

# Judicial Bonds in Brazil: background, characteristics and underwriting

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**BRASIL**



**COLÔMBIA**



**1** Brazilian market

**2** Basic products

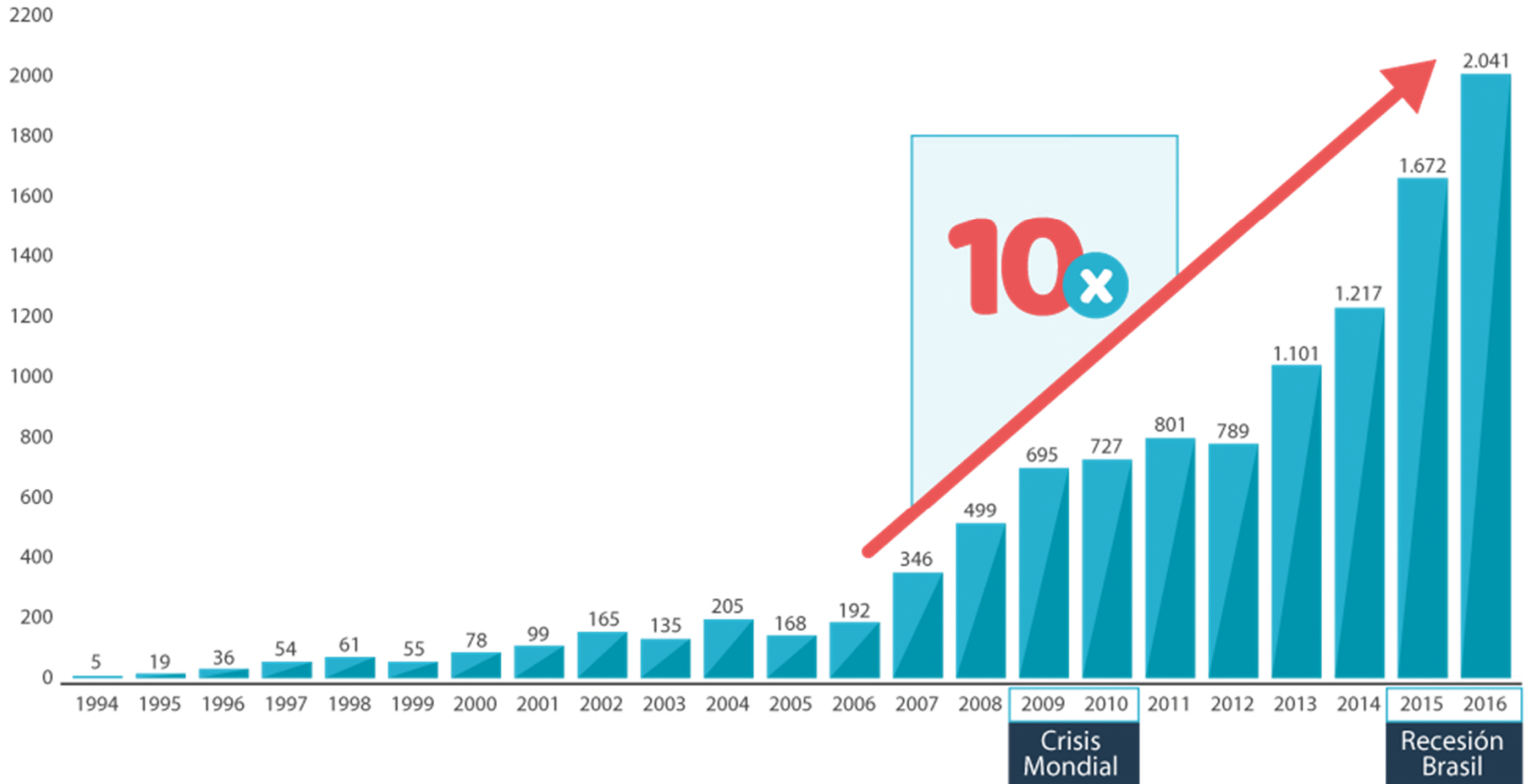
**3** Regulatory evolution

**4** Characteristics

**5** Conclusions and future prospects

# EVOLUTION OF PREMIUMS (BRL x Mi)

Mercado de Garantia  
(Fonte: SUSEP)



# MERCADO DE SEGUROS BRASIL (Enero - Mayo)

Prêmio Direto

Valores em R\$ Milhões

Segmentos/ Grupos	2015	2016	Var 16/15	Jan a Mai 2016	Jan a Mai 2017	Var 17/16	Mix 2017
<b>AUTOMÓVEL</b>	32.530	31.748	-2,4%	12.641	13.338	5,5%	52,6%
Automóvel - Casco	22.693	22.139	-2,4%	8.834	9.368	6,0%	37,0%
Resp. Civil Facultativo	7.210	6.950	-2,4%	2.735	2.830	3,5%	11,2%
Assistência e Outras Coberturas	2.101	2.067	-1,6%	837	875	4,6%	3,5%
APP	545	533	-2,1%	212	239	12,6%	0,9%
Garantia Estendida	46	34	-25,6%	12	15	11,8%	0,1%
<b>PATRIMONIAL</b>	12.736	12.874	1,1%	5.263	5.291	0,5%	20,9%
Garantia Estendida	2.851	2.586	-9,3%	1.117	1.112	-0,4%	4,4%
Compreensivo Empresarial	2.074	2.110	1,7%	854	831	-2,7%	3,3%
Compreensivo Residencial	2.400	2.494	3,9%	990	1.035	4,5%	4,1%
Médios e Grandes Riscos	2.598	2.666	2,6%	1.103	1.053	-4,5%	4,2%
Risco de Engenharia	504	388	-23,0%	166	111	-33,4%	0,4%
Compreensivo Condominio	322	365	13,2%	140	154	10,1%	0,6%
<b>HABITACIONAL</b>	3.105	3.443	10,9%	1.384	1.540	11,2%	6,1%
<b>TRANSPORTES</b>	2.862	2.972	3,9%	1.191	1.175	-1,4%	4,6%
<b>RISCOS FINANCEIROS</b>	2.731	3.139	15,0%	1.116	1.449	29,9%	5,7%
Garantia	1.672	2.042	22,1%	669	958	43,3%	3,8%
Fiança Locaticia	379	349	-8,1%	148	149	0,7%	0,6%
Crédito	678	746	10,1%	296	341	14,5%	1,3%
<b>RESPONSABILIDADES</b>	1.519	1.600	5,3%	631	661	4,7%	2,6%
Resp. Civil Geral	872	860	-1,4%	344	363	5,5%	1,4%
Resp. Civil D&O	368	373	1,3%	151	151	0,0%	0,6%
Resp. Civil Profissional	236	312	32,4%	118	121	2,6%	0,5%
Riscos Ambientais	43	56	28,2%	18	26	41,0%	0,1%
<b>RISCOS ESPECIAIS</b>	564	561	-0,5%	238	99	-58,3%	0,4%
<b>CASCOS</b>	809	812	0,4%	402	275	-31,6%	1,1%
<b>MICROSEGUROS DE DANOS</b>	18	59	238,9%	8	43	410,4%	0,2%
<b>RURAL</b>	3.271	3.643	11,3%	1.211	1.475	21,8%	5,8%
<b>TOTAL SEM DPVAT</b>	<b>60.144</b>	<b>60.851</b>	<b>1,2%</b>	<b>24.085</b>	<b>25.347</b>	<b>5,2%</b>	<b>100,0%</b>
DPVAT	8.622	8.724	1,2%	5.012	3.500	-30,2%	
<b>TOTAL COM DPVAT</b>	<b>68.767</b>	<b>69.575</b>	<b>1,2%</b>	<b>29.098</b>	<b>28.846</b>	<b>-0,9%</b>	

# BRAZILIAN NEW SURETY MARKET

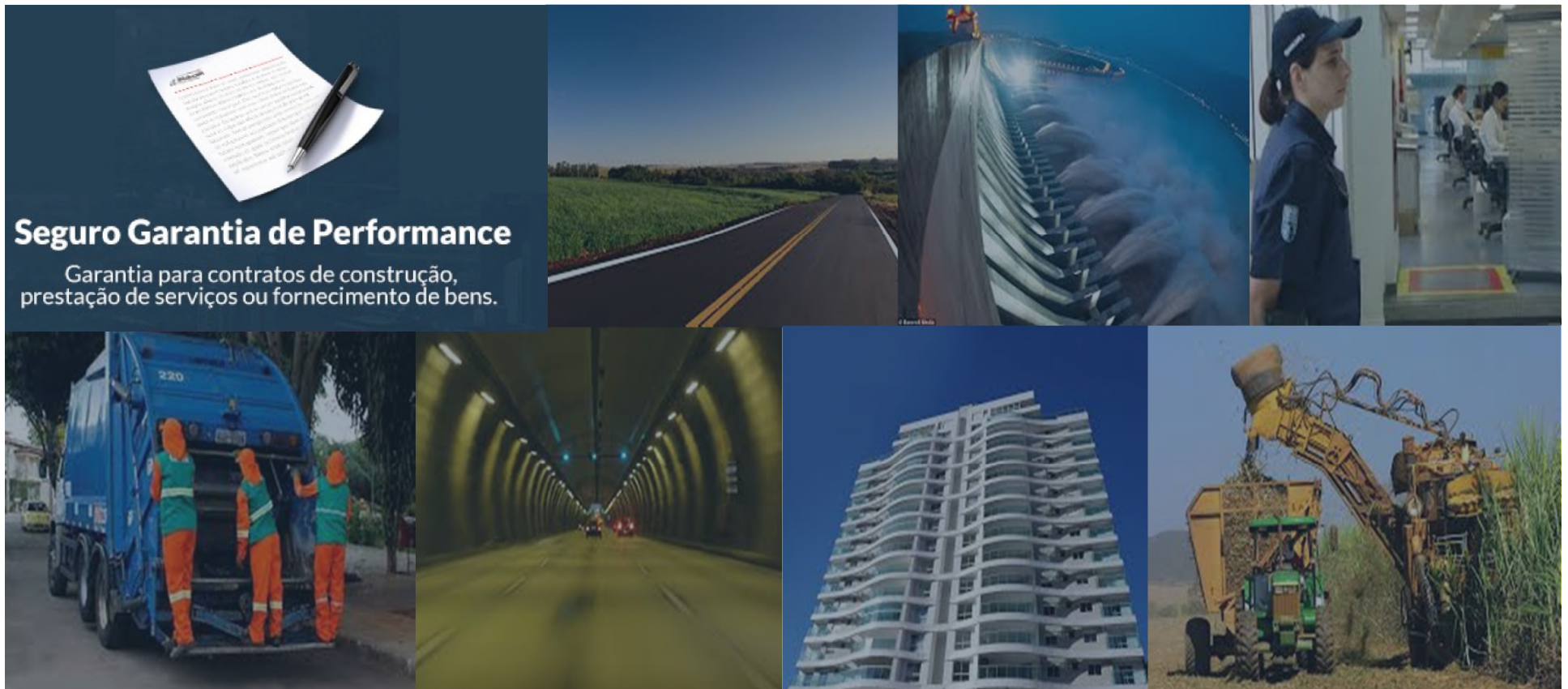


**Judicial**  
90%



**Traditional**  
10%

# MAIN PRODUCTS AND CLIENTS UNTIL 2012



# MAIN PRODUCT AND CUSTOMERS IN 2017

**SEGURO GARANTIA JUDICIAL**

ASEGURADO

Proceso Judicial

Póliza

TOMADOR

ASEGURADOR (JMALUCELLI)

Contragarantias

# BASIC CONCEPTS

## What is a judicial bond?

- A kind of *pendente lite* bond as an option granted to the potential losing party in a legal action to give bond for the whole process or substitute for any other guarantee previously given
- An alternative to the attachment of property during the course of the trial
- Keeping the potential losing party property to secure the payment of obligations arising from judicial processes
- Posting bond from the beginning of the process or substituting for another already posted
- Right to defense and principles of the least onerous alternative for the losing party, efficiency for the winning party and procedural economy

# BASIC CONCEPTS

## Kinds of Judicial Bonds

### **CIVIL Judicial** **(Code of Civil Procedure - CPC)**

- Interim (or provisional) protection
- Provisional execution of judgment under challenge
- Judgment challenged
- Execution process

### **LABOR Judicial**

- Execution process

### **Judicial FOR EXECUTION OF TAX ENFORCEMENT JUDGMENTS**

- Interim (or provisional) protection
- Bond to ensure execution of judgment
- Legal action to void tax debt
- Legal proceeding to guarantee constitutional rights (*amparo*)

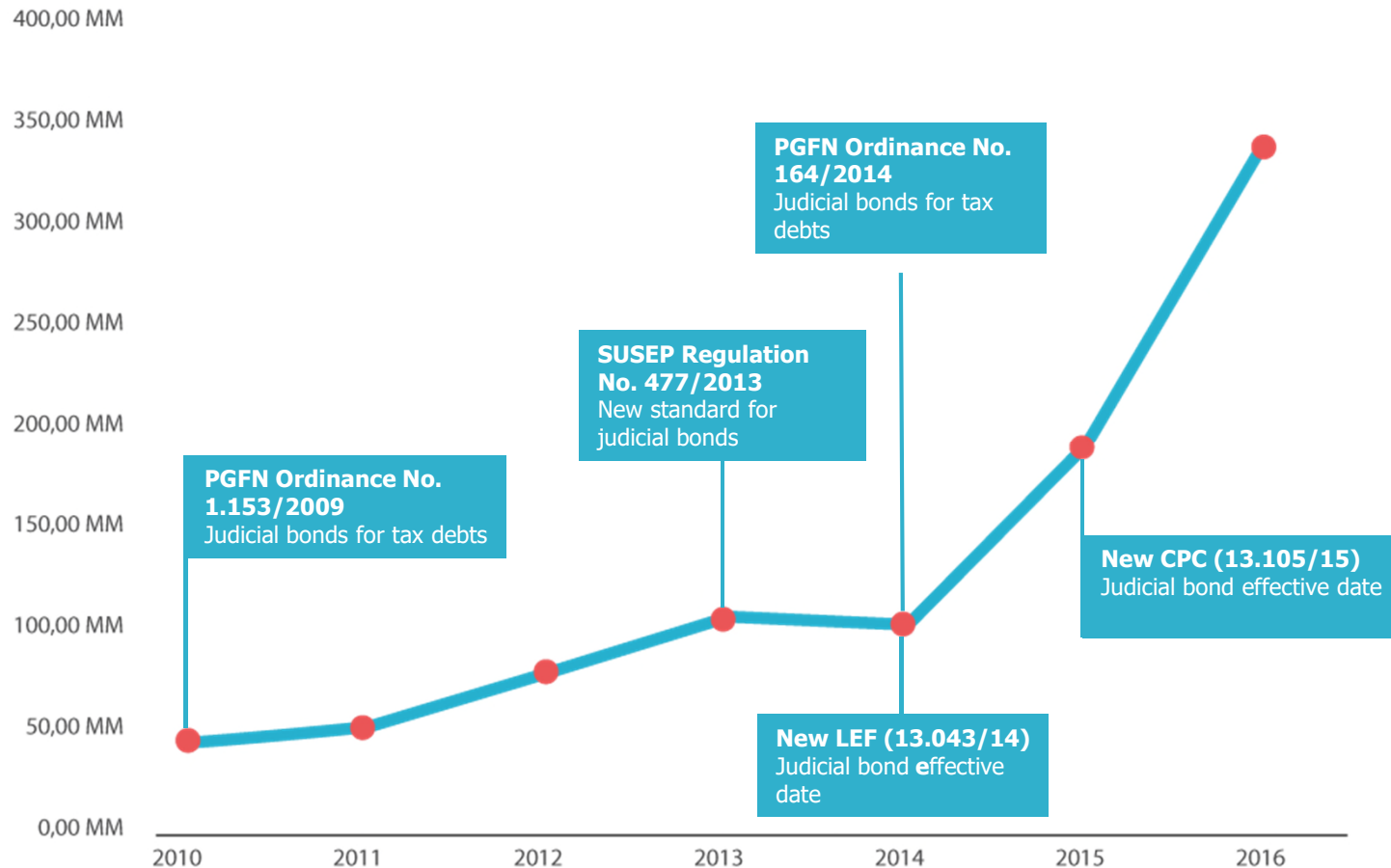
### **Judicial FOR DIVISION OF PAYMENT PROGRAM (TAX ADMINISTRATIVE PAYMENT)**

- Remaining balance on the tax debt (termination of program due to lack of payment)

# REGULATORY EVOLUTION

## JMalucelli (PREMIUM): 2010 - 2016\*

\*Dec/2016



# CHARACTERISTICS

## General Aspects

### Automatic extension except if:

- There is no risk to be covered by the policy
- A new bond is posted

### Renewal:

- Non-renewal of the policy 60 days before the expiration date determines the loss

### Consideration for the insured's concerns:

- The bond may be called on when it has not produced the staying effect sought by the policyholder

### Updating:

- 30% of principal (SUSEP Regulation 477 + CPC);
- Adjustment at the legal rate applicable to debts, according to the nature of the process

### Effects of legal certainty for the parties:

- The policyholder will be asked to substitute for the policy only when the bond has ceased to fulfill legal requirements
- The insured's policy will be in force until the obligations have been discharged or until the bond has been substituted for
- Call is on the insurance company if payment is not made

# CHARACTERISTICS

## Underwriting



CREDIT  
ANALYSIS

INDEMNITY  
AGREEMENT

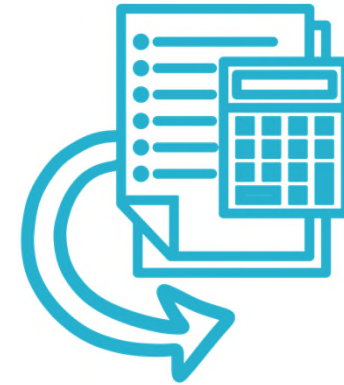
LEGAL PROCESS  
ANALYSIS

# CHARACTERISTICS

## Updating and capacity reserves



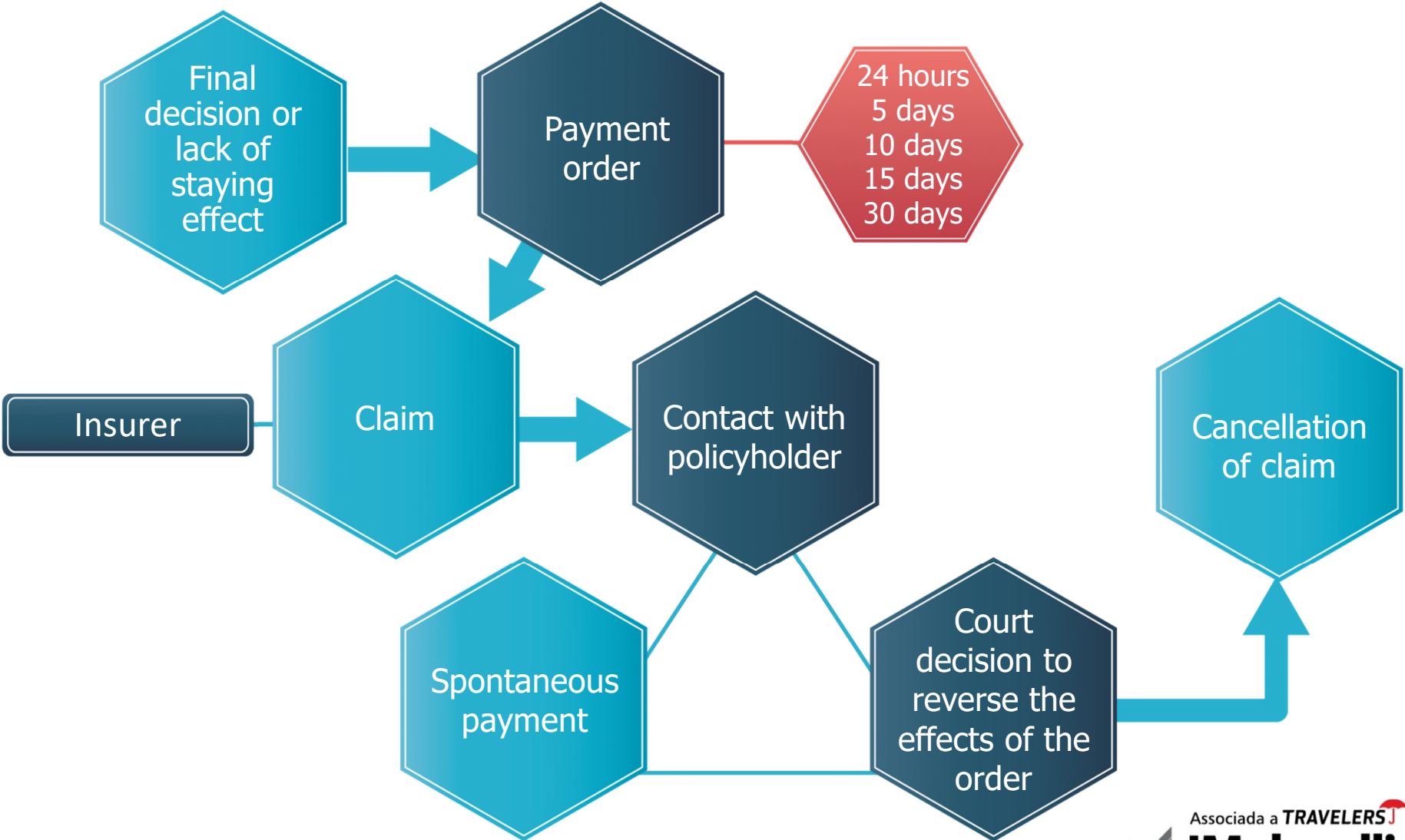
- Identification of the insured value updating rate stated in the policy (Selic or others)
- Updating calculated on an annual basis (*amparo* in the IA)



- Future projection, using applicable rates and considering the policy effective period and possible renewals

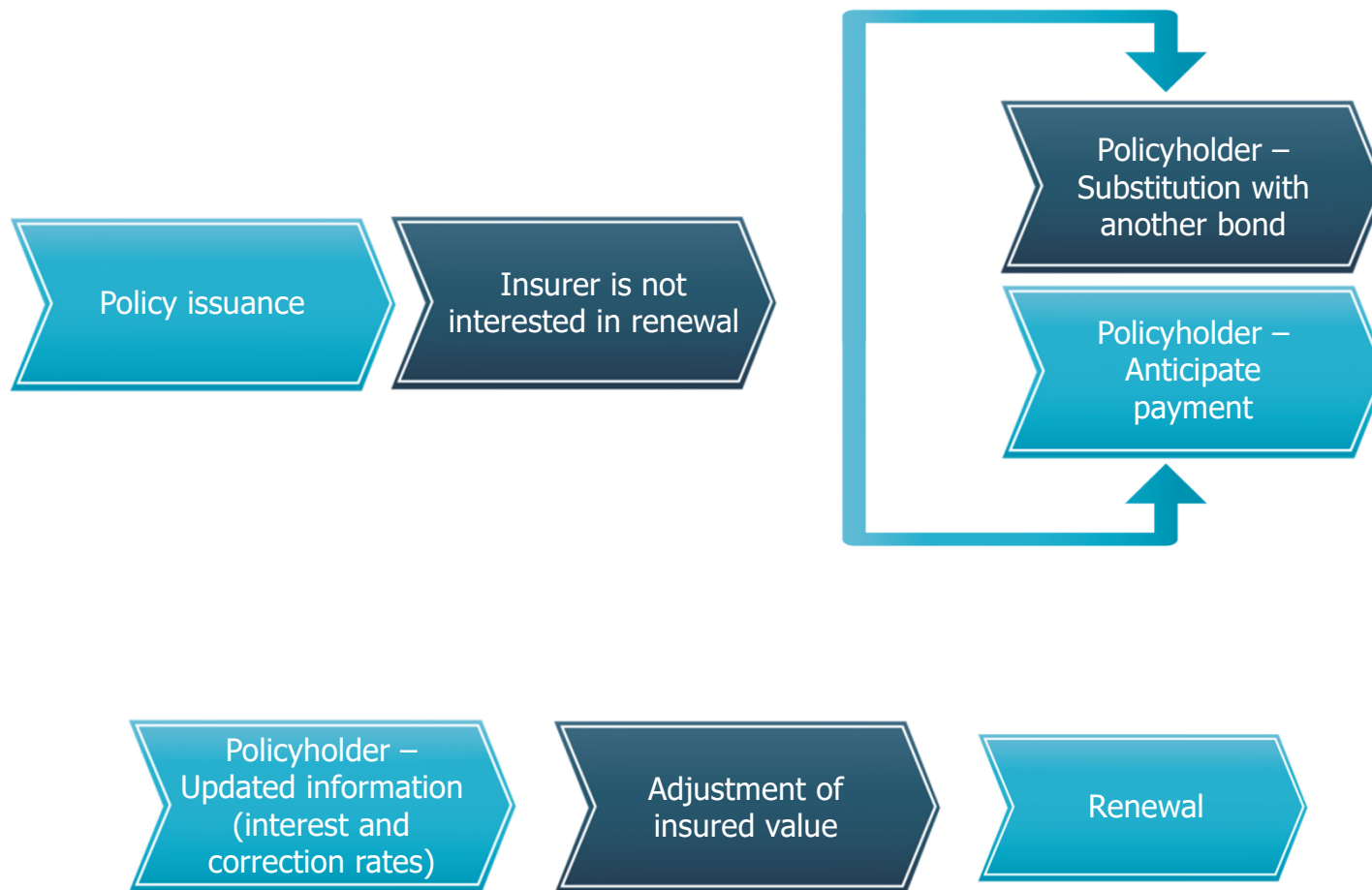
# CHARACTERISTICS

## Practical aspects of claims



# CHARACTERISTICS

## *Amparo IA*



# CONCLUSIONS AND FUTURE PROSPECTS

- Judicial bonds are driving the Brazilian surety market and there is a lot of room for growth
- The acceptance of judicial bonds is no longer objected to

**Are we ALL aligned in our effort to respond to the specificity of the product?**

- Links with the risk while the process is outstanding
- Control for periodic adjustments due to updating
- Enough capacity for the policy and its renewals
- Short terms for handling the loss with the policyholder and possible payment by the insurer

# THANK YOU!

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