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INSURANCE AND OPEN PENSION FUNDS

1) SUSEP CIRCULAR No. 531, OF MARCH 11, 2016: amends SUSEP CIRCULAR No. 447, of August 9, 2012.

Article 2 of SUSEP CIRCULAR No. 447/12 sets forth that companies acting in the industries of insurance, capitalization, open pension funds and reinsurance shall require that the respective brokers demonstrate that they have paid the trade union contribution or tax, as set forth in Article 5, letter b, Law No. 4.594, of December 29, 1964.

Upon publication of this Circular, this article shall become in full force and effect with one additional sole paragraph stating that the provisions of article 2 do not apply to cases in which insurance brokers are micro companies or small companies elected for the *Simples Nacional* (National Simple) tax regime.

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2) SUSEP CIRCULAR No. 532, OF MARCH 17, 2016: amends SUSEP CIRCULAR No. 510, of January 22, 2015.

Circular No. 510/15 provides for the registration of insurance, capitalization and pension brokers, both individuals and legal entities, and also insurance, capitalization and pension brokerage activities, and other covenants.

Upon publication of Circular No. 532/16, article 29 of SUSEP CIRCULAR No. 510, of January 22, 2015, shall read as follows:

“Article 29. This Circular shall be effective on the date of publication hereof, except regarding the form of submission of requests for suspension or cancellation of insurance broker registrations, as set forth in Article 6 and 7 of this

act, which shall be in force as of July 1, 2016.”

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3) SUSEP CIRCULAR No. 533, OF MARCH 17, 2016: amends SUSEP CIRCULAR No. 438, of June 15, 2012, providing for the Product Online Record applicable to insurance, reinsurance, open pension funds and capitalization markets, and other covenants.

As of publication of this Circular, the documents referred to in the main provision of article 2 shall be accompanied of online correspondence, as set forth in the User Manual, signed online with the Digital Certificate issued under the Public Key Infrastructure (ICP-Brazil), and the User Manual shall provide on which signatures shall be contained in the correspondence.

Finally, the User Manual shall provide on which documents it must be submitted, according to the type of product to be registered and the rules applicable to such submission.

Sole paragraph, article 2 and paragraphs 1 and 2, article 3 of SUSEP CIRCULAR No. 438/2012 have been revoked. These articles provided for the documents and how they should have been submitted to SUSEP.

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4) SUSEP INSTRUCTION No. 78, OF MARCH 28, 2016: provides on the operation of the online process and use of the Online Information System - SEI before SUSEP.

As of publication of the rule, the implementation and use of the SEI in SUSEP are authorized. The SEI (Online Information System) is the system in which online documents and administrative proceedings are reviewed, and has been

created and assigned free of charge by the Federal Regional Court of the 4th Region, to manage institutional knowledge, aimed at eliminating proceedings and documents in physical format (hardcopy) in SUSEP.

Online proceedings in the SEI shall be assigned specific numbers, according to the formats 15414.6XXXXX/AAAA-DV and 15414.7XXXXX/AAAA-DV, in order to differentiate them from hardcopy proceedings and also proceedings under the Online Product Record System – REP.

The development and implementation of this system are expected because the current trend is that administrative or court proceedings will be reviewed and conducted online.

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5) SUSEP INSTRUCTION No. 79, OF MARCH 28, 2016: provides on the use of the digital certificate before the Private Insurance Superintendence - SUSEP.

This is another action relating to the implementation of online administrative proceedings in SUSEP.

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6) CNSP RESOLUTION No. 336, OF MARCH 31, 2016: provides on the rules and criteria for operation of the accessible car insurance with permission to use used parts from disassembling companies, according to a specific law, to recover vehicles covered by insurance subject to claims, and other covenants.

The publication of CNSP Resolution No. 336/16 is still controversial. Some believe that the so-called accessible car insurance, together with the Disassembly Law, shall bring several advantages to the market. These would include the possibility of using used parts of disassembling companies, cheaper insurance premiums and access to uninsured old vehicles.

On the other hand, some think that the fact that, under the provisions of the Resolution, the used part is the original part (impossible to use parts not used by the car manufacturer) obtained by the disassembling process of motor vehicles, this can cause the product to lose attractiveness.

One must keep in mind that in 2006 there was an unsuccessful attempt to launch a similar accessible insurance. Back then, it was not possible to use used parts, and civil liability coverage was required for third parties.

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7) CNSP RESOLUTION No. 337, OF APRIL 1, 2016: amends the provisions of CNSP Resolution No. 279, of January 30, 2013, which provides on the creation of ombudsman by insurance companies, open pension funds and capitalization companies.

Such changes basically aimed at amending Article 4. Resolution No. 279/2013, which deals with the duties of the ombudsman.

It must be stressed that Paragraph 5, Article 4 of CNSP Resolution No. 279/13 was amended to provide that, in the event it is necessary to provide supplementary information and/or documents to comply with the ombudsman requirement, the term of 15 days shall be suspended for as long as such information and/or documents are not provided by the claimant, and shall start to count again on the delivery date.

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8) SUSEP CIRCULAR No. 534, OF APRIL 7, 2016: amends, includes and revokes provisions of SUSEP CIRCULAR No. 456, of December 13, 2012, which provides on the transfer of portfolios in whole or in part between insurance companies,

capitalization companies and open pension funds.

Articles 3 and 9 of SUSEP CIRCULAR No. 456/13 have been amended, and article 10 thereof has been revoked.

Article 3 provides that the assigning company/entity should submit a copy of the private portfolio assignment and transfer agreement executed by and between the parties, in a portfolio transfer administrative proceeding. Article 9, in turn, sets out that after the portfolio transfer is authorized by SUSEP, the assigning company/entity must submit a letter to the insureds, insurance plan participants or capitalization bond holders notifying them of such transfer, and publish a notice on this subject in the Federal Official Gazette and other major newspaper.

Revoked article 10 allowed the letter referred to in Article 9 to be issued by remote means, provided that it was issued according to the procedures of the Public Key Infrastructure (ICP-Brazil), stating the date and time of submission and receipt.

Paragraphs 1 and 2 have been added to Article 3, according to which the assigning company/entity shall attach to the administrative proceeding mentioned in the main provision the forms contained in the SUSEP website, in section "Directions on Normative/Minimum Capital Required/Transfer of Portfolio", completed in accordance with the directions contained therein and the characteristics of the portfolio transferred, for purposes of calculating the minimum capital required, and the electronic files of the forms mentioned in the paragraph above shall be submitted to SUSEP at diris.rj@susep.gov.br. The e-mail reference must be the number of the portfolio transfer administrative proceeding.

New Article 3-A sets out that after making the transfer, the assignee company/entity shall submit to SUSEP such historic data of the portfolio received, as set forth in the regulations, for purposes of adjusting the calculation of the minimum capital required of the companies implicated.

Finally, paragraph 4, article 9 sets out that in case of insurance and open pension funds transactions, the letter referred to in the main provision may be issued by remote means as set forth in the regulations then in force.

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9) RULING No. 110, OF THE MINISTRY OF PLANNING, OF APRIL 13, 2016: sets out conditions and procedures to register consignees and qualification for the consignment process, control or consignable margin, receipt and processing of consignment transactions, and temporary disabling and deregistration of consignees, and also filing and processing of complaints by consigned parties.

Consignees may be insurance companies, operators and managers of health insurance plans and supplementary retirement entities.

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10) PROJECT TO CREATE THE REINSURANCE CENTER TO BE DELIVERED TO THE MINISTRY OF FINANCE BY JUNE:

The National Federation of Reinsurance Companies – FENABER – is currently drafting a project to encourage Brazil's stand as a Regional Reinsurance Center.

At the 5th Reinsurance Meeting of Rio de Janeiro, the chairman of the National Federation of Reinsurers (Fenaber), Paulo Pereira, said that the "Brazilian market of reinsurance is currently US\$2.5 billion, and in Latin America it is US\$21 billion. Therefore, we managed to attract 10% of that market, we will double in size".

The proposal of the involved in the project is to foster growth by changing tax, regulatory and labor aspects viewed as barriers for the development of the insurance activity in Brazil.

Undeniably, this is a complex project and the success of which is subject to a series of political conjunctions. On the other hand, this is a possibility to create room for development of the Brazilian insurance market.

Santos Bevilaqua law firm is advising the National Federation of Reinsurance Companies – FENABER – in this project.

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11) COMMISSION APPROVES PROVISIONAL MEASURE WITH ADJUSTMENTS IN EXPORT CREDIT INSURANCE: the mixed commission of Provisional Measure No. 701/2015 approved on April 12, 2016 the conversion bill.

It is worth stressing that such Provisional Measure provides that the Export Credit Insurance may be used by exporters and financial institutions, export credit agencies, insurers and international organisms financing, refinancing or guaranteeing the manufacture of goods and provision of services to be exported to Brazil, and also Brazilian exports of goods and services.

The Provisional Measure will be voted in the Plenary of the House of Representatives and Senate.

This is another act that reveals an attempt of the Government to resume economic growth as it increases the chances of using credit insurance as a credit instrument to enable various transactions.

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12) DECREE No. 8.722, OF APRIL 27, 2016 – NEW SUSEP STRUCTURE: as already disclosed by the SUSEP Superintendent, the Decree that creates a new structure for the Agency was published.

The prior SUSEP structure was a division of the following Executive Boards:

- (i) Inspection – in which substructure were the General Coordination Offices for Judgment and Direct Inspection;
- (ii) Management - in which substructure were the General Coordination Offices of Management, Planning and Information Technology;
- (iii) Authorizations - in which substructure were the General Coordination Offices Records and Authorizations (corporate acts and authorizations for insurer and reinsurer operations) and Products; and
- (iv) Technical - in which substructure were the General Coordination Office of Solvency Monitoring.

Under the new SUSEP structure, the division in the Executive Boards will be the following:

- (i) Management - in which substructure are the General Coordination Offices of Management and Information Technology;
- (ii) Conduct Supervision – in which substructure are the General Coordination Offices of Conduct Inspection and Conduct Monitoring;
- (iii) Private Insurance System Organization - in which substructure are the General Coordination Offices of Authorizations and Settlements (corporate acts for insurer and reinsurer transactions) and Judgments; and

(iv) Solvency Supervision - in which substructure are the General Coordination Offices of Prudential Inspection and Prudential Monitoring.

In practice, the main changes performed are the division of authorities no longer by type of procedure, but rather by subject, and this does not imply an increase in SUSEP'S position structure.

Thus, for instance, the concentration of review and registration of commercialization products and procedures lie with the Conduct Supervision Executive Board, with a perspective to improve product registration processes, which subject has been long and intensively discussed.

The Authorization Executive Board, in turn, will no longer deal with products, but also with settlement processes, which has been historically difficult to manage, and were under the responsibility of the direct inspection area.

Finally, another important change was the allocation of the General Coordination office of Judgments to the Executive Board of Private Insurance System Organization. In this case, the option seems to be to remove from the Conduct Supervision Executive Board the possibility of judging defenses relating to notices of violation and complaints that, in most cases, would have been drawn up thereby.

In general, in addition to demonstrating the concern of the Ministry of Finance and the SUSEP Administration to improve the operation of the Agency, such changes in the SUSEP structure seem to have been positive. Let us now wait for the results of such changes and consequent additional adjustments in the structure and procedures of SUSEP as a whole to confirm that perspective.

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PUBLIC INQUIRY

1) PUBLIC INQUIRY NOTICE No. 5, OF APRIL 7, 2016: on the draft CNSP Resolution that approves the rules to operate the Mandatory Insurance of Bodily Injury Caused by Boats or their Cargo – DPEM Insurance.

Concurrently, SUSEP published SUSEP CIRCULAR No. 530, changing the tariffs, and modified Provisional Measure No. 719/16, amending Law No. 8.374/91, which, for instance, created the special fund to cover victims of defaulting, unidentified boats, to be managed by the Brazilian Guarantee Fund Management Agency – ABGF. The Provisional Measure also rendered unnecessary submission of the DPEM at the time boats are registered and also during inspections, in case the insurance company fails to provide insurance in the market.

Compensation to victims of boats covered by the DPEM shall be paid, but victims of accidents involving unidentified boats or boats not covered by the insurance shall not be compensated.

Such changes, which are not restructuring this insurance coverage, are due to the fact that it is difficult for boat owners to find offers of that type of insurance by Brazilian insurers.

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PENSION

1) PREVIC INSTRUCTION No. 27, OF APRIL 4, 2016: provides on such minimum elements to be stated in the Actuarial Technical Note referred to in Article 18, paragraph 2 of Supplementary Law No. 109, of May 29, 2001, and other covenants.

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PUBLIC INQUIRY

1) PREVIC WILL HOLD A PUBLIC INQUIRY FROM APRIL 18 TO MAY 13, 2016, REGARDING THE DRAFT

INSTRUCTION AIMED AT ESTABLISHING PROCEDURES TO BE FOLLOWED BY CLOSED-END SUPPLEMENTARY RETIREMENT FUNDS (EFPC) TO CREATE AND OPERATE BENEFIT PLANS CREATED BY LEGAL ENTITIES OF SPECIFIC INDUSTRIES.

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HEALTH

1) NORMATIVE RESOLUTION No. 404, OF APRIL 12, 2016: amends Normative Resolution RN No. 197, of July 16, 2009, which created the Internal Regulations of the National Supplementary Health Agency - ANS, and other covenants; and RN No. 198, of June 16, 2009, which defines the chart of commissioned positions and technical commissioned offices for ANS.

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TAX

1) INQUIRY REPLY No. 10,007, OF MARCH 4, 2016: SUMMARY: SISCOSEV. International Cargo Transport Service. Information. Responsibility.

The reply to inquiry, the contents of which are transcribed below, clarified doubts on ancillary obligations (SISCOSEV records) relating to the engagement of international cargo transportation services and the taking out of cargo insurance.

INQUIRY REPLY No. 10,007, OF MARCH 4, 2016

SUBJECT: Ancillary Obligations

SUMMARY: SISCOSEV.
INTERNATIONAL CARGO
TRANSPORTATION SERVICE.
INFORMATION. RESPONSIBILITY.

Legal entities domiciled in Brazil engaging intervening parties domiciled in Brazil to operate international transportation services for goods to be imported,

and also services related thereto, provided by persons residing or domiciled abroad, shall be in charge of the registration of such services in the Siscoserv in the event the intervening party only represent it before the providers of such services. When the intervening party, domiciled in Brazil, engages transportation services of a person residing or domiciled abroad and ancillary services related to transportation services, in its own name, it shall register such services in the Siscoserv.

The bill of lading is admitted as proof of payment of the transportation service engaged from an actual shipper domiciled abroad.

REPLY TO INQUIRY LINKED TO COSIT IMPLY TO INQUIRY No. 257, OF SEPTEMBER 26, 2014, AND No. 222, OF OCTOBER 27, 2015.

SISCOSEV. INSURANCE
CONTRACT. REGISTRATION.
RESPONSIBILITY.

Legal entities domiciled in Brazil taking out insurance from an insurance company domiciled abroad shall be required to register in the Siscoserv information relating to that transaction, even though it is mediated by an insurance broker domiciled in Brazil. In the event the insurance company domiciled abroad is engaged and paid by a policy holder domiciled in Brazil for the benefit of the importing legal entity domiciled in Brazil, the policy holder shall be the principal, and, as a result, the person in charge of the registration with the Siscoserv.

Legal entities domiciled in Brazil taking out insurance, even in foreign currency, from an insurance company also domiciled in Brazil, as set forth in articles 2 to 5 of CNSP Resolution No. 197, of 2008, shall not be required to register in the Siscoserv information relating to such transaction.

IMPLY TO INQUIRY LINKED TO COSIT INQUIRY REPLIES No. 222, OF OCTOBER 27, 2015, AND No. 226, OF OCTOBER 29, 2015.

LEGAL PROVISIONS: Decree Law No. 37, of 1966, article 37, paragraph 1; Law No. 10.406, of 2002 (Civil Code), articles 710, 730 and 744; Law No. 12.546, of 2011, articles 24 and 25; RFB/SCS Joint Ruling No. 1.908, of 2012; RFB/SCS Joint Ruling No. 1.895, of 2013; RFB Normative Instruction No. 800, of 2007, articles 2, II, and 3; RFB Normative Instruction No. 1.277, of 2012; RFB Normative Instruction No. 1.396, of 2013, article 22; CNSP Resolution No. 197, of 2008.

SUBJECT: Tax Administrative Proceeding

SUMMARY: Inquiries relating to facts governed by a normative act published in the Federal Official Gazette before submission thereof shall be ineffective.

LEGAL PROVISIONS: Decree No. 70.235, of 1972, article 52, subparagraph V; RFB Normative Instruction No. 1.396, of 2013, article 18, subparagraph VII.

IOLANDA MARIA BINS PERIN
Head

(Federal Official Gazette of April 11, 2016 – page 42 – Section 1)

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2) SUPPLEMENTARY LAW No. 154, OF APRIL 18, 2016: adds paragraph 25 to article 18-A of Supplementary Law No. 123, of December 14, 2006, to allow individual micro businessmen to use their homes as headquarters for the business.

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LABOR

1) AMENDMENT TO PRONOUNCEMENT No. 288, OF THE SUPERIOR LABOR COURT. SUPPLEMENTARY RETIREMENT PLAN. RULES UPON OBTAINMENT OF THE BENEFIT: On April 20, 2016, the Superior Labor Court amended the contents of Pronouncement No. 288 in order for supplementary retirement plans managed by closed-end retirement plan entities to be applied to the rules in force on the date of implementation of the requirements to obtain such benefit. The changes above do not extend to supplementary retirement plans self managed by the companies, even if the prior Superior Labor Court provisions are still in force, that is, such plans will still be managed by the rules in force on the date the employee was hired (except for changes that are more beneficial for employees). Notwithstanding, the new wording of the Report takes to Labor Courts an understanding that is consistent with the provisions of Supplementary Laws No. 108 and No. 109 of 2001, as well as the understanding settled by the Superior Labor Court on this matter.

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