Newsletter

Insurance in Focus

4th edition

VEIRANO ADVOGADOS



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I. News



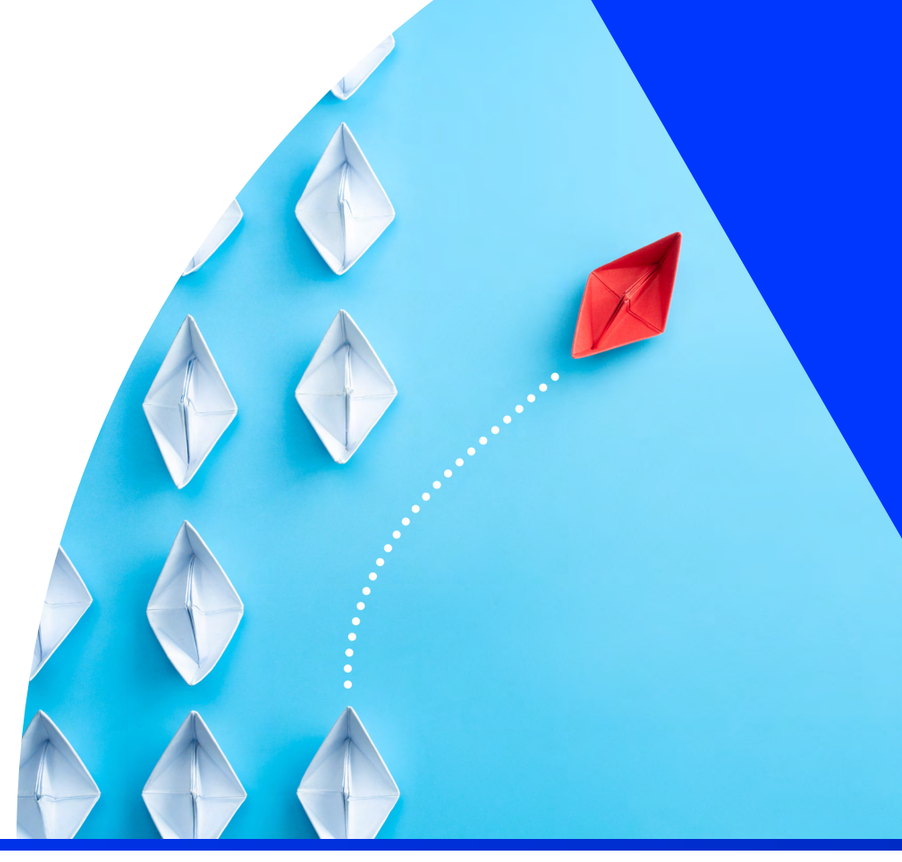
Insurance Cooperativism Law Enacted

The president of Brazil has signed Supplementary Law No. 213/2025, which regulates insurance cooperatives and mutual asset protection groups. Enacted on Jan. 15, the new legislation introduces significant changes to the National Private Insurance System.

Among its key innovations, the law expands the supervisory powers of the Superintendence of Private Insurance (SUSEP) and allows cooperatives to operate in additional insurance sectors. The measure is expected to increase competition and strengthen Brazil's insurance market, providing consumers with more options and greater protection.

Seen as a milestone in the sector's modernization, the new law represents a significant step forward in market regulation and balance in the country's insurance industry.

Access the norm here (in Brazilian Portuguese).



SUSEP Authorizes First Special Purpose Insurance Companies (SPEs)

The Superintendence of Private Insurance (SUSEP) has authorized the first Special Purpose Insurance Companies (SSPEs) to issue the so-called “Letra de Risco de Seguro (LRS)” in Brazil. Regulated by Joint Resolution No. 9/2024 of the CNSP and CMN, the LRS is a financial instrument inspired by Insurance Linked Securities (ILS) and aims to transfer risks from the insurance market to the capital market. The first SSPEs authorized to operate are “Andina Special Purpose Insurance Company” and “Galápagos Capital Special Purpose Insurance Company.”

The authorization to issue the first LRS in Brazil is relevant for the development of the Brazilian risk transfer market (reinsurance) and for bringing another instrument to strengthen and enhance the financial resilience of the Brazilian insurance and reinsurance markets, with the potential to increase the capacity to retain new risks and attract investments from the capital market to the (re)insurance ecosystem.



SUSEP Approves Regulation Plan for 2025

On December 26, 2024, the Superintendence of Private Insurance (SUSEP) published Resolution No. 47/2024, outlining its 2025 Regulatory Plan. Among the key priorities are the regulation of the Insurance Contract Law (Law No. 15,040/2024) and the Insurance Cooperativism Law (Complementary Law No. 213/2025).

The plan is structured around four main areas: Insurance Economy, Products and Conduct, Governance, and Infrastructure.

Access the Regulation Plan here (in Brazilian Portuguese).

New Guidelines for the Use of Surety Bonds at PGFN

On Dec. 31, 2024, the Office of the Attorney General of the National Treasury (PGFN) published Ordinance PGFN/MF No. 2,044/2024, establishing new rules for the use of surety bonds for debts registered and unregistered in the Union's active debt and the FGTS.

The regulation updates previous standards and introduces innovations such as standard policy templates, the option to offer surety bonds for unregistered debts, and rule adjustments in line with current legislation.



Brazil's Chamber of Deputies Revokes New DPVAT Insurance and Limits Earmark Freezes

The Brazilian Chamber of Deputies approved the repeal of the law that reinstated the Mandatory Insurance for the Protection of Traffic Accident Victims (DPVAT), which had been abolished in 2020.

Additionally, lawmakers decided that only non-mandatory earmarks may be blocked or made subject to contingency measures, with a cap of 15% of the total amount of these funds.

The measure is part of an agreement between the government and lawmakers to advance a public spending austerity package.

SUSEP Regulates Compensation Policy in the Insurance Sector

On Dec. 27, 2024, the Superintendence of Private Insurance (SUSEP) published Resolution No. 476 from the National Council of Private Insurance (CNSP), which establishes guidelines for the compensation policy of insurers, pension funds, capitalization companies, and reinsurers.

The regulation aligns with the principles set by the Financial Stability Board (FSB) and "Insurance Core Principle No. 7" from the International Association of Insurance Supervisors (IAIS), aiming to ensure that compensation practices strengthen risk management, internal controls, and the long-term financial sustainability of insurers.

The regulation applies to administrators, directors, and key employees of entities supervised by SUSEP, with the exception of entities in the smaller S4 segment.

Having undergone public consultation, the regulation was presented by SUSEP as an international best practice, adopted by countries such as the United Kingdom and Canada. In Brazil, similar regulation has already been implemented by the Central Bank.

Access CNSP Resolution No. 476/2024 here (in Brazilian Portuguese).



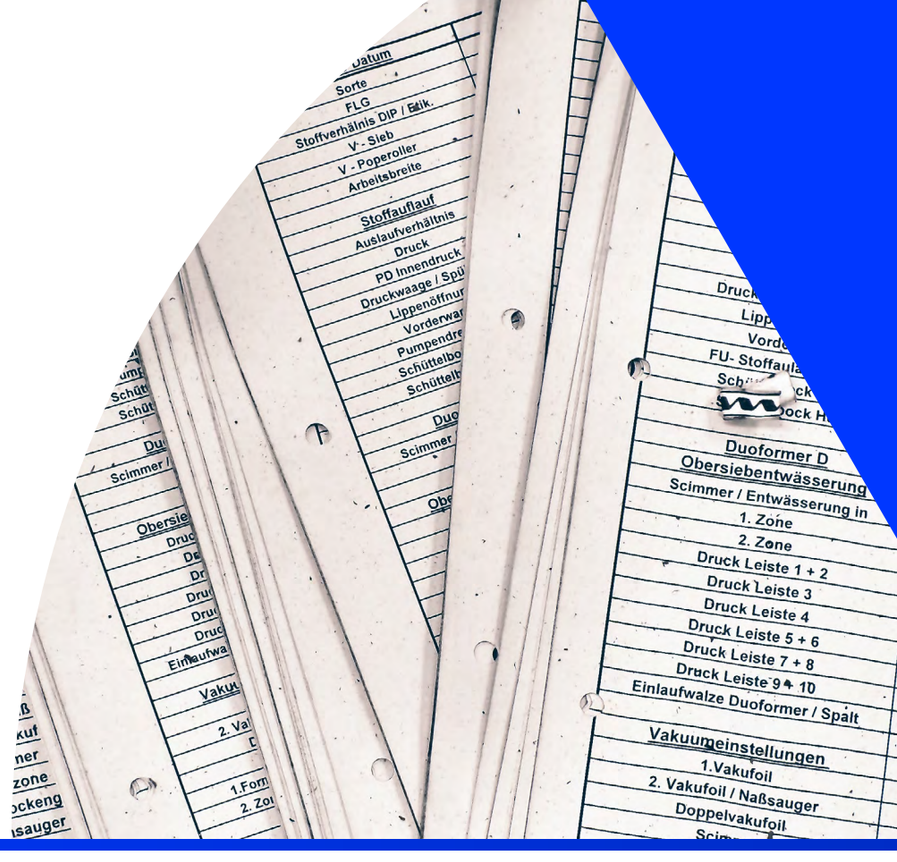
SUSEP Approves Draft for Universal Life Insurance Regulation

The Superintendence of Private Insurance (SUSEP) has approved the draft of new regulations for the launch of universal life insurance. This product combines life insurance policies with features of private pension plans, allowing policyholders to withdraw the funds paid to the insurer at any time.

On Dec. 6, 2024, Public Consultation Notice No. 12/2024 was published, submitting the regulation to market and public review for adjustments before its final publication.

The measure aims to expand life insurance participation across different population segments.

Access the call here (in Brazilian Portuguese).



SUSEP Publishes Six New Circulars to Improve the Operations Registration System (SRO)

On Dec. 27, 2024, the Superintendence of Private Insurance (SUSEP) published six new Circulars in the Official Gazette, revising the information required by the Operations Registration System (SRO). The regulations were developed based on the work of the Task Force (GT), established by SUSEP Ordinance No. 8,242/2023, which identified the essential information for supervision, regulation, and public services.

The Circulars underwent public consultation (Public Notice No. 08/2024), ensuring transparency and input from interested parties.

The new Circulars are:

- Circular SUSEP No 710/2024
  Mandatory registration of property and life insurance operations (simple distribution).
- Circular SUSEP No 711/2024
  Mandatory registration of life insurance (capital coverage/ pension scheme).
- Circular SUSEP No 712/2024
  Registration of capitalization operations.
- Circular SUSEP No 713/2024
  Mandatory registration of open supplementary pension plans with risk coverage.
- Circular SUSEP No 714/2024
  Registration of open supplementary pension plans with survival coverage and life insurance.
- Circular SUSEP No 715/2024
  Registration of financial assistance operations for pension entities and insurers.



California wildfires and the debate over coverage of extreme weather events

The rise in extreme weather events, such as the large-scale wildfires that have devastated California, has intensified the public debate on insurance. On one hand, these occurrences increase public awareness of climate risks and drive demand for insurance as a means of protection. On the other, the growing frequency and severity of such events challenge insurers by significantly raising loss ratios and putting pressure on risk assessment models.

Disparity between actual losses and estimated compensation after California wildfires

Economic losses estimatives	USD 250 to 270 bi
Insurance payouts estimatives	USD 35 to 45 bi

Sources: AccuWeather, Los Angeles Times, Corelogic.

Given this scenario, developing strategies and public policies that bridge the protection gap while ensuring financial sustainability in the sector is essential.

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II. Judicial Decisions



Company's Leniency with Willful Misconduct Invalidates D&O Insurance

The Superior Court of Justice (STJ) has ruled that a company's complicity in willful misconduct by its directors and executives renders its directors and officers (D&O) liability insurance contract void. The decision, handed down by the Third Panel of the STJ, prevents the company from receiving compensation for damages caused by irregularities committed by its board members and executives.

The case began when the company filed a lawsuit after the insurer denied coverage. However, the São Paulo Court of Justice (TJ-SP) ruled that the company was complicit in the irregularities, leading to the annulment of the insurance contract. The company allegedly withheld key information from the insurer, such as being under investigation in the United States, and later admitted to engaging in illicit activities in a settlement with the Federal Prosecutor's Office and the Securities and Exchange Commission of Brazil (CVM)

Read the full decision here (in Brazilian Portuguese).



Brazilian Supreme Court Declares ITCMD Tax on VGBL and PGBL Plans Unconstitutional

Brazil's Supreme Federal Court (STF) has ruled that the Inheritance and Donation Tax (ITCMD) cannot be applied to amounts transferred to beneficiaries of open private pension plans known as VGBL (Vida Gerador de Benefício Livre) and PGBL (Plano Gerador de Benefício Livre) after the account holder's death.

According to Justice Dias Toffoli, the rapporteur, these funds are transferred to beneficiaries through a contractual agreement, rather than as an inheritance, making the tax unconstitutional. The unanimous ruling, which carries general repercussions, will impact 114 similar cases pending before the STF.

VGBL and PGBL plans, which operate similarly to life insurance policies, have specific tax regulations under income tax laws and allow for the direct transfer of funds to beneficiaries. The decision marks a win for the insurance and private pension sector, reinforcing the understanding that these plans do not constitute an inheritance.

Read the ruling here (in Brazilian Portuguese).



Risk aggravation in aircraft insurance

The Third Panel of the Superior Court of Justice (STJ) unanimously ruled that an insurer's right of subrogation in surety insurance must comply with the arbitration clause stipulated in the main contract. The decision was based on Article 757 of the Civil Code, considering that the insurer, having prior knowledge of the arbitration clause, assumed this risk when underwriting the policy.

The ruling reinforces the position of the STJ's Special Court, which, on May 15, 2019, when recognizing a foreign arbitral award, established that by subrogating the insured party's rights, the insurer is bound by the arbitration clauses in the original contract.

Read the ruling here (in Brazilian Portuguese)

In surety bonds, the Insurer's right of subrogation must comply with the arbitration clause of the guaranteed contract

The Third Panel of the Superior Court of Justice (STJ) unanimously ruled that an insurer's right of subrogation in surety insurance must comply with the arbitration clause established in the main contract. The decision was based on Article 757 of the Civil Code, as the court found that the insurer, having prior knowledge of the arbitration clause, assumed this risk when underwriting the policy.

The ruling reinforces the position of the STJ's Special Panel, which on May 15, 2019, while recognizing a foreign arbitral award, established that when subrogating the insured's rights, the insurer is bound by the arbitration clauses in the original contract.

Read the ruling here (in Brazilian Portuguese)



STJ reaffirms understanding of relative exhaustiveness of ANS List

A policyholder filed a lawsuit against UNIMED after the insurer denied coverage for the medication Pentaglobin to treat COVID-19 in their spouse.

According to the ruling, the decision in favor of the policyholder conflicted with the current jurisprudence of the Superior Court of Justice (STJ). In line with the STJ's Second Section, which established that the ANS list is generally exhaustive but may be relaxed in specific cases (REsp 2.038.333/AM), the Third Panel ordered the case to be sent back to the Paraíba Court of Justice (TJPB) for a new trial and additional evidence gathering.

Read the case ruling here (in Brazilian Portuguese)

Validity Period of a Surety Bond or Insurance Policy Does Not Justify Rejection of Judicial Guarantee

The Superior Court of Justice (STJ) denied the plaintiff's appeal regarding the non-acceptance of a judicial surety bond. The ruling reinforces that both bank sureties and judicial surety insurance have the same legal effect as cash for securing a judgment and cannot be refused by the plaintiff, except in cases of insufficiency, formal defect, or inadequacy of the guarantee provided.

In the case reviewed, the mere existence of an expiration date in the policy does not, by itself, render the guarantee inadequate.

Read the ruling here (in Brazilian Portuguese)



Validity of the Clause Excluding Occupational Diseases in Life Insurance

The clause excluding occupational diseases from the definition of a personal accident is valid, as repetitive microtraumas cannot be equated with an accident. Additionally, the clause conditioning coverage for total permanent functional disability due to illness on the loss of the insured's independent existence is considered legal.

With this understanding, the Superior Court of Justice (STJ) ruled in favor of Mapfre Insurance in a special appeal.

Read the ruling here (in Brazilian Portuguese)

Inapplicability of STJ Precedent 616 and Waiver of Prior Notification Due to the Insured's Complete Breach

The STJ granted the insurer's special appeal to deny coverage. The decision concluded that the waiver of prior notification to the insured is justified when the breach is substantial and relevant, thus making STJ Precedent 616 inapplicable. In this case, after the deposit and reversal of the first premium payment, no further payments were made between the insurance agreement and the occurrence of the loss (two years), resulting in the complete breach of the legal transaction.

Read the ruling here (in Brazilian Portuguese)

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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