

Survey Report

Microinsurance – Partial Report II

Identifying the Regulatory Barriers in Brazil

NATIONAL SCHOOL OF INSURANCE

FUNENSEG

Survey Report

Microinsurance – Partial Report II: Identifying the Regulatory Barriers in Brazil

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Preliminary Insights

Identifying the Regulatory Barriers for the microinsurance in Brazil

According to the schedule approved, SUSEP Working Group on Microinsurance (SUSEP WG), established by the Ordinance SUSEP 2.960, dated June 12nd, 2008, in its second Partial Report should submit to the Superintendent, a study in which are identified the eventual regulatory barriers to the implementation of an environment favorable to the microinsurance development in Brazil, and their several modalities.

As starting point for such study, SUSEP WG understood convenient to adopt the following strategies:

- i) Analyzing the main complementary laws and rules that regulate the insurance sector;
- ii) Holding meetings with the principal representatives of the insurance companies and insurance brokers, aiming at knowing the point of view of representatives of the private sector that form the National System of Private Insurance and hold the operating expertise of the products and the market knowledge.
- iii) Taking into account the active participation of this Autarchy at the IAIS-CGAP Joint Working Group on Microinsurance (JWG-MI) and at the IAIS Subgroup on Microinsurance, both chaired by the Superintendent of the SUSEP, to adopt as main references the paper *“Issues in Regulation and Supervision of Microinsurance”* and the works carried out by members of these working groups, experts known in the financial and insurance sector, notably, the paper *“Making insurance markets work for the poor: microinsurance policy, regulation and supervision”* (BESTER, H.)

Insurance Legislation Analysis

The Regulation as Tool of Public Policy

According to the paper *“Making insurance markets work for the poor: microinsurance policy, regulation and supervision”*, to reach their purposes, the Governments use three tools of public policies to influence the markets: policy, regulation and supervision.

The word **“policy”** denotes the professed intention of a government regarding to how it intends to order its financial sector and the goals it is willing to reach. This policy may be envisioned at a proper paper, but may also be professed by a more encompassing way, through public manifesto and speeches, in the preamble of the legislation or, also, in other papers.

The **regulation** includes the several legal instruments with authorities associated with – so much the main legislation as the complementary rules and regulatory acts subordinate to it – and that together include the regulatory corpus or the regulatory structure related to the insurance. The regulator may publish guidelines relative to the regulation, as circulars and memoranda. These, although have not act of law, may be converted into associated legal regulations, if required.

The **supervision** describes the functions through which the country seeks to assure the compliance with the regulation.

The regulation includes however, the action of regulate the insurance market to reach the politic purposes determined by the Government that should seek:

- **The stability of the sector**, assuring the strength of the providers, through the capital requirements, corporate governance, qualifying, including, but not limited to the regulation structure issues.
- **The consumer protection**, that, although is already envisaged in the previous purpose, produces direct reflections in the market conduct and intermediation regulation.
- **The market efficiency promotion**, preventing anti-competitive behaviors and the information asymmetry occurrence.

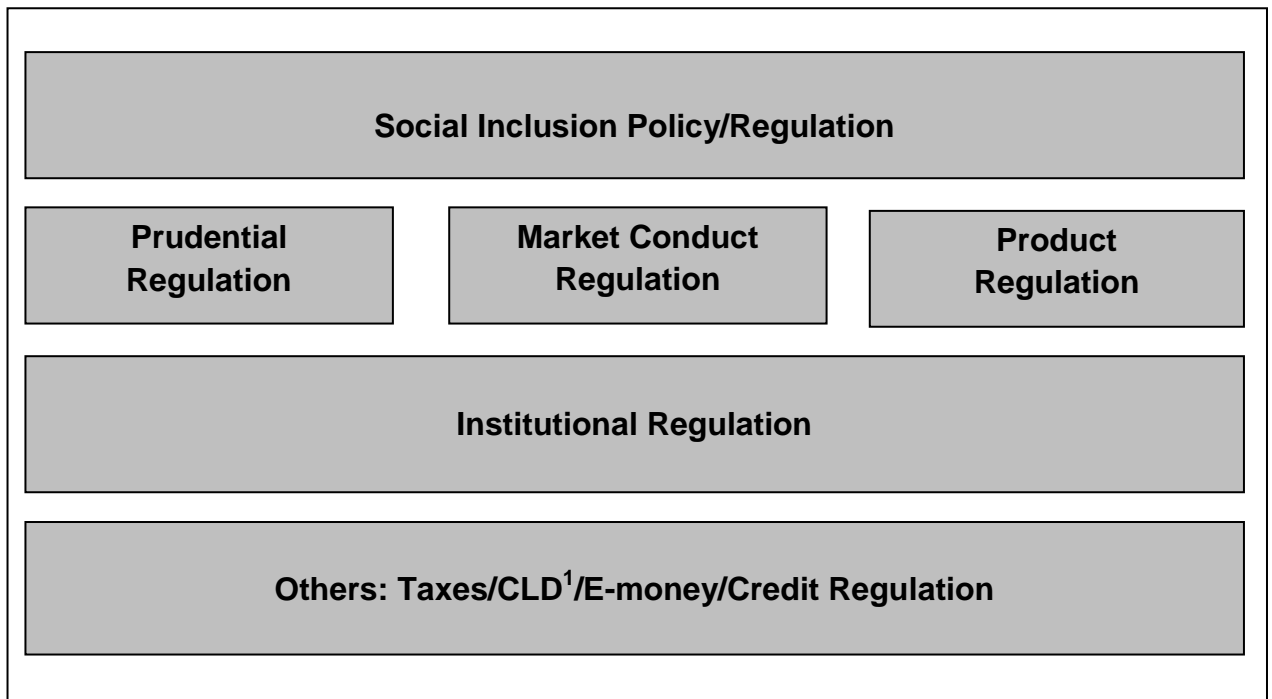
- **The market development**, or more specifically, the financial inclusion.

It may be also established other strategic purposes that include, for example, the prevention and control of financial crimes as required by international standards or the strengthening of a less favored segment of the population, how is the case of the microinsurance regulation.

Insurance Regulatory Structure

The figure below presents the regulatory structure with the different regulation classes used to influence the participants of the insurance market. It may also be used to evaluate the impacts of the policy and regulation in the development of the microinsurance markets under study.

Figure 1



Source: Bester, H., Chamberlain, D. and Hougaard, C., to be published. *Making insurance markets work for the poor: microinsurance policy, regulation and supervision.*

1 Combating Money Laundering (CLD, in Portuguese).

The Social Inclusion Policy and/or Regulation refers to the policy or regulation enacted with the purpose to extend the access and use of the formal financial services to people who are excluded or those who do not use formal financial services (that is, financial services provided by financial institutions licensed and supervised). The Government may choose not to regulate the financial inclusion, but simply to adopt explicit policies in this sense, encouraging the provision of these services. Although having not act of law, they shall impact directly in the providers conduct.

The Prudential Regulation seeks to assure that the insurance providers comply with the agreement obligations undertook before the assureds. This occurs, for example: by establishing minimum capital and *compliance* requirements, through a set of regulations that govern the insurance company operation.

The Market Conduct Regulation refers to the regulation of delivery or intermediation of the insurance products, that may include, for example: requirements for individual persons and/or legal entities engaged in the insurance intermediation, qualifying requirements for the agents and brokers and other intermediaries, regulation of sale procedure, including transparency requirements, regulation of commissions payment, etc,

The Product Regulation aims at assuring the consumer stability and protection through the regulation of the nature and structure of the insurance products and may include, for example: i) the record and previous approval of products; ii) the compliance with the standards regarding to simplification, standardization, documentation, period of coverage, exclusions, etc.; iii) the establishment of maximum and minimum premiums by class of product; iv) the service rendering through certain legal forms of providers (as the insurance provision only by joint stock companies); and v) the obligation to afford specific compulsory products.

The Institutional Regulation refers to the requirements that determine the legal form of legal entities (as, for example: joint stock companies and cooperatives) and usually it s not specific for the insurance sector, but common to all the sectors.

Other regulations may also impact the development of the microinsurance market. Although they are not specifically intended for the insurance sector, cause impact in the underwriting and intermediation of insurance products and may include measures related to combat money laundering, tax, regulation of the payments system (with impact in the premiums collection networks and/or bank fees), to the microfinance sector and the credit in general.

Assortment and Analysis

With these concepts in mind, SUSEP WG firstly assorted for analysis the laws and rules that, according to its understanding, include the regulatory structure in force and that will exercise some influence on the microinsurance regulation. The legislation was separated and grouped by subject matter in the Annex I – Legislation Analyzed, which topics had as reference the IAIS Insurance Core Principles (PBSs, in Portuguese).

The analysis performed considered the Figure 1 above, to evaluate the impact of the regulation in force on the microinsurance market development, taking into account not only the eventual barriers that exist, but seeking also identify the opportunities and gaps of the legislation and, further, the risks and threats resulting from the non-existence of protection factors, so much for the market stability as the insurance consumer.

Following, is presented the analysis performed.

Social Inclusion Policy

Firstly, it is important to highlight that the Brazilian Government has explicit policies established to the microfinance, namely, and in which are included the insurance provision for the low-income people:

- Facilitating and extend the access to credit amongst the formal and informal micro-entrepreneurs, aiming at generating income and work;
- Facilitating and extend the access to financial services (banking account, savings, insurance, credit) for the low-income people, ensuring large citizenship;
- Extending the number and participation of the credit cooperatives in the Financial System; and
- Reducing the informality and interest rates in financing.

Amongst the several actions defined by the Government to reach the purposes outlined is to make available finance products and services tailored to economic-social reality of the low-income people and the formal and informal micro-entrepreneurs, amongst which are included the simplified and the low-cost insurance. As a result, SUSEP encouraged the marketing of the so called “popular insurance”, by publishing circulars, obtaining quite success, since the market arose for population segments up to now ignored. The analysis of the results achieved publishing such rules is performed in the “Popular Insurance” topic, in Products Regulation.

Insurance Sector Regulatory Milestone

It was considered as opportune to begin the analysis of the legislation by the Decree-Law 73, dated November 21st, 1966, since it is the insurance sector regulatory milestone, by determining the purposes of the private insurance policy in Brazil, creating the National System of Private Insurance and defining the authorities of the National Council of Private Insurance (CNSP) and the Superintendence of Private Insurance (SUSEP). Following, was performed an analysis of the Decree 60.459, dated March 13rd, 1967, that regulated it.

Decree-Law 73, dated November 21st, 1966

It may be understood, from the analysis performed by SUSEP WG, that the Decree-Law 73/66 does not present relevant barriers and constraints for implementation of a favorable regulatory environment to microinsurance development in Brazil; otherwise, it is quite flexible to create conditions for the regulation of the microinsurance activities in the CNSP and SUSEP scope. The integration of the insurance market in the socio-economic process of the country is, inclusive, one of the insurance policy purposes, clearly established in the paragraph I of the Article 5th of the Decree-Law 73.

The only constraint firstly noted would be associated with the legal nature of the providers, if the will is to encourage the entry of other legal forms of providers, other than those already existing, that would be limited to the Joint Stock Companies and Cooperatives, the last specific to the agriculture, health and workers' compensation insurance (Article 24). Thus, it is important to remember that, in other jurisdictions, is common the existence of mutuals and cooperatives acting within the microinsurance provision².

The Article 32 rules the CNSP authority, the is liable for, including, but not limited: i) to establish guidelines and rules of the insurance policy; ii) to regulate the formation, organization, operation and supervision of those that perform the insurance activities; iii) to set forth technical conditions, investments and other property relationships of the insurance companies; iv) to set forth the general characteristics of the insurance agreements, in addition to the general accounting and statistic standards to be observed; v) to delimitate the capital of the insurance companies, allowing the possibility of

2 Survey on role of mutuals, cooperatives and community based organizations in Microinsurance – An Analysis of Responses (Draft).

defining different criteria for microinsurance providers; vi) to define the criteria of the insurance companies formation, specifying the legal and technical limits to their operations; and vii) to regulate the insurance brokerage and the broker profession, what would enable the creation of a new type of broker, expert in microinsurance.

In view of these aspects, SUSEP WG believes that the microinsurance, in respect of the operating, technical and contractual issues may be regulated by CNSP, and SUSEP being liable for (Article 36), as executor of the policy outlined by CNSP and as the supervisory agency: i) licensing new providers; ii) establishing instructions and issuing circulars related to the regulation of their operations; and iii) specifying agreement, policies and tickets conditions and supervising the providers operations.

It is also highlighted from the analysis of the Decree-Law 73/66, issues related to:

- **Capital, Technical Reserves and Investments**

The Decree-Law 73/66 (Articles 28 and 29, paragraphs III and VI of the Article 32, Article 79 and Article 84) delegates to CNSP the definition of the criteria to apply the technical reserves of the insurance companies, as well as their compulsory investments in order to assure their solvencies. In the Article 32, especially, it is noted an evident opportunity for CNSP may establish differentiated criteria for the microinsurance providers, including pursuant to minimum capital requirement (paragraph VI).

On the other hand, the Article 79 delegates to SUSEP the authority to establish technical limits in compliance with the rules approved by CNSP, what would enable to specify a technical limit for the microinsurance providers through infra legal regulation.

- **Licensing**

The Article 78 establishes as compulsory the specific authorization according to the type of insurance commercialized and in compliance with the rules approved by CNSP. And the Article 72 confirms the set forth in the Articles 32 and 36 of the Decree-Law that specifies the SUSEP and CNSP authorities in respect of the authorization for operating within the insurance companies, creating the possibility of a specific authorization for microinsurance providers.

Although the licensing topic is to be analyzed in more details in “Licensing”, considering the provisions of the Article 73 of the Decree-Law that determines the exclusive character of the providers activities to provide insurance services, SUSEP WG understands that should be given special attention to the subject matter, in case of interest to characterize some companies of service rendering currently existing as microinsurance providers, as for example, the burial care companies.

- **Burial Care Insurance**

It may be identified here, at the same time, an opportunity for the microinsurance and a considerable threat to the stability of the insurance market in view of the protection afforded by these companies, with insurance features, to a relevant part of the population, which interest focus is principally intended for the low-income segments.

In this sense, it is worth highlighting that in other jurisdictions, the burial care insurance is one of the main microinsurance products, reaching large penetration percentages, principally in the poorest segments of the population of emergent countries.

It is the case of South Africa, where it is observed high penetration ratio, which access to services occurs in the most by large informal programs.

In Brazil, up to 2001, the Law 6.435/77 (Article 6th) allowed the existence of burial care services, by not considering as private pension activity, the simple creation, at the limited scope of a company, of a foundation or other independent entities, of private property due to death, of small value, since managed solely as co-insurance amongst the participants. This Law was revoked in 2001 by the Complementary Law 109, dated May 29th, 2001, which despised this situation, making these entities lose any support, so much in the scope of the private pension as the insurance legislation, since provision is not also noted in the Decree-Law 73/66.

In 2004, the CNSP Resolution 102/2004³ that differs “insurance coverage” from “care services”, by establishing these concepts, allowed the service rendering of burial care, since the purpose is not to pay back, that is, there is no money reimbursement of any kind.

Regarding to this subject matter, it is important to observe that the paper *“Issues in Regulation and Supervision of Microinsurance”*, based on the lessons learned with the micro-finances regulation, recommends clearly that it should not regulate what it could not supervise. This kind of provider under the scope of SUSEP and CNSP supervision and regulation would have however to take into account the included reputational risk for the insurance market.

On the other hand, insurance plans not licensed may cause damages, especially to low-income households. Failing to act timely by the sectors in charge of – whether by non-existence of proper regulation or by failing of supervision structure – may result in most costly curative actions so much for the Government, by eventual failure in the informal programs to comply with the responsibilities undertaken, as for the regulator/supervisor, by having to correct practices that could be avoided.

Thus, if the creation of a specific branch for “burial care” or “burial insurance” is to be considered, SUSEP WG recommends that, firstly, is performed an evaluation of

3 CNSP Resolution 102 is regulated by SUSEP Circular 310/2005 that, on the other hand, was amended by SUSEP Circular 318/2006.

the existing companies that provide this type of coverage, rather through specialized surveys intended for finding the potential of this segment for the insurance market in the country.

- **Applicant**

The definition of the “applicant” is given by the Article 21 of the Decree-Law 73/66, that in its § 3rd delegates to CNSP the authority to establish the rights and responsibilities of the applicant in the regulation of each insurance branch or modality. Special attention should be given to the matter, establishing the specific conditions for the microinsurance applicants, especially in respect of the consumer protection, since the applicant is the representative of the assured.

- **Brokers**

Pursuant to the contracting via broker, it is not noted in the terms of the Decree-Law 73/66 the compulsory contracting via him or her. The Article 9th only mention that the contracting will occur *“upon application forms signed by the assured, its legal representative or via qualified broker”*, that means, of conditional way. On the other hand, according to the Article 122, the insurance broker would be the intermediary legally authorized to contract and to promote insurance agreements between the insurance companies and assureds.

The issue is very important, since the flexibility of delivery channels is an essential condition for the microinsurance development and shall be analyzed in more details in the topic “Intermediaries”.

- **Contracting through tickets**

The Article 10 of the Decree-Law 73/66 enables the insurance contracting through tickets upon oral request of the assured, delegating to CNSP the authority to regulate these cases, which clauses and forms should be, necessarily, standardized.

If is convenient to enable the contracting of microinsurance products by this way, it is necessary to observe carefully the set forth in the Article 11 in order not to prejudice the consumer that, in case of microinsurance, due to its hypo sufficiency, not only economic, but due to the low education level expected, requires the differentiated legal support.

The information that shall be included in the tickets, policies and certificates are defined by the Article 83, being CNSP liable for setting forth the general features of the agreements, allowing margin for establishing differentiated parameters for the

microinsurance products. This theme shall be analyzed, in details, in the topic “Insurance Contracting”.

- **Workers’ Compensation Insurance**

SUSEP WG identifies in the Article 24 of the Decree-Law 73/66 – that provides the action of the cooperatives in the provision of workers’ compensation insurance – what could represent an excellent opportunity for the microinsurance segment from the regulation of the Constitutional Amendment 20⁴ for both, the insurance sector and the society, considering the social reach of the provision in large scale of these services and the exoneration of the country.

Regarding to this matter, it is important to clarify that, up to 1967, workers’ compensation was covered by policies contracted by employers with the insurance companies. In 1967, the Law 5.316/67 became compulsory the workers’ compensation insurance and attributed responsibility for its payment to the Social Security, such benefit becoming to comprise all the workers, including the temporaries and the prisoners performing paid activity. The accident concept was also extended to events occurred in the way from home to work and vice versa, then resulting the extension from professional risk to social risk. The Social Security implemented accidents prevention and professional rehabilitation programs. After long discussion on the flexibility and peculiarities related to the operations of the Workers’ Compensation Insurance in the National Congress, the Constitutional Amendment 20, dated December 15th, 1998, through the §10 of the Article 201, transcribed below, allowed the marketing of this insurance modality by the private sector.

“§ 10 – Law shall regulate the workers’ compensation risk coverage, to be simultaneously served by the general regimen of social security and by the private sector.”

The specific law shall regulate however, the worker’s compensation insurance that may be, at the employer discretion, kept by coverage in the Social Security or freely contracted with the private providers. But such Law was not enacted, the workers’ compensation insurance remaining exclusive of the regimen of social security. Whilst a law regulating the workers’ compensation risk coverage by the private sector is not enacted, the workers’ compensation remains out of the limit of the Superintendence of Private Insurance (SUSEP).

4 It changes the system of social security, establishes transition rules and set other arrangements.

Decree 60.459, dated March 13th, 1967

As previously mentioned, the Decree 60.450/67 regulated the Decree-Law 73/66, confirming the understandings and/or allowing the clarifying of some issues identified in its analysis.

- **Supervision and Regulation**

The Articles 21 and 34 of the Decree 60.459/67, that establish CNSP and SUSEP authority, confirm the set forth, respectively, in the Articles 32 and 36 of the Decree-Law 73/66, in respect of the market regulation and supervision.

SUSEP is also liable for: i) providing the qualification and record of the insurance brokers, supervising their activities and applying to them the proper penalties; and ii) proposing to CNSP the idoneity and capacity conditions that shall satisfy the managers and members of the Audit and Consultative Committee of the Insurance Companies.

- **Licensing**

According to the Article 42, the authorization for operating should be afforded through Ministry of Finance Ordinance, upon request of the stakeholders addressed to CNSP and submitted by SUSEP. But in practice this authority is delegated to SUSEP⁵.

- **Compulsory Requirements**

The Article 63 establishes, including, but not limited to the obligatoriness by the insurance companies to publish annual balance sheet and to send data, which criteria should be established by rules from SUSEP. In this case, differentiated criteria may be specified by SUSEP for the microinsurance providers.

- **Applicant**

The Article 19 of the Decree 60.459/67 in its paragraphs defines “applicant” at the same terms it is defined in the Article 21 of the Decree-Law 73/66, delegating to CNSP the authority to establish its rights and responsibilities.

⁵ Ministry of Finance Ordinance 151, dated June 23rd, 2004.

- **Brokers**

The Article 100 of the Decree 60.459/67 defines “insurance broker” as the definition provided for the Law 4.594/64 that regulates the insurance broker profession, characterizing him or her as the intermediary duly authorized to contract and to promote insurance agreements between the insurance companies and the assureds. In its single paragraph, it allows to the broker to appoint employees of its free choice, as the Article 12 of the Law 4.594/64, duly recorded at SUSEP (sole paragraph of the same article of the Law).

The Article 101 delegates to SUSEP the authority to make their qualification and record.

The Article 104 provides for the possibility of direct contracting, without broker. In this case, the commissions – that as a rule may only be paid to the duly qualified insurance broker (Article 103) – were firstly collected to IRB to use without specific purposes. In addition, the Article 19 of the Law 4.594/64, which the terms were amended by the Law 6.317/75, established that, for direct contracting, the amount charged by way of commission was collected to the Educational Development Fund of the Insurance, managed by the National School of Insurance Foundation – FUNENSEG, which resources are intended for creating and maintaining: i) schools and courses for professional qualification and improvement of insurance brokers and employees; and ii) specialized libraries. In this case, the possibility of direct contracting including a review by the market relative to commission percentages of these specific cases (that could be reduced to a symbolic baseline if applied to microinsurance marketing) would have direct impacts in the product costs.

- **Contracting through tickets**

The Article 2nd of the Decree 60.459/67 establishes that the contracting through ticket may be effected by simple issue, without need the signature of application form, reducing and simplifying the contracting procedures.

- **Premiums Payment**

The Article 6th establishes conditions related to the premiums payment and coverage period, as well as for the contracting made by insurance tickets and for those by policy issue. The § 2nd of this Article establishes the compulsory premiums collection by banking institutions, in compliance with SUSEP and Central Bank instructions, emphasizing the importance of the role the banks play as essential tool in the procedures of microinsurance premiums collection.

For the cities with up to 10.000 inhabitants, the Article 105 also provides the insurance contracting by simple aggregators, since there are not brokers recorded at the location.

The Article 7th, by delegating to SUSEP the authority to dispose on the conditions to pay the insurance premiums in installments, gives rise an essential issue for the microinsurance – the flexibility of the premiums payment – principally if we consider the variable flows of input the less fortunate people are subject to, highlighting those which activities depend on the annual cycles and/or which position in the occupation is classified as informal activity.

Prudential Regulation

In respect of the prudential regulation, it is necessary to know the regulatory cost and the size of the companies that shall operate the microinsurance. The size matter is relevant, since due to the premiums charged by microinsurers, in order the company has profitability margin, by assumption, and taking into account the prudential rules currently in force, it would be required a large mass of participants to make possible the operation and to mitigate the risk, in addition to bear the acquisition and administrative costs. To manage a mass of participants like that (database, tickets issue, reserves constitution and application, losses payment), by assumption, it would be required a minimum structure, consistent with the middle and large size companies.

Supervision Fee

SUSEP supervision fee was created by the Law 7.944, dated December 20th, 1989. Its generating fact is the SUSEP police authority and as parameter the insurance companies/entities solvency margin, calculated according to the criteria defined in the CNSP Resolution 02/89.

The current values of the solvency margin ranges for charging the rate are those contained in the schedule attached to the Law 8.981/95 and also published in the SUSEP Circular 12/1996. The calculation of the solvency margin to classify in the rate collection schedule is in accordance with the set forth in the Article 5th of the CNSP Resolution 2/98.

The values of the supervision fee are calculated according to: type of activity, operation of the head office and number of federation units where the insurance company accepted risks. The fee is charged quarterly.

Today, the lower limit of solvency margin established in the SUSEP Circular 12/1996, by type of activity, includes the range from zero to R\$4,143,500.00, that corresponds to a quarterly fee of R\$5,800.90 at the head office and R\$290.05 by Federal Unit where the insurance company has a risk in course.

If these fees are to be entry barriers, the possibility to create a lower range to include the smaller companies could be considered.

Another option would be to establish smaller regions of action for small size providers, what would enable to specify a distinguished supervision fee and the probable smaller exposition to risk. In this case, it would be necessary also to consider the consequences for the supervision procedures.

Licensing

The companies' formation is the turning point, in terms of access to the market, since in this phase an initial selection of who shall operate microinsurance is made.

The CNSP Resolution 166/2007 that set forth on the requirements and procedures for the formation, authorization for operating, transfer of corporate control, corporate reorganization and authorization cancellation for the entities operation, determines in its Article 5th.

“Article 5th. The companies' formation referred in the Article 1st shall be subject to the following conditions, which satisfaction shall be examined by the Superintendence of Private Insurance:

II – presentation of business plan, portfolio actuarial technical note and definition of the corporative governance standards to be observed, as defined in the legislation and regulation in force;

III – appointment of the corporate control group;

IV – demonstrating the economic-financial capacity consistent with the size, nature and purpose of the venture, to be satisfied, at discretion of the Superintendence of Private Insurance, individually by controlling shareholder or controlling group;”

On the other hand the business plan, according to the Article 4th of the SUSEP Circular 311/2005 shall present, at least, the following items:

“I – strategic purposes of the supervised company;

II – detailing of the organizational structure, consistent with its business plan and with clear definition of the responsibilities attributed to the several levels of the company supervised;

III – description of the economic scenery in which the company or entity supervised expects to negotiate;

IV – financial estimates, showing the property development in the period, with identification of the source of funds that make possible this development;

V – investments policy;

VI – company policy related to information technology;
VII – branches of insurance where the company or entity supervised intends to act and the estimate shares of such branches of insurance in its total revenue;
and
VIII – reinsurance policy.”

The description of the economic scenery provided in the paragraph III shall consider the following parameters:

“I – interest rate, estimated for the following:

- a) basic rate of the economy
- b) asset remuneration rate; and
- c) liability remuneration rate.

II – estimated inflation

II – estimated economic expansion rate, considering the ratios of economic performance more associated with the sales revenue expected.”

According to the foregoing, the Business Plan is a paper that includes the business features, the way the provider operates, its plan to obtain market shares and the estimates of outcome, income and financial results.

As it may be noted, the requirements to obtain the authorization to operate in insurance may represent relevant costs for small size entities, being, certainly, entry barriers.

Thus, if the intention is to encourage the access to the microinsurance market to different types of providers, this subject matter could be reconsidered by SUSEP, that would become to require in whole or in part the necessary papers to the licensing, taking into account the features of the company, as a similar way to that already established by the National Agency of Supplementary Health (ANS, in Portuguese)⁶.

It should also take into account, that the Civil Code of 2003 approximated the legal regimen of the other companies (for example, the liability limited companies) with that of the joint stock companies, since the code created more publicity requirements for the other companies, increasing the costs for other legal forms.

6 The Article 5th of the Normative Resolution 85/2005 takes into account the segmentation and classification of the health provider.

Capital Adequacy and Solvency

As already noted in the analysis of the Decree-Law 73/66, CNSP has the authority to define the criteria for applying the technical reserves of the insurance companies, as well as their compulsory investments, in order to assure their solvencies, allowing to CNSP to establish differentiated criteria for microinsurance, including in respect of minimum capital requirement.

SUSEP would be liable for establishing the technical limits in compliance with the rules approved by CNSP, enabling to specify a technical limit for the microinsurance providers through a infra legal regulation.

Regarding to this theme, were also analyzed the CNSP Resolution 073/2002, that dispose on the rules of minimum capital, and the CNSP Resolution 178/2007, that amends the first.

It was noted that would be possible to amend the rules with a formula to calculate the minimum capital, specific and proportional to the risk accepted by the insurance companies that shall operate with microinsurance. As a matter of fact, would be sufficient to promote the amendment of the Annex to CNSP Resolution 178/2007 or the preparation of a resolution dealing solely with the “Minimum Capital Required” for insurers operating with microinsurance.

About the requirements related to the type of investments associated with microinsurance, in case the will is to encourage the entry of small providers, in face of the possible limitation of experience and knowledge available internally, it must be considered the recommendations contained in he paper *“Issues in Regulation and Supervision of Microinsurance”*, meaning that all investments of small microinsurers are *“based on prudence guidelines specified by the insurance surpevisor”*. The investment strategy could be simple, direct and not require significant analysis, and should consider the legal form, the branch operated and the type of products. Accordingly, the *paper* further suggests that the Government and Brazilian Central Bank assist in the creation of appropriate savings tools that take into account the specific requirements of the insurers engaged in the microinsurance.

Internal Controls

SUSEP Circular 249/2004 that disposes on the implementation of internal controls system in the insurance companies, in its 1st Article determines that supervised entities implant internal controls of their activities, information systems and compliance with laws and regulations applicable to them, and in its sole paragraph, that the internal controls,

regardless of the size of the company or entity, should be effective and consistent with the nature, complexity and risk of the operations performed.

The 2nd Article defines the responsibility inherent to the board of the company, such as: i) the definition of activities and levels of control for all businesses; ii) the purposes of the control mechanisms and their procedures and the examination of the adoption and fulfillment of the procedures defined; iii) the continuous evaluation of the various types of risks associated with activities; iv) the monitoring and implementation of the policies of compliance, prevention against frauds and underwriting.

According to 3rd Article, the internal controls cannot fail to predict the activity of internal audit that, when not performed by specific branch of the insurance company, or entity part of the same financial conglomerate, can be carried out by independent auditor, other than that in charge of auditing the financial statements. In the 9th Article there is also an appointment of the director in charge of the internal controls.

Thus, the compliance with the rules, in addition to agree with the international principles globally accepted, results in the creation of efficient and effective risk control mechanisms, with positive effects not only for the supervised entity, but for the stability of the insurance market.

The process of implementation of these mechanisms, nevertheless, depending on the size of the provider may require significant initial investments (for example: training and qualification of staff, computerized systems of control, specialized consulting, auditing, etc.), which costs are absorbed over time, but may represent a barrier to new legal forms of small size providers, since the insurance companies currently in operation are showing capacity to promote changes required by SUSEP Circular 249/2004, partly because the internal controls must be consistent with the nature, complexity and risks of the operations performed.

Therefore, in case the will is to encourage the entry of small providers from different legal nature from those provided in the current legislation, or even, to promote the formalization of entities acting to provide insurance, must be thought in transitory rules, in order not allow these providers are completely relieved of developing control mechanisms.

Accounting Standards

CNSP Resolution 86/2002 (amended by SUSEP Circular 371/2008) disposes on the accounting standards that should be observed by the insurance companies.

Regarding to the accounting standards, the issue related to possible entry barriers is associated with the size and other characteristics of the entity that will operate with microinsurance. In the case of small size insurance companies, the costs of a possible outsourcing of services of accounting, auditing and publication of financial statements could turn out to be an entry barrier.

The insurance companies are required to publish their financial statements in a major newspaper, with the purpose of publicity and transparency to the market. Furthermore, these financial statements should be audited by independent auditor registered with the Securities Commission (CVM, in Portuguese).

The Financial Statements, containing Management Report, Explanatory Notes, Balance Sheet, Income Statement, the Sources and Applications of Funds and Changes in Equity, and the related Report of the Independent Auditors shall be published at least 5 days prior to the Annual General Meeting, when dealing with operator governed by Articles of Incorporation, except cooperative.

The Balance Sheet and Income Statement should be published in a comparative way with the financial statements for the previous year.

The publishing costs can be significant for the small size insurance companies. To get an idea, publishing a half-page balance in a major newspaper⁷ costs about R\$ 50,000.00.

Thus, if there is interest in encouraging the entry of new small size providers within the microinsurance market, standard issued by the CNSP could exempt these entities from publication of financial statements, since SUSEP provides publicity to these statements via internet, similar to what is done in the National Health Agency.

Also in order to minimize costs of audit fees, SUSEP could negotiate with the Institute of Independent Auditors of Brazil (IBRACON, in Portuguese) (part of class of the Audit Companies) a limited model of accounting review, considering the size of the operator, with the minimum information necessary for the regulator agency.

⁷ The example mentioned refers to O GLOBO newspaper.

Compulsory Reports

According to the provisions of Article 21 of the CNSP Resolution 118/2004, the companies supervised by SUSEP are required to contract companies of independent auditing to produce the following documents:

- audit opinion to express its theory upon the fact that the financial statements and explanatory notes were prepared pursuant to the accounting practices adopted in Brazil, including the adequacy to the accounting standards issued by the CNSP and SUSEP;
- detailed report on the adequacy of accounting procedures and information disclosure practices in the financial statements;
- detailed report on the non-compliance with legal and regulatory provisions that have, or may have, relevant impacts on financial statements or on the operations continuity of the audited supervised entity; and
- detailed report on the adequacy of internal controls to the risks sustained by the supervised entity, highlighting the deficiencies found.

Furthermore, the Article 26 of the same Resolution set forth that independent auditors must produce evaluation report on the information provided in the Quarterly Questionnaires contained in the Periodical Information Form (FIP, in Portuguese).

Even regarding to the mandatory reports, the CNSP Resolution 135/2005 creates the obligation to perform actuarial evaluation on annual basis. The actuarial evaluation should be the object of analysis of independent actuary in order to accomplish the actuarial audit, being compulsory to send the report to SUSEP.

Thus, if there is interest in encouraging the entry of other legal forms of small size providers in the microinsurance market, CNSP rule could reduce the audit reports requirements or create simpler reports standards, which did not demand excessive time of audit, in order to reduce costs without compromising quality.

Sending Compulsory Data and Detailed Records

As already noted, the Decree 60.459/67 sets the requirement by the insurance companies to send data, according to the criteria established by regulations issued by SUSEP, which would allow the review of the criteria for the microinsurance providers, quite objective, principally aiming at creating microinsurance database.

The main rules in force on the subject matter are the SUSEP Circular 360/08 and SUSEP Circular 326/06.

SUSEP Circular 360/08 set forth the obligation to send the Periodical Information Form and additional statistics data. Maintaining a control system and sending such data, even requires some effort, does not mean a significant burden for the companies, especially for the branches usually associated with microinsurance. The relevant fact is that these sendings are vital for monitoring the supervision activity of SUSEP, consisting in valuable information for the supervised entities themselves, being unwise to simply dismiss them.

A viable alternative, if the will is to stimulate the entry of new small size providers with other legal nature different from those provided in the legislation in force, would be the adoption of a simplified form format.

And the SUSEP Circular 326/06 applies to the policies and endorsements records.

“Article 1st. Regulates the record of policies and endorsements directly issued by the insurance companies in specific and exclusive accounts for this purpose.

Single Paragraph. The provisions contained in this Circular do not apply to home/housing insurance of the National Housing System,, as well as to other branches of insurance operating through tickets.”

The mandatory record of policies and endorsements, at first, has implications in the cost of the product by requiring the creation of control mechanisms and would be totally out of the scope of the microinsurance.

Control Changes and Portfolios Transfer

Were analyzed: SUSEP Circular 298/2005 on prior approval of the acts performed by the insurance companies, CNSP Resolution 079/2002 on the portfolios transfer, and SUSEP Circular 217/2002 and SUSEP Circular 263/2004 detailing the transfer procedures.

The analysis of these normative acts did not reveal any regulatory barrier to the Microinsurance operation, and may be adopted as standard per equivalence.

Market Conduct Regulation

Intermediaries

Regarding to the activity of the insurance broker, were analyzed, in addition to the Decree-Law 73/66 and Decree 60.459/67: Law 4.594, dated December 29th,1964 (amended by the Law 7.278/84 and Law 6.317/75) that disposes on the professional qualification of the insurance broker; CNSP Resolution 81/2002 that set forth on the insurance brokers, individual persons and legal entities, of General Insurance and Life Insurance; Resolution CNSP 149/2006 that set forth on minimum technical certifications of the employees and similar of insurance brokers; and Resolution CNSP 179/2007, that interrupted the deadlines on the CNSP Resolution 149/2006.

It may be noted from the analysis of the Decree-Law 73/66 and Decree 60.459/67 that the contracting through authorized broker is not required. And the paragraph 2nd from the Article 13 of the Law 4.594/64 clearly provides the direct contracting between assured and insurance company, without intermediation of broker.

In its Article 18, the Law 4.594/64 determines:

“Article 18. The insurance companies, for their headquarters, branches, subsidiaries, agencies or representatives, may only receive a proposal of insurance agreement:

- a) through insurance broker duly authorized;
- b) directly from the applicants or their lawful representatives.”

Therefore, there is not any barrier to other delivery channels other than the insurance brokers, creating a favorable environment for the microinsurance, since the flexibility of these channels is a key point in the process of marketing.

Supervisors and regulators however, must be prepared for the emergence of new delivery channels such as: banks and their correspondents, chain stores of retail, providers of basic services (electricity, gas, etc.), post offices and, lately, mobile phones and internet.

It is necessary also to consider the reputational risks that include the inappropriate marketing of that type of product, considering the low level of education expected from their potential consumers. Therefore, it is important that intermediaries engaged in the microinsurance activity are motivated and necessarily trained to provide sufficient information to enable the client to make a reasoned decision. This situation should be considered by the regulator.

For this reason, to authorize a specialized broker in microinsurance, with minimum qualification, and that is preferably, coming from the poor communities where the will is to commercialize microinsurance, may have very beneficial effects for the whole process. These, by working more closely with the clients, are able to understand more clearly their needs.

Accordingly, the Article 3rd of the Law 4.594/64 establishes the criteria for obtaining the broker position and, in its paragraph “e”, disposes on the need of the person being interested to empower a professional technical qualification related to the branch required.

The Article 4th determines that the fulfillment of the paragraph “e” requirement “may” consist of proven compliance with completion of the professional technical course of insurance, official or recognized (paragraph “a”).

It may be noted there an opportunity for establishing differentiated technical course for brokers specialized in microinsurance, with less strict criteria, but sufficient to perform the activity. And, as established by the Decree 60.459/67, the qualification and registration of these professionals would be in charge of SUSEP.

In this case, the CNSP Resolution 81/2002 that set forth the activity of the insurance brokers does not apply to the microinsurance segment. And the CNSP Resolution 149/2006 dealing with the minimum technical certification of employees and similar of insurance brokers would have to be revised.

Regarding to the Applicant, the new Civil Code provides that in the case of wrongful ownership or retention of the premiums by the applicant, a suit may be brought against him or her and not against the insurance company, since the applicant is the direct representative of the assured. For this reason, special attention should be given to this issue, including specific provision in the regulation that allows the proper protection to the microinsurance assureds against improper practices by the applicant, especially in case of “open policies”.

Policy Costs

The rules applicable to this subject matter are the following:

- CNSP Resolution 15/98 – delegates to the Superintendence of Private Insurance the definition and criteria for charging the policy, invoice and endorsement costs. The analysis verifies that this normative does not cause any obstacle to the creation and/or development of the microinsurance.

- SUSEP Circular 176/01 – establishes criteria for charging the policy cost. “Article 2nd. It is allowed to charge the issue cost up to the limit of R\$60.00 (sixty Brazilian Reais).”

By specifying a maximum value for the policy cost, SUSEP sought to prevent abuses. If we consider however the low values of microinsurance premiums, the maximum value specified by the normative for charging the policy cost would be very high, with direct consequences on the costs of these products and, in some cases, making their marketing not viable.

During meetings held between the SUSEP WG and the industry representatives working with low-income segment, it was clarified that the amounts charged by way of policy cost could not be that, if necessary, even because, in most cases would surpass the value of the premium. Some insurance companies, no longer would be charging it.

Although such collection is at discretion of each provider, could be established transparency mechanisms to allow the identification, by the consumer, of the costs applied to the purchase of the product.

Consumer Protection

In addition to the Consumer Defense Code, the Law 8.078, dated September 11th, 1990, that disposes on the protection of all the consumers, whether or not of insurance, SUSEP and CNSP published rules establishing mechanisms aiming at improving the insurance consumer service.

These standards are the CNSP Resolution 110/2004, establishing rules and minimum criteria to be observed by the insurance companies for recognition of their ombudsman services, and the Circular 292/2005, that regulates the consumer service and the administrative proceedings initiated by SUSEP.

The publishing of CNSP Resolution 110/2004 encouraged the creation of ombudsman services in companies supervised, establishing important mechanisms to safeguard the consumer rights, especially those less fortunate. The main purpose of the ombudsman services are the following: i) the clarification of the assured/beneficiary of their rights; and ii) to act on the conflict prevention and resolution. Furthermore, such service has a preventive function, by identifying conflict points in order to propose resolutions, including changes in internal procedures of the company, aiming at improving the quality of the services.

On the other hand, Circular 292/2005 simplified and streamlined the insurance customer service procedures, reducing significantly the number of suits of complaints and claims and the time of its analysis.

The implementation of these standards is reflected in the decrease of the suits brought: from 699 cases in 2005 to 287 cases in 2007.

As important as the implementation of mechanisms for conflict resolution is the preventive action of the supervisory agency, maintaining a constant concern with the wording of the plans and promoting the contractual adequacy of the products to standards of insurance and protection of the assured, because these are the safeguards of the rights of insurance consumers.

The low- income people segment, whether by the economic hypo sufficiency or by the low educational level expected, are always more vulnerable to abuses and misleading advertisements.

For these reasons, the development of financial educational programs intended for the microinsurance consumer awareness about their rights is extremely important for the constitution and protection of the insured and the market. These programs must count on the support and engagement of all the stakeholders, such as the Government as the private sector.

SUSEP WG concluded that the normatives in force are part of a regulatory framework appropriate to the microinsurance development that should be complemented.

Products Regulation

Insurance Contracting

Considering that the purpose of the products regulation is to ensure the stability and consumer protection through the regulation of the products nature and framework, this part of the analysis begins by the possible ways of contracting insurance products, since the contracting way is inherent to the framework of such products.

The relevant legal provisions on this theme are the following:

- Decree-Law 73/66
 “Article 9th. The insurance shall be contracted by proposals signed by the assured, his or her legal representative or authorized broker, upon issue of the respective policies, except as provided in the following article.”

 “Article 10th. It is authorized the insurance contracting by simple issue of insurance ticket, upon verbal request of the interested person.”
- CNSP Resolution 11/88⁸
 Article 1st. To assign the Superintendence of Private Insurance (SUSEP), authority to approve requests from insurance companies to operate with “Insurance Tickets.”
- Law 10.406/02 – Brazilian Civil Code
 “Article 758. The proof of the insurance agreement is the insurance policy or the insurance ticket, and, missing them, the document proving the premium payment.”

It appears from Article 9th of the Decree-Law 73/66, that there is two distinct ways to contract insurance, namely: through proposals or tickets.

Thereafter, the first⁹ feature of the ticket is that it is not necessary to prepare proposals to contract insurance and the consequent nonexistence of policy. When an insurance company is willing to negotiate a product through tickets, it is giving up from analyzing previously individual characteristics of the risks of every one of the possible assureds, that is, the insurance company examines the risks related to such ticket only in a collective way. It means that the assured, when purchasing a ticket, is automatically covered against risks specified in the ticket, differently of the cases where the contracting is made through proposals and the insurance companies have deadlines to analyze the risks and express the will to accept them or not.

Concluding therefore, that when the insurance companies decide to market an insurance product through tickets, they are the only responsible for the underwriting risks arising from the fact that they have exempt the preliminary examination of them.

8 For pension plans the Resolution that delegates authority to SUSEP for the Open Private Pension Entities (EAPP, in Portuguese) to operate through ticket is the CNSP Resolution 18/89.

9 Tickets have two fundamental characteristics: the first related to the contracting way, is the exemption of proposal, the second, related to the structure of its contract, is its standardization, which implies contractual conditions relatively simpler than the non-standardized products.

According to the aforementioned comments, and notwithstanding the provisions of Article 10th of the same statute, for the microinsurance marketing the authorization could be automatic, since the minimum clauses standardized are included as set forth on paragraph 1st of such article.

General Insurance

Firstly, it is important to clarify that the analysis of existing normative inherent to general insurance was in accordance with the following guidance:

- To prevent microinsurance to be confused with traditional insurance, to the point where consumers start to contract microinsurance, and the products classified as microinsurance are actually intended for consumers classified as low-income¹⁰.
- The microinsurance products have simplified design so that they may also be contracted through tickets and not only through policies.

General Insurance Agreements Framework

The main rules applicable to this theme are the following¹¹: the Decree-Law 73/66; the CNSP Resolution 11/88 that empowers SUSEP to authorize the marketing through ticket; SUSEP Circular 265/04 that defines different types of insurance plans (that is, what means a standardized insurance plan, a non-standardized insurance plan and a singular insurance plan); SUSEP Circular 256/04 that set forth general conditions for the non-standardized and singular plans; SUSEP Circular 239/03 that set forth de premiums payment; SUSEP Circular 251/04 that set forth the acceptance and period of insurance agreements; CNSP Resolution 103/04; and SUSEP Circular 255/04 that set forth the updating and recalculation of figures related to the insurance operations.

Depending on the provisions of the Decree-Law 73/66, appears that is possible to contract insurance, and microinsurance, through tickets.

10 The concern to avoid an overlap between microinsurance markets and the traditional insurances lies in the fact that the first will possibly have tax benefits and/or costs.

11 Were mentioned only the provisions that, from SUSEP WG point of view, have in a direct or indirect way some relations with the two initial purposes that guided the analysis performed.

- Decree-Law 73/66
 “Article 10. It is authorized the contracting of insurance by simple issue of insurance ticket, upon verbal request of the interested party.
 § 1st . CNSP¹² shall regulate the cases provided for in this article standardizing required clauses and forms.”

“Article 11. When the insurance is contracted as set forth in the preceding article, the good faith of the Insurance Company, in its acceptance, shall mean *juris tantum* assumption’.

.....
 §4th. It is prohibited to contract more than one insurance covering the same subject matter or interest, since any one of them is contracted upon issue a simple certificate, unless in cases of personal insurance.”

On a precipitated way however, it may be understood from reading the paragraph 1st of Article 10 of Decree-Law 73/66 that the only way to commercialize through tickets should be in a standardized way. It occurs that from the Article 2nd of CNSP Resolution 11/88 combined with the Article 2nd of SUSEP Circular 265/04, it may be inferred that it is possible to operate non-standardized insurance, and microinsurance, through tickets¹³.

- CNSP Resolution 11/88
 CNSP delegates authority to SUSEP to authorize commercialization through tickets.

“Article 2nd. The coverages and rates proposed by the Insurance Companies to operate Tickets shall be analyzed by SUSEP, under the laws and regulations in force.”

- SUSEP Circular 265/04
 Defines different insurance plans, that is, what means a standardized insurance plan, a non-standardized insurance plan and a singular insurance plan, and establishes general minimum requirements for standardized and singular plans.

12 See Article 1st of the CNSP Resolution 11/88 mentioned on the previous theme.

13 For this, it must be construed that the standardization is not full, just of some clauses, for example, the contracting way of Maximum Limit of Warranty, the policy concurrency clause, both suggested in this opinion.

“Article 2nd. For reference purposes, consider the following:

I – Non-Standardized Plan: Insurance plan which contractual conditions and actuarial technical note are prepared by the insurance company by itself.

II – Standardized Plan: Insurance plan which contractual terms are identical to those:

a) contained in the rules published by SUSEP or CNSP, including standardized rating, when provided; or

b) approved by the Board of SUSEP and made available on its website

.....

“Article 3rd. To operate non-standardized plans, the insurance companies must satisfy the minimum criteria provided in specific regulations to structure the contractual conditions and actuarial technical notes.”

Thus, the normatives related to the agreement structure were analyzed, considering only general insurance and that all its products are non-standardized, whether they are negotiated through tickets or through policies¹⁴.

As they are non-standardized products, their structure would be established mainly by SUSEP Circular 256/04 (that set forth general conditions for non-standardized and singular insurance plans). Before the analysis however, which comments are presented below, by Article, it is recommended that the rule is not applied to microinsurance products.

- SUSEP Circular 256/04 (Annex I)
 - Article 14. Depending on the characteristics of the microinsurance target audience, the application of the co-insurance clause is inappropriate. It is recommended that the only way to contract maximum limit of warranty or amount insured is the 1st absolute risk. It should be noted that pursuant to the first item of the guidance adopted on the analysis of the normatives related to general insurance, SUSEP WG suggests to establish an upper limit for the maximum limits of warranty contracted through microinsurance, whether through tickets or policy.

“Article 14. Should be specified and defined the contracting way of maximum limit of warranty and amount insured for all the coverages (total risk, 1st absolute risk, 1st relative risk).”

- Article 21. This paragraph does not apply to microinsurance, so there is no need to include its wording in the agreement conditions of this type of product.

14 The justification to be considered only non-standardized products is based on the fact that SUSEP does not need continuously to develop standardized contractual conditions for every new possibility of plans for microinsurance.

“Article 21. It should be provided that eventual translation costs regarding to the reimbursement of expenses incurred abroad shall be entirely in charge of the insurance company.”

- Article 26. The wording of this article is very long, very technical, and difficult to understand by microinsurance consumers. Thus, backed by the provisions of §4th, of Article 11 of the Decree-Law 73/66, the WG decides for its non-inclusion, regardless of the marketing way. Accordingly, SUSEP WG believes that should be prohibited the performance of more than one microinsurance covering the same subject matter or interest¹⁵. Such provision is in accordance with the set forth in the Civil Code in respect of general insurance.
- Article 29. The premium payment is governed by SUSEP Circular 239/03, which in its Article 6th creates mechanisms for adjusting the period of the agreement due to late premium payment when paid in installments, very complex to be understood by potential microinsurance¹⁶ consumers. Therefore, to facilitate the operations and understanding of the products by the assured, avoiding reputational risks, SUSEP WG suggests that, for microinsurance, in case of premium paid in installments and confirmed non-payment of any one of the installments subsequent to the first, the period of coverage shall be adjusted pro rata to premium actually paid.
- Article 33. The deadline specified for the loss settlement is very long for the microinsurance purposes. The loss settlement for general insurance shall occur not later than three days, without allowing the insurance company to request other documents in addition to those previously specified in the agreement¹⁷.

15 The insurance companies shall create some mechanism to allow them to verify if a prospective assured has already or not microinsurance, ensuring the same interests against the same risks. This way, it is noted that already exists the SUSEP Circular 326/06 regulating the policies record, but such Circular does not apply to tickets.

16 It may be construed that the fact to adjust the period of insurance contracts, due to late payments, is not pro rata with the payments actually made as a result of two reasons: first, the default should be discouraged and; second, and technically the most important, does not allow the risk concentration over time. Notwithstanding these considerations, for the very particular case of microinsurance, to determine that the period adjusted is exactly proportional to the share of annual payment of the premium actually paid become consistent with the feature of this insurance, especially if commercialized through tickets.

17 This does not include the so called insurances of Burial Care, since they are classified as personal insurance and, dealt with as an appropriate item however, in the SUSEP WG opinion, these insurances shall have deadlines even smaller.

“Article 33. It shall be informed the procedures for the loss settlement, specifying the provided essential documents to be submitted for every type of coverage, allowing the insurance companies, in case of reasonable and justifiable doubt, to request other documents.

§1st. It shall be specified a deadline for the loss settlement, limited to 30 (thirty) days, counted from the delivery of all essential documents provided for in the caput of this article, except the set forth in the paragraph 2nd of this article.

.....”

- Article 37. If commercialized through tickets, the set forth in this article shall be disregarded, since there is no risk analysis by the insurance company.

Article 37. (very long wording and difficult to understand).

- Article 46. For the same reasons given in the analysis of the Article 29, the short rate table should also not be applied to microinsurance.

“Article 46. It shall be specified criteria for contractual termination.

Single Paragraph. (the application of short rate table for microinsurance is difficult to understand by their consumers). “

- SUSEP Circular 239/03
This rule regulates the premiums payment and its Article 6th of the Annex I presents a wording very long and difficult to understand by the consumers, that's the reason why is not recommended to be applied to microinsurance products.
- SUSEP Circular 251/04 and CNSP Resolution 103/04 and SUSEP Circular 255/05
The first regulates the acceptance and period of the insurance agreements and the last two regulate the updating and recalculation of values relative to the insurance operations. From the analysis performed it is understood that none of the normative above causes any impediment or hindrance to the creation or development of microinsurance products.

Personal Insurance

The set of legislation analyzed consists of the following laws and normatives: Law 10.406/2002, Civil Code (Articles 757 to 802); SUSEP Circular 251/2004, about acceptance and period; SUSEP Instruction 19/1999, with enunciations of SUSEP Attorney; SUSEP Circular 302/2005, about risk coverages in personal insurance; SUSEP Circular 317/2006, about risk coverages in group personal insurance; CNSP Resolution

117/2005, about risk coverages in personal insurance; CNSP Resolution 107/2004, about applicant; CNSP Resolution 103/2004, about values updating; SUSEP Circular 255/2004, updating values; CNSP Resolution 102/2004, SUSEP Circular 310/2005 and SUSEP Circular 318/2006 (amendment to SUSEP Circular 310/05), about Care – Insurance x Servicing; SUSEP Circular 74/99, about custody of documents; CNSP Resolution 140/05, CNSP Resolution 148/06 and SUSEP Circular 339/07, about survival coverage; SUSEP Circular 34/72, about the minimum components of the policy.

- Law 10.406/02 – Civil Code (Articles 757 to 802)

- Article 757. It is observed that both definitions, that proposed by SUSEP WG for the “microinsurance” concept and that under consensus of the CNSP Consultative Committee, are in accordance with this article of the Civil Code.

“Article 757. It can only be part of the insurance agreement, as insurer, entity for that purpose duly authorized.” [emphasis added]

- Article 759. The set forth in this article shall not prevent anyway the definition of well reduced components, so much for the insurance policy as for the proposal and ticket.

“Article 759. The issue of the policy shall be preceded by written proposal stating the essential elements of the interest to be covered and the risk.”

- Article 774. At first the article wording seems to impose a certain rigidity regarding the period of insurance agreements and, therefore the microinsurance. But agreements may provide periods above 1 year, for example: 5 or 10 years, so that there is no need of express renewal of the assured every year. The agreements may also allow extended rehabilitation periods (for example: 2 years), which would encourage the return of the assured to the policy in case of default.

“Article 774. The tacit reconduction of the agreement for the same term, upon express agreement clause, cannot operate more than once.”

- Article 789. In case of personal microinsurance, should be evaluated the possibility of insurance transfer from traditional branches of personal insurance to microinsurance in order to enjoy possible fiscal and/or tax benefits granted to the segment.

“Article 789. In personal insurance, the amount insured is freely determined by the applicant, who may contract more than one insurance on the same interest, with the same or distinct insurers.”

- Article 801. Although the set forth in this article may become a complicating factor for the insurance company provider of microinsurance, consists in protection to the assured, preventing changes in the agreement without its consent.

“§ 2nd of the Article 801. The change of the policy in force shall depend on the express consent of assureds representing three quarters of the group.”

- SUSEP Circular 251/04 – Acceptance and Period
From the analysis carried out it is understood that the normative would not cause any impediment or hindrance to the creation or development of microinsurance products.
- SUSEP Instruction 19/99 – enunciation from SUSEP Attorney
According to the enunciation 26, the deadline for the insurance company to assess the documents and make a payment of benefit is up to 30 (thirty) days from the date of its delivery. For purposes of personal microinsurance, this period should be reviewed and reduced to no longer than 48 hours, subject to lose their effectiveness for the assured and/or beneficiary depending on their immediate needs.
- SUSEP Circular 302/2005 – Risk Coverages in Personal Insurance
Minimum Required Elements for the Insurance General and Special Conditions (Chapter XI) establish the minimum necessary for the perfect understanding by the assured regarding to their rights and duties, not requiring reduction.

For the specific purposes of microinsurance, and considering the educational level expected from their potential consumers, the proposal of SUSEP WG is the development of rule releasing the sending of the Insurance General and Special Conditions, entirely, to the assured, which should be available to him or her at any time. On the other hand, the assured would receive a brief of the Agreement Conditions, in didactic and simplified terms, which minimum elements would be determined by SUSEP. Meanwhile, the provider would be forced to develop programs of financial¹⁸ education¹⁸ for the assured.

Regarding to the Circular, it is noteworthy that the §1st of its Article 64 is according to the established by the Civil Code, that is, it establishes that the automatic renewal of the insurance, can only be made once, with the subsequent renewals being made,

¹⁸ In which is included the education in insurance.

necessarily, of an express way. As mentioned previously in the analysis of the Civil Code, for long periods, the periods could be above one year, for example: 5 or 10 years, so that there will be no need by the assured the express renewal every year. The agreements could also allow long rehabilitation periods (for example 2 years), which would encourage the return of the assured to the policy in cases of default.

- SUSEP Circular 317/2006 – Risk Coverages in Group Personal Insurance
The Article 3rd of the normative establishes the obligation to issue and to send to the assured the individual certificate by the insurance company at the beginning of the insurance period and in every one of the subsequent renewals. SUSEP WG proposes that the certificate is also send annually when the compulsory monetary updating of premiums and amounts insured, in cases of period above 1 year. As it may be understood from meetings held with representatives of the market, this procedure does not generate relevant costs for the final price of the insurance. The Article 4th is in compliance with the Article 801 of the Civil Code and could be a complicating factor for the insurance company that provides the microinsurance, but as already seen, it is a protection for the assured, preventing contractual amendments without its consent.

“Article 4th. The insurance agreement may be terminated at any time upon agreement of the parties, with the prior and express consent of the assured that represent at least three quarters of the group insured.”

Equally that in the Article 4th, the set forth in the Articles 8th and 9th is a protection for the assured.

“Article 8th. It shall be specified in the general conditions that any change in the policy in force involving a burden or duty for the assureds or the reduction of their rights, shall depend on the express consent of the assureds that represent at least three quarters of the group insured.

Single Paragraph. It shall be observed the set forth in the caput of this paragraph regarding to change of insurance rates.”

“Article 9th. Any change in the current agreement conditions shall be performed upon endorsement to the policy, with the express and written agreement of the assured or its representative, confirmed by the corresponding endorsement, observing the set forth in the Article 8th of this Circular.”

- CNSP Resolution 117/2005 – Risk Coverages in Personal Insurance
The Article 30 of the rule is according to the Civil Code, that means, it establishes that the automatic renewal may only be made once, and the subsequent renewals shall be made, necessarily, on an express way. As mentioned before the analysis of

the Civil Code and SUSEP Circular 302/2005, the periods could be above 1 year, for example: 5 or 10 years, so that there is no need for the express renewal of the assured every year. The agreements could also allow extended rehabilitation terms (for example: 2 years), which would encourage the return of the assured to the policy in case of default.

The §1st of the Article 50 of the Resolution establishes that the term for the losses settlement shall be no longer than 30 (thirty) days, counted from the delivery of all the essential documents provided in the general conditions. For the purposes of the microinsurance, so much the proceedings as the term shall be reviewed, with the term reduced to at most 48 hours, subject t to lose its effectiveness for the assured and/or beneficiary depending on its immediate needs.

The §1st of the Article 58 establishes that, in group plans, should be issued and sent the individual certificate to the assureds in order to confirm the admission and renewal, in the term and as regulated by SUSEP. As concluded in the analysis of the SUSEP Circular 317/2006, SUSEP WG understands that the certificate should also be sent annually, when the compulsory monetary updating of premiums and amounts insured, in the cases of insurance with period above 1 year. In addition to be an important information to the assureds/beneficiaries, as observed during the meetings held with market representatives, this procedure would not generate relevant costs to the final price of the insurance.

- CNSP Resolution 107/2004 - Applicant

The procedures provided in the paragraph II of the Article 4th and in the Article 10 of the rule, although they are complicating factors for the operation of the insurance company that provides of microinsurance, as already seen, create important protection mechanisms to the assured, preventing relevant agreement changes without your prior consent.

“ Article 4th. It is expressly prohibited to the applicant and sub-applicant, in the contributory insurance:

(...)

II – to terminate the agreement without prior and express consent of a number of assureds representing at least three quarters of the group insured;”

“Article 10th. Any change in the policy in force shall depend on the prior and express consent of assureds that represent at least three quarters of the group insured.”

- CNSP Resolution 103/2004 and SUSEP Circular 255/2004 – Values Updating
From the analysis performed it is understood that the rules would not cause any impediment or hindrance to the creation or development of microinsurance products .
- CNSP Resolution 102/2004, SUSEP Circular 310/2005 and SUSEP Circular 318/2006 Care – Insurance x Servicing
In a preliminary analysis, it is understood that the rules would not cause any confusion to the creation or development of microinsurance products.
It must be defined however the position SUSEP intends to adopt regarding to the action of informal providers, especially in respect of the Burial Care, noting once again what was highlighted in the analysis of Decree-Law 73/66, that means, the recommendation of the IAIS-CGPA paper meaning that it should not regulate what it could not supervise.
- SUSEP Circular 74/99 – Papers guard
From the analysis performed it is understood that the rule would not cause any impediment or hindrance to the creation or development of microinsurance products.
- CNSP Resolution 140/05, CNSP Resolution 148/06 and SUSEP Circular 339/07 – Survival Coverage
Initially, SUSEP WG decided to focus in the analysis of risk products.
- SUSEP Circular 34/72 – Minimum factors of the policy
The rule regulates the minimum factors that shall be included in the proposal, policy and tickets and should be amended, even for traditional plans, since there are several unnecessary issues. In practice, it is not been complied with.

Portfolio Actuarial Technical Note

- CNSP Resolution 163/07
If the microinsurance is considered a new branch or group, the insurance companies that provide microinsurance should send Portfolio Technical Note under the terms of the CNSP Resolution 163/07 and CNSP Circular 362/08. In this case it would be necessary to include, when appropriate, the express reference to the *“authorized entities to operate with microinsurance”*.
The question arising is how it shall be dealt with microinsurance: i) The microinsurance shall be a new “group”? or ii) The microinsurance shall be “branches” within existing groups?
- CNSP Circular 362/08
The analysis concludes that the rule must be applied to all microinsurance providers that must send Portfolio Technical Note under the terms of the CNSP Resolution 163/07 and CNSP Circular 362/08 (Article 1st, paragraph III), this must be amended, making express reference to the *“authorized entities to operate with microinsurance”*.

Popular Insurance

- **Popular Insurance x Microinsurance**
Before starting the analysis, it is important to establish the difference between two concepts. In Brazil, the term “popular insurance” is used to define popular products with small amounts insured and premiums. Whilst the “microinsurance” is intended for low-income households, the “popular insurance” is intended for all types of consumers, indiscriminately.
- **SUSEP Circular 267/2004 – Group Life**
In September 21st, 2004, as a result of the Brazilian Government Social Inclusion Policy¹⁹, was published the first rule of Popular Insurance, the SUSEP Circular 267/2004 of Popular Group Life Insurance, establishing General Conditions standardized and their respective parameters. The SUSEP’s initial thought was to choose the largest branch of insurance, in this case, Life Insurance, being that the product originally designed would cover only Death by Personal Accident, with the purpose to obtain lower premiums. But SUSEP chose a more complete product, considering that the coverage limitation could lead to reputational risks for the insurance institution.
As may be noted in the Box 1, there is no difference between the SUSEP standard product and the traditional plans. The innovation was the Article 11 that enabled the premium collection through the billing of essential services providers, such as electricity, gas and telephone.

“Article 11. The insurance plan may provide the premiums collection directly at the insurance company or through utility bills, such as electricity, gas, telephone or other possible ways, since the value intended for the insurance is duly identified as well as the date of corresponding discharge.

Single paragraph. The individual certificate, together with the identification of the premium discharge referred in the caput of this Article, shall be evidence, at any time, of the insurance agreement execution.

Box 1 – Characteristics of Products Standardized by SUSEP Circular 267/2004

Product Characteristics

- Basic coverage: Death anyone cause (natural or accidental)
- Additional coverage: Burial Care and Basics Food Needs
- Maximum Amount Insured: R\$10,000.00 (US\$ 5,000.00)
- Group Insurance with individual certificate issue
- Accounted under Life Branches (no segregated accounting)
- Encouraging alternative delivery channels (Article 11), such as electricity, gas, telephone billings, and others, since the value provided for the insurance is duly identified, as well as the date of corresponding discharge.

¹⁹ See item Social Inclusion Policy of this Report.

Although any product has been filed within the standard provided by SUSEP Circular 267/2004, even before its publication, many insurance companies created products intended for less favored segments of the people, since the topic was extensively discussed with the industry in public hearing, being target of many reports in the press. It is worth mentioning that this market movement occurred, mainly, among insurance companies associated with large retail banks.

The rule, despite having reached the strategic purpose of the Government, when expanded the provision of insurance services to a segment of the population until then neglected by the vast majority of providers, shown to be inefficient as a standardization model.

- SUSEP Circular 306/2005 – Motor Branch
In November 17th, 2005 was published the SUSEP Circular 306/2005, regulating the operating rules and criteria of the popular motor insurance for used vehicles, establishing agreement conditions standardized.
The Motor branch was selected because it is the second largest branch of insurance. The main focus of the product is the Third Party Liability – Physical Damages, and not the Hull, as occurs in case of traditional products. The Box 2 presents the difference between traditional products and popular products standardized.

Box 2 – Popular Motor Insurance x Traditional Motor Insurance

Popular	Traditional
Focused on TPL-Physical Damages (compulsory coverage) and on any type of used vehicle	Several basic coverages
Payment in cash or monthly, in order to facilitate the calculation and to reduce costs, although is provided to the insurance company to offer other options.	Payment in cash or in installments (use the short rate table)
Maximum value of the policy cost of R\$20.00 (US\$10.00)	Maximum value of the policy cost of R\$60.00 (US\$30.00)
Accounted in the Specific Branch 26	Accounted in Motor Branches 31, 53 and 20
Prohibited to the Policies Concurrency Clause, in order to simplify the wording of the General Conditions.	Existence of Policies Concurrency Clause.
In both: Essential rights of the assureds preserved in compliance with the Consumer Defense Code.	

The product standardized proved inadequate and any product was filed in the ways provided under the rules. The rule is not applicable or adjustable to microinsurance products, for several reasons: i) high prices (an insurance product to cover used vehicles, in general, shall present higher rates than the traditional insurance); and ii) at first, it would not satisfy the basic needs of the target audience (more focused on other interests, such as: life, burial, health, home & housing, etc.).

Institutional Regulations and Others

Legal Form

As previously mentioned, the Decree-Law 73/66 limits the legal form of insurance providers to Joint Stock Companies and Cooperatives, these last specific to the agricultural, health and workers' compensation insurances. Furthermore, it determines the exclusive character of the providers' activity in the provision of insurance services. The option of entry the market by other legal forms of microinsurance providers, compulsorily, would entail the amendment or the publishing of law.

About the issue, is important to highlight that the Civil Code of 2003 approximated the legal system of the other companies (such as, limited companies, for example) with the joint stock companies, since it were established new publicity requirements for the other companies, which increased the costs for other legal forms.

The joint stock company however, presents advantages for the supervision procedures, such as: its accounting, established in the law (Law 6.404/76, dated December 15th, 1976), the best corporate governance, compared to other companies, and the possibility of issuing shares and raise funds from third parties, what no other company is able to do in an easy, fast, safe and transparent way.

Although in other jurisdictions it is common the existence of mutuals and cooperatives acting to provide microinsurance, the regulator/supervisor should always keep in mind the recommendation of the paper "*Issues in Regulations and Supervision of Microinsurance*" previously mentioned, that is: "it should not regulate what it could not supervise". Thereby, it can be concluded that any initiative directed to this requires a strict analysis of challenges and options, and a significant capacity at the supervisory authority level. In addition, new types of institutions bear the risk of regulatory arbitration.

Tax Issues

The Box 3 shows the federal taxes levied on the insurance in Brazil, on which still balance the costs relating to bank charges.

The tax issue therefore, is extremely important, especially in respect of the products viability. In case of microinsurance products, which premiums are necessarily lower, the taxes levied gain even more balance. Therefore, the awareness of the interested parties is vital to success of the actions.

Box 3 – Federal Taxes levied on Insurance

Tax	Branch	%	Note
Tax on Financial Transactions	Life	0.00	+0.38%*
	Health	2.00	
	General Insurance	7.00	
PIS-COFINS ²⁰		4.65	
CSLL(contribution on net income)			
IRPJ (Income Tax)		25,00	(15% a 25%)

*The Decree-Law 6.306, dated December 14th, 2007, amended by the Decree-Law 6.339, dated January 3rd, 2008, changed the tax rate to 0.38%.

A good example was the publication of the Law 11.053/04 that brought important innovations regarding to taxation applicable to private pension and to personal insurance with survival coverage, being the main issue of this law the creation of a new taxation criteria for pension plans structured in the modality of defined contribution and for personal insurance with survival coverage.

Another example is the Decree-Law 6.306, dated December 14th, 2007, relative to the Tax on Financial Transactions (IOF, in Portuguese), important tax charged on the insurance business, and that in its Article 22 reduced the tax rate for private pension plans and life insurance with survival coverage.

“Article 22. The IOF tax rate is twenty five percent (Law 9.718, dated November 27th, 1998, Article 15).

1st The IOF tax rate is hereby reduced:

I – to zero, in the following operations:

e) where the premium value is intended for costing the life insurance plans with survival coverage;

(...)

IV – in other insurance operations: entire seven and thirty eight hundredths per cent (renumbered with new wording by the Decree-Law 6.339, dated January 3rd, 2008).”

This reduction was achieved by the political management in meetings held between representatives of the SUSEP Management and the Federal Internal Revenue Department (SRF, in Portuguese), when were presented the technical justifications for such reduction and the awareness of all stakeholders in the process.

Given the premiums charged, SUSEP WG believes that reducing the tax rate of IOF, PIS/COFINS , and, especially the Social Contribution on Net Income (CSLL, in Portuguese), is essential to enable the microinsurance products.

²⁰ Employees’ Profit Participation Program (PIS, in Portuguese), created by the Complementary Law 7, dated September 7th, 1970, and Tax for Social Security Financing (COFINS, in Portuguese), created by the Complementary Law 70, dated December 30th, 1991.

Combating Money Laundering (CLD, in Portuguese) / Fraud

SUSEP Circular 327/2006 (amended by SUSEP Circulars 333/2006 and 349/2007) set forth the internal controls specific to deal with issues related to the practice of crimes provided in the Law 9.613 dated March 3rd, 1998, as well the reporting of suspected transactions to SUSEP and Council for Financial Activities Control (COAF, in Portuguese).

Article 7th of such Circular determines that the companies must perform customer identification, through registered information and extra documentation, in addition to maintenance of records contemplating information, such as name, Individual Taxpayer Identity Card and full address.

In addition, companies must maintain specific controls to identify the suspected situations as defined in the Circular, and send them to SUSEP and to Council of Financial Activities Control (COAF).

Some suspected situations should be preceded by analysis, which requires hours of work, as well as specific training for such analysis.

Therefore, there may be some difficulty for small size providers of microinsurance to establish controls structure to carry out all verifications and analysis defined by the Circular.

The issues related to combating Money Laundering should be dealt with not only in the scope of CNSP, but within the Executive, which may hinder the reduction of requirements contained in the current legislation.

It is important to mention that SUSEP Circular 327 is in the process of change, being in public hearing the Circular draft that will revoke it.

Meetings held between SUSEP WG and Private Sector

In August 6th, 2008 – Meeting held with Mr. Pedro Bulcão, president of SINAF Previdencial Cia. de Seguros, the insurance company specialized in the low-income segment, which history is distinguished by a voluntary formalization process arising from the burial care services.

In September 10th, 2008 - Meeting held with the Microinsurance Committee of FENACOR (National Federation of Insurance and Reinsurance Brokers, Capitalization, Private Pension and Insurance and Reinsurance Brokerage Companies).

In August 15th, 2008 - Meeting held with the Microinsurance Committee of FENASEG (National Federation of Private Insurance and Capitalization Companies) ²².

SUSEP WG collected the following insights / conclusions of the meetings:

- The meetings held with representatives of the market so far confirm the observed in this analysis, that means, indicate that there will be fewer difficulties than originally supposed by SUSEP WG to adjust the current insurance legislation to the microinsurance requirements.
- Accordingly, the meetings held so far, indicate that from the market's point of view, the existing barriers are not in the insurance legislation, but derive from: i) the taxation law, notably the Tax on Financial Transactions (IOF); ii) the high values of policy cost applied by the insurance companies - which means an operating barrier, since the SUSEP rule provides only the maximum cost, not preventing that the cost is zero; and iii) labor legislation, especially those arising from the trade union requirements and arising from the collective bargaining agreements (the last two items refer to the brokers' point of view).
- The creation of a microinsurance broker, with minimum qualification obtained through a differentiated technical course for expertise brokers, with fewer strict criteria, but enough to the practice of the activity, registered and regulated by SUSEP and with specific license for the segment²³, would benefit greatly the marketing process.
- Legislation should act to allow the formalization of the companies that operate in the informality intended for the low-income segment and to allow the entry of new microinsurance providers.

²² On this date, the Microinsurance Committee of FENASEG undertook to send to SUSEP WG detailed report of what is understood as existing regulatory barriers in the legislation in force, and that shall be based on the relation of laws and rules provided by SUSEP WG.

²³ Microinsurance broker would be limited to this segment.

- The products for the low-income segment require immediacy in the loss adjustment. The best example in this case is given by the burial insurance, which regulation must occur within 24 hours.
- The market shows good responsiveness to the use of insurance ticket.

Conclusions and Recommendations

In addition to the conclusions and recommendations made on each item analyzed, SUSEP WG considers relevant to emphasize the following general conclusions, notes and recommendations:

- I) Excepting the issue relative to legal nature of the providers, which would depend on the change of the law, Decree-Law 73/66 does not present significant barriers and constraints to the implementation of a regulatory environment favorable to development of the microinsurance in Brazil.
- II) The microinsurance, with respect to operating, technical and contractual issues, may be regulated in the scope of CNSP and SUSEP.
- III) The legislation allows the microinsurance contracting through ticket that, by the simplified way of marketing, may present many beneficial effects for the segment, since are taken preventive measures to protect the assured, considering its hypo sufficiency, not only economic, but also by the educational level expected of their potential consumers, as confirmed in the Partial Report I of the SUSEP WG.
- IV) The legislation allows the flexibility of delivery channels, key point to the microinsurance marketing process.
- V) The legislation allows to qualify a broker specialized in microinsurance, with minimum qualification obtained through a differentiated technical course, with fewer strict criteria, but enough to the practice of the activity.
- VI) The tax issue is extremely important for the products viability, and therefore the awareness of the stakeholders is vital to success of the actions. In this respect, the main argument lies in the fact that, at first, there would be no waiver of revenue, since the microinsurance is a segment that still does not exist and that therefore, had not yet been taxed.
- VII) The regulation of the Constitutional Amendment 20 could prove to be an excellent opportunity for the microinsurance segment, through what is recommended by the discussion of the theme within the Consultative Committee on Microinsurance of CNSP.
- VIII) The relevance of the role played by the banks as a tool in the procedures for collecting microinsurance premiums must give rise to joint works, especially between SUSEP and Central Bank.
- IX) The preliminary analysis made indicate to the adoption of a model in which would be established branches of microinsurance operated by specially licensed insurance companies²⁴, with regulatory requirements consistent with the complexity and the risk of operations.
- X) The analysis made allow to conclude that the development of a set of specific rules for microinsurance, in the scope of CNSP / SUSEP, would be the most practical way of regulation of the segment, which would prevent a large number of references to the existing rules (to what is, or is not, applicable).

²⁴ This does not mean that this model would be based on the insurance companies operating solely in microinsurance; otherwise, the products diversification (traditional insurance and microinsurance) would permit a better distribution of costs.

- XI) With regard to the Applicant, special attention should be addressed to the matter, including specific provision for microinsurance regulation to allow the proper protection to assureds against improper practices by the applicant, especially in the case of "open policies".
- XII) SUSEP WG further recommends that the scope of the surveys that will be performed under the coordination of the Survey Subgroup of the Consultative Committee on Microinsurance of CNSP includes the following considerations:
- survey about the entities that provide services with features of insurance coverages and are not composed as insurance companies, for example, some "burial care" companies, in order to know the potential of these segments to the insurance market;
 - survey and evaluation of existing programs within the insurance marketing country which have been successful and which primary focus are the less fortunate people segments²⁵;
 - survey of the Brazilian population percentage keeping bank account and/or often use the banks/correspondent banks services;
 - influence of printed papers (individual certificates, general and special conditions, etc.), especially the compulsory documents, in the insurance premium calculation, considering the controversial information on the percentage weight of this papers in the premiums calculation²⁶.

25 As a suggestion, we propose the Immediate Social Support Plan (PASI, in Portuguese), which history goes back 20 years, and the Bank of the Northeast of Brazil, with insurance program associated with the micro-credit.

26 Many insurance companies argue that the obligation of sending the general conditions and other compulsory papers would have an important weight in the final price of the insurance premiums.

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Annex 1

Selected Law

Main Laws

Decree-Law 73/1966	Disposes on the National System of Private Insurance, regulates the insurance and reinsurance operations and set other arrangements.
Decree 60.459/1967	Regulates Decree-Law 73, dated November 21 st , 1966, with the amendments by the Decree-Law 168, dated February 14 th , 1967, and 296, dated February 28 th , 1967.
Law 10.406/2002	Creates the Civil Code.
Law 6.404/1976	Disposes on the Joint Stock Companies.
Law 7.944/1989	Creates the supervision fee of the insurance, capitalization and open private pension, and set other arrangements.

Legal Form

Law 10.406/2002	Civil Code - Article 1.134.
Decree-Law 2.627/1940	Disposes on the Joint Stock Companies.

Licensing

Decree-Law 73/1966	Disposes on the National System of Private Insurance, regulates the insurance and reinsurance operations and set other arrangements.
CNSP Resolution 136/2005	Disposes on the election or appointment of members of statutory organisms of the insurance and capitalization companies and open private pension entities.
CNSP Resolution 073/2002 (amended by CNSP Resolution 178/07)	Disposes on the minimum capital of the insurance and capitalization companies and open private pension entities composed under joint stock companies, and set other arrangements.
SUSEP Circular 234/2003 (amended by SUSEP Circular 292/2005)	Regulates the duties attribution specific to directors of insurance and capitalization companies, and open private pension entities. See Circular-Letter SUSEP DECON 005/2006 and Circular-Letter SUSEP DETEC 005/2007.

SUSEP Circular 260/2004 (amended by SUSEP Circular 298/2005)	Regulates the corporate acts, constitution, equity control transfer and periodic revaluation of the real property owned by the insurance and capitalization companies, and open private pension, and set other arrangements. See Circular-Letter SUSEP DECON 001/05.
SUSEP Circular 298/2005	Disposes on the previous approval of the actions taken by the insurance companies and capitalization companies, and open private pension entities, under CNSP Resolution 121, dated May 2 nd , 2005.
SUSEP Circular 311/2005	Disposes on the minimum factors that shall be observed when preparing the business plan to be submitted to SUSEP by the insurance and capitalization companies, and open private pension entities. See CNSP Resolution 121, dated May 2 nd , 2005.
CNSP Resolution 155/2006	Disposes on the minimum capital required for the insurance companies authorization and set other arrangements.
CNSP Resolution 166/2007	Disposes on the requirements and procedures for constitution, authorization for operation, equity control transfer, corporate reorganization and cancellation of authorization for the entities operation that specifies.
CNSP Resolution 002/1998 (amended by CNSP Resolution 044/2000)	Disposes on the calculation of Solvency Margins with the purpose of classifying in the Table contained in the Law 7.944, dated December 20 th , 1989.
SUSEP Circular 012/1996	Publishes in the Annex I the supervision fee values contained in the table attached to the Law 8.981/95, that amended the Article 4 of the Law 7.944/89, converted into Brazilian Reais by the Fiscal Reference Unit (UFIR, in Portuguese) value in force in January 1 st , 1996, pursuant to the set forth in the Articles 1 and 30 of the Law 9.249/95 and Article 96 of the National Tax Code.

Professional Adequacy

Auditors: CNSP Resolution 118/2004	Disposes on the services rendering of independent audit to the insurance and capitalization companies, and open private pension entities and on the creation of the Audit Committee.
Actuaries: CNSP Resolution 135/2005	Disposes on the actuarial evaluation, the actuarial audit and other results of actuarial services referred to SUSEP.
Employees Certification: CNSP Resolution 115/2004	Establishes Minimum Conditions for the Technical Certification of Employees and Similar of the Insurance and Capitalization Companies, and Open Private Pension Entities.

SUSEP Circular 290/2005	Regulates the accreditation of the certifier institutions for technical certification of employees and similar of the capitalization companies open private pension entities and set other arrangements.
CNSP Resolution 149/2006	Establishes Minimum Conditions for the Technical Certification of Employees and Similar, including Employees of Insurance Brokers, and amends provisions of the CNSP Resolutions 115, of 2004 and 60, of 2001.

Changes in Control and Portfolios Transfer

SUSEP Circular 298/2005	Disposes on the previous approval of the actions performed by the Insurance and Capitalization Companies, and open private pension entities under CNSP Resolution 121, dated May 2 nd , 2005.
CNSP Resolution 079/2002	Portfolio Transfer.
SUSEP Circular 217/2002	Portfolio Transfer.
SUSEP Circular 263/2004	Portfolio Transfer.

Corporate Governance and Internal Controls

SUSEP Circular 234/2003 (amended by SUSEP Circular 292/05)	Regulates the Duties Attribution Specific to Directors of Insurance and Capitalization Companies, and Open Private Pension Entities.
SUSEP Circular 249/2004	Disposes on the establishment and implementation of internal controls systems within the insurance and capitalization companies, and open private pension entities.
CNSP Resolution 118/2004	Disposes on the rendering services of independent audit to the insurance and capitalization companies, open private pension entities, and the creation of the Audit Committee.
SUSEP Circular 280/2004 (Amended by SUSEP DECON Circular-Letter 002/06)	Establishes minimum procedures to be observed in the detailed report regarding the adequacy of internal controls and in the detailed report regarding the non-compliance with the legal and regulatory provisions, produced upon the audit of insurance and capitalization companies, and open private pension entities.
SUSEP Circular 272/2004	Disposes on the minimum parameters required to the preparation of actuarial evaluation, to be submitted by the insurance and capitalization companies, and open private pension entities.
SUSEP Circular 344/2007	Disposes on the internal controls specific to the prevention against frauds.

CNSP Resolution 163/2007	Establishes rules for sending actuarial technical note of the insurance plans portfolio and set other arrangements.
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Compulsory Reports

SUSEP Circular 364/2008	Disposes on the Periodic Information Form - FIP/SUSEP applicable to the insurance, capitalization and open private pension markets.
SUSEP Circular 253/2004 Annex of the SUSEP Circular 253/2004 (amended by SUSEP Circular 342/2007)	Establishes questionnaire on the risks, especially the underwriting risks, sustained by insurance companies and set other arrangements.
SUSEP Circular 280/2004	Establishes minimum procedures to be observed in the detailed report regarding to the internal controls adequacy and in the detailed report regarding to the non-compliance with the legal and regulatory provisions, produced upon auditing of insurance and capitalization companies, and open private pension entities.
SUSEP Circular 285/2005 (amended by SUSEP Circular 297/2005)	Establishes a register of funds and balances statement, relating to information technology and accounting sectors, to be filled by the insurance and capitalization companies, and open private pension entities, and set other arrangements.
SUSEP Circular 136/2000	Disposes on the sending of data related to retention limit, and set other arrangements.
CNSP Resolution 135/2005	Disposes on the development of actuarial evaluation, the actuarial audit and other results of actuarial services referred to SUSEP.
SUSEP Circular 360/20078	Establishes, amends and consolidates the data files to be sent to SUSEP by the Insurance and Capitalization Companies, and Open Private Pension Entities, authorized to operate in the country, and Federal Savings and Loan Bank (CEF, in Portuguese).

Accounting Standards

CNSP Resolution 171/2007	Establishes rules and procedures for technical reserves constitution of the domestic reinsurance companies.
CNSP Resolution 086/2002 Annex CNSP Resolution 086/2002	Disposes on the Accounting Standards to be observed by the insurance, reinsurance and capitalization companies, and open private pension entities, and set other arrangements. (Note: an updated and consolidated Chart of Accounts and other accounting standards is contained in the SUSEP Circular-Letter 295/2005, as provided in Article 2 nd , paragraph II, of this Resolution).

SUSEP Circular 371/2008	Disposes on the amendments of the Accounting Standards to be observed by the insurance, reinsurance and capitalization companies, and open private pension entities, established by CNSP Resolution 86, dated September 3 rd , 2002.
SUSEP Circular 357/2007	Disposes on the convergence process to the international accounting standards.
CNSP Resolution 162/2006 (amended by CNSP Resolution 181/2007)	Establishes rules and procedures for the technical reserves constitution of the insurance and capitalization companies, and open private pension entities.

Investments

CNSP Resolution 098/2002 (amended by CNSP Resolution 106/2004)	Disposes on the investments criteria by the insurance and capitalization companies, and open private pension entities, and set other arrangements.
SUSEP Circular 284/2005 (modified by SUSEP Circular 300/2005)	Disposes on the registration, custody and movement of properties and securities for technical reserves, funds and provisions of the insurance and capitalization companies, and open private pension entities.

Capital Adequacy and Solvency

CNSP Resolution 073/2002	Disposes on the minimum capital of the insurance and capitalization companies, and open private pension entities created as joint stock companies, and set other arrangements.
CNSP Resolution 178/2007	Disposes on the minimum capital required for authorization and operation of the insurance companies, and set other arrangements. This Resolution will come into force from January 1 st , 2008. Republished in the Official Daily Government Newspaper (DOU, in Portuguese) dated of December 31 st , 2007, with date of signature of December 28 th , 2007.
CNSP Resolution 158/2006 (amended by SUSEP Circular 355/07)	Disposes on the rules regarding to the additional capital based on the underwriting risks of the insurance companies, and set other arrangements. This Resolution will come into force from January 1 st , 2008.
SUSEP Circular 253/2004 Annex SUSEP Circular 253/2004 (amended by SUSEP Circular 342/2007)	Establishes questionnaire on the risks, especially the underwriting risks sustained by the insurance companies, and set other arrangements.

SUSEP Circular 284/2005 (amended by SUSEP Circular 300/05)	Disposes on the registration, custody and movement of properties and securities for the technical reserves, funds and provisions of the insurance and capitalization companies, and open private pension entities.
CNSP Resolution 008/1989 (amended by CNSP Resolution 055/2001)	Disposes on the solvency margin and net asset of the insurance companies.
CNSP Resolution 040/2000 (amended by CNSP Resolution 057/2001 and by CNSP Resolution 085/2002, from January 1 st , 2003)	Establishes the calculation of the technical limits for the insurance companies, and set other arrangements.
CNSP Resolution 085/2002	Disposes on the required Adjusted Net Equity of the insurance and capitalization companies, and open private pension entities composed under joint stock company, and set other arrangements.

Intermediaries

Law 4.594/1964	Regulates the profession of insurance broker.
CNSP Resolution 081/2002 (amended by CNSP Resolutions 175 and 176, of 2007)	Disposes on the activity of insurance brokers of general insurance and insurance brokers for life, capitalization and private pension, as well as their employees.
SUSEP Circular 127/2000 (amended by SUSEP Circulars 140/2000 and 146/2000)	Disposes on the activity of the insurance broker, and set other arrangements.

Consumer Protection

CNSP Resolution 110/2004	Establishes the rules and minimum criteria to be observed by the insurance and capitalization companies, and open private pension entities with the purposes of recognition of their ombudsman services by SUSEP. See SUSEP Circular-Letter 274/04.
SUSEP Circular 292/2005	Regulates the customer service of supervised markets and the converting of their complaints in enactor administrative processes (PAS, in Portuguese).
CNSP Resolution 143/2005	Establishes a registration requirement for the policies and endorsements issued and co-insurance exclusive for this purpose, and set other arrangements. See DECON Circular-Letter 005/2006.

SUSEP Circular 326/2006	Regulates the registration of the insurance policies and endorsements issued directly by the insurance companies into specific accounts and exclusive for this purpose.
Law 8.078/1990	Consumer Defense Code.

Popular Insurance

SUSEP Circular 267/2004	Establishes the operating rules and criteria for operation of the life insurance in popular group, and make available, at the SUSEP website, their general conditions standardized and their respective parameters.
SUSEP Circular 306/2005 Contractual Standards (amended by SUSEP Circular 324/2006)	Regulates the operating rules and criteria for operation of the popular motor insurance for used vehicles and establishes the contractual conditions standardized.

Anti-Money Laundering / Combating the Financing of Terrorism (AML/CFT)

Complementary Law 105/2001	Disposes on the confidentiality of the operations of financial institutions, and set other arrangements.
Law 9.613/1998	Disposes on the crimes of "laundering" or concealment of properties, rights and values; the prevention of the use of the financial system for illicit activities provided in this Law; creates the Council of Financial Activities Control, and set other arrangements. (Financial Intelligence Unit (FIU) of Brazil).
Law 7.170/1983	Defines the crimes against national security, political and social order, establishes their process and judgment, and set other arrangements.
CNSP Resolution 097/2002	Regulates the administrative process and establishes evaluation criteria to be adopted by the Board of Directors of SUSEP to impose punishments to the insurance and capitalization companies, and open private pension entities, and insurance brokers, for non-compliance with the provisions of the Articles 10 and 11 of the Law 9.613, dated March 3 rd , 1998.
SUSEP Circular 327/2006 (amended by SUSEP Circulars 333/2006 and 349/2007)	Disposes on the internal controls specific for handle with situations related to the crimes practice provided in the Law 9.613 of 1998, or related to them, communication of suspicious transactions and the administrative responsibility of dealing with that Law. See SUSEP Circular 341/2007 and SUSEP DECON Circular-Letters 001/07 and 003/07.

SUSEP Circular 341/2007 (amended by SUSEP Circular 352/2007)	Disposes on the procedures to be followed in dealing with customers, considered politically exposed people, in addition to the procedures set forth in the SUSEP Circular 327/2006. This Circular will be coming into force from October 1 st , 2007.
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Personal Insurance

Law 10.406/2002 (Articles 757 to 802)	Civil Code.
SUSEP Circular 251/2004 (amended by SUSEP Circular 287/2005)	Disposes on the proposal acceptance and on the attachment date of the coverage, in the insurance agreements, and set other arrangements.
SUSEP Instruction 19/1999	Dispose on enunciation of SUSEP Attorney.
SUSEP Circular 302/2005 (amended by SUSEP Circular 316/2006)	Dispose on the additional rules of operation and the criteria for operating risk coverages offered in personal insurance, and set other arrangements.
SUSEP Circular 317/2006	Disposes on the additional rules of operation and the criteria for operating risk coverages offered in group personal insurance, and set other arrangements.
CNSP Resolution 107/2004	Amends and consolidates the rules that dispose on the insurance clauses, responsibilities and obligations of the applicants and the insurance companies.
CNSP Resolution 103/2004	Amends and consolidates the updating and recalculation rules of values related to the operations of insurance, open private pension and capitalization companies, and set other arrangements.
SUSEP Circular 255/2004	Disposes on values updating related to the operations of insurance, open private pension and capitalization companies, and set other arrangements.
CNSP Resolution 102/2004	Regulates the offer, by insurance companies, of care services, distinguished as complementary activities to the insurance.
SUSEP Circular 310/2005 (amended by SUSEP Circular 318/06. See CNSP Circular 102/04)	Regulates the offer, by insurance companies, of care services, distinguished as complementary activities to the insurance agreements and establishes the differentiation between these services and similar warranties offered in insurance agreements.
SUSEP Circular 318/2006	Amends provision of SUSEP Circular 310, dated December 19 th , 2005.
SUSEP Circular 74/1999 (amended by SUSEP Circular 277/2004)	Specifies terms for the guard of documents and storage of data by the Insurance and Capitalization Companies, Open Private Pension Entities, and Insurance Brokers, relating to agreements entered into.

SUSEP Circular 362/2008	Establishes rules for the Portfolio Actuarial Technical Note that shall be sent together with the Recovery Solvency Plan, and if any, with the Corrective Solvency Plan, upon the constitution of insurance and capitalization companies, and open private pension entities, upon the Commencement of Operation, and upon the split, merger and amalgamation of capitalization companies and open private pension entities, and set other arrangements.
CNSP Resolution 140/2005 (amended by CNSP Resolution 148/2006. Amended by CNSP Resolution 161/2006)	Amends and consolidates the operating rules and the criteria for operation of survival coverage offered in personal insurance, and set other arrangements.
CNSP Resolution 148/2006	Amends the sole paragraph of the Article 4 th , paragraphs XXVI and XXXIII of the Article 5 th , Article 7 th , paragraphs IV, V, VI, VII and VIII, paragraphs 1 st , 2 nd , 3 rd and 4 th of the Article 7 th , Article 29, paragraphs 3 rd and 4 th of the Article 35, Article 50, item "a" of the paragraph I of the Article 52, paragraph 6 th of the Article 54, Article 56, paragraphs 5 th and 6 th of the Article 60, sole paragraph of the Articles 74 and 75, Articles 89, 98, 99, 100, 101 and 102 of the CNSP Resolution 140, dated December 27 th , 2005, and consolidates in annex this rule.
SUSEP Circular 339/2007	Amends and consolidates rules and complementary criteria for operating of the survival coverage offered in personal insurance, and set other arrangements.
SUSEP Circular 34/1972	Minimum components of the policy.

General Insurance

Decree-Law 73/1966	Disposes on the National System of Private Insurance, regulates the insurance and reinsurance operations, and set other arrangements.
Law 10.406/2002	Establishes the Civil Code.
CNSP Resolution 103/2004	Amends and consolidates the rules of values updating and recalculation related to the operations of insurance, capitalization and open private pension, and set other arrangements.
CNSP Resolution 15/1998	Delegates to Superintendence of Private Insurance the criteria definition for collecting the cost of policy, invoice and endorsement.
CNSP Resolution 11/1988	Delegates the authority to SUSEP to approve the insurance companies' requests to operate with insurance tickets.

SUSEP Circular 265/04	Regulates the procedures related to adoption, by insurance companies, of the agreement conditions and related rates provisions and actuarial technical notes of the standardized, non-standardized and unique plans, not subject to prior approval by SUSEP.
SUSEP Circular 256/04	Disposes on the minimum structure of Agreement Conditions and Actuarial Technical Notes of the General Insurance Agreements, and set other arrangements.
SUSEP Circular 255/04	Disposes on the values updating related to the operations of insurance, open private pension and capitalization, and set other arrangements.
SUSEP Circular 251/04	Disposes on the proposal acceptance and attachment date of coverage, in the insurance agreements, and set other arrangements.
SUSEP Circular 239/03	Amends and consolidates the rules that dispose on the premiums payment related to the general insurance agreements.
SUSEP Circular 176/01	Disposes on the criteria of collecting the issue cost.

Resolutions, Circulars and Circular-Letters:
<http://www.susep.gov.br/menubiblioteca/biblioteca.asp>

Other rules: www.planalto.gov.br

Survey Credits

This paper was prepared in October 2008 by the SUSEP Working Group on Microinsurance, created by the SUSEP Ordinance no. 2.960, dated June 12nd, 2008.

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