

# INFORMATION REPORT

AUGUST 2019

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# INSURANCE AND OPEN SUPPLEMENTARY SOCIAL SECURITY

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## 1) NOTICE OF Private Insurance Superintendence - SUSEP PUBLIC INQUIRY No. 5/2019

On July 15, 2019, as previously decided, SUSEP Managing Board submitted to public inquiry [the draft of a Circular](#), which, if approved, will regulate how the open supplementary social security entities and insurers will grant financial assistance and will operate as correspondents.

According to the proposed regulation, financial assistance will be granted only to the owners of open supplementary social security plans or personal insurance plans structured within the financial regime of capitalization (art. 1, sole paragraph). It seems to us that there are no legal and practical reasons for this limitation.

Also, concerning innovations, it is the first time that minimum requirements are set for contracts yet to be entered, which will have to contain clauses, lists of documents, information, and rules provided in the draft of the Circular (art. 4).

Two new prohibitions will be added to those currently in effect for the financial assistance to be granted: i) grant financial assistance to the owners with 30% of their monthly gross income compromised (art. 5, item II); and ii) deduct from the amount of the financial assistance any amounts in favor of third parties, including purchase of debts of similar parties or financial institutions so that the amount agreed must

be fully deposited into a bank account of the principal (art. 5, item VI).

Concerning the second one, it does not seem that it makes sense from the technical viewpoint, especially because no similar restriction is imposed on the financial institutions.

The proposed regulation also provides that any harmful action or any action by omission or by commission against the law or any nonconstitutional rule concerning any conduct in the relationship with the client may subject the supervised entity to suspension or inclusion in the list of pending issues.

According to the final list, harmful action is the commercialization of financial assistance without the required products or upon contracting of non-compulsory products, and grave or repeated commercialization not in compliance the rules (art. 16, sole paragraph).

A period of thirty days as from the publication of the [Notice](#) was set for those interested to send comments and suggestions via a specific [e-mail](#) for this purpose using the standard table available on SUSEP [page](#).

## 2) NOTICE OF SUSEP PUBLIC INQUIRY No. 7/2019

On August 1, 2019, SUSEP Managing Board submitted to public inquiry the [draft](#) of a Circular to amend SUSEP Circular no. 510/2015, which provides for the registration of insurance, capitalization, social security brokers (individual or legal entity) and for the insurance, capitalization, and social security brokerage activities, among other provisions.

A period of fifteen days as from the publication of the Notice was set for those interested to send comments and suggestions via a specific [e-mail](#) for this purpose using the standard table available on [SUSEP page](#).



### 3) NOTICE OF SUSEP PUBLIC INQUIRY No. 8, OF 8/15/2019

It was published in DOU on 8/16/2019 the [Notice of Public Inquiry no. 8 of 8/15/2019](#). The [draft of a CNSP Resolution](#) lists the principles that must guide the relationship with clients and the use of the hidden client in the supervision activity of SUSEP. This measure, if implemented, would be the greatest intervention of SUSEP in the practices of sale of the insurance market in the last 30 years. Those interested may send comments and suggestions to [conduta.rj@susep.gov.br](mailto:conduta.rj@susep.gov.br), using the [specific standard table](#), within thirty days from the publication of the Notice.

### 4) NOTICE TO CREDITORS OF COMPANHIA MUTUAL DE SEGUROS: FINAL LIST OF CREDITORS

On August 9, 2019, SUSEP, through the liquidator of Companhia Mutual de Seguros - Being Liquidated, [communicated](#) that the List of Creditors of the company after all objections had been resolved by the internal specific body, became final on August 9 and is available at [www.mutualseguros.com.br](http://www.mutualseguros.com.br) as well as on the premises of the head office of the supervised entity.



## 5) NOTICE TO THE CREDITORS OF NOBRE SEGURADORA DO BRASIL S.A.

Published on August 15, 2019 in DOU by the Liquidator of Nobre Seguradora do Brasil S.A. - Being Liquidated Out of Court, the [notice](#) contains the List of Creditors of the company being liquidated and its Balance Sheet, both as at June 30, 2019. It is available at [www.nobre.com.br](http://www.nobre.com.br) as well as on the premises of the head office of the supervised entity.

## 6) Private Insurance Superintendence/Technical Board 1 - SUSEP/DIR1 No. 007, OF 8/5/2019

[Administrative Rule no. 7 of 8/5/2019](#) was published in DOU on 8/7/2019. The Administrative Rule grants authority to the General Coordinator of the Authorization and Settlement Coordination Office (CGRAL) to: (i) resolve on appeals against the decisions of the liquidator provided in article 24 of Law no. 6024, of 1974, and on the objections provided in article 26 of Law no. 6024, of 1974; and (ii) release assets and amounts compulsorily recorded as assets that secure the technical reserve of the entities being dissolved out of court and allow delegation of authority. This Administrative Rule is praiseworthy especially because it eliminates the bureaucracy of the processes of the institution.

7) Private Insurance  
Superintendence/Technical Board  
2/Conduct Monitoring  
Coordination Office -  
SUSEP/DIR2/CGCOM ELECTRONIC  
CIRCULAR LETTER No. 5, OF  
8/7/2019

On 8/7/2019, SUSEP published in DOU [Electronic Circular Letter no. 5 of 8/7/2019](#). The Letter informs that SUSEP will make available on its website a new version of the Product Electronic Registration System (named 'REP 2' in the document). The migration of the system took place in 8/19/2019, and the instructions are given in a Manual that took effect on the same date. According to the Letter, questions may be sent to the e-mail [duvidas.rep@susep.gov.br](mailto:duvidas.rep@susep.gov.br).

8) SUSEP CIRCULAR No. 592, OF  
8/26/2019

On 8/29/2019, SUSEP published [Circular no. 592, of 8/26/2019](#), which introduces the customization of insurance plans, whether plans with reduced effectiveness or intermittent effectiveness of the contract.

According to the document, the plans with reduced effectiveness comprise periods of months, days, hours, minutes, and other criteria that may be agreed, such as travels and parts of a travel itinerary. The coverage for intermittent period refers to discontinued periods established using interruption and resuming criteria or inclusion and exclusion of risk coverage.

The measure envisages adapting the insurance products to the real needs of the consumers, making the market more flexible and allowing the offer of customized products to the consumer.

## 9) SUSEP ISSUES CIRCULAR LETTER ABOUT USE OF PARTS IN PARTIAL LOSSES - AUTO INSURANCE

On 8/22/2019, SUSEP published [Electronic Circular Letter no. 1 of 2019](#) according to which nothing in the regulation prevents the use of new parts, whether original or not, domestic or imported. Also, nothing prevents the use of second-hand parts, provided that in accordance with Law no. 12977/2014. In any of these cases, SUSEP established that clear information about the components and the type of the part to be used for repair must be provided to the consumer both in the insurance proposal and the contractual condition.

## 10) SUSEP STATEMENT No. 222, OF AUGUST 2, 2019

Regulates the ruling administrative process of SUSEP, establishing the phases of this process. The [Statement](#) deals with the proposals for (i) Resolutions of the National Council of Private Insurance (CNSP) drafted by SUSEP, (ii) circulars, (iii) resolutions, and (iv) instructions.

This is a positive initiative because it indicates the procedures to be followed to produce rules, including public hearings, improving the governance of SUSEP. The Statement also applies to ongoing ruling administrative processes, using the actions already taken (article 22).

It also observes, to a great extent, Provisional Presidential Decree (MP) no. 881/2019 that institutes the Declaration of Rights of Economic Freedom, except for the study of regulatory impact, which is optional under the Declaration. This omission seems

to be undesirable and should be corrected in future rules.

## 11) SUSEP STATEMENT No. 223, OF 8/2/2019

[SUSEP Statement no. 223 of 8/2/2019](#) was published in DOU on 8/7/2019. It regulates the activities of the meetings of SUSEP Managing Board. The document addresses the general measures, activities, requests to see the record, resolutions for referral, and sets the formalities related to minutes. SUSEP's intent to regulate the format and jurisdiction of the meetings is laudable especially because the matter was given a transparent and organized treatment.

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## CLOSED SUPPLEMENTARY SOCIAL SECURITY

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### 1) Brazilian Actuary Institute - IBA PUBLIC INQUIRY No. 2 IBA RESOLUTION No. 5, OF 8/18/2019

Once [CPA Public Inquiry no. 2](#) ended on August 17, IBA, published on August 18, 2019 a [Resolution](#) approving CPA Actuarial Pronouncement no. 17/2019, based on the previous [Technical Pronouncement](#), and establishing the minimum specific procedures for independent actuarial audits. Such procedures must be followed by actuaries and technicians when auditing the entities supervised by SUSEP.



This rule refers to the development of independent actuarial audits and benefits audits of closed supplementary social security entities. These audits are not compulsory, but it is known that they are being increasingly carried out by pension funds to provide security to the commitments undertaken by the entities towards participants and beneficiaries.

## 2) PREVIC ADMINISTRATIVE RULE No. 86, OF 2/1/2019

Provides for the period for information to be sent for the duration of liabilities and pricing adjustment to be assessed as referred to in National Council of Private Social Security - CNPC Resolution no. 30, of October 10, 2018, and PREVIC/DC Instruction no. 10, of November 30, 2018, in regard to the results for the previous year and the actuarial assessment deriving from a relevant fact.

According to this [rule](#), the closed supplementary social security entity (EFPC) must use the Venturo System, published on PREVIC page, for the assessment and

send PREVIC the information until the deadlines set in item III, art. 2, of PREVIC/DC Instruction no. 10, of September 27, 2017.

## 3) PREVIC/DICOL INSTRUCTION No. 14, OF 7/17/2019

Published in DOU of July 23, 2019, this [PREVIC/DICOL Instruction](#), enacted by PREVIC Collective Board, extinguished the Mediation, Conciliation, and Arbitration Commission (CMCA) of the entity and revoked PREVIC Instruction no. 10/2014.

## 4) Social Security Office - SPREV NORMATIVE INSTRUCTIONS No. 1, 2, 3, 4, 5, 6, 7, 8, and 10

Published again in DOU by the Social Security Office of the Ministry of Economy on August 26, 2019, these normative instructions enacted in 2018 provide as follows:

- i) [SPREV Normative Instruction no. 1/2018](#): the structure and minimum elements of the base of the record of beneficiaries of the Regimes Proper to the Social Security (RPPS) to be used for the actuarial assessment of the regimes which must be sent to the Social Security Office of the Ministry of Economy.
- ii) [SPREV Normative Instruction no. 2/2018](#): duration of the liabilities and parameter interest rate to be used in the actuarial assessment of RPPS;
- iii) [SPREV Normative Instruction no. 3/2018](#): the structure and minimum elements of actuarial flows prepared in the annual actuarial assessments of RPPS, which must be sent to the Social Security Office of the Ministry of Economy;
- ii) [SPREV Normative Instruction no. 4/2018](#): financial methods to be used in the actuarial assessment of RPPS;
- v) [SPREV Normative Instruction no. 5/2018](#): the structure and minimum elements of the Actuarial Technical Note of RPPS which must be sent to the Social Security Office of the Ministry of Economy;
- vi) [SPREV Normative Instruction no. 6/2018](#), revoked by SEPRT/ME Normative Instruction no. 01/2019: criteria for the definition of the actuarial risk size and profile of RPPS for application of a differentiated regime of the actuarial parameters;
- vii) [SPREV Normative Instruction no. 7/2018](#): amortization plans of the actuarial deficit of RPPS;
- viii) [SPREV Normative Instruction no. 8/2018](#): the structure and minimum elements of the Actuarial Assessment Reports of RPPS that must be sent to the Social Security Office of the Ministry of Economy; and

x) [SPREV Normative Instruction no. 10/2018](#): demonstration that the RPPS funding plan is adequate for the budget, financial, and tax capacity of the federal entity.

Immediately after, [SPREV Normative Instruction no. 1/2019](#) was published in DOU setting the guidelines for the definition of the actuarial risk size and profile of RPPS for application of a differentiated regime of the actuarial parameters.

## 5) Supplementary Pension Plan Superintendence/Collective Board - PREVIC/DICOL ADMINISTRATIVE RULE No. 623, OF 7/17/2019

Considering Decree no. 9759/2019, which cancels and establishes guidelines, rules, and limitations for collective boards of the Federal Government, PREVIC collective board enacted [this Administrative Rule](#), published in DOU on July 23, 2019, to extinguish the collective boards within the concept addressed in art. 2 of Decree no. 9759 that has been set by PREVIC through an Administrative Rule.



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## FINANCIAL MARKET, CAPITAL MARKET AND OTHERS

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### 1) APPELLATE DECISION No. 1801/2019 OF THE FEDERAL ACCOUNTING COURT

The [full bench of the Federal Accounting Court \(TCU\)](#) in the session of July 31, 2019, examined the Monitoring Report related to provisions in TCU Appellate Decision no. 2609/2016, rendered in regard to an audit of SUSEP, to verify the conformity of the regulation and inspection of the costs that form the premium of the Compulsory Insurance against

Personal Injury caused by Land Vehicles (DPVAT), and rendered [TCU Appellate Decision no. 1801/2019](#).

According to the decision, in view the reasons listed by the Justice-Rapporteur, the Court decided that the measures adopted in regard to the recommendations contained in the mentioned Appellate Decision are insufficient, and recommended SUSEP to improve the supervision and inspection procedures and rules for the management of DPVAT, in order to:

i) include in the inspection of the Lead Insurer an audit to check the consistency of the data on payment for losses;

ii) set terms for the Managing Committee to express opinion on the value of the premium of the DPVAT for the following year;

iii) ensure, within its economic structure, that the unit in charge of the calculation of the DPVAT has qualified and trained staff to carry out this task;

iv) re-evaluate if the Lead Insurer should continue to serve on DPVAT Permanent Commission;

v) identify the administrative expenses to be funded by the consortium insurers with their own funds if the inspections carried out since 2008 found that they were not regular, and cancel these amounts at the margin of the results of the consortium;

vi) include in the scope of the independent audit the examination of expenses related to attorney's fees and other expenses with the hiring of law firms by the Lead Insurer;

vii) standardize the procedures to audit the consortium expenses with losses;

viii) check the implementation of the changes in the accounting rules that must be followed by the Lead Insurer concerning the DPVAT;

ix) assess the cost-benefit of the agreement between the Lead Insurer and the Post Office comparing its costs with other types of delivery services; and

x) inform CNSP that SUSEP keeps only 50% of the ideal staff working on Internal Audit.

## 2) Brazilian Actuary Institute -IBA SUBMITS TO PUBLIC INQUIRY THE DATA PROTECTION LAW

On 8/19/2019, IBA submitted to public inquiry a work developed by the Actuarial Pronouncement Committee (CPAO) concerning the Data Protection Law (LGPD) to set rules to be observed by the actuarial community. The work and the suggestion table are available on the IBA website: <https://www.atuarios.org.br/cpa---consulta-publica>.

### 3) Brazilian Association of the Financial and Stock Market Entities - ANBIMA - NEW CLASSIFICATION OF THE SOCIAL SECURITY FUNDS

A [new classification](#) was given to the open social security funds. The new model attributes three degrees to the risk factor in accordance with the other funds of CVM Instruction 555. The decision, which was evaluated by the National Federation of Social Security and Life (FENAOREVI), comes into effect on November 1, 2019.

Now, the institutions must adjust the category of each of their funds to the new model using to the table made available by the Association, via e-mail. The table must be returned to ANBIMA until September 15. Only funds instituted as from November 1 will be subject to the new classification.

### 4) Brazilian Central Bank - BACEN CIRCULAR No. 3956, OF 8/1/2019

This [Circular](#), published in DOU by the Collective Board of the Brazilian Central Bank on August 5, 2019, amends Circular no. 3598/2012, which establishes the use of the bank-issued invoice for payment and its types. It also provides for the issuance and submission of bank-issued invoices as well as the system for the clearance of the related transfers of funds.

### 5) BACEN CIRCULAR LETTER No. 3966, OF 7/31/2019

On 8/7/2019, BACEN published in DOU [Circular Letter no. 3966, of 6/31/2019](#). The Letter disseminate models of the documents necessary to support registration processes of database manager to receive information about payments, addressed in

Law no. 414, of June 9, 2011, from financial institutions and other institutions authorized to operate by BACEN, about cancellation of the registrations, communication about appointment or removal of the responsible director, and communication about changes in the control group, all in accordance with Circular no. 3955, of July 29, 2019.

The document informs that the models are available for download in the Manual of the Financial System Organization (SISORF) and may be accessed on BACEM Internet page [www.bcb.gov.br](http://www.bcb.gov.br). The Letter also determines that documents to support the processes must be registered with BACEN and sent to the Department of the Financial System Organization (DEORF).

## 6) BACEN CIRCULAR LETTER No. 3967, OF 8/2/2019

Published in DOU of August 5, 2019, BACEN Circular Letter no. 3967, issued by the Head of the Financial

System Monitoring Department (DESIG), sets procedures to send information about owners of units of investment funds, addressed in [Circular no. 3945/2019](#).

## 7) BACEN CIRCULAR LETTER No. 3968, OF 8/7/2019

On 8/28/2019, BACEN published [Circular Letter no. 3968, of 8/4/2019](#). The Letter, which was re-published in DOU on 8/8/2019 because of errors in the first publication, sets the rules for the formation of the standard identifiers of credit transactions addressed by Circular no. 3953, of July 10, 2019, as well as the schedule and other conditions for their implementation.

The Letter also defines the information that must be contained in the indicator and its order. In addition, it sets the rules for changes in the fields used to form the transaction identifier and provides for the event of generation of a new identifier. Finally, it amended



Appendix 26, to be effective as from the base date of November 2020.

This Circular Letter takes effect on the date of publication, however, subjects to the schedule set in art. 3 of Circular no. 3953, of June 10, 2019.

## 8) CMN RESOLUTION No. 4739, OF 8/19/2019

[CMN Resolution no. 4739, of 8/19/2019](#), was published in DOU on 8/28/2019. This Resolution amends Resolution no. 4676, of July 31, 2018, which provides for the allocation of the funds of savings deposits by the entities that are part of the Brazilian Savings and Loan System (SBPE).

It was revoked the item III of the head provision of art. 13, which determined that the transactions within the scope of the Financial Housing System (SFH) should observe, among others, the adjustment of the debit

balance, if provided under the agreement, according to the basic yield applicable to the savings deposits.

## 9) CVM RESOLUTION No. 610, OF 8/5/2019

[CVM Instruction no. 610/2019](#) amends [CVM Instruction no. 497/2011](#), which provides for the activities of the autonomous investment agent.

The main innovation relates to the denial of the registration of autonomous investment agents, suspension and cancellation of registrations as now such measures must be in line with previously defined procedures for the communication of the decisions of the accrediting entity and related effects, requiring an explanation of the reasons.

The instruction, however, regulates the development of appeals to the Superintendence of Relationship with the Market and Intermediaries (SMI), the criteria for suspensions and their initial date, bringing an end

to improvised measures that are not consistent with the relationship of the market and its intermediaries (arts. 8-A and 8-B).

Also, art. 17-A was included in CVM Instruction no. 497/2011, providing that the institution that is part of the distribution system will be responsible for the payments of periodical considerations arising from the registration of the autonomous investment agents, and prohibits the transfer of this responsibility to the autonomous investment agents.

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

## 10) CVM RESOLUTION No. 611, OF 8/15/2019

CVM issued [CVM Instruction no. 611](#) amending CVM Instruction no. 308/99, which provides for the registration and activities of independent auditors and defines the duties and responsibilities of managers of

the entities audited concerning their relationship with independent auditors.

According to the [Analysis Report](#) related to the SNC Public Hearing no. 04/2018, the new administrative rule, which amends articles 11, 25, 31, 31-A, 31-C of CVM Instruction no. 308/99, is intended to re-examine, given the prerogative of the rotation of the independent auditor in a period of 10 years, the requirement that establishes that the Audit Committee (CAE) must be set up in the fiscal year before the year in which the independent auditor is hired, especially because, it seems to CVM, that this rule discourages publicly held companies from adopting such Committee, since “[...] *even if it is set up and operating, the hired independent auditor will have to be replaced at the end of the fifth fiscal year.*”

From now on, the Audit Committee must be set up and operating until the date on which the third fiscal year ends as from the hiring of the independent auditor and must remain operating after that date and while the

prerogative is used (art. 31-A, par. 1, included by CVM Instruction no. 611).

The amendments and the changes in the language, which are in line with the claims of the regulated market expressed in public inquiries, improve the auditor's activities of supervision, assessment, and work documentation, help complying with the requirements related to the creation, formation, and operation of CAE as well as with the monitoring of the services of the independent auditors, therefore they mitigate potential conflicts of independence.

More information may be found [here](#).

## 11) DECREE No. 9927, OF 7/22/2019

The Presidency of Brazil published on July 22, 2019 [Decree no. 9927](#) providing for the Managing Committee of the National Network for the

Simplification of the Registration and Legalization of Companies and Businesses (CGSIM).

The new rules, which came into effect on the date of publication, in addition to setting up the committee, establish how it must be formed, define its permanent and appointed members, the exercise of voting rights, the quorum for resolutions and approvals, jurisdiction of sub-committees and workgroups, the assignments of the Chair, annual rotational of chair, and replacement of chair in case of absence or impediment.

## 12) DECREE No. 9929, OF 7/22/2019

The Presidency of Brazil published in DOU on July 23, 2019 [Decree no. 9929](#) providing for the National System of Information on Civil Registration (SIRC), whose purpose is to capture, process, file, and made available in a proper database the data related to birth, marriage, death, and stillbirth registrations of civil



registers. The Decree also provides for managing committee of the database.

According to the decree, the CGSirc Managing Committee is responsible for setting guidelines for the operation, management, and dissemination of the system and for monitoring the use of the data registered in the system.

### 13) DECREE No. 9950, OF 7/31/2019

Creates the Sponsorship Committee of the Communication System of the Federal Government. This committee will be an advisory body to assist the Special Social Communication Department of the Government Office of the Presidency of Brazil.

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

### 14) DECREE No. 9956, OF 8/6/2019

On 8/7/2019, the Presidency of Brazil published in DOU [Decree no. 9956, of 8/6/2019](#). In sum, the document amends Decree no. 9783, of May 7, 7, 2019, which approves the Regulation Structure and the Demonstration Table of Commissioned Positions and Positions of Trust of SUSEP.

It also redistributes the commissioned positions and the positions of trust, and determines that the holder of positions that no longer exist according to SUSEP Regulatory Structure are automatically dismissed or removed. This Decree takes effect on August 30, 2019 and is another step towards the restructuring of SUSEP.

### 15) DECREE No. 9957, OF 8/6/2019

On 8/7/2019, it was published in DOU the [Decree no. 9957, of 8/6/2019](#). This Decree regulates the procedure for the new procurement process for partnership contracts in the highway, railway, and airport sector addressed in Law no. 13448, of June 5,

2017, specifying the procedures for their implementations.

Currently, new procurements are regarded as an alternative to the Judiciary and its slowness. Once a contract is amicably terminated, the new procurement permits the execution of a new contract, preventing an interruption to the services or the termination of contracts for lapse. The measure is also intended to prevent losses to users and add security to the investments in those areas.

## 16) DECREE No. 9967, OF 8/8/2019

It was published in DOU on August 9, 2019 a Decree that promulgated the International Convention for the Suppression of Acts of Nuclear Terrorism, signed in New York on September 14, 2005, however any act that may result in revision of the Convention and additional adjustments that cause charges or burdensome commitments to the Brazilian public

property are subject to the approval of the Congress (Federal Constitution, art. 49, head provision).

## 17) DECREE No. 9977, OF 8/19/2019

On 8/20/2019, the President published in DOU [Decree no. 9977, of 8/19/2019](#). The Decree, which took effect on the date of publication, provides for the National Strategy of Investments and Impact Businesses and the Investments and Impact Businesses Committee.

## 18) DECREE No. 9986, OF 8/26/2019

Published on August 26, 2019 the [Decree no. 9986/2019](#) amending [Decree no. 9468/2018](#), which provides for the Public Transparency and Corruption Fight Board, which is now part of the structure of the Office of the Federal Controller General; the board

was created to discuss and suggest measures to improve and promote policies and strategies of the federal government.

The new rules are intended to accommodate provisions enacted before [MP no. 870/2019](#) has been converted into [Law no. 13844/2019](#) establishing the reorganization of the basic structure of the bodies of the Presidency and the Ministries.

Among other provisions, the Decree gives priority to half-yearly or extraordinary meetings held via video conference, reducing State costs.

## 19) Federal Accounting Council - CFC RESOLUTION No. 1575, OF 8/8/2019

[CFC Resolution no. 1575, of 8/8/2019](#) was published on 8/27/2019. This Resolution provides for the National Register of Independent Auditors of Legal

Entities (CNAI-PJ), among other provisions. Although the registration is not compulsory, the purpose of this measure is to recognize and foster the independent audit, especially the small and medium-size audit firms, aiming at free competition and a business environment favorable for this type of entrepreneurship.

## 20) Federal Controller Office - CGU JOINT ADMINISTRATIVE RULE No. 4, OF 8/9/2019

On 8/13/2019, CGU published in DOU [Joint Administrative Rule no. 4, of 8/9/2019](#). This Administrative Rule defines the procedures for the negotiation, execution, and monitoring of leniency agreements within the scope of CGU.

According to the document, leniency agreements may be signed with legal entities responsible for the wrongs provided in Law no. 12846/2013, Law no.

8429, of June 2, 1992, Law no. 8666, of June 21, 1993, and other rules on procurements and agreements.

In other words, it exempts legal entities from sanctions or mitigates sanctions to be applied to legal entities, provided that they effectively cooperate with the investigations and the administrative proceeding by identifying those involved and providing information and documents proving the wrongs under investigation.

CGU Administrative Rule also establishes the functions of the Anti-Corruption Department (SCC), the Board of Leniency Agreements (DAL), the commission in charge of the negotiations, and the participation of the General Counsel to the Federal Government (AGU).

The Administrative Rule, which took effect on the date of publication, applies to ongoing procedures provided that they are instituted based on articles 27 to 37 of CGU Administrative Rule no. 910, of April 7, 2015.

Additionally, AGU may sign the instrument of adhesion to the Memoranda of Understanding executed with the legal entities before the effectiveness date of the Administrative Rule of the Inter-Ministry CGU/AGU Administrative Rule no. 2278, of November 15, 2016, which was revoked.

## 21) Federal Controller Office - CGU NORMATIVE INSTRUCTION No. 13, OF 8/8/2019

On 8/12/2019, CGU published in DOU [Normative Instruction no. 13, of 8/8/2019](#). This Instruction, which amends CGU Administrative Rule no. 910, of April 7, 2015, set the procedures to be followed by the bodies and entities of the Federal Government to assess the administrative responsibility for injuries to the government, whether Brazilian or foreign, addressed by Law no. 12846/2013, the Anti-Corruption Law.



The instruction also addresses: (i) concerning the general conditions, the Instruction establishes jurisdiction to open, call up, and try Administrative Proceedings to Determine Responsibility (PAR); (ii) judgment of admissibility; (iii) support to the Preliminary Investigations (IP); (iv) a commission to analyze and try cases; (v) the legal entity's opportunity to be heard; (vi) production of evidence ; and (vii) a Final Report with well-reasoned conclusions as to the responsibility or not of the legal entity prosecuted.

Depending on the conclusion of the final report, the proceeding will be shelved or the legal entity will be punished. In the last case, the legal entity may be imposed (i) the sanctions provided in art. 6 of Law no. 12846, of 2013; (ii) a fine; (iii) the sanctions provided in Law no. 8666, of 1993, or in other rules on procurement or governmental contracts, if applicable.

The Prosecution Office and the Office of the General Counsel for the Federal Government will analyze if the imposition of responsibility is appropriate.

According to the Instruction, an appeal for reconsideration of the administrative decision, with supersedeas effect, is possible.

## 22) LAW No. 13864, OF 8/8/2019

[Law no. 13864/2019](#) was published in DOU on August 9, 2019, that amends the language of par. 1 of art. 26 of [Law no. 11775/2008](#), which, in turn, establishes measures to encourage the settlement or regularization of debts related to rural credit and land financing credit transactions.

## 23) LAW No. 13867, OF 8/26/2019

On 8/27/2019, [Law no. 13867, of 8/26/2019](#) was published. This Law amends Decree-Law no. 3365, of June 21, 1941, and establishes that mediation or arbitration are options to define indemnity in case of expropriations of public interest. The Law came into effect on the date of its publication.

## 24) Logistics Command of the Army - COLOG Administrative Rule No. 94, OF 8/16/2019

On 8/20/2019, [Administrative Rule no. 94-COLOG, of 8/16/2019](#) issued by the Logistics Command of the Army, which is tied to the Ministry of Defense, was published in DOU. The Administrative Rule, which will take effect sixty days after its publication, provides for activities performed with armored vehicles, ballistic armor, and the Control System of Armored Automotive Vehicles and Ballistic Armor (SICOVAB).

New rules were set for automotive armor, including civil vehicles, and the Certificate of Registration (CV) is no longer required. The Administrative Rule introduces several innovations, among them, authorization for civil vehicles to be armored against rifles, establishes that armored vehicles may be delivered only after the completion of all administrative procedures, and excludes provisions related to

sunroofs, among other issues related to manufacturers, armoring companies, and new configurations for official vehicles.

## 25) MINISTRY OF INFRASTRUCTURE ADMINISTRATIVE RULE No. 527, OF 8/5/2019

This [Administrative Rule](#) of the Ministry of Infrastructure, published in DOU of August 6, 2019, sets guidelines related to the international air services market, considering that the air services represent an economic and commercial instrument of great political and strategic importance for Brazil and its regional integration.

The rules laid down in the Administrative Rule are in line with the guidelines set in the National Civil Aviation Policy (PNAC), approved by [Decree no. 6780/2009](#).

## 26) MP No. 890, OF 8/1/2019

Institutes the Program *Médicos pelo Brasil* (Doctors throughout Brazil), dedicated to the basic health care assistance within the Unified Health System and authorizes the Executive to institute an autonomous social service named Agency for the Development of the Basic Health Assistance.

## 27) MP No. 891, OF 8/5/2019

On August 5, 2019, the President, considering that this matter is of relevance and urgent, issued this MP to operate as law, amending Law no. 8213/1991, which provides for the benefit plans of the Social Security, and Law no. 13846/2019 which introduces the Special Program for Analysis of Benefits with Indications of Irregularities, the Program for Revision of Benefits for Disability, the Bonus for Institutional Performance according to Analysis of Benefits with Indications of Irregularities in the Operating Monitoring of Benefits, and the Bonus for Institutional

Performance according to Medical Expert Evidence in Benefits for Disability.

## 28) MP No. 892, OF 8/5/2019

MP no. 892, published in DOU on August 6, 2019, amends Law no. 6404/1976 and Law no. 13043/2014 and provides for mandatory publications of companies.

Among other provisions, when dealing with the publications required under Law no. 6404/76, this MP changes art. 289 and its paragraphs substantially, simplifying and also reducing costs to the extent that the financial statements will be published only on the websites of the Securities and Exchange Commission of Brazil (CVM) and the entity that manages the market in which the company's securities are traded in addition to the websites of the companies, with digital certificate of authenticity. Publication on widely circulated newspapers is no longer required.



MP no. 892, of August 5, 2019, is good news to Brazilian entrepreneurs: the cost to keep the good standing of the corporations will be expressively reduced.

Until the enactment of this MP, the Law of Corporations required that all Minutes of Meetings of Shareholders, the calls for these Meetings, changes to articles of incorporations, financial statements, and resignations of managers, among other corporate acts, should be filed with the Registry of Commerce, published in widely circulated newspapers and the Federal Official Journal or Official Journal of the State where the Company's head office is located.

The cost of these publications could reach thousands of reais, depending on the chosen newspaper, which resulted in considerable expenses along the life of a Company.

The purpose of the Law of Corporations, published in 1976, was to guarantee democratic access to relevant information about the Company to all shareholders

and the market in general. The legislator of the 70s, however, could not predict that in 2019, the Internet would replace the printed newspapers as a means of information and, added to this, the publications, as described in the law, are expensive and of questionable usefulness.

MP no. 892 provides that the compulsory publications of publicly held companies will be made on the websites of CVM and the stock exchange where the securities are listed. Also, the Company will make the publications available on their websites. CVM may determine which of those publications will be filed with the Registry of Commerce.

Concerning closely held companies, the publication of their corporate acts will be regulated by the Ministry of Economy, but it is already known that they will be free of charge, as provided in the MP, and - we expect - will follow the same trend of simplification, less bureaucracy, and elimination of unnecessary costs.

Although MP no. 892 is an advancement to reduce the bureaucracy of the entrepreneurial activity in Brazil and produces effects since the date it was published, it is still to be analyzed and approved by the Congress to be definitively turned into law.

MP no. 892 took effect on the date of publication to produce effects on the first day of the month following the date of publication of the acts of CVM and the Ministry of Economy established in art. 289 of Law no. 6404/76.

## 29) MP No. 893, OF 8/19/2019

On 8/20/2019, [MP no. 893, of 8/19/2019](#) was published. It transforms the Council for Control of Financial Activities (COAF), an entity of the Ministry of Economy, into the Financial Intelligence Unit (UIF), now administratively linked to BACEN, reporting directly to BACEM Collective Board. The Ministry of Economy and the Ministry of Justice and Public

Security will administratively support the entity throughout the transition period.

Created by Law no. 69613/1998, within the ambit of the Ministry of Justice, COAF, as a financial intelligence entity, stood out, especially its activities to prevent and fight money laundering. Since the beginning of the term of the President, in 2019, there were many discussions about COAF. Its inclusion in the Ministry of Finance or even the Ministry of Justice was contemplated, but, eventually, it was transferred to the Ministry of Economy.

According to recent statements of the President, the entity was transferred to BACEN to prevent political favoritism.

## 30) MP OF ECONOMIC FREEDOM: MAIN CHANGES

In the session of August 21, 2019, the Senate [approved](#) Bill no. 21/2019, converting into law

[Provisional Presidential Decree - MP no. 881/2019](#) ("[MP of Economic Freedom](#)"), which was sent to the President for sanction.

Among other innovations, this MP (i) changes the rules on time card; (ii) exempts certain activities from the need to obtain permits or licenses; (iii) replaces the Digital Bookkeeping of Tax, Social Security and Labor Obligations (eSocial) with a simplified system that unifies the forwarding of data on workers and employers; (iv) authorizes the Labor Department of the Ministry of Economy to issue social-security cards via electronic means "preferably," establishing that the Individual Taxpayer ID - CPF will be the sole identification of workers; (v) establishes that the digital public documents will have the same legal and evidentiary value as the original documents.

We also highlight: (vi) the creation of regulatory abuse provision preventing the Government from intervening in the competition or exploitation of economic activities; (vii) rules for the restriction on disregarding of corporate entity and interventions in companies of the same group; (viii) possibility of defining an

interpretation, in an agreement, diverging from that provided in the law; (ix) possibility of the Committee of the Administrative Board of Tax Appeals (Carf) and Office of the General Counsel for the National Treasury (PGFN) enacting precedents to bind the normative acts of both; (x) rules for insolvency registration, regulation, and petitions regarding investment funds; (xi) extinguishment of the Sovereign Fund.

As [announced](#), in addition to the exclusions determined by the House of Representatives when approving the text, the Senate's approval was contingent on the exclusion of articles changing the rule on work on Sundays, allowing the weekly rest on other weekdays.

## 31) MUNICIPAL (SP) DECREE No. 58907, OF 8/9/2019

On 8/10/2019, it was published the [Decree no. 58907, of 8/9/2019](#), which regulates the sharing of electric

scooters through digital platforms on the streets of the City of São Paulo.

Among other provisions, the Decree limits the speed of the scooters to 20 km/h, prohibits their use by those under the age of 18, and provides for the responsibility of users and drivers for damages caused and for the objective responsibility of the companies called Micromobility Technology Operators (OTM).

It also determines that the Municipal Committee for the Use of Roads (CMUV) will set rules for the use of helmets, which must be made available at the scooter stations as well as determines that the Road System Operation Department (DSV) will set rules for the circulation of electric scooters owned by the driver or by third parties that were not rented through an OTM.

The rules set in the Decree took effect on the date of publication and the authorized operators will have a 60-day term to adjust to the new regulation.

## 32) National Destatization Council - CND RESOLUTION No. 63, of 8/21/2019

Published on 8/23/2019, [CND Resolution no. 63, of 8/21/2019](#): (i) regulates the simplified procedure for the disposal of shares or units of ownership representing minority interest and ownership interests exceeding the minimum necessary for the maintenance of the controlling interest as well as other securities deposited in the National Desestatization Fund (FND); (ii) defines the parameters to be observed by this procedure; and (iii) revokes CND Resolution no. 9, of October 25, 2011. This is another step towards speeding up privatization processes in general.



### 33) PPI RESOLUTION No. 62, OF 21.08.2019

On 8/21/2019 [Resolution no. 62](#) was published. It included the Brazilian Agency for the Management of Guarantee Funds and Guarantees S.A. - ABGF - in the National Privatization Program - PND.

This measure is not only adequate, but necessary, given the need to rationalize and reduce state intervention in the economy. It makes no sense for the state to compete with private initiative in activities in which there is no indication of greater state efficiency, on the contrary, as is the case with insurance and reinsurance.

### 34) Rural Insurance Managing Committee - CGSN RESOLUTION No. 68, OF 8/8/2019

On 8/13/2019, [Resolution no. 68, of 8/8/2019](#), was published in DOU by the Rural Insurance Managing Committee of the Ministry of Agriculture, Cattle Raising and Supply.

The Resolution amends items XIII, XIV, XV, and XXI of the Three-Year Rural Insurance Plan 2019-2021, contained in the appendix to Resolution no. 64, of November 9, 2018.

The annual amounts for the Agriculture Insurance Modality were reduced and, as a result, the maximum annual subsidies that may be granted to the producer were decreased as well.

The maximum amounts for the Farming, Forest, and Aquaculture modalities were kept. As to the rest, the

Percentage of Subsidies for Grains – Multi-risk Products were changed and the notion of Winter Grains and Summer Grains as groups of activities of the Agriculture Insurance Modality was added. The resolution will take effect on 1/1/2020.

### 35) STATE (SP) DECREE No. 64356, OF 7/31/2019

On 8/1/2019, São Paulo State Governor published in the Official Journal of the State of São Paulo [State Decree no. 64356, of 7/31/2019](#). This Decree provides for arbitration to resolve conflicts related to property right to between the direct Government Bodies and its autonomous agencies.

The document sets the fundamental criteria for arbitration within the sphere of the Government, establishes the jurisdiction of the State Prosecution Office to draft arbitration agreements, provides for the conditions to assign arbitrators, the publicity of the

arbitration, and the registration of Arbitration Chambers.

This Decree is a development of Law no. 9307/96, which after the introduction of the Arbitration Law, allows the Government Bodies to use Arbitration.

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## HEALTH

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### 1) Brazilian Antitrust Authority - CADE INSTITUTES PROCEEDING AGAINST MEDICAL COOPERATIVES OF BAHIA

As [announced](#) on 8/22/2019, CAE Superintendence (SG/CADE) opened administrative proceeding no. [08700.000694/2017-56](#) against 12 medical cooperatives of the State of Bahia.

The Cooperatives were charged with violations of the public order and anti-competition practices, and the investigation was requested by Central Nacional Unimed to the Prosecution Office of Bahia.

It seems that the request was based on supposed prices not consistent with the local reality. In addition,

a great number of specialist doctors were recruited under the condition that they would not work for other health care plan companies. As informed, the accreditation of these professionals was contingent on their agreement on appointments only, and they were prohibited from carrying out other medical procedures, encouraging the patients to take legal measures against the health care plans.

According to the report, after the evidentiary phase, the General Superintendence will render judgment against the cooperatives or order the case closed, sending it to the Administrative Court of the institution, which is responsible for the final decision.

### 2) Direct Action for Declaration of Unconstitutionality - ADI No. 4512 WAS DISMISSED ON 8/1/2019

The Federal Supreme Court - STF analyzed the issue of the legal and constitutional validity of rules enacted



by federal entities and, in a unanimous decision, dismissed [ADI no. 4512/MS](#), which had as object Mato Grosso do Sul State Law [nº. 3885/2010](#), which provides health care plan or insurance operators with the obligation to provide written proof in case of total or partial negation of medical, surgical or diagnostic procedure coverage, as well as as treatment and hospitalization.

The main ground of the decision was the existence of competing competences between the Union, states and municipalities with regard to the regulation of consumer relations, and it was understood that the application of such rules to contracts already concluded does not constitute real retroactivity.

The full appellate decision, published in DOU on August 1, 2019, may be checked [here](#).

### 3) National Agency of Supplementary Health - ANS - PUBLIC INQUIRY No. 72

It was opened an [Public Inquiry](#) with the intention to discuss the draft of a Normative Resolution on the regulatory process within ANS.

The [draft](#) consolidates in a single instrument the acts, phases, stages, and procedures for the regulatory agency to adopt measures and contemplates the Regulatory Impact Analysis (AIR), defined as “*the systematic analysis process based on evidence to assess, considering the definition of a regulatory issue, the possible impact of the alternatives of actions available to achieve the intended goals, aiming at guiding and basing decisions.*”

Suggestions may be sent using the electronic form that will be available on the ANS [page](#) until March 19.

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## TAX

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### 1) Federal Revenue Office - RFB NORMATIVE INSTRUCTION No. 1904, OF 7/31/2019

This [instruction](#) amends several aspects of the RFB Normative Instruction no. 1291, of November 19, 2012, and RFB Normative Instruction no. 1612, of January 26, 2016, which provide for the special customs regime of industrial bounded warehouses under computerized control.

### 2) RFB NORMATIVE INSTRUCTION No. 1905, OF 8/5/2019

On 8/7/2019, RFB published [Normative Instruction no. 1905, of 8/5/2019](#). This instruction, which took effect on the date of publication, makes minor changes to Art. 4, I, and the Sole Appendix, Section II. It also included a topic to define the term “participation” in Section VII of Normative Instruction no. 1680, of December 28, 2016, enacted by RFB as well, which provides for the identification of financial accounts in conformity with the Common Reporting Standard (CRS).

### 3) RFB NORMATIVE INSTRUCTION No. 1,906, OF 8/14/2019

[RFB Normative Instruction no. 1906](#), amending [RFB Normative Instruction no. 1787/2018](#), was issued on August 14, 2019. The document provides from the Statement of Federal Social Security Tax Liabilities of other entities and funds (DCTFWeb). The instruction added item III to par. 1 of Art. 13, which provides from situations in which DCTFWeb will be compulsory.

Therefore, the item, which previously established a firm date (October/2019), now reads as follows: “On a date to be determined in a specific rule for the taxpayers that do not fit the cases of compulsory submission provided in items I and II of this paragraph and in par. 3.”

Concerning the language of the new item, items I and II refer to entities of “Group 2 - Business Entities,” of Appendix V to RFB Normative Instruction no. 1634, of May 6, 2016, with gross sales in the calendar year 2016 above R\$ 78,000,000.00; and the other entities of “Group 2 - Business Entities,” of Appendix V to RFB Normative Instruction no. 1634, of 2016, with gross sales in the calendar year 2017 above R\$ 4,800,000.00.

## 4) RFB NORMATIVE INSTRUCTION No. 1,909, OF 8/26/2019

On 8/28/2019, [Normative Instruction no. 1909](#), of 8/26/2019, was published. It amends Art. 6 of RFB Normative Instruction no. 1902, of July 17, 2019, which provides for the submission of the Statement of Rural Real Estate Tax (DITR) for 2019. As amended, that article dispenses with the submission of the Rural Environmental Register (CAR) in some situations and maintains the obligation to produce evidence for DITR purpose only for the properties already enrolled in that Register.

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