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INSURANCE AND OPEN SUPPLEMENTARY SOCIAL SECURITY

1) INTERMINISTERIAL MANAGEMENT COUNCIL OF THE RURAL INSURANCE - CGSR RESOLUTION No. 52, OF 1/31/2017

The Interministerial Management Council of the Rural Insurance [Conselho Gestor Interministerial do Seguro Rural - CGSR] approves the distribution of budget of the Subsidy Program for the Rural Insurance Premium [Prêmio do Seguro Rural - PSR] for the 1st half of 2017, according to the amounts shown in the annex to the Resolution, subject to the limits of the appropriation and payment funds of the Ministry of Agriculture, Livestock, and Supply.

To check the annex please access http://www2.susep.gov.br/bibliotecaweb/docOriginal.aspx?tipo=1&codigo=39649.

2) CGSR RESOLUTION No. 53, OF 1/31/2017

Amends articles 1 and 3 of the annex to Resolution no. 41, which provides for the creation of the Consulting Commission of the States of Brazil.

Art. 1 is amended as follows:

"Art. 1 The functioning of the Consulting Commission of the States of Brazil, created within the ambit of the CGSR and whose purpose is to suggest mechanisms for the participation as well as the level of participation of the Brazilian states in the debates on the management of the Subsidy Program for the Rural Insurance Premium [Prêmio do Seguro Rural - PSR] shall be **regulated by this Regulation".**

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The only amendment to the text of the above-**mentioned article was the exclusion of "with similar programs", which previously qualified "Brazilian states."**

On the other hand, a new item was added to art. 3 to include another representative to serve on the **Consulting Commission of the States of Brazil: "V** - a representative of the Department of Agriculture, Livestock and Irrigation of the State of Rio Grande do Sul [Secretaria de Agricultura, Pecuária e Irrigação do Estado do Rio Grande do Sul - **SEAPA/RS"].**

3) CGSR RESOLUTION No. 54, OF 1/31/2017

Provides for a minimum previous period for the new rules of the PSR to take effect.

This Resolution determines that new resolutions that change the PSR rules shall take effect only after at least 30 days from their publication in the Federal Official Journey – DOU.

In addition, proposed rulings on amendments to the PSR must be sent to the advisory commissions at least 15 days before the date they will be resolved by the CGSR.

4) SUSEP ADMINISTRATIVE RULE No. 6.798, OF 2/6/2017

Establishes a Work Group to study and propose the revision of the current regulation on the periods documents and data of the supervised markets must be kept and stored.

The work must be completed in a period of 180 days, which may be extended to an equal period.

The periods set in SUSEP Circular no. 74/99, in their majority periods of 20 years, and the periods set in the civil and administrative legislation effectively demand harmonization. In fact, in certain aspects, the Circular was partly amended by a subsequent legislation of highest hierarchy.

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As it happens, even considering the need for a careful analysis of exceptional situations, such as liability to third parties and beneficiaries, we know that in certain cases SUSEP has been applying SUSEP Circular no. 74/99 with no restriction whatsoever. And it has been doing this as if safe keeping of documents were an end in itself, disconnected from periods of limitation in general.

In this context, the establishment of a Work Group to deal with the matter is excellent news as safe keeping of documents involves relevant costs for the supervised market.

5) SUSEP STATEMENT No. 187, OF 1/19/2017 (RECTIFICATION)

Amends article 39 of SUSEP Statement no. 187/2017, **which shall read as follows: "Art. 39. Susep Statement** no. 159/2013 is hereby revoked and Susep Instruction **no.33/2003", instead of "Art. 39. Susep Statement no.** 159/2013 is hereby revoked and Susep Statement no. **33/2003."**

6) CTA BRAZILIAN ACCOUNTING RULE No. 25, of 2/17/2017

Approves CTA Communication 25, which provides instructions for issuance of a new model of report by independent auditors.

The purpose of the Communication is to instruct independent auditors as to the issuance of reports on accounting statements for years or periods ended on or after December 31, 2016.

The entities supervised by the Private Insurance Superintendence - SUSEP that use accounting practices set by SUSEP may have divergences in regard to the international rules for financial reports, since many times the technical and accounting rules laid down by the Federal Accounting Council must be approved by that regulatory agency. All this despite the fact that SUSEP has been working to increasingly adapt the legislation to the international standards.

In this context, such entities must present individual accounting statements, consolidated according to the

accounting practices applicable to their sectors and, if required, must present separately another set of consolidated accounting statements prepared according with the Tax, Social and Management Responsibility Indexes [Índices de Responsabilidade Fiscal, Social e de Gestão - IRFs]. We also point out that the audit reports related to entities regulated by SUSEP must follow specific instructions included in other Technical Communications - CTAs, whenever applicable.

7) ANSP WILL ELECT A NEW BOARD ON MARCH 29

On March 29, the National Insurance and Social Security Academy [Academia Nacional de Seguros e Previdência - ANSP] will elect a new board for the 2017-2020 period.

João Marcelo dos Santos, partner in the Insurance and Reinsurance area of our firm and current chairman of the Permanent Council of Academics (which will be dissolved), leads the single slate of candidates that will be voted at the General Meeting.

"It is a rare honor to lead ANSP. The Academy, due to its non-business nature and its commitment to the development of insurance and social security activities, adds a relevant value to these markets, and to **participate in this process is very good," says João** Marcelo.

The current president of ANSP, Mauro César Batista, will be elected chair of the Superior Council.

8) XI BRAZILIAN CONGRESS OF AIDA (GOIÂNIA, MARCH 31 TO APRIL, 1)

The XI Brazilian Congress of the International Association of Insurance Law [Associação Internacional de Direito do Seguro - AIDA], Brazil section, will be held in the last weekend of March aiming at promoting studies, reflections, and debates about the legal dimension of the insurance, reinsurance and social security doctrines.

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The National Work Group for Consumer Relations of AIDA is chaired by Ana Paula Costa, lawyer at Santos Bevilaqua law firm.

Professionals from all parts of the country will attend the Congress, explains Ana Rita R. Petraroli, AIDA **President: "During the Congress, colleagues of all** regions of the country will have the opportunity to exchange experiences and leave the meeting as better **persons and more prepared professionals."**

9) SUSEP CIRCULAR No. 546, OF 23.02.2017

It suspends the effects of SUSEP Circular No. 541, of October 14, 2016, which establishes general guidelines applicable to civil liability insurance for directors and officers of legal entities (RC D & O), for 90 days from the publication of this Circular.

This decision is probably due to the need to rediscuss some controversial points in Circular 541/2016, especially its article 3, which provides the definitions of several relevant terms used by the Circular, such as **"Apólice à base de ocorrências" and "Ato Culposo".** It has been pointed out that many of these terms have disconnected or even wrong definitions in the face of market practice already established both in Brazil and internationally.

In the wake of such issues, there has been severe criticism since the introduction of the SUSEP Circular No. 541/2016, which indicates some difficulty by the supervised entities in adapting to the new regulatory determinations.

Within this context, the suspension of the aforementioned Circular for adjustments makes sense.

10) BINDING PRECEDENTS OF THE SUPERIOR COURT OF JUSTICE (STJ) – OVERDUE TAX LIABILITY, INSURANCE BROKERS AND IPVA

The First Section of the Superior Court of Justice (STJ) approved three new precedents at the trial session on

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December 14, 2016. The texts were unanimously approved by the ten ministers specialized in public law.

The first precedent, number 583, establishes that "the provisional filing provided for in art. 20 of Law no. 10,522 / 2002, addressed to debts registered as overdue federal tax liability by the Office of the Attorney General of the National Treasury or charged by it, does not apply to fiscal foreclosures filed by professional supervisory boards or by federal authorities. "

The second, registered under number 584, states that "insurance brokerage companies, which are not confused with securities companies or with private insurance agents, are outside the list of entities included in art. 22, paragraph 1, of Law no. 8,212 / 1991, not being subject to the increase of the Cofins rate established in art. 18 of Law no. 10,684 / 2003 ".

Finally, the third precedent, number 585, defines that "the joint liability of the former owner, provided for in art. 134 of the Brazilian Traffic Code - CTB, does not cover the IPVA incident on the motor vehicle related to the period after its disposal. "

11) PUBLIC CIVIL ACTION No. 0077979-10.2016.4.02.5101 – MPF v. SUSEP

The Public Civil Action no. 0077979-10.2016.4.02.5101 was filed by the Federal Public Ministry (MPF) against SUSEP, with the objective of ensuring the observance and full effectiveness of paragraphs 3, 4 and 5 of article 2 of CNSP Resolution No. 297/2013, which deal with the remuneration of the insurance representative:

> Article 2 **(...)**
>
> Paragraph 3. The remuneration of the insurance representative shall be agreed with the insurance company according to the principles and rules applicable to consumer protection and free competition.
>
> Paragraph 4. The remuneration of an insurance representative that characterizes the requirement to the consumer of a manifestly excessive advantage, as provided for in Article

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> 39, item V, of Law no. 8.078, of September 11, 1990, is prohibited.
>
> Paragraph 5. Susep may suspend the marketing of products whose remuneration is characterized as a manifestly excessive advantage, in accordance with the previous paragraph.

The MPF claims that although the above provisions prohibit the over-compensation of the insurance representative and attribute to SUSEP the power to inspect and suspend the marketing of products in this situation, the Authority has already stated that it is not responsible for intervening in such remuneration. In that manner it is the understanding of the MPF that the present suit is necessary precisely to ensure the effectiveness of the rules under examination through the effective assessment of SUSEP.

In this context, Judge Marcelo da Fonseca Guerreiro of the 30th Federal Civil Court of Rio de Janeiro, rightly pointed out that *"it is not for Susep to interfere in the remuneration of the insurance representative, since if it did so, it would be infringing the principles of freedom of initiative and free competition, pillars of our constitutional economic order.* (...)

Remember, also, that the Judiciary, in the exercise of control of administrative acts, is limited to examining its legality and curbing abuses by the Administration. The Judiciary is not responsible for replacing Susep's regulatory activity, disrespecting the principles of administration reserve and separation of powers. The Judiciary is not allowed to intervene in matters of exclusive competence of the Executive Power, under penalty of an affront to the principle of harmony and independency between the powers. "

Therefore, the request made by the MPF was ruled to be unfounded, with the decision been susceptible to an appeal.

In any event, this is a relevant precedent as it guarantees an area of economic freedom in the scope of negotiations between insurers and their partners.

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FINANCIAL MARKET, CAPITAL MARKET AND OTHERS

1) BRAZILIAN CENTRAL BANK - BACEN COMMUNICATION No. 30385, of 1/31/2017

Informs the percentage and the maximum limit of the interest rate to be used in loan contracts with prefixed interest rate executed within the ambit of Housing Finance System [Sistema Financeiro da Habitação - SFH], addressed in Resolution 3409/17.

The percentage relates to the basic yield of savings deposits, in effect In February, is 2.0518% per year, and the maximum limit of the interest rate in effect in February for contracts with prefixed rates executed within the ambit of SFH is 14.2980% per year.

2) NATIONAL MONETARY COUNCIL - CMN RESOLUTION No. 4553, of 1/30/2017

Segments the set of financial institutions and other institutions authorized to operate by the Brazilian Central Bank for the purposes of proportional application of the prudential regulation, considering the size and international activity of the institutions in each segment.

The Resolution divides the institutions into five segments:

i. S1: multiple banks, commercial banks, investment banks, foreign exchange banks and savings banks whose size is equal to or above 10% of the Brazilian Gross Domestic Product (GDP); or that carry out a relevant international activity (assets abroad equal to or above US$ 10,000,000.00), irrespective of the size of the institution.
ii. S2: multiple banks, commercial banks, investment banks, foreign exchange banks and

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savings banks whose size is below 10% and equal to or above 1% of the Brazilian GDP; and other institutions whose size is equal to or above 1% of the Brazilian GDP.

iii. S3: institutions whose size is below 1% and equal to or above 0.1% of the Brazilian GDP.

iv. S4: institutions whose size is below 0.1% of the Brazilian GDP.

v. S5: institutions whose size is below 0.1% of the Brazilian GDP and that use the simplified optional methodology to assess the minimum required Regulatory Capital [Patrimônio de Referência - PR], of Tier I and of Main Capital, except multiple banks,, commercial banks, investment banks, foreign exchange banks and savings banks; and the institutions not subject to the assessment of the PR.

Additionally, the institutions that are part of the prudential conglomerate will be classified based on the consolidated information of the entire conglomerate.

The institutions that were authorized to operate after January 30, 2017 will be initially classified based on the information in the their business plan presented to the Brazilian Central Bank.

For the purposes of this Resolution, size is defined based on the ratio between the value of Total Exposure of the institution and the value of the Brazilian GDP.

The changes in the classification are regulated by the Resolution and will produce effects only after the end of a six-month period subsequent to the date of the change; the Brazilian Central Bank will publish every six months at least the information related to the classification of the institutions.

CMN Resolution no. 4553/17, by segmenting the application of the prudential regulation, especially the rules of Basel III previously implemented by CMN Resolutions no. 4192/13, 4193/13, 4194/13 and 4280/13, seeks to improve its adequacy to the different sizes and profiles of the financial institutions.

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3) CMN RESOLUTION No. 4555, of 2/16/2017

Amends the regulation annexed to Resolution no. 3932/2010, which consolidates the rules on the allocation of the funds of savings deposits by the entities that are part of the Brazilian Savings and Loan System [Sistema Brasileiro de Poupança e Empréstimo – SBPE], changing item XXIX of art. 2 and adding paragraph 9 to art.14.

The change to item XXIX of art. 2, introduced by the Resolution in question, relates to loan agreements for acquisition of new pieces of residential real property appraised for up to R$ 1,500,000.00. Previously, the agreements executed between September 30, 2016 and September 30, 2017 were eligible for transactions within the ambit of the SFH, however, according to the new rule, such period was changed to September 30, 2016 to February 17, 2017.

In turn, paragraph 9 added to art. 14 provided the **following wording: "Par. 9 Concerning loan agreements** for acquisition of new pieces of residential real property, executed between February 20, 2017 and December 31, 2017, the maximum limit of the appraisal value referred to in item II of the head provision and par. 7 is one million, five hundred thousand reais (R$ **1,500,000,00)."**

4) CMN RESOLUTION No. 4.557, OF 23.02.2017

Deals with the structure of risk management and the structure of capital management.

As explained by the Director of Regulation of the Central Bank, Otávio Damaso, this is the first standardization carried out by the CMN after CMN Resolution No. 4,553 / 17, which established the new segmentation of the financial sector.

The financial institutions included in Segments 1 (S1); 2 (S2); 3 (S3); Or 4 (S4), must implement a continuous and integrated risk management structure as well as a capital management structure. The institutions included in Segment 5 (S5) must implement a simplified structure of continuous risk management.

This Resolution revokes CMN Resolutions 3,380/06; 3,464/07; 3,721/09; 3,988/11; and 4,090/12, consolidating some existing points and improving risk management in dealing with operational risk; credit risk; capital management risk; and liquidity risk.

The deadline for implementing the resolution is 180 days for the institutions that are part of S1. In the other segments, the period is 360 days.

This is an extremely important rule, which may inspire the drafting of a similar standard for the insurance market.

PUBLIC INQUIRIES

1) CALL FOR SUSEP PUBLIC INQUIRY No. 001, OF 2/1/2017

The Superintendent of the Private Insurance Superintendence - Susep submitted for public inquiry the draft of a Susep Circular that establishes, among other provisions, rules and criteria to develop and sell insurance plans of the Named-Perils and Operational Risks line.

The period to send comments and suggestions by e-mail to cgcom.rj@susep.gov.br or copat.rj@susep.com.br is 15 days from February 1, 2017.

The above-**mentioned draft is available on Susep's** website, at http://www.susep.gov.br/setores-susep/seger/copy_of_normas-em-consulta-publica/copy2_of_edital-de-consulta-publica-no-09-2016.

2) CALL FOR SUSEP PUBLIC INQUIRY No. 002, OF 23/02/2017

The Superintendent of the Private Insurance Superintendence - Susep submitted for public inquiry the draft of a CNSP Resolution, which provides for the transfer of risks related to closed supplementary pension entities to insurance companies authorized to operate in the insurance of persons and on the corresponding insurance and pension plans.

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The period to send comments and suggestions by e-mail to cgcom.rj@susep.gov.br is 15 days from February 23, 2017.

The above-**mentioned draft is available on Susep's** website, at http://www.susep.gov.br/setores-susep/seger/copy_of_normas-em-consulta-publica/copy3_of_edital-de-consulta-publica-no-09-2016.

In general, the Resolution details how the risk transfer of pension funds to insurers may be done, regardless of whether such transfers can already be made at the present time.

The future Resolution may become an incentive for supervised entities to carry out such operations.

CLOSED SOCIAL SECURITY

1) NATIONAL SUPPLEMENTARY SOCIAL SECURITY COUNCIL - CNPC RESOLUTION No. 24, OF 11/24/2016

Provides for submasses in benefits plans of closed supplementary social security entities.

The Resolution defines submass as a group of participants or beneficiaries of a benefits plan that have identity of rights and obligations homogeneous among them but heterogeneous in relation to the other participants in and beneficiaries of the same plan.

The existence of submasses in benefits plans may be recognized by the closed supplementary social security entity [Entidade Fechada de Previdência Complementar - EFPC], aiming at ensuring the identification of rights and obligations of the group of participants and beneficiaries, according to the rules in

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the regulation. Once recognized, the submasses must be controlled separately.

The technical base for the identification and treatment of the submass must be contained in the explanatory notes to the accounting statements, the annual information report and, should it be necessary, the actuarial technical note, as well as in the actuarial opinion.

The submasses will be subject to a differentiated treatment in the specified situations.

Previc will edit a rule for the enforcement of the Resolution.

2) SUPPLEMENTARY PENSION PLAN SUPERINTENDENCE/ACCOUNTING, ACTUARIAL AND ECONOMIC MATTERS BOARD - PREVIC/DIACE ADMINISTRATIVE RULE No. 029, OF 1/16/2017(*)

Provides for the assessment of the duration of the liabilities referred to in Resolution no. 18, of March 18, 2006 and the pricing adjustment referred to in Resolution no. 26, of September 29, 2008, both of the Supplementary Social Security Management Council [Conselho de Gestão de Previdência Complementar - CGPC], and also referred to in Previc Instruction no. 19, of February 4, 2015, related to the results for 2016.

The administrative rule establishes that the assessment of the duration of liabilities and the pricing adjustment will be done using the specific electronic spreadsheet **published on Previc's website. The electronic** spreadsheet of each benefit plan must be sent to Previc until the date established for the accounting

statements to be sent, according to operating details published on its website.

3) SUPPLEMENTARY PENSION PLAN SUPERINTENDENCE/COLLECTIVE BOARD - PREVIC/DICOL ADMINISTRATIVE RULE No. 134, OF 2/13/2017

Provides for the publicity of information and the procedure to access the acts and documents related to the operation of PREVIC.

The ruling lists the principles to be adopted to interpret and apply the Administrative Rule, namely: observance of the publicity as general precept and observance of the confidentiality as exception; dissemination of information of public interest, irrespective of requests; use of the means of communications that the information technology makes available; promotion of the development of the transparency culture in the government; and development of the social control of the government.

The ruling addresses the application for access to information, as well as confidential information, protected information, classified information and personal information. It also lays down rules on the procedure to apply for access to information and lists the events in which such application may be denied. In addition, it establishes that the classification of public information at any confidentiality level will be made using the Information Classification Instrument [Termo de Classificação de Informação – TCI], and identifies the authority to classify the confidentiality level of information.

4) DECREE No. 8992, OF 2/20/2017

Approves the Regulation Structure and the Chart of At-Will Appointments and Positions of Trust of Previc, redistributes at-will appointments and replaces at-will appointments of the Superior Group-Direction and Assistance [Grupo-Direção e Assessoramento Superiores - DAS] with At-Will Appointments of the

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Executive Branch [Funções Comissionadas do Poder Executivo – FCPE].

The ruling defines the regulation structure, changes the chart of at-will appointments and positions of trust and creates the Board of Technical Instruction and Rules, which adds value to the recently approved strategic goal, strengthening the process for instruction and construction of rules, focusing on costs reduction (unburdening) and competitiveness. Previc will have 30 days to reorganize itself, and define more adequate profiles and leaderships for each new role within it. Some functions will be performed only by permanent employees, such as functions related to inspection.

5) SUPERIOR COURT OF JUSTICE – SPECIAL APPEAL REsp 1.433.544/SE – REPORTED BY JUSTICE LUIS FELIPE SALOMÃO

The Second Section of the Superior Court of Justice [Superior Tribunal de Justiça - STJ] recently decided on special appeal representing controversy, that, concerning private social security plans sponsored by government entities, the participant will be eligible for a programmed or continued benefit only after the end of the employment relationship with the sponsor.

Synopsis of the decision:

SPECIAL APPEAL REPRESENTING CONTROVERSY . PRIVATE SOCIAL SECURITY. EMPLOYMENT CONTRACT AND SUPPLEMENTARY PENSION PLAN CONTRACT INDEPENDENT AND DISTINCT CONTRACTUAL RELATIONSHIPS SUBJECT TO SPECIFIC RULES AND PRINCIPLES. BENEFITS PLANS SUBJECT TO SUPPLEMENTARY LAW No. 108/2001, INCLUDING THOSE IN EFFECT ON THE OCCASION THE LAW WAS INDRODUCED. PROHIBITION, ESTABLISHED BY ART. 3, I, OF SUPPLEMENTARY LAW No. 108/2001, OF GRANT OF PROGRAMMED OR CONTINUED BENEFIT WHERE THE EMPLOYMENT RELATIONSHIP BETWEEN PARTICIPANT AND SPONSOR HAS NOT ENDED. BIDING RULE, EFFECTIVE IMMEDIATELY.

1. The precedent to be set, to the effect of art. 1036 of the Code of Civil Procedure CPC/2015 (art. 543-C do

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CPC/1973), is the following: "In respect of private social security plans sponsored by the Brazilian states — including their autonomous agencies, foundations, government-controlled companies, and directly or indirectly controlled companies — the participant will be eligible for a programmed benefit or continued **benefit only after the end of the participant's** employment relationship with the sponsor, especially from the date of effectiveness of the Supplementary Law no. 108/2001, irrespective of legal and regulatory **provisions."**

2. In the concrete case, special appeal granted." (REsp 1433544/SE, Reported by Justice LUIS FELIPE SALOMÃO, SECOND SECTION, tried on 11/9/2016 Electronic Court Journal DJe 12/1/2016)

HEALTH

1) SECTOR DEVELOPMENT BOARD - DIDES NORMATIVE INSTRUCTION No. 65, OF 2/10/2017

Provides for the electronic communication between DIDES and health assistance plan companies, under Normative Resolution RN no. 411/2016, which introduced the electronic communication between the National Supplementary Health Agency [Agência Nacional de Saúde Suplementar – ANS] and health assistance plan companies.

The communication between DIDES and the companies will be electronic; documents will be sent through the File Submission Program [Programa Transmissor de Arquivos – PTA] application, and they will be available in the received files area of the application.

The files submitted by PTA will be available for download for 90 days, except as otherwise provided.

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The companies are required to check the ANS system area where the documents will be available at least once every two days.

The standard way for electronic submission will be the PTA, unless the service for which the document is intended has any specific application or system.

The annex to this Instruction establishes the formatting specifications for the files sent by DIDES. It is available on http://www.ans.gov.br/component/legislacao/?view=legislacao&task=TextoLei&format=raw&id=MzM2OQ==.

2) NORMATIVE RESOLUTION RN No. 420, OF 2/14/2017

Amends Normative Resolution no. 364/2014, in which the National Supplementary Health Agency – ANS defines the adjustment index to be applied by health assistance plan companies to their health care service providers in specific situations.

The only amendment brought by such Resolution was made to the wording of par. 1 of article 7, which now **reads as follows: "Par. 1 For health professionals, the** Quality Factor will be based on criteria set by ANS in partnership with the Professional Councils and/or national associations that represent health professional categories or health specialties, in a group **to be created for such purpose."**

In the new wording, the roles of ANS and the Federal Councils were shifted in comparison to the original wording. Now, ANS is directly responsible for specifying the Quality Factor criteria for health professionals, whereas the Councils now have a less prominent role in the decision.

In this regard, even though it is not possible to state which will be the effective changes in the role of the Councils in specifying the criteria, the amendment to the rule indicates that ANS will take the lead in this issue.

In addition, the national associations that represent health professional categories were added to the list of entities that help define the Quality Factor criteria.

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3) DIDES NORMATIVE INSTRUCTION No. 66, OF 2/14/2017

Amends Normative Instruction no. 63/2016, which provides for the regulation of the paragraphs of article 7 of Normative Resolution no. 364/2014, which establishes the Quality Factor to be applied to the adjustment index defined by ANS for health professionals, laboratories, clinics and other non-hospital health establishments.

This Instruction aims at reconciling the inclusion of the national associations that represent health professional categories as partners of ANS in the process of specifying the Quality Factor criteria, revoking par. 2 of art. 4 of Normative Instruction no. 63/2016, which allowed professional councils to delegate powers to such representative entities.

In this context, par. 1 became a sole paragraph.

In addition, the head provision now reads as follows: **"Art. 4 In partnership with ANS, it will be incumbent** upon the Professional Councils and/or national associations that represent health professional categories or health specialties, which expressly mentions associations and their role as partners.

4) NORMATIVE RESOLUTION NR No. 414, OF 11/11/2016 (RECTIFICATION)

Rectifies the wording of par. 6, article 53, of Normative Resolution no. 414/2016.

The **wording "Par. 6 The verification of migration to an** immediately better qualified group will take place only in the readings of indicator provided for in art. 5 of this rule, for purposes of interrupting the application of measures set forth in items II and **III," now reads "Par. 6** The verification of migration to an immediately better qualified group will take place only in the readings of indicator provided for in a specific rule, for purposes of interrupting the application of measures set forth in items I**I and III."**

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Therefore, only the rule in which the indicator readings are set was amended.

5) CFM OPINION No. 42/2016

It determines that assistant physicians and health establishments are not responsible for completing the forms of private insurance companies. The allocation, according to the opinion, is of the insurance companies, which must make the professionals available for the exercise of the function.

The central argument to justify the waiver of the forms by the assistant physician, according to the document's rapporteur, is that these documents are answered with information inherent to the capacity assessment, with the purpose of granting benefits or insurance, which is a specific function of doctors who are auditors or forensic experts.

Also according to the rapporteur, the compulsory certification by the assistant physician ends with the issuance of the Declaration of Death, which makes it possible to issue the Certificate of Death by the Registry of Public Records. Once in possession of these documents, it is up to the patient or family member to seek the insurer for the grant of the benefit or insurance.

The Opinion also authorizes the collection of fees by the physician who acts, in these cases, with expert forensic activity, as long as the form has not been filled by the assistant physician.

TAX

1) BRAZILIAN FEDERAL REVENUE - RFB NORMATIVE INSTRUCTION No. 1687, of 1/31/2017

Regulates the Tax Good Standing Program [Programa de Regularização Tributária - PRT], instituted by Provisional Presidential Decree no. 766, of January 4, 2017, with the Brazilian Federal Revenue Department [Secretaria da Receita Federal do Brasil - RFB].

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RFB Normative Instruction no. 1.687/2017 was amended to correct the information that credits for tax losses and negative base for calculation of the Social Contribution on Net Profit assessed until 12/31/2015 and reported until 7/29/2016 may be used in the events of payment on demand and in cash of at least 20% of the consolidated debt, as well as payment in cash of at least 24% of the consolidated debt in 24 monthly and successive installments, and in both cases it is possible to pay the remaining balance using the credits for tax losses and the negative base for the CSLL calculation or using other proper credits related to the taxes administered by the RFB. As originally worded, RFB Normative Instruction no. 1687/2017, regulated within the RFB the Tax Good Standing Program.

2) OFFICE OF THE COUNSEL FOR THE NATIONAL TREASURY - PGFN ADMINISTRATIVE RULE No. 152, OF 2/2/2017

Provides for the PRT, addressed by Provisional Presidential Decree no. 766, of January 4, 2017, for overdue federal tax liabilities administered by the Office of the Counsel to the Federal Treasury [Procuradoria-Geral da Fazenda Nacional - PGFN]

until the date of adhesion to the program. This Administrative Rule addresses, among others, the following matters: a) the taxpayer may join the PRT only upon application submitted on the PGFN website; b) the periods for joining the program are: b.1) 3/6/2017 to 7/3/2017 for liabilities arising from social contributions payable by companies levied on the compensation paid or credited to the insured working for the companies, domestic employees, workers, applied to the contribution salary, instituted on account of substitution and due to third parties, that is, other entities or funds; b.2) 3/6/2017 to 7/3/2017, concerning liabilities related to the social contributions

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instituted by Supplementary Law no. 110/2001; b.3) 2/6/2017 to 6/5/2017, for the other liabilities administered by PGFN; c) the types of payment of liabilities are: c.1) payment in cash of 20% of the consolidated debt and payment of the remaining amount in up to 96 monthly and successive installments ; c.2) payment of the liability in up to 120 monthly and successive installments, calculated according to the following minimum percentages applied to the consolidated amount: c.2.1) 0.5%, from the 1st to the 12th installment; c.2.2) 0.6%, from the 13th to the 24th installment; c.2.3) 0.7%, from the 25th to the 36th installment; c.2.4) percentage corresponding to the remaining balance, in up to 84 monthly and successive installments from the 37th installment forward; d) possibility of inclusion of liabilities that are being paid in installments, provided that the taxpayer officially waives such payment in installments before joining the PRT; e) provision that, concerning liabilities disputed in court, the taxpayer will cumulatively: e.1) discontinue the lawsuits related to the liabilities that will be paid; e.2) discontinue allegations of right that base such lawsuits; e.3) file request for dismissal of the case with prejudice.

3) ANSWER TO INQUIRY TO TAX COORDINATION OFFICE - COSIT No. 123, OF 2/8/2017

SUBJECT: INDIVIDUAL INCOME TAX [IMPOSTO SOBRE A RENDA DE PESSOA FÍSICA - IRPF]

The deduction limit related to contributions paid by the taxpayer to private social security entities and the Individual Retirement Fund Program [Fundo de Aposentadoria Programada Individual - Fapi] is 12% of the total earnings computed to determine the base for the tax calculation in the tax return.

The contributions paid by the taxpayer to the supplementary social security entity referred to in pars. 14, 15 and 16 of art. 40 of the Federal Constitution of 1988, provided that limited to the rate of the government entity/sponsor, are not subject to the 12% limit. In the event the contribution results from a rate

higher than that of the government entity/sponsor, the excess may be deducted provided that this contribution added to the amount of the contributions to private social security and Fapi does not exceed 12% of the total earnings computed to determine the base for the tax calculation in the tax return. In the case of inquiry by a government agency about a situation in which it is not a taxpayer, the effects referred to in art. 10 of RFB Normative Instruction no. 1396, of 2013, will not reach the payer of the principal or accessory tax liability.

Legal provisions: Constitution of the Federative Republic of Brazil of 1988, art. 40, pars. 14 to 16; Law 9250, of December 26, 1995, articles 4 and 8; Law no. 9532, of December 10, 1997, art. 11, pars. 6 and 7; and RFB Normative Instruction no. 1396, of September 16, 2013, articles 2, 10 and 14.

4) SOLUTION OF CONTROVERSY No. 83, of 1/24/2017

Subject: Contribution for the Social Security Financing [Contribuição para Financiamento da Seguridade Social - COFINS]

Synopsis: Cumulative Assessment Regime. Insurers. Technical Reserves. Financial Revenues

Under the aegis of the concept of "gross revenue" established by Law no. 12973/14, RFB reiterated its previous understanding that the Contribution for the Social Integration Program [Programa de Integração Social - PIS] and COFINS apply to financial revenue from investment of the technical reserves of the insurers.

SUBJECT: COFINS

SYNOPSIS: CUMULATIVE ASSESSMENT REGIME. INSURERS. TECHNICAL RESERVES. FINANCIAL REVENUES.

Financial revenues from "compulsory investments" made to constitute the so-**called "technical reserves", in** compliance with Decree-Law no. 73, of 1966, make up

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the base for the calculation of Cofins in the cumulative assessment regime. These investments that are compulsory under the ruling and the daily allocation of such funds to different investments provided in law are a proper business activity, as the law establishes that it is inherent and indispensable to the development of the purposes of any and all insurers. For this reason, the development of such activity is encompassed by the invoicing concept, understood as the gross revenue a legal entity obtains in fulfilling its corporate purpose.

LEGAL PROVISIONS: Federal Constitution, arts. 195, I, and 239; Supplementary Law no. 70, of 1991, arts. 2 and 10, sole paragraph; Decree-Law no. 73, of 1966, arts. 28, 29, 84 and 85; Law no. 9718, of 1998, arts. 2 and 3, par. 1; Law no. 10833, of 2003, art. 10, I; Law no. 11.941, of 2009, art. 79, XII; Decree no. 3000, of 1999, arts. 278 to 280; CMN Resolution no. 4444, of 2015, arts. 1, 2 and 4.

SUBJECT: CONTRIBUTION TO THE SOCIAL INTEGRATION PROGRAM [Programa de Integração Social - PIS]/ PUBLIC SERVANT FUND [Programa de Formação do Patrimônio do Servidor Público - PASEP]

SYNOPSIS: CUMULATIVE ASSESSMENT REGIME. INSURERS. TECHNICAL RESERVES. FINANCIAL REVENUES.

Financial revenues from “compulsory investments” made to constitute the so-**called “technical reserves”, in** compliance with Decree-Law no. 73, of 1966, make up the base for the calculation of PIS/Pasep in the cumulative assessment regime. These investments that are compulsory under the ruling and the daily allocation of such funds to different investments provided in law are a proper business activity, as the law establishes that it is inherent and indispensable to the development of the purposes of any and all insurers. For this reason, the development of such activity is encompassed by the invoicing concept, understood as the gross revenue a legal entity obtains in fulfilling its corporate purpose.

LEGAL PROVISIONS: Federal Constitution, arts. 195, I, and 239; Supplementary Law no. 7, of 1970; Supplementary Law no. 8, of 1970; Decree-Law no. 73, of 1966, arts. 28, 29, 84 and 85; Law no. 9715, of 1998, arts. 2 and 3; Law no. 9718, of 1998, arts. 2 and 3, par. 1; Law no. 10637, of 2002, art. 8, I; Law no. 11941, of 2009,

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art. 79, XII; Decree no. 3000, of 1999, arts. 278 to 280; CMN Resolution no. 4444, of 2015, arts. 1, 2 and 4.

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