

**MINISTRY OF FINANCE**  
**Superintendence of Private Insurance (SUSEP)**

**CIRCULAR SUSEP No 380, of December 29, 2008**

*It lays down rules on specific internal controls systems for preventing and combating crimes of money laundering or concealing properties, rights, and values, or other that may be associated with these, monitoring the business applications and transactions associated with politically exposed persons, and also for preventing and inhibiting terrorism financing.*

**THE INSURANCE SUPERINTENDENT**, in accordance with item X of Art. 10 of the Internal Regime of SUSEP, which was approved by SUSEP Deliberation No 132, of December 18, 2008, and taking into consideration the provisions in articles 10, 11, 12 e 13 of Law No 9613, of March 3, 1998, Decree No 5640, of December 26, 2005, and Decree No 5687, of January 31, 2006, and the contents of the SUSEP File No 15414.003612/2007-44,

**R E S O L V E S:**

Art. 1. To establish rules in respect of specific internal controls systems for preventing and combating crimes of money laundering or concealing properties, rights, and values, or other that may be associated with these, monitoring the business applications and transactions associated with politically exposed persons, and also for preventing and inhibiting terrorism financing.

**SECTION I**

**Subjected Persons**

Art. 2. Are subject to the provisions of this circular: Insurance and capitalization societies; local and admitted reinsurers; complementary open-end pension funds; cooperative societies described in paragraph 3 of Art. 2 of Complementary Law 126, of January 15, 2007; broking houses and individual brokers carrying on insurance, capitalization, and pension plans business.

§ 1. Branches of the persons mentioned above as well as the branches of foreign companies carrying on insurance, capitalization, and complementary open-end pension plans business in Brazil are also subject to these provisions.

§ 2. Each society or entity shall have a director responsible for the compliance with Law No 9613/98, this Circular, and any other pertinent complementary regulation.

§ 3. For admitted reinsurers, the director responsible for compliance with Law No. 9613/98 is the person appointed as representative of the reinsurer and head of its representative offices in Brazil.

Art. 3. For the purposes of this Circular Letter the following definitions apply:

I – societies: insurance and capitalization societies; complementary open-end pension funds; cooperatives societies established in accordance with paragraph 3 of Art. 2 of Complementary Law No 126, of January 15, 2007; and their subsidiaries and affiliated abroad, and the branches of foreign companies carrying on these business in Brazil;

II – reinsurers: local reinsurers and their subsidiaries and affiliated abroad, representative offices of foreign reinsurers registered with SUSEP as admitted reinsurers;

III – brokers: reinsurance broking societies, insurance, capitalization, and complementary pension plans broking societies and individual brokers and their subsidiaries and affiliates abroad, and branches of foreign companies carrying on these business in Brazil;

IV – clients: the assureds, policyholders, reinsurers, retrocessionaires, participants of pension plans, holders of capitalization contracts, and their respective representatives;

V – beneficiaries: persons named as such by the insured, or participants of pension plans, or that are recognized as such by the current legislation or by a court decision;

VI – third parties: those who are not described under the previous items above and that may be the recipient of claims payments, benefits, or are associated with the acquisition or liquidation of insurance policies, capitalization contracts, and private pension plans;

VII – other related parties: any other parties directly or indirectly involved in the activities of the persons described in the first two paragraphs of Article 2, as for example, counterparties of the supervised institutions in private negotiations or assets transactions, financial intermediaries, staff, service providers, independent auditors, consultants, trustees, third party managers, and custodians; and

VIII – money laundering: the criminal practices associated with concealing property, rights, and values, or other that may be associated with these.

## SECTION II

### **Politically Exposed Persons**

Art. 4. The societies, reinsurers, and brokers should implement the measures prescribed in this circular for their business relations with politically exposed persons and monitoring of the business applications and transactions that involve these politically exposed persons.

§ 1. Politically exposed persons are public officers who hold or are in charge of (or held or have been in charge of in the previous five years) a high post or relevant mission or service in Brazil or any foreign country, as well as their representatives, relatives, and persons with whom they have or had a close relationship.

§ 2. for the purposes of the provisions of this article, the politically exposed Brazilian persons are:

I - individuals who hold eligible posts in the Executive and Legislative Powers of the Union;

II – individual who holds a post in the Executive Power of the Union:

a) as a minister of State or an equivalent post;

b) of a special nature or an equivalent post;

c) of president, vice-president, or director, or an equivalent post in any special administrative agency, public foundation, state company, or mixed economy society; and

d) classified as level 6 of the High Management and Advisory Functions Group (DAS), or any equivalent post;

III – members of the National Council of Justice, Supreme Federal Court, and other Superior Courts;

IV – members of the National Council of the Ministry for Public Prosecution, General Public Prosecutor of the Republic, Deputy Public Prosecutor of the Republic, General Public Prosecutor for Labor Affairs, General Public Prosecutor for Military Affairs, Sub-Prosecutors of the Republic, and General Public Prosecutors of the states and the Federal District;

V – members of the Administrative Tribunal of the Union, and the General Public Prosecutor for Administrative Affairs of the Union;

VI – governors of the states and of the Federal District, presidents of the State Tribunals, State Legislatures, Federal District Tribunal and Legislature, and presidents of Administrative Tribunals of the States, Federal District, and municipalities;

VII – mayors, and presidents of the legislatures of the state capital cities.

§ 3. For politically exposed foreign persons – for the purposes of the provisions of this article – the societies, reinsurers, and brokers may consider the following:

I – asking the client, beneficiary, third party, or any other related party to make an express declaration about his or her classification as a politically exposed person;

II – using information which is available to the general public;

III – using commercial data bases on politically exposed persons;

IV – using the definition for politically exposed persons (PEPs) in the FATF 40 Recommendations Glossary: “individual who are or have been entrusted with prominent public functions in a foreign country, for example Heads of State or of government, senior

politicians, sênior government, judicial or military officials, sênior executives of state owned corporations, important political party officials.”

§ 4. For the purposes of the provisions in paragraph 1 of this article, relatives of a person are his or hers parents, grand parents, children, grand children, brothers, sisters, common law wife or common law husband, stepchildren.

§ 5. The five years period referred to in paragraph 1 takes effect from the date the business relationship has started.

Art. 5. Societies, reinsurers, and brokers should develop and implement procedures that enable them to identify:

I – the politically exposed persons among their clients, beneficiaries, third parties, and other related parties;

II – the source of funds used in the transactions involving politically exposed persons (including the possibility of verifying consistency with the financial condition of the person concerned).

Art. 6. It is mandatory that a business relationship with a politically exposed person may only be initiated or maintained if authorization is given by the management of the society, reinsurer, or broker.

Art. 7. Societies, reinsurers, and brokers should ensure that they do monitor in a reinforced and continuous way their business relationship with politically exposed persons.

### **SECTION III**

#### **Internal Controls**

Art. 8. Societies, reinsurers, and brokers should – in conformity with law and regulation – develop and implement internal control procedures that are effective and consistent with the nature, complexity, and risks of their business transactions; that contemplate the identification, evaluation, control, and monitoring of risks of involving themselves in situations associated with money laundering; and also prevent terrorism financing associated with their products, private negotiations, assets selling and purchasing, and any other operational transaction.

Art. 9. The internal control procedures referred to in this article should contemplate at least the following features:

I – establishment of a preventive policy in the fight against money laundering and terrorism financing that includes directives on risk evaluation in the underwriting of

business, hiring third and other associated parties, product development, private negotiations, and assets transactions;

II – establishment of criteria and implementation of respective procedures for the identification of clients, beneficiaries, third parties, and other related parties, and for keeping up to date records on products and operations that are exposed to risks of being used for money laundering and terrorism financing;

III – preparation of manuals and implementation of procedures for monitoring, identifying, and reporting of transactions that may indicate the occurrence of money laundering or terrorism financing, or that may be associated with these;

IV – implementation of a specific training program to qualify staff in order to comply with the provisions of Law No 9613/98, of March 3, 1998, this Circular, and the regulation concerning the fight against money laundering and terrorism financing; and

V – development and implementation of an internal audit program for auditing annually the compliance with all requirements made by this Circular; the society, reinsurer, or broker has the option to have this audit carried out by its own internal audit department or independent auditors.

Paragraph one. With respect to brokers, items I, III, IV, and V only apply to brokers whose total amount of brokerage in the previous financial year was larger than ten millions reais (R\$10,000,000.00).

## SECTION IV

### Keeping Up to Date Records

Art. 10. In order to meet the requirements made by item I of Art. 10 of Law 9613, of March 3, 1998, societies, reinsurers, and brokers should keep up to date identification records of the persons referred to in item II of Art. 9 of this Circular, with following information:

I – for natural persons:

- a) full name;
- b) unique identification code number, which should be one of the following (in preferential order): i. the unique identification code number in the National Register of Natural Persons in the Finance Ministry (CPF/MF); ii. identification code number in identity document (valid nation-wide) issued by an official body, including the names of document and body that issued it, and the date of that issuance; iii. or passport number and country that issued it;
- c) full address (including postcode, city and state);
- d) telephone number and respective area code number, if any;
- e) occupation;
- f) estimated financial position or monthly income; and

g) classification, where applicable according to Art. 4, as a politically exposed person.

II – for legal persons:

a) name;

b) main activity;

c) identification code number in the National Register of Legal Persons of the Finance Ministry (CNPJ/MF), or in the Register of Foreign Companies of the Central Bank (CADEMP) in the case of companies domiciled abroad, unless there is a legal provision exempting the company from CNPJ or CADEMP registering;

d) full address (including postcode, town and state) and telephone number and respective area code number;

e) names of owners or controllers, main managers and representatives up to the level of each pertinent individual person, whose condition as a “politically exposed person” (as per Art. 4) should be indicated; and

f) information about the financial condition.

§ 1. Societies, reinsurers, and brokers may enter into agreements or contracts with a third party (financial institution, *estipulante*<sup>i</sup>, *instituidor*<sup>ii</sup>, *averbador*<sup>iii</sup>, or a firm that manages data bases) that manage data bases for providing the services of keeping and maintaining up to date records of their clients in order to meet the requirements made by this article.

§ 2. The existence of an agreement or contract as mentioned in paragraph 1 above does not relieve the society, reinsurer, or broker from its obligation to comply with the provisions of this circular, and to produce the pertinent records and documents whenever they are required by SUSEP.

§ 3. For insurance contracts that do not require an application and the policy terms are simplified in standard forms, DPVAT insurance (Brazilian compulsory “no-fault” motor insurance), group insurances (for closed groups) where the premium is paid through credit card, and group insurances (for open-ended groups) with a monthly premium not larger than R\$50.00 the identification referred to in items I and II of this article should be carried out:

a) when a return premium is paid because of cancellation and the premium amount is less than ten thousand reais (R\$10,000.00), based on the records of the information system; and

b) when a return premium is paid because of cancellation and the premium amount is equal to or larger than ten thousand reais (R\$10,000.00) or when a claim is paid, by taking copies of the pertinent documents and recording the information into the system.

§ 4. For insurances classified under code numbers 39, 40, 45, 47 or 50, the information referred to in items I and II of this article should be captured:

a) at the time of entering into the contract by taking copy of pertinent documentation and recording the information into the system; and

b) at the time of making a claims payment by taking copy of pertinent documentation and recording the information into the system.

§ 5. For group insurances (open-ended groups) with a monthly premium equal to or larger than fifty reais (R\$50.00), and all other insurances not included in paragraphs 3 and 4 above, the identification referred to in I and II above should be carried out:

a) at the time of entering into the contract;

b) when a return premium is paid because of cancellation and the premium amount is equal to or larger than ten thousand reais (R\$10,000.00), by taking copies of the pertinent documents and recording the information into the system; and

c) when a claim, or a cash surrender value is paid, by taking copies of the pertinent documents and recording the information into the system.

§ 6. For complementary pension plan products, the identification referred to in I and II above should be carried out:

a) at the time of entering into the contract, based on the system's records for the participant;

b) when a cash surrender value equal to or larger than ten thousand reais (R\$10,000.00) is paid, by taking copies of the documentation and recording the information about the participant into the system; and

c) when a benefit is paid, by taking copies of the documentation and recording the information into the system.

§ 7. For "popular" capitalization contracts as defined in Art. 1 of the Annex IV of Circular 365, of May 27, 2008, the identification referred to in I and II above should be carried out at the time one (or more than one) which amount (or total amount) is equal to or larger than two thousand reais (R\$2,000.00), and at the time a prize money is paid, by taking copies of the documentation and recording the information into the system.

§ 8. For capitalization contracts not classified under § 7, the identification referred to in I and II above should be carried out:

a) at the time of entering into the contract, based on the system's records for the contract holder and underwriter;

b) at the time an amount redeemed equal to or larger than ten thousand reais (R\$10,000.00) is paid, by taking copies of the documents of the contract holder.

§ 9. In case of insurance syndicating, only the leading insurer is obliged to keep and maintain the records and documents described in paragraphs 3 to 5 above.

§ 10. The records and documents referred to in this Article may be stored as electronic documentation or in printed paper format and should be stored for the period of time established by the regulation.

§ 11. In case of a payment as mentioned in paragraph one of Article 14 of Complementary Law 126, of January, 15, 2007, the local and admitted reinsurers, and retrocessionaires should carry out the identification procedures described in this article.

§ 12. As for natural persons, the identification records and documents may be limited to the ones described in items I-a, I-b, and I-c of Art. 10, provided this permission does not lead to a weakening of the internal controls system to combating money laundering and terrorism financing.

Art. 11. The director responsible for compliance, as defined in Art. 2 of this circular, may exceptionally exempt an institution, on a case basis, following an expressed justification, from the obligation to perform the identification procedures described in Art. 10 above.

Paragraph one. The exemption mentioned in this article should be put on record and the pertinent documentation should be kept for at least five (5) years for prompt disclosure to SUSEP, on demand.

## **SECTION V**

### **Registration of Operations and their Limit**

Art. 12. For the purposes of the provisions in item II of Article 10 of Law 9613, of March 3, 1998, societies, reinsurers, and brokers should keep and maintain up to date identification records of clients, beneficiaries, third parties and other related parties, both natural and legal persons, including those related to all payments made, with the identification of the beneficial owner, and make these records and the respective documentation that proofs the information contained therein ready available to the SUSEP, on demand

Paragraph one. The societies, reinsurers, and brokers are responsible for the accuracy and appropriateness of the above mentioned records and documents.

Art. 13. For the purposes of this Circular, transactions are classified as follows:

#### I – Group 1

a) acquisition of property insurances by a natural person with a total sum insured (in respect of same class of insurance business or cover) equal to or larger than one million reais (R\$1,000.000.00);

b) PGBL or VGBL additional deposit made in the same month or a single premium payment made for PGBL, VGBL, or capitalization contract amount equal to or larger than three hundred thousand reais (R\$300,000.00);

c) acquisition of insurance policy by a natural person, which premium in a given month is equal to or larger than fifty thousand reais (R\$50,000.00);

d) redeemed or portability amount equal to or larger than three hundred thousand reais (R\$300,000.00);

e) proposing to pay or actually paying – not through a bank – a pension plan or insurance premium, or capitalization contract, which amount in a given month is equal to or larger than fifty thousand reais (R\$50,000.00);

f) redemption of “popular” capitalization contracts (as defined in Art. 1 of the Annex IV of Circular 365, of May 27, 2008), which amount is equal to or larger than two thousand reais (R\$2,000.00);

g) prize money amount (in respect of capitalization contract) equal to or larger than one hundred thousand reais (R\$100,000.00) for a same contract holder;

h) cash surrender value in respect of an individual life insurance, or a premium refund (whether the respective policy is cancelled or not), which amount is equal to or larger than fifty thousand reais (R\$50,000.00); and

i) a recipient of DPVAT insurance proceeds (in one or more than one transaction in the same month) in his or her own capacity as the insured or beneficiary, or as an assignee or representative of a beneficiary, which amount is equal to or larger than one hundred thousand reais (R\$100,000.00).

## II – Group 2

a) resistance to produce identification documents;

b) contract entered into by a person listed in Art. 2 with a non-resident foreign person (and no justification was given);

c) insurance applications that are known as being directly or indirectly associated with money laundering, or terrorism financing, or any other wrongdoing;

d) business applications or transactions that are inconsistent with the socioeconomic condition, financial situation, or professional occupation of the client, beneficiary, third parties, or other related parties;

e) business applications or transactions that are not in conformity with standard market practices;

f) payment to a beneficiary with no clear relationship with insured (and no justification was given);

g) change of business owner, or property covered – immediately before a loss or claim – with no justification;

h) premium payment made – not through a bank – by a natural or legal person who is not the insured, by check or any other instrument, with no justification;

i) transactions (including those in Group I) which peculiar characteristics as respects to the parties and amounts involved, way of execution, and means utilized, or because of the lack of economic or legal ground – even if they bring advantages to the society, reinsurer, or broker – may constitute circumstantial evidences of money laundering, or terrorism financing, or any other wrongdoing;

j) unnecessary utilization – by a reinsurer – of a complex network of brokers for the placing of a risk;

k) unnecessary utilization – by a reinsurer – of a broker for a particular transaction;

l) claims that are apparently legitimate, but which frequency is abnormal;

m) significant variation in the assets and/or liabilities of a client, beneficiary, third party, or other related party with no apparent cause; and

n) Group I transactions, which amount is under the limits established herein, but which frequency and form constitute a trick to by-pass the mentioned limits.

## **SECTION VI**

### **Reporting**

Art. 14. In accordance with the provisions of item II of Art. 11 of Law 9613, of March 3, 1998, a supervised institution should report to SUSEP, within 24 hours of its knowledge of it the existence of the following business application or transaction Para fins do disposto no inciso II do art. 11 da Lei No 9.613, de 3 de março de 1998, devem ser comunicadas à SUSEP, no prazo de vinte e quatro horas contadas de sua verificação:

I – societies and reinsurers: all business applications or transactions that (1) are classified under Group I, of Art. 13 (irrespective of any analysis of them); and (2), after analysis, are classified under Group II, of Art. 13;

II - brokers:

a) transaction described in “i” under Group I of Art. 13;

b) Business applications (classified under Group I of Art. 13 irrespective of any analysis, and classified under Group II of Art. 13, after analysis) that are not finalized and sent to societies or reinsurers.

§ 1. The reports referred to in this article should make mention to the participation or involvement of politically exposed persons, if any;

§2. the reports referred to in item I of this article should make mention to the broker that intermediates the pertinent transaction;

§ 3. The reports referred to in this article should be filed with COAF at its website (<http://www.fazenda.gov.br/coaf/>), without giving notice of them to the involved parties;

§ 4. The reports filed in good faith by supervised institutions – as established in paragraph 2 of Article 11 of Law 9613/1998 – shall not be a cause for administrative, civil, or criminal liability of the persons mentioned in Article 2 of this circular, their controlling shareholders, management, or staff.

Art. 15. Societies and reinsurers should inform SUSEP, through a negative report, if during any given month of the calendar year there was no transaction classified under Art. 13.

§ 1. The report mentioned above should be filed with SUSEP at its website (<http://www.susep.gov.br/>).

§ 2. The negative report in respect of any given month should be filed by the 20th of following month.

## **SECTION VII**

### **Administrative Liability**

Art. 16. Infringement of the provisions of this circular will be punished in accordance with Art. 12 of Law 9613, of March 3, 1998, and the regulation in force.

## **SECTION VIII**

### **Final Provisions**

Art. 17. Local and admitted reinsurers, cooperative societies, and reinsurance broker societies shall have their internal controls systems in place within one hundred and eighty days (180) from the date this circular is published.

Art. 18. The other remaining societies listed in Art. 2 but not mentioned in Art. 17 shall have their structures ready for compliance with the requirements made by this circular on the 1<sup>st</sup> of April 2009.

Art. 19. This circular shall be effective on the date of its publication, and as from the 1<sup>st</sup> of April 2009 the following circulars are revoked:

- SUSEP-327, of May 29, 2006
- SUSEP-333, of December 21, 2006
- SUSEP-341, of April 30, 2007
- SUSEP-DECON-GAB-01-07, of January 18, 2007

**ARMANDO VERGILIO DOS SANTOS JÚNIOR**

Superintendent

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<sup>i</sup> a natural or legal person who represents a group and signs a group (life, health, personal accident) insurance application. The estipulante may perform policy services.

<sup>ii</sup> a legal person who represents a group and signs the application for a group pension plan insurance. The instituidor pays part or 100% of the contribution or premium.

<sup>iii</sup> A legal person who represents a group and signs the application for a contributory group pension plan insurance. The averbador pays no contribution or premium