

INFORMATION REPORT

OCTOBER 2019

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INSURANCE AND OPEN SUPPLEMENTARY SOCIAL SECURITY

1) National Council of Private Insurance - CNSP RESOLUTION No. 374, OF AUGUST 28, 2019 (RECTIFICATION)

[Rectifying](#) Art. 2 of CNSP Resolution, of 8/28/2019 on the Internal Regulation of the Private Insurance Superintendence - (SUSEP) now reads as follows:

“Art. 2 This Resolution takes effect on the date of publication, revoking CNSP Resolution no. 346, of 5/2/2017, SUSEP Administrative Rule no. 7361, of 5/21/2019, and SUSEP Administrative Rule no. 7371, of 5/29/2019.”

When it was first published, the article only mentioned the revocation of SUSEP Administrative Rule no. 7371/ 2019.

2) SUSEP CIRCULAR No. 592, OF AUGUST 26, 2019 (RECTIFICATION)

SUSEP Circular no. 592/2019 on the structuring of insurance plans with reduced effectiveness and/or intermittent effectiveness was re-published in the Federal Official Journal (D.O.U.) on 10/4/2019. It rectifies art.13 of that circular as transcribed below:

“Art. 13. Includes art. 9-A in SUSEP Circular no. 251, of April 15, 2004, which will read as follows:

“Art. 9-A. The policy, certificate, or endorsement will be issued within fifteen (15) days as from the proposal acceptance”. (New Wording)

The first publication mentioned the inclusion of article 9, and not article 9-A, in SUSEP Circular no. 251/2004.

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

3) CALLS FOR SUSEP PUBLIC INQUIRY No. 9, 10, AND 11, OF 9/30/2019

SUSEP Board submitted to public inquiry the [draft](#) of a National Council of Private Insurance - CNSP Resolution, [draft](#) of a Circular, and [draft](#) of a Call that establishes the rules applicable to the regulatory sandbox of SUSEP, which may be defined as a space for SUSEP's approval of innovative processes with little chances to be put into practice without a specific regulation.

The proposed drafts are part of a series of measures of the Government aiming to implement a new model of regulatory sandbox in Brazil in the insurance area, financial system, and in the stock market.

This measure is very positive, especially because, in the case of insurance, it limits the sandbox benefits to the insurers, and does not refer to initiatives of the incumbent insurers promoted without SUSEP's intervention, such as claim adjudication and subscription.

Draft In the insurance sector, the focus is placed on short-term mass products, excluding, among others, the segments of life, social security, reinsurance, great risks, and civil liability.

Comments and suggestions may be sent to SUSEP until 10/31/2019.

MISCELLANEOUS

1) LAW 13886, of OCTOBER 17, 2019

[This Law](#) amends Laws no. 7560, of 12/19/1986, no. 10826, of 12/22/2003, no. 11343, of 8/23/2006, no. 9503, of 9/23/1997 (Brazilian Traffic Code), no. 8745, of 12/9/1993, and no. 13756, of 12/12/2018; its purpose is to expedite the allocation of seized or sequestered goods connected with the drug traffic.

The National Anti-Drug Fund (FUNAD) will be responsible for allocating these goods, and the Fund will be managed by the National Department of Policies on Drugs (SENAD) of the Ministry of Justice and Public Security.

We point out the amendment to art. 25 of Law no. 10826, of 12/22/2003. According to new Law, in case of seizure of fire guns, after the police report has been issued and included in the record of the criminal

prosecution, if the guns are no longer of interest for the prosecution, the judge will send them to the Army Command within 48 hours to be destroyed or donated to the public security or the Armed Forces.

2) Provisional Presidential Decree - MP No. 899, OF 10/16/2019

This [MP](#) sets the requirements and conditions for the Federal Government and the debtors, or the adverse parties, to settle disputes.

The MP also provides for settlements in case of individual proposal or inclusion in the list of overdue tax liabilities, or in the cases of judicial or administrative tax disputes or low-value tax administrative disputes.

This is a positive measure intended to reduce, and it may in fact reduce, the number of judicial disputes involving the Federal Government.

3) DECREE No. 10044, OF OCTOBER 4, 2019

[Decree no. 10044](#) provides for the Foreign Trade Chamber and envisages the formulation, adoption, implementation, and coordination of policies and activities related to the foreign trade of goods and services, direct foreign investments, Brazilian investments abroad, and finance for exports to increase the productivity of the Brazilian economy and the international competitiveness of Brazil.

4) DECREE No. 10045, OF OCTOBER 4, 2019

This [Decree](#) provides for the qualification of the Fresh Produce Supply Center (Ceagesp) within the scope of the Investment Partnerships Program of the Presidency and its inclusion in the National Destatization Program.

The Decree also establishes that the Brazilian Bank of Economic and Social Development (BNDES) will be responsible for the actions necessary to destatize Ceagesp.

5) DECREE No. 10046, OF 10/9/2019

This Decree provides for the governance of data sharing in the federal administration and institutes the Base Record of the Citizen and the Central Committee of Data Governance.

The [Decree](#) sets rules and guidelines for the bodies or entities of the federal government, autonomous government agencies, and public foundations to share data with the Executive and Judicial Branches.

6) DECREE No. 10047, OF 10/9/2019

Provides for the governance of the National Record of Social Information (Cnis) and institutes the program Social Security and Information Observatory, within the scope of Cnis.

According to the [Decree](#), the objectives of the Observatory will be: (i) to promote the academic and scientific production of research and social studies based on the data of the Cnis; (ii) to encourage the dialog among of public managers, the academic community, and other actors involved in the promotion of social policies; (iii) to stimulate exchange of information among governmental and private entities or bodies involved in the promotion of social policies; (iv) to stimulate the governance and use of the statistical data of Cnis to base the formulation and evaluation of the social policies; (v) to help public entities and bodies in improving their actions; and (vi) to help with the improvement of the instruments to identify and prevent illegalities to fight frauds.

7) DECREE No. 10060, OF 10/14/2019

[Regulates](#) Law no. 6019/1974 on temporary work.

Law no. 6019/1974 had already been significantly amended by Law no. 13467/2017 (known as “ Labor Reform”), in particular, the so-called “outsourcing” (art. 4-A).

Decree no. 10060/2019 distinguishes services to third parties from temporary work, which it defines as “[work] *provided by an individual hired by a temporary work firm that makes that individual available to a client company to replace permanent staff temporarily or to meet additional demand for services.*”

8) DECREE No. 10066, OF 10/15/2019

Provides for the qualification of the Brazilian Post Office (ECT) within the scope of the Investment Partnership Program of the Presidency.

9) DECREE No. 10067, OF 10/15/2019

Provides for the qualification of Telecomunicações Brasileiras S.A. (Telebrás) within the scope of the Investment Partnership Program of the Presidency.

10) Federal Controller Office/General Counsel to the Federal Government - CGU/AGU ADMINISTRATIVE RULE No. 004, OF SEPTEMBER 23, 2019

Published on 10/3/2019 in the D.O.U., Administrative Rule no. 004, of 9/23/2019, set the procedures for negotiation, execution, and monitoring of leniency agreements addressed in Law no. 12846, of August 1, 2013, within the scope of the CGU and with the participation of the AGU.

11) AGU ADMINISTRATIVE RULE No. 3320, OF 10/9/2019

This Administrative Rule creates the Permanent Commission of Evaluation of Confidential Documents, which, among others, will (i) give opinion on information produced within the ambit of the CGU to

adjust the legal types of confidentiality and set adequate safeguarding procedures; (ii) assist the authority with the declassification, or re-classification, or revaluation of information with any level of confidentiality; (iii) provide inputs for the annual list of declassified information and documents classified at any level of confidentiality; (iv) provide CGU units with guidance on the procedures for classification of information, etc.

12) Investment Partnership Program Board - CPPI RESOLUTION No. 085, OF 10/10/2019

Published by the President's Chief of Staff and the Ministry of Economy, this Resolution aims at approving the Federal Government's execution of a memorandum of understanding setting guidelines on matters related to Ceagesp and its desestatization.

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

13) Company Registration and Integration Department - DREI NORMATIVE INSTRUCTION No. 67, OF SEPTEMBER 30, 2019

This Normative Instruction enacted by DREI's Board amends the Manual on Registration of Corporations, approved by DREI Normative Instruction no. 38, of 3/2/2017.

The Instruction took effect on the date of publication and produced effects from October 14, 2019. To access it, click [here](#).

14) Federal Justice Council - CIF RESOLUTION No. 587, OF 9/30/2019

This new [rule](#) of CIF provides for the allocation of values set in criminal prosecutions for payment of indemnity for damages caused to legal entities

governed by private law, forfeiture of goods, or proceeds of crime, values related to money laundering, non-claimed values, confiscations due to drug traffic or slave labor, or other forfeitures or confiscations, or indemnities for damages caused to individuals or legal entities governed by private law, within the scope of the Federal Courts.

15) Superior Labor Court/Higher Board of the Labor Courts/Disciplinary Board of the Labor Courts - TST/CSJT/CGJT Joint Act No. 1, OF 10/16/2019

Provides for insurance covering court deposit and bank guarantee to replace court deposits and secure execution of judgment in labor cases.

The act sets requirements and conditions that must be expressly provided in the clauses of the policy for the insurance to be accepted and determines that once accepted, the insurance covering court deposit may

be replaced only if it no longer satisfies the criteria set in the Joint Act.

To check the entire Act, click [here](#).

16) DIRECT ACTION FOR DECLARATION OF UNCONSTITUTIONALITY 3631 (9)

The Federal Supreme Court granted the claim in Direct Action for Declaration of Unconstitutionality no. 3631 (9) that questioned item XI of par. 1 of article 15 of Law no. 2.657/96 of the State of Rio de Janeiro, under which, concerning the sale of savage, the financial institution and the insurer are payers of the Tax on Circulation of Goods and Services.

Among other reasons, the National Finance System Confederation (Consif), which filed the action, argued that (i) the sale of savage is intended to recover the losses of insurers where the indemnity exceeds the damage caused; (ii) when paying the indemnity, the insurer receives an asset on which the ICMS had

already been applied; and (iii) the proceeds of the sale of salvage are not an index of economic capacity. For all these reasons, the provision would constitute a violation of articles 5, LIV, and 145, par. 1, of the Federal Constitution.

STF granted the case and unanimously decided that the words “and the insurer” in the article are unconstitutional, following the opinion of Justice-Rapporteur Marco Aurélio.

third parties, including to the public property, deriving from the use of individual mobility equipment.

The OTMs must also make available in the app offered to the user the coverages stipulated in the policy insurance and provide explanations about their civil liability.

17) RESOLUTION No. 22, OF OCTOBER 29, 2019

This resolution, enacted by the Municipal Committee for the Use of Roads of the Government of the City of São Paulo, [regulates](#) the accreditation of the Micromobility Technology Operators (OTM) to exploit services of sharing of electric scooters through digital platforms.

Among the conditions for the accreditation is the presentation of a copy of civil liability insurance policy covering damages to users and damages caused to

FINANCIAL MARKET, STOCK MARKET AND OTHERS

1) MP No. 897, OF 10/1/2019

This [MP](#) institutes the Fraternal Accommodation Fund to guarantee, secondarily, credit transactions between financial institutions and rural producers, including transactions resulting from the consolidation of debts; the MP also provides for the segregated equity of rural properties, the Rural Property Bond, the bookkeeping of credit instruments, and economic subsidies for cereal companies.

2) MP No. 900, OF 10/17/2019

Authorizes the Federal Government, through the Environment Ministry, to engage official financial institutions, without procurement, to create and manage private funds.

The purpose of this [MP](#) is the receipt of funds deriving from the conversion of the fine addressed in art. 72, par. 4, of Law 9605, of 2/12/1998, to be allocated to pay for services to preserve, improve, and recover the environment.

3) MINISTRY OF ECONOMY ADMINISTRATIVE RULE No. 562, OF 10/14/2019

Institutes a work group to promote studies oriented to the implementation of a single entity to manage the Proper Social Security Regime (RPPS) of the civil servants of the Federal Government.

The studies will cover (i) the definition of the structure and procedures of the entity of the Federal Government that will manage, grant, pay, and

maintain the retirement benefits due to the civil servants of the Federal Government and the death pension for their dependents; (ii) the definition of the procedures for financial compensation between the RPPS of the Federal Government and the other social security regime; and (iii) the definition of the procedures for the expert evaluation of the civil servants of the Federal Government and their dependents.

This is another step towards the broad reform that the Federal Government is carrying through the Brazilian social security system and that affects not only the general social security regime but also the RPPS applicable to tenured servants.

4) Central Bank of Brazil - BACEN CIRCULAR LETTER No. 3977, of 9/30/2019

This [Letter](#) specifies and clarifies operating aspects of the procedures set in Circular 3942, of May 21, 2019, for the implementation of the measures determined by Law no. 13810, of March 8, 2019, which provides for the enforcement of the sanctions imposed by resolutions of the United Nations Security Council, 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.

5) BACEN CIRCULAR LETTER No. 3980, of 10/22/2019

Discloses the procedures that the financial institutions and other institutions authorized to operate by BACEN will follow to inform and keep updated the references for the access to the catalog and the open data they own.

This is another measure to encourage competitiveness within the ambit of the National Financial System.

To access Letter no. 3.980/2019, click [here](#).

6) BACEN APPROVES FOUR CREDIT MANAGERS FOR THE POSITIVE RECORD

On 10/11/2019, D.O.U. published BACEN Board's approval of four credit bureaus that will act as managers of databases (GBDs) of the new positive record.

They are: Serasa, Gestora de Inteligência de Crédito (Quod), Boa Vista Serviços, and National Confederation of Store Managers (CNDLSPC Brasil).

BACEN expects that, with the positive record, the assessment of credit risk will be improved by the drop in the interest rate charged to good payers and a reduction in in defaults.

To access the news published in the newspaper O Estado de São Paulo, click [here](#).

7) Brazilian Securities and Exchange Commission - CVM INSTRUCTION No. 615, OF 10/2/2019

This [Instruction](#) amends or revokes provisions of CVM Instruction no.153, of 7/24/1991; no. 186, of 3/17/1992; no. 227, of 12/23/1994; no. 279, of 5/14/1998; no. 356, of 12/17/2001; no. 359, of 1/22/2002; no. 398, of 10/28/2003; no. 399, of 11/21/2003; no. 462, of 11/26/2007; no. 472, of 10/31/2008; no. 555, of 12/17/2014, and no. 578, of 8/30/2016.

In sum, the registration of regulations of investment funds with notaries public is no longer required.

Also, according to a CVM's note, Law 13874/19, which deals with the Economic Freedom, already establishes that the registration of the regulations with

CVM is enough to ensure their disclosure and, in case of effects on third parties, filing of opposition.

8) Brazilian Exchange and Securities Commission/Superintendence of Relations with the Market and Intermediaries - CVM/SIN OFFICIAL CIRCULAR LETTER No. 05/2019

[This Official Circular Letter](#) of CVM's SMI instructs intermediaries as to the practices to carry out in good faith, diligently, and carefully transactions that generate excessive costs and are not adequate to the profile of their clients. The intermediaries are recommended to set rules, procedures, and internal controls aiming at preventing conflict of interests that would harm the interests of their clients and identifying excessive costs.

The focus is to prevent *churning*, that is, the practice of a broker conducting excessive trading in a client's account mainly to generate commissions.

9) CVM/SMI OFFICIAL CIRCULAR LETTER No. 6/2019

This [Official Circular Letter](#) published by CVM's SMI provides that “*under art. 32, item IV, of CVM Instruction 505, the intermediaries must inform CVM of violations or indications of violation of any legislation in order for CVM to take the applicable measures within five (5) business days from the date of the violation or identification of the violation.*”

The communications are made through the Digital Protocol of documents, available on CVM website, for care of SMI.

10) CVM/SIN OFFICIAL CIRCULAR LETTER No. 12, OF 7/14/2017

This [Official Circular](#) published by CVM's SMI provides for the registration and updating of record data of regulations on investment funds with CVM and informs that CVM's systems for such purpose have been adjusted and no longer require the registration with notaries public as a condition for the registration or updating of the record data of regulations.

According to the document, the registration with notaries public of acts supporting and basing different versions of regulations is no longer required.

However, it is still required that such documents and regulations be filed with CVM, and they must be delivered, in the proper formats, through the electronic system made available by CVM for this purpose (CVMWeb).

11) CALL FOR Market Development Superintendence - SDM PUBLIC INQUIRY No. 7/2019

CVM submitted to public inquiry the [draft](#) of an instruction that fixes, in regard to the corporations' capital, the minimum percentages of ownership interest to file derivative action against the managers, as provided in par. 4 of art. 159 of Law no. 6404, of 1976, and to file action for damages against the controlling company, as provided in par. 1, "a," of art. 246 of Law no. 6404, of 1976, without giving guarantee, as provided in art. 291 of Law no. 6404, of 1976.

Suggestions and comments may be sent in writing until November 9, 2017 to the *Superintendência de Desenvolvimento de Mercado* [Market Development Superintendence], preferably via the e-address audpublicaSDM0719@cvm.gov.br or to Rua Sete de Setembro, 111, 23º andar, Rio de Janeiro – RJ, CEP 20050-901.

TAX

1) Brazilian Federal Revenue - RFB NORMATIVE INSTRUCTION No. 1911, OF 10/11/2019

Regulates the assessment, collection, inspection, and management of the Contribution to the Social Integration Program - PIS/Pasep, Contribution to the Social Security Funding - Cofins, Contribution to PIS/Pasep-Imports, and Contribution to Cofins-Imports.

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