

INFORMATION REPORT

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INSURANCE AND OPEN SUPPLEMENTARY SOCIAL SECURITY

1) DPVAT – EVENTS

Provisional Presidential Decree no. 904/2019 - End do DPVAT

Provisional Presidential Decree - MP of 11/12/2019, published on the same date, canceled the Compulsory Insurance against Personal Injury caused by Land Vehicles (“DPVAT”) and the Compulsory Insurance against Personal Injury caused by Ships or their Cargos (“DPEM”). The MP also establishes a set of transition rules for the management of the judicial actions and losses by the Lead Insurer and the Federal Government, which form their current liabilities.

Now, the expectation lies in the approval or not of the MP by the Brazilian Congress.

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

Direct Action for Declaration of Unconstitutionality. (ADI) 6262

After the enactment of the MP, the full bench of the Federal Supreme Court (STF), at the Virtual Trial, decided to stay, as a precautionary measure, the effects of ADI 6262.

For more information, access the [announcement](#) of the STF.

Federal attorney-general André Mendonça informed that he would not appeal the preliminary injunction of the STF. Access [the note](#) of the STF

In an opinion sent to the STF, the Private Insurance Superintendence (SUSEP) defended the lawfulness of the MP. See the [opinion](#).

In this regard, the Economic Policy Department (SPE) and SUSEP drafted an [information note](#) with their opinion on the DPVAT and the justifications for its elimination.

National Council of Private Insurance - CNSP Resolution No. 377, of 12/27/2019

Published in the Federal Official Journal - DOU of 12/30/2019, [CNSP Resolution no. 377 of 12/27/2019](#) introduced new rules for the formation of technical reserves relating to the DPVAT and revoked CNSP Resolution no. 153 of 12/8/2006.

CNSP Resolution No. 378, of 12/27/2019

CNSP, considering the STF's decision that terminated the DPVAT, decided, among other measures, to reduce the premium by 68% (cars) and revoke art. 46 of CNSP Resolution no. 332 of 12/2015. Click here to access the [Resolution](#).

Initially, the STF stayed the Resolution but reconsidered its decision so that the DPVAT premiums for 2020 have been effectively reduced.

SUSEP Circular No. 593, of 11/25/2019

[SUSEP Circular no.593](#) revoked art. 2, par. 2, of SUSEP Circular no. 574/2018 on the nature and essential characteristics of the expenses that will be funded by the

revenue derived from the DPVAT. The new rule restricts, even more, the possibility of such expenses being incurred.

SUSEP Circulars No. 595 and 596, of 12/30/2019 and 1/17/2020

Published in the DOU on 12/31/2019 and 1/17/2020, respectively, [SUSEP Circular no. 595](#) and [SUSEP Circular no. 596](#), set new accounting standards for the DPVAT.

Call for SUSEP Public Inquiry no. 13, of 11/25/2019

SUSEP Board decided to submit to public inquiry the draft of a [Circular](#) to amend SUSEP Circular no. 517, of July 30, 2015, specifically the accounting record of DPVAT operations by the Consortium members.

2) NEW LEGAL REGIME FOR INSURANCE BROKERS

[Provisional Presidential Decree - MP no. 905](#), published in the DOU of 11/12/2019, instituted the Green and Yellow Portfolio, a simplified regime for hiring employees, and

deregulated a set of professions, among them, the actuary and insurance broker professions.

Concerning the insurance brokers, Law no. 4594/1964 was revoked and the registration with SUSEP (as well as any possibility of the brokers being subject to any kind of monitoring by SUSEP and regulation established by CNSP and SUSEP) is no longer required.

Definitively, the broker is no longer the sole intermediary in the insurance sales authorized by law (before, the agent was also an intermediary, although this occupation was not regulated by SUSEP), and may be subject to a self-regulation entity.

According to this new Measure, the following employment bonds will be disregarded: apprentices, probation agreements, intermittent work, and occasional work.

The hiring of workers under a Green and Yellow Agreement will be used only for new jobs, and its reference will be the average of the total number of employees on the payroll between January 1 and October 31, 201; the Agreement will be executed for a definite term, not exceeding 24 months, at the employer's discretion.

SUSEP Electronic Circular Letter No. 003, of 11/14/2019,

In recognizing the non-mandatory and non-exclusive nature of the self-regulation and any specific self-regulatory entity, SUSEP recognized that IBRACOR is the self-regulatory entity of the insurance brokers. Check the [Letter](#).

SUSEP Electronic Circular Letter No. 004, of 11/27/2019,

In response to questions about the new criteria for the qualification of the insurance brokers, SUSEP published this circular letter informing that *“it is making every endeavor to negotiate with the insurance market actors that it continues to supervise – especially the insurance and the self-regulatory companies accredited by SUSEP – to promote technical improvement, and, to the possible extent, require minimal technical qualifications of the insurance professionals.”* Check the [Letter](#).

IBRACOR Resolutions No. 001 and 002, of 11/28/2019

IBRACOR, the sole self-regulatory insurance brokerage entity authorized by SUSEP, issued two resolutions to set the criteria, maintenance rules, and conditions for the

registration of insurance, capitalization, and social security brokers.

[Resolution 001/2019](#) provides for the activity of insurance brokers and personal insurance, capitalization, open supplementary social security brokers, including agents, within the scope of the self-regulatory entity.

[Resolution no. 002/2019](#) provides for the registration of insurance brokers and personal insurance, capitalization, open supplementary social security brokers, whether individuals or legal entities, including agents, also within the scope of IBRACOR.

3) SUSEP PUBLIC INQUIRY TO SEGMENT THE INSURANCE MARKET

SUSEP intends to segment the companies of the sector according to their size and risk profile. SUSEP intends to segment the companies of the sector according to their

size and risk profile, as the Central Bank did with the financial institutions.

The matter was submitted to a public inquiry from 12/11/2019. At first, the purpose is to establish the segmentation. In the second stage, regulatory obligations will be defined for each of the four groups it intends to define.

4) DECISION OF THE COURTS (Superior Labor Court - TST)

The TST ruled that the term of effectiveness does not cancel the effectiveness of the bank surety insurance. Accordingly, the court ruled that the appeal bond filed by J. Malucelli/C.R. Almeida Consortium in the form of bank surety insurance was valid. According to the TST, the guarantee is effective, although the insurance policy has a term of validity.

In the case in question, Justice Delaíde Miranda Arantes, who reported the case, pointed out that, according to

article 835 of the Code of Civil Procedure (CPC), the bank surety insurance as a guarantee for execution is effective. Based on this provision, TST has been recognizing that rejecting an offer of surety insurance violates the debtor's liquidated right to an execution processed in a less onerous manner.

Thus, the Court, by unanimous decision, granted the Appeal, disregarding failure to pay appeal bond, and sent the case to the Regional Court for the company's Ordinary Appeal to be entertained.

The number of the case is RR 285-10.2017.5.23.0041 and the link to access it is available at [news](#).

5) TECHNICAL COOPERATION AGREEMENT BETWEEN SUSEP AND THE NATIONAL CONSUMER DEPARTMENT - SENACON

The purpose of this [Agreement](#) is technical cooperation and to promote the insurance market's adhesion to the platform "Consumidor.gov.br."

In sum, the access to the platform allows to monitor, collectively, the consumers' complaints and information, the companies' answers, and the resolution level.

6) DECREE No. 10167, OF 12/10/2019

[Decree no. 10167, of 12/10/2019](#), establishes the maximum limit of cession to occasional reinsurers addressed in par. 1 of art. 8 of Supplementary Law no. 126, of January 15, 2007.

The Brazilian insurers and the local reinsurers may cede to non-occasional reinsurers 95% of the total amount, respectively, of the premiums ceded and the premiums issued, in all cases "calculated based on the totality of their operations in each civil year.

This is a relevant change to the rules, which makes the registration of admitted reinsurers interesting only for companies domiciled in tax havens.

7) NORMATIVE RESOLUTION - RN No. 446, OF NOVEMBER 1, 2019

This [Resolution](#) amends RN no. 435, of November 2018, which regulates the Standard Accounts Plan of the National Agency of Supplementary Health - ANS for the health assistance plan companies.

The appendix, mentioned above in the provision, may be checked on the ANS website: www.ans.gov.br

8) National Monetary Council - CMN RESOLUTION No. 4769, of 12/19/2019

[CMN Resolution no. 4769/2019](#) (published in the DOU of 12/23/2019) amended the Regulation attached to Resolution no. 4444/2015, which regulates the investments of the entities supervised by SUSEP.

The new rule envisages to guarantee regulatory simplification, improve the risk management and investment policy, and allow insurers, open supplementary social security entities, and other regulated entities to diversify their investments.

The highlights are the rise of the limit for investments of the type "Investments Subject to Exchange Rate Change," establishment of objective criteria for investments in derivatives, and incorporation of the advancements introduced in the regulation of the Equity Funds (FIP).

For more information, access [the note](#) of the Ministry of Economy.

9) SUSEP STATEMENT No. 230, OF NOVEMBER 12, 2019

This Statement deals with Electronic Petitions within the scope of SUSEP and establishes specific procedures for the management of documents of the electronic proceedings.

This is an important step to reduce bureaucracy and modernize SUSEP's activities and its relations with the supervised companies and the society in general.

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

10) SUSEP STATEMENT No. 231, OF NOVEMBER 12, 2019

This [Statement](#) regulate the administrative procedure to propose a special regime for companies supervised by SUSEP.

In practice, it organizes the procedures that, in general, SUSEP has already adopted.

At any rate, the regulation not only aggregates some new elements but also brings transparency and certainty to SUSEP and the supervised market.

11) CALL FOR SUSEP PUBLIC INQUIRY No. 12, NEW AMENDMENTS TO CNSP RESOLUTION No. 168/2007.

SUSEP submitted to public inquiry (until 11/22/2019), through [Call no. 12/2019](#), the draft of a rule that amends CNSP Resolution no. 168/2007 on reinsurance and retrocession transactions and respective mediations.

In general, the amendments eliminate rules that had not been regulated by SUSEP.

Among such proposed amendments is the elimination of the rules that require information to SUSEP about intragroup reinsurance transactions and additional consultation with local reinsurers if the initial proposal is refused, and establish a restriction on reinsurance transactions related life insurance covering survival and supplementary social security by foreign reinsurers.

The proposed rule revokes the sole paragraph of art. 17, which will make it impossible for foreign reinsurers to participate in the retention of risks of life insurance covering survival or pension plans even if sold jointly with personal insurance with other coverages. It also revokes Chapter VI of the rule, which deals with guarantees and reserves in reinsurance and retrocession transactions, and makes specific changes in articles 44, 2, par 1, as well as includes par. 3 in art. 2. All these changes were addressed in the Previous Call for Inquiry (Jun/2019), but now they are consolidated.

12) SUSEP PUBLIC INQUIRY TO SEGMENT THE INSURANCE MARKET

On December 11, 2019, SUSEP submitted to public inquiry the draft of a CNSP Resolution that deals with the segmentation of the supervised entities according to their size and risk profile to define the supervision procedures to be followed by SUSEP.

For the application of the solvency regulation (prudential), SUSEP proposed a classification of the supervised entities into four segments (S1, S2, S3, and S4), considering, among other requirements, the volume of premiums and the technical reserves.

This rule seems interesting as it will probably result in a better organization of the supervision. However, some aspects should be reviewed or, at least, deserve different rules; one example is that prudential groups may be upgraded in the classification only because they include a local reinsurer.

13) CALL FOR SUSEP PUBLIC INQUIRY No. 16, OF 12/27/2019

SUSEP Board submitted to public inquiry a new draft of CNSP Resolution on the registration of insurance, open supplementary social security, capitalization, and reinsurance transactions. SUSEP made available the [draft](#)

[of the Resolution](#) and the table for suggestions and comments at

The new draft, compared to the previous one ([click here to see our comments](#)), has the same structural problem of imposing the registration of reinsurance and mass transactions, which makes no sense due to the complexity and quantity, respectively.

14) CALL FOR SUSEP PUBLIC INQUIRY No. 17, OF 12/27/2019

SUSEP submitted to public inquiry the [draft of a Circular](#) that sets the procedures to accredit registration entities and ratify registration systems, among others. The draft and the table for suggestions and comments were made available. The [Call](#) was published in the DOU of 12/30/2019, and the period for suggestions ended on 1/31/2020.

15) CALL FOR SUSEP PUBLIC INQUIRY No. 18, OF 12/27/2019

SUSEP submitted to public inquiry the [draft of a Circular](#) that provides for the information content of the mandatory registrations of performance bonds, among others. The [draft of the Circular](#) and the table for suggestions and comments were made available. The [Call](#) was published in the DOU of 12/30/2019, and the period for suggestions ended on 1/31/2020.

CLOSED SUPPLEMENTARY SOCIAL SECURITY

1) 37) Supplementary Social Security Superintendence - PREVIC INSTRUCTION No. 019, OF 12/11/2019

[PREVIC Instruction no. 019](#) of 12/11/2019, published in the DOU of 12/17/2019, amended the following articles of PREVIC Instruction no. 03/2010:

"Art. 3 [...] III - the committed party has not failed to perform the Consent Decree -TAC in the past five (5) years . (New Wording)"

"Art. 10 [...] Par. 3 The amounts provided in the head provision will be payable by each committed party to the TAC. (New Wording)"

Previously, item III of art. 3 provided that no TAC could be executed if another TAC on the same offense had been executed in the previous five years. Par. 3 of art. 10, in turn, was an amendment to the rule and was not preexistent.

2) PREVIC ADMINISTRATIVE RULE No. 1081, OF 12/12/2019

[PREVIC Administrative Rule no. 1081](#) of 12/12/2019, published in the DOU of 12/17/2019, updated the amounts of the administrative fines provided in Decree no. 4942/2003.

The fines, formerly ranging from R\$ 2,000,00 to R\$ 1,000,000.00, now range from R\$ 6,240.32 to R\$ 3,120,150.50.

3) PREVIC ADMINISTRATIVE RULE No. 1082, OF 12/12/2019

[PREVIC Administrative Rule no. 1082](#) of 12/12/2019 published in the DOU of 12/17/2019, updated the minimum and maximum fines for noncompliance or partial noncompliance with a TAC, addressed in the head provision of art. 10 of MPS/PREVIC Administrative Rule no. 03 of June 29, 2010.

The minimum and maximum amounts of R\$ 20,000.00 and R\$ 5,000,000.00 were adjusted to R\$ 33,589.71 and R\$ 8,397,425.48.

MISCELLANEOUS

1) CONSTITUTIONAL AMENDMENT No. 103, OF NOVEMBER 12, 2019

This [Amendment](#) provides for the so-called “Social Security Reform” that changes the social security system and sets transition rules and temporary provisions.

The Reform was extensively discussed and resisted by certain sectors of the society.

However, it was necessary because of the increasing burden of the expenses with the social security supported

by the Government despite the fact that the Brazilian population is relatively young.

2) CONSTITUTIONAL AMENDMENT No. 105, OF 12/12/2019

[Constitutional Amendment no. 105](#) of 12/12/2019, adds art. 166-A to the Federal Constitution, which authorizes the transfer of federal funds to the States, the Federal District, and the Municipalities upon amendments to the annual budget bill.

According to the Amendment, these transfers do not require an agreement. There are two types of transfers: special transfer, when the representative forward funds to the government or city government without a specific allocation, and transfer with a defined purpose when the funds are used for a certain purpose.

According to Constitutional Amendment 105/2019, 70% of the special transfers must be directed to investments, and

30% to funding. Special transfers can not be used to pay expenses with personnel (salaries, retirements, and pensions) or charges relating to the service of public debt. It also provides that 60% of the special transfers in the first year of the effectiveness of the constitutional amendment must be made until June.

The Federal Accounting Court (TCU) will be responsible for controlling the transfers.

3) SUPPLEMENTARY LAW No. 169, OF 12/2/2019

[Supplementary Law no. 169](#) of 12/2/2019 amends Supplementary Law no. 123, of December 14, 2006 (Simples Nacional Law), and authorizes the organization of joint guarantee companies and counter-guarantee companies.

In this type of company, the guarantee to a member is given by the receipt of compensation for services performed and the member is required to give a counter-

guarantee according to obligations previously set in an agreement executed by the member. Small and micro-businesses, as well as investors, may be members and all may freely negotiate the units among them provided that subject to a limit corresponding to the maximum interest that each member may hold.

This is another measure that envisages improving the Brazilian business environment.

4) LAW No. 13877, OF 9/27/2017

Published in the DOU of 12/13/2019, [Law no. 13877 of 9/27/2019](#) amends several rules on elections and operation of political parties. The changes will be applied to the 2010 Municipal election as they were sanctioned within the legal period of one year before the next election.

The greatest change is that the political parties may receive donation via their websites through platforms that allow the use of credit cards and debit cards, on-line issuance of bank-issued invoices, or charges to account.,

In addition, the parties may use funds of the Parties' Fund to buy or rent personal property and real property and to build head offices.

The Law also provides that the registration of political parties may be applied to the Civil Register of Legal Entities of the place where their head offices are located; instead of the Register in Brasília.

[Read more.](#)

5) LAW No. 13903, OF NOVEMBER 1, 2017

This [Law](#), published in the DOU of November 20, 2019, authorizes the creation of the government corporation NAV Brasil Serviços de Navegação Aérea S.A. ("NAV Brasil") and amends Laws no. 7783, of July 28, 1989, and 6009, of December 26, 1973.

Under this Law, the Executive Branch is authorized to create, given the partial spin-off of Empresa Brasileira de Infraestrutura Aeroportuária ("Infraero"), NAV Brasil

Serviços de Navegação Aérea S.A. ("NAV Brasil"), a government corporation governed by private law and with its own property, linked to the Ministry of Defense through the Air Force Command.

6) LAW No. 13931, OF 12/10/2019

[Law no. 13931](#), of 12/10/2019, amends Law no. 10778, of November 24, 2003, and provides for compulsory notification of supposed violence against women. The cases treated at public and private health centers that indicate or confirm violence against women must be compulsorily informed to the police authority within twenty-four (24) hours for measures to be taken and for statistical purposes.

7) LAW No. 13932, OF 12/11/2019

[Law no. 13932](#), of 12/11/2019, amends Supplementary Law no. 26, of September 11, 1975, and Laws no. 8036, of May 11, 1990, no. 8019, of April 11, 1990, and no. 10150, of December 21, 2000; it instituted the birth- drawing from the Unemployment Savings Fund (FGTS) and ensures the economic and financial balance of such Fund.

It also provides for the operation of accounts of the Social Integration Program (PIS) and the Program for Formation of Property of Civil Servants (Pasep) and the return of funds to the Workers' Support Fund (FAT); it also amends provisions on debts of the Salary Variation Compensation Fund (FCVS) and cancels the collection of the 10% contribution payable by employers in case of dismissal for cause.

8) LAW No. 13934, OF 12/11/2019

[Law no. 13.34](#), of 12/11/201, regulates the agreement referred to in par. 8 of art. 37 of the Federal Constitution, named "performance agreement," within the scope of the

direct federal administration of all Branches and the autonomous government agency and federal foundations.

Under the legislation, the performance agreement is executed between the supervising body or entity and the supervised body or entity that sets the performance goals of the supervised entity, and the deadline for their accomplishment, and quality indicators; the consideration is the grant of more flexible conditions or special autonomies.

9) LAW No. 13966, OF 12/26/2019

Published in the DOU of 12/27/2019, [Law no. 13966 of 12/26/2019](#) provides for the business franchise system, whereby a franchisor, under an agreement, authorizes the franchisee to use marks and other items protected by intellectual property, always associated with the right of exclusive or non-exclusive production or distribution and also the right to use methods and systems for the implementation and management of a business or

operating system developed or held by the franchisor; the consideration is direct or indirect compensation that does not establish a consumer relation nor employment relationship with the franchisee or its employees, even during the training period.

One of the major innovations introduced by this rule is that the parties may freely elect the courts to settle controversies in the case of international franchises.

Law no. 12966/2019, which takes effect 90 days after its publication, also revokes Law no. 8955, known as the Franchise Law.

10) Congress Overrides Vetoes on the Law that Creates the Brazilian Data Protection Authority - ANPD

[Law no.13.53](#), enacted on 7/8/2019 and published in the DOU on 12/20/2019, amended Law no. 13709/2018, and provides for personal data protection and the creation of

the ANPD. The President had vetoed these provisions, but the Brazilian Congress overrode the vetoes.

Among the provisions that were reintroduced in the law are three new types of penalties, which now come to nine, that may be imposed on the agents responsible for the data protection. Besides, now the penalties may be applied to government entities and bodies without prejudice to other laws.

11) Provisional Presidential Decree - MP No. 910, OF 12/10/2019

[Provisional Presidential Decree no. 910, of 12/10/2019](#), amends Law no. 11952, of June 25, 2009, which provides for the legitimization of occupancies of the federal government lands, Law no. 8666, of June 21, 1993, which sets rules for procurements and government contracts, and Law no. 6015, of December 31, 1973, which deals with public registrations.

This MP simplifies and expedites the legitimization process of the federal government lands. It will benefit thousands of family farmers and rural producers that prove peaceful occupancy and possession of the land on a date prior to May 5, 2014. Under the MP, the validation of the deed requires compliance with environmental legislation. The area to be legitimized cannot be the subject of an environment notification or environmental sanction.

12) DECREE No. 10088, OF NOVEMBER 5, 2019

This [Decree](#) consolidates, in the appendices thereto, the ruling acts of the Executive Branch that provide for the enactment of ILO agreements and recommendations ratified by the Federative Republic of Brazil. The Decree also revokes many other acts.

All Appendices are contained in the Decree, listed according to the chronological order of enactment.

13) DECREE No. 10139, OF 11/28/2019

[Decree no. 10139](#) of 11/28/2019, published in the DOU of 11/29/2019, provides for the revision and consolidation of infralegal regulations.

From the date of effectiveness of the Decree, all infralegal regulations must be enacted in the form of administrative rule, resolution, or normative instruction; other titles will be possible only if required by law.

14) DECREE No. 10153, OF 12/3/2019

[Decree no. 10153, of 12/3/2019](#), provides for the protection of the identity of informers of wrongs and unlawful acts committed against the direct and indirect federal administrations and amends Decree no. 9492, of September 5, 2018.

The Decree regulates the treatment of personal information related to a good-faith informer through pseudonymization (concept introduced by the Data Protection Law) – data management procedure that replaces the information that can point to a subject's identity with “pseudonyms” or identifiers — and through systemic traceability of all accesses to the informer’s personal data carried out by government agents.

15) DECREE No. 10157, OF 12/4/2019

[Decree no. 10157, of 12/4/2019](#), institutes the Federal Policy to Promote Interstate and International Road Transportation of Passengers. The federal government seeks to promote interstate and international road transportation of passengers, expanding it and offering better services.

This legislative innovation, among other measures, establishes freedom of prices, routes, and frequency, free competition, and reduction of the regulatory costs. It also

specifies the minimum requirements for the transportation services, which must be exclusively guided by the safety of the passengers on the highways and at the bus terminals.

16) DECREE No. 10160, OF 12/9/2019

Published in the DOU of 12/10/2019, [Decree no. 10160 of 12/9/2019](#) instituted the Open Government Policy and the Inter-Ministry Open Government Committee, within the scope of the Federal Executive Branch. This policy will be put into practice through action plans comprising public initiatives, actions, projects, programs, and policies to expand transparency and access to information, improve the public services, and reinforce integrity.

This Decree also revoked the Decree of September 15, 2011, which instituted the National Open Government Action Plan, and the Decree of March 12, 2013, which amended the Decree of September 15, 2011.

17) DECREE No. 10173, OF 12/13/2019

Published in the DOU of 12/16/2019, [Decree no. 10173 of 12/13/2019](#) amended Decree no. 1800, of January 30, 1996, which regulated Law no. 8934, of November 18, 1994, on the Public Register of Merchandising Businesses and Similar Activities.

Under the Decree, any citizen may take off their name from a company that was opened for fraudulent purposes without a need to wait for a judicial order. The Registry of Commerce of the citizen's state or the Federal District can do it

The new rules that amend the legislation on Public Registers of Merchandising Businesses and Similar Activities and are inserted in the set of actions of the Ministry of Economy intended to make the registration of businesses uniform and less bureaucratic.

18) DECREE No. 10178, OF 12/18/2019

[Decree no. 10178](#) of 12/18/2019, published in the DOU of 12/19/2019, regulated topics of Law no. 13874/2019 (known as "Economic Freedom Law"), setting the criteria and procedures for the risk classification of economic activities and establishing a term for the tacit approval of government acts permitting such activities. It also amended Decree no. 9094/2017 by including elements in the Letter of Services to the User.

Now, the authority that permits the activity through a normative act will be responsible for its risk classification. The risk classification must meet requirements, such as the probability of harmful events, seriousness, or irreparability grade of the impact on the society in case of a harmful event.

It is worth mentioning that the classifications may be changed if certain legal conditions are satisfied, and a differentiated treatment will be applied to activities classified as risk I and II aiming at their permission.

The tacit approval will depend on the federal legislation, and the standard term of 30 days must not exceed 90 days, as a rule.

19) National Land Transportation Agency - ANTT RESOLUTION No. 5863, OF 12/17/2019

[ANTT Resolution no. 5863](#), issued on 12/17/2019 and published in the DOU on 12/19/2019, approved the Regulation on the application of the penalty of prohibition of participation in procurements and execution of federal government contracts addressed in art. 7 of Law no. 10520/2002 and art. 49 of Decree no. 10024/2019.

The appendix to the resolution lists the bidders' conducts that cause the penalty, the criteria to apply the penalties, the mitigating and aggravating factors, among other provisions.

20) Office of the General Counsel for the National Treasury - PGFN ADMINISTRATIVE RULE No. 11956, OF 11/27/2019

[PGNF Administrative Rule no. 11956, of November 27, 2019](#), regulates the resolution of conflicts between the Federal Tax Authority and taxpayers with outstanding liabilities but that did not commit frauds and fit the modalities provided in the "Legal Taxpayer."

The transaction envisages to make the maintenance of the companies and jobs viable, boost the economic activity in general, and guarantee funds for the public policies. There are three modalities of transactions: adhesion, proposal of the taxpayer, and proposal of PGFN.

The legislation in effect bars transactions in case of debts to the Unemployment Savings Fund (FGTS) or to the Federal Simplified Tax System for Small Businesses (Simples Nacional), and aggravated and criminal fines.

Therefore, only debts registered as overdue federal tax liabilities considered irrecoverable or probably irrecoverable – the debtors' economic situation does not generate a capacity of full payment of the debt within up to five years – may be the subject of agreements.

21) Ministry of Justice - MJ Administrative Rule No. 681, OF 12/5/2019

Published in the DOU on 12/6/2019, [Administrative Rule no. 681 of 12/6/2019](#) creates, in the scope of the Ministry of Justice and Public Security, the Network of Information Services to the Citizen (SIC Network), appoints the authority addressed in art. 40 of Law no. 12527 of November 18, 2011, defines the public services that will be provided, and revokes Administrative Rule no. 2318 issued on November 27, 2018, by the Ministry of Justice.

Summarizing, the SIC Network is intended to assist the citizen with the access to information, inform about the processing of the applications for access to information at

the bodies and entities of the organizational structure of the Ministry, receive and register the applications for access to information, and increase the transparency of the information within the scope of the Ministry.

22) Office of the Federal Controller General - CGU ADMINISTRATIVE RULE No. 3950, OF 12/13/2019

[CGU Administrative Rule no. 3950](#), of December 13, 2019 (DOU of 12/16/2019), created, within the scope of the Office of the Federal Controller General, a commission to prepare the taxonomy of corruption and a system to update it.

The commission will have authority to structure hierarchically the production, classification, recovery of data and information on corruption, set rules for the use of the structure, and prepare a controlled glossary. It will

also propose rules and processes to contribute to the institutionalization of the taxonomy and system.

The commission formed by representatives of 5 CGU units and an Executive Secretary will have a term of 180 days to complete the task.

23) Brazilian Federal Revenue - RFB NORMATIVE INSTRUCTION No. 1914, OF 11/26/2019

[RFB Normative Instruction no. 1.14](#), of 11/26/2019, amends RFB Normative Instruction no. 1863, of December 27, 2018, which provides for the National Register of Corporate Taxpayers (CNPJ). The companies that pay tax based on taxable, presumptive, or estimated profit must compulsorily present the Entry Basic Document via DDA e-CAC. To expedite the analysis of acts related to the CNPJ (enrollment, change, cancellation), RFB assistance team created some automatic routines that depend on the correct completion by taxpayers/accountants at the time

the application is made via Remote Digital Dossier (*Dossiê Digital a Distância - DDA*).

24) RFB NORMATIVE INSTRUCTION No. 1915, OF 11/27/2019

[RFB Normative Instruction no. 1915 of 11/27/2019](#), published in the DOU of 11/29/2019, provides for the Withholding Income Tax Return (Dirf) for the calendar year of 2019, special situations in 2020 (Dirf 2020), and the Dirf Generator Program 2020 (PGD Dirf 2020).

25) Brazilian Securities and Exchange Commission - CVM INSTRUCTION No. 616, OF 12/3/2019

[CVM Instruction no. 616, of 12/3/2019](#), amends arts. 11, 12, 15, and 34, and revokes art. 36 of CVM Instruction no. 361, of March 5, 2002. The changes relate to: i) the exclusion of the prohibition of an acquisition of 1/3 to 2/3 of outstanding shares in the cases of IPOs due to increasing to the interest; ii) exclusion of that prohibition of acquisition in the cases of IPOs for exit from special segments of the listing; iii) impossibility of purchasing interferences at IPO auctions for acquisition of control; iv) incorporation to the rule on the understanding that, in the cases of IPO unification, the price offered must satisfy simultaneously all types of IPOs that will be grouped; v) a more flexible regime for the publication of calls for IPO.

26) Company Registration and Integration Department - DREI NORMATIVE INSTRUCTION No. 071, OF 12/17/2019

[DREI Normative Instruction no.071](#) of 12/17/2019 and published in the DOU of 12/18/2019 revoked Normative

Instruction no. 67/2019 and amended the Corporation Registration Manual approved by DREI Normative Instruction no. 38/2017.

This Normative Instruction changed the documents that are required for the organization of Corporations, such as submission of pages of the Federal Official Journal - DOU (or Electronic Federal Official Journal - DOE) and pages of a widely circulated newspaper with the call for the organizational meeting. Now, the presentation of those pages is not required when the minutes of the meeting record that all shareholders attended the meeting.

27) Brazilian Central Bank - BACEN CIRCULAR No. 3971, OF 12/4/2019

[BACEN Circular no. 3971, of 12/4/2019](#), amends the Regulation of the Special Settlement and Custody System (Selic), attached to Circular no. 3587, of March 26, 2012, and provides for the registration of the operation on a date

after the date the operation was carried out (valued operations).

FINANCIAL MARKET, STOCK MARKET AND OTHERS

1) Provisional Presidential Decree - MP No. 902, OF NOVEMBER 5, 2019

This [Provisional Presidential Decree \(“MP”\)](#) amends the following laws: Law no. 5895, of June 19, 1973, which authorizes the Executive Branch to transform the autonomous agency ‘Casa da Moeda’ into a government company; Law no. 4502, of November 30, 1964, which provides for the Consumption Tax, and organizes the

Internal Income Board; Law no. 11488, of June 15, 2007, which creates the Special Regime of Incentive to the Infrastructure Development (REIDI), reduces to 24 months the minimum term to offset the credits of PIS/Pasep and COFINS taxes deriving from the acquisition of buildings, and extends the term for the payment of taxes and contributions; and Lei no. 12995, of June 18, 2014, which extends the term for the allocation of funds to the Tax Funds of Investments, and amends the federal tax legislation.

2) MP No. 909, OF 12/9/2019

Published in the DOU on 12/9/2019, [MP no. 909 of 12/9/2019](#) terminated the fund formed by reserves used by the Brazilian Central Bank to intervene in the exchange and securities market, help the financial institutions, in particular the Brazilian Bank of Economic and Social Development, and for other purposes established by the National Monetary Council. The fund had been created by Law no. 5143, art. 12, of October 20, 1966. The MP determines that the remaining amount after the tax

deduction by the Brazilian Central Bank will be used for the service of the public debt, among others.

3) DECREE No. 10109, OF NOVEMBER 7, 2019

This [Decree](#) enacts the Cooperation Agreement between the Federative Republic of Brazil and the Organization for Economic Co-operation and Development (OECD) entered into in Paris, on June 3, 2015.

In sum, OCDE and Brazil will cooperate in the following areas, among others:

- Participation in OCDE political discussions about emerging global issues;
- Support, as requested, to the establishment of policies and implementation of reforms of economic, social, and environmental policies, also through regular monitoring, evaluation, and comparison studies.

- Improvement to public policies and services, identifying opportunities, and support to efforts to promote good governance; and

- Promotion of a better understanding of the political challenges related to structural changes and long-term growth of countries with different development levels.

Acts that may result in a revision of the Agreement and adjustments causing charges or commitments that might be burdensome to the public property are subject to the approval of the Congress, under item I, head provision, of art. 49 of the Brazilian Constitution.

4) DECREE No. 10188, OF 12/20/2019

[Decree no. 10188 of 12/20/2019](#), published in the DOU of 12/24/2019, regulated Law no. 9796/1999, providing for the financial offset between the General Social Security Regime and the social security regimes of the civil servants of the Federal Government, the States, the Federal District,

and the Municipalities and between specific regimes in the event of reciprocating counting of the contribution time for retirement.

5) National Monetary Council - CMN RESOLUTION No. 4761, of 11/27/2019

Published in the DOU of 11/28/2019, [CMN Resolution no. 4761 of 11/27/2019](#) amends the Appendix to Resolution no. 4373, of September 29, 2014, on investments of investors non-resident in Brazil in the Brazilian financial and stock markets and revokes art. 5 of the Regulation - Appendix II to Resolution no. 4373, of 2014.

6) CMN RESOLUTION No. 4762, of 11/27/2019

Published in the DOU of 11/28/2019, [CMN Resolution no. 4762 of 11/27/2019](#) took effect partly on 4/1/2020 and 6/1/2020. It amends Resolution no. 4292, of December 20, 2013, which provides for credit transactions and revokes the sole paragraph of arts. 19 and 20 of Normative Resolution no. 4292, of 2013.

7) CMN RESOLUTION No. 4763, of 11/27/2019

Published in the DOU of 11/28/2019, [CMN Resolution no. 4763 of 11/27/2019](#), provides for the authorization for the credit cooperatives to use the savings deposits of the Brazilian System of Savings and Loan (SBPE), the compliance with the required investment of funds from the savings deposits, and the institutions authorized to issue Secured Real Estate Credit Bonds This new regulation also amends Resolutions no. 4.676 of 7/31/2018 and no. 4598 of 8/29/2017.

8) CMN RESOLUTION No. 4764, of 11/27/2019

[CMN Resolution no. 4764](#) of 11/27/2019, published in the DOU of 11/28/2019, amended Resolution no. 4222/2013, adjusting the additional contribution of institutions associated with the Credit Guarantee Fund (FGC).

9) CMN RESOLUTION No. 4765, of 11/27/2019

[CMN Resolution no. 4765](#) of 11/27/2019, published in the DOU of 11/28/2019, provides for the overdraft limit granted by financial institutions to bank accounts held by individuals and individual micro-businesses (MEI).

The measure was intended to reduce the cost and the regressive tax burden of that limit as it is mainly used by clients with low purchasing power and no financial education. As a result of the limitations, the financial institutions changed their policies on the product.

10) CMN RESOLUTION No. 4770, of 12/19/2019

[CMN Resolution no. 4770](#) of 12/19/2019, published the DOU of 12/23/2019, amended Resolution no. 4192/2013, on the methodology to assess the Reference Equity.

11) CMN RESOLUTION No. 4771, of 12/19/2019

[CMN Resolution no. 4771 of 12/19/2019](#), published in DOU of 12/23/2019, provides for the procedures for authorization and cancellation of charges into deposit accounts and salary accounts.

This measure is on BC Agenda - Dimensions, Transparency, and Competitiveness. The new rules will come into effect in May 2020.

12) National Consumer Department- SCN ADMINISTRATIVE RULE No. 24, OF OCTOBER 31, 2019

SCN, through this [Administrative Rule](#), created the Participation Seal, in the scope of the National Consumer Department of the Ministry of Justice and Public Security, that will be granted to those suppliers that adhere to the platform *Consumidor.gov.br*.

The criteria for the evaluation of the suppliers that will be awarded with the seal addressed in the head provision are the following: I - Participation in the platform *consumidor.gov.br* for a period of at least one year; and II - Fulfillment of all commitments undertaken under the instrument of adhesion to the platform *Consumidor.gov.br*. Sole paragraph. Other criteria may be set to evaluate the suppliers, provided that previously approved by a majority vote of the members of Consumer Managing Committee of *Consumidor.gov.br*, provided in art. 4 of Decree no. 8573, of 2015.

The Participation Seal will be valid indefinitely and its misuse will be considered deceptive advertising.

13) CVM INSTRUCTION No. 617, OF 12/5/2019

[CVM Instruction no. 617 of 12/5/2019](#), published in the DOU of 12/6/2019 to take effect on 7/1/2020, provides for the prevention of money-laundering and terrorism financing - PLDFT in the scope of the stock market.

This Instruction regulates the policy on the prevention of money-laundering and terrorism financing - PLDFT; internal assessment of risk and rules, internal procedures and controls, identification and record of clients, as well as continued collection of additional information, and, in particular, identification of the final beneficiaries, monitoring, analysis, and information about the transactions and situations mentioned in the Instruction, record of transactions and maintenance of file, and, finally in the scope of the stock market, measures to freeze assets, rights, and values as a result of the resolutions of

the United Nations Security Council and requests for international legal cooperation made by other jurisdictions in conformity with the Brazilian legislation in effect and other legal provisions.

This new instruction revokes Instructions no. 301, of April 16, 1999, no. 463, of January 8, 2008, no. 506, of September 27, 2011, no. 523, of May 28, 2012, no. 534, of June 4, 2013, and no. 553, of October 16, 2014, and arts. 9 to 11 of CVM Instruction no. 505, of September 27, 2011.

14) BACEN CIRCULAR LETTER No. 3968, of 10/31/2019

This [Circular Letter](#) amends the regulation attached to Circular no. 3743, of January 8, 2015, on the requirement for inter-operability of the recording systems that record the same types of financial assets for the creation of lien or encumbrance on these assets.

15) Private Insurance Superintendence/Technical Board 2 - SUSEP/DIR2 ELECTRONIC CIRCULAR LETTER No. 005, OF NOVEMBER 12, 2019

Published in the DOU of November 12, 2019, this [Letter](#) clarifies issues about the private clause and provides for the violation of laws or rules on economic or commercial embargoes or sanctions.

According to the Letter:

- The prevention measures taken by the insurers as to aspects of their activities that may have a connection with the elements of prevention and fight against terrorism, money laundering, and other types of wrongs in Brazil and abroad are legal.
- On the occasion of the risk underwriting, the insurer is expected to analyze if there are or there are not limitations

for the coverage to be granted. If there are limitations, the proposal must be refused.

- Loss of rights, exclusion of risks, or suspension of the indemnity payment, also when they derive from embargoes or sanctions imposed by international bodies, must be clearly and objectively described, without generic references.
- Provided that the amounts protected by the Brazilian legal system, such as the principles of economic order listed in art. 170 of the Constitution, are not affected, the policy on imposition of embargoes and sanctions by any international organism to combat terrorism, money-laundering and other related wrongs, either imposition by a multilateral body such as the UNO, or imposed unilaterally by any country/federation, such as the United States of America, the European Union, or the United Kingdom, may cause drafting of a clause seeking to regulate, clearly and objectively, the loss of rights, exclusion of risks, or suspension of the indemnity payment.
- The situations of loss of rights due to the policy on imposition of embargoes and sanctions by international organisms may occur only in case of intentional act of the

insured or their representative and causal relation with the event that caused the loss.

- The fact that generates the application of the clause on embargoes and sanctions must be explicit at the time of loss for purposes of loss of right or exclusion of risk.
- In case of lack of an express contractual clause, the imposition of embargo and sanction by an international organism after the issuance of the policy will not result in the insured's automatic loss of rights or exclusion of risk; the insurer may suspend the indemnity payment until the international organism cancels the embargo or sanction or a legal solution is reached, provided that the suspension is previously and clearly provided in the contractual clauses of the insurance policy.
- In the case of sanction of freezing of assets, under Law no. 13810, of March 8, 2019, if the fact is provided in the excluded risk or loss of right clause, the insurer must suspend all types of payments arising from the insurance contract to the insured or the sanctioned beneficiary, according to said law. - The suspension of payment is not characterized as loss of rights or exclusion from the coverage.

- The insurer's possible exposure to sanctions, prohibitions or restrictions due to violation of laws or rules on embargoes or economic or commercial sanctions is not a justification for the clause to be structured in disagreement with this Circular Letter.

- The use of a certain clause in reinsurance and/or retrocession contracts is not a justification for the insurers to structure said clause in disagreement with this Circular Letter in the respective insurance contracts.

- The use of a certain clause in insurance contracts does not exempt the insurer from evaluating the need to provide information as established in Law no. 13810/2019 and SUSEP Circular, which regulates Law no. 9613/1998.

The insurers that have a product containing a clause not in conformity with the understandings described above must, within a maximum period of 30 days as from the date of publication of the Circular Letter, change them to adjust the clause in question to the terms of the Circular Letter.

Also, this Circular Letter revokes Electronic Circular Letter no. 6/2019/SUSEP/DIR2/CGCOM and Circular Letter 4/2019/SUSEP/DIR2.

The issuance of this Letter that revokes the previous one, and, in practice, reestablishes the possibility of inserting clauses on embargoes and sanctions in insurance contracts, was the direct result of the efforts of the National Federation of Reinsurance Companies - Fenaber, assisted by our firm, and the National Confederation of the General Insurance, Private Social Security, Life Insurance, Supplementary Health and Capitalization Companies.

16) BACEN CIRCULAR LETTER No. 3989, of 12/6/2019

Published in the DOU of 12/9/2019, [BACEN Circular Letter no. 3989 of 12/6/2019](#), to come into effect on 7/1/2020, changes and consolidates the procedures to send daily information about the total exposure in gold, foreign currency, and transactions subject to the exchange rate change and the assessment of the portions in the calculation of the minimum requirements of the Reference Equity (PR), of Level I, Main Capital, and Capital Additional to the Main Capital addressed in Resolutions no.

3488, of August 29, 2007, and no. 4193, of March 1, 2013, and Circular no. 3742, of January 8, 2015, related to code 20122 documents - Daily statement to monitor the portions of the required capital and operating limits (DDR). This Circular Letter also revoked Circular Letter no. 3694, of February 6, 2015.

17) BACEN CIRCULAR No. 3969, OF NOVEMBER 13, 2019

This [Circular](#) amends Circular no. 3909, of August 16, 2018, which provides for the cybernetic security policy and the requirements for agreements on data processing and storage, and cloud computing that the payment institutions authorized by the Brazilian Central Bank to operate must meet.

18) BACEN CIRCULAR No. 3974, OF 12/18/2019

[BACEN Circular no. 3974](#) of 12/18/2019, published in the DOU of 12/20/2019, amended Circular no. 3885/2018, which provides for the authorization for the operation and payment services of payment institutions, financial institutions, and other institutions authorized to operate by BACEN.

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

The Brazilian Securities and Exchange Committee - 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 a 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 a guarantee, as provided in art. 291 of Law no. 6404, of 1976.

Suggestions and comments should be sent in writing until November 9, 2019, 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.

20) BACEN LAUNCHES PUBLIC INQUIRY TO REGULATE A NEW PAYMENT ARRANGEMENT SERVICE

BACEN submitted to Public Inquiry until February 14 the draft of a circular to amend the Regulation attached to Circular no. 3682/2013, for the modality of payment arrangement named “drawing and contribution” of the Brazilian Payment System (SPB).

In brief, the drawing and contribution arrangements would have a regulatory treatment identical to that of the other modalities of payment arrangements with similar interoperability standards and non-discriminatory access to services and infrastructures.

With these changes, it is expected that the digital banks, which issue electronic currency, and even the small-sized traditional banks, will expand their physical presence in cash machines at a lower cost.

This is a greatly relevant possibility because 60% the Brazilian population prefers using physical money, which suggests a great and long-lasting demand for more accessible and disseminated contribution and drawing services.

For more information, access [Call for Public Inquiry 75/2019](#).

21) CVM OPENS A PUBLIC HEARING TO DISCUSS THE BRAZILIAN DEPOSITARY RECEIPTS (BDRS)

CVM opened this public hearing on 12/11/2019 to discuss the draft of an Instruction that amends the rules applicable to investments in BDRs. The draft deals with four main issues: (i) the concept of foreign investor; (ii) acquisition of Level I BDRs by persons that do not fit the concept of qualified investor; (iii) estimate of BDRs backed by units of index funds negotiated abroad; (iv) possibility of BDRs backed by securities representing debt. “CVM intends to make investments through BDRs more flexible for the Brazilian investors to diversify their portfolios,” said Marcelo Barbosa, CVM President. Comments should be sent until 2/10/2020 via the e-mail audpublicaSDM0819@cvm.gov.br.

HEALTH

1) NORMATIVE INSTRUCTION - DIPRO No. 057, OF 12/9/2019

[Normative Instruction - no. 057 issued by the Rules and Product Qualification Board - DIPRO of the National Agency of Supplementary Health - ANS on 12/10/2019](#), which was published and took effect on 12/10/2019, regulates the technical visits to monitor the economic-financial and actuarial procedures of the Health Assistance Plan Companies.

2) THE FOURTH PANEL OF STJ UNDERSTANDS THAT THE LIST OF ANS'S MANDATORY OBLIGATIONS IS NOT EXEMPLIFYING

The justices of the 4th Panel of the Superior Court of Justice (STJ) decided that the list of procedures and events of the National Agency of Supplementary Health (ANS) provided in Normative Resolution no. 428, of 2017, is not exemplifying but the minimal obligations that the health plans must satisfy. Therefore, the court denied the appeal ([Special appeal REsp 1733013](#)) of an insured against a company that refused coverage for a treatment not included in the list of the regulatory agency.

The insured filed action because the company denied coverage for kyphoplasty – prescribed by the doctor – but covered vertebroplasty, which is provided in ANS Resolution. The trial court ordered coverage for the treatment prescribed by the doctor but the Court of Justice of Paraná reversed the decision under the understanding

that kyphoplasty is not on the ANS's list and the vertebroplasty, covered by the company, has proven efficacy.

To the STJ, the insured alleged that ANS's list is just exemplifying, a basic reference and that the agreement does not mention the exclusion of the desired treatment.

3) ANS PUBLIC INQUIRY No. 76

ANS extended to 1/25/2020 the period for suggestions for Public Inquiry no. 76 on the Normative Resolution that revises the rules for the execution of agreements between health plan companies and services providers.

ANS is also receiving suggestions for the creation of a specific communication channel to mediate conflicts over issues related to the agreements.

For more information, access ANS [communication](#).

4) FEDERAL SUPREME COURT ANNULS RIO DE JANEIRO LAW THAT REQUIRED THE HEALTH PLANS TO SEND NOTIFICATIONS

The Federal Supreme Court sitting en banc, in a virtual session that lasted six business days and was closed on 12/5/2019, tried Direct Action for Declaration of Unconstitutionality - ADI no. 5173; the court, by 6 votes to 5, declared the unconstitutionality of Rio de Janeiro State Law no. 6881/2014 that required the health plan companies to notify, previously and individually, the participants of the suspension of hospitals and doctors.

That ADI had been filed five years ago by the National Union of Health Self-Managed Institutions – UNIDAS and the central argument was that only the Federal Government has jurisdiction to legislate on matters of Civil and Commercial Law under article 2, items I and VII, of the Federal Constitution.

The vote of Justice-Rapporteur Gilmar Mendes prevailed, and was affirmed by justices Alexandre de Moraes, Roberto Barroso, Cármen Lúcia, Luiz Fux, and Dias Toffoli. The dissenting votes were cast by justices Edson Fachin, Marco Aurélio, Ricardo Lewandowski, Rosa Weber, and Celso de Mello.

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

TAX

1) Simples National Managing Committee - CGSN RESOLUTION No. 150, OF 12/3/2019

[CGSN Resolution no. 150](#), published in the DOU on 5/22/2018, amends CGSN Resolution no. 140 of

5/20/2018, which provides for the Federal Simplified Tax System for Small Businesses (Simples Nacional).

Among the several amendments, we highlight the new term of 60 days to join the Simples Nacional; previously, this term was 180 days. Due to this change, a Micro-company or a Small-sized Company must formally opt for the Simples Nacional in a period of at least thirty (30) days as from the last approval of its enrollment, whether municipal and state enrollment, provided that the option is made within sixty (60) days as from the opening date contained in the Corporate Taxpayer ID (CNPJ).

2) Brazilian Federal Revenue - INTERPRETATIVE DECLARATORY ACT No. 005, OF 12/17/2019

[RFB Interpretative Declaratory Act no. 005](#) of 12/17/2019, published in the DOU of 12/20/2019, deals with the taxation on income earned by foreign investors in Brazil.

Under this new act, the origin of the investment will be the jurisdiction of the direct investor in Brazil for the application of the special taxation regime provided in arts. 88 and 89 of RFB Normative Instruction no. 1585/2015.

The amended Normative Instruction establishes that a distinct tax treatment will be applied to investors resident or domiciled abroad, with a few exceptions. This rule, however, does not apply to cases of wrong, fraud, or simulation.

The understanding is that the Interpretative Declaratory Act will reduce the delinquency notices served on investment funds.

3) RFB NORMATIVE INSTRUCTION No. 1916, OF 12/18/2019

[RFB Normative Instruction no. 1916](#) of 12/18/2019, published in the DOU of 12/20/2019, included art. 69-A in RFB Normative Instruction no. 1585/2015, which provides

for the income tax levied on the net return earned in the financial and stock markets. The instruction removed from the list of exemptions in art. 66 shares acquired as from the date of the subsequent public offering by issuer companies that do not meet the requirements set in arts. 66 to 69. It also removed from the list shares acquired through the

shareholders' exercise of the preemptive right, as provided in Law no. 6404/1976, or shares received as a bonus until 12/31/2023.

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