

# **THE BRAZILIAN FISCAL RESPONSIBILITY LAW**

SUPPLEMENTARY LAW 101, OF MAY 4, 2000.

**MINISTRY OF PLANNING, BUDGET AND MANAGEMENT OF BRAZIL**

**SUPPLEMENTARY LAW 101, OF MAY 4, 2000.**

Establishes public finance rules enforcing responsibility in fiscal management, and other provisions.

**THE PRESIDENT OF THE REPUBLIC**

Be it known that the National Congress decrees and I hereby sanction the following Supplementary Law:

## **CHAPTER I**

### **PRELIMINARY PROVISIONS**

Article 1. This Supplementary Law establishes public finance rules enforcing responsibility in fiscal management, under Title IV, Chapter II of the Brazilian Constitution.

§ 1. Responsibility in fiscal management presupposes well-planned and transparent actions to prevent risks and correct deviations that may affect the equilibrium of public

accounts, by compliance with revenue and expenditure results targets, observing limits and satisfying conditions regarding tax breaks, generation of personnel and social security expenditures, among others, consolidated and security debt, credit operations, including those involving revenue anticipation, guarantees issued and outstanding liabilities.

§ 2. The provisions of this Supplementary Law apply to the Federal government, the States, the Federal District, and the Municipalities.

§3. Is applicable to:

I – the Federal Government, the States, the Federal District, and the Municipalities, the following is included:

a) the Executive, Legislative (including the Audit Courts) and Judiciary Branches, and the Attorney General's Office;

b) their respective direct administrations, funds, government agencies, foundations, and state-owned enterprises;

II – the States include the Federal District;

III – Audit Courts include: the Federal Audit Court, State Audit Courts and, if applicable, Municipal Audit Courts.

Article 2. For the purposes of this Supplementary Law, the following definitions are used:

I – Member of the Federation: the Federal Government, each State, the Federal District, and each Municipality;

II – controlled company: a company controlled by a member of the Federation directly or indirectly, holding the majority of its voting shares;

III – state-owned enterprise: a controlled company receiving funds from the controlling company to cover personnel, overhead, or capital expenditures, excluding from capital expenditures, those resulting from increase in shareholder's equity;

IV – net current revenue: sum of revenues from taxes and contributions, on assets, on industrial and agricultural activities, on services, on current transfers and on other current revenues, less:

a) in the Federal Government, the amounts transferred to States and Municipalities pursuant to the Law or Brazilian Constitution, and the contributions mentioned in Article 195, item I, *a*), and item II, and Article 239 of the Brazilian Brazilian Constitution;

b) in the States, the amounts transferred to the Municipalities pursuant to the Brazilian Constitution;

c) in the Federal Government, States, and Municipalities, public employee contributions toward their social security and assistance system, and revenues from the financial compensation mentioned in Article 201, § 9 of the Brazilian Constitution.

§ 1. Net current revenue must be calculated including amounts paid and received pursuant to Supplementary Law 87, of September 13, 1996, and including the fund provided for in Article 60 of the Transitional Brazilian Constitutional Provisions Act.

§ 2. Net current revenue of the Federal District and the States of Amapá and Roraima must not include the funds received from the Federal Government to cover the expenditures mentioned in Article 19, § 1, item V.

§ 3. Net current revenue must be calculated by adding revenues collected in the reference month and in the previous 11 months, excluding any duplicate inputs.

## CHAPTER II

### THE PLANNING PROCESS

#### Section I The Multiyear Plan (PPA)

Article 3. (VETOED)

#### Section II The Budgetary Directives Law

Article 4. The Budgetary Directives Law must comply with the provisions of Article 165, § 2 of the Brazilian Constitution, and:

I – it must provide for:

a) the balance between revenues and expenditures;

b) commitment criteria and restrictions, to be implemented in the hypotheses mentioned in item II, *b*) of this article, in Article 9, and in Article 31, § 1, item II.

c) (VETOED)

d) (VETOED)

e) rules on cost control and evaluation of results of programs financed with budgetary resources;

f) all other conditions and requirements for the transfer of funds to public and private entities;

II – (VETOED)

III – (VETOED)

§ 1. The Budgetary Directives Law must enclose a Fiscal Target Appendix, which will set annual targets, in current and constant values, for revenues and expenditures, nominal and primary results, and the public debt, for the current and for the two subsequent years.

§ 2. The Appendix must also contain:

I – evaluation of compliance with the previous year's targets;

II – statement of annual targets, accompanied by the methodology and the historical records of calculation that support the intended results, comparing these targets with those for the three previous years, and evidencing their consistency with the national economic policy premises and objectives;

III – evolution of net worth, also in the last three years, with emphasis on the source and use of funds derived from asset transfers;

IV – evaluation of the financial and actuarial position:

a) of the general and public social security systems, as well as of the Workers' Aid Fund – (Fundo de Amparo ao Trabalhador – FAT);

b) of all other public funds and actuarial state programs;

V – statement of estimate and offsetting of tax breaks and growth margin of permanent mandatory expenditures.

§ 3. The Budgetary Guidelines Law must enclose a Fiscal Risk Appendix, evaluating contingent liabilities and other risks that may affect public accounts, and detailing the measures to be taken, should such occur.

§ 4. The message submitting the Federal Government's draft proposal must contain, in a specific appendix, the objectives of the monetary, credit, and foreign exchange policies, as well as the parameters and projections for major aggregates and variables, and inflation

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targets for the subsequent year.

### Section III The Annual Budgetary Law

Article 5. The Annual Draft Budgetary Law, which must be consistent with the Multiyear Plan (PPA), the Budgetary Directives Law, and the provisions of this Supplementary Law:

I – must contain, attached thereto, a statement of consistency between the budget programming and the objectives and targets included in the document mentioned in Article 4, § 1;

II – must be accompanied by the document mentioned in Article 165, § 6 of the Brazilian Constitution, as well as the measures to offset tax breaks and tax increases in continuing mandatory expenditures;

III – must contain a contingency reserve, the use and amount of which must be defined in the Budgetary Directives Law based on net current revenue, aimed at:

a) (VETOED)

b) meeting contingent liabilities and other fiscal risks and unforeseen events.

§ 1. All expenditures involving public securities or contractual debt and corresponding revenues must be consigned in the Annual Budgetary Law.

§ 2. The refinancing of public debt must be stated separately in the Budgetary Law and in legislation on additional credits.

§ 3. The monetary updating of the principal of the refinanced securities debt must not exceed the change in the price index provided for in the Budgetary Directives Law or in specific legislation.

§ 4. Setting aside credits with imprecise objectives or unlimited allocations in the Annual Budgetary Law is prohibited.

§ 5. The Annual Budgetary Law must not allocate funds for investments spanning more than one fiscal year - which are not included in the Multiyear Plan (PPA) or in the form of a legal text authorizing its inclusion therein, as provided for in Article 167, § 1 of the Brazilian Constitution.

§ 6. The Central Bank of Brazil expenditures on personnel and social charges, administrative

current expenditures — including civil servants' benefits and assistance to the institution's employees—, and investments, must be part of the Federal government's expenditures and be included in the Annual Budgetary Law.

§ 7. (VETOED)

Article 6. (VETOED)

Article 7. The Central Bank of Brazil results, which are determined after the computation or its reversal, are classified as National Treasury revenue and must be transferred within ten business days after the approval of the half-year balance sheets.

§ 1. The negative results must be classified as a Treasury liability to the Central Bank of Brazil, and it must be stated in a specific budget allocation account.

§ 2. The impact and the fiscal cost of the Central Bank's operations must be stated quarterly, as provided for in the Federal Government's Budgetary Directives Law.

§ 3. The quarterly balance sheets of the Central Bank of Brazil must consign explanatory notes on the costs of earnings on the National Treasury available resources and the maintenance of foreign exchange reserves, as well as the profitability of its securities portfolio, particularly those securities issued by the Federal government.

#### Section IV

#### The Budgetary execution and the compliance with fiscal targets

Article 8. Based on the term of the Budgetary Directives Law and in due compliance with the provisions in item c of ondent I of article 4, the Executive Branch must define, up to 30 (thirty) days after the publication of the budgets, the financial programming and the monthly disbursement schedule.

Sole paragraph. The financial resources legally earmarked for a specific purpose must be used solely to meet the intended purpose, even if not in the same year as the respective inflow.

Article 9. If , by the end of two months, it is concluded that the revenue inflow may not to be enough to ensure the cmpliance with the primary or nominal result targets set in the Fiscal Target Appendix, the Branches and the General Attorney's Office must, at their own initiative and in the required amounts, within the next 30 days, take measures to restrict commitments and financial operations, according to the criteria set in the Budgetary Directives Law.

§ 1. Should the forecasted revenue be reestablished, even partially, the appropriations for which funding commitments were restricted must be replenished in proportion to the to the reductions previously made.

§ 2. The restriction must not be extended to legal or constitutional expenditures of the member of the Federation, including those reserved to payment of debt servicing, and those not consigned in the Budgetary Directives Law.

§ 3. Should the Legislative and Judiciary Branches, as well as the Office of the Federal Prosecutor not adopt measures to introduce such limitations within the mentioned period in the caput, the Executive Branch is authorized to limit the financial resources pursuant to criteria established in the Budgetary Directives Law.

§ 4. By the end of May, September, and February, the Executive Branch must present and evaluate the compliance with fiscal targets for each 4-month period, in a public hearing held at the committee referred to in Article 166, § 1 of the Brazilian Constitution, or an equivalent body in the state and municipal legislatures.

§ 5. Within 90 days from the end of each half-year period, the Central Bank of Brazil must present, in a joint meeting with the relevant National Congress thematic commissions, the evaluation of the compliance with the objectives and targets of the monetary, credit, and foreign exchange policies, detailing the impact and the fiscal cost of its operations and the results shown in the balance sheets.

Article 10. The budget and financial execution must identify, through the use of an accounting and financial administration system, the beneficiaries of the payments of court decisions, in order to comply with the chronological order established in Article 100 of the Brazilian Constitution.

### CHAPTER III

#### PUBLIC REVENUES

##### Section I

##### The forecast and the collection of public revenues

Article 11. The creation, forecast, and effective collection of all taxes levied by the member of the Federation pursuant to the Brazilian Constitution are basic requirements for responsibility in fiscal management.

Sole paragraph. No voluntary transfers can be made to the member of the Federation that fails to comply with the provisions mentioned in the caput.

Article 12. Revenue forecasts must comply with technical and legal standards, taking into account the effects of changes in the legislation, in the price index variations, economic growth or any other relevant factor, and must be accompanied by a statement of its evolution in the last three years, a projection for the next two years, and the calculation methodology and premises adopted.

§ 1. Revenue forecast revisions by the Legislative Branch will only be permitted with proof of technical or legal error or omission.

§ 2. The estimated revenue for credit operations must not exceed the capital expenditures included in the draft Annual Budgetary Law.

§ 3. At least 30 days before the deadline for submission of their budget proposals, the Executive Branch of each member of the Federation must place at the disposal of the other Branches and the Attorney General's Office, the studies and revenue estimates for the following year, including the net current revenue, and the respective memorandum items.

Article 13. Within the term set in Article 8, estimated revenues must be broken down by the Executive Branch into bimonthly collection targets, including, if applicable, a separate description of measures to combat tax fraud and evasion, the number and amounts of judicial suits for the collection of outstanding tax debts, as well as the evolution of tax credits that may be subject to legal collection procedures.

## Section II Tax breaks

Article 14. The granting or broadening of tax incentives or benefits resulting in tax breaks must be accompanied by an estimate of its budgetary/financial impact in the year it becomes effective and in the two subsequent years; it must comply also with the provisions of the Budgetary Directives Law and meet at least one of the following conditions:

I – proof, by the proposing party, that the tax breaks has been considered in the revenue estimate of the Annual Budgetary Law, under Article 12, and that it will not affect the tax result targets included in the appendix to the Budgetary Directives Law;

II – be accompanied by countervailing measures, during the period mentioned in the caput, through revenue increase measures such as tax rate raises, expansion of the tax base, increase in or creation of taxes or contributions.

§ 1. The tax break comprises amnesty, remission, subsidy, presumed credit, exemptions granted on an exceptional basis, changes in tax rate or calculation base which implies in a

discriminating reduction in taxes or contributions, and other benefits that result from a differentiated treatment.

§ 2. If the granting or broadening of the incentive or benefit mentioned in the caput stems from the condition described in item II, the benefit will become effective only when the measures in the above mentioned item are implemented.

§ 3. The provisions of this article must not apply to:

I – changes in the rates of the taxes mentioned in Article 153, § 1, items I, II, IV and V of the Brazilian Constitution;

II – debt cancellation in an amount lower than the respective collection costs.

## CHAPTER IV

### PUBLIC EXPENDITURES

#### Section I

#### The expenditure generation

Article 15. Any expenditure generated or any liability assumed that fail to comply with the provisions of Articles 16 and 17 will be considered unauthorized, irregular, and harmful to the public finances.

Article 16. The creation, expansion of or improvement in government action which results in an expenditure increase must be accompanied by:

I – an estimate of the budgetary/financial impact in the year it becomes effective and in the two subsequent years;

II – a statement by the expenditure requestor reporting that the increase is consistent with the budgetary and financial aspects of the Annual Budgetary Law, and compatible with the Multiyear Plan (PPA) and the Budgetary Directives Law.

§ 1. For the purposes of this Supplementary law, the following is considered:

I – adequately covered by the Annual Budgetary Law, when the expenditure covered by specific and adequate budget allocation, or that is included in a generic credit, so that the sum of all effected and to be effected expenditures of the same kind, as estimated in the work program, does not exceed the limits set for the year;

II – compatible with the Multiyear Plan (PPA) and the Budgetary Directives Law, the expenditure which complies with the guidelines, objectives, priorities, and targets established in those instruments, and do not violate any of their provisions.

§ 2. The estimate mentioned in item I of the caput must be accompanied by the premises and calculation methodology utilized.

§ 3. The provision of this article must not apply to expenditures deemed immaterial, as defined in the Budgetary Directives Law.

§ 4. The rules set in the caput are a precondition for:

I – funding commitments and tenders involving services, supply or goods, or execution of works;

II – expropriation of urban real estate as referred in Article 182, § 3 of the Brazilian Constitution.

#### *Subsection I*

#### *The mandatory continuing expenditures*

Article 17. Current expenditures are considered to be mandatory and of a continuous nature when deriving from the law, provisional measure or normative administrative act, which determines that the member of the Federation must execute such outlays for a period of more than two years.

§ 1. The acts creating or increasing the expenditures referred to in the caput must be accompanied by the estimate mentioned in Article 16, item I, and show the origin of funds for its financing.

§ 2. In order to comply with § 1, the act must be accompanied by proof that the expenditure thus created or increased will not affect the fiscal result targets set in the appendix mentioned in Article 4, § 1, and its financial effects must be offset, in the subsequent years, by a permanent revenue increase or permanent expenditure decrease.

§ 3. For the purposes of § 2, a permanent revenue increase is that arising from the increase in tax rates, the broadening of calculation base, or the increase or creation of tax or contribution.

§ 4. The proof referred to in § 2, presented by the expenditure requestor, must contain the calculation premises and also the methodology adopted, without restricting the evaluation

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consistency of the revenue with all other rules of the Multiyear Plan (PPA) and the Budgetary Directives Law.

§ 5. The expenditure referred to in this article must not be executed before the implementation of the measures mentioned in § 2, which must be an integral part of the instrument creating or increasing it.

§ 6. The provisions of § 1 must not apply to expenditures relating to the debt service or personnel wage increases mentioned in Article 37, item X of the Brazilian Constitution.

§ 7. The extension of an expenditure created for a limited period must be considered as an expenditure increase.

## Section II Personnel Expenditures

### *Subsection I* Definitions and Limits

Article 18. For the purposes of this Supplementary Law, total personnel expenditure is defined as: the sum of expenditures incurred by the member of the Federation with active and inactive workers, and retirees, in connection with elective mandates, positions, functions or jobs; civil and military personnel and members of the Branches of the government, with any kind of remuneration, such as wages and fixed and variable benefits, subsidies, pensions, including any additional payments, bonuses, overtime and fringe benefits of any kind, as well as social security charges and contributions withheld by the member of the Federation on behalf of the social security agencies.

§ 1. The amounts of outsourcing contracts relating to the substitution of public servants and employees must be registered as “Other Personnel Expenditures”.

§ 2. Total personnel expenditures must be determined on an accrual basis, by adding expenditures incurred in the base month with those incurred in the eleven preceding months.

Article 19. For the purposes mentioned in the body of Article 169 of the Brazilian Constitution, total personnel expenditures incurred in each determination period by each Federal member of the Federation must not exceed the following net current revenue

percentages:

I – Federal government: 50 percent;

II – States: 60 percent;

III – Municipalities: 60 percent.

§ 1. The following expenditures must not be considered when evaluating the compliance with the limits set in this article:

I – severance pay for dismissal of servants or employees;

II – voluntary separation incentives;

III – those derived from the application of the provisions of Article 57, § 6, item II of the Brazilian Constitution;

IV – those resulting from judicial decision and relating to a period prior to the determination one, as referred to in Article 18, § 2;

V – personnel expenditures of the Federal District and the states of Amapá and Roraima, covered by funds transferred by the Federal government under Article 21, items XIII and XIV of the Brazilian Constitution, and Article 31 of Brazilian Constitutional Amendment No. 19;

VI – expenditures with inactive workers, even if effected through a specific fund, when financed by original resources such as:

a) receipts from taxpayer contributions;

b) the financial compensation mentioned in Article 201, § 9 of the Brazilian Constitution;

c) all other receipts collected directly by earmarked funds, including the proceeds resulting from the transfer of property, rights and assets, as well as its financial surplus.

§ 2. Personnel expenditures resulting from judicial decisions must be included in the limit of the respective Branch or organ referred to in Article 20, in compliance with the provisions of § 1, item IV.

Article 20. The distribution of the overall limits set in Article 19 must not exceed the following percentages:

I – at the Federal level:

- a) 2.5 percent for the Legislative Branch, including the Federal Audit Court;
- b) 6 percent for the Judiciary Branch;
- c) 40.9 percent for the Executive Branch, of which 3 percent must be allocated to personnel expenditures related to the provisions of Article 21, items XIII and XIV of the Brazilian Constitution, and Article 31 of Brazilian Constitutional Amendment No. 19, distributed in proportion to the average expenditures related to each of these provisions—expressed as a percentage of net current revenue—incurred in the three fiscal years preceding the publication of this Supplementary Law;
- d) 0.6 percent for the Office of the Federal Prosecutor;

II – at the State level:

- a) 3 percent for the Legislative Branch, including the State Audit Court;
- b) 6 percent for the Judiciary Branch;
- c) 49 percent for the Executive Branch;
- d) 2 percent for the Office of the State Prosecutor;

III – at the Municipal level:

- a) 6 percent for the Legislative Branch, including the Municipal Audit Court, if applicable;
- b) 54 percent for the Executive Branch.

§ 1. The limits for the Legislative and Judiciary Branches of each government level must be distributed among their agencies, in proportion to average personnel expenditures, expressed as a percentage of net current revenue, incurred in the three fiscal years preceding the publication of this Supplementary Law.

§ 2. For the purposes of this article, the term “organ” encompasses:

I – the Office of the Federal Prosecutor;

II – in the Legislative Branch:

- a) at the Federal level, the respective Houses and the Federal Audit Court;
- b) at the State level, the Legislative Assembly and the Audit Courts;
- c) in the Federal District, the Legislative Chamber and the Federal District Audit Court;

d) at the Municipal level, the City Council and the Municipal Audit Court, if applicable;

III – in the Judiciary Branch:

a) at the Federal level, the courts referred to in Article 92 of the Brazilian Constitution;

b) at the State level, the State Supreme Courts and others, if applicable.

§ 3. The limits for personnel expenditures of the Judiciary Branch, covered by the Federal government pursuant to Article 21, item XIII of the Brazilian Constitution, must be set by applying the rule stated in § 1.

§ 4. In the States in which there are Municipal Audit Courts, the percentages defined in the caput, item II, *a)* and *c)*, must be increased and reduced by 0.4 percent, respectively.

§ 5. For the purposes of Article 168 of the Brazilian Constitution, the transfer of financial resources corresponding to total personnel expenditures by Branch and organ must result from the application of the percentages defined in this article, or those established in the Budgetary Directives Law.

§ 6. (VETOED)

## *Subsection II*

### Control over total Personnel Expenditures

Article 21. It will be null and void any act resulting in increase in personnel expenditures and also that fails to comply with:

I – the requirements of Articles 16 and 17 of this Supplementary Law, and the provisions of Article 37, item XIII and Article 169, § 1 of the Brazilian Constitution;

II – the legal commitment limit applied to inactive personnel expenditures;

Sole paragraph. It will also be null and void the act resulting in an increase in personnel expenditures when issued within 180 days before the end of the term of the Head of the respective Branch or organ referred to in Article 20.

Article 22. The compliance with the limits established in Articles 19 and 20 must be evaluated at the end of each 4-month period.

Sole paragraph. If total personnel expenditures exceed 95 percent of the limit, the Branch or organ referred to in Article 20 which has exceeded the limit must be prohibited from:

I – granting any advantage, increase, adjustment or correction of remuneration for any reason, other than those arising from judicial decision, legal or contractual order, except for the review provided for in Article 37, item X of the Brazilian Constitution;

II – creating a position, job, or function;

III – changing the career path if this implies in an increase in expenditures;

IV – offering public employment positions, admitting or hiring personnel for any reason, except when the replacement results from retirement or death of public servants in the education, health, and security areas;

V – contracting overtime work, except in the case mentioned in Article 57, § 6, item II of the Brazilian Constitution and in those provided for in the Budgetary Directives Law.

Article 23. If total personnel expenditures of the Branch or organ referred to in Article 20 exceed the limits set in that article, without prejudice to the measures described in Article 22, the excess percentage must be eliminated in the two subsequent 4-month periods—with at least 1/3 of such excess being eliminated in the first 4-month period—and also the measures provided for in Article 169, §§ 3 and 4 of the Brazilian Constitution, among others, must be adopted.

§ 1. In the case mentioned in Article 169, § 3, item I of the Brazilian Constitution, the objective may be attained either by abolishing positions and functions or by reducing the values attributed to them.

§ 2. The temporary reduction in working hours must be allowed, and wages must be adapted to the new work schedule.

§ 3. If the reduction is not completed in the prescribed period, as long the excess continues, the member of the Federation will be prohibited from:

I – receiving voluntary transfers;

II – obtaining direct or indirect guarantee from other member of the Federation;

III – contracting into credit operations, except for those aimed at refinancing securities debt and those aimed at reducing personnel expenditures.

§ 4. The restrictions stated in § 3 must be immediately applied when total personnel expenditures exceed the limit during the first 4-month period of the final year of the term in office of the Heads of the Branch or organ referred to in Article 20.

### Section III Social Security Expenditures

Article 24. No social security benefit or service may be created, increased or extended without indication of the total financing source, according to in Article 195, § 5 of the Brazilian Constitution, and in compliance with Article 17.

§ 1. The offsetting referred to in Article 17 must not apply to increase in expenditures resulting from:

I – benefit granted to those meeting the eligibility criteria established in the relevant legislation;

II – quantitative expansion of operations and services rendered;

III – adjustment in the value of benefits or services with the purpose of preserving its real value.

§ 2. The provisions of this article applies to health, social security and social assistance services or benefits, including those granted to public and military personnel, active and inactive servants, and pensioners.

## CHAPTER V VOLUNTARY TRANSFERS

Article 25. For the purposes of this Supplementary Law, voluntary transfer is defined as the transfer of current or capital resources to other Member of the Federation, in the form of cooperation, aid or financial assistance, which does not arise from Brazilian Constitutional or legal determination nor is determined by the Single Health System (SUS).

§ 1. Requirements for voluntary transfers, in addition to those established in the Budgetary Directives Law, include:

I – the existence of a specific budget allocation;

II – (VETOED)

III – the compliance with the provisions of Article 167, item X of the Brazilian Constitution;

IV – the proof, by the beneficiary that:

- a) there are no outstanding taxes, loans and financing due to the transferor, and that previously received funds have been duly accounted for;
- b) it is in compliance with Brazilian Constitutional limits regarding education and health;
- c) it is in compliance with the limits set for consolidated and securities debt, as well as those for credit operations, including revenue anticipation, recorded in outstanding commitments and total personnel expenditures;
- d) budgetary estimate of counterpart funds.

§ 2. Transferred utilization of resources for any purpose other than the agreed one is prohibited.

§ 3. Voluntary transfers relating to education, health, and social assistance actions will not be used with the purpose of applying the sanctions of suspension of voluntary transfers in this Supplementary Law.

## CHAPTER VI

### ALLOCATION OF PUBLIC FUNDS TO THE PRIVATE SECTOR

Article 26. The direct or indirect allocation of funds to meet the needs of individuals or to cover corporate losses must be authorized by a specific law, must satisfy the conditions established in the Budgetary Directives Law and must be consigned in the budget or in the additional credits.

§ 1. The provisions of the caput must apply to all indirect administrations, including public foundations and state enterprises, except for the financial institutions and the Central Bank of Brazil, in the performance of their core activities.

§ 2. Those provisions also apply to the granting of loans, financing and refinancing operations, including the respective debt postponement or composition, the granting of subsidies and the participation in capital structure or in capital increase.

Article 27. Financial charges, fees or similar expenditures related to credits granted by a Member of the Federation to an individual or corporation not directly or indirectly controlled by it, must not be lower than those set by law or lower than the fund raising costs.

Sole paragraph. Debt postponement and debt composition arising from credit operations, as

well as loans or financing granted in disagreement with the provisions of the caput, will be subject to a specific legal authorization, and the corresponding subsidy must be consigned in the Annual Budgetary Law.

Article 28. Unless stated in specific legislation, public funds, including those arising from credit operations, must not be used to rescue member institutions of the National Financial System, even through recovery loans or financing aimed at enabling the transfer of the shareholders control.

§ 1. The prevention of insolvency and other risks will be exercised through funds and other mechanisms, constituted by member institutions of the National Financial System, according to the current legislation.

§ 2. The provisions of the caput do not prohibit the Central Bank of Brazil from granting discount window operations and loans with maturities with less than 360 days to financial institutions.

## CHAPTER VII

### DEBT AND INDEBTEDNESS

#### Section I Basic Definitions

Article 29. For the purposes of this Supplementary Law, the following definitions will be adopted:

I – consolidated long-term public debt: total amount, determined without double accounting, of financial liabilities assumed by the Member of the Federation, according to the terms of legal contracts, agreements or treaties, generated by credit operations and scheduled for total amortization over a 12-month period;

II – public securities debt: public debt represented by securities issued by the Federal government, including those of the Central Bank of Brazil, the States and Municipalities;

III – credit operation: financial obligation assumed resulting from a mutual loan, credit granting, issuance and acceptance of security, financing for the acquisition of goods, anticipated revenue from the term sale of goods and services, leasing and similar operations, including the use of financial derivatives;

IV – granting of guarantee: commitment to fully honor a financial or contractual obligation assumed by a member of the Federation or its related organs;

V – refinancing of securities debt: issuance of securities to repay the principal plus monetary updating.

§ 1. Debt assumption or acknowledgement, as well as the confession of indebtedness by the member of the Federation will be equivalent to a credit operation, without prejudice of the compliance with the provisions of Articles 15 and 16.

§ 2. The Federal government's public consolidated debt must also consign the debt relating to the issuance of securities under the responsibility of the Central Bank of Brazil.

§ 3. Credit operations of less than 12 months are also included in public consolidated debt, when its corresponding revenues are stated in the budget.

§ 4. At the end of each fiscal year, the refinancing of the principal of securities debt must not exceed the amount registered at the end of the previous year, added to the amount of credit operations authorized in the budget for that purpose and effectively realized, plus monetary updating.

## Section II Limits on Public Debt and Credit Operations

Article 30. Within 90 days from the publication of this Supplementary Law, the President of the Republic must submit to the:

I – Federal Senate: the proposal of overall limits for the amount of consolidated debt of the Federal government, the States and Municipalities, pursuant to Article 52, item VI of the Brazilian Constitution, as well as the limits and conditions referred to in item VII, VIII and IX of the same article;

II – National Congress: a draft law establishing limits for the amount of federal securities debt, as mentioned in Article 48, item XIV of the Brazilian Constitution, accompanied by a statement of its consistency with the limits set for the Federal government's consolidated debt, pursuant to the provisions of item I, § 1 of this article.

§ 1. The proposals referred to in items I and II of the caput and their amendments must contain:

I – the demonstration that the limits and conditions are consistent with the rules set in this Supplementary Law and with the fiscal policy objectives;

II – the estimated impact of the application of the limits on each of the three levels of government;

III – the reasons for any proposal of differentiated limits for each level of government;

IV – the calculation methodology for determining the primary and nominal results.

§ 2. The proposals mentioned in items I and II of the caput may also be submitted in terms of net debt, with a description of its calculation methodology.

§ 3. The limits mentioned in items I and II of the caput must be set as a percentage of net current revenue for each government level, and must also apply to all Federation entities of each level, and must constitute the ceiling applicable to them.

§ 4. The amount of the consolidated debt must be determined at the end of each 4-month period, for the purpose of verifying the compliance with the ceiling.

§ 5. Within the period mentioned in Article 5, the President of the Republic must submit to the Federal Senate or to the National Congress, depending on the case may be, a proposal maintain or alter the limits and conditions established in items I and II of the caput.

§ 6. Whenever the fundamentals of the proposals referred to in this article are changed, due to economic instability or changes in the monetary or exchange policies, the President of the Republic may submit to the Federal Senate or National Congress a request for a review of the current limits.

§ 7. Judicial payments not made during the execution of the budget in which they were included must be considered part of the consolidated debt for the purpose of application of the respective limits.

### Section III Restructuring Debt according to the established Limits

Article 31. Should the consolidated debt of a Member of the Federation exceed the respective limit at the end of a 4-month period, it must be brought within the limit by the end of the three subsequent periods, with a minimum of 25 percent reduction in the first period.

§ 1. As long as the excess is verified, violators of the limit:

I – will be prohibited from contracting internal or external credit operations, including revenue anticipations, except for the refinancing of the updated principal of securities debt;

II – must obtain the primary result required to bring the debt within the established limit, and, among other measures, must restrict funding commitments, pursuant to Article 9.

§ 2. Once the period for bringing the debt within the limit has expired, and as long as the excess persists, the member of the Federation will also be prohibited from receiving voluntary transfers from the Federal government or the States.

§ 3. The restrictions of § 1 must apply immediately if the amount of debt exceeds the limit during the first 4-month period of the last year in office of the Chief of the Executive Branch.

§ 4. The Ministry of Finance must disclose in a monthly basis the list of members of the Federation that have exceeded the limits of consolidated and securities debt.

§ 5. The rules contained in this article must be observed in case of noncompliance with the limits set for securities debt and internal and external credit operations.

## Section IV Credit Operations

### *Subsection I* Contracting credit operations

Article 32. The Ministry of Finance must verify the compliance with the limits and conditions for the contracting of credit operations by each Member of the Federation as well as by any enterprise directly or indirectly controlled by them.

§ 1. The interested member of the Federation must formalize its request based on opinion issued by its technical and legal agencies, presenting a cost-benefit analysis, economic and social interest of the intended operation and the compliance with the following conditions:

I – existence of prior written authorization, in the Annual Budgetary Law text, for contracting the operation, as additional credit or through specific law;

II – inclusion of funds arising from the operation in the budget or in additional credits, except in case of anticipated revenues operations;

III – compliance with the limits and conditions established by the Federal Senate;

IV – specific authorization by the Federal Senate for external credit operations;

V – compliance with the provision of Article 167, item III of the Brazilian Constitution;

VI – compliance with all other limitations enforced by this Supplementary Law.

§ 2. Federal securities debt operations, authorized in the text of the Annual Budgetary Law or additional credits, must be subject to a simplified mechanism that meets their requirements, according to their characteristics.

§ 3. For the purposes stated in § 1, item V, the amount considered for each fiscal year must be the total inflows of funds from credit operations and executed capital expenditures, as follows:

I – capital expenditures must not include those carried out as loan or financing to taxpayer for the purpose of providing fiscal incentive, based on a tax levied by the Member of the Federation, if such operations result in direct or indirect decrease in the liabilities of the member of the Federation;

II – if the loan or financing referred to in item I is granted by a financial institution controlled by the Member of the Federation, the value of the operation must be deducted from capital expenditures;

III – (VETOED)

§ 4. Without prejudice to the specific responsibilities of the Federal Senate and of the Central Bank of Brazil, the Ministry of Finance must maintain a centralized and updated electronic record of the internal and external public debts, guarantying public access to the information, which must include:

I – charges and contracting conditions;

II – updated balances and limits for the consolidated and securities debt, credit operations and guarantees.

§ 5. External credit operations agreements must not include a clause that results in the automatic compensation of debits and credits.

Article 33. The financial institution which contracts a credit operation with a member of the Federation, except for securities and external debt, must request a proof that the operation complies with the established conditions and limits.

§ 1. Operations contracted in disagreement with the provisions of this Supplementary Law will be considered null and void, and must be cancelled through the refund of the principal, without payment of interests and other financial charges.

§ 2. If the refund is not effected during the same fiscal year in which the inflow occurred, a specific reserve must be set aside in the Annual Budgetary Law for the subsequent year.

§ 3. Until the operation is being cancelled or the reserve is being set aside, the sanctions determined in the items of Article 23, § 3 must be applied.

§ 4. A reserve must also be set aside, in an amount equivalent to the excess, if not in compliance with the provisions of Article 167, item III of the Brazilian Constitution, according to the provisions of Article 32, § 3.

## *Subsection II* Prohibitions

Article 34. The Central Bank of Brazil must not issue government securities within two years after the publication of this Supplementary Law.

Article 35. Federation entities are forbidden from contracting credit operations, directly or through a fund, through an autarchy, government organ, foundation, state-owned enterprise, or any Federation organ, including its indirect administration entities, even in the form of novation, refinancing or postponement of previously contracted debt.

§ 1. The prohibition referred to in the caput does not apply to operations between a state financial institution and another Member of the Federation, including its indirect administration organs, when such are not to be used for:

I – financing current expenditures, either directly or indirectly;

II – refinancing debt not due to the same grantor;

§ 2. The provisions of the caput do not prohibit the States and Municipalities from purchasing government securities from the Federal government as for increasing their available resources.

Article 36. Credit operations between a state financial institution and the member of the Federation who controls it, when the latter is the beneficiary of the loan, are prohibited.

Sole paragraph. The prohibition mentioned in the caput does not prohibit a controlled financial institution from acquiring, in the market, government securities to meet its clients' investment needs, or from acquiring government securities issued by the Federal government to invest their own capital resources.

Article 37. The following are considered equivalent to credit operations and are therefore prohibited:

I – raising of funds through revenue anticipation from taxes or contributions, when the respective taxable event has not occurred yet, without prejudice of the provisions of Article 150, § 7 of the Brazilian Constitution;

II – anticipated receipt of amounts from enterprises when the government holds, directly or indirectly, the majority of voting shares of the mentioned enterprise, except for profits and dividends, according to the respective legislation.

III – direct assumption of commitment, confession of indebtedness or similar operation, with a supplier of goods, merchandise or services, by issuing, accepting or endorsing credit instruments—this prohibition does not apply to state-owned enterprises;

IV – assumption of liabilities with suppliers, without budgetary authorization for future payment of goods and services.

### *Subsection III*

#### Credit operations based on budgetary revenue anticipation

Article 38. Credit operations based on revenue anticipation must be offset to meet cash shortfalls during the fiscal year, and must comply with the requirements mentioned in Article 32, in addition to the following:

I – they must be offset only up to the tenth day after the beginning of the year;

II – they must be settled, including the payment of interest and other charges, until the 10<sup>th</sup> of December of each year;

III – they must not be authorized in case any charges are levied other than interest, mandatory fixed or indexed to the basic financial rate or any replacement rate;

IV – the operations mentioned in the caput will be prohibited:

a) until a previous operation of the same nature is fully repaid;

b) in the last year in office of the President, Governor, or Mayor.

§ 1. The operations referred in this article must not be computed for the purpose of Article 167, item III of the Brazilian Constitution, provided that they will be settled within the period set in item II of the caput.

§ 2. Credit operations through revenue anticipation by the States or Municipalities must be offset by opening a credit line with the financial institution which is victorious in an electronic bid organized by the Central Bank of Brazil.

§ 3. The Central Bank of Brazil will maintain a monitoring and control system over the outstanding credits and, in case of noncompliance with the limits, the Central Bank of Brazil will apply the suitable sanction to the creditor institution.

#### *Subsection IV* Operations with the Central Bank of Brazil

Article 39. In its relations with the Federation entities, the Central Bank of Brazil must be subject to the prohibitions mentioned in Article 35, in addition to the following:

I – purchasing government securities on the date of its placement in the market, except for the provisions of § 2 of this article;

II – exchanging, even on a temporary basis of debt securities of a member of the Federation for federal public debt securities, as well as forward purchase or sale of such securities when the final result is similar to an exchange;

III – granting guarantees.

§ 1. The provisions of item II, *in fine*, does not apply to the stock of Central Bank of Brazil special series bills, consigned in the portfolio of financial institutions, which may be refinanced through new forward sale operations.

§ 2. The Central Bank of Brazil may only directly purchase securities issued by the Federal government to refinance upcoming federal securities debt maturing in its portfolio.

§ 3. The operation mentioned in § 2 must be offset through a public auction, at the average rate and at the prevailing market conditions.

§ 4. The National Treasury must not acquire federal debt instruments existing in the portfolio of the Central Bank of Brazil, even with repurchase clause, unless the operation aims at reducing securities debt.

#### Section V Guarantee and Counter-Guarantee

Article 40. The entities may grant guarantees in internal or external credit operations, pursuant to the provisions of this article, the rules set in Article 32 and also, concerning the Federal government, the limits and conditions set by the Federal Senate.

§ 1. The guarantee must be conditioned to the provision of counter-guarantee, in an amount equal to or higher than the guarantee provided, and to the absence of overdue obligations from the requesting member of the Federation to the guarantor and its controlled companies, and also in compliance with the following:

I – no counter-guarantee can be required from organs and components of the member of the Federation itself;

II – the counter-guarantee required by the Federal government from States or Municipalities, or by States from Municipalities, may consist in the earmarking of tax revenue directly collected and resulting from Brazilian Constitutional transfers, and the guarantor will be authorized to retain such revenue and use the respective amount to repay overdue debt.

§ 2. In the case of credit operations with international financial organs, or with federal credit and development institutions for the transfer of foreign funds, the Federal government can only provide guarantee to an member of the Federation which meets the legal requirements for receiving voluntary transfers, in addition to the provisions of § 1.

§ 3. (VETOED)

§ 4. (VETOED)

§ 5. Any guarantee provided in excess of the limits set by the Federal Senate will be null and void.

§ 6. Indirect administration entities, including their controlled companies and subsidiaries, are prohibited from providing guarantee, even through fund resources.

§ 7. The provision in § 6 does not apply to guarantee granted by:

I – controlled companies to its subsidiaries or controlled companies, nor to the provision of counter-guarantee under the same conditions;

II – financial institution to domestic companies, according to the terms of the law.

§ 8. The provisions of this article must not apply to guarantee provided:

I – by state financial institutions, which must comply with the rules applicable to private financial institutions, pursuant to the relevant legislation;

II – by the Federal government, under federal law, to financial corporations directly and indirectly controlled by the Federal government, relating to export credit insurance operations.

§ 9. When paying the debt of other member of the Federation as a result of guarantee provided, the Federal government and the States are allowed to condition constitutional transfers to the reimbursement of the stated amount paid.

§ 10. The member of the Federation whose debt has been paid by the Federal government or a State as a result of guarantee provided in a credit operation, must not have access to new credit or financing until mentioned debt has been fully liquidated.

## Section VI Outstanding Commitments

Article 41. (VETOED)

Article 42. In the last two 4-month periods of his term in office, the Head of the Power or organ referred to in Article 20 is prohibited from assuming any expenditure commitment that may not be fully liquidated in his own term in office, or those resulting in installments to be paid in the subsequent year without leaving sufficient available financial resources for that purpose.

Sole paragraph. The available financial resources must be computed considering charges and expenditure commitments payable until the end of the year.

## CHAPTER VIII ASSET MANAGEMENT

### Section I Available financial resources (cash)

Article 43. The available financial resources of the members of the Federation must be

deposited pursuant to Article 164, § 3 of the Brazilian Constitution.

§ 1. Available financial resources of the general and public social security systems, even when earmarked for the specific funds referred to in Articles 249 and 250 of the Brazilian Constitution, must be deposited in a separate account from all other available financial resources of each member of the Federation and invested on market conditions, observing the limits and conditions imposed by safety and prudential considerations.

§ 2. The available financial resources mentioned in § 1 must not be invested in:

I – state and municipal government securities, nor in stocks or other commercial papers relating to companies controlled by the respective member of the Federation;

II – loans of any nature, to taxpayers or to the government, including its controlled companies.

## Section II Preservation of Public Assets

Article 44. Capital revenue derived from the transfer of properties and rights integrating the public assets must not be used to finance current expenditures, unless destined by law for the general and public social security systems.

Article 45. Pursuant to the provisions of Article 5, § 5, the Annual Budgetary Law and the additional credit law must only include new projects once the needs of projects in progress have been duly provided and the expenditures required for the conservation of public assets have been set aside, to the provisions of the Budgetary Directives Law.

Sole paragraph. The Executive Branch of each member of the Federation must submit to the Legislative Branch, until the date of submission of the draft Budgetary Directives Law, a report containing the required information for the compliance with this article, which must be widely disseminated.

Article 46. Any act involving the expropriation of urban real estate issued without complying with the provision in Article 182, § 3 of the Brazilian Constitution, or without prior judicial deposit of the value of indemnity is considered null and void.

## Section III

## Companies Controlled by the Public Sector

Article 47. The controlled companies that formalized a management agreement containing performance objectives and targets, under the law, must have managerial, budgetary and financial autonomy, without prejudice to the application of the provisions of Article 165, § 5, item II of the Brazilian Constitution.

Sole paragraph. The controlled company must include in its quarterly balance sheets an explanatory note on the:

I – the provision of goods and services to the controlling company, with the respective prices and conditions, as well as a comparison with those in the market;

II – funds received from the controlling company for any reason, specifying amount, source and use of funds;

III – sale of goods, rendering of services or granting of loans and financing at prices, rates, terms or conditions different from those prevailing in the market.

## CHAPTER IX

### TRANSPARENCY, CONTROL AND OVERSIGHT

#### Section I

#### Transparency in Fiscal Management

Article 48. The instruments of fiscal management transparency, which must be widely disclosed, even in electronic public media, include: plans, budgets, and Budgetary Directives Laws; rendering of accounts and respective prior statement of opinion; Summary Budget Execution Report and Fiscal Management Report; and the simplified versions of these documents.

Sole paragraph. Transparency must also be ensured by encouraging public participation and by holding public hearings during the preparation and discussion of the plans, Budgetary Directives Laws, and budgets.

Article 49. The accounts submitted by the Chief of the Executive Branch must be available throughout the year in the respective Legislative Branch and in the technical organ responsible for its preparation, to be consulted and evaluated by the citizens and institutions.

Sole paragraph. The rendering of accounts by the Federal government must contain

statements by the National Treasury and official financial development agencies, including the National Bank for Economic and Social Development (BNDES), detailing loans and financing granted with funds from the fiscal and social security budgets, and, for financing agencies, summary evaluation of the fiscal impact of their activities during the year.

## Section II Recordkeeping and Consolidation of Accounts

Article 50. In addition to other public accounting standards, public recordkeeping must comply with the following:

I – available financial resources must be recorded in a separate book, so that funds earmarked for an organ, fund or mandatory expenditure may be individually identified and recorded;

II – expenditures and commitments must be recorded on an accrual basis; in addition, the results of financial flows must also be determined on a cash basis;

III – the financial statements must comprise the joint and individual transactions and operations of each organ, fund or direct administration, government organ or foundation, including state-owned enterprises;

IV – social security revenue and expenditures must be presented in specific financial and budgetary statements;

V – credit operations, outstanding commitments and other types of financing or assumption of obligations with third parties must be recorded so as to evidence the amount of and change in public debt in the period, broken down by nature and type of creditor, as a minimum;

VI – the statement of changes in public assets must emphasize the source and use of funds arising from the sale of assets.

§ 1. Intergovernmental operations must be excluded from joint statements.

§ 2. The publication of general standards for the consolidation of public accounts must be the responsibility of the Federal government's central accounting organ, until the council mentioned in Article 67 is established.

§ 3. The Public Administration must maintain a cost system that enables the evaluation and monitoring of the budgetary, financial, and asset management.

Article 51. By June 30, the Federal government's Executive Branch must consolidate the accounts of the Federation entities for the previous year, at the national level and by sphere

of government, and disclose them, including the use of publicly accessible electronic media.

§ 1. The States and Municipalities must submit their accounts to the Federal government's Executive Branch on the following dates:

I – Municipalities, by April 30, with a copy to the Executive Branch of the respective State;

II – States, by May 31.

§ 2. Failure to comply with the deadlines set in this article will impede the member of the Federation, until the situation is normalized, from receiving voluntary transfers and entering into credit operations, except for those aimed at refinancing the indexed principal of securities debt.

### Section III Summarized Budget Execution Report

Article 52. The report mentioned in Article 165, § 3 of the Brazilian Constitution must cover all Branches and the Attorney General's Office, and must also be published within 30 days from the end of each two-month period, comprising:

I – the budgetary balance sheets, specifying, for each economic category:

a) revenues by source, including received and receivable revenue, as well as an updated forecast;

b) the expenditures by group of nature, detailing the allocation for the year, and expenditures paid and the balance;

II – statement of execution of:

a) the revenues, by economic category and source, specifying initial forecast, updated forecast for the year, received revenue in the two-month period and in the year, and forecast of receivable revenue;

b) the expenditures, by economic category and expenditure nature group, specifying initial forecast, allocation for the period, expenditures committed and paid in the two-month period and in the year;

c) expenditures, by function and subfunction;

§ 1. Revenues from credit operations and expenditures with debt repayment must highlight the amounts relating to securities debt refinancing.

§ 2. Failure to comply with the deadlines set in this article will subject the member of the Federation to the sanctions provided for in Article 51, § 2.

Article 53. The Summary Report must be accompanied by statements on:

I – determination of net current revenue, as defined in Article 2, item IV, its evolution, and a forecast of its performance until the end of the year;

II – social security revenue and expenditures mentioned in Article 50, item IV;

III – nominal and primary results;

IV – interest expenditures, as provided for in Article 4, item II;

V – Outstanding commitments, detailing the amounts stated in accounting records, payments effected and amounts payable, by Branch and organ referred to in Article 20.

§ 1. The report for the last two-month period of the year must be accompanied by statements on:

I – compliance with the provisions of Article 167, item III of the Brazilian Constitution, pursuant to Article 32, § 3;

II – actuarial projections for the general and public social security systems;

III – changes in public assets, showing sale of assets and use of respective funds.

§ 2. When applicable, justifications must be presented for:

I – funding commitments limitations;

II – unfulfilled revenue forecasts, specifying measures taken and planned against tax fraud and tax evasion, as well as oversight and collection actions.

#### Section IV Fiscal Management Report

Article 54. At the end of each four-month period, the Heads of the Branches and agencies

mentioned in Article 20 must issue a Fiscal Management Report, to be signed by:

I – the Head of the Executive Branch;

II – the President and other members of the Board or equivalent decision-making body, pursuant to the internal bylaws of the Legislative Branch organs;

III – Presidents of Courts and other members of the Board or equivalent decision-making body, pursuant to the internal bylaws of the Judiciary Branch organs;

IV – Head of the Office of the Public Prosecutor of the Federal government and of the States.

Sole paragraph. The report must also be signed by the authorities responsible for the financial administration and internal control, as well as by others as may be defined by a decision made by each Branch or organ mentioned in Article 20.

Article 55. The report must contain:

I – a comparison between the limits set in this Supplementary Law and the following amounts:

a) total personnel expenditures, specifying those with inactive personnel and pensioners;

b) consolidated and securities debt;

c) guarantees granted;

d) credit operations, including those based on revenue anticipation;

e) expenditures mentioned in Article 4, item II;

II – indication of corrective measures taken or to be taken in case any of the limits is exceeded;

III – statements, in the last four-month period:

a) of the amount of available financial resources on December 31;

b) of the amounts recorded in outstanding commitments of expenditures:

1) liquidated;

2) committed but not liquidated, recorded therein because they meet one of the conditions set in Article 41, item II;

3) committed but not liquidated, recorded up to the limit of the cash balance;

4) not recorded therein due to lack of available financial resources, for which the respective commitments have been cancelled;

c) of the compliance with the provision of Article 38, item II, and item IV, *b*).

§ 1. The report issued by the Heads of the organs mentioned in Article 54, items II, III and IV, must contain only the information relating to item I, *a*), and the documents listed in items II and III.

§ 2. The report must be published within 30 days after the end of the base period, and widely disclosed to the public, including by electronic media.

§ 3. Failure to comply with the deadline set in § 2 will subject the member of the Federation to the sanction provided for in Article 51, § 2.

§ 4. The reports mentioned in Articles 52 and 54 must be standardized, based on models that may be updated by the council referred to in Article 67.

## Section V Submission of Accounts

Article 56. The accounts rendered by the Head of the Executive Branch must include, in addition to those of their own organs, those of the Heads of the Legislative and Judiciary Branches and the Head of the Office of Public Prosecutor, as mentioned in Article 20, subject to previous separate evaluation by the respective Audit Court.

§ 1. The accounts of the Judiciary Branch must be presented within the scope of:

I – the Federal government, by the Presidents of the Federal Supreme Court and of the Courts of Appeals, consolidating the accounts of the respective courts;

II – of the States, by the Presidents of the Courts of Justice, consolidating the accounts of all other courts.

§ 2. The opinion on the accounts of the Audit Courts must be issued within the periods provided for in Article 57 by the intergovernmental permanent committee mentioned in Article 66, § 1 of the Brazilian Constitution, or equivalent committee of the state and municipal Legislative Houses.

§ 3. Once the results of the examination of accounts, have been judged and completed, they must be fully disclosed.

Article 57. The Audit Courts must issue a prior conclusive opinion on the accounts within 60 days of their receipt, unless otherwise stated in the state Brazilian Constitutions or municipal organic laws.

§ 1. For Municipalities that are not state capitals and have a population of less than 200 thousand inhabitants, the term must be 180 days.

§ 2. The Audit Courts must not go into recess as long as a prior opinion on the accounts of a Branch or organ referred to in Article 20 is pending.

Article 58. The submission of accounts must evidence the collection performance against the forecasts, with emphasis on measures taken regarding revenue inspection and combat to tax fraud and evasion, credit recovery actions in the administrative and judicial spheres, as well as other measures aimed at increasing the revenues from taxes and contributions.

## Section VI Fiscal Management Oversight

Article 59. The Legislative Branch must, directly or assisted by the Audit Courts and the internal control system of each Branch and the Head of the Office of Public Prosecutor, inspect the compliance with the rules of this Supplementary Law, with emphasis on the following aspects:

I – compliance with the targets set in the Budgetary Directives Law;

II – limits and conditions for credit operations and recording in outstanding commitments;

III – measures taken to bring the total personnel expenditures within the respective limit, pursuant to Articles 22 and 23;

IV – measures taken, pursuant to Article 31, to bring the amounts of consolidated and securities debt within the respective limits;

V – use of funds resulting from the sale of assets, in light of the Brazilian Constitutional restrictions and those imposed by this Supplementary Law;

VI – compliance with the total expenditure limits set for municipal legislatures, if applicable.

§ 1. The Audit Courts must notify the Branches or agencies referred to in Article 20, in case they observe any of the following:

I – the possibility of occurrence of any of the situations mentioned in Article 4, item II, and Article 9;

II – that total personnel expenditures exceeded the limit by 90 percent;

III – that the amounts of consolidated and securities debt, credit operations and guarantees granted exceed the limit by 90 percent;

IV – that expenditures with inactive workers and pensioners exceed the legally defined limit;

V – any developments that may negatively affect the costs or results of the programs, or any evidence of irregularity in the budgetary management.

§ 2. The Audit Courts must further evaluate the calculation of the limits applicable to total personnel expenditures of each Branch and organ referred to in Article 20.

§ 3. The Federal Audit Court must monitor the compliance with the provisions of Article 39, §§ 2, 3, and 4.

## CHAPTER X

### FINAL AND TRANSITIONAL PROVISIONS

Article 60. A state or municipal law may set a limit for consolidated and securities debt, credit operations and granting of guarantees lower than the one provided for in this Supplementary Law.

Article 61. Government securities, provided that they are duly registered with a centralized settlement and custody system, can be offered as collateral to guarantee loans or other transactions under the law, for their economic value, as defined by the Ministry of Finance.

Article 62. The Municipalities must only contribute to cover the costs of expenditures incurred by other Federation entities if:

I – authorized in the Budgetary Directives Law and in the Annual Budgetary Law;

II – authorized in covenant, agreement, accord, or any similar arrangement, pursuant to the law.

Article 63. Municipalities with a population of less than 50 thousand people may opt for:

I – applying the provisions of Article 22 and Article 30, § 4, at the end of the half-year;

II – disclosing on a semi-annual basis:

a) (VETOED)

b) the Fiscal Management Report;

c) the statements mentioned in Article 53;

III – preparing the Fiscal Policy Appendix of the Multiyear Plan (PPA), the Fiscal Target Appendix, and Fiscal Risk Appendix of the Budgetary Directives Law, as well as the appendix mentioned in Article 5, item I, starting from the 5<sup>th</sup> year after publication of this Supplementary Law.

§ 1. The disclosure of reports and statements must be made within 30 days from the half-year end.

§ 2. In case the limits relating to total personnel expenditures or consolidated debt are exceeded, and for as long as this situation persists, the Municipality must be subject to the same verification periods and limits set for all other entities.

Article 64. The Federal government must provide technical and financial assistance to Municipalities for the modernization of the respective tax, financial, asset and social security administrations, for the purpose of complying with the rules set in this Supplementary Law.

§ 1. The technical assistance must consist in training and development of human resources and transfer of technology, as well as support in the disclosure of the instruments mentioned in Article 48 in widely accessible electronic media.

§ 2. The financial assistance must comprise the granting of goods and resources, financing through federal financial institutions, and the transfer of funds from external operations.

Article 65. In the event of a public calamity acknowledged by the National Congress, in the case of the Federal government; or by the Legislative Assemblies, in the case of States and Municipalities; and for as long as the situation persists:

I – the deadlines and the provisions of Articles 23, 31 and 70 must be suspended;

II – the achievement of fiscal results and the commitment limits set in Article 9 must be waived.

Sole paragraph. The provisions of the caput must apply in case of state of defense or state of siege decreed under the Brazilian Constitution.

Article 66. The terms set in Articles 23, 31, and 70 must be doubled in case of low or negative real growth of the national, regional, or state Gross Domestic Product (GDP) for a period equal to or higher than 4 quarters.

§ 1. Low growth must be defined as the accumulated change in real GDP lower than 1 percent during the period corresponding to the 4 last quarters.

§ 2. The change rate must be the one determined by the IBGE or other organ that may replace it, and the same methodology must be used to determine the national, state, and regional GDP.

§ 3. In the hypothesis mentioned in the caput, the measures referred to in Article 22 will continue to be adopted.

§ 4. In case there are drastic changes in the conduct of monetary and exchange rate policies, acknowledged by the Federal Senate, the term mentioned in the body of Article 31 may be extended for up to four 4-month periods.

Article 67. The ongoing monitoring and evaluation of the policies and workability of the fiscal management must be performed by a fiscal management council, composed of representatives of all Branches and levels of government, the Office of the Public Prosecutor and technical entities representing the society as a whole, for the purpose of promoting:

I – harmonization and cooperation among the members of the Federation;

II – dissemination of practices resulting in greater efficiency in the allocation and execution of public expenditure, revenue collection, indebtedness control and transparency in fiscal management;

III – adoption of rules for the consolidation of public accounts, standardization of rendering of accounts and fiscal management reports and statements provided under this Supplementary Law, streamlined rules and standards for small Municipalities, as well as other standards required for social control;

IV – disclosure of analyses, studies and diagnoses.

§ 1. The council referred to in the caput must institute means of rewarding and publicly recognizing the Heads of a Branch who succeed in achieving praiseworthy results in their social development policies, coupled with the pursuit of a fiscal management based on the rules set in this Supplementary Law.

§ 2. A law must provide for the composition and working of the council.

Article 68. Pursuant to Article 250 of the Brazilian Constitution, the General Social Security System Fund is hereby created, under the Ministry of Social Security and Assistance, with the purpose of providing funds to pay for the benefits of the general social security system.

§ 1. The Fund will be constituted by:

I – real estate and movable assets, securities and earnings of the National Social Security Institute (INSS) not used in connection with its operations;

II – properties and rights awarded to INSS for any reason, or that may be transferred to INSS by virtue of the law;

III – revenues from social security contributions provided for in Article 195, item I, *a*), and item II of the Brazilian Constitution;

IV – proceeds from the transfer of goods and assets of individuals or corporations in debt with the Social Security;

V – income from the investment of its assets;

VI – funds from the Federal government budget.

§ 2. The Fund must be managed by the INSS, under the law.

Article 69. The Member of the Federation which presently has or eventually creates its own social security system for its employees must establish it as a contributions-based system, organized based on accounting and actuarial standards ensuring its financial and actuarial balance.

Article 70. The Branch or organ referred to in Article 20 which has exceeded the limits set in Articles 19 and 20 for total personnel expenditures in the year preceding the publication of this Supplementary Law, must comply with the limit in up to two years, gradually eliminating the excess at the rate of at least 50 percent per year, by adopting the measures described in Articles 22 and 23, among others.

Sole paragraph. The noncompliance with the provisions of the caput in the period prescribed will subject the member of the Federation to the sanctions provided for in Article 23, § 3.

Article 71. Except for the hypothesis mentioned in Article 37, item X of the Brazilian Constitution, until the end of the third fiscal year after this Supplementary Law enters into force, total personnel expenditures of the Branches and organs mentioned in Article 20, expressed as a percentage of net current revenue, must not exceed the expenditures incurred in the preceding year, plus up to 10 percent if such expenditures are below the limit defined in Article 20.

Article 72. The expenditures incurred by the Branches and organs referred to in Article 20 relating to services provided by third parties, expressed as a percentage of net current revenue, must not exceed those incurred the year before this Supplementary Law goes into effect, until the end of the third year thereafter.

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Article 73. Violation of the provisions of this Supplementary Law must be punishable pursuant to Decree-Law 2848 of December 7, 1940 (Penal Code); Law 1079 of April 10, 1950; Decree-Law 201 of February 27, 1967; Law 8429 of June 2, 1992; and all other rules set forth in relevant legislation.

Article 74. This Supplementary Law goes into effect on the date of its publication.

Article 75. Supplementary Law 96, of May 31, 1999 is hereby revoked.

Brasília May 4<sup>th</sup>, 2000.