

# INFORMATION REPORT

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JANUARY 2018



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# INSURANCE AND OPEN SUPPLEMENTARY SOCIAL SECURITY

## 1) BILL 3139/2015

The Special Private Insurance Commission held on November 9 the second public hearing to discuss the [Bill 3139/15](#), proposed by representative Lucas Vergílio (SD political party-State of Goiás), which provides for the National Private Insurance System.

According to the bill, only corporations or cooperatives may operate in the field of private insurance and provided that authorized by the entity that supervises the insurance market.

The bill also prohibits associations, cooperatives, benefits clubs, individuals and entities from executing insurance contracts or selling products providing coverage, reimbursement, and indemnity for any

purposes, including those similar to damage or personal insurance.

As already indicated in other information reports, the Bill is a good initiative. However, the need to reaffirm that a governmental authorization is required for an entity to operate as an insurer is regrettable. Such rule arises from the legislation currently in effect, and it has been consistently disobeyed by associations and other types of entities.

## 2) BILL 29/2017

The Constitution, Justice and Citizenship Commission of the Federal Senate held, on 12/7/2017, a public hearing to discuss the [Bill 29/2017](#), which provides for the insurance contract.

[João Marcelo dos Santos](#), founding partner of Santos Bevílaqua Advogados, represented Fenaber – *Federação Nacional das Empresas de Reseguro* (National Association of Reinsurers) at the hearing and emphasized that Fenaber considers the Bill harmful to the insurance and reinsurance market, especially because (i) it makes large and small

insureds equivalent, (ii) it improperly interferes with several aspects of the reinsurance contract and the reinsurance activity, and (iii) it improperly interferes with loss adjudication.

To watch the recording of the session of the Commission, click [here](#).

### 3) CALL FOR SUSEP PUBLIC INQUIRY No. 018, OF 12/14/2017

The Superintendent of the Private Insurance Superintendence - SUSEP submitted to public inquiry the [draft](#) of SUSEP Circular that provides for farming insurance and animal insurance.

Those interested may send, within 45 days from the call, comments and suggestions via e-mail [tocoset.rj@susep.gov.br](mailto:tocoset.rj@susep.gov.br), and the standard table that must be used is available on SUSEP [page](#) on the Internet.

### 4) Private Insurance Superintendence/Conduct Supervision Board SUSEP/DICON ELECTRONIC CIRCULAR LETTER No. 003, OF 11/15/2017

SUSEP informs, through this Circular Letter, that the Financial Action Task Force - GAFI/FATF published announcements listing jurisdictions with deficient strategies as to the systems for Prevention of Money Laundering and Fight Against Terrorism Financing (PLD/CFT).

In the Letter, the Agency recommends the responsible companies or entities to take measures related to internal control procedures to assess risks regarding underwriting, contracts with third parties or other related parties, development of products, private negotiations, and transactions involving assets.

The GAFI/FATF announcements were translated into Portuguese by the Council for Financial Activities

Control [Conselho de Controle de Atividades Financeiras - COAF] and are available at

<http://www.coaf.fazenda.gov.br/links-externos/comunicado-do-gafi-de-13-de-novembro-de-2017>

<http://www.coaf.fazenda.gov.br/links-externos/aprimorando-a-observancia-global-ald-cft-processo-em-curso-2013-03-de-novembro-de-2017>

The original English versions are available at

<http://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/documents/public-statement-november-2017.html>

<http://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/documents/fatf-compliance-november-2017.html>

## 5) National Federation of General Insurance - FENSEG CREATES THE CORPORATE INSURANCE STRATEGY COMMISSION

FenSeg has a new technical commission: the Corporate Insurance Strategy Commission - CESC, created to meet the demand for corporate insurance, which must comply with a number of rules and world programs.

Among the targets of the Commission are the reinforcement of the communication channels among the insurance market, the reinsurance market, the supervisor, and other players of the industry and the discussion about the risks and opportunities for the Corporate Insurance segment, which involve significant amounts and differentiated characteristics.

The Commission will have an opportunity to analyze the [Bill 29/2017, mentioned above](#).

The Commission will meet every month, always on the third Tuesday of the month, from 9:30 AM to

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11:30 AM, in the head office of SINDSEG/SP, in São Paulo.

## 6) National Council of Private Insurance - CNSP RESOLUTION No. 351, OF 12/20/2017

Amends articles 47 and 49 of CNSP Resolution no. 332, of December 9, 2015, to adjust the premiums of the DPVAT (Insurance for Personal Damage Caused by Automobiles), according to the category, and the transfer rates of the premiums collected.

## 7) CNSP RESOLUTION No. 352, OF 12/20/2017

This Resolution provides for the rules and criteria for the funeral insurance offered by insurers.

In spite of the legal provision on such product that is already being sold in the market, there was not a specific regulation for its coverages and peculiarities.

The coverages will guarantee the beneficiary(ies) an indemnity, limited to the amount of the insured capital under the contract, which will be a reimbursement for expenses or services, provided that related to the funeral.

According to the rule, which is excessively detailed, its provisions do not apply to (i) compulsory insurance, (ii) coverages of indemnities other than those paid as reimbursement and/or service provision, (iii) funeral services paid directly to undertakers, and (iv) funeral assistance plans regulated by Law no. 13261/2016.

The last ones, provided in Law no. 13261/2016, have already been commented in our reports; these comments are available at:

- Portuguese versions: Information Report of [March 2016](#) and of [September 2017](#).
- English versions: Information Report of [March 2016](#) and of [September 2017](#).

CNSP Resolution no. 352/2017 also determines that, except for the insurance contracts in effect, the insurers must adjust to the rule within up to 90 days from its publication date.

## 8) CNSP RESOLUTION No. 353, OF 12/20/2017

Amends CNSP Circular no. 168, of December 17, 2007, and makes other provisions.

This expected [Resolution](#) eliminated (i) the limits for risk cessions among Brazilian cedants and companies related to, or in a, same financial conglomerate based abroad; and (ii) the market reserve in favor of local reinsurers.

Given the relevance of the changes, Santos Bevílaqua Advogados prepared a special information report on the Resolution, in [Portuguese](#) and an [English](#) version.

## 9) CNSP RESOLUTION No. 354, OF 12/20/2017

Amends CNSP Resolution no 336/2016, which sets rules and criteria for car popular insurance and permission for the use of pieces supplied by disassembly companies, according to the specific law, to recover damaged vehicles covered by insurance and makes other provisions.

According to the amendment, the insurers may offer this product only with the option of authorized network as a choice to repair damaged vehicles. From now on, the insurer may establish a minimum age for vehicles to be covered under a popular insurance.

The new [rule](#) also establishes that promotions and ads related to those insurance policies must be expressly authorized and supervised by the insurer, subject to the contractual conditions and the technical note submitted to SUSEP.

According to SUSEP Superintendent, Joaquim Mendanha de Ataídes, the purpose of the product is

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to increase the offer of car insurance to consumers that have older cars and attract consumers that do not have a financial condition to buy the traditional product. *“Now that the market may offer a product that offers only the option of repair in an authorized network of repair shops, the likelihood is that the insurers will be better able to reduce and control their costs and that more companies will sell the ‘auto popular’”*, explained Mendenha, pointing out that, due to the approved changes, SUSEP expects a reduction in the insurance consumer's final cost. *“The product is also an important tool to fight the marginal market”*, he emphasized.

## 10) CNSP RESOLUTION No. 355, OF 12/20/2017

Provides for Contractual Conditions of the Compulsory Civil Liability Insurance of Air Transportation Companies - RETA.

The insurers that wish to sell the insurance addressed in the [Resolution](#) must previously submit

to SUSEP their tariff credit in an actuarial note, according to the minimum structuring provided in a specific regulation.

After 180 days of the publication of the Resolution, the insurers will not be allowed to execute new contracts that are not in accordance with it, and the plans that are currently sold must be adjusted to the new rule within that period, upon the opening of a new administrative procedure.

The Resolution also prohibits the insurers from changing the insurance conditions should they restrict rights or create a burden for the insured, including additional coverages and/or specific clauses conflicting with the rules in effect.

## 11) CNSP RESOLUTION No. 356, OF 12/20/2017

[Revokes](#) CNSP Resolution no. 163/2007, which, among other provisions, established rules to send the actuarial technical note of the portfolio of insurance plans, and the sole paragraph of article 13

of CNSP Resolution no. 336/2016, under which the insurers that sold the insurance of the line Car - Body were not required to send the Actuarial Technical Note of the Portfolio related to the beginning of operations with the insurance line.

This was a relevant measure to eliminate some rules and procedures that were no longer necessary, considering the development of some rules and procedures adopted by SUSEP more recently.

## 12) CNSP RESOLUTION No. 359, OF 12/20/2017

As expected, on 12/26/2017, CNSP Resolution no. 359/2017 was published to amend several provisions of CNSP Resolution no. 294/2013, which addresses the use of remote means in transactions related to insurance plans and open supplementary social security plans.

With the new wording, now the Resolution clearly indicates that it is possible to use remote means to issue group contracts and endorsements.

Another point that should be highlighted is the suppression of the Brazilian Public Key Infrastructure [*Infraestrutura de Chaves Públicas Brasileiras - ICP-Brasil*] or other Root Certificate Authority equivalent to the PKI, so the remote means with elements able to authenticate and not to reject acts and the integrity of documents issued are now accepted.

The introduction of the non-rejection in the legislation seems a relevant advancement, especially to the extent that the impossibility of regulating all possible structures of communications by remote means is now recognized.

According to art. 5, contracts established by remote means still require a login and a password or a digital certificate necessarily pre-registered by the applicant in a secure environment. The innovation refers to post-contract procedures, and now offers of services such as claims notice, application for redemption, grant of benefits, replacement of beneficiary and

other applications that imply changes to or the termination of the contractual relationship, as well as sending of bank-issued invoices are compulsory, provided that expressly authorized by the client.

The original text of art. 9 of the Resolution required that, during the contractual phase, several information messages be sent to the client. According to the new wording, such information may be made available on the Internet and accessed via individualized passwords. In fact, this change makes sense to the extent that it brings the consumer protection to a more reasonable level.

It also introduced article 16-A, establishing that the digital insurer/EAPC, which is still to be regulated, must use only remote means in all transactions related to insurance and open social security plans. It does not seem adequate to conflate the use of remote means for the sales of insurance and social security plans with the possible classifications of supervised entities, and the usefulness of such distinction made by the Resolution is not clear. Nevertheless, it is possible to identify that the amendment generates, as an effect, a recent and

problematic process for the approval of insurers that intended to operate remotely only and without the mediation of brokers.

By and large, unquestionably the amendments made are an advancement in regard to the use of remote means in the transactions involving insurance and open social security plans. Anyway, more thought should be given to this issue in order for the ruling to reflect the constant technological advancements that we are experiencing.

### 13) CNSP RESOLUTION No. 360, OF 12/20/2017

This new rule amends CNSP Resolution no. 321/2015, which among other matters, provides for the need for coverage of technical provisions, risk capital based on subscription, credit, operational and market risks, adjusted net worth, minimum capital required, plans to legitimize solvency, withholding limits, criteria for investments, accounting standards,

independent accounting and actuarial audits, and Audit Committee related to insurers, open supplementary social security entities, capitalization companies, and reinsurers.

The main changes are the articles related to the minimum capital required and the solvency and liquidity regularization plans, in particular in regard to "Capital Requirements".

## 14) CALL FOR SUSEP PUBLIC INQUIRY No. 19/2017

SUSEP Superintendent submitted to public inquiry the [draft](#) of SUSEP Circular that provides for capitalization, modalities, preparation, operation and sales of Capitalization Bonds, and makes other provisions.

Those interested may send, within 45 days from the publication of the call, comments and suggestions via e-mail to [coset.rj@susep.gov.br](mailto:coset.rj@susep.gov.br), and the standard table that must be used is available on SUSEP [page](#) on the Internet.

## 15) SUSEP STATEMENT No. 203, OF 12/28/2017

[Amends](#) "Table 2 - Indicator of Strategic Goals" of the Annex to SUSEP Statement no. 182/2106, which approved SUSEP Strategic Plan for the period from 2016 to 2020.

## 16) SUSEP CIRCULAR No. 561, of 12/22/2017

Amends SUSEP Circular no. 517/2015, which addresses technical provisions; test of liabilities adequacy; reducing assets, risk capital for subscription, credit, operation and market; creation of database for operational losses; insolvency regularization plan; registration, custody and transfer of assets, bonds and securities securing technical provisions; Periodical Information Form - FIP/SUSEP; Accounting Standards and independent audit of insurers, open supplementary social security entities, capitalization companies and reinsurers; test for certification and continued professional education

of independent accounting auditors, and Technical Pronouncements prepared by the Brazilian Actuarial Institute [*Instituto Brasileiro de Atuária - IBA*]

Among the innovations introduced by the [rule](#) is the inclusion of a new Section related to the Criteria Allowing the Use of Risk Reduced Factors in the Calculation of Risk Capital and the change in the part of SUSEP Circular no. 517/2015 that deals with Solvency and Liquidity Regularization Plan.

To assist the supervised market with the adaptation to the rule above, SUSEP published a guidance and calculation spreadsheets, which may be accessed by clicking [here](#).

## 17) SUSEP CIRCULAR No. 562, OF 12/24/2017

[Provides](#) for the limit for reinsurance cession and the assessment of the rate established in art. 16 of CNSP Resolution no. 168, of December 17, 2007.

In the assessment of the cession limit in reinsurance, in addition to the provisions in par. 1 of art. 16 of CNSP Resolution no. 168/2007, the issued premiums and the ceded reinsurance premiums related to the lines of (i) Indicated and Operational Risks, (ii) Aviation (body), (iii) Optional Civil Liability for Aircraft - RCF, and (iv) Oil Risks will not be computed.

The exception mentioned above, however, applies only to insurers, and does not include the local reinsurers.

The calculation of the limit established in art. 16 of CNSP Resolution no. 168, of 2007, will take into account the quotient between the ceded reinsurance/retrocession premiums and the issued premiums, and the amounts related to the excluded lines or group of lines will be subtracted from the ceded premiums.

However, the amounts related to reinsurance/retrocession commissions will not be deducted from the respective ceded reinsurance/retrocession premiums. Technically, this rule is quite adequate and corrects the negative impact of the equivalence between reinsurance and

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retrocession commissions and premiums established by SUSEP years ago, in regard to the withholding limit.

## 18) SUSEP CIRCULAR No. 563, OF 12/24/2017

This [Circular](#) amends and consolidates the additional operation rules and criteria for the survival coverage offered within **open supplementary social security plans**, and makes other provisions.

## 19) SUSEP CIRCULAR No. 564, OF 12/24/2017

This rule amends and consolidates the additional operation rules and criteria for the survival coverage offered within **personal insurance plans** and makes other provisions.

## 20) SUSEP CIRCULAR No. 565, OF 12/24/2017

Provides for rules and criteria to develop and sell insurance plans of the Named-Perils and Operational Risks - RNO line and makes other provisions.

According to this Circular, only policies with a Maximum Indemnity Limit (LMG) above one hundred million *reais* (R\$ 100,000,000.00) may be classified as insurance of the RNO line.

Also according to the rule, the LMG comprising, in addition to the property damages coverage, financial losses caused by the property damages, is admissible.

From April 1, 2018, the insurers will be prohibited from selling new Indicated Risks- RN and Operational Risks - RO insurance not in conformity with the provisions in SUSEP Circular no. 565, of 12/24/2017.

## 21) SUSEP CIRCULAR No. 566, OF 12/24/2017

This [rule](#) revokes SUSEP Circulars no. 7, of February 12, 1975; no. 2, of January 6, 1976; no. 17, March 29, 1976; no. 26, of May 20, 1976; no. 26, of March 7, 1977; no. 70, of October 26, 1977; no. 85, of December 29, 1977; no. 6, of January 11, 1979; no. 22, of March 7, 1979; no. 43, of June 18, 1979; no. 2, of January 15, 1980; no. 41, of July 10, 1980; no. 2, of January 11, 1982; no. 16, of June 4, 1982; no. 6, of February 21, 1983; no. 23, of June 13, 1983; no. 6, of February 7, 1984; no. 14, of April 16, 1984; no. 18, of May 15, 1984; no. 2, of January 16, 1985; no. 25, of June 28, 1985; no. 33, of August 22, 1985; no. 21, of October 8, 1987; no. 10, of May 20, 1991; no. 21, of September 1994.

It is a commendable measure as it avoids doubts about the effectiveness of rules that, for the most part, were being considered tacitly revoked by subsequent rules.

## 22) SUSEP STATEMENT No. 204, OF 1/2/2018

Creates the Permanent Ruling Commission [*Comissão Permanente de Normas - CPN*] and ratifies its Internal Regulation.

This Commission will analyze the internal impact of regulatory and multidisciplinary rules proposed by SUSEP and propose measures to optimize the regulatory governance of SUSEP

According to the [Statement](#), the CPN may also examine, in exceptional cases and upon statement of reasons previously submitted to it by the proposing area, administrative rules affecting in general all units of SUSEP, whose relevance and internal impact justify a joint evaluation by the members of the Commission.

This is a positive measure that shows SUSEP's concerns about the costs created by the legislation, in particular, the well-known curve according to which an excessive number of rules, from a given limit, implies increasingly higher costs and smaller benefits

## 23) Actuarial Pronouncement Committee - CPA PRONOUNCEMENTS

The CPA issued some pronouncements of interest to the actuarial practice:

Concerning [CPA 002](#), it worth noting that CNSP Resolution no. 321/2015 provides, among other matters, for independent actuarial audit services provided to insurers, open supplementary social security entities, capitalization companies, and local reinsurers.

In turn, [CPA 011](#) is intended to disseminate the best practices for the calculation of technical provisions for expenses, which must be followed by actuaries, as well as to offer mechanisms for a better understanding by the technicians and all those responsible for the management and governance of the companies supervised by SUSEP concerning the form and reach of the concept and calculation of the provision.

Published on the same date of publication of the CPA above, [CPA 012](#) is focused on informing the

actuarial community of the principles and methodologies usually used to assess the Provision for Non-Claimed Losses and the adjustment to the Provision for Losses to Be Settled - IBNER.

Finally, the main purpose of [CPAO 012](#) is to inform the actuarial community of the methodologies usually used to assess the Provision for Non-Claimed Losses and the adjustment to the Provision for Losses to Be Settled - IBNER.

## 24) Ministry of Finance - MF ADMINISTRATIVE RULE No. 13, OF 1/16/2018

Provides for the Brazilian government support to exports using the export credit insurance (SCE) to comply with the anti-corruption policy, according to the commitments assumed by Brazil as a signatory to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and to the OECD Recommendation on Bribery and Officially Supported Export Credits.

The [Administrative Rule](#) grants the International Affairs Department of the Ministry of Finance authority to (i) prepare and enforce the anti-corruption, money-laundering and terrorism financing policy in foreign trade transactions that request the Brazilian government support through the export credit insurance (SCE) and (ii) establish procedures for the compliance with the anti-corruption, money-laundering and terrorism financing policy according to the transaction complexity.

## 25) IFRS 17

The International Accounting Standards Board (IASB) published a document to support the implementation of the IFRS 17, with an accounting model for the life insurance contract

This a highly relevant issue and our firm has been conducting several studies and works in this regard.

The entire document is available [here](#).

## 26) Brazilian Actuarial Institute - IBA OFFICIAL LETTER

The IBA sent an [official letter](#) to the SUSEP Superintendent requesting an analysis of the actuarial issues contained in CNSP Resolution no. 321/2015, in particular

1. Time for replacement of the Independent Actuary  
– 1st Audit Cycle
2. Time for replacement of the Independent Actuary  
– Other Cycles
3. Criteria for turnover of auditors

Considering the knowledge acquired in the first years of audit and the adjustments made during this time, the IBA requested SUSEP to analyze its proposal for extension of the period of five years set in Art. 109 to seven years.

IBA also requested SUSEP to contemplate the possibility of extending this periods in the next cycles (and not only in this first cycle), considering that the replacement of a professional demands that the

“new” independent actuary begins to perform his work in a period too short to understand the culture and transactions of the supervised company. For the IBA, the extension of this period to six years will be advantageous to the market, the Institutions, and SUSEP itself — concerning its inspection nature —, and does not create any hindrance to the auditor’s necessary independence.

contracted by the transportation company or the client. The document that covers the operation must contain the information on the insurance policy and the number of the annotation.

The civil liability insurance is different from the national transportation insurance and the DPVAT (Insurance for Personal Damage Caused by Automobiles).

## 27) National Agency of Land Transportation - ANTT COMMUNICATION

The ANTT published this week a [Communication](#) to the road cargo transportation companies about the Civil Liability Insurance against losses or damages to cargo (RCTR-C).

The purpose is to solve the controversies over the interpretation of the matter. According to the communication, any transportation service performed by any category of transportation company must be covered by the RCTR-C insurance, which must be

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## FINANCIAL MARKET, CAPITAL MARKET AND OTHERS

### 1) Inspection Coordination Office - COFIS EXECUTIVE DECLARATORY ACT No. 073, OF 11/30/2017

Approves the new versions of the [Layouts](#) and the e-Financeira [Completion Manual](#), addressed in items I and II of art. 15 of Federal Revenue - RFB Normative Instruction no. 1571, of July 2, 2015

### 2) LAW No. 13529, OF 12/4/2017

Authorizes the Federal Government to participate in funds, whose sole purpose is to finance specialized professional technical services to support the

structuring and development of concession projects and public-private partnerships of the federal government, the states, the federal district, and the municipalities, separately or in consortium, up to the limit of one hundred and eighty million *reais* (R\$ 180,000,000.00).

[Law 13529/2017](#) also amends Law 11079, of December 30, 2004, which sets rules for procurements and public-private partnerships involving the government; Law no. 11578, of November 26, 2007, which provides for the compulsory transfer of funds for the states, the federal district, and the municipalities to take actions related to the Growth Acceleration Program [*Programa de Aceleração do Crescimento - PAC*]; and Law no. 12712, of August 30, 2012, which authorizes the Executive Branch to organize the Brazilian Managing Agency of Guarantee Funds and Guarantees S.A. [*Agência Brasileira Gestora de Fundos Garantidores e Garantias S.A. – ABGF*].

3) *Simples Nacional* Tax Regime  
 Management Council - CGSN  
 RESOLUTION No. 137, OF  
 12/4/2017

This [rule](#) amends CGSN Resolution no. 94, of November 29, 2011, which establishes the Simples Nacional tax regime.

4) Brazilian Accounting Standard -  
 NBC PG 12 (R3), OF 11/24/2017

Amends NBC PG12 (R2), which provides for the continued professional education.

Among other changes, [NBC PG 12 \(R3\)](#) determines that, in the year the professionals no longer fit into item 4, they will be discharged from complying with the Continued Professional Education Program while such condition persists and must communicate their

situation to the Regional Accounting Council of their jurisdiction.

Still according to the rule, the professional's enrollment in the National Register of Independent Auditors [*Cadastro Nacional de Auditores Independentes - CNAI*] will be canceled only after the professional is guaranteed the right of the adversary system and an opportunity to be heard to justify the nonperformance of the obligations provided in the rule.

5) National Immigration Council -  
 CNI NORMATIVE RESOLUTION No.  
 011, OF 12/1/2017

The CNI enacted a [Resolution](#) that regulates the residence permit for managers, officers or executives with management powers that represent civil or business associations, business groups or conglomerates - legal entities.

According to the rule, the Ministry of Labor may grant a residence permit for investments, under art. 43 and art. 151, par. 2, of Decree no. 9199, of 2017, to a foreign national that is a manager, officer or executive with management powers that represents a civil or business association, a business group or conglomerate - legal entities making foreign investments in a company established in Brazil, with a potential to generate jobs or income.

In the event of the appointment of a person for the Board of Directors, Decision-Making Board, Executive Board, Advisory Board, Audit Committee and other corporate bodies of an insurer, a capitalization company, or a private open social security entity, SUSEP's ratification of the immigrant's approval for the position will be required.

## 6) Council for Financial Activities Control - COAF RESOLUTION No. 029, OF 12/7/2017

This [rule](#) provides for the procedures to be followed by those regulated by COAF, under par. 1 of article 14 of Law no. 9613, of March 3, 1998, concerning politically exposed persons.

By issuing this new resolution, COAF intends to change the treatment afforded to Exposed Politically Persons (PEPs). The approach related to the money-laundering risk should not be directed to the person, but to the type of the proposed transaction. The aim is to improve the relations among PEPs, financial institutions, and the other economic sectors.

The innovation is the inclusion of all state and district representatives, city councilors, and presidents and treasurers of political parties. According to the guidance of the Financial Action Task Force - GAFI, the resolution also defines foreign PEP.

## 7) Brazilian Central Bank - BACEN CIRCULAR No. 3861, of 12/7/2017

On 12/7/2017, BACEN issued circulars that establish the procedures for the calculation of risk-weighted assets in the simplified form (RWAS5) related to (i) the exposure to gold, foreign currency and assets subject to the exchange rate change , (ii) the exposures to credit risk subject to the assessment of the capital requirement, and (iii) the calculation of the capital required for the operational risk, through the standard simplified approach (RWACAMSimp), addressed by Resolution no. 4606, of October 19, 2017.

## 8) BACEN CIRCULAR No. 3865, OF 12/7/2017

Provides for the compliance policy of consortium managing companies and payment institutions.

According to the new rule, the institutions must implement and follow a compliance policy compatible with the nature, size, complexity, structure, risk profile and business model of each institution to ensure the effective management of their compliance risk.

Compliance risk is the possibility of legal or administrative sanctions, financial losses, reputation damages, and other damages, arising from noncompliance or failure to comply with the legal framework, regulations, recommendations of regulatory entities and the applicable self-regulation codes.

The Circular also lists the minimum requirements set for a compliance policy, such as definition of the purpose and scope of the compliance function, and the measures necessary to ensure independence and adequate authority to those responsible for the activities related to the compliance function in the institution.

## 9) BACEN CIRCULAR No. 3869, OF 12/19/2017

Establishes the method to assess the Net Stable Funding Ratio (NSFR), provides for the dissemination of information about the NSFR, and amends Circular no. 3749, of March 5, 2015.

2017, or (ii) aggregated where the joint value of the client's transactions is less than R\$ 200.00; this value includes the credit transactions performed or acquired by the entities and programs, or the public funds mentioned in art. 5 of Resolution no. 4571, of 2017;

The information about credit statistics and lease must be aggregated.

The information about credit transactions performed or acquired by offices and subsidiaries located abroad of the institutions addressed in the head provision must obey the peculiarities described in par. 2 of article 1 of the [Circular](#).

The rule also lists the information that must not be supplied to the SCR, such as that related to bonds, mediation of bonds and securities, shares, quotas, and warrants, where they do not fit the category of fixed income, among others.

## 10) BACEN CIRCULAR No. 3870, OF 12/19/2017

Provides for the provision of information about credit transactions to the Credit Information System [*Sistema de Informações de Créditos - SCR*], addressed in Resolution no 4571, of May 26, 2017.

The information must be (i) individualized in regard to each transaction where the joint value of the client's transactions is equal to or exceeds R\$ 200.00; this value includes the credit transactions performed or acquired by the entities and programs, or the public funds mentioned in art. 5 of Resolution no. 4571, of

## 11) BRAZILIAN ACCOUNTING STANDARD - CTSC 003, OF 12/8/2017;

Approves the CTSC 03 - Report on the Application of Previously Agreed Procedures related to the Verification Instrument for Replacement of the Digital Bookkeeping [*Escrivatura Contábil Digital - ECD*].

The Communication of the Federal Accounting Council (CFC) aims at instructing independent auditors as to the application of the previously agreed procedures to the adjustments contained in the Verification Instrument for Replacement of the Digital Bookkeeping (ECD) to comply with the provisions in the CTG 2001- Defines the Formal Procedures for Compliance with the Public Digital Bookkeeping System [*Sistema Público de Escrituração Digital - SPED*], issued by the CFC.

## 12) Brazilian Accounting Rule - NBC PA 011 (R2), OF 12/8/2017;

Provides for a new wording to NBC PA 11 – External Quality Revision by the Peers, which is a process to monitor the quality of the work of independent auditors.

The revision will evaluate the procedures followed by accountants that work as independent auditors and by Audit Firms, to ensure the quality of the audits and the certifications.

The new rule changes the name “External Quality Revision by the Peers” to “Revision by the Peers.”

## 13) BACEN CIRCULAR No. 3866, OF 12/13/2017

Establishes procedures for accounting records and dissemination of information by the institutions that issue Secured Real Estate Credit Bonds [*Letras*

*Imobiliárias Garantidas - LIGs]* as managers of portfolio of assets subject to the fiduciary regime provided in art. 69 of Law no. 13097, of January 19, 2015.

## 14) PUBLIC HEARING ON the Brazilian Securities Commission - CVM INSTRUCTION 497

The CVM submitted to public hearing the [draft](#) of the rule that amends CVM Instruction 497, which provides for the activities of independent investment agents (AAIs).

The changes concentrate on the role of the accrediting entities to improve the self-regulation model applicable to them.

The highlights of the draft of the amendment to CVM Instruction 497 are:

(i) exclusion of provisions on supervision, inspection and sanction by the accrediting entities;

(ii) improvement of the processes for grant, suspension and cancellation of licenses by the accrediting entities;

The draft also provides that the institutions that are part of the distribution system are responsible for the payment related to the license of the AAIs engaged by those institutions and prohibits the transfer of such charge to the AAIs.

The period to send suggestions ended on 1/18/2018.

## 15) LAW No. 13543, OF 12/19/2017

Adds to Law no. 10962/2004 how to fix prices for retail sales to the e-commerce consumer: ostensible indication of the cash price together with the image of the product or the description of the service, in legible font of 12 size at least.

## 16) LAW No. 13545, OF 12/19/2017

Includes in the Consolidation of Labor Laws (CLT), article 775-A, identical to article 220 of the Code of Civil Procedure, which stays the procedural period from December 20 to January 20.

During this period, there will be no hearings nor trials.

The provision, however, establishes that, except for individual vacations and the holidays under the law, the judges, the members of the Prosecution Office and the Office of Public Defender, and the court clerks will work during such period.

*de Trânsito Brasileiro - CTB), to provide for crimes committed by drivers of automotive vehicles.*

Among the changes is the inclusion of par. 3 in article 302 of CTB, which addresses involuntary manslaughter by drivers of automotive vehicles. Now, in the cases of intake of alcohol or other psychoactive substance that causes addiction, the driver is subject to five to eight years' detention and suspension of, or prohibition from obtaining, the authorization to drive automotive vehicles.

In the event of involuntary bodily injury, the penalty is two to five years' detention, without prejudice to the other penalties provided in the article, in case of intake of alcohol or other psychoactive substance that causes addiction and if the crime results in serious or very serious bodily injury

## 17) LAW No. 13546, OF 12/19/2017

Amends the provisions of Law no. 9503, of September 23, 1997 (Brazilian Traffic Code - *Código*

## 18) GUIDANCE FOR FUND MANAGERS

The Institutional Investor Relationship Superintendence [Superintendência de Relações

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*com Investidores Institucionais - SIN] of CVM published, on 12/19/2017, [SIN Official Circular Letter no. 4/17](#).*

The document instructs the investment fund management companies about the technical area's interpretation of expenses with fees provided in CVM Instruction 555.

According to the SIN, such expenses comprise those arising from lawsuits to which the fund is one of the parties and the attorneys and arbitrators' fees also arising from lawsuits to which the fund is one of the parties.

The expenses incurred by the investment funds may be borne directly through the management fee, where they are associated with the contract executed with services providers to maintain and operate the fund; or may be a charge, provided that they may be qualified as included in the list of fees in art. 132 of CVM Instruction 555.

## 19) IRREGULAR OFFERING – BITCOIN MINING

The CVM communicated the market players and the public in general that the company Andre Luis Paulo Tomasi Vshivtsev 83435174072 and Mr. Andre Luis Paulo Tomasi Vshivtsev are not authorized to trade on the securities market.

CVM found that the company and the individual are making public offerings of securities or group investment contracts related to investment in Bitcoin mining ("Hashcoin Brasil"), without registration of the securities issuer. It also found that the public offering was not registered with CVM (or that CVM dispensed with the need for the registration).

Through Statement 785, CVM determined the immediate suspension of any offering of securities or group investment contracts related to the undertaking.

In the event of failure to comply with the determination, they will be subject to individual daily

fine of R\$ 5,000.00, without prejudice to liability for the violations already committed.

## 20) FEDERAL REVENUE MAKES DATA ON CORPORATE AND MANAGING STRUCTURES AVAILABLE ON ITS INTERNET PAGE.

The Brazilian Federal Revenue (RFB), in compliance with the determinations in Decree no. 8777, of May 11, 2016, published on its website, the data on the corporate and management structures of legal entities. With this new service, the data may be consulted, instantaneously, on the [website](#) of RFB.

The information is grouped by state and may be downloaded by clicking the hyperlink related to the state of interest. The data will be updated every six months in view of the costs involved.

This new service meets a demand from the society that had repeatedly requested a CNPJ (corporate taxpayer ID) database, with all or part of such data,

and significant efforts were exerted to satisfy the demand.

## 21) CVM INSTRUCTION No. 594, OF 12/20/2017

Amends CVM Instruction no. 481/2009 (which provides for information, public applications for proxies, remote attendance at shareholders' meetings and remote voting).

Among the main changes regarding the proposal submitted to public hearing are:

- Change in the periods for the shareholders to nominate candidates for the board of directors and audit board (from 22 days to 25 days before the meeting) and for the company to submit the remote voting ballot for inclusion of candidates (from 15 days to 20 days before the meeting);
- Required availability of the remote voting ballot at special meetings called for the same date of an annual meeting;

- The final election map must be made available within seven days from the meeting, containing only the five first numbers of the CPF (individual taxpayer ID) or CNPJ (corporate taxpayer ID) of the shareholder, the vote cast in regard to each matter and the information on the shareholders' position;
- In exceptional cases, the company may submit again the voting ballot for correction of a relevant error harming the understanding of the issue to be resolved by the shareholders or to adapt the proposal to the regulation or the bylaws.

The changes to CVM Instruction 481 will be applicable to the meetings held from March 5, 2018 and whose remote voting ballots are disclosed according to par. 1 of art. 21-A, of February 1, 2018.

## 22) NORMATIVE GUIDANCE No. 001, OF 12/20/2017

The Substitute Special Secretary for the Investment Partnerships Program of the General Office of the Presidency published this Guidance recommending

the use of accredited inspection as a good practice to be adopted by qualified governmental infrastructure works within the ambit of the Investment Partnerships Program (PPI), addressed by Law no. 13334, of 2016.

## 23) CVM STATEMENT No. 786, OF 12/21/2017

Approves Technical Interpretation ICPC 21, issued by the Accounting Pronouncement Committee, and requires the corporations to apply it.

The interpretation refers to transactions in foreign currency (or part of a transaction) where the entity recognizes the non-monetary asset or liability arising from an advanced payment or receipt before the entity's recognition of the asset, expenses or related revenue (or part of it).

## 24) CVM STATEMENT No. 787, OF 12/21/2017

Through this [Statement](#), CVM approves the Technical Pronouncement CPC 06 (R2) on lease transactions issued by the Accounting Pronouncement Committee, and requires the corporations to apply it.

The pronouncement sets principles to recognize, measure, present and disclose leases to ensure that lessees and lessors will provide relevant information that fairly represent such transactions.

The new pronouncement amends more substantially the accounting of the lessee entities and sets requirements for certain disclosures in the case of the lessor entities.

## 25) CVM STATEMENT No. 788, OF 12/21/2017

[Approves](#) the Instrument of Revision of Technical Pronouncements no. 12 related to Technical Pronouncements CPC 01 (R1), CPC 02 (R2), CPC 04 (R1), CPC 07 (R1), CPC 10 (R1), CPC 11, CPC 15 (R1), CPC 16 (R1), CPC 18 (R2), CPC 20 (R1), CPC 21 (R1), CPC 23, CPC 24, CPC 25, CPC 26 (R1), CPC 27, CPC 28, CPC 31, CPC 32, CPC 37 (R1), CPC 39, CPC 40 (R1), CPC 41, CPC 45, and CPC 46, and to Technical Interpretations ICPC 01 (R1), ICPC 03, ICPC 13, and ICPC 16 issued by the Accounting Pronouncement Committee (CPC).

Among the changes, we point out

- Amendment to CPC 48 allowing the Insurers not to apply in full the CPC 48 until 2021; two distinct points should be highlighted: temporary exemption and overlapping.
- Change related to the classification and measurement of transactions involving payment based on shares in the CPC 10;

- Change related to properties for investment in the CPC 28;
- Annual changes made by the International Accounting Standards Board (IASB) for the 2014 – 2016 Cycle as from January 1, 2018;
- Annual changes made by the CPC to harmonize previous pronouncements related to the International Financial Reporting Standards - IFRS.

## 26) BACEN COMMUNICATION No. 31538, OF 12/29/2017

Through the [Communication](#), the Brazilian Central Bank informed that (i) the percentage related to the basic yield of savings deposits addressed in the sole paragraph of art. 18-A of Law 8177, of March 1, 1991, with wording provided by art. 1 of Provisional Presidential Decree no. 321, of September 12, 2006, effective in January, is 0,0003% p.a. and the maximum limit of the interest rate for contracts with prefixed rates executed within the ambit of the Housing Finance System [*Sistema Financeiro da*

*Habitação - SFH*], effective in January, is 12,0003% p.a.

## 27) LAW No. 13614, OF 1/11/2018

Creates the National Plan to Reduce the Traffic-Related Death and Injury Rate (Pnatrans) and adds a provision to the Brazilian Traffic Code on the goals to be achieved in regard to the reduction to the traffic-related death rate per groups of inhabitants and per groups of vehicles.

According to the [Law](#), the Pnatrans must:

- I - contain mechanisms for the society's participation in the achievement of the established goals;
- II - guarantee that the actions and procedures for the monitoring, and the defined goals and periods will be widely disseminated in annual reports that will be available for consultation via the Internet.
- III - provide for permanent campaigns to inform, clarify, educate the population and raise awareness

about the problem aiming at the achievement of the goals of the Pnatrans.

## 28) CVM/SIN OFFICIAL CIRCULAR LETTER No. 1, OF 7/14/2017

The Institutional Investor Relationship Superintendence (SIN) of CVM published [SIN Official Circular Letter no. 1/2018](#). This document, oriented to directors responsible for the management of investment funds, is aimed at answering inquiries about the possibility of the funds regulated by CVM Instruction 555 to invest in cryptocurrencies.

The document informs investment fund management companies that cryptocurrencies cannot be qualified as financial assets to the effects of article 2, V, of CVM Instruction 555. For this reason, the regulated investment funds are barred from investing in virtual currencies.

The letter also alerts to the risks associated with cybertransactions, such as security and custody particularities. It reports that variables have been

taken into consideration in the evaluation of the possibility of structuring the indirect investment in cryptocurrencies, however a conclusion is still to be reached.

## 29) INTER-MINISTRY ADMINISTRATIVE RULE No. 496, OF 11/13/2017

Joint [Administrative Rule](#) issued by the Ministry of Finance, the Ministry of Agriculture, Farming and Supply, the Ministry of Planning, Development and Management, the Office of the President's Chief of Staff, and the Central Bank, creating the Inter-Ministry Work Group to present a report with proposals to improve the policy on risk management of the rural activity, taking into consideration the Farming Security Program (Proagro), the Subsidy Program for the Rural Insurance Premium (PSR), and the Rural Insurance Stability Fund (FESR).

The Inter-Ministry Work Group will be composed of representatives, heads or substitutes, of the Economic Policy Departments and the National Treasury (both of the Ministry of Finance), the Ministry of Planning, Development and Management, the Brazilian Central Bank, the Ministry of Agriculture, Farming and Supply, and the Family Agriculture and Agrarian Development Department of the Office of the President's Chief of Staff.

## 30) RISK-BASED SUPERVISION PLAN - CVM

The CVM disclosed its first Half-Year Report on the Two-Year Risk-Based Supervision Plan (SBR) 2017-2018.

*"The SBR is a management system that promotes the priority of the supervision and inspection actions based on risk events potentially harmful to the efficiency and integrity of the capital market. This methodology, which has been producing good results since 2009, demonstrates CVM's commitment to take*

*preventive measures, based on supervision focused on results and rational use of funds,"*, said Marcelo Barbosa, CVM president.

The highlights of the [Report](#) are:

- Companies: beginning of the supervision of remote voting ballots, enhanced disclosure of deficient internal controls in the Reference Forms and a reduced quantity of external audit reports with changed opinion.
- Investment Funds: supervision of the liquidity of funds and of the actions linked to structured funds basically designed to monitor the fund managers' compliance with Instruction 558, and supervision of the guarantee of Funds for Investment in Receivables (FIDC).
- Independent Auditors: changes to the content and format of the audit reports, especially the section "Main Audit Issues" [*Principais Assuntos de Auditoria – PAA*].
- Markets and Intermediaries: direct supervision of intermediaries, in particular thematic supervision of FinTechs and initiatives to combat money laundering and terrorism financing.

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- Registration of Public Offerings: action to detect improprieties in the so-called restricted-effort offerings, included, from 2017, in the scope of the SBR due to the size of this market. From 2015 to 2017, it raised an amount above the financial volume of public offerings made according to CVM Instruction 400.

## 31) PUBLIC HEARING SDM 5/2017

The Brazilian Securities Commission (CVM) extended to 2/23/2018 the period for suggestions and comments related to [Public Hearing SDM 5/2017](#). The draft of the rule proposes changes to CVM Instructions 476 and 400, which provide for restricted-effort public offerings of securities and public offerings of securities distribution in the primary and secondary markets, respectively.

Comments and suggestions may be sent until 2/23/2018 to the e-mail address [audpublicaSDM0517@cvm.gov.br](mailto:audpublicaSDM0517@cvm.gov.br) or to Rua Sete de Setembro, 111 - 23º andar - Centro - Rio de Janeiro - RJ.

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## 32) BACEN CIRCULAR No. 3875, of 1/23/2018

[Establishes](#) terms for proceedings related to the application for authorization for incorporation and operation, changes in the corporate control, amendments to or provision of the articles of organization, and investiture in a position of the corporate bodies of managers of consortium and payment institutions.

## 33) National Transportation Infrastructure Department - DNIT NORMATIVE INSTRUCTION No. 001, OF 1/11/2018

[Provides](#) for the application of the penalties set in Laws no. 8666, of June 21, 1993; no. 10520, of July 17, 2002, and no. 12462, of August 4, 2011, and establishes the procedures for the Administrative

Proceeding for Determination of Responsibility [Processo Administrativo de Apuração de Responsabilidade - PAAR] related to violations committed by suppliers, during the procurement and/or contractual phase, within the ambit of DNIT.

**34) National Transportation Infrastructure Department - DNIT  
NORMATIVE INSTRUCTION No.  
002, OF 1/18/2018**

Establishes the procedures for the Administrative Proceeding for Determination of Responsibility for Environmental Costs [Processo Administrativo de Apuração de Responsabilidade por Custos Ambientais - PRCA] that determines the responsibility of consortium members, parties to agreements, intervening parties and suppliers for environmental costs imposed to DNIT as a result of criminal and administrative environmental sanctions, in addition to the obligation to repair/pay indemnity for damages caused to the environment.

**35) Inter-Ministry Commission for Corporate Governance and Management of Ownership Equity of the Federal Government - CGPAR RESOLUTION No. 22 AND 23, OF 1/18/2018**

The new CGPAR rules establish guidelines and parameters for the governance and funding of companies controlled by the Federal Government concerning the employees' health care assistance in the self-management modality.

In the next four years, those companies will have to adjust their expenses according to a limit that will be set previously. Also within that period, equal contributions by the employees and the employers will be required for the several modalities of the health assistance currently existent.

The purpose of the Resolutions is to involve the top management of the companies in the monitoring and evaluation of the health assistance benefit aiming at

the improvement of the governance mechanisms and a more effective monitoring of the sustainability of the health plans. [Resolution no. 23](#) establishes a limit for the funding of health plans by both the company and the beneficiary, taking into consideration the benefit quality and the company's financial capacity as well as the results of the benefit offer.

The main purpose of Resolutions no. [22](#) and 23 is to give the self-management plans of state-owned companies higher visibility, fostering a sustainable corporate management of funding and governance and combining the economic-financial and actuarial balance with the best practices of management of human resources in these companies.

## 36) CVM INSTRUCTION No. 595, OF 1/30/2018

Amends, and adds provisions to, CVM Instruction no. 400/2003, which addresses public offerings of securities distribution in the primary market, and CVM Instruction no. 480/2009, which addresses the

registration of securities issuers admitted to trading on the regulated securities market.

According to this new [rule](#), the registration of a public offering of distribution of (i) securities held by the Federal Government, the states, the Federal District, the municipalities, and other government entities which, cumulatively, a) is not intended to public placement, and b) is made in an auction organized by a management entity of the organized market, under Law no. 8666, of June 21, 1993, as well as (ii) in a single and indivisible lot of securities, is automatically dispensed with.

In addition, the registration of issuers that are (i) issuers of certificates of structured negotiations whose distribution does not require a public offering registration under the specific instruction, (ii) a small-size business company that only issues securities via the electronic platform of participative investment, according to the specific regulation, and (iii) a company, whose shares held by the Federal Government, the states, the Federal District, the municipalities, and other government entities are the subject of a public offering of distribution that, automatically, does not require registration under the

specific regulation on public offerings of securities distribution, is automatically dispensed with.



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## CLOSED SUPPLEMENTARY SOCIAL SECURITY

### 1) National Monetary Council - CMN RESOLUTION No. 4611, OF 11/30/2017

The CMN amended [Resolution no. 3792/2009](#), which sets guidelines for the investments of funds that guarantee the plans managed by closed supplementary social security entities.

The [new resolution](#), among other provisions, changes documents classified as "investments abroad" and lists some guarantees of the Closed Supplementary Social Security Entities, but the limit for investments abroad (10% of the equity of pension funds) and the need for an intermediate investment fund in Brazil remained unchanged.

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The new rules allow more flexibility to make investments abroad, but impose certain restrictions on the investments, for example, the assets abroad must have an investment grade rating from the rating agencies registered with the CVM and the pension funds must not have more than 5% of their assets abroad concentrated on one sole issuer.

In a note, Previc explained that “*the contributions made by the closed supplementary social security entities (EFPCs) in the way of assets in the segment of investment abroad during the effectiveness of the previous ruling that do not fit the new rules may be kept in the portfolio at the EFPC’s discretion, and will not be considered noncompliance under art. 55 of CMN Resolution no. 3792/2009*”. It also informed that “*new acquisitions of units of funds of this class of assets must comply with the new rules.*”

The Brazilian Association of Closed Supplementary Social Security Entities [Associação Brasileira das Entidades Fechadas de Previdência Complementar - Abrapp] and the Brazilian Financial and Capital Markets Association [Associação Brasileira das Entidades dos Mercados Financeiro e de Capitais –

Anbima] are discussing possible changes to the new rules.

## 2) National Council for Supplementary Social Security - CNPC COUNCIL APPROVES RESOLUTION ON INDEPENDENT AUDIT

The CNPC approved on 12/6/2017 a proposed resolution to regulate the independent audit of EFPCs. The purpose is to increase the confidence in the EFPCs’ accounting statements which will be more transparent as the control of accounts will be promoted.

It also approved a change to the resolution that sets the rules for the creation of the Management Fund of the Management Plan (PGA), a type of budget of the EFPCs that establishes rules, standards and criteria for the management in each fiscal year. From the publication of this amendment, the EFPCs may

allocate a part of the resources of the fund to be created to cover expenses with prospection, studies, implementation of plans, and solicitation of participants.

To ensure the transparency and monitoring of the CNPC's policies related to the Regime, it was suggested that Previc should evaluate periodically the effects of the change on the impact on the incentive, the main purpose of the proposal.

The proposal will be analyzed by the Office of the Counsel to the Federal Treasury before its publication in the official press.

### 3) Ministry of Finance/National Supplementary Social Security Superintendence - MF/PREVIC ADMINISTRATIVE RULE No. 529, OF 12/8/2017

Approves the Internal Regulation of Previc and addresses its duties, organizational structure, managers' duties, and bodies' jurisdiction, among others.

### 4) PREVIC INSTRUCTION No. 015, OF 12/8/2017

Provides for prudential preventive measures to ensure the soundness and stability of the Supplementary Social Security Regime operated by Closed Supplementary Social Security Entities.

The rules set in the Instruction are intended to preserve the liquidity, solvency and balance of

benefit plans and each supplementary social security entity, as well as to regulate the operation of the Closed Supplementary Social Security Regime and, as a consequence, reinforce the Risk-Based Supervision (SBR).

Previc's evaluation of the circumstances of each case will be discretionary and may result in an order for adoption of the following prudential preventive measures, simultaneously or successively: implementation of additional operating controls and procedures; reduced exposure to risks considered inadequate for or incompatible with the management structures and internal controls of the entity; application of additional criteria to preserve the liquidity and solvency of the benefit plans; more restrictive operating limits for the investment of guarantee funds of benefit plans; disciplinary administrative proceeding requiring managers or directors' removal until its outcome; transfer of the benefit plans to another EFPC; amendment to the bylaws, regulation or adhesion agreement.

Previc may also call the EFPC's representatives to provide clarifications or submit a plan to solve the problem.

## 5) PREVIC INSTRUCTION No. 016, OF 12/11/2017

Establishes procedures that the closed supplementary social security entities must adopt to prepare, approve and execute plans to balance deficits.

This Instruction amends art. 3 of Previc Instruction no. 32/2016, which will read as follows: "*Proceeds of changes to actuarial assumptions, financial regimes or financing methods will not be admitted as source of funds to balance deficits*".

From January 1, 2018, both surpluses of financial returns and proceeds of changes to actuarial assumptions, financial regimes or financing methods occurred between the assessment date of the amount to be balanced and the approval date of the balance plan will no longer be used as source of funds to balance the actuarial deficit. The deficit amount to be balanced will be, as a rule, the amount assessed in the actuarial evaluation at the end of the previous fiscal year.

This new rule will apply to results assessed as from December 31, 2017.

## 6) PUBLIC HEARING AND SUGGESTIONS FOR ACCOUNTING STANDARD FOR EFPCs

The Accounting Pronouncement Committee (CPC) and the Federal Accounting Council (CFC) are receiving suggestions from the civil society at a joint public hearing to improve the draft of the new CPC rule 49, which will contain a technical pronouncement on accounting related to pension plan reports of Closed Supplementary Social Security Entities (EFPCs) to harmonize the local accounting standards and the international standards.

The new pronouncement will be effective for the fiscal years beginning from January 1, 2019.

The period for suggestions ended on January 24, 2018.

## 7) PREVIC ADMINISTRATIVE RULE No. 1142, OF 12/11/2017

Regulates the procedure for the acknowledgment of independent certifying institutions.

According to the rule, the License Board [*Diretoria de Licenciamento - DILIC*] will be liable for the analysis of the application for technical capacity acknowledgment to qualify managers.

The rule sets the minimum requirements that the certifying institutions must meet to issue certifications and lists the documents these institutions must present to support the application for technical capacity acknowledgment; the applications will be analyzed within 30 days from the date of filing.

The technical capacity acknowledgment of the certifying institutions will be effective for an indefinite period, however, the License Board may revoke it at any time and reject certifications issued by institutions that do not satisfy the requirements set in the rule.

Finally, the Administrative Rule provides for the certifications to be accepted in 2018, for qualification purposes.

## 8) PREVIC ADMINISTRATIVE RULE No. 1146, OF 12/11/2017

Sets the parameters for the analysis of good reputation for the purposes of the qualification process.

According to the rule, the analysis of good reputation will consider acts, situations, or circumstances incompatible with the position or function to be performed in the EFPCs.

Previc will analyze the circumstances of each case and may grant or not applications aiming at the public interest, the protection of the equity of the benefit plans, and the fiduciary duty to participants and beneficiaries.

## 9) Supplementary Pension Plan Superintendence/Accounting, Actuarial and Economic Matters Board - PREVIC/DIACE ADMINISTRATIVE RULE No. 1169, OF 12/18/2017

This rule updates the amounts of administrative penalties (pecuniary fines).

## 10) PREVIC/DIACE ADMINISTRATIVE RULE No. 1170, OF 12/18/2017

Covers the updating of the amounts, minimum and maximum, of the pecuniary penalty for noncompliance with the entire or a part of the Consent Decree (TAC).

# 11) Department for Governance and Coordination of State-Owned Companies/Prosecution Office - SEST/MP ADMINISTRATIVE RULE

## No. 036, OF 12/21/2017

Regulates the duties of the state-owned companies, in the capacity of sponsors of social security plans, responsible for the supervision and monitoring of the Closed Supplementary Social Security Entities (EFPCs).

According to the [rule](#), the need for audits and their scope will be evaluated and defined every year by the Board of Directors of the company, based on the criteria used in the risk matrix of the internal audit. To conduct the analysis, the Board of Directors will evaluate, among others, the following work processes: i) investment policy and its management; ii) grant of benefits; iii) methodology used in the actuarial calculations, funding, register consistence, and adhesion to assumptions; iv) procedures and controls associated with the management and

financial management of the entity; v) administrative expenses; vi) governance and internal control structure of the entity; vii) collection of sponsors and participants' contribution in relation to the forecast in the funding plan.

In the event the annual audit is not conducted, the decision must be justified by the Board of Directors and informed to Previc within 60 days after the end of the fiscal year.

The rule sets the general guidelines for internal audits of the company.

The Executive Board will request the EFPC to present an action plan to correct improprieties in the audit, will monitor the execution of the action plan, and will inform its findings, at least every quarter, to the Decision-Making and Tax Boards of the EFPC, and the Audit Committee and the Board of Directors of the state-owned company. The Board of Directors of the state-owned company, assisted by the internal structure of the company, will be responsible to the effectiveness of the action plan.

## 12) CMN RESOLUTION No. 4626, of 1/25/2018;

Amends Resolution no. 3792, of September 24, 2009, which sets guidelines for the investments of funds that guarantee the plans managed by closed supplementary social security entities.

Among other amendments, this new [rule](#) adds article 42-A to Resolution no. 3792/2009, which will read as follows:

*"Art. 42-A. The Closed Supplementary Social Security Entities - EFPCs, considering the total funds managed by them, will observe the limit of 15% of the equity of the investment fund constituted abroad, provided that designed exclusively for qualified investors constituted in Brazil as an open-end consortium with the suffix "Investment Abroad" that invest, at least, 67% of their equity in units of investment funds constituted abroad."*

## 13) National Supplementary Pension Plan

### Superintendence/Inspection Board - PREVIC/DIFIS ADMINISTRATIVE RULE No. 079, OF 1/26/2018

**Establishes** how and when to send the information for assessment of the duration of the liabilities, referred to in Resolution no. 18, of March 28, 2006 and the pricing adjustment referred to in Resolution no. 26, of September 29, 2008, both of the Supplementary Social Security Council, also referred to in Previc Instruction no. 19, of February 4, 2015, **related to actuarial assessment arising from a relevant fact.**

The rule establishes that the assessment must be made using the specific electronic spreadsheet published on Previc page and sent via its File Submission System [Sistema Transmissor de Arquivos – STA].

## 14) PREVIC/DIFIS ADMINISTRATIVE RULE No. 080, OF 1/26/2018

This [rule](#) determines that, for the assessment of the duration of the liabilities referred to in Resolution no. 18, of March 18, 2006 and the adjustment to the pricing referred to in Resolution no. 26, of September 29, 2008, both of CGPC, and also referred to in Previc Instruction no. 19, of February 4, 2015, **related to the results for 2017**, the EFPC must use the specific electronic spreadsheet available on Previc page.

The electronic spreadsheet of each benefit plan must be sent to Previc until the date established in art. 2 of Previc/DC Instruction no. 10, of September 27, 2017, according to operating details published on its website.

## HEALTH

### 1) Normative Resolution - RN No. 430, OF 12/7/2017

Among others, the [rule](#) (i) addresses sharing of risk management involving health plan companies; (ii) amends Normative Resolution - RN no. 209, of December 22, 2009, which sets the criteria for maintenance of Minimum Funds and for Technical Provisions that must be followed by private health plan companies; (iii) amends the Annex to RN no. 290, of February 27, 2012, which provides for the Standard Account Plan of private health plan companies; (iv) amends RN no. 389, of November 26, 2015, which provides for transparent information on supplementary health plans and requires the private health plans to provide a minimum amount of information; (v) amends RN no. 392, of December 9, 2015, which provides for acceptance, registration, binding, custody, operation and allocation and

concentration limits of the guarantee assets of supplementary health plan companies, and makes other provisions; (vi) amends Annex I to Normative Instruction - IN no. 45, of December 15, 2010, issued by the Rules and Qualification Board of Companies, which regulates the provisions in par. 3 or art. 2- A of RN no. 173, of July 10, 2008, as amended, and art. 5 of RN no. 227, of August 19, 2010, as to the Report on Previously Agreed Procedures - PPA required; and (vi) revokes RN no. 191, of May 8, 2009, which creates the Guarantee Fund in the Supplementary Health Segment (FGS) set up by the Health Plan Companies.

## 2) National Agency of Supplementary Health - ANS DISCUSSES REMUNERATION MODELS WITH COMPANIES AND SERVICES PROVIDERS

On December 5, ANS held the 8th Meeting of the Remuneration Model Work Group with representatives of private health plan companies, medical associations and entities representing health professionals and services providers. The purpose of the meeting was to define the next phases of the Remuneration Work Group, set guidelines, and organize 3 sub-work groups

Daniele Silveira, coordinator of Induction into Quality of ANS, outlined the phase I and presented the operation rules of the group and the administrative rule formalizing the participations and the schedule of the meetings.

Ana Paula Cavalcante, manager of Incentive to Innovation and Evaluation of the Sectoral Quality of

ANS, presented the phases II and II of the Remuneration Work Group and remembered the points discussed since the first meeting of the Work Group. According to Ana Paula, *"in phase III, we will implement pilot projects of alternative payment models pegged to the induction into the care quality. But we also need to design strategies to evaluate the projects."* She mentioned another possibility of regulatory incentive: the inclusion of alternative or additional models of payment for health services, as a quality criterion, in the process for accreditation of the private health plan companies.

The proposal for the next meetings is that the sub-groups will meet every two months. According to the schedule, the viability of the models for each type of services provider will be defined in the phase II aiming at the development of an implementation strategy to be tested in phase II. In phase III, the methods designed in the previous phase will be implemented through pilot projects; the participation in the projects will be voluntary.

### 3) Normative Resolution - RN No. 431, OF 12/8/2017

Establishes the Special Program for Adequate Scale [*Programa Especial de Escala Adequada – PEA*], and amends Normative Resolution - RN no. 186, of January 14, 2009, which provides for the regulation of the portability of the waiting period under art. 12, item V, of Law no. 9656, of June 3, 1998, without the imposition of temporary partial coverage; RN no. 316, of December 3, 2012, which covers supervisory intervention for financial and economic issues and out-of-court liquidation of health plan companies; and RN no. 384, of September 4, 2015, which provides for public offering of operating references and the register of beneficiaries [*oferta pública de referências operacionais e cadastro de beneficiários - OPRC*], establishing requirements for qualification and special conditions for companies with authorized proposal.

## 4) Normative Resolution - RN No. 432, OF 12/27/2017

Regulates corporate group health plan contracts with individuals and amends Annex I to Normative Resolution - RN no. 389/2015, of November 26, 2015, which provides for transparent information on the supplementary health care, the obligation to make available information on private health care plans in Brazil, among others.

With this measure, ANS seeks to prevent abuses related to this type of contracts – such as incorporation of companies solely for this purpose; this measure also increases the legal certainty and ensures a more transparent market by establishing the specificities of this type of contract.

According to resolution, the company or the company that manages the benefits must inform the purchaser on the main characteristics of the plan, such as the type of contract and related rules. In addition, the contract may be terminated without cause only after one year of effectiveness and on the date of anniversary (upon 60-day prior notice).

Individual businessmen, to have the right to execute such a contract, must present a document evidencing their registration with the applicable agencies, as well as good standing with the Federal Revenue — and others that may be required by the legislation in effect — for a period of at least six months.

The execution and maintenance of a corporate group contract that does not comply with the rule, for all legal purposes, is equivalent to the individual or family plan, as established in RN no. 195, of 2009.

# TAX

## 1) Federal Revenue Office - RFB NORMATIVE INSTRUCTION No. 1765, OF 11/30/2017

This [instruction](#) adds articles 161-A, 161-B, 161-C, and 161-D to RFB Normative Instruction no. 1717, of July 17, 2017, which sets rules on restitution, compensation, reimbursement and refund within the ambit of the Federal Revenue Office.

## 2) RFB NORMATIVE INSTRUCTION No. 1766, OF 12/11/2017

This [instruction](#) covers the provision of information for the purposes of consolidation of debts under the Special Tax Compliance Program [*Programa de Regularização Tributária - PRT*], instituted by

Provisional Presidential Decree no. 766, of January 4, 2017, within the ambit of the RFB.

## 3) RFB NORMATIVE INSTRUCTION No. 1767, OF 12/14/2017

[Amends](#) RFB Normative Instruction no. 971, of November 13, 2009, and RFB Normative Instruction no. 1701, of March 14, 2017, to set how the accessory social security obligations must be fulfilled during the progressive implementation of the Digital Bookkeeping of Tax, Social Security and Labor Obligations (eSocial) and adjust the schedule for the beginning of the Digital Tax Bookkeeping of Withholdings and Other Tax information (EFD-Reinf) to the eSocial.

## 4) Tax on Circulation of Goods and Services - ICMS AGREEMENT 190/17, OF 12/15/2017

Provides, in accordance with Supplementary Law no. 160, of August 7, 2017, for the remission of tax liabilities, assessed or not, resulting from tax or tax-financial exemption, incentives and benefits introduced in violation of sub-item "g," item XII, par. 2, art. 155 of the Federal Constitution, and the corresponding reestablishments.

## 5) RFB NORMATIVE INSTRUCTION No. 1769, OF 12/18/2017

Regulates the exemption from the Tax on Manufactured Products (IPI) and the Tax on Credit, Foreign Exchange and Insurance Transactions, or related to Bonds and Securities (Tax on Financial Transactions - IOF)) in regard to purchase of vehicles by persons with severe physical, visual or mental

disability, or autistic persons, and makes other provisions.

According to the [instruction](#), as it is not considered transfer of vehicle with exemption, the IPI will not be applied to the transfer of ownership to the insurer where, after the payment of indemnity for total loss, theft or robbery, the vehicle is recovered.

However, the IPI will be applied, if, in the event mentioned above, the vehicle becomes part of the insurer or other insurer's equity or the insurer sells it to third parties not entitled to the exemption. In this case, the date of the invoice or the date of the document evidencing that the vehicle became part of the insurer's equity will be considered the date of the sale or the date the vehicle became part of the insurer's equity for the purposes of the IPI.

The IPI exempted from the purchase, with all legal additions, will be due, if the vehicle becomes part of the insurer's equity or is transferred to a person not entitled to the exemption or to another insurer before two (2) years from the vehicle purchase with the IPI exemption.

## 6) RFB NORMATIVE INSTRUCTION No. 1770, OF 12/18/2017

Amends RFB Normative Instruction no. 1422, of December 19, 2013, which provides for the Tax Accounting Bookkeeping (ECF).

## 7) RFB NORMATIVE INSTRUCTION No. 1773, OF 12/21/2017

Amends RFB Normative Instruction no. 1037, of June 4, 2010, which lists the countries or dependencies with favorable taxation or privileged tax regimes.

## 8) ANSWER TO INQUIRY No. 541, OF 12/19/2017

**SUBJECT: WITHHOLDING INCOME TAX  
[IMPOSTO SOBRE A RENDA RETIDO NA FONTE -  
IRRF]**

### **SYNOPSIS: INCOME OF INDIVIDUALS RESIDENT OR DOMICILED ABROAD LEVY AT SOURCE BASE FOR CALCULATION.**

*Income and remuneration of any nature coming from sources in the Country paid to individuals resident or domiciled abroad are subject to the Withholding Tax, separately and definitively. The tax rates are applied to the gross income at the time of the payment, credit, delivery, use or remittance of the income.*

*Neither the deductions related to the assessment of the base for the calculation of the tax due by individuals resident or domiciled in Brazil authorized by the Withholding Income Tax legislation nor the exemptions provided in that legislation apply to individuals resident or domiciled abroad.*

### **3) ANSWER TO INQUIRY LINKED TO ANSWERS TO COSIT INQUIRY No. 10, OF JANUARY 8, 2014, AND No. 79. OF MARCH 24, 2015 INCOME PAID BY SUPPLEMENTARY SOCIAL SECURITY ENTITY. BENEFICIARY RESIDENT OR DOMICILED ABROAD TAXATION**

*The benefits related to supplementary pension plan paid, credited, delivered, used or remitted by a supplementary social security entity located in the Country to a participant that became a non-resident in Brazil are subject to the Withholding Income Tax at a 25% rate, definitively.*

**CONTRIBUTIONS MADE IN THE PERIOD  
BETWEEN JANUARY 1, 1989 AND DECEMBER  
31, 1995.**

*These benefits may be deducted from the amounts of contributions paid exclusively by the beneficiary in the period between January 1, 1989 and December 31, 1995, as a resident in the Country, as these amounts are not considered an equity increase, according to the understanding of the Superior Court of Justice (STJ).*

*Legal provisions: Decree-Law no. 5844, of September 23, 1943, arts. 97, sub-item "a", and 100; Law no. 7713, of December 22, 1988, art. 6, items XIV and XV; Law no. 9779, of January 19, 1999, art. 7; Law no. 9250, of December 26, 1995, arts. 1 and 4, items II, III, and IV; Decree no. 3000, of March 26, 1999 - Income Tax Regulation (RIR/1999), arts. 2, 3, 43, items XI and XIV, 682, item I, and 685, item II, sub-item "a"; SRF Normative Instruction no. 208, of September 27, 2002, arts. 2, item V, 3, item II and pars. 2, 6, 11-A, and 35; RFB Normative Instruction no. 1396, of September 16, 2013, art. 22; RFB Normative Instruction no. 1343, of April 5, 2013, arts. 1 and 2; PGFN Declaratory Act no. 4, of November 7, 2006; PGFN/CAT Opinion no. 487, of April 4, 2014.*

**9) ANSWER TO INQUIRY No. 556,  
OF 12/20/2017**

**SUBJECT: Accessory Obligations**

**SYNOPSIS: E-FINANCEIRA. TAXPAYER**

*The taxpayers responsible for the accessory obligation to deliver the e-Financeira are the legal entities that, simultaneously, a) perform one of the activities listed in items I and II of art. 4 of RFB Instruction no. 1571, of 2015; b) are under the supervision of Bacen, CVM, Susep or Previc; and c) hold any information listed in art. 5 and are on the list of responsible parties in par. 3 of art. 4, both of the mentioned normative instruction.*

**10) RFB NORMATIVE  
INSTRUCTION No. 1774, OF  
12/22/2017**

This instruction provides for the Digital Bookkeeping (ECD) required from legal entities and those

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considered equivalent to legal entities and establishes how and when it must be presented.

According to the [instruction](#), legal entities and those considered equivalent to legal entities that are required by the commercial legislation to do accounting bookkeeping, including immune and exempted entities, must present the ECD.

The ECD must be generated using the Bookkeeping Generation Program [*Programa Gerador de Escrituração - PGE*], developed by the RFB and available on the Internet at <http://sped.rfb.gov.br>.

## 11) RFB NORMATIVE INSTRUCTION No. 1771, OF 12/20/2017

[Amends](#) RFB Normative Instruction no. 1753/2017, which provides for the procedures to annul the effects of administrative acts, issued based on the authority granted by a commercial law, that contemplate changes to, or adoption of, new

accounting methods or criteria; the instruction includes in the former instruction, as Annex IV, the "Technical Pronouncement no. 47 - Income from Contract with Client", published on December 22, 2016 by the Accounting Pronouncement Committee (CPC 47)".

## 12) ANSWER TO INQUIRY No. 601, OF 12/21/2017

**SUBJECT: WITHHOLDING INCOME TAX - IRRF**

**SYNOPSIS: LIFE INSURANCE WITH SURVIVAL COVERAGE CLAUSE. PARTIAL REDEMPTION. PROPORTIONAL ASSESSMENT.**

*Partial amounts withdrawn from life insurance plans with survival coverage clause, before the benefit payment phase, are classified, except for the event of portability, as partial redemption. In this case, the base for the calculation of the Income Tax must be calculated proportionally, according to par. 1 of art. 63 of Provisional Presidential Decree no. 2158-35, of August 24, 2001; it is possible to opt for the*

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progressive or regressive regime, as regulated by SRF Normative Instruction no. 88, of December 21, 2005.

*LEGAL PROVISIONS: Provisional Presidential Decree no. 2158-35, of August 24, 2001, art. 63, par. 1 Law no. 11053, of December 29, 2004, arts. 1 and 3 SRF Normative Instruction no. 588, of December 21, 2005*

### 13) National Fund for the Education Development - FNDE ADMINISTRATIVE RULE No. 927, OF 12/26/2017

Regulates the Non-Tax Debts Good Standing Program [*Programa de Regularização de Débitos não Tributários - PRD*] of FNDE, implemented by Provisional Presidential Decree no. 780, of May 19, 2017, which became Law no. 13494, of October 24, 2017.

According to the [Administrative Rule](#), debts of individuals or entities to FNDE, whether definitely constituted or not, with maturity date until March 31, 2017, which are not registered as overdue, including debts whose payment was divided into installments according to a program that was terminated or remains effective and debts that are being disputed in a judicial or administrative proceeding, may be settled to the FNDE, provided that the related application is made within the period set in par. 3 of this article.

The PRD will be joined by application to the FNDE and will comprise the debts disputed in a judicial or administrative proceeding indicated to be covered by the PRD and all payable debts of the debtor.

### 14) ANSWER TO INQUIRY No. 666, OF 12/27/2017

**SUBJECT: CONTRIBUTION FOR THE SOCIAL SECURITY FINANCING - COFINS**

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## **SYNOPSIS: INSURANCE BROKERS. COFINS INCREASE IS NOT APPLICABLE. REFUND**

*In the case of insurance brokers that assessed any undue payment or overpayment, by reason of a STJ decision that such companies are not included in the list of entities in par. 1 of art. 22 of Law no. 8.212, of 1991, such entities may claim refund, in the absence of prospective effects of such decision, within 5 years of the date of the undue payment or overpayment, as established in the legislation in effect.*

*The STJ decision, which recognized that the insurance brokers, which cannot be conflated 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, is not restricted to the increase in the Cofins rate, but rather reaches other tax relations, to the extent that other legal provisions refer to that same art. 22, par. 1, of Law no. 8212, of 1991, which is connected to the Cofins assessment system through art. 3, par. 6, of 9718, 1998, or to its contents.*

*The RFB connection to the STJ decision implies the recognition of an undue collection but does not imply*

*the duty to grant applications for refund without prior analysis as to the effective existence or availability of the credit right at the RFB.*

**LEGAL PROVISIONS:** *Supplementary Law no. 118, of 2005; Law no. 5172, arts. 150, 165, and 168; Law no. 9718, of 1998, art. 3; Law no. 9430, of 1991, arts. 73 and 74; Law no. 10684, of 2003, art. 18; STJ Precedent 584; RFB Normative Instruction no. 1285, of 2012, art. 1; RFB Normative Instruction no. 1300, of 2012, art. 1; RFB Normative Instruction no. 1628, of 2016, arts. 1 and 2; PGFN/RFB Administrative Rule no. 1, of 2014, art. 3; CST Normative Opinion no. 342, of 1970; Cosit/RFB Normative Opinion no. 1, of March 31, 2017; CST/SIPR Opinion no. 830, of 1991, and PGFN/CRJ Note no. 73/2016.*

## **SUBJECT: TAX ADMINISTRATIVE PROCEEDING**

### **SYNOPSIS: INQUIRY PROVISIONS OF LEGISLATION NOT INDICATED INEFFECTIVENESS**

*The inquiry is ineffective because it fails to indicate the provision of the legislation that raises doubt about its interpretation or application.*

LEGAL PROVISIONS: RFB Normative Instruction no. 1396, of 2013, arts. 3 and 18.

## 15) ANSWER TO INQUIRY No. 667, OF 12/27/2017

**SUBJECT: Contribution to the Social Integration Program/ Public Servant Fund - PIS/Pasep**

**SYNOPSIS: RETROCESSION TRANSACTIONS IMPORTED SERVICE TAX TREATMENT**

*Import of retrocession service by a cedant resident or domiciled in Brazil is a taxable event that generates the PIS/Pasep-Import calculated based on the application of the 1.65% rate to the calculation base, which is assessed by applying 15% to the amount paid, credited, delivered, used or remitted abroad on account of reinsurance/retrocession premium.*

**LEGAL PROVISIONS:** Supplementary Law no. 126, of January 15, 2007, art. 4; Decree-Law no. 73, of November 21, 1966, art. 4; Law no. 10865, of April 30, 2004, art. 7, par. 1, with wording provided by Law

no. 12249, of June 11, 2010, and art. 8, items I and II.

**SUBJECT: Contribution for the Social Security Financing — Cofins**

**SYNOPSIS: RETROCESSION TRANSACTIONS IMPORTED SERVICE TAX TREATMENT**

*Import of retrocession service by a cedant resident or domiciled in Brazil is a taxable event that generates the Cofins-Import calculated by applying the 7.6% rate to the calculation base, which is assessed by applying 15% to the amount paid, credited, delivered, used or remitted abroad on account of reinsurance/retrocession premium.*

**LEGAL PROVISIONS:** Supplementary Law no. 126, of January 15, 2007, art. 4; Decree-Law no. 73, of November 21, 1966, art. 4; Law no. 10865, of April 30, 2004, art. 7, par. 1, with wording provided by Law no. 12249, of June 11, 2010, and art. 8, items I and II.

## 16) ANSWER TO INQUIRY No. 99136, OF 12/28/2017

### **SUBJECT: WITHHOLDING INCOME TAX - IRRF**

### **SYNOPSIS: OFFICIAL SOCIAL SECURITY SUPPLEMENTARY SOCIAL SECURITY LEVY AT SOURCE PERSONS OLDER THAN 65 YEARS.**

*Where a private social security entity pays whether the official retirement pension benefit, on account and by order of the National Institute of Social Security [Instituto Nacional do Seguro Social - INSS], or the supplementary retirement pension to a participant that opted for exclusive taxation, according to decreasing rates by virtue of the accumulation time, addressed in art. 1 of Law no. 11053, of December 29, 2004, as to the supplementary retirement pension, the amounts withheld at the source will be calculated separately, as each type of income is subject to differentiated taxing rules, and it is not possible to apply the partial exemption provided in art. 6, item XV, of Law no. 7713, of December 22, 1988, the exemption to which those older than 65 years are entitled, to the*

*supplementary retirement pension benefit paid to the participant that opted for the tax treatment with decreasing rates.*

*This same assessment criterion must be followed in regard to the annual bonus paid by the supplementary social security entity to the participants that opted for the decreasing rates by virtue of the accumulation time.*

**3) (LINKED TO ANSWER TO COSIT INQUIRY NO. 337, OF DECEMBER 15, 2014, PUBLISHED IN THE FEDERAL OFFICIAL JOURNAL OF DECEMBER 22, 2014)**

**LEGAL PROVISIONS:** Law no. 5172, of October 25, 1966 - Brazilian Tax Code - CTN, art. 111; Law no. 7713, of December 22, 1988, art. 6, item XV, art. 7, head provision and item II, art. 25, par. 1, sub-item "b"; Law no. 8134, of December 27, 1990, art. 16; Law no. 9250, of December 26, 1995, arts. 3, 4, item VI, sub-item "i", 8, item I and par. 1; Law no. 11053, of December 29, 2004, art. 1; SRF Normative Instruction no. 588, of December 21, 2005, art. 19; RFB Normative Instruction no. 1500, of October 29, 2014, art. 19, item XXII.

## 17) RFB NORMATIVE INSTRUCTION No. 1776, OF 12/28/2017

Amends RFB Normative Instruction no. 1717, of July 17, 2017, which sets rules for restitution, compensation, reimbursement and refund, within the ambit of the Federal Revenue Office.

## 18) RFB NORMATIVE INSTRUCTION No. 1777, OF 12/28/2017

Amends RFB Normative Instruction no. 971, of November 13, 2009, which provides for general rules on social security taxation and collection of social contributions to the Social Security and to other entities or funds administered by the Federal Revenue Office.

## 19) RFB NORMATIVE INSTRUCTION No. 1779, OF 12/29/2017

Extends the term for the presentation of e-Financeira, related to facts occurred in the second half of 2017 until the last business day of June 2018.

This instruction also amends art. 2 of RFB Normative Instruction no. 1764, of November 22, 2017, which will read as follows: *"Art. 2 In exceptional cases, concerning facts occurred between January 1 and December 31, 2017, the information referred to in arts. 7-A and 8-A of RFB Normative Instruction no. 1571, 2015, may be supplied until the last business day of June 2018."*

## 20) LEVY OF PIS/COFINS ON THE FINANCIAL REVENUE OF THE TECHNICAL RESERVES OF THE INSURERS

The 3rd Panel of the Higher Chamber of the Administrative Board of Tax Appeals [*Conselho Administrativo de Recursos Fiscais - Carf*] will decide whether the financial revenue of the technical reserves of insurers must make up the base for the calculation of PIS and Cofins.

The proceeding is stayed since November due to a request to see the record, but two opinions against the involved insurer have already been issued.

The proceeding was sent to the Higher Chamber after the decision rendered by the 1st Panel of the 3rd Chamber of the 3rd Section in April 2016 that the financial revenue of insurers deriving from assets that guarantee the technical provisions are considered part of their gross sales, that is, proceeds of their typical operating activities. According to the panel,

this revenue is within the context of services provided to the clients of the insurers' products.

Because of the controversy about the concept of gross sales, the taxpayers understand that, from the introduction of Law no. 12973, the concept of gross sales changed. However, for the National Treasury, the rule merely reinforced the previous concept.

## 21) LAW NO. 13606, OF 1/9/2018

Institutes the Rural Tax Compliance Program [*Programa de Regularização Tributária Rural - PRR*] at the Federal Revenue Office and the Office of the General Counsel for the National Treasury; amends Laws no. 8212, of July 24, 1991; no. 8870, of April 15, 1994; no. 9528, of December 10, 1997; no. 13340, of September 28, 2016; no. 10522, of July 19, 2002; no. 9456, of April 25, 1997; no. 13001, of June 20, 2014; no. 8427, of May 27, 1992; and no. 11076, of December 30, 2004, and Decree-Law no. 2848, of December 7, 1940 (Penal Code); and makes other provisions.

## 22) RFB NORMATIVE INSTRUCTION No. 1784, OF 1/19/2018

Regulates, within the ambit of the Federal Revenue Office, the Rural Tax Compliance Program [*Programa de Regularização Tributária Rural - PRR*] instituted by Law no. 13606, of January 9, 2018.



# PARTNERS OF THE FIRM AND RESPECTIVE AREAS



**Daniela Matos**

Insurance and Reinsurance  
(55 11) 5643-1065  
dmatos@santosbevilaqua.com.br



**João Marcelo dos Santos**

Insurance and Reinsurance  
(55 11) 5643-1066  
jsantos@santosbevilaqua.com.br



**Julia de Menezes Nogueira**

Tax Law  
(55 11) 5643-1062  
jnogueira@santosbevilaqua.com.br



**Juliano Nicolau de Castro**

Labour Law  
(55 11) 5643-1061  
jcastro@santosbevilaqua.com.br



**Keila Manangão**

Litigation and Arbitration  
(55 21) 2103-7638  
kmanangao@santosbevilaqua.com.br



**Marco Antônio Bevilaqua**

Insurance, Reinsurance,  
Supplementary Pension and  
Supplementary Health  
(55 11) 5643-1063  
mbevilaqua@santosbevilaqua.com.br



**Roberto F. S. Malta Filho**

Corporate, Contracts, Mergers and  
Acquisitions, Arbitrations and Judicial  
Reorganization/Restructuring  
(55 11) 5643-1064  
rmalta@santosbevilaqua.com.br