

INFORMATION REPORT

JUNE 2019

INSURANCE AND OPEN SUPPLEMENTARY SOCIAL SECURITY..... 1

- 1) FEDERAL SUPREME COURT - STF ADOPTS SUMMARY PROCEEDING FOR DIRECT ACTION FOR DECLARATION OF UNCONSTITUTIONALITY AGAINST LAW THAT IMPOSES OBLIGATIONS AND SANCTIONS ON INSURERS
- 2) PRIVATE INSURANCE SUPERINTENDENCE - SUSEP ADMINISTRATIVE RULE NO. 7371, OF 5/29/2019
- 3) PRIVATE INSURANCE SUPERINTENDENCE/TECHNICAL BOARD 2/CONDUCT MONITORING COORDINATION OFFICE - SUSEP/DICON ELECTRONIC CIRCULAR LETTER NO. 3, OF 5/31/2019
- 4) DRAFT OF THE CIRCULAR SUBMITTED TO PUBLIC INQUIRY NO. 03/2019 AND THE SUGGESTION AND COMMENT TABLE WERE PUBLISHED
- 5) DRAFT OF THE CIRCULAR SUBMITTED TO PUBLIC INQUIRY NO. 04/2019 AND THE SUGGESTION AND COMMENT TABLE WERE PUBLISHED
- 6) PRIVATE INSURANCE SUPERINTENDENCE/CONDUCT MONITORING COORDINATION OFFICE - SUSEP/CGCOM ELECTRONIC CIRCULAR LETTER NO. 03, OF 6/12/2019
- 7) SUSEP CIRCULAR NO. 587, OF 6/10/2019

- 8) COMPLEX MODEL MAY DELAY THE OFFERING OF SHARES OF THE BRAZILIAN REINSURANCE INSTITUTE - IRB
- 9) SUSEP PUBLISHES MANUAL ON AUTHORIZATION TO USE REDUCED RISK

CLOSED SUPPLEMENTARY SOCIAL SECURITY..... 6

- 1) SUPPLEMENTARY SOCIAL SECURITY SUPERINTENDENCE - PREVIC ADMINISTRATIVE RULE NO. 545, OF 6/26/2019

FINANCIAL MARKET, STOCK MARKET AND OTHERS 7

- 1) LAW NO. 13755, OF 12/10/2018 (FEDERAL REGISTER - DOU OF 6/21/2019)
- 2) NATIONAL MONETARY COUNCIL (CMN) RESOLUTION NO. 4720, OF 5/30/2019
- 3) NATIONAL MONETARY COUNCIL (CMN) RESOLUTION NO. 4721, OF 5/30/2019
- 4) NATIONAL MONETARY COUNCIL (CMN) RESOLUTION NO. 4722, OF 5/30/2019
- 5) NATIONAL MONETARY COUNCIL (CMN) RESOLUTION NO. 4723, OF 5/30/2019
- 6) MINISTRY OF ECONOMY AND THE FEDERAL GOVERNMENT CREATE GROUPS TO BOOST THE STOCK MARKET
- 7) LAW NO. 13840 OF 6/5/2019
- 8) DECREE NO. 9825, OF 6/5/2019
- 9) BRAZILIAN SECURITIES COMMISSION/SUPERINTENDENCE OF RELATIONS WITH THE MARKET AND INTERMEDIARIES/INSTITUTIONAL INVESTOR RELATIONSHIP SUPERINTENDENCE - CVM/SMI/SIN OFFICIAL CIRCULAR LETTER NO. 03, OF 6/4/2019
- 10) LAW NO. 13800 OF 1/4/2019
- 11) MUNICIPAL LAW NO. 17109 OF 6/4/2019

- 12) CENTRAL BANK OF BRAZIL - BACEN ADMINISTRATIVE RULE NO. 103198, OF 6/6/2019
- 13) COUNCIL FOR CONTROL OF FINANCIAL ACTIVITIES (COAF) RESOLUTION NO. 31, OF 6/7/2019
- 14) LAW NO. 13729 OF 6/8/2019
- 15) DECREE NO. 9830, OF 6/10/2019
- 16) DECREE NO. 9832, OF 6/12/2019
- 17) DECREE NO. 9834, OF 6/12/2019
- 18) DECREE NO. 9,836, OF 6/12/2019
- 19) JOINT COMMUNICATION ON COORDINATED ACTION TO IMPLEMENT REGULATORY SANDBOX REGIME IN THE BRAZILIAN FINANCIAL, INSURANCE AND STOCK MARKETS
- 20) BRAZILIAN SECURITIES AND EXCHANGE COMMISSION (CVM) INSTRUCTION NO. 607, OF 6/17/2019
- 21) LAW NO. 13842, OF 6/17/2019
- 22) PROVISIONAL PRESIDENTIAL DECREE NO. 886, OF 6/18/2019, AND LAW NO. 13844, OF 6/18/2019
- 23) LAW NO. 13846, OF 6/18/2019
- 24) LAW NO. 13848, OF 6/25/2019
- 25) BRAZILIAN SECURITIES AND EXCHANGE COMMISSION (CVM) RESOLUTION NO. 819, OF 6/25/2019
- 26) BRAZILIAN SECURITIES AND EXCHANGE COMMISSION (CVM) RESOLUTION NO. 820, OF 6/25/2019
- 27) BRAZILIAN SECURITIES AND EXCHANGE COMMISSION (CVM) INSTRUCTION NO. 608, OF 6/25/2019
- 28) BRAZILIAN SECURITIES AND EXCHANGE COMMISSION (CVM) INSTRUCTION NO. 609, OF 6/25/2019
- 29) BRAZILIAN CENTRAL BANK - BACEN CIRCULAR NO. 3946, OF 6/25/2019
- 30) DECREE NO. 9874, OF 6/27/2019
- 31) DECREE NO. 9865, OF 6/27/2019

- 32) DECREE NO. 9876, OF 6/27/2019
- 33) DECREE NO. 9877, OF 6/27/2019
- 34) DECREE NO. 9882, OF 6/27/2019
- 35) DECREE NO. 9889, OF 6/27/2019
- 36) MINISTRY OF JUSTICE ADMINISTRATIVE RULE NO. 16, OF 6/24/2019

HEALTH 25

- 1) NATIONAL AGENCY OF SUPPLEMENTARY HEALTH -ANS PROVIDES CORPORATE GOVERNANCE MANUAL

TAX..... 25

- 1) COURT OF JUSTICE OF RIO DE JANEIRO BANS COLLECTION OF ITCMD ON VGBL PRIVATE PENSION PLAN
- 2) ANSWER TO NORMATIVE INQUIRY NO. 168, OF 5/31/2019
- 3) ANSWER TO INQUIRY NO. 188, OF 6/3/2019
- 4) ANSWER TO INQUIRY NO. 203, OF 6/24/2019
- 5) LAW NO. 13850, OF 6/25/2019
- 6) ADMINISTRATIVE BOARD OF TAX APPEALS (CARF) RULES THAT PIS/COFINS SHOULD NOT BE LEVIED ON ASSET-BACKED SECURITIES OF INSURERS
- 7) ADMINISTRATIVE BOARD OF TAX APPEALS (CARF) PROVIDES MANUAL FOR REVIEW OF INTERLOCUTORY APPEAL
- 8) FEDERAL REVENUE OFFICE - RFB NORMATIVE INSTRUCTION NO. 1896, OF 6/27/2019
- 9) RFB NORMATIVE INSTRUCTION NO. 1897, OF 6/27/2019

PARTNERS OF THE FIRM AND RESPECTIVE AREAS 31

INSURANCE AND OPEN SUPPLEMENTARY SOCIAL SECURITY

1) Federal Supreme Court - STF ADOPTS SUMMARY PROCEEDING FOR DIRECT ACTION FOR DECLARATION OF UNCONSTITUTIONALITY AGAINST LAW THAT IMPOSES OBLIGATIONS AND SANCTIONS ON INSURERS

Justice Rosa Weber, who reported the [Direct Action for Declaration of Unconstitutionality \(ADI\) no. 6132/GO](#) that disputes the obligations and sanctions imposed on the insurers of the state Goiás, gave opinion in favor of summary proceeding on the grounds of article 12 of Law no. 9868/1999 (Law on Direct Action for Declaration of Unconstitutionality - ADI and Declaratory Judgment Action - ADC).

According to the summary proceeding, the merits of the case are tried by the full bench of the court, which will enter a final judgment, after the information is provided, within ten days, and after the general counsel for federal government and the attorney general give their opinions, successively within five days, without previous examination of the preliminary application .

In this ADI, the National Confederation of the General Insurance, Private Social Security, Life Insurance, Supplementary Health and Capitalization Companies (CNSEG) raises objection to the constitutionality of the provisions of Law no. 20415/2019 of the state of Goiás.

This Law, among other provisions, prohibits the insurers from requiring the insureds to repair damaged vehicles at the shops authorized by the insurers, requires the insurers to provide information to the insureds through assistance centers and under an express contractual clause about their rights to freely choose the shop, and in addition, the law establishes sanctions and prohibitions for the insurers that operate in Goiás.

2) Private Insurance Superintendence - SUSEP ADMINISTRATIVE RULE No. 7371, OF 5/29/2019

Published on 5/29/2019 in the Federal Official Journal - DOU, [SUSEP Administrative Rule no. 7371/2019](#) provides for the SUSEP Provisional Structure, stops the effects of National Council of Private Insurance - CNSP Resolution no. 346/2017 until the approval of the new Charter of SUSEP, and validates the acts performed in accordance with SUSEP Administrative Rule no. 7361/2019.

By and large, the administrative rule replicates, wholly or in part, some precepts contained in CNSP Resolution no. 346, enacted on May 2, 2017, simplifying the description of SUSEP structure.

The simplification of the technical rules that delimit the authority of the bodies that provide direct or indirect assistance to SUSEP Superintendent, the sectional bodies, the specific bodies formed by one single person, and the decentralized bodies seems intended to prepare this autonomous government agency for a future unification of the Private Insurance

Superintendence (SUSEP) and the National Supplementary Social Security Superintendence (PREVIC).

In this regard, for example, when dealing with the minimum number of members of Boards, the rule delegated this decision to the Director (arts. 19, 21, 23, and 25)

The [full text](#) of the rule may be checked here.

3) Private Insurance Superintendence/Technical Board 2/Conduct Monitoring Coordination Office - SUSEP/DICON ELECTRONIC CIRCULAR LETTER No. 3, OF 5/31/2019

Published in DOU on 5/31/2019, [SUSEP Electronic Circular Letter no. 3](#), issued by the Director of the Technical Board 1, former Conduct Monitoring Coordination Office (CGCOF), contains additional guidance on the rules set in art. 2 of SUSEP Circular no. 445/2012 for the freeze of assets of individuals and legal entities or the supervised entities.

The Letter reflects the changes arising from the enactment of Law no. 13810/2019, which provides for the procedures to be followed for those subject to immediate compliance (irrespective of local rules, in particular rules set out by SUSEP) with sanctions imposed by resolutions from the United Nations Security Council (CSNU); the sanction committees may be checked in [this list](#).

4) DRAFT OF THE CIRCULAR SUBMITTED TO PUBLIC INQUIRY No. 03/2019 AND THE SUGGESTION AND COMMENT TABLE WERE PUBLISHED

On 6/11/2019, SUSEP Managing Board decided to submit to public inquiry the draft of the Circular on the structuring of the insurance plans with reduced term of contract and intermittent coverage; according to the [notice](#), those interested may send, within 30 days from the date of publication, comments and suggestions via [e-mail](#) to the address made available by SUSEP, using the table posted on [SUSEP page](#).

According to the draft, the policies, insurance certificates, endorsements, and insurance cover notices may establish an intermittent coverage, provided that the rules for interruption and restart of the period of risk coverages are unambiguously defined in the proposals, contractual conditions, certificates, endorsements or cover notices.

The application of the short-term table is prohibited. Refund of the premium and adjustment to the effectiveness, where applicable, will be calculated in proportion to the period of coverage elapsed considering the contracted period (art. 8, pars. 1 to 3).

When effective, the Circular will cause significant changes to the legal treatment of many insurance plans as it allows contracts with reduced periods of effectiveness or intermittent coverage.

This is a relevant and welcome innovation that makes the offer of new products to the consumers viable.

5) DRAFT OF THE CIRCULAR SUBMITTED TO PUBLIC INQUIRY No. 04/2019 AND THE SUGGESTION AND COMMENT TABLE WERE PUBLISHED

On 6/12/2019, SUSEP Managing Board decided to submit to public inquiry the draft of the Circular that changes the concept of Personal Accidents established in item I of art. 5 of CNSP Resolution no. 117/04; according to the [notice](#), those interested may send, within 15 days from the date of publication, comments and suggestions via [e-mail](#) to the address made available by the regulatory body, using the table posted on [SUSEP page](#).

Due to the revocation of subitem b.2 of item I of article 5 of CNSP Resolution no. 117/2004, this provision would come into effect with a new subitem, a.6), under which the concept of personal accidents encompasses accidents arising from tests, clinical treatments, or surgeries; this concept will also apply to renewed or issued policies and cover notes issued from the date of effectiveness of Circular (art. 3), that is, the date of its publication (art. 5).

6) Private Insurance Superintendence/Conduct Monitoring Coordination Office - SUSEP/CGCOM ELECTRONIC CIRCULAR LETTER No. 03, OF 6/12/2019

Published in DOU on 6/12/2019, [SUSEP ELECTRONIC CIRCULAR LETTER no.3](#), issued by the Director of Technical Board 2, former Conduct Monitoring Coordination Office (CGCOF), contains supplementary clarifications for the interpretation of the rules set out in SUSEP/DICON/CGCOM Electronic Circular Letter no.1, enacted in 2018.

The Letter establishes that, as a rule, “[...] if the policyholder is faithfully performing the guaranteed contract, a claim for contractual coverage is out of question, because there was no loss in spite of any doubt as to the policyholder’s honesty, concerning participation in a different agreement.”

The same rule, however, is not applicable if the policyholder is imposed a punishment of suspension

or prohibition to participate in a competitive bidding or sign contracts with the Government.

7) SUSEP CIRCULAR No. 587, of 6/10/2019

This [Circular](#), published in DOU of 6/10/2019, lays down rules and criteria for the preparation and sales of rental surety insurance plans and revokes SUSEP Circular no.347/2007, which governed such matter.

In general, this Circular re-enacts SUSEP Circular no. 347/2007, introducing innovations such as the emphasis on the accessory nature of the insurance regarding the lease agreement, reinforcing that it is not mandatory to both the lessor and the lessee (art.3, par.1). In this format, the lessee's obligations are secured by an insurance contract providing for basic coverage in case of nonpayment of rents and additional coverages to secure other obligations of the lessee (art. 3, par.2).

Art. 9 contains a significant innovation: it establishes the insurer and the broker's obligation to inform the percentage and the brokerage commission applied to the policy whenever requested by the secured party or the insured."

Another innovation is introduced in art. 21: in case of the expectation of loss, the insurer may pay the insured advances corresponding to the non-paid amounts until the loss is characterized, which does not imply the insurer's tacit acknowledgment of the existence of coverage. As a matter of fact, the insured undertakes to return to the insurer any advance unduly paid or paid in excess (art. 21, par, 2)

The insurers cannot sell rental surety insurance that is not in conformity with the Circular after one hundred and eighty (180) days from the date of its publication (art. 27, head provision).

8) COMPLEX MODEL MAY DELAY THE OFFERING OF SHARES OF THE BRAZILIAN REINSURANCE INSTITUTE - IRB

Financial agents speculate that the privatization of IRB, which is a part of the federal government's divestiture plan, expected for the first days of July, may extend beyond the deadline set in the initial schedule. According to a [report](#) published in the newspaper Valor Econômico, it may be postponed to mid-July.

The main reason is that the follow-on is much more complex than expected by the parties, which could be explained by “[...] *divergences among the controlling shareholders – the federal government and the major banks of the country – and the need to amend the law to carry out the transaction.*”

In fact, the discussion is centered on the possibility of IRB becoming a corporation without a defined controlling interest, rejected in an opinion issued by SUSEP.

9) SUSEP PUBLISHES MANUAL ON AUTHORIZATION TO USE REDUCED RISK

On June 24, SUSEP posted on its website a [manual](#) with guidance on the use of reduced risk factors in the calculation of risk capital to add transparency to the analysis of the authorizations.

The guidance reflects the criteria defined by SUSEP Circulars no. 561/2017 and 568/2018, which changed the provisions in SUSEP Circular no. 517/2015 (Title I, Chapter IV, Section III) and its appendices XII, XIII, and XIV.

CLOSED SUPPLEMENTARY SOCIAL SECURITY

1) Supplementary Social Security Superintendence - PREVIC ADMINISTRATIVE RULE No. 545, OF 6/26/2019

Published in DOU of 6/26/2019, this [Administrative Rule](#), issued by PREVIC Collective Board, contains the list of the Closed Supplementary Social Security Entities (EFPCs) classified as Systemically Important Entities for the purposes of prudential suspension and regulatory proportionality, to be effective in 2020.

FINANCIAL MARKET, STOCK MARKET AND OTHERS

1) LAW No. 13755, OF 12/10/2018 (Federal Register - DOU of 6/21/2019)

The President of Brazil, Jair Bolsonaro, sanctioned on June 21, 2019 [Law no. 13755](#), enacted on December 10, 2018, which establishes the mandatory requirements for the sale of vehicles in Brazil, introduces the Program Route 2030 - Mobility and Logistics, provides for the tax regime applicable to auto parts not produced in Brazil and amends Laws 9440, 12546, 10865, 9826, 10637, 8383 and 8989 and Decree-Law 288.

2) National Monetary Council - CMN RESOLUTION No. 4720, OF 5/30/2019

This Resolution, published on May 30, 2019, sets the general criteria for the financial institutions and other institutions authorized to operate by the Brazilian Central Bank to prepare and disseminate financial statements, however, it does not apply to consortium managers and payment institutions, which must observe the regulation that governs their activities.

This resolution is intended to reduce asymmetries in relation to the international standards to obtain full convergence of the rules applicable to the consolidated financial statements with the standards defined by the International Accounting Standards Board (IASB).

The full text of this resolution may be checked [here](#).

3) CMN RESOLUTION No. 4721, OF 5/30/2019

The Brazilian Central Bank published on May 30, 2019 in DOU, this [CMN Resolution no. 4721](#) that provides for the formation, operation authorization, operation, corporate restructuring, and cancellation of operation authorization of Credit Companies for Micro-Entrepreneurs and Small Companies.

According to this CMN Resolution, “the main activity of the Credit Companies for Micro-Entrepreneurs and Small Companies must be loans to individuals (SCMEPPs), micro-entrepreneurs or small companies to make professional, commercial or industrial undertakings viable” (art. 3); they may carry out only certain transactions and activities, among them:

- i) assign credit, also to financial credit insurers, according to the regulation in effect, and
- ii) operate as insurance representative in the distribution of insurance related to the transactions mentioned in art. 3 of this Resolution, according to the regulation of the National Council of Private Insurance (CNSP).

As contained in its [List of Reasons](#), the Resolution was envisaged to encourage the development of SCMEPPs to enable them to carry out, according to the rules applicable to the direct credit companies (SCD) and loan- among-persons companies (SEP) four activities additional to those currently permitted: issuance of electronic currency restricted to the individuals and legal entities that are their target public (micro and small companies); credit analysis to third parties, collection of credit assigned by third parties, and operation as insurance representative in the

distribution of insurance products related to their transactions.

The Director of Regulation of the Central Bank emphasized that “[s]uch activities, connected to those currently carried out, would result in the more effective use of the resources and knowledge of these institutions, dilution of fixed costs, and greater diversification of risks.”

The resolution may be checked [here](#).

4) National Monetary Council (CMN) Resolution 4722, OF 5/30/2019

[CMN Resolution no. 4722](#) was published in the Federal Register by the Brazilian Central Bank (BACEN) on May 30, 2019. It amends the Charter and the Regulation of the fund Fundo Garantidor de Créditos (FGC), provided for, respectively, in Exhibits I and II to Resolution no. 4222, of May 23, 2013.

The resolution amended the wording of article 24, paragraph 3, I, of Exhibit I to Resolution 4222, which now establishes as experience-related requirement for candidates for the Board of Directors of FGC: “[...]”

to have held, for at least two years, a management or senior advisory position at associated institutions or regulatory bodies of the National Financial System, the Brazilian Payment System, the Securities Distribution System, the National System of Insurance, Capitalization, Reinsurance and Open Supplementary Pension or the Closed Supplementary Pension System.” (article 1)

It has also included paragraph 3 in article 30 of the above-mentioned Resolution to determine, in its article 2, a requirement for candidates for FGC’s Executive Board to have their names “[...] *evaluated and presented to the Board of Directors by institution or company with recognized specialization, experience and reputation in recruitment and selection of professionals for positions of this nature, in the Country or abroad, to be hired at FGC’s expense.*”

As clarified in the Preamble, the new rules are based on recommendations of the Technical Currency and Credit Commission (Comoc) to improve FGC’s governance, to make adjustments to enhance the selection process of members for the Board of Directors and Technical Board, making the provisions of FGC’s Charter about technical requirements for the election more accurate, especially in relation to the

nature and experience of candidates and making the election processes of both bodies more consistent.

5) CMN RESOLUTION No. 4723, OF 5/30/2019

The Brazilian Central Bank published on May 30, 2019 in DOU [CMN Resolution no. 4723](#) amending Resolution no. 4284, of November 5, 2013, and its Appendices I and II, the Statute and Regulation of the Credit Cooperative Guarantee Fund (FGCoop) to adjust the governance mechanisms of the Fund and the contribution of its associated institutions.

6) MINISTRY OF ECONOMY AND THE FEDERAL GOVERNMENT CREATE GROUPS TO BOOST THE STOCK MARKET

In an event held at the Brazilian Central Bank on June 3, the Ministry of Economy presented the Stock Market Initiative (IMK), whose scope is to discuss at greater length with the players measures to promote pioneering actions as those introduced in 2018 by Stock Market and Long-Term Savings Work Group (GTMK). Following the same lines of the extinct

GTMK, this initiative will count on the combination of the efforts of the Ministry of Economy, the Central Bank, the Securities and Exchange Commission of Brazil (CVM), and SUSEP.

In this new format of work, the group will concentrate on the improvement of the regulatory system of Fintechs based on the model of the sandboxes. This is a relevant regulatory landmark and provided that some requirements are met according to previously agreed limits, the financial authorities may grant temporary authorizations to companies that develop innovative projects, without a need for compliance with certain general rules.

In this regard, authorities of the Ministry of Economy, the Central Bank, the Securities and Exchange Commission of Brazil, and SUSEP will publish a joint communication establishing the principles for the model of the Brazilian regulatory sandbox.

More information may be obtained in the portal of the [Ministry of Economy](#).

7) LAW No. 13840 OF 6/5/2019

President of Brazil Jair Bolsonaro sanctioned [Law no. 13840](#), published in DOU on May 5, 2019, amending

Laws no. 11343, 7560, 9250, 9532, 8981, 8315, 8706, 8069, 9394, and 9503, as well as Decrees-Law no. 4048, 8621, and 5452; this law provides for the National System of Public Policies on Drugs and the conditions for assistance to drug addicts or drug users; it also deals with the financing of drug policies.

8) DECREE No. 9825, OF 6/5/2019

Published on May 5, 2019, [Decree no. 9825](#), regulates Law no.13810, and, in connection with the Federal Executive Branch, provides for the enforcement of the sanctions imposed by resolutions of the United Nations Security Council and designations of its sanction committees, including the freeze of assets of individuals and legal entities, and the national designation of those under investigation into or accused of terrorism or terrorism financing or acts related to terrorism

According to this Decree, the sanctions imposed by resolutions of the United Nations Security Council and designations of its sanction committees must be directly and immediately enforced in the Federative Republic of Brazil, irrespective of any local regulation act.

9) Brazilian Securities Commission/Superintendence of Relations with the Market and Intermediaries/Institutional Investor Relationship Superintendence - CVM/SMI/SIN OFFICIAL CIRCULAR LETTER No. 03, OF 6/4/2019

On June 4, 2019, CVM published, [CVM/SMI/SIN Official Circular Letter no. 03](#) addressed to the Directors Responsible for CVM Instruction no. 301/99 and signed by the Superintendents of Relations with the Market, which deals with the new Instruction routines provided in Law no. 13810.

The purpose of that law is to ensure the compliance with the new legal provision that gives guidance to the persons referred to in art. 2 of CVM Instruction no.301/99 that are required, in regard to their authority, to observe “[...] the rules, procedures and internal controls concerning all existing and future business relations and that allow the identification of

investors that are individuals, legal entities or entities subject to decisions on freeze of assets.”

10) LAW No. 13800 OF 1/4/2019

The Brazilian President Jair Bolsonaro, sanctioned on June 21, 2019 the vetoed parts of [Law 13,800](#), decreed by the Congress on January 4, which authorizes the Government to sign partnership agreements and terms of program execution, projects and other purposes of public interest with fund management organizations, and amends Laws 9,249, 9,250, 9,532 and 12,114, as well as other provisions.

11) MUNICIPAL LAW No. 17109 OF 6/4/2019

The Major of the City of São Paulo/SP, Bruno Covas, sanctioned [Municipal Law no. 17109](#), published in the Municipal Official Journal of June 4, 2019, that institutes the Municipal Consumer Protection Code.

Following the example of other state and municipal rules, this Law, when dealing with insurance, usurps the exclusive jurisdiction of the Federal Government (Federal Constitution, art. 22, VII).

12) Central Bank of Brazil - BACEN ADMINISTRATIVE RULE No. 103198, OF 6/6/2019

[BACEN Administrative Rule no. 103198](#), published in DOU on June 6, 2019, disseminates the amendments to BACEN Internal Regulations, attached to Administrative Rule no. 84287, of February 27, 2015.

Two points must be highlighted. The first refers to the detailed legal treatment given to the establishment of regimes of intervention and liquidation of institutions, with the inclusion of new precepts on the subject (art. 16, n. IV; art. 17, XXIII; art. 22, VIII; art. 94-A, IV and V, a); art. 94-B, II, IV, V, VI, a), VII, IX, X, XI, XII, and XIII; art. 94-C, II, III, a), IV, b) and c).

Consequently, it determines that the Deputy-Heads of the Department of Liquidation and Sanctioning Action (DERAD), created by the Administrative Rule, are responsible for informing CVM, SUSEP, and PREVIC about any indications of administrative irregularities and wrongs in investigations carried out to determine the regime of liquidation.

The second point refers to the competitiveness functions of BACEN, according to an agreement with the Brazilian Antitrust Authority (CADE) under Joint Rules no. 1 of December 5, 2018.

13) Council for Control of Financial Activities (Coaf) RESOLUTION No. 31, OF 6/7/2019

On June 11, 2019, the Council for Control of Financial Activities (Coaf) published, in the Federal Register, [COAF Resolution no. 31](#), which provides for additional procedures to be followed by the entities subject to its regulation and inspection, for immediate application of sanctions, including freeze of assets, imposed by resolutions of the UN Security Council or by designations of its sanction committees, at the request of a key foreign authority, and by national lists of persons being investigated or accused of terrorism, of financing it or of acts related thereto.

In this regard, the resolution prohibits the persons subject to the resolution from violating, due to action or omission, such sanctions or designations, including to unfreeze assets,

directly or indirectly, in favor of the supervised persons or entities (article 1, paragraph 2), which are responsible for implementing internal procedures and controls to identify, among their costumers and persons subject to the sanctions of Law no. 13810, and for adopting actions to train their employees to implement the measures introduced (Article 2).

If any assets subject to the sanctions imposed by Law no. 13810 are frozen or if any attempts to transfer them are identified, such fact must be immediately informed to Coaf and the Ministry of Justice and Public Security (Article 3, paragraph 1, items II and III). Likewise, Article 4 establishes that any operations or services that represent serious signs of terrorism financing or the crimes provided for in Law no. 13260 must be immediately informed to Coaf, regardless of their amount.

In this regard, Coaf will make available in its website a list of persons subject to the sanctions of Law no. 13810 (Article 7).

14) LAW No. 13729 OF 6/8/2019

On June 8, 2019, the Brazilian President Jair Bolsonaro sanctioned parts of [Law 13,729](#), decreed by the Congress on November 8, 2018, which amended Law 13,340, to grant rebate for liquidation of rural credit operations within the National Program for the Strengthening of Family Agriculture (Pronaf), and other measures.

15) DECREE No. 9830, OF 6/10/2019

The [Decree](#) regulates the provisions of articles 20 through 30 of Decree-Law no. 4657/42, which creates the Law of Introduction to the Rules of Brazilian Law (LINDB).

The decree is positive, and some of its aspects are worth noting.

When providing for the principle of motivation of judicial and administrative decisions, it establishes, in its article 2, that a judicial or administrative decision will be motivated by concrete peculiarities of the facts and will feature an argumentative explanation of its

legal grounds, indicating the correspondence between the rules and the facts on which the decision-maker's interpretation was based, including when the decision is based on opinion of jurists or judicial decisions. However, the decree does not rule out the reasonability of a mere statement of the decision-maker's agreement with the content of technical notes, opinions, information, decisions or proposals that preceded the decision.

Furthermore, a decision based exclusively on principles, undetermined legal concepts or open clauses and one that establishes vacation of acts, agreements, adjustments or administrative proceedings or rules will not be taken without considering the practical-legal consequences that the decision-maker is able to presume in light of the facts, considering any possible alternatives and in compliance with the criteria of adequacy, proportionality and reasonability (articles 3 and 4).

The decision-maker is allowed to modulate the effects of the decision that invalidate acts, agreements, adjustments or administrative proceedings or rules, in order to limit its effects, or decide that it begins to produce effects at a given moment *a posteriori*, explaining conditions for a proportional regularization,

equitably and without prejudice to the public interest (article 4, paragraphs 3 and 5).

The public authority may demand compensation for benefits unduly enjoyed and for uncommon or unfair losses resulting from the proceeding or acts of the obligor, in which case an instrument of commitment may be entered into, preceded by a statement of the parties thereto on its applicability, form and value (article 9).

In this sense, article 11 of the decree authorizes – except in the event of damage to the public treasury caused by public agents committing wrongful acts or grievous wrongs – an instrument of management conformity between the public agents and the internal control bodies of the government, aiming to correct errors identified in control actions, to improve procedures, to continue performing the subject matter and to guarantee that the public interest is served.

16) DECREE No. 9832, OF 6/12/2019

Published by the Brazilian Presidency in the Federal Register on June 13, 2019, [Decree No. 9,832](#) amends Decree No. 9,637 / 2018 and Decree No. 7.845 and

regulates the Information Security Management Committee.

17) DECREE No. 9834, OF 6/12/2019

On June 12, 2019, the Brazilian Presidency enacted [Decree No. 9,834](#), which established the Public Policy Monitoring and Evaluation Council, an advisory body with the function of evaluating selected public policies, which are financed by direct expenses or subsidies of the Federal Government and; (ii) monitoring the implementation of the proposed changes resulting from such an evaluation, in line with good corporate governance practices.

18) DECREE No. 9,836, OF 6/12/2019

The Brazilian Presidency enacted, on June 12, 2019, [Decree No. 9,836](#), which recognizes as of Brazilian Government interest the foreign participation in the capital stock of a credit, financing and investment company to be constituted by Suppliercard Investments.

19) JOINT COMMUNICATION ON COORDINATED ACTION TO IMPLEMENT REGULATORY SANDBOX REGIME IN THE BRAZILIAN FINANCIAL, INSURANCE AND STOCK MARKETS

In a [joint statement](#) issued on June 12, 2019, the Special Office of Finance of the Ministry of Economy (ME), the Brazilian Central Bank (BACEN), the Securities and Exchange Commission (CVM) and the Superintendency of Private Insurance (SUSEP) brought to the public notice their intention to establish a model of regulatory sandbox in Brazil.

The initiative was designed to meet the "... challenge of acting with the necessary flexibility, within the limits allowed by the law, to adapt its regulations to technological changes and constant innovations", which have marked the financial, capital markets and security. The major difficulty is not deviate regulated activities from the rules of each segment by virtue of new ways of supplying services and products, protecting, in their respective operations, legal

certainty, consumer protection, investor interest, health and the efficiency of markets.

In this light, the regulators who issued the statement undertake to act jointly in the coordination of their institutional activities, whenever they affect more than one regulated market, in order to regulate, according to their respective powers, the establishment of each sandbox element.

20) Brazilian Securities and Exchange Commission (CVM) INSTRUCTION No. 607, OF 6/17/2019

On June 17, 2019, the Brazilian Securities and Exchange Commission (CVM) amended [CVM Instruction no. 607](#), to provide for the procedures related to the sanctioning role of CVM.

The changes, which will take effect as from September 1, reinforce the set of instruments available to CVM to supervise the securities market, as these instruments translate most of the innovations introduced by Law

13506/17 and complement other rules of CVM that govern its sanctioning activities, such as the CVM Deliberations 390, 538 and 542 or CVM Instruction 491.

Some of the [main changes](#) brought by the Instruction are:

(i) objective parameters for the superintendencies to decide not to execute the instrument of accusation and not filing an administrative procedure for imposition of penalty, in view of the possibility of using other instruments or supervision measures deemed more effective (article 4, I, b, *in fine*);

(ii) definition, in its article 20, of the electronic means as substitute rule of all other means currently used for communication of procedural acts to the accused parties, through publication in the section Electronic Gazette of the website of the Brazilian Securities and Exchange Commission (CVM);

(iii) possibility of the superintendency responsible for the proceeding offering, at its discretion, a supplementary technical statement after presentation of defense arguments, provided that it does so within thirty (30) days from the meeting of the Collective

Body that carried out the drawing or distribution by connection (article 38);

(iv) in articles 62 et seq., clearer criteria for calculation of administrative penalties to be imposed in compliance with article 11, III through VIII, of Law 6385/76, from setting the base penalty, considering the gravity of the conduct, the aggravating and mitigating circumstances, the principles of proportionality and reasonability, as well as the economic capacity of the offender and the reasons justifying the imposition of penalty (article 64);

(v) increase in the number of administrative violations subject to the simplified procedure (article 73);

(vi) regulation, under articles 92 et seq., of the procedure to be adopted in the execution of administrative settlements within supervision process, introduced by Law 13506/17;

(vii) higher number of interventions by the Federal Specialized Office (PFE), whose advisory function is extended to the most relevant cases, irrespective of the procedure (article 7; 13, paragraph 1; 53), while the administrative investigation was transferred to the authority of the Superintendency of Proceedings for

Imposition of Penalty (SPS) (articles 9, 11, 12 and 104); and

(viii) express prohibition on *bis in idem* in the calculation of penalty (article 63, paragraph 1).

21) LAW No. 13842, OF 6/17/2019

On June 17, 2019, the President of Brazil, Jair Bolsonaro, sanctioned [Law no. 13842](#), which amends Law no. 7565/86 (Brazilian Aeronautics Code) to revoke items I, II and III of the head provision and paragraphs 1, 2, 3 and 4 of article 181, as well as articles 182, 184, 185 and 186.

22) PROVISIONAL PRESIDENTIAL DECREE No. 886, OF 6/18/2019, AND LAW No. 13844, OF 6/18/2019

On June 18, 2019, the President of Brazil, Jair Bolsonaro, adopted [Provisional Presidential Decree no. 13844](#), as an act of law, to amend Law no. 13844/2019, Law no. 8171/91, Law no. 12897/2013, Law no. 9613/98, and Law no. 13334/2016 and to provide for the basic organization of the bodies of the Federal Government and its Ministries.

23) LAW No. 13846, OF 6/18/2019

The National Congress enacted and the President of Brazil, Jair Bolsonaro, sanctioned [Law no. 13846](#), published in the Federal Register on June 18, 2019, to introduce the Special Program for Analysis of Benefits with Signs of Irregularities, the Program for Revision of Disability Benefits, Institutional Performance Bonus for Analysis of Benefits with Signs of Irregularities of the Operational Monitoring of Benefits and the Institutional Performance Bonus for Medical Expert Examination related to Disability Benefits, to amend Laws 6015/73, 7783/89, 8112/90, 8212/91, 8213/91, 8742/93, 9620/98, 9717/98, 9796/99, 10855/2004, 10876/2004, 10887/2004, 11481/2007 and 11907/2009, and to revoke a provision of Law 10666/2003 and Law 11720/2008.

24) LAW No. 13848, OF 6/25/2019

The President of Brazil, Jair Bolsonaro, sanctioned [Law no. 13848](#), published in the Federal Register on June 25, 2019, which provides for the management, organization, decision-making process and social control of regulatory agencies, amends Law no. 9427/96, Law no. 9472/97, Law no. 9478/97, Law no. 9782/99, Law no. 9961/2000, Law no. 9984/2000, Law

no. 9986/2000, Law no. 10233/2001, Provisional Presidential Decree no. 2228-1/2001, Law no. 11182/2005 and Law no. 10180/2001.

These rules could have been applied not only to the special-regime government entities called “Agencies” (name that does not lead to or result from any specific legal element), but also to all or at least to other entities, including the Superintendency of Private Insurance (Susep) and the Brazilian Securities and Exchange Commission (CVM).

25) Brazilian Securities and Exchange Commission (CVM) RESOLUTION No. 819, OF 6/25/2019

On June 25, 2019, the Chairman of the Brazilian Securities and Exchange Commission (CVM), Marcelo Barbosa, announced that CVM, at a meeting held on May 30, 2019, approved [CVM Deliberation no. 819](#), which amends CVM Deliberation 463/2003, which established procedures to be followed in appeals filed to CVM against decisions of the Superintendents of the Brazilian Securities and Exchange Commission (CVM).

Under article 2, item X-A, CVM Deliberation no. 463, of 2003, was amended; its provisions do not apply to decisions on the imposition of punitive fines, which are governed by specific rules.

26) Brazilian Securities and Exchange Commission (CVM) RESOLUTION No. 820, OF 6/25/2019

The Chairman of the Brazilian Securities and Exchange Commission (CVM), Marcelo Barbosa, announced on June 25, 2019 that CVM, at a meeting held on such date, approved [CVM Deliberation no. 820](#), which provides for the wrongful activities carried out in the securities market by persons not authorized by CVM, under articles 23 and 27-E of Law no. 6385/76 and article 2 of CVM Instruction 558/15.

In this sense, CVM notified the securities market and the public in general of the existence of signs of securities portfolio management services provided without CVM's authorization, in violation

of a legal and regulatory requirement, by natural persons and the legal entity inspected.

Furthermore, it ordered immediate suspension of any offer of service of securities portfolio management in Brazil by the inspected parties, under penalty of daily punitive fine, without prejudice to the applicable administrative sanctions, and such violation is also characterized, in theory, as the crime envisaged in article 27-E of Law no. 6385.

27) Brazilian Securities and Exchange Commission (CVM) INSTRUCTION No. 608, OF 6/25/2019

On June 25, 2019, the Brazilian Securities and Exchange Commission (CVM) amended [CVM Instruction no. 608](#), to provide for punitive fines and revoke CVM Instruction no. 452/2007. The administrative rule, which regulates Law no. 13506/2017, intends to, among other things, make the investment of CVM's funds more efficient in terms of

monitoring of distribution of information and imposition of punitive fines.

Indeed, the provisions of the Instruction update the rules of the system of imposition of punitive fines, comprising in a single instrument all fine amounts that may be imposed on each entity of the regulated market.

Some of the [main changes](#) to the system of punitive fines currently in force and the procedure to file appeals to CVM are:

i) increase, in the table of article 1 of Exhibit 3, of the daily amounts of ordinary fines imposed for failure to submit information within the deadline, and the punitive fine currently applicable is doubled when the participant in question manages an Equity Investment Fund (FIP), if the instruments not submitted are audited financial statements or, in case of securities issuer, if the delay is related to a reference form, quarterly financial information (ITR), standard financial statements (DFP) and financial statements;

ii) revision of the daily amount of extraordinary fine to be imposed on account of Deliberations issued to prevent or correct uncommon market situations, with maximum limits set in Exhibit 9, and regulation of

criteria to be considered by the Collective Body while setting the fine (article 9);

iii) restructuring of the procedure to warn participants about the deadline to submit periodical information; currently, a calendar is made available on the website of the Brazilian Securities and Exchange Commission (CVM) by December 15 of each year, which is monthly submitted to market participants via email informed in CVM's registration files, indicating submission deadlines and their normative grounds, and also describing the specific information for each type of regulated participant (article 3, head provision, and paragraph 1).

iv) provision, in article 1 (1) of Exhibit 3, on the inapplicability of punitive fine for delay in the submission of daily information by the managers of Equity Investment Funds (FIP), under article 142 of CVM Instruction no. 555, of December 17, 2014; and

v) specification of the events in which CVM will not accept requests for reconsideration of decisions rendered on appeals if they are untimely, submitted by a person not authorized by rule or submitted without proper demonstration of the events admitted by the instruction (article 20, paragraph 1, I), and CVM must accept such requests in other events, when

allegations of omission, obscurity, contradiction or clerical error or mistake of fact are present (article 20, head provision, and paragraph 2).

28) Brazilian Securities and Exchange Commission (CVM) INSTRUCTION No. 609, OF 6/25/2019

The [Instruction](#), published by the Chairman of CVM in the Federal Register on June 25, 2019, revokes CVM Instruction no. 113 and CVM Instruction no. 276, and also amends and includes provisions in CVM Instruction no. 260, CVM Instruction no. 265, CVM Instruction no. 279, CVM Instruction no. 280, CVM Instruction no. 308, CVM Instruction no. 356, CVM Instruction no. 359, CVM Instruction no. 398, CVM Instruction no. 399, CVM Instruction no. 401, CVM Instruction no. 423, CVM Instruction no. 426, CVM Instruction no. 462, CVM Instruction no. 472, CVM Instruction no. 480, CVM Instruction no. 504/2011, CVM Instruction no. 510, CVM Instruction no. 521, CVM Instruction no. 555, CVM Instruction no. 558, CVM Instruction no. 560, CVM Instruction no. 578, CVM Instruction no. 588 and CVM Instruction no. 592.

Among the [main changes](#) in relation to the current regime of punitive fines are:

i) by virtue of article 7-A, which adds to CVM Instruction 555 an express provision stating that a request for registration of new investment fund should be denied if submitted by a manager that has, in other funds managed by them, delayed the submission of periodical information envisaged in the regulation for over sixty (60) days;

ii) in exceptional situations and upon substantiated request, the registration may be authorized by the Superintendency of Relations with Institutional Investors (SIN) in the events described in article 7-B, paragraph 1, I through III, added to Instruction 555, and the body should issue a statement within ten (10) business days (article 7-B, paragraph 2) when the manager has not met the deadlines for submission of periodical information (article 21).

29) Brazilian Central Bank - BACEN CIRCULAR No. 3946, OF 6/25/2019

The [Circular](#) establishes the charge of a proportional financial cost from financial institutions that fail to comply with the additional requirements for application

to rural credit, dealt with by Section 9 (Temporary Rules), Chapter 6 (Funds), of the Rural Credit Manual (MCR).

30) DECREE No. 9874, OF 6/27/2019

This [Decree](#) creates an inter-ministry workgroup called “National Contact Point for implementation of Organization Guidelines for Cooperation and Economic Development for Multinational Companies.”

This group will be composed of representatives of the Ministry of Economy, Ministry of Justice and Public Security, Ministry of Foreign Affairs, Ministry of Mines and Energy, Ministry of the Environment, Office of the Comptroller General, Ministry of Women, Family and Human Rights, and the Brazilian Central Bank and will be responsible for, among other attributions: promoting, implementing, raising awareness about and monitoring the guidelines of the Organization for Economic Co-operation and Development (OECD) for multinational companies; analyzing allegations of violation of these guidelines and issuing a report accepting or denying such allegations; cooperating with the countries’ National Contact Points in relation to the matters covered by OECD’s guidelines;

monitoring the OECD discussions on the implementation of guidelines and additional negotiations, etc.

31) DECREE No. 9865, OF 6/27/2019

Provides for the collective boards of the System for Protection of the Brazilian Nuclear Program, which aim to assist the Institutional Security Office of the Federal Government in permanently meeting the Program’s protection and security needs.

Among other measures, the [Decree](#) provides for the purposes, attributions and composition of the Commission for Coordination of Protection of the Brazilian Nuclear Program, the Committees for Planning of Response to Nuclear Emergency Situations in the Cities of Angra dos Reis and Resende, the Committee for Articulation of the Security and Logistics Areas of the System for Protection of the Brazilian Nuclear Program and the Committee for Planning of Response to Nuclear Physics Security Event in Angra dos Reis.

32) DECREE No. 9876, OF 6/27/2019

Provides for the National Council of Public Security and Social Defense, the Permanent Commission of the System for Monitoring and Assessment of Public Security and Social Defense Policies and the Management Council of the National System of Information on Public Security, Prisons, Traceability of Guns and Ammunition, Genetic Material, Fingerprints and Drugs.

This [Decree](#) amends Decree no. 9489, which regulates, in connection with the Federal Government, Law no. 13675/2018, establishing rules, structure, and procedures for enforcement of the National Policy on Public Security and Social Defense. Such Law, in turn, among other provisions, provides for the organization and operation of the bodies responsible for public security, creates the National Policy on Public Security and Social Defense and introduces the notorious Single Public Security System.

33) DECREE No. 9877, OF 6/27/2019

Amends Decree no. 8614, to provide for the Management Committee of the National Policy to Combat Theft and Robbery of Vehicles and Cargo.

According to the [Decree](#), the Committee is an advisory and decision-making body associated with the Ministry of Justice and Public Security, responsible for promoting the integrated work of bodies and entities in charge of preventing, monitoring and combating theft and robbery of vehicles and cargo.

34) DECREE No. 9882, OF 6/27/2019

Amends Decree no. 8573, of November 19, 2015, which provides for Consumidor.gov.br, an alternative system for resolution of consumption-related conflicts.

The [Decree](#) brings specific rules on the composition and operation of the Management Committee of Consumidor.gov.br.

35) DECREE No. 9889, OF 6/27/2019

This [Decree](#) provides for the Appeals Board of the National Financial System (CRSFN) and the Committee for Evaluation and Selection (CAS) of the CRSFN members (CAS-CRSFN).

The CRSFN will have eight members, with recognized technical skills and notorious and specialized expertise on the matters under their responsibility, subject to the following composition rules: (i) two members appointed by the Minister of Economy; (ii) one member appointed by the President of the Brazilian Central Bank; (iii) one member appointed by the Chairman of the Brazilian Securities and Exchange Commission; and (iv) four members appointed by entities representing the financial and stock markets.

The CAS-CRSFN will be responsible for, among other attributions, leading the process of selection of CRSFN members, monitoring and assessing the reports and performance indicators of the members' activities, issuing its opinion on the communication proposal to the Minister of Economy in regard to any situation that entails removal of members, and

presenting to the Minister of Economy proposals for change in the structure of CRSFN and selection criteria.

36) MINISTRY OF JUSTICE ADMINISTRATIVE RULE No. 16, OF 6/24/2019

Specifies, in compliance with item IV, article 39, of the Consumer Protection Code, that the following is abusive practice against consumers: (...) *“any activity of active marketing, commercial offer, proposal, advertisement targeted at specific beneficiary or any type of activity intended to convince an INSS beneficiary to sign personal loan and credit card agreements, with consignment payment against benefit, within one hundred and eighty (180) days from the date of the order on the benefit.”*

The [Administrative Rule](#) further establishes that the digital platform Consumidor.gov.br, along with all the bodies of SNDC, are channels for consumers to report the above-mentioned practice, and the offender will be subject to the procedures and sanctions envisaged in the Consumer Protection Code.

HEALTH

1) National Agency of Supplementary Health -ANS PROVIDES CORPORATE GOVERNANCE MANUAL

The National Agency of Supplementary Health (ANS), in compliance with [Normative Resolution no. 443/2019](#), which provides for the adoption of corporate governance practices by companies, has made available to companies the Manual of Corporate Governance for Purposes of Solvency.

The Manual brings guidance on the procedures to be followed while complying with periodical obligations, as well as requests for reduction of regulatory capital factors and risk-based models, as per requirements that will be valid as from 2023.

To access the Manual, click [here](#).

TAX

1) COURT OF JUSTICE OF RIO DE JANEIRO BANS COLLECTION OF ITCMD ON VGBL PRIVATE PENSION PLAN

The Special Body of the Court of Justice of Rio de Janeiro [has declared](#) unconstitutional the application of the Estate and Gift Tax (ITCMD) on the amounts of the private pension plan Free Life Benefit Generator (VGBL).

The judge reporting this case thinks that, as an insurance plan, the VGBL cannot be considered inheritance, under article 794 of the Civil Code. Therefore, the imposition of ITCMD on such insurance violates the Constitution. The imposition of such tax is envisaged in State Law no. 7174.

However, the judge finds that ITCMD should be levied on the Free Benefit Generating Plan (PGBL), given that the PGBL corresponds to long-term financial investment.

2) ANSWER TO NORMATIVE INQUIRY No. 168, OF 5/31/2019

SUBJECT: CONTRIBUTION TO THE SOCIAL INTEGRATION PROGRAM - PIS / PUBLIC SERVANT FUND - PASEP

SYNOPSIS: NON-CUMULATIVE. CREDITS. INPUTS. SERVICE OF ROAD CARGO TRANSPORTATION. EXPENSES WITH INSURANCE AND VEHICLE LICENSING.

Amounts paid to legal entities for cargo insurance (RCTR-c and RCF-DC), vehicle insurance for cargo transportation and vehicle security for cargo transportation (traceability/monitoring) can be deducted from credits generated due to the non-cumulative character of the contribution to PIS/Pasep, in the category of acquisition of inputs, as they meet the criteria of essentiality and relevance, brought by the Superior Court of Justice.

Amounts paid to legal entities for services of agents do not constitute inputs for purposes of use of credits related to the Contribution to PIS/Pasep, as they do not meet the criteria of relevance and essentiality.

Amounts paid to legal entities for acquisition and alteration of license plates can be considered inputs for the use of credits related to the Contribution to PIS/Pasep, as they are expenses that meet the criteria of essentiality and relevance, considering the necessity or importance of such item for the development of the economic activity carried out by the Inquirer.

ANSWER TO INQUIRY LINKED TO COSIT NORMATIVE OPINION No. 5, OF DECEMBER 17, 2018, PUBLISHED IN THE FEDERAL OFFICIAL JOURNAL OF DECEMBER 18, 2018.

LEGAL PROVISIONS: Law no. 10637, of 2002, article 3, II; Cosit/RFB Normative Opinion no. 5, of December 17, 2018.

3) ANSWER TO INQUIRY No. 188, OF 6/3/2019

SUBJECT: Accessory Obligations

E-FINANCEIRA. INSURANCE COMPANY. PERSONAL INSURANCE. MANDATORY.

Any insurance company authorized to structure and sell personal insurance plans, supervised by the Superintendence of Private Insurance and holding the information mentioned in article 5, item VI, of Brazilian Federal Revenue - RFB Normative Instruction no. 1571, of 2015, is required to submit ancillary information (e-Financeira), subject to the provisions of arts. 8 and 8-A.

LEGAL PROVISIONS: RFB Normative Instruction no. 1571, of 2015, art. 4, item II, and pars. 1 and 3, item VII, art. 5, item VI, and arts. 8 and 8-A.

INQUIRY ON PROVISIONS OF THE TAX LEGISLATION. INEFFECTIVENESS.

The inquiry is ineffective if it mentions a fact established in a normative act published prior to its presentation.

LEGAL PROVISIONS: Decree no. 70235, of March 6, 1972, art. 52, item V; RFB Normative Instruction no. 1396, of 2013, art. 18, item VII.

4) ANSWER TO INQUIRY No. 203, OF 6/24/2019

SUBJECT: Contribution to Social Security Financing — COFINS

SYNOPSIS: NON-CUMULATIVE. CREDITS. INPUTS. SERVICE OF ROAD CARGO TRANSPORTATION. EXPENSES WITH INSURANCE AND VEHICLE LICENSING.

Amounts paid to legal entities for cargo insurance (RCTR-C and RCF-DC), vehicle insurance for cargo transportation and vehicle security for cargo transportation (traceability/monitoring) can be deducted from credits generated due to the non-cumulative character of Cofins, in the category of acquisition of inputs, as they meet the criteria of essentiality and relevance, brought by the Superior Court of Justice.

Amounts paid to legal entities for services of agents do not constitute inputs for purposes of use of Cofins credits, as they do not meet the criteria of relevance and essentiality.

Amounts paid to legal entities for acquisition and alteration of license plates can be considered inputs for the use of Cofins credits, as they are expenses that meet the criteria of essentiality and relevance, considering the necessity or importance of such item for the development of the economic activity carried out by the Inquirer.

ANSWER TO INQUIRY LINKED TO COSIT NORMATIVE OPINION No. 5, OF DECEMBER 17, 2018, PUBLISHED IN THE FEDERAL OFFICIAL JOURNAL OF DECEMBER 18, 2018.

LEGAL PROVISIONS: Law no. 10833, of 2003, art. 3, II; Cosit/RFB Normative Opinion no. 5, of December 17, 2018.

5) LAW No. 13850, OF 6/25/2019

Among other provisions, [creates](#) the Court of Execution of Debt Instruments and Arbitration Conflicts in connection with the Federal District and the Territories.

In accordance with article 25-A, included in Law no. 11697, the court judge is responsible for processing and trying (i) execution of debt instruments, also when any of the legal entities mentioned in article 35 of the

Law are one of the parties, except for the jurisdiction of the Tax Execution Court of the Federal District; (ii) motion filed by the debtor, third party's motion to stay the execution, provisional remedies, incidental proceedings and procedural incidents related to execution of debt instruments; and (iii) actions pursuant to the Arbitration Law, except for bankruptcy issues within the jurisdiction of the Court of Bankruptcy, Court-Supervised Reorganization, Nonbusiness Bankruptcy and Corporate Litigation of the Federal District.

6) Administrative Board of Tax Appeals - CARF RULES THAT PIS/COFINS SHOULD NOT BE LEVIED ON ASSET-BACKED SECURITIES OF INSURERS

The 2nd Ordinary Panel of the 3rd Chamber of the 3rd Trial Session of the Administrative Board of Tax Appeals (CARF) has decided that revenues earned from asset-backed securities are not subject to PIS/Cofins. To access the decision, click [here](#).

Member José Renato Pereira de Deus had the prevailing opinion on this matter, according to which

“even if the investment in asset-backed securities is a legal imposition, financial revenues earned from such securities cannot be considered revenues typically earned from the activities of the corporate purpose, which are subject to Cofins. In the case of insurers, financial revenues from investments required by law are not included in the concept of revenue from sales.” To him, *“financial revenues should not be included in the tax base of Cofins paid by insurers and reinsurers, considering the declaration of unconstitutionality of article 3 of Law no. 9718/1998.”*

The Justice that reported this case, Corinto Oliveira Machado, who had a dissenting opinion, pointed out that the Superior Chamber of Tax Appeals had decided in two other cases that *“financial revenues are part of Cofins and PIS tax bases when they result from investments required under legal provisions.”*

7) CARF PROVIDES MANUAL FOR REVIEW OF INTERLOCUTORY APPEAL

The Administrative Board of Tax Appeals has made available for consultation the [Manual for Examination of Interlocutory Appeal](#), approved by [CARF Administrative Rule no. 27/2019](#).

The Manual provides for the review of interlocutory appeal and preparation of ruling, based on the events and assumptions envisaged in the Charter of CARF.

8) Federal Revenue Office - RFB NORMATIVE INSTRUCTION No. 1896, OF 6/27/2019

The [instruction](#) revokes item XLVIII of the head provision of article 1 of RFB Normative Instruction no. 1037/2010, excluding San Marino or dependencies with favorable taxation or privileged tax regimes.

9) RFB NORMATIVE INSTRUCTION No. 1897, OF 6/27/2019

[Amends](#) RFB Normative Instruction no. 1863, which provides for the National Register of Corporate Taxpayers (CNPJ), releasing from registration in the CNPJ establishments of religious organizations that have no administrative independence or do not manage any budget.



PARTNERS OF THE FIRM AND RESPECTIVE AREAS



Daniela Matos

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



João Marcelo dos Santos

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



Juliano Nicolau de Castro

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



Keila Manangão

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



Marco Antônio Bevilaqua

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



Roberto F. S. Malta Filho

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