



**Fundo
Garantidor de
Créditos**

**RESOLUTION 3,251, FROM NATIONAL MONETARY COUNCIL
(CMN), DECEMBER 16, 2004**

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**RESOLUTION 3,251, NATIONAL MONETARY COUNCIL(CMN),
DEC 16, 2004**

*Changes and consolidates the provisions
which dispose on the statute and regulation
of the Fundo Garantidor de Créditos – FGC.*

The CENTRAL BANK OF BRAZIL, by means of article 9, Law 4,595 dated December 31, 1964, makes it known that the NATIONAL MONETARY COUNCIL, in a meeting held on December 16, 2004, based on articles 3, item VI, and article 4, item VIII, under the above mentioned Law; article 69 of Law 7,357 dated September 2, 1985; and article 7 of Decree-Law 2,291 dated November 21, 1986,

R E S O L V E D:

Article 1 - Change and consolidate, as set forth under Annexes I and II to this Resolution, the provisions which dispose on the statute and regulation of the Fundo Garantidor de Créditos – FGC.

Article 2 - The monthly ordinary contribution from the FGC's member-institutions remains fixed, up to 0.025% (twenty five thousandth percent) on the total balance of the accounts corresponding to the obligations object of the insurance guarantee. ([See new fixed at 0.0125 percent, as Resolution 3,400, of the CMN, of Sep 06, 2006](#)).

Paragraph 1 - For the purpose of the calculation set forth under this article, the average monthly daily balances of the accounts corresponding to the obligations object of the insurance guarantee shall be used.

Paragraph 2 - The contribution amount due shall be determined and informed to member-institutions until the 25th day of each month.

Paragraph 3 - The contribution amount shall be transferred to the FGC on the first working day of the subsequent month and the respective information shall be passed on to member-institutions.

Paragraph 4 - The delay in the collection of the contribution due implies in a fine of 2% (two percent) on the amount of the contribution, added to the respective monetary correction value based on the Selic rate.

Article 3 - The wording of Chapter IV of the Regulation attached to Resolution 1,631 dated August 24, 1989, through Resolution 3,024 dated October 24, 2002 is hereby maintained:

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"CHAPTER IV – Of the Fundo Garantidor De Créditos - FGC

Article 21 - The service rate referred to under article 20 shall be reverted in favor of the Fundo Garantidor de Créditos – FGC, to be transferred to the order of the credit holders who are mentioned under the respective statute, against multiple banks, commercial banks, investment banks, development banks, the Caixa Econômica Federal (Federal Savings Bank), credit, financing and investment companies, real estate credit companies, mortgage companies, and savings and loans associations." (New Wording)

Article 4 - This Resolution enters into force on the date of its publication.

Article 5 - Resolutions 3,024 dated October 24, 2002, and 3,161 dated December 18, 2003 are hereby revoked.

Brasília, December 16, 2004.

Henrique de Campos Meirelles
President
Central Bank of the Brazil

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***Annex I to Resolution 3,251, December 16, 2004 –
REGULATION OF THE FUNDO GARANTIDOR DE CRÉDITOS –
FGC***

***CHAPTER I – Of the
Name, Purpose,
Head Office and
Duration***

Article 1 - The Fundo Garantidor de Créditos – FGC is a non-profit civil association, incorporated as a private legal entity, regulated by this statute and by the legal and regulatory provisions applicable.

Sole Paragraph - The FGC does not exercise any public function, not even by delegation.

Article 2 - The purpose of the FGC is to guarantee credits held against member-institutions, referred to under article 6, in the event of:

- I - intervention resolution, extrajudicial liquidation or bankruptcy of a member-institution;
- II - recognition by the Central Bank of Brazil, of the status of insolvency of a member-institution that, in conformity with the current legislation, is not subject to the regimes referred to in item I;
- III - any other special situation not specified under items I and II, through previous agreement between the Central Bank of Brazil and the FGC.

Sole Paragraph - The FGC, due to the fact that it pays the debts of member-institutions, has the right to claim reimbursement for payments made out under the terms of article 346, item III, of the Civil Code.

Article 3 - The FGC has its head office and is under the jurisdiction of the city of São Paulo's (SP) courts.

Article 4 - The term of duration of the FGC is indeterminate.

***CHAPTER II – Of the
Equity***

Article 5 - The cost of the guarantee to be provided by the FGC shall be funded with resources arising from:

- I - ordinary contributions from member-institutions;
- II - service fees arising from the issuance of bounced checks;
- III - recovery of credit rights acquired, when the FGC is subrogated, due to the payment of member-institutions' debts relative to insured credits;
- IV - net results of services rendered by the FGC and earnings resulting from investments of its resources;
- V - income from other sources.

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Paragraph 1 - Member-institutions responsibility are limited to the contributions they are required to make for the purpose of defraying guarantees, in accordance with the conditions and limits set forth under the FGC's regulation.

Paragraph 2 - If the FGC's equity is insufficient at any time to cover guarantees prescribed under the respective regulation, resources from the following sources and in the following order will be used:

- I - extraordinary contributions from member-institutions, as described in article 22, item II;
- II - advances made by member-institutions of up to twelve ordinary monthly contributions;
- III - credit operations with private, official and multilateral institutions;
- IV - other sources of funds proposed by FGC's administration and previously authorized by the Central Bank of Brazil.

CHAPTER III – Of Members Institutions

Article 6 - FGC's member-institutions are multiple banks, commercial banks, investment banks, development banks, the Federal Savings Bank (the Caixa Econômica Federal), credit, financing and investment companies, real estate credit companies, mortgage companies, and savings and loans associations, operating in the Country, that:

- I - receive demand deposits, deposits in current accounts for investment, savings deposits, and time deposits;
- II - accept bills of exchange;
- III - raise funds by issuing and placing real estate bills, mortgage bills, and real estate credit bills.

Sole Paragraph - All investors and depositors of member-institutions are entitled to the credit guarantee rendered by the FGC, in accordance with the terms set forth under article 2.

CHAPTER IV – Of General Meetings

Article 7 - Until the 30th day of April of each year, at least, member-institutions shall get together at an ordinary general meeting to receive the accounts from the administrators, examine, discuss and vote on the financial statements, in the presence of Fiscal Council members and based on the opinions issued by independent auditors; to elect the Board of Directors' members among those nominated by the National Confederation of Financial Institutions – CNF, as well as members of the Executive Director's Office.

Article 8 - The extraordinary general meeting shall be convened to decide on other issues of interest to the FGC.

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Article 9 - The general meeting shall always be convened based on a previously defined agenda for the session:

- I - by the chairman of the Board of Directors, or by his initiative, or by the request of two or more of its members;
- II - by two or more members of the Board of Directors who have requested the chairman of the Board of Directors, in the event that he does not make the announcement of the general meeting within ten days from the date the request is received;
- III - by, at least, 1/5 (one fifth) of member-institutions.

Article 10 - The general meeting shall be installed and presided over by the chairman of the Board of Directors, who shall invite one of those present to act as secretary.

Sole Paragraph - In the absence of the chairman of the Board of Directors, the general meeting shall be installed by any one of the Board members, and the general meeting's chairman shall be elected by the representatives from the member-institutions present in the meeting.

Article 11 - The general meeting shall be installed with the presence of any number of member-institutions and its decisions shall be made by simple majority, except the decision relative to statute or regulation reform, or the election or dismissal of members of the Board of Directors or the Executive Director's Office, when it shall be required:

- I - working quorum, in the first call, with the presence of, at least, 50% (fifty percent) plus one of the participating member-institutions, and in the following calls with the presence of, at least, 1/3 (one third) of member-institutions;
- II - decision quorum of, at least, 2/3 (two thirds) of the member-institutions present at the meeting.

Sole Paragraph - Once the statute reform is approved by the general meeting, the respective proposal shall be forwarded to the Central Bank of Brazil, for examination and submission to the National Monetary Council.

Article 12 - A member-institution may be represented by another one, by means of a separate specific proxy instrument for each general meeting.

Article 13 - Each member-institution is entitled to one vote in the general meeting decisions.

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Sole Paragraph - Member-institutions belonging to the same financial conglomerate are entitled to one vote only, whose right shall be exercised by the member-institution designated in writing for that purpose by the referred to conglomerate.

**CHAPTER V – Of the
FGC's Administration**

Article 14 - The FGC shall be administered by the Board of Directors and by the Executive Director's Office elected by the general meeting.

Article 15 - The Board of Directors will consist of from five to nine effective members and an equal number of alternates, natural persons resident in the Country, representatives from member-institutions, nominated by the CNF, including the one who shall exercise the office of chairman, elected by the general meeting.

Article 16 - The term of office of the Board of Directors' members shall be of three years, reappointment being admitted.

Paragraph 1 - The term of office shall be extended until the investiture of new appointed members.

Paragraph 2 - The Board of Director's members shall be dispensed from providing a management guarantee.

Article 17 - In case of temporary substitution of the Board of Directors' members, the respective alternate members shall replace the effective members.

Article 18 - In the event that a Board of Director's member is removed from his position with the represented member-institution, a substitute shall be nominated by the respective member-institution to be ratified by the general meeting.

Sole Paragraph - If the member-institution fails to nominate a substitute for the Board of Directors' member within 30 days, from the date of its representative's removal, the respective alternate member will take office as an effective member, regardless of any formality.

Article 19 - The Board of Directors shall declare vacant the seat of any member who, without fair reason, fails to attend three consecutive Board meetings.

Article 20 - The Board of Directors shall meet when convened by the chairman, by means of his initiative or at the request of two or more of its members.

Paragraph 1- If the chairman does not forward the respective notice, within seven days from the date when the request is received, two or more of the Board of Directors' members who

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have requested the meeting are entitled to forward the meeting call notice.

Paragraph 2 - The meeting call notice shall indicate the agenda for the session to be delivered, against a receipt, to the Board of Directors' members with no less than ten days' prior notice.

Paragraph 3 - The prior notice mentioned in paragraph 2 shall be dispensed with when all Board of Directors' members are present or represented, or, alternatively, when those absent agree in writing that the meeting should be held.

Paragraph 4 - The meeting of the Board of Directors shall take place only with the presence or representation of the absolute majority of its members and decisions shall be made by the majority of votes, being the chairman responsible for the casting of the decisive vote in case of a tie result.

Paragraph 5 - The minutes of the meeting shall be recorded in a proper book and signed by those present.

Article 21 - The Executive Director's Office, composed of up to three members, one being the Executive Director and the others with no specific designation, shall be elected by the general meeting for tenure of three years, from a list of nominations made by the Board of Directors.

Paragraph 1 - Those elected to the Executive Director's Office shall have their names submitted to the Central Bank of Brazil that shall approve them if they fulfill the conditions set forth under the current regulation for the exercise of office in statutory agencies of financial institutions and other institutions authorized to function by the Central Bank of Brazil.

Paragraph 2 - After having their names approved, the members of the Executive Director's Office shall take office after signing a letter of commitment on confidentiality to the Central Bank of Brazil.

Paragraph 3 - The members of Executive Director's Office, while in office, are not allowed to hold any management positions or render any kind of service in financial institutions or any other institutions authorized by the Central Bank of Brazil.

Article 22 - The Board of Directors shall be responsible for:

- I - assessing the ordinary contribution percentage for FGC's member-institutions, through specific request, duly justified, forwarded to the Central Bank of Brazil, for examination and submission for prior authorization to the National Monetary Council, observing the maximum percentage prescribed under article 2 hereof.

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- II - assessing the conditions of the extraordinary contributions which are to be made by member institutions for defraying the guarantee to be rendered by the FGC under the hypothesis set forth under article 5, paragraph 2, item I, observing that such contributions:
 - a) are limited to 50% (fifty percent) of the current rate of ordinary contributions;
 - b) are intended exclusively to cover contingent equity shortage on the part of the FGC;
- III - establishing the overall guidelines for the services rendered by the FGC, especially policies and norms to be followed in order to fulfill its social purposes and for investing its resources, following the requisites of composition and diversification of risks in its portfolio, being also authorized to outsource the management of its investments;
- IV - approving the internal bylaw and defining responsibilities for the decisions and implementation of procedures under the FGC legal scope;
- V - forwarding to the general meeting the names of candidates for the Executive Director's Office membership;
- VI - approving FGC's operational and investment budgets;
- VII - forwarding to the Central Bank of Brazil, for submission and prior authorization of the National Monetary Council, the proposal duly justified, for changing the maximum percentage of the ordinary monthly contribution, as set forth under article 2 hereof;
- VIII - approving the remuneration levels for the Executive Director's Office and for the overall staff of the FGC;
- IX - deciding on the acts and operations that, in accordance with this statute or the internal bylaw, fall under the responsibility of the FGC, including the alienation of items from permanent assets;
- X - deciding on the hiring of independent auditors;
- XI - examining the monthly trial balance and expressing its opinions on the FGC's financial reports and statements;
- XII - deciding on all other cases, which have been omitted.

Paragraph 1 - The FGC may invest resources in the acquisition of credit rights from financial institutions and leasing companies, as well as in entailed transactions prescribed under Resolution 2,921 dated January 17, 2002, observing that these investments shall be limited to 20% (twenty percent) of the FGC's equity.

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Paragraph 2 - The FGC is forbidden to invest resources in the purchase of real estates, except when they are received in settlement of credits held by the FGC, after which they must be sold.

Article 23 - The Executive Director's Office, in addition to its ordinary management acts, shall also:

- I - represents the FGC actively or passively, before justice courts or otherwise;
- II - administers the FGC, in accordance with its statute and internal bylaw.

Sole Paragraph - Representation in justice courts, either for citation or judicial notice, render personal deposition or similar acts, shall be the Executive Director's responsibility, who may delegate to one of his peers or an attorney at law with special powers, the responsibility for doing so in his place.

Article 24 - represents the FGC actively or passively, before justice courts or otherwise:

- I - of two Directors;
- II - of one Director jointly with one attorney at law possessing specific powers.

Sole Paragraph - The FGC proxies shall be sanctioned by two Directors and must necessarily specify the powers and the terms of duration conferred there under, except when sanctioning proxies for judicial purposes, which may be valid for an indeterminate period.

***CAPÍTULO VI – Of
the Corporate Social
Year and Financial
Statements***

Article 25 - The corporate social year of the FGC shall coincide with the ordinary calendar of the civil year.

Paragraph 1 - At the end of each half-year, the Executive Director's Office shall take the necessary steps for the preparation of biannual financial statements.

Paragraph 2 - At the end of each corporate year, the Executive Director's Office shall take the necessary steps for the preparation of the balance sheet and the annual exhibit results, as well as the report on the activities and the status of reserves at year-end, for submission to the Board of Directors.

Paragraph 3 - Copies of the annual report and financial statements shall be submitted to all member-institutions, as well as to the Central Bank of Brazil.

Paragraph 4 - FGC's biannual and annual financial statements shall be examined by independent auditors and published in the Federal Official Gazette.

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Article 26 - FGC's annual results shall be incorporated into the reserves as set forth under the internal bylaw.

***CAPÍTULO VII – Of
the Fiscal Council***

Article 27 - The FGC shall have a Fiscal Council composed of three effective members and an equal number of alternates, elected by the general meeting.

Article 28 - It is the Fiscal Council's responsibility to examine FGC's trial balances and financial statements, the Board of Directors' report and the independent auditors' opinion, issuing its own opinion on these documents for the submission to the ordinary general meeting.

Article 29 - The term of office of Fiscal Council's members shall be of three years, reelection being permitted.

***CAPÍTULO VIII – Of
the Liquidation***

Article 30 - The FGC shall be liquidated either in the events prescribed by law or by the determination of the National Monetary Council, through decision made by the general meeting. The Board of Directors shall be responsible for appointing the liquidator, after consulting with the Central Bank of Brazil.

***CAPÍTULO IX – Of
the General
Provisions***

Article 31 - In the event that a mechanism of credit guarantee against financial institutions is created by law, member-institutions shall decide at the general meeting, convened as set forth under article 9, on the extinction of the FGC and the transfer of its equity to the credit insurance institution then created.

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***Annex II to Resolution 3,251, December 16, 2004 –
REGULATION OF THE FUNDO GARANTIDOR DE CRÉDITOS –
FGC***

Article 1 - All investors and depositors in member-institutions are entitled to the protection rendered by the Fundo Garantidor de Créditos – FGC as stated in article 6 of the statute.

Article 2 The following credits are entitled to the guarantee rendered by the FGC: ([See new writing given by Resolution 3,400, of the CMN, of Sep 6, 2006](#))

- I - demand deposits or deposits drawn on prior notice;
- II - deposits in current account of deposits for investments;
- III - savings account deposits;
- IV - time deposits, with or without the issuance of certificates;
- V - bills of exchange;
- VI - real estate bills;
- VII - mortgage bills;
- VIII - real estate credit bills.

Paragraph 1 - The following items are not covered by the guarantee:

- I - deposits, loans or any other resources collected or raised abroad;
- II - operations related to programs of government interest instituted by law;
- III - judicial deposits;
- IV - time deposits authorized to compose Level II of the Reference Equity (PR), as set forth under Resolution 2,837 dated May 30, 2001.

Paragraph 2 - The total credit of each person against the same member-institution or against all member-institutions belonging to the same financial conglomerate, shall be guaranteed up to the amount of R\$ 20,000.00 (twenty thousand reais). ([Value changed to R\\$ 70.000,00, as Resolution 3,931, of the CMN, of Dec 3, 2010](#))

Paragraph 3 - For the purpose of determining the guaranteed amount of credits held by each person, the following criteria shall be taken into consideration:

- I - the credit holder is the person in whose name the credit is recorded in the books of the member-institution or the person designated in the security issued or accepted by the member-institution;

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- II - Credits held against all member-institutions under the same Financial conglomerate belonging to each creditor identified by the respective Individual Taxpayer Number (CPF)/National Corporation Tax Payer Number (CNPJ) shall be added together;
 - III - Spouses shall be considered distinct persons, irrespective of their marriage legal regime;
 - IV - Credits in the name of dependents of the beneficiary identified in the form set forth under item II shall be computed separately;
 - V - In the event of investment in credit securities mentioned under Article 2 above whose transaction is intermediated by an Institution belonging to the National Financial System, the credit right against FGC's member-institutions must be proven by the client of the institution intermediating the operation by showing the security negotiation notice as stated in Circular 915, dated February 13, 1985;
 - VI - credits held by associations, condominiums, cooperatives, groups, consortium managers, supplementary social security institutions, insurance societies, capitalization societies and other societies and associations with no corporate characteristics and similar institutions will be guaranteed up to R\$20,000.00 (twenty thousand reais) of their total assets in the same member-institution; [\(Value changed to R\\$70.000,00, as Resolution 3,931, of the CMN, of Dec 3, 2010\)](#)
 - VII - in joint accounts the guarantee is limited to R\$20,000.00 (twenty thousand reais) or to the balance of the account when the amount is lower than this limit, divided by the number of holders, the guaranteed value being credited individually; [\(Value changed to R\\$ 70.000,00, as Resolution 3,931, of the CMN, of Dec 3, 2010\)](#)
 - VIII- the collection of credits against FGC's member-institutions via proxy, must be previously justified and approved by the FGC.
- Paragraph 4** - In the event stated under paragraph 3, item V, the intermediating institution shall submit to the intervener or liquidator a list of its clients showing invested values, dates and other data of investments in securities issued by a member-institution which is under intervention or extrajudicial liquidation.

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Paragraph 5 - The detection of procedures that may lead, through the use of fraud, to payments higher than the limit of R\$20,000.00 (twenty thousand reais) for the purpose of benefiting the same person, may force the FGC to suspend payments until the clarification of the fact, with the understanding that the person interested in the payment will be responsible for procuring the evidence of the integrity of the procedures adopted. The FGC may or may not accept the argument and evidence submitted by the party involved. ([Value changed to R\\$ 70.000,00, as Resolution 3,931, of the CMN, of Dec 3, 2010](#))

Article 3 - Payments made by the FGC of credits held by depositors or investors against member-institutions shall be made using the resources referred to under article 5 of the statute observing the conditions established there under.

Paragraph 1 - Ordinary contributions of member-institutions are due every month and they are the result of the application of the current rate over the balance of the account that records the obligations corresponding to the guaranteed credits.

Paragraph 2 - As proposed by the FGC, the Central Bank of Brazil is responsible for the establishment of the accounts that shall serve as the basis for the calculation of contributions.

Paragraph 3 - When the FGC's availability of funds reach 2% (two percent) of the total balance of the accounts guaranteed, in all member-institutions, the Board of Directors, following proposal from the Executive Director's Office, duly justified and forwarded to the Central Bank of Brazil for submission to the National Monetary Council for previous approval, may deliberate over suspending temporarily the contributions from the member-institutions destined to the fund.

Paragraph 4 - In the event that the FGC's availability of funds represents less than 2% (two percent) or the total balance of the accounts covered by the guarantee, contributions from member-institutions shall be collected until FGC's availability of funds reach again the level of 2% (two percent) of total balances of the accounts covered by the guarantee.

Paragraph 5 - For the purpose of quantifying FGC's availability of funds, cash balances available plus balances of deposit accounts with financial institutions shall be considered.

Paragraph 6 - Responsibility of member-institutions is limited to the contribution they are obliged to make to the fund for defraying guarantees.

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Article 4 - In the event of situations anticipated under article 2 of the statute, the amounts corresponding to the payments due shall be delivered directly by the FGC to the legal representative of the institution under intervention, liquidation, or in a status of insolvency, according to the terms prescribed by the Central Bank of Brazil, based upon a list of creditors provided to the FGC, following the limits set forth under article 2, paragraph 2.

Sole Paragraph - The FGC shall designate, at least, one financial institution charged with the responsibility of making payments.

Article 5 - The FGC, due to its responsibility for making payments, shall have the right to reimburse itself regarding payouts under the terms set forth in article 346, item III, of the Civil Code.

Source: Central Bank of Brazil

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