

NEWSLETTER – JULY/16

SUMMARY

INSURANCE, OPEN SUPPLEMENTARY SOCIAL SECURITY AND FINANCIAL MARKET

- 1) [IBA Resolution No. 05/2016;](#)
- 2) [Brazilian Accounting Rule - NBC TA No. 700 of June 17, 2016;](#)
- 3) [SUSEP Circular No. 539 of July 1st, 2016;](#)
- 4) [Public Inquiry CPA/IBA No. 06 and No. 07 of July 6, 2016;](#)
- 5) [CVM Instruction No. 577 of July 7, 2016;](#)
- 6) [FEDERAL PUBLIC PROSECUTOR'S OFFICE \(MPF\) brings an action against THE SUPERINTENDENCE OF PRIVATE INSURANCE \(SUSEP\) For nonconformities in the inspection of private insurance;](#)
- 7) [Public inquiry notice No. 7, of July 11, 2016;](#)
- 8) [Decree No. 8807 of July 12, 2016;](#)
- 9) [COREMEC Resolution No. 21 of July 12, 2016;](#)
- 10) [Law No. 13313 of July 14, 2016;](#)
- 11) [Mapa Ordinance No. 136 of July 15, 2016;](#)
- 12) [Decrees of July 25, 2016;](#)
- 13) [SUSEP'S instructions to the market – investment manual](#)

HEALTH

- 1) [ANS NORMATIVE INSTRUCTION - DIFIS No. 13 of July 28, 2016](#)
- 2) [ANS Ordinance No. 107 OF JULY 12, 2016;](#)
- 3) [ANS Ordinance No. 8295 of July 14, 2016;](#)

TAX

- 1) [Inquiry reply No. 103 of July 6, 2016.](#)
- 2) [RFB Normative Instruction No. 1654, of July 27, 2016](#)

**INSURANCE, OPEN SUPPLEMENTARY
SOCIAL SECURITY AND FINANCIAL
MARKET**

- 1) IBA RESOLUTION No. 05/2016:** provides on the creation of Actuarial Pronouncement CPAO 005.

The purpose of CPAO 005 is to present the best procedures, criteria and principles to be used in the measurement of the provision relating to risks still to occur, disclosing minimal procedures and indications of good actuarial practices.

Such Pronouncement shall be used as a base by the companies' technical actuaries, actuarial auditors, actuarial advisors and other actuaries involved in the analysis of the provision of risks still to occur by the insurance companies, open supplementary social security entities and reinsurers.

[BACK TO SUMMARY](#)

- 2) BRAZILIAN ACCOUNTING RULE - TA No. 700 of June 17, 2016:** provides on the formation of opinion and issue of the report of the independent auditor on the accounting statements.

This rule provides on the liability of independent auditors to form an opinion on the accounting statements, delimiting the form and contents of the report to be issued as a result of the audit in the accounting statements.

[BACK TO SUMMARY](#)

- 3) SUSEP CIRCULAR No. 539 of July 1st, 2016:** amends SUSEP Circular No. 510/2015, changing the initial term of effectiveness of the transmission of the orders for the suspension or cancellation of the registration of brokers, which shall be on October 1st, 2016.

[BACK TO SUMMARY](#)

- 4) PUBLIC INQUIRY CPA/IBA No. 06 AND No. 07 of July 6, 2016:** the main purpose of Public Inquiry No. 06 was to present the best procedures, criteria and principles to be used in the creation of the technical provisions of the Companies, while Public Inquiry No. 07 provides on the independent actuaries' liability for application of the concept of materiality in the planning, conduction and completion of their actuarial audit work.

[BACK TO SUMMARY](#)

- 5) CVM INSTRUCTION No. 577 of July 7, 2016:** amends the Accounting Plan of the Investment Funds - COFI, attached to CVM Instruction No. 438, of July 12, 2006.

The purpose of the modifications introduced by the aforementioned instruction is to standardize the accounting records of the acts and administrative facts performed and of the economic events occurred, so that the accounting statements prepared correctly express the actual economic and financial conditions of the investment fund.

[BACK TO SUMMARY](#)

- 6) FEDERAL PUBLIC PROSECUTOR'S OFFICE (MPF) BRINGS AN ACTION AGAINST THE SUPERINTENDENCE OF PRIVATE INSURANCE (SUSEP) FOR NONCONFORMITIES IN THE INSPECTION OF PRIVATE INSURANCE:** after the Public Civil Investigation the Federal Public Prosecutor's Office in Rio de Janeiro (MPF/RJ) decided to bring a Public-Interest Civil Action against the Superintendence of Private Insurance (SUSEP) for omission in the regulation and inspection of the private insurance market.

This action is the peak of a long discussion between the MPF/RJ and the autonomous government agency on the intermediation of retail organizations in the sale of insurance plans, especially with respect to the remuneration of the insurance representative (intermediary).

SUSEP claims that it is allegedly not entitled to fix limits for the remuneration of the representative, but the MPF noted that "Although the National Private Insurance Council (CNSP), by means of Resolution 297/2013, has attributed to SUSEP the duty to inspect the remuneration of the insurance representative, in order to avoid abuses against the consumer, said autonomous government agency is not acting in this respect, so that the purpose of this action is to guarantee the regular actions of Susep in the defense of the consumers".

It is very difficult to predict the outcome of this action, but it is not possible to eliminate the possibility that, irrespective of the result, SUSEP issues some kind of opinion or rule on the remuneration of the retail organizations, in view of the pressure put on the Autonomous Government Agency.

[BACK TO SUMMARY](#)

7) PUBLIC INQUIRY NOTICE No. 7, of July 11, 2016: public inquiry on a draft CNSP Resolution to amend an article of CNSP Resolution No. 336/2016, which provides on the rules and criteria to operate the popular vehicle insurance with permission to use spare parts originating from disassembly companies.

The interested parties had ten (10) days to pronounce.

[BACK TO SUMMARY](#)

8) DECREE No. 8807 of July 12, 2016: amends Decree No. 4732/2003 and Decree No. 4993/2004, amending several provisions on the Chamber of Foreign Trade – CAMEX.

From among the amendments, we note the need for CAMEX' prior approval for the institution or change, by the federal government bodies, of administrative requirement, registration, direct and indirect control on foreign-trade transactions and of the import and export tax rates levied on foreign-trade transactions.

[BACK TO SUMMARY](#)

9) COREMEC RESOLUTION No. 21 of July 12, 2016: amends articles 1 and 2 of the Internal Regulations of the Financial Inclusion Subcommittee (Suinf), attached to Coremec Resolution No. 17.

Item III of article 2 was revoked, and the wording of article 1 was amended to "Article 1 The purpose of the Financial Inclusion Subcommittee, instituted within the scope of the Financial, Capital, Insurance, Social-Security and Capitalization Markets (Coremec), is to strengthen the cooperation and the sharing of information among the regulators that are members of the Coremec aiming at the development of microfinance instruments, as well as to facilitate the access to the financial services, even if they are not included in the concept of financial inclusion."

[BACK TO SUMMARY](#)

10) LAW No. 13313 of July 14, 2016: amends Laws No. 10820/2003, which provides on the authorization for the deduction of installments in the payroll; 12712/2012; 8374/1991, which provides on the Mandatory Insurance

against Personal Damage caused by vessels or their cargo; and 13259/2016, to provide on the giving in payment of real properties as a form of extinguishing the tax credit registered as an overdue federal tax liability.

[BACK TO SUMMARY](#)

11) MAPA ORDINANCE No. 136 of July 15, 2016: institutes a Working Group for the purpose of discussing and proposing new alternatives to improve the actions of the federal government within the scope of the Rural Insurance Premium Subvention Program (PSR).

Such group shall be composed of representatives of several bodies and entities of the area, such as the Ministry of Agriculture and the Brazilian Agriculture and Cattle-Raising Confederation.

[BACK TO SUMMARY](#)

12) DECREES OF JULY 25, 2016: removes Roberto Westenberger from his office as Superintendent of the Superintendence of Private Insurance – SUSEP and appoints Joaquim Mendanha de Ataídes for such office.

Until his appointment, Joaquim Mendanha was the Chairman of the Union of Insurance Brokers of Goiás.

[BACK TO SUMMARY](#)

13) SUSEP'S INSTRUCTIONS TO THE MARKET – INVESTMENT MANUAL: document presented by SUSEP in July 2016, for the purpose of elucidating issues that are frequently raised by the supervised entities.

The document at issue has a question and answer system and involves insurance companies; open supplementary social security entities; capitalization companies; and local reinsurers.

The statutory basis for the clarifications is contained in CMN Resolution No. 4444/2015; in CNSP Resolution No. 321/2015; and in SUSEP Circular No. 517/2015.

[BACK TO SUMMARY](#)

HEALTH

1) ANS NORMATIVE INSTRUCTION - DIFIS No. 13 of July 28, 2016: provides on the procedures to be observed for the Inspection Cycle and for the Inspection Intervention, as set forth in articles 45, 46 and 48 through 54 of Normative Resolution No. 388/2015.

The Inspection Cycle corresponds to the semi-annual period to monitor all demands processed in the Preliminary Intermediation Notification procedure – NIP, while the Inspection Intervention corresponds to the group of actions to be carried out by the agents especially designated to conduct the inspections.

This instruction delimits their specificities, providing on the required measures; on the diagnostic report; on the evaluations; on the monitoring report; and on the administrative measures and on the penalties to be applied.

[BACK TO SUMMARY](#)

2) ANS ORDINANCE No. 107 OF JULY 12, 2016: it delegates the powers of the Management and Finance General Manager to issue official letters during exercise of his or her duties to the Manager of the Contract and Bidding Management – GECOL.

[BACK TO SUMMARY](#)

3) ANS ORDINANCE No. 8295 of July 14, 2016: appoints servants to be in charge of the access to information within the scope of their executive boards or related bodies, further defining those in charge for the

analysis of appeals in the event of denial of access to information.

[BACK TO SUMMARY](#)

TAX

1) INQUIRY REPLY No. 103 of July 6, 2016: SUBJECT: ACESSORY OBLIGATIONS. SUMMARY: SISCOSEV. RENDERING OF MARITIME AGENCY SERVICES. RESPONSIBILITY FOR THE REGISTRATION AND INITIAL TERM FOR THE DEADLINE. The shipping agent when acting within the limits of this activity, i.e., in the name and on behalf of others, must make the record in SISCOSEV of the agency services rendered to resident or domiciled abroad shipowners. The so-called related services (named that way by the inquirer the tug services, pilotage, pest control, port operations and the like), when provided to the same shipowner, shall be informed directly by each of the respective providers. The shipowner resident or domiciled abroad does not maintain a legal relationship with the subsidiary, but with the legal entity of which the subsidiary is merely a secondary establishment. However, registration in SISCOSEV must occur by establishment, ex vi of subsection III of §1 of art. 1 of the Normative Instruction RFB No. 1277, 2012. In the hypothesis of subagents acting (third parties), the responsibility for registration in SISCOSEV will depend on how the contract of service was structured. The general agent or the subagents resident or domiciled in Brazil must perform the registration every time they provide services to the resident or domiciled abroad shipowner, not being required for them to register services which eventually

are provided to each other. Except in cases where the issue of the invoice or equivalent document occurs after the start of the rendering of the service, in which scenario the service's record of the sales revenue will have a specific deadline, the dies a quo of the term for registry of the transaction is the date established by the parties, i.e., among the resident or domiciled abroad shipowner and the resident or domiciled in Brazil shipping agent, for the start of the rendering of the services. However, if by the date foreseen for its start, it does not start, there will be no duty to register.

LEGAL DEVICES: Complementary Law No. 116 of 2003, art. 3, I; Law No. 9.779, of 1999, art. 16; Law No. 12.546, 2011, arts. 24-27; Joint Ordinance RFB / SCS No. 1.908.

[BACK TO SUMMARY](#)

2) NORMATIVE INSTRUCTION – RFB No. 1654, of July 27, 2016: This normative instruction altered the Normative Instruction RFB No. 1.627 of March 11, 2016, that provides on the Special Regime for Exchange and Tax Regularization, rewording the the sole paragraph of Article 18, which now establishes that “the declarant can anticipate the total or partial repatriation of financial resources of Dercat, provided that the payment of the tax and the fine mentioned in sections II and III of art. 5 is made as soon as the resources become available in the country”

[BACK TO SUMMARY](#)

PARTNERS OF THE LAW FIRM AND RESPECTIVE AREAS



Daniela Matos
Insurance and
Reinsurance
Phone: (11) 5643-1065
dmatos@santosbevilaqua.com.br



João Marcelo dos Santos
Insurance and
Reinsurance
Phone: (11) 5643-1066
jsantos@santosbevilaqua.com.br



**Julia de Menezes
Nogueira**
Tax Law
Phone: (11) 5643-1062
jnogueira@santosbevilaqua.com.br



**Juliano Nicolau de
Castro**
Labor Law
Phone: (11) 5643-1061
jcastro@santosbevilaqua.com.br



Keila Manangão
Litigation and
Arbitration
Phone: (21) 2103-7638
kmanagao@santosbevilaqua.com.br



Marco Antonio Bevilaqua
Insurance, Reinsurance,
Supplementary Social-Security
and Supplementary Health
Phone: (11) 5643-1063
mbevilaqua@santosbevilaqua.com.br



Roberto F. S. Malta Filho
Corporate, Contractual,
Mergers and Acquisitions,
Arbitration and Court-Supervised
Reorganization/Restructuring
Phone: (11) 5643-1064
rmalta@santosbevilaqua.com.br