entities, from December 1, 2017 to May 30, 2018. Both periods will run every 3 years.

The enrollment in the new register requires a specific application generated on SUSEP website, in which the information on the applicant will be provided and attached to the digitalized documents.

In the case of individuals, the required documents are (i) identity card; (ii) Individual Taxpayer ID - CPF; (iii) certificate of conformity from the Electoral Courts; (iv) certificate of conformity from the Army; (v) proof of address or statement of address; (vi) certificate of approval in the National Test of Technical and Professional Qualification for Insurance Brokers/Individuals or Course for Technical and Professional Qualification of Insurance Brokers/Individuals.

In the case of legal entities, the required documents are (i) Corporate Taxpayer ID - CNPJ; (ii) copy of the organizational documents; (iii) documents i to iv listed above of members or shareholders — individuals that hold qualified interest; (iv) copy of the organizational

documents, bylaws or articles of organization of unit holders or shareholders —legal entities that hold qualified interest.

For the purposes of the Circular, qualified interest means interest, direct or indirect, held by an individual or a legal entity, corresponding to 5% or more of the company's capital.

The registration of insurance brokers that fail to enroll in the new register within the established period will be canceled and the brokers will be prevented from mediating transactions related to insurance, capitalization and open supplementary social security until their registrations are corrected and updated.

Also the brokers whose registrations are suspended, those that failed to register according to SUSEP Circular no. 370/08 or those whose registration was canceled and wish rectify it should enroll in the new register.

## 9) SUSEP CIRCULAR No. 553, OF 5/23/2017

Establishes the general guidelines applicable to directors and officers liability insurance (D&O liability insurance), and makes other provisions.

This Circular was published due to a series of criticisms and considerations disseminated after the publication of SUSEP Circular no. 541/2016, which was revoked.

Some points deserve attention:

The classification of defense costs as basic coverage, making the protection of managers of closed social security entities viable, as they cannot take out coverages for indemnities due to third parties, right of recourse of the insurer where the damages caused to third parties arise from frauds or the insured recognizes their responsibility;

possibility of individuals and legal entities contracting the D&O insurance, without exclusion of (i) the possibility of Side C coverage (managers' liability to the company) as an additional coverage and (ii) the

possibility for the companies to contract coverage for acts of their managers as a general civil liability insurance. Legal entities may also take out policies for their business groups (eliminating the need for proportional allocation of cost for accounting, managerial and tax purposes);

expansion of the list of individuals that may take out the insurance, which are now any person, including employees, provided that holding administrative and management positions;

expansion of the possibility of coverage for "civil" fines in general and not only "contractual" fines;

possibility of mention of foreign legislations, making better insurance contracts within the global territory viable.

In general, the new rules are a response to the market's concerns, which is positive.

The transition period set in the rule is basically 180 days. The insurers must draw up plans considering the transition rules and additional coverage periods. Adapt their products as soon as possible is also advisable as it is expected that SUSEP will be overloaded with D&O contracts to be analyzed.

On the other hand, unfortunately SUSEP ratifies and emphasizes a tendency to regulate products in such way as not to allow the insurers much room to develop their own solutions and models. Such strategy limits the quality and structure of the products to those anticipated and permitted by SUSEP. Notwithstanding the impressive quality of SUSEP's technicians, it wastes a great part of the potential benefits of a large and competitive insurance market such as the Brazilian one.

## 10) IFRS 17 – INSURANCE CONTRACTS

This is the first standard of the International Accounting Standards Board (IASB) with central focus on insurance contracts, which replaces the IFRS 4, a temporary standard for the matter.

The main purpose of such Standard is to replace the several methods for accounting of the current insurance contracts, and it is based on national

accounting standards, in a sole pattern, introduced by IFRS 17.

The replacement, according to the IASB, will make easier for the investor and stakeholders to compare and review information on risk exposure, profitability and financial position.

## 11) National Land Transportation Agency - ANTT ADMINISTRATIVE RULE No. 292, OF 5/23/2017

Establishes a Work Group to discuss and propose solutions for the current offer of civil liability for the interstate road transportation of passengers.

The Group will be composed of at most 22 persons, representatives of several public and private entities interested in the subject, and the works must be completed within at least 60 days.

Such measure evidences the increasing need for discussing the reduced and inefficient offer of such insurance, whose purchase is compulsory.

## 12) CALL FOR SUSEP PUBLIC INQUIRY No. 004, OF 5/24/2017

SUSEP Superintendent submitted for public inquiry the draft of a SUSEP Circular that provides for the rules and criteria for insurance coverage for Loss of Profit, and makes other provisions.

The period to send comments and suggestions by e-mail to [cgcom.rj@susep.gov.br](mailto:cgcom.rj@susep.gov.br) or [copat.rj@susep.com.br](mailto:copat.rj@susep.com.br) is 30 days from May 25, 2017.

The above-mentioned draft is available on SUSEP's website [http://www.susep.gov.br/setores-susep/seger/copy\\_of\\_normas-em-consulta-publica/copy2\\_of\\_edital-de-consulta-publica-no-09-2016](http://www.susep.gov.br/setores-susep/seger/copy_of_normas-em-consulta-publica/copy2_of_edital-de-consulta-publica-no-09-2016).

In general, the draft of the Circular is intended to consolidate the rules involving coverage for loss of profit, revoking all circulars and administrative rules sparsely dealing with the matter, many times without cohesion. And it seems to us that such strategy is quite positive.

In this regard, the draft of the Circular centralizes the matter, determining that from January 1, 2018 all new insurance contracts related to Loss of Profit must be in accordance with the Circular and provide for basic and additional coverages contained in the Annexes thereto.

## 13) CALL FOR SUSEP PUBLIC INQUIRY No. 005, OF 5/24/2017

The draft of the circular regulating the universal life insurance introduced by CNSP Resolution no. 344/2016 was submitted for public hearing.

During the opportunities we had to discuss the universal life insurance, the need for adjustments and clarification, in particular as to the taxation, became clear.

In this context, it should be noted, the draft deals with the universal life insurance, in several aspects, as if it were an accumulation product.

Anyway, it seems to us that it is clear that, despite the relevance of the possibility of marketing such product in Brazil, additional discussions will be necessary to make it effective and available to the Brazilian consumers, in particular in regard to the tax aspects. And the regulation of CNSP Resolution no. 344/2016 seems to be an excellent opportunity to do so.

The period to send comments and suggestions by e-mail to [cgcom.rj@susep.gov.br](mailto:cgcom.rj@susep.gov.br) is 30 days from May 25, 2017.

To check the draft please access [http://www.susep.gov.br/setores-susep/seger/copy\\_of\\_normas-em-consulta-publica/edital-de-consulta-publica-no-05-2017](http://www.susep.gov.br/setores-susep/seger/copy_of_normas-em-consulta-publica/edital-de-consulta-publica-no-05-2017).

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## FINANCIAL MARKET, CAPITAL MARKET AND OTHERS

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### 1) National Monetary Council - CMN RESOLUTION No. 4565, OF 4/27/2017

Authorizes the renegotiation of agricultural credits for financing and investment agreed by agricultural producers that suffered losses caused by the drought in cities of the state of Minas Gerais within the operation area of the Development Superintendence of the Northeastern Region [Superintendência de Desenvolvimento do Nordeste - Sudene].

Among the provisions of the Resolution we point out art. 4, which provides for agricultural financing that had partial coverage for loss according to the Farming

Security Program [Programa de Garantia da Atividade Agropecuária - Proagro] or any other type of agricultural insurance. According to said Resolution, such transactions may be renegotiated only upon exclusion of the amount related to the indemnity received by the beneficiary.

To check the full text of the Resolution please access [http://www.bcb.gov.br/pre/normativos/busca/downloadNormativo.asp?arquivo=/Lists/Normativos/Attachments/50367/Res\\_4565\\_v1\\_O.pdf](http://www.bcb.gov.br/pre/normativos/busca/downloadNormativo.asp?arquivo=/Lists/Normativos/Attachments/50367/Res_4565_v1_O.pdf).

## 2) CMN RESOLUTION No. 4567, OF 4/27/2017

Provides for the remittance of information on the members of the control group and the managers of financial institutions and other institutions authorized to operate by the Brazilian Central Bank and on the availability of a channel for communication of indications of any unlawfulness related to the institution's activities.

The Resolution determines that the financial institutions and other institutions authorized to operate by the Brazilian Central Bank must communicate to the National Monetary Council, within at least ten business days, any information that may affect the reputation of (i) controllers and holders of qualified interest; and (ii) members of corporate and contractual bodies.

In addition, the mentioned institutions must make a communication channel available for employees, associates, clients, users, partners or suppliers to report, anonymously, situations with indications of unlawfulness related the institution's activities.

To check the full text of the Resolution please access [http://www.bcb.gov.br/pre/normativos/busca/downloadNormativo.asp?arquivo=/Lists/Normativos/Attachments/50369/Res\\_4567\\_v1\\_O.pdf](http://www.bcb.gov.br/pre/normativos/busca/downloadNormativo.asp?arquivo=/Lists/Normativos/Attachments/50369/Res_4567_v1_O.pdf).

### 3) Brazilian Central Bank - BACEN COMMUNICATION No. 30678, OF 5/2/2017

Discloses the percentage and maximum limit of the interest rate for contracts with prefixed rates entered into within the ambit of the Housing Finance System [Sistema Financeiro da Habitação - SFH], addressed by Resolution 3409, of 2006, both related to May 2017.

The percentage related to the basic yield of savings deposits addressed in the sole paragraph of art. 18-A of Law 8177/1991, effective in May, is 0.6051% p.a.

The maximum limit of the interest rate for contracts with prefixed rates executed within the ambit of SFH, effective in May, is 12.6777% p.a.

### 4) MINISTRY OF FINANCE - EXECUTIVE DECLARATORY ACT No. 29, OF 5/3/2017

Provides for the Manual for Digital Accounting Records Layout [Escrituração Contábil Digital - ECD].

The Act approves the new version of the manual and revokes Declaratory Act no. 24/2017, in force previously.

To check the manual please access <http://sped.rfb.gov.br/pasta/show/1569>.

### 5) EXECUTIVE DECLARATORY ACT No. 30, OF 5/3/2017

Provides for the Manual for Tax Accounting Records Layout 3 [Escrituração Contábil Tax - ECF].

The Act approves the new version of the manual and revokes Declaratory Act no. 101/2016, in force previously.

To check the manual please access <http://sped.rfb.gov.br/pasta/show/1644>.

## 6) EXECUTIVE DECLARATORY ACT No. 32, OF 5/4/2017

Provides for the rules applicable to the signature on the ECD) for calendar year of 2016 to be submitted.

The Act establishes that the accounting records must be signed at least by an accountant and preferably, by the e-PJ or e-CNPJ [digital certificates] of the declarant appointed as responsible for the signature on the ECD.

In the event of operating issues related to the availability of the e-PJ or e-CNPJ, the entity may appoint as responsible for the signature on the ECD an e-PF or e-CPF, in the capacity of legal

representative or electronic attorney in fact of the declarant before the Brazilian Federal Revenue.

The signature of the person responsible for the signature on the ECD, in accordance with the above, does not exclude the ECD signature by all those required to sign the accounting records of the legal entity by operation of its Articles of Organization (including any addenda thereto and other pertinent acts).

## 7) DECREE No. 9048, OF 5/10/2017

Amends Decree no. 8033/2013, which regulates Law no. 2815/2013, and other legal provisions that address the exploitation of organized ports and port facilities.

Decree no. 9048 makes many changes in Decree no. 8033, among them (i) the contract-letting government entity body which was the Department of Port of the Presidency is now the Ministry of Transportation Ports and Civil Aviation (art. 1, sole paragraph); (ii) authorization contracts were inserted in item IV of art. 2, which addresses the approval of ownership

transfer; (iii) a sole paragraph was inserted in art. 2, providing for the instruction nature of the general grant plan of the port sector; (iv) expansion of the powers the National Water Transportation Agency [Antaq], which will analyze and approve the transfer of the corporate control of concession, lease and authorization contracts as well as will mediate, in the administrative sphere, non-solved disputes between the port administration and concessionaire, among others.

To check the full text of the Decree and all amendments please access [http://www.planalto.gov.br/ccivil\\_03/\\_Ato2015-2018/2017/Decreto/D9048.htm](http://www.planalto.gov.br/ccivil_03/_Ato2015-2018/2017/Decreto/D9048.htm).

## 8) NATIONAL CIVIL AVIATION AGENCY - ANAC NORMATIVE INSTRUCTION No. 114, OF 5/9/2017

Implements the Corporate Risk Management Policy of ANAC, the Governance, Risks and Control Committee and makes other provisions.

The Policy comprises, in general, (i) the objectives, concepts and principles to be fulfilled within the ambit of the Corporate Risk Management, listed in articles 2, 3 and 4 of the Instruction; (ii) the sizes of the corporate risks of ANAC, that may be classified as strategic, operating and safety; and (iii) the governance of the corporate risk management process of ANAC, divided among the Governance, Risks and Control Committee, the Board and the Institutional Planning Superintendence [Superintendência de Planejamento Institucional – SPI].

To check the Instruction please access <http://www.anac.gov.br/assuntos/legislacao/legislacao-1/instrucoes-normativas/2017/instrucao-normativa-114>

[no-114-09-05-2017/@@display-file/arquivo\\_norma/IN2017-0114.pdf](no-114-09-05-2017/@@display-file/arquivo_norma/IN2017-0114.pdf).

## 9) RESOLUTION No. 003/RISK, CONTROL AND INTEGRITY MANAGEMENT COMMITTEE - CGRCI, OF 5/8/2017

Provides for the Risk Management Policy of the Ministry of Finance, whose purpose is to set principles (art. 5), guidelines and objectives (art. 6), responsibilities and powers (art. 7 to 11) for the risk management.

According to art. 2, the sector policies, rules and methodologies for the risk management of the bodies and entities represented in the CGRCI must fulfill the provisions of the Resolution, aiming at gradually converging on it.

To check the Instruction please access <http://pesquisa.in.gov.br/imprensa/jsp/visualiza/index.jsp?jornal=1&pagina=24&data=10/05/2017>.

## 10) BRAZILIAN ANTITRUST AUTHORITY - CADE ADMINISTRATIVE RULE No. 173, OF 5/10/2017

Approves the Risk, Governance and Internal Control Policy within the ambit of CADE.

According to the Annex to the Administrative Rule, the purpose of the Risk and Internal Control Management Policy is to establish a minimum number of principles, guidelines and responsibilities to be fulfilled by CADE at all its management levels and by all its bodies, comprising managers, employees, service providers, associates, trainees and external consultants and any person that, in any way, performs activities at CADE.

The Administrative Rule also creates the Governance, Risk and Control Committee [Comitê de Governança, Riscos e Controles – Corisc], with authority to promote conduct practices and principles and ethical behavior standards, institutionalize adequate governance, risk

and internal control structures, among other measures.

To check the full text of the Administrative Rule please access

<http://pesquisa.in.gov.br/imprensa/jsp/visualiza/index.jsp?jornal=1&pagina=26&data=12/05/2017>.

## 11) PUBLIC HEARING SDM 2/2017

The Securities and Exchange Commission of Brazil (CVM) submitted for a public hearing held on 5/16/2017 the draft of a Resolution that establishes the simplified administrative sanction procedure [processo administrativo sancionador - PAS]. The Resolution is intended to amend CVM Resolution 538 and revoke CVM Instruction 545.

According to CVM, “the main purpose of the new procedure is to optimize the sanction activity performed by CVM, simplifying the processing of the verification of responsibilities arising from certain violations which, due to their complexity degree, do not require a regular production of evidence.”

Suggestions and comments may be sent in writing until June 16, 017 to the Superintendência de Desenvolvimento de Mercado [Market Development Superintendence], preferably via the e-address [audpublicaSDM0217@cvm.gov.br](mailto:audpublicaSDM0217@cvm.gov.br) or to Rua Sete de Setembro, 111, 23º andar, Rio de Janeiro – RJ, CEP 20050-901.

To check the draft please access [http://www.cvm.gov.br/audiencias\\_publicas/ap\\_sdm/2017/sdm0217.html](http://www.cvm.gov.br/audiencias_publicas/ap_sdm/2017/sdm0217.html).

## 12) PROVISIONAL PRESIDENTIAL DECREE No. 780, OF 5/19/2017

Establishes the Non-Tax Debts Good Standing Program [Programa de Regularização de Débitos não Tributários - PRD] within the federal autonomous government agencies and public foundations and the Federal Prosecution Office and makes other provisions.

According to the PRD, non-tax debts to the federal autonomous government agencies and public

foundations, whether finally constituted or not, registered as overdue or not, with maturity date up to March 31, 2017, incurred by individuals or entities, including those debts whose payment was divided into installments (that division whether annulled or in progress), under judicial or administrative discussion.

The PRD may be joined upon application within a period of 120 days, from the publication date of the regulation to be established by the federal autonomous government agencies and public foundations and the Federal Prosecution Office.

The adhesion to the PRD comprises: (i) irrevocable and irretrievable confession of the debts; (ii) duty to pay regularly the installments of the consolidated debts; and (iii) prohibitions of inclusion of the debts that compose the PRD in any type of further payment in installments, subject to the provisions in art. 14-A of Law no. 10522/2002.

The types of payment available to the debtor that wishes to join the PDR are: (i) payment of a first installment corresponding at least to 50% of the consolidated debt, without any reductions, and payment of the remaining portion in a second installment, with an interest and fine reduction of 90%;

(ii) payment of a first installment corresponding at least to 20% of the consolidated debt, without any reductions, and payment of the remaining portion in up to 59 monthly installments, with fine and interest reduction of 60%; (iii) payment of a first installment corresponding at least to 20% of the consolidated debt, without any reductions, and payment of the remaining portion in up to 119 monthly installments, with interest and fine reduction of 30%; and (iv) payment of a first installment corresponding at least to 20% of the consolidated debt, without any reductions, and payment of the remaining portion, without any reductions, in up to, 239 monthly installments.

The minimum amount of each installment will be R\$ 200.00 for individuals and R\$ 1,000.00 for legal entities.

To check the other guidelines for joining the PRD please access

[http://www.planalto.gov.br/ccivil\\_03/ Ato2015-2018/2017/Mpv/mpv780.htm](http://www.planalto.gov.br/ccivil_03/ Ato2015-2018/2017/Mpv/mpv780.htm).

## 13) PUBLIC HEARING SDM 03/2017, OF 5/29/2017

The Securities and Exchange Commission of Brazil (CVM) submitted for public hearing held on 5/29/2017 the draft of a Rule to regulate the occupation of securities analyst in replacement of CVM Instruction 483.

According to CVM, “the main change introduced by the Draft is need for securities analysts working as legal entities to be licensed.

The Rule also establishes conduct rules for persons that work as securities analysts, especially as to how analysis offices should communicate with the market and their clients.

Suggestions and comments may be sent in writing until June 28, 2017 to the Superintendência de Desenvolvimento de Mercado [Market Development Superintendence], preferably via the e-address [audpublicaSDM0317@cvm.gov.br](mailto:audpublicaSDM0317@cvm.gov.br) or to Rua Sete de Setembro, 111, 23º andar, Rio de Janeiro – RJ, CEP 20050-901.

To check the draft please access [http://www.cvm.gov.br/audiencias\\_publicas/ap\\_sdm/2017/sdm0317.html](http://www.cvm.gov.br/audiencias_publicas/ap_sdm/2017/sdm0317.html).

## 14) BACEN ADMINISTRATIVA RULE No. 93.612, OF 05/29/2017

It assigns competence to the Director of Institutional Relations and Citizenship to supervise the follow-up of specific activities related to money laundering and terrorist financing prevention matters, as well as to provide responses to Parliamentary Inquiry Committees.

## 15) CMN RESOLUTION No. 4.572, OF 05/26/2017

Amends the Regulation annexed to Resolution No. 3,932, of December 16, 2010, which consolidates the rules on the allocation of funds raised in savings

deposits by entities that are part of the Brazilian Savings and Loan System (SBPE).

CMN Resolution No. 4572 revokes §8 of art. 14 of the Regulation annexed to CMN Resolution No. 3.932 / 2010, in addition to including a new paragraph 10 to the same article, delimiting what is considered a new residential property for the norm.

A new residential property for CMN Resolution No. 3,932 / 2010 is one that (i) is in the production phase; or (ii) has up to 180 days of "haibte-se", or equivalent document, issued by a competent public agency, or, in cases of superior term, provided it has not been authorized or sold.



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## CLOSED SUPPLEMENTARY SOCIAL SECURITY

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### 1) PREVIC ADMINISTRATIVE RULE No. 475, OF 05/05/2017 – LIST OF QUALIFIED MANAGERS OF APRIL 2017

PREVIC published on May 4, 2017, on its website, the List of Qualified Managers of Closed Supplementary Social Security Entities (EFPC) of April 2017. The list can be consulted through the following link:  
<http://www.previc.gov.br/a-previdencia-complementar-fechada/legislacao-especifica-1/portarias/2017/portaria-no-475-de-4-de-maio-de-2017.pdf>.

## 2) PREVIC ADMINISTRATIVE RULE No. 536, OF 05/19/2017

Provides for the Risk Management Policy of the National Supplementary Social Security Superintendence - Previc and the creation of the Committee for Management of Risks and Internal Controls.

Previc has published a set of measures that consolidate the Risk Based Supervision (SBR) model, in order to prioritize regulatory proportionality, promote the preventive character and the improvement of risk management in the EFPC.

The Risk Management and Internal Control Committee will be composed of the following members: Director-Superintendent - Disup, Director of Supervision and Monitoring - Difis, Director of Technical Guidance and Norms - Dinor, Director of Licensing - Dilic and Director of Administration - Dirad.

The full Risk Management Policy will be published on the institution's website, at the electronic address [www.previc.gov.br](http://www.previc.gov.br).

## 3) PREVIC INSTRUCTION No. 005, OF 05/29/2017

Provides for the framework of closed private pension entities as Systemically Important Entities (ESI) and provides other measures.

This Instruction establishes criteria for the framework of Closed Supplementary Social Security Entities (EFPC) operating as Systemically Important Entities (ESI), for purposes of prudential supervision and regulatory proportionality. The classification criteria consider the size and relevance of the EFPC for the system from indicators of the volume of mathematical provision and classification as entities of public servants, created based on article 40, §§ 14 and 15 of the Federal Constitution.

The list of ESI can be found in PREVIC Administrative Rule No. 580, of 5/29/2017.

#### 4) PREVIC INSTRUCTION No. 006, OF 05/29/2017

Establishes procedures for certification and authorization of officers of Closed Supplementary Social Security Entities.

This Instruction defined new procedures for the empowerment of EFPC officers. Per the norm, the requirement of issuance of Attestation of Qualification prior to the exercise in the position will be restricted to the members of the executive board, and in the case of ESI, the requirement will be extended to the members of the fiscal and deliberative council.

Thus, there will be no issuance of attestation of qualification for the members of fiscal and deliberative councils of EFPC not classified as ESI. These officers will continue to submit to all the requirements set forth in the Instruction, and it is up to the top officer to verify compliance with these requirements for the exercise of the positions.

Another novelty is that, from the publication of this Instruction, the persons appointed to the positions of

Investment Director and Technically Qualified Statutory Administrator (AETQ) for ESI, will be submitted to an interview at Previc prior to the issue of the Attestation.

There was no change in the certification rules.

#### 5) PREVIC INSTRUCTION No. 007, OF 05/29/2017

Supervision and monitoring activities of the National Supplementary Social Security Superintendence – PREVIC.

This Instruction establishes that Systematically Important Entities (ESI) will be subject to Permanent Supervision, strengthening the security of the system and optimizing resources in the Autarchy, with no loss to other criteria established by the Supervision and Monitoring Program of PREVIC.

The Instruction only applies as of the preparation of the next Supervision and Monitoring Program of PREVIC, with effect from 2018.

## 6) PREVIC ADMINISTRATIVE RULE No. 580, OF 05/29/2017

Discloses the list of the Closed Supplementary Social Security Entities (EFPC) initially classified as Systemically Important Entities (ESI).

| CODE   | INITIALS       |
|--------|----------------|
| 0009-3 | BANESPREV      |
| 0039-1 | FAPES          |
| 0420-3 | FAT L          |
| 0147-9 | FORLUZ         |
| 0152-3 | FUNCEF         |
| 0123-9 | FUNCESP        |
| 0028-5 | FUNDACAO COPEL |
| 0472-4 | FUNPRES-EXE    |
| 0474-1 | FUNPRES-JUD    |
| 0061-1 | ITAU UNIBANCO  |
| 0065-5 | PETROS         |
| 0069-1 | POSTALIS       |
| 0178-1 | PREVI/BB       |

|        |               |
|--------|---------------|
| 0086-4 | REAL GRANDEZA |
| 0096-7 | SISTEL        |
| 0470-7 | SP-PREVCOM    |
| 0208-3 | VALIA         |

## HEALTH

### 1) NEW RULES FOR APPLICATIONS FOR CANCELLATION OF HEALTH PLANS ARE IN EFFECT

On 5/10/2017 Normative Resolution – RN No. 412/2016 took effect: it provides for applications for cancellation of individual and family health plans and exclusion of beneficiaries from group corporate contracts or adhesion contracts.

Such Resolution was analyzed in our information Report of November 2016, which may be accessed on <http://www.santosbevilaqua.com.br/wp->

[content/uploads/2017/03/SBA-BOLETIM-NOVEMBRO-2016.pdf](http://content/uploads/2017/03/SBA-BOLETIM-NOVEMBRO-2016.pdf).

For a better understanding of the rules laid down in the Resolution, the National Supplementary Health Agency (ANS) made a guidebook on the subject available on [http://www.ans.gov.br/images/stories/Materiais\\_para\\_pesquisa/Materiais\\_por\\_assunto/cartilha\\_cancelamento\\_ou\\_exclusao\\_de\\_contrato.pdf](http://www.ans.gov.br/images/stories/Materiais_para_pesquisa/Materiais_por_assunto/cartilha_cancelamento_ou_exclusao_de_contrato.pdf).

In addition, in view of the new rules in effect, the Consumer Protection Office - PROCON of São Paulo, determined that the companies may not impose fines for termination on consumers due to plan suspension, as “such information is never clearly provided to the beneficiary upon the execution of the contract so that the fine cannot be imposed upon the termination.”

## 2) NORMATIVE RESOLUTION - RN No. 423, OF 5/11/2017

Amends Normative Resolution - RN No. 386/2015, with provides for the Program for

Qualification of the Supplementary Health Plan Companies.

The percentages in art. 12 of RN No. 386 for the measurement performance indexes used to calculate the companies' Supplementary Health Performance Index (IDSS) were changed. The percentages of the measurement of (i) health care quality, (ii) guaranteed access; and (iii) sustainability in the market changed from 25% to 30%, and the percentage of the measurement of the process management and regulation changed from 25% to 10%.

In addition, articles 21-A and 24-A were added to RN No. 386:

"Art. 21-A The Company will publish the result of the general IDSS and each measurement of its Program on its institutional website within at least thirty (30) days from the date of their publication by ANS, from base year of 2017 to be processed and published in 2018, containing at least:

I - the IDSS result and its most recent measurements, as published by ANS and respective year evaluated equally highlighted; and

II - the link of the Program on ANS Portal.

Sole paragraph: The IDSS results referred to in the head paragraph will be kept on company's institutional website until they are replaced by the results of following year."

"Art. 24-A Noncompliance with art. 21-A will subject the company to the applicable administrative sanctions established in art. 40 and art. 74-C of RN no. 124, of March 30, 2006, which provides for the imposition of penalties for violations of the legislation on private health assistance plans."

### 3) SECTOR DEVELOPMENT BOARD - DIDES NORMATIVE INSTRUCTION No. 68, OF 5/11/2017

Amends Normative Instruction - IN No. 60/2015, which details Normative Resolution No. 386/2015, which in turn provides for the Program for Qualification of the Supplementary Health Plan Companies and makes other provisions.

Art. 2 of IN No. 60 will take effect with a new wording, which includes a compulsory Standard for Information Exchange in Supplementary Health – TISS Standard as a means to capture the data necessary for the performance evaluation. Previously, only the Information Systems of the ANS and the Ministry of Health were contemplated.

Paragraphs 2-A, 2-B and 4 were added to art. 4 of IN No. 60. The first two deal with new situations in which the companies may have a zero score in indicators with SIC as source of data, and par. 4 deals with the technical document to be made available on ANS's

institutional website detailing any data inconsistencies for each specific information system.

Finally, art. 4-A was added; it addresses surveys of the beneficiaries' satisfaction related to the base year of the Program for Qualification of the Companies.

#### 4) ANS ADMINISTRATIVE RULE No. 8937, OF 5/12/2017

The substitute Head of ANS delegates to the Management Director - DIGES authority to (I) perform human resources management activities, according to the legislation in force; (ii) execute contracts, agreements, and other necessary legal instruments within the reach of ANS purposes; (iii) make decisions regarding expenses and manage budget, financial and management funds; (iv) take management measures deriving from technical cooperation agreements executed with international organisms; (v) issue Notices requiring payments and register debts as overdue liabilities to ANS; (iv) decide on tax administrative proceedings; and (vi) decide on

proceedings for imposition of the penalty addressed in Administrative Resolution 47, of December 19, 2011.

In addition, the Head of ANS delegates (i) to the Heads of Nuclei and the Finance Manager authority to issue notices for the purposes of collection of pecuniary fines imposed at the first instance, under penalty of inclusion in the Municipal Information Record - CADIN and registration of the debt as overdue to ANS; (ii) to the coordinator of the Investigation Coordination Office (COINQ) and the coordinator of Coordination Office of Funds of the Collective Board (COREC) authority to issue official letters; (iii) to the Director of Rules and Qualification of the Supplementary Health Plan Companies (DIOPE) authority to carry out activities involving the establishment of non-burdensome technical cooperation agreements within the ambit of regulating jurisdictions as well as agreements with financial institutions for acceptance of units of the Fund Dedicated to the Supplementary Health Sector.

The authority granted cannot be sub-delegated, except for those delegated to the Management Director.

## 5) DECREE OF 5/12/2017

The President of Brazil decided, in view of the provisions in art. 9 of Law no. 9986, remove Ms. Martha Regina de Oliveira, who tendered her resignation, from the position of Director of National Supplementary Health Agency – ANS, as of May 12, 2017.

## 6) DISPATCH OF THE PRESIDENT OF THE REPUBLIC No. 176, OF 05/30/2017

Referral to the Federal Senate for consideration of the name of Mr. RODRIGO RODRIGUES DE AGUIAR to act as Director of the National Supplementary Health Agency - ANS, in the vacancy arising from the resignation of Mrs. Martha Regina de Oliveira.

## TAX

### 1) DECISION OF THE COUNCIL OF FEDERAL JUSTICE - DISCIPLINARY BOARD

Reiterates the position adopted by the Superior Court of Justice - STJ that the "insurance brokers may not be confused with securities brokers" (governed by the Central Bank of Brazil - BACEN Resolution no. 1655/89) or the "autonomous private insurance agents" (representatives of the insurers under an agency contract). The "insurance brokers" are not on the list of entities contained in art. 22, par. 1, of Law no. 8212/91.

## 2) ANSWER TO INQUIRY No. 211, OF 4/24/2017

The answer to the inquiry clarifies that, in exceptional cases, as to facts related to July to December of the calendar year of 2014, the financial transaction module of e-Financeira is compulsory only for the information and persons defined in the Intergovernmental Cooperation Agreement executed between the governments of Brazil and the United States.

## 3) PRECEDENT OF THE SUPERIOR COURT OF JUSTICE - STJ No. 584

The insurance brokers, which may not be confused with securities companies or autonomous private insurance agents, are not included in the list of entities contained in art. 22, par. 1, of Law no. 8212/1991, and are not subject to the increase in the Contribution for

Social Security Funding - Cofins rate provided in art. 18 of Law no. 10684/2003.

## 4) ANSWER TO INQUIRY TO TAX COORDINATION OFFICE - COSIT No. 218, OF 5/9/2017

Clarifies that redemptions, in full or in part, of funds accrued in social security plans, structured as defined benefit, are subject to the Withholding Income Tax based on the progressive table, and the deductions provided in art. 52 Of RFB Normative Instruction no. 1500, October 26, 2014 are permitted.

It also clarifies that, despite the fact that there is not in PGD Dirf 2015 a specific field to insert the deductions applicable to monthly income related to redemptions of supplementary social security plans structured as defined benefit, this does not prevent the monthly deduction permitted in the legislation.

## 5) ANSWER TO INQUIRY No. 212, of 5/3/2017

States the understanding that foundations, of public nature, with legal personality according to the private law, created under the aegis of Law no. 12618, of 2012, are subject to the Cofins tax in the capacity of closed supplementary social security entities, in due regard to RFB IN no. 1285, of 2012.

It also clarifies that the exemption set in art. 14, X, of Provisional Presidential Decree no. 2158-35, of 2001, does not apply to said foundations and the exclusion from the base for calculation of the Cofins established in art. 28, I, of Decree no. 4524, of 2002, does not reach the amounts related to the administrative management plan of the entity.

## 6) ANSWER TO INQUIRY No. 224, OF 5/12/2017

Clarifies that, in the Annual Tax Adjustment Return [Declaração de Ajuste Anual - DAA], the contributions to the supplementary social security entity, limited to 12% of the total yield computed in the determination of the base for the calculation of the tax due in the income return and that amount of supplementary pension must not be added to the other contributions, because it is taxed at the source and is not included as income subject to adjustment in the DAA and instead it must be informed in the income tax return according to its net value (gross income minus deductions).

## 7) ANSWER TO INQUIRY No. 233, OF 5/15/2017

Clarifies that those that opted for the Simples Nacional, from January 1, 2015, the activities of

insurance brokerage must be taxed according to Annex III, given that item XVII, par. 5-B, art. 18, of Supplementary Law no. 123, of 2006, expressly mentions such activities; the activities of social security plan and health plan brokers, as well as the activities of sales of consortium and negotiation of loans and financing contracts, as their characteristic is mediation of transactions, must be taxed according to Annex VI, in accordance with item VII, par. 5-I, art. 18, of Supplementary Law no. 123, of 2006.

## 8) EXECUTIVE DECLARATORY ACT COFIS No. 041, OF 05/30/2017

Provides for the Layout and the Manual of Completion of RECT Specific Module of e-Financeira.

The Layout and the Completion Manual are included in the annexes of the Act and can be accessed through the link <http://sped.rfb.gov.br/pastalegislação/show/1501>.

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