

# RESOLUTION N° 4,661, DATED OF MAY 25, 2018

Provides guidelines on the application of the resources that guarantee complementary private pension entities.

The Central Bank of Brazil, in the form of Article 9° of the Law No. 4.595, dated as of December 31, 1964, hereby announces that the Board of Monetary Policy (*Conselho Monetário Nacional* - "CMN"), at a meeting held on May 25, 2018, in view of the provisions of Article 9, paragraph 1, of Complementary Law No. 109, of May 29, 2001,

## DECIDED:

Article 1. The closed complementary private pension entities (*entidades fechadas de previdência complementar* - EFPC) shall, in the application of the resources corresponding to the technical reserves, provisions and funds of the plans they manage, observe the provisions of this Resolution.

Article 2. The provisions of this Resolution apply to the resources of the plans managed by EFPC, formed by the assets and their available investments, subtracting their corresponding liabilities, not including amounts referring to debt contracted with sponsors.

Article 3. This Resolution does not apply to the EFPC resources intended for the funding of health care plans registered before the Brazilian National Supplementary Health Agency (*Agência Nacional de Saúde Suplementar* - ANS), under the terms of Article 76 of Complementary Law No. 109, of May 29, 2001.

Sole Paragraph. The resources of the health care plans must be maintained and controlled in a segregated way from the remaining resources managed by the EFPC.

## Chapter I

### OF THE GUIDELINES FOR THE APPLICATION OF RESOURCES

Article 4. In applying the resources of the plans, the EFPC shall:

I - observe the principles of security, profitability, solvency, liquidity, adequacy to the nature of its obligations and transparency;

II - to carry out its activities with good faith, loyalty and diligence;

III - ensure high ethical standards;

IV - to adopt practices that guarantee the fulfillment of their fiduciary duties in relation to the participants of the benefit plans, considering, also, the established investment policy, observing the modes, segments, limits and other criteria and requirements established under this Resolution; and

V - perform with diligence the selection, monitoring and evaluation of service providers related to the asset management.

§ 1 - The persons who participate in the analysis, advisory and decision-making process of the plans of the EFPCs are considered responsible for compliance with the provisions of this Resolution, by action or omission, to the extent of their respective attributions.

§ 2 - The members of EFPC statutory councils, proxy holders, members of the investment committee, consultants and professionals who participate in the analysis, advisory and decision-making process on the application of the resources of the entity, either directly or through a contracted legal entity, shall also be included in the list of persons provided for in paragraph 1 of this article.

Article 5. The investment of the resources must observe the modality of the benefit plan, its specificities, its liquidity needs and the flow of payment of assets.

Sole Paragraph. The management of the flow of payment of the assets must be compatible with the deadlines and actuarial obligations, with the purpose of maintaining the economic-financial balance between the assets and liabilities of the plan.

Article 6. The management of the resources of plans managed by EFPC incorporated by institutors<sup>1</sup> must be made, in of § 2 of Article 31 of Complementary Law No. 109 of 2001, through managed portfolios or investment funds.

## Chapter II

### INTERNAL CONTROLS, RISK ASSESSMENT AND MONITORING AND CONFLICT OF INTEREST

#### Section I

#### Internal Controls

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<sup>1</sup> Note: "Institutors" are considered, for the purposes of Complementary Law No. 109, the associates or members of legal entities from a specific professional, class or sector.

Article 7. The EFPC shall adopt rules, procedures and internal controls that guarantee the observance of the limits, requirements and other provisions established under this Resolution, considering the size, complexity, modality and form of management of each plan managed by it.

§ 1. The EFPC shall clearly define the separation of responsibilities and objectives associated with the mandates of all agents involved in the process of analysis, evaluation, management, advice and decision on the application of the resources of the entity's plans, including the definition of the decision-making levels of each body.

§ 2. The EFPC shall keep a digital record of all documents that support decision-making in the investment of the resources of the plans, in the case of self management, exclusive investment fund or application in which the EFPC has decision-making power over its implementation.

Article 8. The EFPC shall designate the technically qualified statutory officer (*administrador estatutário tecnicamente qualificado* - AETQ) as the main responsible for the management, allocation, supervision and monitoring of the resources which guarantee the plans and for the provision of information regarding the investment of these resources, pursuant to the terms of § 5º and § 6º of Article 35 of Complementary Law No. 109 of 2001.

Article 9. The EFPC shall appoint an administrator or committee responsible for risk management, considering its size and complexity, according to the regulations of the National Complementary Welfare Superintendence (*Superintendencia Nacional de Previdência Complementar* - PREVIC).

## Section II

### Risk Assessment and Monitoring

Article 10. The EFPC, in the management of its own portfolio, shall identify, analyze, evaluate, control and monitor credit, market, liquidity, operational, legal, systemic and other risks inherent to each operation.

§ 1 - The EFPC must carry out a prior analysis of the risks of the investments, including their real or fiduciary guarantees.

§ 2. The use of evaluation from risk rating agencies does not replace the necessary risk analysis mentioned in the main section of this article.

§ 3. The EFPC shall evaluate, monitor and manage the risk and expected return on investments.

§ 4. The EFPC shall consider in its risk analysis, whenever possible, aspects related to the sustainability of economic, environmental, social and investment governance factors.

Article 11. The EFPC shall adopt rules and implement procedures for the selection and monitoring of portfolios of securities and investment funds.

§ 1. The EFPC shall assess whether segregation of management, administration and custody functions are sufficient to mitigate situations of conflict of interest.

§ 2. The EFPC shall analyze and monitor the risk and expected return on investments managed by third parties.

### Section III Conflict of Interest

Article 12. The EFPC shall evaluate the technical capacity and potential conflicts of interest of its service providers and of the people who participate in the decision-making process, including through advisors.

Sole Paragraph. The conflict of interest will be deemed existent in any situations where actions can be identified that are not in line with the objectives of the plan managed by EFPC regardless of whether it obtains an advantage for itself or for others and regardless the occurrence of losses or not.

### Chapter III REQUIREMENTS FOR THE ASSETS

Article 13. The EFPC must contract a legal entity to provide the custody service under the regulations established by the Brazilian Securities and Exchange Commission (*Comissão de Valores Mobiliários - CVM*) and the Central Bank of Brazil (*Banco Central do Brasil - BACEN*).

Article 14. The providers of outsourced services of portfolio management, analysis and consulting of securities hired by the EFPC shall be registered, authorized or accredited in accordance with the regulations of the Brazilian Securities and Exchange Commission.

Article 15. The issuance, registration, centralized deposit, distribution and negotiation of financial assets shall comply with the regulations established by the

Central Bank of Brazil (BACEN) and the Brazilian Securities and Exchange Commission, in their respective areas of competence.

§ 1. Financial assets must have financial settlement.

§ 2. For the purposes of this Resolution, financial assets are those defined in accordance with regulations of the Brazilian Securities and Exchange Commission.

Article 16. Financial assets must be admitted to trading on an organized market, registered in a system for registry, custody or of financial settlement or deposited with a central depository, subject to regulations of the Central Bank of Brazil or the Brazilian Securities and Exchange Commission, within their respective areas of competence.

§ 1. The provisions of the main section are mandatory for all financial assets belonging to self-owned portfolios, managed portfolio or investment funds incorporated in Brazil, including those referred to in the sole paragraph of Article 32.

§ 2. The register or deposit of the financial assets belonging to EFPC's own portfolio should allow the individualization and identification of each plan administered by EFPC.

§ 3. The budget resources shall be deposited in a financial institution authorized to operate by the Central Bank of Brazil.

Article 17. Fixed-income financial assets should preferably be traded through electronic platforms, observing the regulations of the Central Bank of Brazil or the Brazilian Securities and Exchange Commission in their respective areas of competence.

§ 1 - In the operations referred to in the main section, carried out in the over-the-counter market through a self-owned portfolio or exclusive investment funds, EFPCs must observe, or determine that market reference intervals of maximum and minimum prices of financial assets, established based on methodology published by institutions of recognized merit in the financial market or on the basis of electronic trading and registration systems are observed, or in the cases of proven lack of these parameters, based on at least three secondary sources.

§ 2. The methodology adopted shall ensure, at least, that the prices established are consistent with market prices at the time of the operation.

§ 3. The EFPC shall keep a record of the value and volume effectively negotiated, as well as of the offers received and made, including the ones that are

declined, and of the market value or reference range of the prices of the financial assets traded for the operations not performed by means of an electronic platform.

§ 4. The EFPC shall justify in a timely manner the trading of fixed income financial assets in the purchase or of sales made outside the market value or reference range of prices referred to in § 1 of this article.

§ 5. The justification provided for in paragraph 4 of this article must be signed by the AETQ and the responsible for the risk control indicating minimally:

I - demonstration of the discrepancy of the prices or rates practiced;

II - indication of the institution, electronic system or secondary sources that served as the basis for obtaining the market value or reference range of prices; and

III - identification of the intermediaries of the operation.

Article 18. Financial assets shall be identified by the ISIN code - International Securities Identification Number.

Sole Paragraph. The EFPC must justify the impossibility of identifying the financial assets as defined by the main section.

#### Chapter IV INVESTMENT POLICY

Article 19. The EFPC shall define the investment policy for the application of the resources of each benefit plan managed by it.

§ 1. The investment policy of each plan shall be prepared by the executive board and approved by the board of the EFPC prior to the beginning of the financial year to which it refers.

§ 2. The EFPC shall adopt, for the planning of the investment policy of the resources of the benefit plan administered by itself, a horizon of, in the least, 60 (sixty) months, with yearly revisions.

§ 3. The same limits established in this resolution for the benefits plans shall be applied to the investment profiles.

§ 4. The investment policy shall include information on operations carried out on financial assets linked to the sponsor, suppliers, customers and other companies linked to the sponsor's economic group.

§ 5. The EFPC should preferably adopt investment policies specific to each investment profile.

§ 6. The preparation, review and information contained in the investment policy shall comply with the regulations of the PREVIC.

CHAPTER V  
INVESTMENT AND ALLOCATION LIMITS

Section I  
Segment for the Investment of Resources

Article 20. Investments of the resources of plans administered by EFPC shall be classified under the following investment segments:

- I - fixed income;
- II - variable income;
- III - structured;
- IV - real estate;
- V - operations with participants; and
- VI - foreign.

Section II  
Assets

Subsection I  
Fixed Income Segment

Article 21. The EFPC must observe, in relation to the resources of each plan, a limit of up to 100% (one hundred percent) in the segment of fixed income and, additionally, the following limits:

- I - up to 100% (one hundred percent) of the resources of each plan in:
  - a) domestic federal securities debt securities; and

b) shares of investment funds admitted to trading on the secondary market through a stock exchange, in the accordance with the regulations established by the Brazilian Securities and Exchange Commission, whose portfolios aim to reflect the variations and (Fixed Income Index Fund) composed exclusively of federal public debt securities.

II - up to 80% (eighty percent) of the resources of each plan in:

a) financial assets of fixed income of issued with obligation or co-obligation of banking financial institutions authorized to operate by the Central Bank of Brazil;

b) fixed-income financial assets issued by a publicly-held company, including securitization companies; and

c) shares of investment funds admitted to trading on the secondary market through a stock exchange, whose portfolios are composed of financial assets that aim to reflect the variations and profitability of reference charts of (Fixed Income Index Fund), in accordance with the regulations established by the Brazilian Securities and Exchange Commission;

III - up to 20% (twenty percent) of the resources of each plan in:

a) securities of state and municipal public securities debt, provided that they are issued before the Complementary Law nº 148, of November 25, 2014;

b) obligations of multilateral organizations issued in Brazil;

c) fixed-income financial assets issued, with obligation or co-obligation, from non-banking financial institutions and credit cooperatives, whether banking or non-banking, authorized to operate by the Central Bank of Brazil (BACEN);

d) debentures issued by a non-publicly traded corporation (*sociedades por ações de capital fechado*) pursuant to Article 2 of Law 12,431, of June 24 of 2011;

e) class of quotas of investment funds in credit rights (FIDC) and quotas of investment funds in quotas of investment funds in credit rights (FICFIDC), bank credit notes (CCB), certificates of bank credit notes (CCCB); and

f) rural product certificates (CPR), agribusiness credit rights certificates (CDCA), receivables from agribusiness (CRA) and agricultural warrants (WA);



§ 1. All the financial assets listed in items II and III of the main section must comply with the limit of up to 80% (eighty percent) of the resources of each plan.

§ 2. Repurchase operations must be backed by domestic federal securities.

§ 3. The fixed-income financial assets issued by non-publicly traded corporations and limited companies may only be acquired with co-obligation from a banking financial institution authorized to operate by the Central Bank of Brazil.

§ 4. CCBs backed by CCBs issued by privately held corporations and limited liability companies (*sociedades limitadas*) may only be acquired if said CCBs are co-guaranteed by a banking financial institution authorized to operate by the Central Bank of Brazil.

## Subsection II Variable Income Segment

Article 22. The EFPC must observe, in relation to the guaranteeing resources of each plan, the limit of up to 70% (seventy per cent) in the variable income segment and, additionally, the following limits:

I - Up to 70% (seventy percent) of the resources of each plan in shares, subscription warrants for shares (*Bônus de Subscrição em ações*), subscription receipt certificates of deposit of securities and in quotas of index referenced funds of shares issued by a publicly traded company whose shares are admitted to trading in a special segment, set up on a stock exchange, which ensures, through a contractual link between the stock exchange and the issuer, differentiated governance practices;

II - up to 50% (fifty percent) of the resources of each plan in shares, share subscription bonuses, subscription in shares, certificates of deposit of securities and in quotas of index referenced funds of shares issued of publicly traded companies whose shares are admitted to trading on a stock exchange and that are not in a special segment;

III - up to 10% (ten percent) of the resources of each plan in Brazilian Depository Receipts (BDR) classified as II and III, in compliance with the regulations established by the Brazilian Securities and Exchange Commission; and

IV - up to 3% (three percent) of the resources of each plan in certificates representing physical gold in the standard traded on commodities and futures exchanges.

## Subsection III

## Structured Segment

Article 23. The EFPC must observe, in relation to the guaranteeing resources of each plan, the limit of up to 20% (twenty cent) in the structured income segment and, additionally, the following limits:

I - in compliance with the maximum limit referred to in the main section, up to 15% (fifteen percent) of the resources of the plan in each of the following financial assets:

- a) quotas of participation investment funds (FIP);
- b) quotas of investment funds classified as multimarket (FIM) and quotas of investment funds in quotas of investment funds classified as multimarket (FICFIM); and
- c) quotas of investment funds classified as "Shares - Access Market", established by the Brazilian Securities and Exchange Commission;

II - up to 10% (ten percent) of the plan's resources in structured operations certificates (COE).

§ 1. The EFPC shall ensure that the FIP is qualified as an investment entity, in accordance with the Brazilian Securities and Exchange Commission.

§ 2. The FIP shall provide in its regulations for the determination that the investment fund manager, or linked managers to its respective economic group, maintain at least 3% (three percent) of the subscribed capital of the fund.

§ 3. The insertion of a clause in the bylaws of the FIP that establishes preference, privileged or differentiated treatment of any nature to the manager and / or related persons in relation to the other quota holders is prohibited.

§ 4. Investments made through FIM and FICFIM not classified in this article or in the foreign segment will be consolidated with the positions of the assets of the self-owned portfolios and portfolios managed for the purpose of verifying the adequacy of the limits.

## Subsection IV Real Estate Segment

Article 24. The EFPC must observe, in relation to the guaranteeing resources

of each plan, the limit of up to 20% (twenty cent) in the real estate segment in the set of:

I - quotas of real estate investment funds (FII) and quotas of investment funds in quotas of real estate investment (FICFII);

II - real estate receivable certificates (CRI); and

III - real estate credit certificates (CCI).

Sole Paragraph. CCIs issued by privately held corporations and limited liability companies may only be acquired with co-obligation from a banking financial institution authorized to operate by the Central Bank of Brazil.

#### Subsection V Operations with Participants

Article 25. The EFPC must observe, in relation to the guaranteeing resources of each plan, the limit of up to 15% (fifteen per cent) in the segment of operations with participants in the set of:

I - personal loans granted with resources of the benefit plan to its participants and its assisted persons; and

II - real estate financing granted with resources of the benefit plan to its participants and its assisted persons.

§ 1. The contracts of the operations referred to in item I of the main section must contain a clause of assignment in payment of the reserve up to the amount stipulated for the redemption institute.

§ 2. The real estate financing agreements to participants and its assisted persons must contain clauses of:

I - fiduciary assignment of the object of the financing; and

II - contracting insurance coverage with Death, Permanent Disability (MIP) and Physical Damage to Property (DFI).

§ 3. This segment includes the securities backed by receivables arising, directly or indirectly, of such operations.

§ 4. The financial charges of operations with participants must be higher than the minimum actuarial rate, for plans incorporated under the defined benefit modality, or the benchmark established in the investment policy, for plans incorporated in other forms, plus a fee referring to the management of the operations and an additional risk rate.

#### Subsection VI Foreign Segment

Article 26. The EFPC must observe, in relation to the guaranteeing resources of each plan, the limit of up to 10% (ten percent) in the foreign segment in the set of:

I - quotas of investment funds and quotas of investment funds in quotas of classified investment funds as "Fixed Income - External Debt";

II - quotas of foreign index funds admitted to trading on the Brazilian stock exchange;

III - quotas of investment funds incorporated in Brazil in the form of an open condominium with the suffix "Investment in accordance with the regulations established by the Brazilian Securities and Exchange Commission, which invest at least 67% (sixty and seven percent) of its net equity in quotas of investment funds established abroad;

IV - quotas of investment funds incorporated in Brazil in the form of an open condominium with the suffix "Investment abroad", in accordance with the regulations established by the Brazilian Securities and Exchange Commission;

V - Brazilian Depositary Receipts (BDR) classified as level I and quotas of the funds of the class "Shares - BDR Level I", in accordance with the regulations established by the Brazilian Securities and Exchange Commission; and

VI - financial assets abroad belonging to the portfolios of funds incorporated in Brazil, in accordance with regulations established by the Brazilian Securities and Exchange Commission, which are not provided for in the previous items.

§ 1 The EFPC shall ensure that:

I - financial assets issued abroad with credit risk that compose the portfolio of investment funds in Brazil covered by items IV and VI of the main section are classified with investment grade by risk rating agencies registered at the Brazilian Securities and Exchange Commission or recognized by that local authority;

II - managers of investment funds established abroad that have been in operation for more than five years and to manage the amount of third-party resources in excess of US\$5,000,000,000.00 (five billion United States dollars) on the date of the investment; and

III - investment funds established abroad that have a performance history of more than twelve months.

§ 2. The requirement of item I of paragraph 1 of this article does not apply to securities of the Brazilian public debt issued abroad or for financial assets issued abroad of a Brazilian company incorporated in the form of a publicly traded company.

§ 3. The acquisition of quotas of investment funds with the suffix "foreign Investment" whose regulation does not comply with regulations for qualified investors under the terms established by the Brazilian Securities and Exchange Commission is prohibited.

§ 4. The direct or indirect acquisition of quotas of investment funds in participations (FIP) with the suffix "Foreign Investment" is prohibited.

§ 5. The investment funds incorporated in Brazil referred to in item III of the main section may only acquire financial assets issued abroad through the acquisition of quotas of investment funds incorporated abroad, included in the index fund quotas.

§ 6. The requirement of investment grade referred to in item I of paragraph 1 of this article does not dismiss with the necessary risk assessment by the EFPC.

## CHAPTER VI

### LIMITS OF ALLOCATION AND CONCENTRATION BY ISSUER

#### Section I

#### The Limits of Allocation per Issuer

Article 27. The EFPC shall, in relation to the resources of each plan administered by it, observe the following limits of allocation by issuer:

I - up to 100% (one hundred percent) if the issuer is the National Treasury;

II - up to 20% (twenty percent) in a banking financial institution authorized to operate by the Central Bank of Brazil; and

III - up to 10% (ten percent) in the other issuers.

§ 1. For the purpose of this Resolution, the members of the same economic conglomerate or financial institutions, as well as companies controlled by state or municipal treasuries are considered as a single issuer.

§ 2. For the purpose of verifying the limit established in item III of the main section, in the cases of issuance of certificates of receivables with the adoption of a fiduciary regime, each separate amount existing due to the adoption of the referred fiduciary regime will be considered a separate issuer.

§ 3. For the purpose of verifying the limits established in this article, the total investments of the benefits plan shall be observed.

§ 4. For purposes of verification of the limits established in this article, EFPC shall compute the total of its engaged debt, the total of its equated deficit and the total accumulated deficit with the sponsor of the benefit plan, in relation to the acquisition of financial assets issued by the sponsor.

## Section II Concentration Limits per Issuer

Article 28. The EFPC shall, as the sum of the resources administered by it, observe the concentration limit per issuer:

I - up to 25% (twenty-five percent) of the total capital and voting capital, including the subscription warrants and the subscription receipts from the same company for publicly traded shares admitted or not to trading on a stock exchange;

II - up to 25% (twenty five percent) of the shareholders' equity of:

a) banking institution, non-banking institution and credit cooperative financial institution authorized to operate by the Central Bank of Brazil;

b) FIDC or FICFIDC;

c) investment funds with quotas admitted to trading on the secondary market through a stock exchange, in the form regulated by the Brazilian Securities and Exchange Commission, whose portfolios aim to reflect the variations and profitability of the reference of fixed income or quotas of referenced index funds in basket of shares issued by a publicly traded company;

d) investment fund or investment fund in quotas of investment fund classified in the structured segment;

- e) FII and FICFII;
- f) investment funds incorporated in Brazil, as described in items II, IV and VI of Article 26; and
- g) other issuers, except as provided for in items III and IV;
  - III - up to 25% (twenty five percent) of the separate equity provided for the issuance of certificate of receivables with the adoption of a fiduciary regime; and
  - IV - 15% (fifteen percent) of net equity:
    - a) of the foreign investment fund referred to in item III of Article 26; and
    - b) of the issuer listed in item "d" of item III of Article 21.

§ 1 - The EFPC shall observe, considering the sum of the resources administered by it, the limit of 25% (twenty-five per cent) of the same class or series of investment fund quotas and other fixed income securities.

§ 2. The limit established in items "b", "d", "e" and "f" of item II of the main section does not apply to investment funds in investment fund quotas and the FIP that invests at least 90% (ninety percent) of its net equity in quotas of other FIP, as long as its investments observe the limits of this article.

§ 3. The EFPC shall have up to 60 (sixty) days from the date of each payment to comply with the limits item II of main section.

§ 4. The limit established in item "e" of item II of the main section does not apply to the FII that has in its portfolio real estate properties originally included in its investment portfolio.

## CHAPTER VII OF THE LOAN OF SECURITIES

Article 29. The EFPC may lend financial assets from its portfolio subject to the rules on securities lending and clearing and settlement services established by the Brazilian National Monetary Council (CMN) and such as the regulatory measures adopted by the Brazilian Securities and Exchange Commission.

Sole Paragraph. The lent financial assets must, even under such condition, be considered for the verification of the limits established in this Resolution.

## CHAPTER VIII DERIVATIVES

Article 30. EFPC may hold positions in derivative markets, either directly or through an investment funds, provided that the the following conditions are complied with:

I - prior assessment of the risks involved;

II - existence of internal control systems adequate to its operations;

III - registration of the operation or trading in the stock exchange or commodities and futures or in the over-the-counter organized market;

IV - the performance of clearing houses and providers of clearing and settlement services as the central guaranteeing counterparty of the operation;

V - required margin limited to fifteen percent (15%) of the position in federal public debt securities, financial assets issued by a financial institution and shares accepted by the clearing house; and

VI - total value of paid option premiums limited to 5% (five percent) of the position in public debt securities federal financial assets, financial assets issued by a financial institution and shares of the portfolio of each plan or trust fund investment.

§ 1. In order to verify the limits established in items V and VI of the main section, the securities received will not be considered as backing for compromised operations (*operações compromissadas*).

§ 2. Transactions with derivatives include those relating to credit derivatives, and EFPC may act as counterparty transferors of credit risk in these operations.

§ 3. In the calculation of the limit referred to in item VI of the main section, in the case of structured operations with options that have the same amount, the same underlying asset and that the premium represents the maximum loss of the operation, the value of the premiums paid and received shall be considered, pursuant to the provisions of item VII of Article 36.

## CHAPTER IX INVESTMENT FUNDS INCORPORATED IN BRAZIL

Article 31. The investment funds subject to application by the EFPC must be registered with the Brazilian Securities and Exchange Commission and the investments made by them must comply with the requirements of the financial assets established under this Resolution.



Sole Paragraph. The EFPC shall assess the costs arising from investments in investment funds in relation to the levels of investment and to disclose the expenses of outsourcing the investments by the benefit plan.

Article 32. Investments made through investment funds and investment funds in investment funds quotas should be consolidated with the position of the assets of self-owned portfolios and managed portfolios for the purpose of verification of the limits established in this Resolution.

Sole Paragraph. Exceptions for the provisions of the main section are:

I - investment fund whose shares are admitted to trading on the secondary market through a stock exchange values regulated by the Brazilian Securities and Exchange Commission (CVM), whose portfolios aim to reflect the variations and profitability of fixed income reference index or index funds referenced in the basket of shares of listed companies admitted to trading on the stock exchange;

II - FIDC and FICFIDC;

III - investment fund or investment fund in quotas of investment fund classified in the "structured" segment;

IV - FII and FICFII; and

V - investment fund or investment fund in quotas of investment fund incorporated in Brazil classified in items I to IV of Article 26.

Article 33. The EFPC may pay or redeem shares of investment funds with assets, provided that the established by the Brazilian Securities and Exchange Commission.

Article 34. The application of funds by the EFPC in investment funds or in managed portfolios, when the regulations or contracts contain clauses that deal with performance fee, are conditional on the payment of said fee the following conditions:

I - return on investment greater than the increase of valuation of, at least, 100% (one hundred percent) of the reference index;

II - final investment amount greater than the initial capital of the application or the value of the investment on the date of the last payment;

III - periodicity, at least, every six months; and

IV - compliance with the other rules applicable to investors who are not considered as qualified investors under the terms of regulations of the Brazilian Securities and Exchange Commission.

Sole Paragraph. The conditions set out in items III and IV of the main section do not apply to investment funds whose regulations will establish that the performance fee will be paid only after the return to the quota holders of the totality of their capital paid into the fund.

## CHAPTER X OF PASSIVE DEVELOPMENT

Article 35. It shall not be considered a non-compliance to the limits established in this Resolution if arising from:

I - increase of the valuation of assets in relation to the plan's guaranteeing resources;

II - receipt of shares in bonus;

III - conversion of subscription warrants or receipts;

IV - exercise of the right of first refusal;

V - corporate restructuring in which EFPC does not make new contributions;

VI - operations contemplated in items II, III and IV of Article 33 of Complementary Law No. 109 of 2001;

VII - redemption of quotas of investment funds in which EFPC does not make new contributions; and

VIII - Receipt of assets arising from loan operations carried out pursuant to Article 29.

§ 1. The excesses referred to in this article must be eliminated within two years of the occurrence of noncompliance.

§ 2. The EFPC is prevented from making investments that aggravate the excesses verified.

## CHAPTER XI

## OF THE LEGAL PROHIBITIONS

Article 36. Through its own portfolio, managed portfolio and investment funds and funds of investment in quotas investment fund, the EFPC are prohibited to:

I - carry out buy and sell operations, or any other form of asset exchange between plans of the same EFPC;

II - carry out credit operations, including with its sponsors, with the exception of cases expressly provided for in Article 25 of this Resolution;

III - invest in financial assets issued by individuals;

IV - invest in financial assets issued by limited liability companies (*Sociedades limitadas*), except for cases expressly provided for in this Resolution;

V - invest in shares and other financial assets issued by non-publicly traded corporations, except for cases expressly provided for in this Resolution;

VI - carry out stock transactions, share subscription warrants, share subscription receipts, deposit of securities not admitted to trading through the organized over-the-counter market or stock exchange authorized by the Brazilian Securities and Exchange Commission, except in the following cases:

- a) public distribution of shares;
- b) exercise of the right of first refusal;
- c) conversion of debentures into shares;
- d) exercise of warrants or subscription receipts;
- e) cases involving negotiation of relevant participation according to Previc's regulations; and
- f) other cases expressly provided for in this Resolution;

VII - maintain positions in derivative markets, either directly or through an investment fund:

- a) overdraft; or

b) that generate a possibility of loss greater than the value of the assets of the portfolio or of the investment fund or oblige the quota holder to provide additional resources to cover the loss of the fund;

VIII - carry out buy and sell operations of the same financial asset in the same day (day trade operations), other than those carried out on an electronic platform or on a stock exchange or in the case of goods and futures duly justified in report certified by the AETQ;

IX - apply abroad, except for cases expressly provided for in this Resolution;

X - provide personal guarantee (*fiança e aval*), acceptance or commit to co-pay in any way;

XI - lease, lend, borrow, pledge or guarantee financial assets, except in the following cases:

a) deposit of guarantees in derivative transactions under each benefit plan;

b) operations of loans of financial assets, under the terms of Article 29 of this Resolution; and

c) deposit of guarantees of lawsuits under each plan administered by EFPC;

XII - act as an real estate agent (*incorporadora*), directly or indirectly; and

XIII - acquire land and real estate.

§ 1. The prohibitions established in items II to XIII of the main section do not apply to the FIDC and FICFIDC, FII and FICFII, FIM and FICFIM classified in the structured segment, investment funds classified as "Shares - Access Market" and investments abroad, in compliance with the regulations of the Brazilian Securities and Exchange Commission.

§ 2. The prohibitions established in items IV, V, VI, VII, IX, XI and XIII of the main section do not apply to the FIPs, observed regulations of the Brazilian Securities and Exchange Commission.

§ 3. The prohibitions established in items VIII and IX of the main section do not apply to the investment funds incorporated in Brazil in the form of an open condominium with the suffix "Investment Abroad".

§ 4. The prohibition established in item I of the main section does not apply to transfers of resources between benefit plans and the administrative management plan, referring to administrative costs and, exceptionally, to those resulting from operations provided for in items II, III and IV of Article 33 of Complementary Law 109, of 2001, according to Previc regulations, provided that:

I - the transaction proves to be of unequivocal interest to the plans involved, including the price of the assets to be practiced; and

II - the transaction is approved by the executive board and board of directors of the EFPC, with the consent of the fiscal board.

## CHAPTER XII TRANSITIONAL AND FINAL PROVISIONS

### Section I Transitional Provisions

Article 37. The EFPC that verifies, at the date of entry into force of this Resolution, the requirements or limits established herein, may maintain its investments until the date of its expiration or their sale.

§ 1. The EFPC is prevented from making new applications that aggravate the excesses mentioned in the main section until the in compliance with the provisions of this Resolution.

§ 2. The provisions of paragraph 1 of this article in relation to payment, due to formal commitments assumed by EFPC until the date of entry into force of this Resolution shall not apply, to the quotas of:

I - FIDC and FICFIC;

II - FIP; and

III - FII or FICFII.

§ 3. EFPCs may maintain investments in FICFIP and FMIEE in their portfolio, in accordance with the established procedure by the Brazilian Securities and Exchange Commission for its regularization.

§ 4. The inventory of real estate and land belonging to the own portfolio will be considered for the computation of the limit set of Article 24 in relation to the resources of each plan.

§ 5 Within a period of up to 12 (twelve) years from the entry into force of this Resolution, the EFPC shall dispose of the real estate inventory and land belonging to its own portfolio or to set up an FII to house them, and in this case, the established limit in item "e" of item II of Article 28.

Article 38. The EFPC with a framework plan approved by the Brazilian National Monetary Council (CMN) shall remain with the obligations existing on the date of publication of this Resolution regarding the execution of such plan.

Article 39. The obligation referred to in § 1 of Article 16, for the financial assets belonging to the portfolios of FIDC, FIP and FII, shall enter into force in the form and in date to be defined by the PREVIC.

## Section II Final Provisions

Article 40. The provisions of Chapter III of this Resolution do not apply to financial assets issued abroad, investment funds incorporated abroad, belonging to portfolios of funds incorporated in Brazil that have EFPC as shareholder.

Article 41. Previc may issue procedural regulations necessary to comply with the provisions of this Resolution.

Article 42. The following shall be revoked:

- I - Resolution No. 3.792, of September 24, 2009;
- II - Resolution No. 3,846, dated March 25, 2010;
- III - Resolution No. 4,275, of October 31, 2013;
- IV - Article 2 of Resolution No. 4,449, of November 20, 2015;
- V - Resolution No. 4,611 of November 30, 2017; and
- VI - Resolution No. 4,626 of January 25, 2018.

Article 43. This Resolution shall enter into force on the date of its publication.

Ilan Goldfajn  
President of the Brazilian Central Bank