

VEIRANO ADVOGADOS

Newsletter

Insurance in Focus

September | 2024

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I.

NEWS

SUSEP releases July 2024 data, with VGBL reaching an all-time high

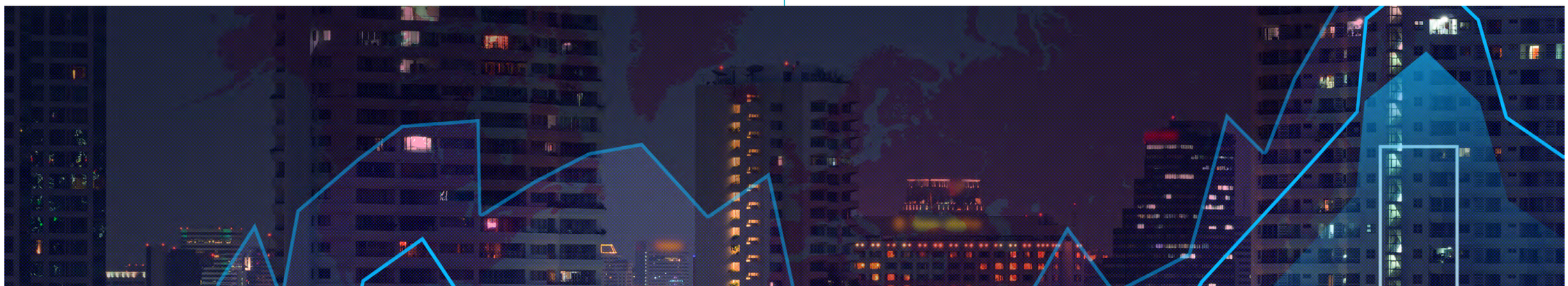
SUSEP has released a report on the insurance sector for July 2024. The sector collected R$249.95 billion in the first seven months of 2024, a 15.1% increase compared to the same period in 2023. Returns to society, through compensation, redemptions, benefits, and raffles, amounted to R$140.61 billion during this period. VGBL products received special attention, recording R$17.17 billion in contributions — the highest value ever recorded in a single month since the series began in 2019. In the first seven months of the year, VGBL contributions totaled R$105.21 billion, a 22.1% increase from the same period in 2023.

Access the report here.

Brazil's first surety bond policy with a resumption clause is issued

Following the Government of Mato Grosso's publication of the first bidding process requiring a step-in clause in a surety bond insurance policy in April, the contract for paving 50 km of the MT-430 highway was signed in September. This marked the issuance of Brazil's first policy with this clause by Tokio Marine.

Access the bidding notice and its attachments here.



PGFN launches public consultation on surety bonds

The Office of the Attorney General of the National Treasury (PGFN) has opened a public consultation to discuss the regulation of offering and accepting surety bonds.

Access the draft ordinance here.

Insurance sector and Federal Government sign partnership for infrastructure projects

The National Confederation of Insurers (CNseg) and the Special Secretariat for the Investment Partnerships Program (SEPPI) of the Civil House of the Presidency signed a protocol of intentions on Sept. 16. The cooperation aims to prepare a diagnosis of existing insurance products for Public-Private Partnerships (PPPs) in Brazil and implement international best practices.

Open Insurance: SUSEP accredits another SPOC

SUSEP has accredited the second Customer Order Processing Company (SPOC) under the Open Insurance (OPIN) framework. Open Insurance allows insurance, pension, and capitalization consumers to securely and conveniently share information among SUSEP-authorized companies. Accredited SPOCs can offer data aggregation services, control panels, and, with customer consent, participate in financial transactions.





New SUSEP Working Groups webpage is live

SUSEP has launched a webpage with updates on the Working Groups (WGs), established to propose regulatory improvements in the sector. These groups include:

- Insurance New PAC and Neoindustrialization
- Insurance and Ecological Transformation
- Insurance and Cybersecurity
- Reinsurance - Development Instrument
- National Policy for Access to Insurance

Veirano Advogados' associate Luiza Jordão and lawyer Vitor Boaventura are members of the National Insurance Access Policy Working Group.

Access the page here.

Simplification of civil liability insurance rules for cargo carriers

CNSP Resolution No. 472/2024, published by SUSEP, consolidates and simplifies the rules on civil liability insurance for cargo carriers, in line with Law No. 14,599/2023. The regulation reinforces the mandatory Civil Liability Insurance for Road Cargo Carriers (RCTR-C), mandates insurance for Cargo Disappearance (RC-DC) and Vehicle (RC-V), and introduces new requirements such as a Risk Management Plan (PGR), a single policy per line of business, and joint inspections between the carrier, contractor, and insurers.

Access the resolution here.

II.

JUDICIAL DECISIONS

STJ rules on life insurance beneficiaries in cases of comorience

In Appeal (Resp) No. 2,095,584/SP, the Third Panel of the Supreme Court unanimously ruled that, even in cases of comorience, the right of representation applies when identifying life insurance beneficiaries if the contract is silent and beneficiaries are determined by succession. This right applies when a successor dies before or at the same time as the insured, with their children inheriting directly, competing with other close relatives.

Supreme Court decision: Static burden of proof applies in insurance compensation claims

In Appeal (Resp) No. 2,150,776/SP, the Third Panel of the Supreme Court ruled by majority that the general rule of static distribution of the burden of proof applies in insurance compensation claims, with the insurer responsible for proving coverage exclusions.

STJ rules that health insurance plans must cover unlimited therapies for Down syndrome patients

The Third Panel of the Supreme Court unanimously determined that health insurance plans must cover, without limits, therapies prescribed to patients with Down syndrome. The decision emphasized that Down syndrome not being classified under ICD F84 (global developmental disorders) does not exempt the health plan from offering the prescribed multidisciplinary and unlimited treatment (case under judicial secrecy).

Supreme Court Decision: STJ grants request to replace online seizure with judicial surety bond

In case TutCautAnt 672/SP, Justice Raul Araújo ruled that maintaining the cash seizure in a provisional execution would impose an undue burden on the defendant, impacting his business activity, given the R$104 million value. As a result, the court deemed it plausible to replace the cash seizure with a judicial surety bond.

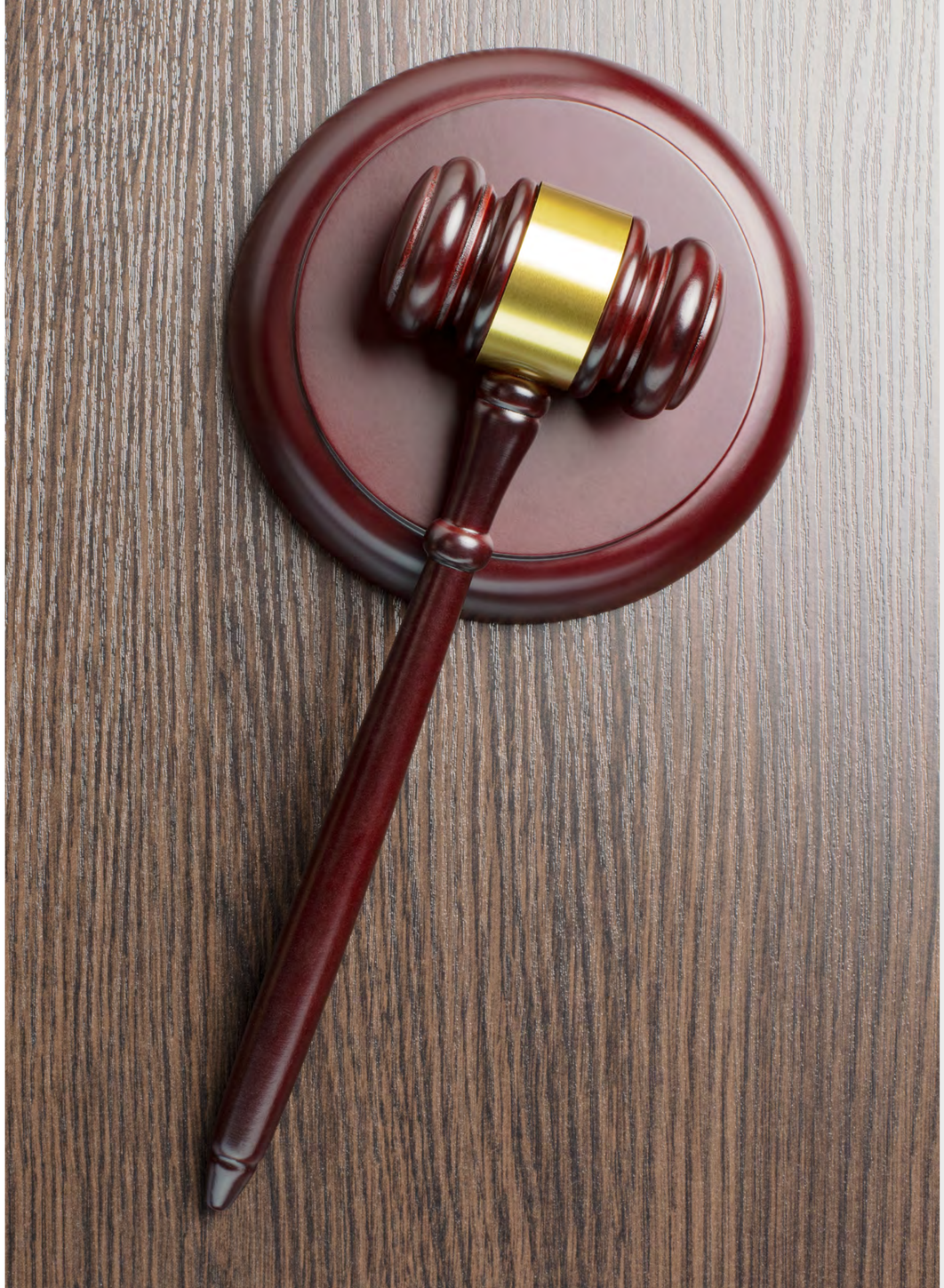


Court Decision: Supreme Court overturns state court ruling, orders expert evidence in life insurance case

The 4th Panel of the STJ ruled that a judge cannot rely solely on the INSS's approval of disability retirement to award disability insurance compensation. The panel found that the defense was unduly restricted by the denial of expert evidence, which would have demonstrated the extent of the insured's incapacity (EDcl nos EDcl no AgInt no REsp 1.447.014/RS).

Court Decision: STJ rules against contractual limitation, guarantees insurance compensation

In AgInt in AREsp 1.792.346/SP, the 4th Panel of the Superior Court dismissed the application of Summary 5/STJ and upheld the insured's special appeal. The court determined that the insured had not been properly informed about coverage conditions, particularly those that limited risk and insured capital. As a result, the insurer could not avoid paying compensation based on clauses that the insured was unaware of at the time of contracting.



VEIRANO ADVOGADOS

We are available if you have any questions or need additional information.

va.seguros@veirano.com.br



Luiza Jordão
luiza.jordao@veirano.com.br



Vitor Boaventura
vitor.boaventura@veirano.com.br



Maria Eduarda Pintado
maria.pintado@veirano.com.br