



BANCO CENTRAL DO BRASIL

RESOLUTION 4,019 OF SEPTEMBER 29, 2011

Provides for prudential preventive measures aimed at ensuring the soundness, stability and the regular functioning of the National Financial System.

The Central Bank of Brazil, pursuant to art. 9 of Law 4,595 of December 31, 1964, hereby announces that the National Monetary Council, in a meeting held on September 29, 2011, based on art. 4, sections VIII and XI, of said Law, on Law 4,728 of July 14, 1965, in art. 20, paragraph 1, of Law 4,864 of November 29, 1965, on art. 6 of Decree-law 759 of August 12, 1969, on Law 6,099 of September 1974, on Law 10,194 of February 14, 2001, on art. 7 of Decree-law 2,291 of November 21, 1986, and on art. 1 of Complementary Law 130 of April 17, 2009,

RESOLVED:

Art. 1. This Resolution establishes prudential preventive measures applicable to financial institutions and other institutions licensed by the Central Bank of Brazil, aimed at ensuring the soundness, stability and regular functioning of the National Financial System.

Sole paragraph. The prudential preventive measures established in this Resolution will be adopted by a justified decision of the Central Bank of Brazil, independently of the application of penalties pertinent to the matter.

Art. 2. The Central Bank of Brazil, in a discretionary assessment of case-by-case circumstances, shall determine the adoption of the prudential preventive measures listed in art. 3 when the occurrence of one of the following situations is identified, so as to impair effectively or potentially the regular functioning of either the National Financial System (SFN) or the institutions mentioned in art. 1:

I – exposure to risks not included or improperly considered in the calculation of the Required Regulatory Capital (PRE);

II – exposure to a degree of risk incompatible with the institution's management framework and internal controls;

III – deterioration, either effective or potential, of the economic and financial situation of the institution, regardless of compliance with minimum capital requirements or other operational limits established in regulation;

IV – noncompliance with operational limits;

V – deficiency in internal controls;



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VI – incompatibility between the institution’s structure and operations with respect to the goals set and commitments made in the business plan required in the qualification process of access to the SFN;

VII - insufficiency of elements to allow an assessment of the economic and financial situation or the risks incurred by the institution, due to deficiencies in providing information to the Central Bank of Brazil;

VIII – other situations which, at the Central Bank of Brazil discretion, may imply risks to the institution’s soundness or to the regular functioning or the stability of the SFN.

Sole paragraph. In the assessment of the situations mentioned in the heading, with a view to the adoption of prudential preventive measures, the following indicators will be considered by the Central Bank of Brazil, jointly or separately:

I – Regulatory Capital (PR), calculated according to the current regulation;

II – leverage rate;

III – liquidity;

IV – assets concentration;

V – liabilities concentration;

VI – contagion risk, including deriving from related parties;

VII – stress tests;

VIII – internal capital adequacy assessment processes;

IX – risk management structures;

X – internal controls;

XI – changes in the business environment;

XII – capacity to generate profits;

XIII – other relevant indicators to assess both the economic and financial situation and the risks faced by the institution.

Art. 3. In the occurrence of a situation listed in art. 2, the Central Bank of Brazil may determine the adoption of one or more prudential preventive measures, either concurrently or consecutively, among the following:

I – adoption of additional controls and operational procedures;



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II – reduction in the degree of risk of exposures;

III – Required Regulatory Capital add-on;

IV – more restrictive operational limits;

V – restoration of liquidity levels;

VI – administration in a regime of co-management, according to the provisions established in art. 16 of Complementary Law 130 of April 17, 2009, in the case of a credit union which has entered into the corresponding agreement;

VII – limitation to or suspension of:

a) increase in the administrator's salary;

b) payment of variable remuneration to administrators;

c) distribution of earnings or, in the case of credit unions, of surplus, in an amount higher than the minimum legal limits;

VIII – limitation to or suspension of:

a) operational modalities or specified types of financial transactions ;

b) development of new business lines;

c) acquisition of an equity interest, either directly or indirectly, of other financial or non-financial entities;

d) installation of new branches;

IX – assets transfers.

Art. 4. Regardless of the adoption of the prudential preventive measures listed in art. 3, the Central Bank of Brazil, taking into account the occurrence of any of the situations listed in art. 2, may summon the institution's owners and legal representatives in order to:

I – provide an explanation on the causes of the situation which entailed the adoption of prudential preventive measures;

II – produce a plan to solve the situation which entailed to the adoption of prudential preventive measures, indicating quantitative and qualitative goals to be reached, the consent of all parties involved in the achievement of the plan and the establishment of a chronogram for its execution.



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Paragraph 1. The plan mentioned in item II, once approved by the institution's board, shall be submitted for evaluation and approval of the Central Bank of Brazil within the ad hoc deadline.

Paragraph 2. The Central Bank of Brazil may request follow-up reports on the implementation of the plan mentioned in item II from the independent auditor responsible for auditing the accounting statements of the institution.

Paragraph 3. The Central Bank of Brazil shall define the minimum periodicity of the reports mentioned in paragraph 2, which must be made available to the supervisory authority.

Art. 5. The following proceeding applies to the prudential preventive measures established in this Resolution:

I – the presence of the representatives shall occur within the maximum of five days after the summoning date and registered in a specific document by the Central Bank of Brazil;

II – the plan shall be presented to the Central Bank of Brazil within the period established by the supervisory authority, which cannot exceed sixty days, counted from the summoning date referred to in the previous item;

III – the plan shall be executed within the period approved by the Central Bank of Brazil, which cannot exceed six months and may be extended, due to relevant reasons, at the discretion of the Central Bank of Brazil, for a maximum of six additional months.

Art. 6. In the occurrence of noncompliance with the minimum capital requirements, a deposit in an escrow account is admissible, in an amount deemed sufficient to achieve such compliance, and the following dispositions apply to this deposit:

I – it will be considered for the calculation of the Regulatory Capital for the maximum period of ninety days;

II – it must be made in cash or in federal govern bonds, among those accepted in the rediscount operations with the Central Bank of Brazil;

III – it must be registered in a specific custody account at the Central Bank of Brazil;

IV – its release is conditioned on a previous authorization by the Central Bank of Brazil.

Art. 7. The institution can only distribute earnings in an amount higher than the minimum legal in the situations in which this distribution does not impair the accomplishment of measures determined by the Central Bank of Brazil, according to the terms of art. 3 or the plan referred to in art. 4.



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Sole paragraph. The determination regarding the distribution of earnings in an amount higher than the legal minimum must also take into account the current and future impact regarding the fulfillment of the minimum capital requirements and other operational limits mentioned.

Art. 8. This Resolution enters into force 30 (thirty) days after its publication, when Resolution 3,398 of August 29, 2006, will be revoked.

Alexandre Antonio Tombini
Governor of the Central Bank of Brazil