INFORMATION REPORT

JUNE 2018

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INSURANCE AND OPEN SUPPLEMENTARY SOCIAL SECURITY

1) National Monetary Council - CMN RESOLUTION No. 4670, OF 6/14/2018

Amends Resolution no. 4444, of November 13, 2015, which sets the rules for investment of the funds in the technical reserves, provisions and funds of insurers, capitalization companies, open supplementary social security entities, and local reinsurers, the rules for investments of funds required in Brazil to guarantee the obligations of the admitted reinsurers, and the rules for the portfolio of the Individual Retirement Fund Program (Fapi).

CMN Resolution no. 4444, of 2015, amended by CMN Resolution no. 4633, of February 22, 2018, established a schedule for the reduction of the minimum average term for renegotiation (PRC) that would begin at the end of September 2018, until March 2010, when it will no longer be required.

Before CMN Resolution no. 4633, of 2018, the Open Supplementary Social Security Entities (EAPCs) and the insurers, to avoid the transfer of the interest rate risk to the insureds/participants, purchased long-term fixed-rate bonds (to comply with the PRC) with hedging via derivative, synthesizing post-fixed bonds, which contributed to the slope of the yield curve, negatively distorting the premiums of these papers.

The Resolution may be checked here.

2) National Council of Private Insurance - CNSP RESOLUTION No. 361, OF 6/21/2018

Amends CNSP Resolution no. 219, of 2010, which provides for the Compulsory Civil Liability Insurance of Land Transportation Companies – Cargo (RCTR-C).

Under this new rule, the insured is liable to the Insurer for recording at the margin of the police the entries related to the covered shipments, before the exit of the vehicle and based on the bills of lading issued, in rigorous numeral sequence, via electronic transmission of the file of the Electronic Bill of Lading (CT-e), according to the standard established in the legislation, or via transmission of an equivalent tax document.

After the entry recording at the margin of the insurance policy, in the cases the issuance of the Electronic Statement of Tax Documents (MDF-e) is compulsory, the insured will deliver, via electronic transmission, the full file of the document, according to the standard established in the legislation, also in rigorous numeral sequence and before the trip.

The Resolution may be checked here.

3) National Council of Private Insurance - CNSP RESOLUTION No. 362, OF 6/21/2018

Amends CNSP Resolution no. 117, of December 22, 2004, which, among other provisions. amends and consolidates the rules and criteria for risk coverages offered in personal insurance plans, and also amends CNSP Resolution no. 201, of December 16, 2008, which, among other provisions, amends and consolidates the rules and criteria for death and disability coverages offered in open supplementary social security plans.

According to the Resolution, the biometric tables that may be used are those recognized by the Brazilian Actuarial Institute (IBA). The calculation of factors related to survival must consider the maximum limits of the mortality rate established in specific rules. However, other tables or rates that do not meet the requirements set in said article may be authorized provided that as established by the Private Insurance Superintendence - (SUSEP)

SUSEP will continue to monitor the solvency of the companies through analysis of the provisions, assets, and capital.

The rule is intended to foster the competition and, as a consequence, to reduce the end price of the insurance. According to SUSEP, this change put an end to the State's interference in the definition of the price of the insurance, reserve fund, or income of risk products.

The Resolution is available on SUSEP website; to check it, please click here.

4) SUSEP CIRCULAR No. 571, OF 6/22/2018

The Circular addresses farming and animal insurance.

According to it, the farming insurance, defined as a type of rural insurance, is intended to cover direct and indirect injuries to animals for consumption and/or production, comprising the breeding, raising and fattening phases, and to animals for saddle, traction, and transportation in the management of farms.

The animal insurance, on the other hand, now comprises animals used for security and inspection by legal entities governed by public or private law.

Also according to the circular, the insurers are not required to make the indemnity payment in case of death of the animals. However, other coverages that provide for reimbursement or indemnity for expenses with veterinarians, tests and/or hospitalization and other services must be compatible with those charged in the market. The rule also establishes that the company must make it possible for the insureds to replace the indemnity or the reimbursement for services provision.

The Circular may be checked here.

5) CALL FOR SUSEP PUBLIC INQUIRY No. 001, OF 6/21/2018

SUSEP Superintendent submitted to public inquiry the draft of a CNSP Circular that provides for the rules and criteria for credit life insurance, among others.

In general, the rules on insurance were better detailed, with emphasis on the transparency of the sale process and innovations such as the express possibility of legal entities taking out insurance through their members/individuals.

Those interested may send, within 15 days from the publication of the call, comments and suggestions via e-mail to dipes.rj@susep.gov.br or copep.rj@susep.gov.br, and the standard table that must be used is available on SUSEP page.

The text of the Resolution may be accessed here.

6) CALL FOR SUSEP PUBLIC INQUIRY No. 002, OF 6/21/2018

SUSEP Superintendent submitted to public inquiry the draft of a Circular that set the rules for the preparation, transaction, and advertisement of capitalization bonds, among others.

The Circular supplements the new rules that were recently enacted, and adds some innovations such as the creation of specific types of bonds, such as Guarantee Instrument Modality and Rewarding Philanthropy Modality. Previously, the traditional bonds were used in these operations.

Those interested may send, within 15 days from the publication of the call, comments and suggestions via e-mail to cgcom.rj@susep.gov.br or coset.rj@susep.gov.br, and the standard table that must be used is available on SUSEP page.

The text of the Circular may be accessed here.

7) CALL FOR SUSEP PUBLIC INQUIRY No. 003, OF 6/28/2018

SUSEP Superintendent submitted for public inquiry the draft of CNSP Resolution that provides for the Civil Liability Insurance for Road Transportation of Passengers,

Those interested may send, within 15 days from the publication of the call, comments and suggestions via e-mail to cgcom.rj@susep.gov.br or copat.rj@susep.gov.br, and the standard table that must be used is available on SUSEP page.

8) National Insurance and Social Security Academy - ANSP HOLDS EVENT ON CRIMINAL AND INSURANCE COMPLIANCE

On June 20, the ANSP held the Breakfast with Insurance to discuss "Criminal and Insurance Compliance." The event took place at the Sindseg-SP auditorium and discussed money laundering, anti-corruption laws, frauds, and mapping of integrity risks.

According to João Marcelo dos Santos, founder partner of Santos Bevilaqua Advogados, ANSP president, and facilitator of the debate, this is an important discussion because "the companies' responsibility for the implementation of controls, in general, is no longer a concern of the typically regulated markets only, as it is the case of the insurance and the financial system. Such responsibility, combined with the new criminal risks arising from the anti-corruption law, is a fundamental element of the risks to be insured and managed by the insurers."

The news on the event may be checked here.

FINANCIAL MARKET, CAPITAL MARKET AND OTHERS

1) USER PROTECTION CODE OF THE PUBLIC SERVANT

The User Protection Code of the Public Servant (CDU) took effect on 6/22/2018 and is an important advancement to improve the quality of the services rendered by federal government entities.

Instituted by Law 13460 of 2017, the CDU establishes the basic rules for the protection of the rights and duties of the users of the public services and for the citizens' participation in the direct and indirect public administrations, and, in addition, it provides for important social control instruments. In practice, the CDU regulated par. 3 of article 37 of the Federal Constitution, which provides that the user's participation in the public administration and periodic assessment of the quality of the public services must be regulated by a law.

Among others, the CDU guarantees equal treatment to all users – prohibiting any type of discrimination —, the fulfillment of deadlines, and the fulfillment and dissemination of the services hours; it also establishes that the public agent will authenticate documents when originals are produced by the users. Certification of signature will be required only in case of doubt as to the authenticity of documents.

The Code establishes that technological solutions will be adopted to simplify processes and that the language used by the public agents must simple and intelligible – avoiding initials, jargon, and foreign words or expressions. The Code also establishes the users' duties, such as the adequate use of the services, in good faith and in a polite way, and the users' obligation to preserve the public property.

In addition to the federal public entities, the Code also provides for its compulsory effectiveness for the public entities of the states, the Federal District, and the cities with over 500 thousand inhabitants. In regard to public

entities of cities with over 100 thousand and less than 500 inhabitants, the CDU will be effective in December of this year. In regard to cities with less than 100 thousand inhabitants, it will take effect in June 2019.

2) Provisional Presidential Decree - MP No. 842, OF 6/22/2018

Amends Law no. 13340, of September 28, 2016, to grant rebate on the settlement of rural credit operations of the National Program for Family Agriculture and revokes the provisions of Law no. 13606, of January 9, 2018.

The Decree is available on the federal government website and may be checked here.

3) DECREE No. 9412, OF 6/18/2018

Updates the amounts of the procurement modalities dealt with in art. 23 of Law no. 8666, of June 21, 1993, as follows:

I - regarding construction works and engineering services:

a) invitation modality - up to R$ 330,000.00;

b) solicitation of prices modality - up to R$ 3,300,000.00;

c) competition modality - up to R$ 3,300,000.00;

II - purchases and services not included in item I:

a) invitation modality - up to R$ 176,000.00;

b) solicitation of prices modality - up to R$ 1,430,000.00;

c) competition modality - up to R$ 1,430,000.00;

The Decree may be checked here.

4) Federal Controller Office/Brazilian Antitrust Authority CGU/CADE JOINT ADMINISTRATIVE RULE No. 004, OF 5/30/2018

CADE formed a partnership with the Ministry of Transparency and CGU to fight transnational bribery. The Joint Administrative Rule no. 4, published in the Federal Official Journal (DOU) on June 1, sets the procedures to investigate possible irregularities.

The partnership was formed to promote the cooperation between those bodies through exchange of information. CADE will be responsible for informing CGU of transnational bribery carried out by Brazilian or foreign companies with head office, representative office or branch in Brazil, whenever it gains knowledge of a supposed irregular fact. CGU, in turn, will inform CADE of practices against free competition attributed to investigated legal entities.

According to the text of the administrative rule, transnational bribery is the offer, promise or payment of pecuniary benefit or any other undue advantage made directly or through intermediaries by a Brazilian or foreign legal entity with head office, representative office or branch in Brazil to a public agent to obtain a benefit that will cause losses to a foreign government."

The information and documents shared by CADE and CGU will be kept in secrecy.

This is a positive measure as it improves the rules on governance and relationship among the different sectors of the State.

The full Administrative Rule is available here.

5) Office of the General Counsel for the National Treasury - PGFN ADMINISTRATIVE RULE No. 285, OF 6/14/2018

On 6/14/2018, the Treasury Minister approved the Internal Regulation of the Federal Treasury Department.

In general, the regulation organizes the entire structure of the Federal Treasury Department, establishing the authority of each Board, Coordination Office, Management and Nucleus that form it.

The Administrative Rule is available here.

6) Ministry of Finance - MF ADMINISTRATIVE RULE No. 286, OF 6/14/2018

On 6/14/2018, the Treasury Ministry approved the Internal Regulation of the International Affairs Department.

In general, the regulation organizes the entire structure of the International Affairs Department, establishing the authority of each Board, Coordination Office, Management and Division that form it.

The Administrative Rule may be checked here.

7) National Monetary Council - CMN RESOLUTION No. 4666, of 6/6/2018

Adjusts the general rules on rural credit to be applied from July 1, 2018.

The Resolution is available here.

8) National Civil Aviation Agency - ANAC RESOLUTION No. 473, OF 6/7/2018

ANAC approved last week a new regulatory model for air sports practices in Brazil. The Agency, to make such activities viable, used the international acts as a base, considering the characteristics of the aviation and the domestic legislation. According to Director Ricardo Fenelon, the Agency specifically focused on meeting the sector demands and ensuring the safety of the civil

aviation. “We tried to meet the greatest possible number of the sector demands always focusing on increasing the safety and stimulating the air sportss activities,” said the Director.

The air sports activities include ballooning, parachuting, ultralight power-driven aircraft, and aerobatics. These activities were divided into two operating groups: Activities regulated by RBAC-103, a new regulation exclusively for sports activities whose characteristic is a low level of integration to the civil aviation system and which are subject to a basic operating restriction ensuring the safety of third parties and the civil aviation system. Activities regulated by RBHA no. 91, subject to the requirements of the general aviation (pilot certification, aeronavigation certification, etc.) because of their greater interaction with the civil aviation system.

As it happened when the regulation on drones was published, the Agency will make available a register of air sports persons and equipment for the purposes of control and supervision. All RBAC-103 air sports persons as well as powered equipment and manned balloons must be registered in the system.

The full Resolution may be checked here.

9) Brazilian Federal Revenue - ADMINISTRATIVE RULE No. 862, OF 6/13/2018

Provides for the planning and execution of a pilot project within the ambit of the Brazilian Authorized Economic Operator Program (OEA Program).

The Administrative Rule authorizes the execution of the pilot project for the integration of the activities developed by the Brazilian Federal Revenue Office (RFB) and the National Agency of Civil Aviation (ANAC) related to the OEA Program, regulated by RFB Normative Instruction no. 1598, of December 9, 2015, to develop and test the supplementary module of the OEA-Integrated.

The Coordination Office of the Customs Administration and the Airport Infrastructure Superintendence will build a team to conduct the activities and will appoint the

effective members and substitutes within 30 days from the publication date of the Joint Administrative Rule.

The Coordination Office of the Customs Administration and the Airport Infrastructure Superintendence within the ambit of their authorities may jointly enact the rules necessary for the compliance with the Joint Administrative Rule.

10) Brazilian Central Bank - BACEN CIRCULAR No. 3902, OF 5/30/2018

BACEN Circular no. 3.902, published on May 30, provides for the procedures for the compliance with the required guarantee bilateral margin in transactions with derivatives carried out in Brazil or abroad by financial institutions and other institutions authorized by the Brazilian Central Bank to operate and not liquidated through an entity involved as a central counterpart, addressed in Resolution no. 4662 of May 25, 2018.

The original text of the Circular may be accessed here.

11) BACEN CIRCULAR No. 3905, OF 6/21/2018

Amends Circular no. 3869, of December 19, 2017, which establishes the method to assess the Net Stable Funding Ratio (NSFR), and Circular no. 3749, of March 5, 2015, which establishes the method to assess the Liquidity Coverage Ratio (LCR).

The changes determined by Circular 3749/2015 are already in effect. The changes and revocations related to Circular 3869/2017 will take effect on 10/1/2018.

The Circular may be checked here.

12) BACEN CIRCULAR LETTER No. 3887, of 6/21/2018

Amends Document 6 (Statement of Rural Credit Requirements and Applications) of the Rural Credit Manual (MCR).

The financial institutions subject to the Requirement for Compulsory Funds must deliver or correct the Annex II to MCR - Document 6 related to the position informed in May 2018, according to the case, until June 29, 2018, through the Rural Credit Requirement System (Sisex).

13) BRAZILIAN ACCOUNTING STANDARD - CTA 12, of 6/21/2018

Reformulates the text of Communication CTA 12 - Report of the Independent Auditor on the Accounting Statements of Business Group.

The purpose of the communication is to instruct the independent auditor on how to issue the audit report to business groups that do not prepare consolidated accounting statements, as required by NBC TG 36, as well as to instruct controllers not included in the exceptions set in item 4 of the rule.

One of the points revised in the document is contained in Annexes I and II to CTA 12 and refers to the "main issues of the audit," which are in accordance with the Brazilian Accounting Standard for Independent Audit NBC TA 701.

The full CTA 12 is available here.

14) BRIEF REPORT ON THE STRIKE OF THE TRUCK DRIVERS AND THE PRICE CONTROL OF SHIPPING

One of the reasons of the strike of the truck drivers, which started on May 21, 2018, and caused the worst crisis of supply for the last 30 years in Brazil, was the demand for a minimum shipping price setting.

In this scenario and after the negotiation with the truck drivers, on May 27, 2018, the Temer Administration instituted the Road Shipping Minimum Price Policy through Provisional Presidential Decree no. 832.

According to that Decree, to make the Road Shipping Minimum Price Policy effective, the National Agency of Land Transportation (ANTT) published a table with the minimum prices for each km traveled, with charge per

axle (general shipping, bulk shipping, refrigerated shipping, dangerous shipping, neo-bulk shipping).

Following, on 5/30/2018, ANTT published Resolution no. 5820, establishing the methodology and setting the minimum prices.

Several organizations were against the price control, among them, the Brazilian Antitrust Authority (CADE). In the opinion sent to the Federal Supreme Court, CADE alleged that the minimum price control would generate a result similar to a cartelization, that is, price uniformity for agents that should compete by offering better services.

The General Counsel to the Federal Government (AGU) diverged from CADE's opinion and stated that the road shipping price control would correct the gross distortion in the sector, harmful to the truck drivers. The AGU defended that the State act is legitimate and that it is necessary to regulate the shipping prices to establish reasonable conditions for the transportation in the Brazilian territory in order to value the human work.

In an attempt to calm down the market and mitigate the main doubts of the cargo transportation companies and their clients, in addition to adjusting the parameters set in Annexes I and II to Resolution no. 5820, of May 30, 2018, the ANTT published Resolution no. 5821, of June 7, 2018.

The main points of the regulation were the establishment of the price of shipping per km/axle for other combinations of vehicles and the possibility of backhaul negotiations between the shipper and the carrier.

Resolution 5821/2018 also clarified the exceptional cases where the minimum price should not be applied, such as the lease of the vehicle, implement, and all freight cars by one of the parties to the transportation agreement.

Resolution 5821/2018, however, was revoked by Resolution 5822, of June 8, 2018, in view of the strong reaction of the truck drivers. The ANTT published a note, informing that it would meet the entities representing the shipping sector to discuss again the minimum price control.

Currently, Resolution 5820/2018, which established the minimum price control, is still in effect, but it is not being respected. The companies are transporting the cargoes at the market prices, even at the risk of being punished. Until 6/22/2018, ANTT had already received more than

2.4 thousand complaints about the noncompliance with the price control decreed in May by the federal government but questioned by the Federal Supreme Court.

The hearing called for 6/20/2018 by the STF Justice Luiz Fux to hear the truck drivers and the representatives of the production sector and to discuss the minimum shipping price lasted almost four hours but no agreement was reached.

At the hearing, Luiz Fux upheld the decision that stayed all proceedings and preliminary injunctions in the Brazilian territory involving the unconstitutionality or suspension of the effectiveness of Provisional Presidential Decree no. 832/2018 or ANTT Resolution no. 5820/2018, according to the minutes available on the STF website.

Justice Fux is the Justice-Rapporteur of the Direct Actions for Declaration of Unconstitutionality - ADIs 5956, 5959, and 5964, which dispute the constitutionality of the Provisional Presidential Decree - MP 832 and ANTT Resolution 5820/2018 that establish the Road Shipping Minimum Price Policy. The actions were filed respectively by the Brazilian Road Shipping Association (ATR Brasil), the Brazilian Agriculture and Farming Confederation (CNA), and the National Industry Confederation (CNI).

Also at the hearing of June 20, a hearing was set for June 28, whereat a new minimum price was proposed, and another hearing was set for August 27 for two representatives of each of the entities below to be heard: AGU, Ministry of Transportation, ANTT, Brazilian Agriculture and Farming Confederation, National Industry Confederation, Brazilian Confederation of Independent Carriers, CADE General Superintendence, Department of Production Promotion and Competition Protection.

15) Brazilian Securities Commission - CVM PUBLISHES THE RESULT OF THE RISK-BASED SUPERVISION PLAN

CVM published on 6/18/2018 the second Six-Month Report on the Two-Year Risk-Based Supervision Plan (SBR) 2017-2018.

The Two-Year Pan and the periodical accounting help understand and supervise the risk market identification, analysis, prioritization, mitigation and monitoring processes conducted by CVM. Therefore, the disclosure of this material to the public is essential for the transparency of CVM's supervision and monitoring based on risk as well as the intended goals and achieved results.

The report on the second the half (July-December) of the 2017-2018 period highlights:

▪ Open entities: supervision of the remote vote instruments and closer supervision of sections 5 (Information related to risk management policies), 10 (Officers' comments on financial/property condition), and 13 (Managers' compensation) of the Reference Form.

▪ Independent auditors: evaluation of the audit reports (compliance with professional standards and accounting nonconformities of financial statements) and monitoring of the Program for External Revision of Auditors' Quality Control.

▪ Investment Funds: supervision of the potential increase in the risk of leverage with derivatives of the investment fund industry and pricing of assets in Equity Investment Funds (FIPs).

The Report may be checked here.

16) CVM HOLDS PUBLIC HEARING TO DISCUSS THE DRAFT OF THE INSTRUCTION THAT WILL SET A NEW LANDMARK FOR ITS SANCTION ACTIVITIES.

CVM held a public hearing on 6/18/2018 to discuss the draft of the instruction that will set a new landmark for its sanction activities. The proposed draft provides for the investigation of administrative violations, the administrative sanction procedures (PAS), the application of punishments, the commitment instruments, and the administrative agreements in the supervision process.

The draft also regulates the procedure applicable to administrative agreements in the supervision process

introduced by Law 13506/17, reinforcing the set of regulatory instruments that may be used by CVM to supervise and inspect the securities market.

"The calculation of the penalties applicable to the violations and the rules set in the Supervision Agreement are two highlights of this public inquiry, in light of the specific characteristics of the securities market and the operation of CVM," points out Henrique Machado, CVM director.

The news may be checked here, and the call for the public inquiry with the draft of the instruction, here.

CLOSED SUPPLEMENTARY SOCIAL SECURITY

1) THE SUPERIOR COURT OF JUSTICE (STJ) RECOGNIZES THAT THE SPONSOR MAY BE DEFENDANT IN ACTIONS FOR BENEFIT REVISION

On 6/13/2018, the trial of Special Appeal 1.370.191/RJ by the Second Section of the STJ, under the repeated appeal system, was finished, and the court settled the following issues:

I - The sponsor has no standing to be sued in cases involving the participant/beneficiary and the closed supplementary social security entity, connected solely to the social security plan, such as grant and revision of benefits or redemption of savings, by virtue of the sponsor's independent legal personality.

II - The matter does not include cases originating in a wrong, whether related or not to the contract, committed by the sponsor.

In his opinion, Mr. Felipe Salomão, Judge-Rapporteur of the appeal, emphasized that the closed supplementary social security entities have their own legal personality. "The employment relationship that the plaintiff (in the case at issue, already rejected) holds with the sponsor is not a supplementary social security relationship, which is also contractual. They are independent contractual relationships that do not commingle," he explained.

The judge-rapporteur pointed out that article 202 of the Federal Constitution institutes the capitalization regime by establishing that the private social security is supplementary, based on the previous formation of reserves, is optional and has an independent organization in regard to the general social security regime.

Also according to the judge-rapporteur, the funds formed by the private security plans belong to their participants, and the management of the funds is shared between the representatives of the participants/beneficiaries and the sponsors serving on the decision-making boards.

The settled matters will serve as a precedent in identical proceedings that are stayed in the courts of the whole country and, in addition, will have repercussion on the admissibility of appeals to the STJ and on the analysis of applications for relief grounded on high probability of right or insufficiency of the application for preliminary injunction.

The publication of the appellate decision is expected for August 1, 2018.

The certificate of decision may be checked here.

HEALTH

1) NORMATIVE RESOLUTION - RN No. 433, OF 6/27/2018

Provides for the Financial Mechanisms of Regulation, as factors to adequate the use of medical, hospital or dental assistance in the sector of the supplementary health; amends RN no. 389, of November 26, 2015, which provides for the transparency of information within the ambit of the supplementary health; establishes the compulsory availability of minimum information on private health care plans in Brazil; and makes other provisions; it also revokes par. 2 of art. 1, items VII and VIII, of art. 2; art. 3; sub-item "a" of item I, and items VI and VII of art. 4, all of Supplementary Health Board – CONSU Resolution no. 8, of November 3, 1998, which provides for the regulation mechanisms of the Private Health Assistance Insurance and Plans; and revokes item II and respective sub-items of art. 22 of RN no. 428, of November 7, 2017, that updates the List of Health Procedures and Events, a basic reference for minimal coverages of private health assistance plans contracted from January 1, 1999, and set guidelines for health assistance, among others.

The resolution sets rules for two types of health care plans that are growing in the market: co-participation (the client pays part of the assistance expenses every time the plan is used) and deductible (similar to the car insurance).

Both formats were provided in a resolution of 1998 but were still to be regulated. For example, the maximum rate for the co-participation in each assistance was not defined, but the ANS inspection board instructed the companies not to establish a rate above 30% – so, in practice, the new rule increased to 40% the maximum amount that the companies may charge

The new resolution also establishes that all charges related to deductible and co-participation are subject to an annual maximum amount. The ceiling of the portion payable by the beneficiary in a 12-month period is the same accrued amount paid in the year. That is, if the total amount paid in 12 months is R$ 6 thousand (monthly payment of R$ 500), R$ 6 thousand will be the limit for

the client's extra expenses with deductible and co-participation (diluted over the months).

This limit may be increased by 50% in the case of group corporate plans (which represent 67% of the health plan market), provided that agreed in the collective labor agreement. Therefore, in the example above, the limit payable by the client as deductible and co-participation may reach R$ 9 thousand per year.

This cap must also be respected by plans with deductible, but in such case, the collection would be different. The deductible may be applied in two ways: 1) cumulated deductible: the company is not liable for covering expenses until the amount provided as deductible in the contract is reached; 2) limited per access: a deductible amount will be stipulated per procedure and not per year.

These rules are valid for new contracts only. The company may continue to sell plans with deductible or co-participation, but the products in this format will be 20% to 30% cheaper. This ruling will take effect within six months from its publication, and the companies will have this period to adapt to it.

However, deductible and co-participation rules cannot be applied to certain procedures listed by ANS in the resolution. The list includes preventive medical appointments and tests as well as treatment of chronic diseases.

A different rule will apply to emergency assistance. In these cases, the 40% co-participation rate per procedure will not apply but rather a fixed single rate for each assistance.

This amount will be limited to half the monthly payment made by the beneficiary and will not exceed the amount paid by the health care company to the hospital or clinic.

The Resolution may be checked here.

2) CALL FOR ANS PUBLIC HEARING - No. 67

On June 28, ANS published on its website the form and documents that are part of the Public Inquiry no. 67 about the proposed Normative Resolution on the

adoption of corporate governance with an emphasis on internal controls and risk management by the health care companies. The society's contributions - information, suggestions, or criticisms - will be accepted until July 27.

The Normative Resolution contemplates the heterogeneity of the sector and is based on the Technical Note and the Report on Analysis of the Regulatory Impact prepared by Board of Rules for and Qualification of Health Care Companies.

The preparation of the resolution took into account the insolvency risk and discontinuance of health care plans due to failure of internal controls and poor capacity of risk management - which threatens the assistance to the beneficiaries.

The proposed text provides that the companies that prove the compliance with essential requirements set in the resolution may benefit from a reduction in the capital requirement. The issue was exhaustively discussed by ANS Permanent Solvency Commission (CPS), given that good governance practices are one of the pillars of the solvency and the long-term economic sustainability.

The call, the statement of reasons, and the draft of the Normative Resolution are available here.

3) CALL FOR ANS PUBLIC HEARING - No. 68

ANS published on its website the documents that are part of the Public Inquiry no. 68. The form for suggestions will be available from 7/5/2018 and 8/3/2018.

The purpose of this Public Inquiry is to gather information, subsidies, suggestions or criticism related to the proposed Normative Resolution intended to improve the criteria for technical provisions to be met by the health care companies.

The call, the draft of the amendment to RN 393, of 2015, the statement of reasons, the preliminary technical note on the regulatory impact, and the note on the method to define the general parameters to estimate the Provision for Events Occurred and not Reported - PEONA SUS and

the Provision for Insufficient Consideration (PIC) are available here.

4) ANS OBTAINS SUSPENSION OF THE PRELIMINARY INJUNCTION THAT LIMITED THE ADJUSTMENTS TO INDIVIDUAL HEALTH CARE PLANS TO 5.72%

The Brazilian Consumer Protection Institute – IDEC, filed a public-interest civil action with the Federal Courts seeking that ANS be ordered to refrain from authorizing the maximum adjustment rate to individual and family health plans for the 2018/2019 period while the portion related to the impact of the exogenous factors already considered in the adjustment of the group plans are not excluded from the adjustment and, secondarily, that the adjustment does not exceed the Broad Consumer Price Index (IPCA) accrued in the last 12 months. Idec argued that the methodology that ANS used to calculate the maximum adjustment rate for 9.1 million beneficiaries of individual plans contains distortions, is abusive and lacks transparency.

The Judge of the 22nd Federal Court of São Paulo limited the adjustments to the individual plans to 5.72% on May 30. National Federation of Supplementary Health – FenaSaúde, issued opinion against the trial-court judge's decision arguing that the IPCA is not a reference for the variation of expenses of the sector and the subsequent adjustment to the services price. According to FenaSaúde, the IPCA does not take into consideration the introduction of new services and the variation of the frequency of the use of medical and hospital services, but only the price variation. In addition, the Brazilian Institute of Geography and Statistics - IBGE basket called Health and Personal Care Sector is composed of items that bear no relation with the services established in health care plans, such as, for example, personal hygiene and cleaning. ANS appealed the decision and the Federal Regional Court of the 3rd Region reversed the judgment.

According to judge-rapporteur Nelton dos Santos, because the calculation of the adjustment of the health

care plans is a complex issue, the controversy may be settled only after the production of evidence and, in view that the matter is not urgent, the judge stayed the decision on the preliminary injunction.

The development of the case (no. 5010777-40.2018.4.03.6100) may be checked on PJE website.

5) HOSPITAL ANSWERS FOR MEDICAL ERROR

A Hospital in the Greater Vitória will pay R$ 7 thousand *reais* in pain and suffering damages to a patient because her aesthetic surgery was canceled after the anesthesiologist has decided not to apply the anesthesia. The woman was on the surgical table when she was informed that the surgery would be not be performed.

The judge ordered the medical institution to indemnify the plaintiff because he found that the defendant "was liable for the nonperformance of the previously scheduled surgery and even if a third party – the plastic surgeon – may be held responsible for the delay in the surgery, the pre-surgical preparation was performed at the specific room but the patient was not informed of the events that were preventing the beginning of the surgery, so the duty to inform that must be fulfilled in the consumer relations was neglected," the judge stated in the judgment.

The case may be checked here.

TAX

1) Federal Revenue Office - RFB NORMATIVE INSTRUCTION No. 1808, OF MAY 30, 2018

Provides for the Special Program for Tax Compliance of Micro and Small-Size Companies opting for the *Simples Nacional* (Pert-SN), instituted by Supplementary Law no. 162, of April 6, 2018.

According to the Normative Instruction, the debts that became due until December 29, 2017, constituted or not, and also the debts included in installment payment agreements previously executed, whether terminated or in effect, and the debts under administrative or court discussion, assessed according to the Special Unified Regime for Collection of Taxes and Contributions (Simples Nacional) or the System for Collection of Monthly Fixed Amounts of Taxes (Simei) comprised by the Simples Nacional for the Individual Micro Entrepreneur (MEI) may be settled as established in the Pert-SN.

The full text of Instruction is available here.

2) RFB NORMATIVE INSTRUCTION No. 1809, OF 6/8/2018

On June 11, the Brazilian Federal Revenue Office published in the Federal Official Journal RFB Normative Instruction no. 1809, of 2018, which addresses the provision of the information necessary for the consolidation of the other debts (those not related to the social security contribution) to be regularized as provided in the Tax Compliance Program (PRT), instituted by Provisional Presidential Decree - MP no. 766, of January 4, 2017. Within the ambit of the Federal Revenue, the regulation was established by RFB Normative Instruction no. 1687, of January 31, 2017.

MP no. 766, of 2017, was not converted into law, but while in effect, it produced effects so the program phases not yet finalized must be completed.

In turn, par. 4 of art. 3 of RFB Normative Instruction no. 1687, of 2017, provides that "After the formal application for adhesion, the RFB will set in a normative act the term for the taxpayer to provide the information necessary for the consolidation of the payment in installments or in cash using the credits. "

Thus, the new rule is intended to fulfill this determination in regard to the other debts administered by the Federal Revenue, except for debts related to the social security that must be paid using the Social Security Bill (GPS), setting rules on the information provision that must be obeyed from June 11 to 29, 2018.

The main information to be given is: number of installments, the credits that will be used to settle part of the debt, and the debts suspended because they are under administrative discussion in the cases the taxpayer wishes to include them in the program and discontinue the administrative discussion.

The Instruction may be checked here.

3) RFB NORMATIVE INSTRUCTION No. 1810, OF 6/13/2018

Amends RFB Normative Instruction no. 971, of November 13, 2009, which provides for the general rules for social security taxation, and RFB Normative Instruction no. 1717, of July 17, 2017, which regulates restitution, compensation, reimbursement, and refunding.

In general, this Normative Instruction regulates the tax offset. In this regard, we point out the unification of the tax offset legal regimes (treasury and social security credits) related to the legal entities that use the Digital Bookkeeping of Tax, Social Security and Labor Obligations (eSocial) to assess the contributions instituted on account of substitutions and those due to third parties.

The unified tax offset will be applicable only to the legal entities that use the e-Social to assess those contributions. The offset made using the information in the Document for Deposit in the Unemployment Savings

Fund and Information to the Social Security (GFIP) will not be changed for legal entities that do not use the e-Social.

The full text of the Instruction may be checked here.

4) RFB NORMATIVE INSTRUCTION No. 1811, OF 6/18/2018

Amends RFB Normative Instruction no. 1784, of January 19, 2018, which regulates, within the ambit of the Federal Revenue Office, the Rural Tax Compliance Program (PRR) instituted by Law no. 13606, of January 9, 2018.

The Instruction may be checked here.

5) Ministry of Finance - MF ADMINISTRATIVE RULE No. 277, OF 6/7/2018

On June 8, 2018, the Ministry of Finance published Administrative Rule no. 277 establishing that the precedents set by the Administrative Board of Tax Appeals (CARF) are binding upon the federal tax administration.

The rules related to CARF have been serving as a base for the rules dealing with other boards, such as the Appeals Board of the National Financial System (CRSFN) and the Appeals Board of the Brazilian Private Security, Open Private Social Security and Capitalization System (CRSNSP), and should they be applied to other boards, they will cause a great impact.

In the case of the CRSNSP, some settled understandings related to claim adjudication and beneficial holding period in regard to the substantive law have not been respected by SUSEP. In this regard, the enactment of binding precedents by the Board would give legal

certainty to the supervised entities, which would adjust themselves to the rules already in accordance with the understanding of the inspection bodies.

The Administrative Rule may be checked here.

6) Office of the General Counsel for the National Treasury - PGFN ADMINISTRATIVE RULE No. 376, OF 6/15/2018

Amends PGFN Administrative Rule no. 396, of April 20, 2016, which regulates, within the ambit of the National Treasury, the Differentiated Regime for Credit Collection (RDCC).

According to the administrative rule, in the tax executions made according to Annex 4, the application for suspension of tax executions whose consolidated amount is equal to or below one million *reais*, provided that there is no guarantee for satisfaction, in full or in part, of the executed credit, is contingent on the exhaustion of measures or supplementary investigations related to the indication of existence of assets, rights or economic activities of the principal debtor or the co-debtor.

7) ANSWER TO Regional Federal Revenue Superintendences - DISIT/SRRF08 INQUIRY No. 8005, OF 4/4/2018

According to the Answer to Inquiry no. 8.005, published in the Federal Official Journal on 6/7/2018, the amount of the interest connected to the indemnity paid by the insurer is a financial revenue and must be computed in the assessment of the taxable profit, whether presumptive or estimated.

The answer to the inquiry is linked to the Tax Coordination Office (COSIT) answer to inquiry no. 21, of March 22, 2018, which is available here.

The answer to the inquiry no. 8005 may be checked here.

8) The differentiated taxation applied to financial institutions is constitutional.

The Federal Supreme Court decided, in the extraordinary session held on June 6, 2018, that the differentiated rates of the social and social security contributions applied to the financial institutions are constitutional. At the end of the trial of the proceedings related to this matter (RE 599.309, RE 656.089, and RE 578.846), three theses for the purposes of general repercussion were approved:

(i) The 2.5% additional contribution on the payroll applied to financial and similar institutions is constitutional, under par. 2 of art. 3 of Law 7787/89, even considering the period before the Constitution Amendment - EC 20/98. (RE 599.309, which may be checked here.)

(ii) The differentiated rate increase in regard to the social contributions levied on the billing or the revenue of the financial institutions or entities legally equivalent to the financial institutions is constitutional. (RE 656.089, which may be checked here.)

(iii) The rate and the base for the calculation of the Contribution for the Social Integration Program (PIS) provided in art. 72, 5 of the Act of Temporary Constitutional Provisions (ADCT), designed for the formation of the social emergency fund according to the Efficient Consumer Response (ECR) 1/94, and the Constitution Amendments (ECs) 10/96 and 17/97, are constitutional, subject to the principles of the 90-day holding period and tax nonretroactivity. (RE 578.846, which may be checked here.)

9) STF will try Direct Action for Declaration of Unconstitutionality - ADI 4673 dealing with the social security contribution of the brokers

The en banc Federal Supreme Court will decide on the merits of the Direct Action for Declaration of Unconstitutionality filed by the Confederation of the

Institutions of the National Financial System (Consif) to dispute the levy of the social security contribution on the transfer of the brokers' commission by the insurers.

In the ADI 4.673, Consif asks the STF to interpret, according to the Constitution, the provisions of Law 8212/91, to exclude the levy on the commissions transferred by the companies to the insurance brokers. Such legal provisions, amended by Law 9876/99, establish that the portion allocated by the insurance companies to the Social Security must be 20% of the total compensations paid or credited in the month to the taxpayers/individuals that provide services to the insurance companies. Consif also disputes the rule that requires the insurers to pay the additional 2.5% as social security contribution.

The development of the ADI may be checked here.

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BACK TO SUMMARY