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SEPTEMBER 2017

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INSURANCE AND OPEN SUPPLEMENTARY SOCIAL SECURITY

1) GUIDANCE TO THE MARKET ON SUSEP CIRCULAR No. 517, of 7/30/2015

The Private Insurance Superintendence - SUSEP, through its Superintendent, published circular no. 517/2015, providing for several matters, such as “technical provisions; test of liabilities adequacy; reducing assets, venture capital for subscription, credit, operation and market; creation of database for operational losses; insolvency legalization 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]

By means of the “Guidance to the Market”, the Agency published a document aimed at establishing guidelines to be observed by the supervised entities as to costs of acquisition that may be deferred. The document sets the concepts to define the costs of acquisition that may be deferred as well as the criteria for their adequate amortization and disclosure.

The Guidance is available at http://www.susep.gov.br/setores-susep/cgsoa/coaso/arquivos-outros/Orientacao%20-%20Custos%20de%20Aquisicao%20Diferidos_2017_08_v.final.pdf

2) COMMITTEE FOR ACTUARIAL PRONOUNCEMENT - CPA ANNOUNCES A NEW PUBLIC INQUIRY

The Brazilian Actuarial Institute (IBA), through its Committee for Actuarial Pronouncement (CPA), submitted for public inquiry the drafts of “INDEPENDENT ACTUARIAL AUDIT (REVISED)” and “ANNEX - INDEPENDENT ACTUARY REPORT (REVISED)”, which provide for specific procedures for the independent actuarial audit (audit), which must be followed by actuaries that work for the companies supervised by SUSEP, as well as mechanisms to clarify the form and reach of the audit to technicians and others responsible for the management and governance of those companies.

Those interested may send until October 4 comments and suggestions, via e-mail to cpa@atuarios.org.br, indicating as subject “Consulta Pública - CPA 002 - AUDITORIA ATUARIAL INDEPENDENTE

(REVISADO)” or “CPA 002 - AUDITORIA ATUARIAL INDEPENDENTE (anexo - REVISADO)”.

The public inquiry is available at <http://atuarios.org.br/cpa---consulta-publica>

3) CALL FOR SUSEP PUBLIC INQUIRY No. 011, OF 9/14/2017

SUSEP Superintendent submitted for public inquiry the draft of a Resolution issued by the National Council of Private Insurance – CNSP that provides for the operating rules and criteria for funeral insurance. The full text of the draft of the Resolution may be accessed at http://www.susep.gov.br/setores-susep/cgadm/comap/Minuta_Resolucao_Seguro_Funeral.pdf

The text is similar to the text submitted to public inquiry through the “Call for SUSEP Public Inquiry no. 001, of 1/15/2016.” The new draft, however, expressly provides that it is not applicable to funeral assistance plans regulated by Law no. 13261/ 2016.

It should be noted that the publication of Law no. 13261/2016 was a clear reaction against SUSEP's attempt to turn the funeral assistance into insurance, which would make its sale possible only by insurers.

For this matter, as emphasized in our Information Report of March 2016, Federal Law no. 13261 was an evident backward motion and totally unfavorable for the insurance market, because of the law structure, which is deficient and destined to generate a market without minimal acceptable rules and prudential inspections, and also because it set a dangerous precedent when dealing with an activity that should be performed exclusively by companies that operate in the insurance area.

Those interested may send, within 30 days from the date of the call publication, comments and suggestions via e-mail to cgcom.rj@susep.gov.br or copep.rj@susep.gov.br, and the standard table that must be used is available at <http://susep.gov.br/menu/atos-normativos/normas-emconsulta-publica>.

4) CALL FOR SUSEP PUBLIC INQUIRY No. 012, OF 9/14/2017

SUSEP Superintendent submitted for public inquiry the draft of a Resolution issued by the National Council of Private Insurance – CNSP that provides for Contractual Conditions of the Compulsory Civil Liability Insurance of Air Transportation Companies - RETA. The entire Resolution is available at http://www.susep.gov.br/setores-susep/cgadm/comap/MIN_RESOLUCaO_RETA-15414.005300-2012-32.pdf

Those interested may send, within 30 days from the date of the call publication, comments and suggestions via e-mail to cgcom.rj@susep.gov.br or coset.rj@susep.gov.br, and the standard table that must be used is available at <http://susep.gov.br/menu/atos-normativos/normas-em-consulta-publica>.

5) GENERAL COUNSEL TO THE FEDERAL GOVERNMENT- AGU ASKS CANCELLATION OF THE ACTION AGAINST HEALTH INSURANCE COMPANIES

AGU opined preliminarily in favor of non-cognizance of the Direct Action for Declaration of Unconstitutionality (ADI) filed by the Liberal Social Party (PSL), disputing the operation of companies that sell health plans through adhesion contracts.

The individual health plans are almost extinct, replaced, in their majority, by health plans through adhesion contracts, generating a series of disputes over the applicability of the rules of group plans to them.

On the merits, AGU argued that the claim made by Plaintiff is insufficient.

6) CNSP RESOLUTION No. 347, OF 9/22/2017

Amends articles 32 to 36 of Annex I to CNSP Resolution no. 346/2017, which provides for SUSEP Internal Regulation, to modify the structure of the IT General Coordination Office [*Coordenação-Geral de Tecnologia da Informação - CGETI*] and the powers of its Divisions.

The Resolution is available at <http://www2.susep.gov.br/bibliotecaweb/docOriginal.aspx?tipo=1&codigo=41181>

7) CNSP RESOLUTION No. 348, OF 9/25/2017

Amends and consolidates the operation rules and criteria for survival coverage offered within personal insurance plans and makes other provisions.

Among the main changes is the creation of new types of plan, such as the “*VGBL Programado*” [Scheduled Private Pension Free Benefit Life], structured as variable contribution and which may be contracted, during the deferral period, upon scheduled financial payments as defined in the Regulation and the Actuarial Technique Note.

Also the so-called “*planos dotais*” divided into “*dotal puro*”, “*dotal misto*” and “*dotal misto com performance*” were created.

The “*Dotal Puro*” ensures the insured, during the deferral period, remuneration by an inflation adjustment index, interest rate and, optionally, biometric table, without transfer of financial results, and the insured capital is paid to the surviving insured at the end of the deferral period; the plan will always be structured as a defined benefit.

The “*Dotal Misto*” will be applied to secure an insured capital that will be paid when the insured survives the deferral period or when the insured dies during such period, without transfer of financial results; the plan will always be structured as a defined benefit and according to the capitalization financial regime.

The difference of the “*Dotal Misto com Performance*” is that, in its case, there will be full or partial transfer of financial results during the deferral period.

Finally, according to the new rules, the no-transfer to the insurer of premiums for which the insured are responsible and which are paid by the policyholder, will not affect them in regard to their rights; the policyholder will be only one responsible for the payment of the fine provided in the contract.

In general, the changes were well received by the market, which considers that they reflect the acknowledgment that it is necessary to offer greater flexibility for the clients to manage their expectations as to the plan benefits.

The Resolution is available at <http://www2.susep.gov.br/bibliotecaweb/docOriginal.aspx?tipo=1&codigo=41182>

8) CNSP RESOLUTION No. 349, OF 9/25/2017

Amends and consolidates the operation rules and criteria for survival coverage offered within open supplementary social security plans and makes other provisions.

Among the main changes is the creation of new types of plan, such as the “*PGBL Programado*” [Scheduled Benefit Generating Plan] structured as variable contribution, and which may be contracted, during the deferral period, upon scheduled financial payments as defined in the Regulation and the Actuarial Technique Note - and the “*Plano com Desempenho Referenciado* - PDR” [Referenced Performance Plan], which will be always structured as variable contribution and applicable to plans that provide, during the deferral period, minimum performance guarantee according to criteria defined in the plan, and partial or full transfer of financial results.

The “*PGBL Programado*” may set a criterion for the annual recalculation of the scheduled financial payments, based on the updated life expectancy

according to the survival table, defined in the plan for the other incomes offered, and of the balance of the Mathematical Provision for Benefits to be Granted, on the recalculation date.

Likewise the VGBL, in general the changes were well received by the market, which considers that they reflect the acknowledgment that it is necessary to offer greater flexibility for the clients to manage their expectations as to the plan benefits.

The rule is available at <http://www2.susep.gov.br/bibliotecaweb/docOriginal.aspx?tipo=1&codigo=41183>

9) CNSP RESOLUTION No. 350, OF 9/25/2017

Provides for retrocession acceptance by insurers and its mediation, and makes other provisions.

In general, the rule is technically good, and may be easily understood and applied; at the same time it

provides certainty on the lawfulness of certain transactions.

The rule is available at <http://www2.susep.gov.br/bibliotecaweb/docOriginal.aspx?tipo=1&codigo=41184>

10) CIRCULAR SUSEP No. 558, DE 27.09.2017

The Circular changes the periods for the new registration of insurance broker individuals and insurance broker companies.

According to the published rule, the period for new registration of insurance broker individuals is June 1, 2017 to December 15, 2017, and a new registration will be required every three (3) years.

The period for new registration of insurance broker companies is March 1, 2018 to August 30, 2018, and a new registration will be required every three (3) years.

Apparently, the main reason for the issuance of this rule was that only a few brokers applied for the new registration.

The Circular may be accessed at <http://www2.susep.gov.br/bibliotecaweb/docOriginal.aspx?tipo=1&codigo=41188>

11) CALL FOR SUSEP PUBLIC INQUIRY No. 013, OF 9/27/2017

SUSEP Superintendent submitted for public inquiry the draft of CNSP Resolution that provides for amendments to CNSP Resolution no. 294, of December 6, 2013, which addresses the use of remote means in transactions related to insurance plans and open supplementary social security plans.

The proposed amendments relate, especially, to changes to provisions on information to be sent to the insured and changes to the rules that limited the use of remote means to products registered with SUSEP, through the System for Electronic Registration of Products.

Any way, it may be an opportunity for proposing other changes to the rule.

Those interested may send, within 30 days from the publication date of the call, comments and suggestions via e-mail to cgcom.rj@susep.gov.br or dipes.rj@susep.gov.br, and the standard table that must be used is available on SUSEP website at (<http://susep.gov.br/menu/atos-normativos/normas-em-consulta-publica>).

The draft of the Resolution may be accessed at http://www.susep.gov.br/setores-susep/seger/copy_of_normas-em-consulta-publica/Res-alt.%20Res.%20meios%20remotos.pdf



FINANCIAL MARKET, CAPITAL MARKET AND OTHERS

1) BRAZILIAN CENTRAL BANK - BACEN CIRCULAR NO. 3844, OF 8/30/2017

Amends Circular no. 3689/2013, of December 16, 2013, which regulates, within the ambit of BACEN, the provisions on foreign capital in Brazil and Brazilian capital abroad.

The rule is available at https://www.bcb.gov.br/pre/normativos/busca/downloadNormativo.asp?arquivo=/Lists/Normativos/Attachments/50432/Circ_3844_v1_O.pdf

2) BACEN CIRCULAR No. 3845, of 9/13/2017

Amends Circular no. 3691, of December 16, 2013, which provides for the foreign exchange market, and makes other provisions.

The rule is available at https://www.bcb.gov.br/pre/normativos/busca/downloadNormativo.asp?arquivo=/Lists/Normativos/Attachments/50435/Circ_3845_v1_O.pdf

3) BRAZILIAN SECURITIES AND EXCHANGE COMMISSION - CVM, BRAZILIAN CENTRAL BANK - BCB AND FEDERAL PROSECUTION OFFICE -MPF REACH CONSENSUS ON IMPORTANT POINTS OF PROVISIONAL PRESIDENTIAL DECREE - MP NO. 784/2017

After the publication of MP no. 784/2017, which provides for administrative sanction procedures within the powers of BCB and CVM, the discussions between those Autonomous Agencies and the MPF on some of the innovations introduced by the Decree, especially on lenience agreements and the related commitments, were opened up.

The proposal sent by BCB and CVM to MP reporter, Senator Lídice da Mata (who accepted it) encompasses relevant aspects, such as (i) restriction of the scope of lenience agreements to administrative violations, (ii) express provision that the execution of

lenience agreements does not discharge BCB and CVM from informing immediately the indications of crime arising from facts that are the subject of administrative lenience agreements or commitments, (iii) explanation that both lenience agreements and commitments will be published after their execution, and that the proposal will be kept in confidentiality in both cases, in the sphere of BCB, and in the first case, in the sphere of CVM, (iv) provision that the execution of lenience agreements will not affect the operations of criminal prosecution bodies or other administrative and control bodies, (v) provision that the MPF may access the information and database of BCB and CVM related to lenience agreements and commitments executed by the Autonomous Agencies, according to Supplementary Law 105/2001, and (vi) creation of a permanent forum for discussions among MPF, BCB and CVM, according to a cooperation agreement, to ensure conditions for the operations of all involved bodies.

4) CVM STATEMENT No. 780, OF 9/4/2017

Amends CVM Statement no. 538/2008 and CVM Statement no. 558/2008, which provide, respectively, for the development of administrative sanction procedures instituted by the Brazilian Securities and Exchange Commission and the random selection of procedures and rules concerning disqualification and suspicion of members of the Collective Board within the ambit of such Commission.

5) BRAZILIAN CENTRAL BANK - BACEN COMMUNICATION NO. 31146, OF 8/31/2017

Determines that 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 September is 0.4516% p.a. as well as 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 September is 12.5058% p.a.

The entire rule is available at http://www.susep.gov.br/setores-susep/cgadm/comap/MIN_RESOLUCaO_RET-15414.005300-2012-32.pdf

6) CVM STATEMENT No. 780, OF 9/5/2017

Amends CVM Statement no. 538 (which provides for the random selection of procedures and no. 558 (which provides for the random selection of proceedings and rules concerning disqualification and suspicion of members of the Collective Board), for the CVM President to act as reporter of the proceedings submitted to the Collective Board.

Unlike the Directors, the President will participate in the random selections in turns.

The tendency is that the decisions will be entered more rapidly, diminishing the number of proceedings at the Collective Board.

The Statement may be accessed at <http://www.cvm.gov.br/legislacao/deliberacoes/deli0700/deli780.html>

7) CVM INSTRUCTION No. 590, OF 9/11/2017

Amends CVM Instruction no. 358, of January 3, 2002 and CVM Instruction no. 461, of October 23, 2007.

Among the amendments introduced, we cite the amendment to par. 2 of art. 5 (effective from 4/1/2018) which determines that any relevant action or fact occurred during the trading hours must be disclosed according to the regulations issued by the stock exchanges and related entities of the over-the-counter market.

In turn, par. 3 of art. 5, which linked the suspension of trading of securities issued by a company in Brazil to a simultaneous suspension of trading in other countries where such securities were also negotiated, was revoked by the new instruction.

With this Instruction no. 590/2017, CVM now requires officers, members of boards of directors and tax boards, and members of any other bodies with technical or consultancy functions created according to the articles of incorporation to present and update, when necessary, a list with the names and the Corporate Taxpayer ID (CNPJ) or Individual Taxpayer ID (CPF) of those connected to them at the time they take office or at the time of the presentation of the documentation to register a public-held company with CVM.

In addition, now “investment in”, “redemption of” and “trading of” units of investment funds, whose regulation establishes that the share portfolio must be composed exclusively of shares issued by a company, its controlled company or its controlling company, are considered equivalent to those involving securities issued by a company, its controlled company or its

controlling company (in both last cases, provided that they are public-held companies).

The amendment to art. 60 of CVM Instruction 461 intends that administrative entities of organized markets establish rules for the procedures for disclosure of relevant information during the trading hours.

The rule is available at <http://www.cvm.gov.br/export/sites/cvm/legislacao/instrucoes/anexos/500/inst590.pdf>

8) BACEN CIRCULAR LETTER No. 3841, of 9/14/2017;

Makes public the model of the Internal Process for Assessment of Capital Adequacy [*Processo Interno de Avaliação da Adequação de Capital - Icaap*] addressed by Circular no. 3846), September 13, 2017

The rule may be accessed at <http://www.bcb.gov.br/pre/normativos/busca/download>

[dNormativo.asp?arquivo=/Lists/Normativos/Attachments/50440/C_Circ_3841_v1_O.pdf](#)

9) REGISTER OF THOSE RESPONSIBLE FOR RESOLUTION REGIMES -CARESP ADMINISTRATIVE RULE NO. 94854, OF 9/13/2017

Introduces and regulated the CARESP and sets criteria for the appointment of interventors and liquidators addressed in Law no. 6024, of March 13, 1974, and members of boards of directors addressed in Decree Law no. 2321, of February 25, 1987.

10) E-SOCIAL MANAGEMENT COMMITTEE - CGES RESOLUTION NO. 011, OF 9/14/2017

Publishes the layout of version 2.4 of eSocial, incorporating the changes to the labor legislation introduced by Law no. 13467, of July 13, 2017.

The layout is available on eSocial website at <http://www.esocial.gov.br>.

11) NATIONAL MONETARY COUNCIL - CMN RESOLUTION NO. 4599, OF 9/13/2017

Amends Resolution no. 4596, of August 28, 2017, which provides for loans or advance payments not authorized to financial institutions and other institutions authorized by the Brazilian Central Bank to operate.

The rule may be accessed at https://www.bcb.gov.br/pre/normativos/busca/downloadNormativo.asp?arquivo=/Lists/Normativos/Attachments/50438/Res_4599_v1_O.pdf

12) BRAZILIAN CENTRAL BANK - BACEN CIRCULAR NO. 3848, OF 9/18/2017

Establishes procedures for the calculation of Risk-Weighed Factors [*Fatores de Ponderação de Risco - FPRs*] applicable to exposure to securitization bills for assessment of RWA component under standardized approach (RWACPAD), addressed in Resolution no. 4193, of March 1, 2013.

The rule may be accessed at <http://www.bcb.gov.br/htms/normativ/circular3848.pdf?r=1>

13) CALL FOR BCB PUBLIC INQUIRY No. 57/2017, OF 9/19/2017

The Brazilian Central Bank published, on this date, the Call for Public Inquiry 57/2017, concerning the proposed resolution that provides for the implementation of cybernetic safety policy by financial institutions and for the requirements for hiring data processing and storage, and cloud computing services.

The proposed resolution also establishes requirements as to the treatment of incidents related to the cybernetic environment and provides that the institutions must develop actions for sharing of information on such incidents.

The public inquiry ends on November 21, 2017 and may be accessed at <https://www3.bcb.gov.br/audpub/DetalharAudienciaPage?3>

14) LAW No. 13482, OF 9/20/2017

Amends Law no. 10893, of July 13, 2004, establishing the obligation to disclose the amounts collected by Additional Freight Amount for Renewal of the Merchant Marine [*Adicional ao Frete para a Renovação da Marinha Mercante* - AFRMM] and the total amount and allocation of amounts transferred to the Merchant Marine Fund [*Fundo da Marinha Mercante* - FMM].

The rule is available at <http://www.bcb.gov.br/pre/normativos/busca/normativo.asp?numero=4595&tipo=Resolu%C3%A7%C3%A3o&data=28/8/2017>

15) LAW No. 13483, OF 9/21/2017

Establishes, among other provisions and amendments, the introduction of the Long Term Fee [*Taxa de Longo Prazo* - TLP]; earnings of the Participation Fund of the Social Integration Program

[*Pograma de Integração Social* - PIS] and the Public Servant Fund [*Programa de Formação do Patrimônio do Servidor Público* - PASEP], the Workers' Support Fund [*Fundo de Amparo ao Trabalhador* - FAT], and the Merchant Marine Fund [*Fundo da Marinha Mercante* - FMM]; and the earnings of financing granted by the National Treasury to the Brazilian Bank of Economic and Social Development [*Banco Nacional de Desenvolvimento Econômico e Social* - BNDES].

The entire law is available at http://www.planalto.gov.br/ccivil_03/ato2015-2018/2017/lei/L13483.htm

16) NUMBER OF APPEALS HAS BEEN DECREASING SINCE 2013

The number of judicial appeals has been decreasing over the last four years. According to the yearbook *Justiça em Números 2017*, of the National Council of Justice [*Conselho Nacional de Justiça* - CNJ], such reduction, which began in 2013, occurs in trial and

appellate courts, and refers to appeals to the court itself (internal) and to a higher instance (external).

The number of cases settled is one of the factors that could explain such decrease.

According to the yearbook, the closest to higher instances, the higher the number of appeals. Actions with appeals account for 89.4% of the workload in higher courts.

Labor Justice is the leader in external appeals: 44.8% in labor courts and 47% in regional labor courts. The Regional Labor Court of the 14th Region (States of Acre and Rondônia) has the highest rate of external appeals, with 61% of the judgments.

The Superior Electoral Court has the highest rate of internal appeals: 34% of the judgments, 25.6% in higher courts on average.

In the federal small-claims courts, 43% of the judgments get to court panels, on average.

Out of all the courts, the Court of Justice of Piauí has the lowest rates for both internal (0.01%) and external (1%) appeals.

17) BRAZILIAN CENTRAL BANK - BACEN CIRCULAR NO. 3842, OF 9/22/2017

Updates the Rural Credit Manual [*Manual de Crédito Rural* - MCR] - Document 5-A, which deals with the System of Rural Credit Transactions and the Farming Security Program [*Programa de Garantia da Atividade Agropecuária* - Proagro], to adjust its content to the changes resulting from the Agriculture and Livestock Plan 2017/2018.

The rule is available at http://www.bcb.gov.br/pre/normativos/busca/downloadNormativo.asp?arquivo=/Lists/Normativos/Attachments/50443/C_Circ_3842_v1_O.pdf

18) FEDERAL REVENUE OFFICE - RFB NORMATIVE INSTRUCTION NO. 1740, OF 9/22/2017

Provides for the Road Electronic Bill of Lading [*Conhecimento Eletrônico - CE Rodoviário*] and establishes how the information related to international road cargo transportation will be provided to support customs clearance in exports and re-exports.

It also establishes that, during inspection, the Federal Revenue may stop the cargo from being released, by registering in the Siscomex Cargo (a kind of module that controls cargo in the Foreign Commerce Integrated System - Siscomex) that the Road CE is blocked,

The rule may be accessed at <http://normas.receita.fazenda.gov.br/sijut2consulta/link.action?visao=anotado&idAto=86520>

19) FEDERAL REVENUE OFFICE - RFB NORMATIVE INSTRUCTION NO. 1741, OF 9/22/2017

Amends the Federal Revenue Department [*Secretaria da Receita Federal - SRF*] Normative Instruction no. 248, of November 25, 2002, which provides for application of the customs transit regime.

The normative instruction may be accessed at <http://normas.receita.fazenda.gov.br/sijut2consulta/link.action?visao=anotado&idAto=86521>

20) GENERAL TAXATION COORDINATION - COSIT EXECUTIVE DECLARATORY ACT NO. 33, OF 9/22/2017

Lists the administrative acts issued by the Committee for Accounting Pronouncements [*Comitê de*

Pronunciamentos Contábeis - CPC] which do not contemplate modification or adoption of new accounting methods or criteria, or which contemplate modification or change that does not affect the assessment of federal taxes.

According to the rule, such documents, if adopted by legal entities, will not affect the assessment of federal taxes, so they do not require adjustments to be applied.

The entire rule is available at <http://normas.receita.fazenda.gov.br/sijut2consulta/link.action?visao=anotado&idAto=86526>



CLOSED SUPPLEMENTARY SOCIAL SECURITY

1) CHANGES TO THE RULES ON INVESTMENTS OF CLOSED SUPPLEMENTARY SOCIAL SECURITY ENTITIES (EFPCs), GOVERNED BY THE National Monetary Council - CMN RESOLUTION 3792, SHOULD BE PROPOSED IN 2017

The studies to introduce changes to the rules on EFPCs investments, governed by CMN Resolution 3792, are in advanced stage, according to the Acting Superintendent Director of the National Supplementary Social Security Superintendence [*Superintendência Nacional de Previdência Complementar - Previc*], Fábio Coelho, who thinks the

Agency has been devoting all its efforts to consolidate and simplify the rules.

He acknowledges the resolution is way too complex, and that does not help fostering closed supplementary social security. “Too complex rules do not help the system get a more extensive distribution network,” he points out.

Fábio Coelho says one of the goals is making internal control requirements clearer; they are used in risk management, in the procedures related to investments. “We are evaluating the need for electronic registration for the acquisition of assets.” And Coelho adds that this will make some asset classes more transparent – especially private credits and structured investments.

The Director also told Previc has been preparing an instruction that will organize the need for information and its respective submission deadlines, so that it will all be focused on one single rule.

Finally, Fábio Coelho says a report stating Previc’s vision of the risks and stability of the system will be released in the 38th Brazilian Closed Supplementary

Social Security Congress, on September 4 to 6, in São Paulo.

2) NATIONAL COUNCIL FOR SUPPLEMENTARY SOCIAL SECURITY - CNPC: COUNCIL APPROVES TRANSFER OF MANAGEMENT OF BENEFIT PLANS

The CNPC approved a resolution that consolidates the rules on transfer of management of benefit plans between Closed Supplementary Social Security Entities (EFPCs).

The transfer of management consists in the transfer of the management of a benefit plan from an entity to another, keeping the same sponsors. Such transfers are already being made but now they will be subject to the same rules, which are clearer and more objective. The measure relates especially to plans managed by multi-sponsored entities – several companies sponsoring several plans in a same closed entity.

The CNPC intends to bring more certainty and efficiency to such transfers and to adjust to the corporate restructuring of the companies that sponsor supplementary social security plans. One of the objectives of the initiative is to make the benefit plans increasingly efficient in administrative terms.

In addition to that, the Council approved the adoption of remote transactions by the funds, that is, the entities may use the Internet, telephone or any other customer service remote channel to provide services to participants (individuals participating in the social security plan in the capacity of contributor) or beneficiaries (those that are already being paid the benefit), such as adhesion, changes and cancellation of benefit plans.

The resolutions on transfer of management and remote transactions will be published in the Official Journal after legal opinion issued by the Office of the General Counsel for the National Treasury.

3) NATIONAL SUPPLEMENTARY SOCIAL SECURITY SUPERINTENDENCE - PREVIC ADMINISTRATIVE RULE NO. 860, OF 9/5/2017 - LIST OF THE QUALIFIED LEADERS OF AUGUST 2017

On September 14, 2017 PREVIC published on its website the List of Qualified Leaders of the Closed Supplementary Social Security Entities [*Entidades Fechadas de Previdência Complementar - EFPC*] for August 2017. The list is available at <http://www2.susep.gov.br/bibliotecaweb/docOriginal.aspx?tipo=1&codigo=41182>

4) EXCERPT FROM PREVIC OPINION OF 7/25/2017 - RESULTS OF THE 2nd HALF of 2016

COMMISSION FOR MONITORING AND EVALUATION OF PREVIC MANAGEMENT AND PERFORMANCE GOALS

The Commission for Monitoring and Evaluation of Management and Performance Goals, set up according to art. 9 of Law no. 12154, of December 23, 2009, in view of the provisions in item 5.4 of the mentioned Agreement, concludes that the Previc's goals related to the negotiated and agreed activities for the 2nd half of 2016 were not satisfactorily accomplished, considering the recommendations and suggestions contained in the Opinion.

The full Opinion is available to all those interested at www.previdencia.gov.br

5) PREVIC ADMINISTRATIVE RULE No. 855, OF 9/4/2017

Approves and makes known to the public the IT Master Plan [*Plano Diretor de Tecnologia da Informação - PDTI*], of the National Supplementary Social Security Superintendence, for the 2017-2020 period; the plan may be accessed at <http://www.previc.gov.br/acesso-a-informacao/institucional/plano-diretor-de-tecnologia-da-informacao/pdti-2017-2020.pdf/view>

6) CODE OF ETHICS OF PREVIC AGENTS

PREVIC published the Code of Ethics of Incumbent Public Agents of that agency to guide the professional conduct of PREVIC. employees.

The rules supplement the rules on the public service in general, the Code of Professional Ethics of Public

Servants of the Federal Executive Branch and the resolutions issued by the Public Ethics Commission.

The Code of Ethics gives guidance for the conduct related to the work environment, assistance to the public, agreements on provision of goods and services, analysis of proceedings, preparation of normative acts, hearings and external meetings, confidentiality of information and participation in social networks.

The document may be accessed at <http://www.previc.gov.br/etica/4-codigo-de-conduta-etica-dos-agentes-da-previc.pdf>



7) NATIONAL SUPPLEMENTARY PENSION PLAN SUPERINTENDENCE/INSPECTION BOARD - PREVIC/DIFIS ADMINISTRATIVE RULE NO. 934, OF 9/26/2017

Provides for benefit plans qualified to send Simplified Actuarial Statements, related to the end of the fiscal year of 2017, according to Previc Instruction no. 12, of October 13, 2014.

The normative act discloses the benefit plans classified as low probability and impact, according to the methodology criteria for Risk-Based Supervision adopted by Previc, that sent complete Actuarial Statements [*Demonstrações Atuariais* - DA] at the end of one of the immediately preceding four years. Accordingly, these plans may send Simplified Actuarial Statements, related to the fiscal year ending on December 31, 2017.

The benefit plans established as defined contribution, whose accounting balance is null in the accounts "Defined Benefit" of the group of mathematical provision accounts, are exempted from preparing and sending the Actuarial Statements.

The normative act sets the deadlines only and the EFPCs are required to meet the conditions for the fulfillment of the obligations provided in the respective specific rules.

8) NATIONAL SUPPLEMENTARY SOCIAL SECURITY SUPERINTENDENCY - PREVIC INSTRUCTION NO. 010, OF 9/27/2017;

Establishes deadlines for the closed supplementary social security entities [entidades fechadas de previdência complementar - EFPCs] to fulfill obligations to PREVIC.

The Instruction sets deadlines for PREVIC to send documents and actuarial, accounting, investment, inspection, governance and statistic information, without prejudice to request for other documents or information by that agency.

HEALTH

1) NATIONAL SUPPLEMENTARY HEALTH AGENCY - ANS RULE ESTABLISHES CRITERIA TO SET UP MEDICAL OR DENTAL COMMITTEE

The companies are required to set up a medical or dental committee in case of divergences, as established in the Resolution of the Supplementary Health Council [*Conselho de Saúde Suplementar* - CONSU 8], effective since November 4, 1998.

The new rule establishes that all procedures of the committee must be adopted within the periods established in Normative Resolution 259, of 2011, which provides for guarantee of service to health plan beneficiaries. When the tiebreaker finds necessary to run additional tests to issue their opinion or in the (justified) absence of the patient, the period will stop

running for three business days, for a new date to be scheduled.

Other innovations brought by the rule refer to the definition of time for statements, the committee formats, what to do if the tiebreaker professional or the beneficiary has to commute to be with the committee, and what happens if the patient or tiebreaker does not show up.

The rule also establishes that companies must notify the beneficiary of the need to set up a medical or dental committee, and they must also register, store and provide to ANS, when requested, the information and data related to the medical or dental committees.

Finally, no committee can be formed in case of urgent matters or emergency.

2) 91st MEETING OF SUPPLEMENTARY HEALTH CHAMBER OF THE NATIONAL SUPPLEMENTARY HEALTH AGENCY - ANS

ANS held on 9/14/2017 the 91st meeting of the Supplementary Health Chamber.

On the occasion, the new area of the agency's website dedicated to the 2016-2017 Regulatory Agenda was presented to the public, featuring macro-projects and initiatives for the next year. The meeting was also about the normative resolution that regulates medical and dental committees, in force since August 26, and the work developed by the Fight Against Obesity Group.

The next institutional events with participation of ANS for this year were also presented.

The meetings of the Supplementary Health Chamber are held every three months, with the participation of

entities of the sector, representatives, health agents and government agencies.

3) ANS ISSUES CLARIFYING NOTE ON AFFORDABLE PLANS

ANS issued a clarifying note on "Affordable Plans," in reference to a few articles recently published in the Brazilian press.

The Agency explains that a careful reading of the "Report Describing the Activities of the Affordable Plans Work Group" does not imply that the plans with reduced coverage are authorized by ANS; the note also lists a few characteristics pertaining to such plans, which are more affordable to consumers.

The Note also highlights that such characteristics can only be applied when expressly provided for in the agreements executed with consumers/participants, and that any product marketed in violation of the regulation requirements will subject the company to sanction imposed by ANS.

The issue of affordable plans has been the subject of controversy. Even with the high cost of health care plans causing many clients to give up the plan, some critics insist on saying affordable plans are essentially a reduction in benefits, and not a solution for many families to keep their plans.

The entire Clarifying Note is available at: <http://www.ans.gov.br/aans/noticias-ans/sobre-a-ans/4118-nota-de-esclarecimento-2>

4) NORMATIVE RESOLUTION No. 427, OF 9/25/2017

Amends Normative Resolution no. 392, of December 9, 2015, which provides for acceptance, registration, association, custody, access to and limits of allocation and concentration in investment of companies' guarantee assets within the ambit of the supplementary health system, and revokes Normative Instruction no. 278, of November 17, 2011, which introduces the program for regulatory compliance and makes other provisions.

The full rule may be accessed at http://www.ans.gov.br/index.php?option=com_legislacao&view=legislacao&task=TextoLei&format=raw&id=MzQ4Mg==

5) PROSECUTION OFFICE OF SÃO PAULO AND ANS EXECUTE TECHNICAL COOPERATION AGREEMENT

On 9/20/2017, the Prosecution Office of São Paulo renewed the Technical Cooperation Agreement executed with the National Supplementary Health Agency (ANS) to maintain the communication channel that facilitates filing of complaints and charging instruments to protect the rights of health plan beneficiaries/consumers. Originally executed in September 2015, the Technical Cooperation Agreement was extended for 36 months.

The technical cooperation between the Prosecution Office and ANS aims to expedite and improve the

access to information exchanged between the institutions to identify issues in the local supplementary health market, making it easy to settle such issues, and also to inform beneficiaries/consumers of their rights and duties, and the role of each institution, and to contribute to improving the instruments of monitoring and regulation of the supplementary health market, by sharing identification data of the consumption profile and demands recorded by the institutions. The agreement also aims at providing the Prosecution Office with technical information on supplementary health.

TAX

1) FEDERAL REVENUE OFFICE -RFB NORMATIVE INSTRUCTION NO. 1733, OF 8/31/2017

Amends the RFB Normative Instruction no. 1711, of June 16, 2017, which regulates the Special Tax Good Standing Program [*Programa Especial de Regularização Tributária - Pert*], instituted by Provisional Presidential Decree no. 783, of May 31, 2017, within the ambit of the RFB.

As a condition for approval of the installment payment, taxpayers that adhere to the Pert in September 2017 must pay the installments due in August along with the installment due in September, as established in the Provisional Presidential Decree no. 798 of 2017 (which in turn amended Provisional Presidential Decree no. 783/2017).

While the debt is not consolidated, the taxpayer must calculate and pay the amount upfront or the amount equivalent to the debts subject of the installment payment divided by the number of installments intended.

The full text of the rule is available at <http://normas.receita.fazenda.gov.br/sijut2consulta/link.action?visao=anotado&idAto=85783>

2) OFFICE OF THE GENERAL COUNSEL FOR THE NATIONAL TREASURY - PGFN ADMINISTRATIVE RULE NO. 902, OF 9/4/2017

Amends PGFN Administrative Rule no. 690, of June 29, 2017, to extend the period for adhesion to the Special Tax Good Standing Program (Pert), instituted by Provisional Presidential Decree no. 783, of May 31, 2017, and amended by Provisional Presidential

Decree no. 798, of August 30, 2017, for debts administered by PGFN.

The full text of the Administrative Rule is available at http://www.planalto.gov.br/ccivil_03/_Ato2015-2018/2017/Mpv/mpv793.htm

3) PRECEDENT 590, OF THE SUPERIOR COURT OF JUSTICE

The Superior Court of Justice amended precedent no. 590, which establishes that “in case of liquidation of a private pension entity, the amount attributed to each participant, upon proration of wealth, that is higher than the value of the respective contributions to the entity under liquidation, duly adjusted for inflation, constitutes wealth increment subject to Income Tax.”

4) TAXPAYER WINS HEALTH PLAN DISPUTE IN ADMINISTRATIVE BOARD OF TAX APPEALS - CARF

The Carf found that the taxpayer cannot pay taxes for offering different health plans to managers and officers. The decision of the 1st Panel of the 2nd Chamber of the 2nd Section, is contrary to a precedent of Carf's Higher Chamber – highest instance of the administrative court. The Office of the General Counsel to the National Treasury will appeal the decision.

In the case at issue, a company was issued a tax deficiency notice for offering coverage of different categories to its employees – a basic plan for most employees, a “master” plan for managers, and a “leader” plan for officers. To the Federal Revenue, the difference between the value of the plans should be considered of salary nature, therefore subject to the social security contribution.

5) OFFICE OF THE GENERAL COUNSEL FOR THE NATIONAL TREASURY - PGFN ADMINISTRATIVE RULE NO. 948, OF SEPTEMBER 15, 2017

Provides for regulation of the Administrative Procedure for Acknowledgment of Liability [*Procedimento Administrativo de Reconhecimento de Responsabilidade* - PARR], which aims at determining the liability of third parties that violated the law upon illegal dissolution of a legal entity that owes debts registered as overdue tax liability administered by PGFN.

The PARR gives powers to PGFN to, in the performance of its activities of management of the Overdue Federal Tax Liabilities and administrative collection of debts registered as Overdue Tax Liability, identify situations in which, under the law, third parties are liable for debts registered as overdue tax liability.

The rule may be accessed at <http://normas.receita.fazenda.gov.br/sijut2consulta/link.action?idAto=86309&visao=anotado>

6) ANSWER TO INQUIRY No. 455, OF 9/20/2017

SUBJECT: CORPORATE INCOME TAX [IMPOSTO SOBRE A RENDA DE PESSOA JURÍDICA - IRPJ]

“Indemnity to redress damages until the amount of the effective pecuniary loss is not subject to Income Tax. The amount received in excess of the damage that is being indemnified is wealth increment and must be added to the tax base.”

“The amount deducted as expense and recovered at any time is not characterized as pecuniary damages; such recovered amount must be considered when assessing taxable profit, presumptive profit or estimated profit.”

“The amount related to adjustment for inflation and interest under the law as of the service of process,

connected with pecuniary losses, is financial income and must be considered when assessing taxable profit, presumptive profit or estimated profit.”

SUBJECT: SOCIAL CONTRIBUTION ON NET INCOME [CONTRIBUIÇÃO SOCIAL SOBRE O LUCRO LÍQUIDO - CSLL]

“Indemnity to redress damages until the amount of the effective pecuniary loss is not subject to contribution. The amount received in excess of the effective pecuniary loss that is being indemnified is wealth increment and must be added to the base for the calculation of the contribution. The amount deducted as expense and recovered at any time is not characterized as pecuniary damages; such recovered amount must be considered when assessing adjusted income, presumptive income or estimated income.”

“The amount related to adjustment for inflation and interest under the law as of the service of process, connected with pecuniary losses, is financial income and must be considered when assessing adjusted income, presumptive income or estimated income.”

SUBJECT: CONTRIBUTION TO SOCIAL SECURITY FINANCING [CONTRIBUIÇÃO PARA O FINANCIAMENTO DA SEGURIDADE SOCIAL - COFINS]

“Indemnity to redress damages until the amount of the effective pecuniary loss is not subject to contribution.

The amount received in excess of the effective pecuniary loss that is being indemnified is wealth increment and must be added to the base for calculation of the non-cumulative Cofins.”

The amount deducted as expense and recovered at any time is not characterized as pecuniary damages; such recovered amount must be considered when assessing the non-cumulative Cofins.”

“The amount related to adjustment for inflation and interest under the law as of the service of process, connected with pecuniary losses, is financial income and must be considered in the base for the calculation of the non-cumulative Cofins.”

SUBJECT: CONTRIBUIÇÃO PARA O PIS/PASEP

“Indemnity to redress damages until the amount of the effective pecuniary loss is not subject to contribution. The amount received in excess of the effective pecuniary loss that is being indemnified is wealth increment and must be considered in the base for the calculation of the non-cumulative Contribution to PIS/Pasep.”

The amount deducted as expense and recovered at any time is not characterized as pecuniary damages; such recovered amount must be considered in the calculation of the non-cumulative Contribution to PIS/Pasep.”

“The amount related to adjustment for inflation and interest under the law as of the service of process, connected with pecuniary losses, is financial income and must be considered in the base for the calculation of the non-cumulative Contribution to PIS/Pasep.”

7) ANSWER TO INQUIRY No. 463, OF 9/20/2017

SUBJECT: SOCIAL CONTRIBUTION ON NET INCOME [CONTRIBUIÇÃO SOCIAL SOBRE O LUCRO LÍQUIDO - CSLL]

“For purposes of payment of the Social Contribution on Net Income, insurance brokers must use the rate established in item III of art. 3 of Law no. 7689, of 1988.”

8) PROVISIONAL PRESIDENTIAL DECREE - MP NO. 804, OF SEPTEMBER 29, 2017

MP no. 804/2017 amended MP no. 783/2017, which created the Special Program for Payment of Overdue Liabilities [Programa Especial de Regularização Tributária - PERT] at the Federal Revenue Office and the Office of the General Counsel for the National Treasury, extending the period for adhesion to the

Program to 10/31/2017. With that amendment, the payment in cash of a percentage of the consolidated debt corresponding to the installments for August and September 2017 will be made cumulatively with the installment for October 2017 to be paid in cash. In the modality of payment in installments of the consolidated debt, which may be made in up to 120 monthly and consecutive installments, the first, second and third installments must correspond, individually, to at least fourth tens of the consolidated debt and will be paid cumulatively in October 2017. MP no. 798/2017, which extended the period for adhesion to the PERT to 9/29/2017, was revoked.

9) RFB NORMATIVE INSTRUCTION 1748, OF SEPTEMBER 29, 2017:

RFB Normative Instruction no. 1748/2017 amended RFB Normative Instruction 1711/2017, which regulates the PERT within the ambit of the Federal Revenue Office. Among the amendments, we cite a) official adhesion to the program that must be made through application filed exclusively on the RFB

website until 10/31/2017, and will encompass the tax liability indicated by the taxpayer or responsible party; b) the payment in cash of a percentage of the consolidated debt corresponding to the installments for August and September 2017 will be made cumulatively with the payment in cash of the installment for October 2017; c) in the modality of payment in installments of the consolidated debt, which may be made in up to 120 monthly and consecutive installments corresponding, individually, to at least fourth tens of the consolidated debt, will be made cumulatively in October 2017; d) proof of waiver of legal actions must be presented to the RFB unit of the tax payer's tax domicile until 10/31/2017.

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