Part II
Chapter 5

Regulatory frameworks and government auditing of public debt

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1 Introduction

This chapter provides an overview of the regulatory framework and auditing process with respect to Brazil's public debt. These two areas are critical to efficient public debt management (PDM), which relies on consistent procedures and strong institutions. The chapter will describe the country's institutional structure, with the regulatory framework that sets responsibilities for all agents involved, its enforcement mechanisms and its rules with regard to fiscal transparency. The systems are consistent with best international practices, as expressed by organizations such as the World Bank, International Monetary Fund (IMF) and the International Organization of Supreme Audit Institutions (INTOSAI).

Following the Introduction, Section 2 examines the regulatory frameworks, the legal system with respect to indebtedness, public debt conceptual frameworks and the role of the agents involved. Section 3 analyzes the process for auditing the public debt, the concepts on which the audits are based, the institutions that perform them, and the mandate to carry out this function. Section 4 reviews the main points in the chapter.

2 Public debt regulatory frameworks

2.1 Structure of Brazil's legal system

The study of the regulatory framework involves its conceptual underpinnings, the role of public agents, and the rules on public sector indebtedness. Brazil's legal system is based on civil law (or public law) derived from European legal codes that distinguish between public and private governance, as opposed to common law, based on Anglo-Saxon systems.

The legal system involves a Constitution and its amendments, complementary laws, ordinary laws, provisional measures and resolutions. The Constitution and its amendments, written in 1988, supersede other laws (see the diagram below).

Complementary laws,ordinary laws, provisional measures and resolutions are not hierarchical; rather, they are linked to the areas they regulate, with their own unique provisions.

Complementary laws[1] cover areas that legislators decided should not be regulated by the Constitution; had they been included in that document, it would be extremely difficult to introduce changes. At the same time, they recognized the laws should not be too easily altered, through ordinary legislative processes. These

[1] According to Moraes (2004).

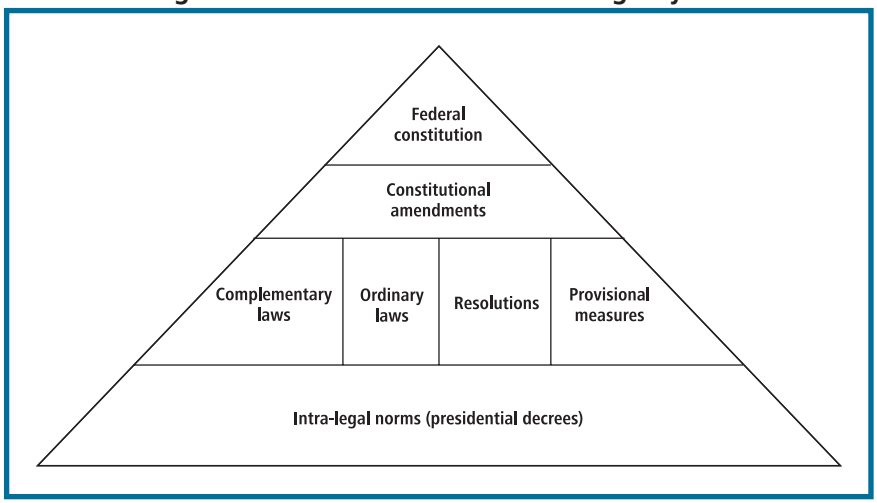
laws differ from ordinary laws in two ways. First, only matters explicitly provided in the Constitution may be subject to complementary laws. Second, they must be approved by an absolute majority, which prevents the complementary law from being routinely altered and provides a greater degree of stability.

Provisional measures (called *medidas provisórias*). Included in the 1988 Constitution to replace *decree-laws*,[2] these are sent by the head of the executive branch (the President) to the Congress, and are characterized as exceptional normative acts that can respond quickly to emergency situations. They differ from *decree-laws* in that the areas they cover are more restrictive and they apply for just 60 days; after this time, the Congress must vote to approve or reject them.

Resolutions are acts of Congress (the House of Representatives or the Senate) which regulate matters constitutionally directed to be ruled by them.

Decrees are issued by the President, which do not have the force of a law (with respect to enforcement). In fact, their objective is to rule a law, detailing its main points, without modifying it. The President may also issue other normative acts such as administrative rules and instructions.

Diagram 1. Structure of the Brazilian legal system



It should be noted that Brazil is composed of autonomous, independent members - the states, Federal District and municipalities - as provided in Article 1 of the Constitution. For each, the Constitution establishes a set of legislative rights and responsibilities related to expenditures and revenues. Also, each has the right to govern, legislate, organize and administer according to its prerogatives. Thus, the legal system with the normative acts described above is reproduced at the sub-national levels.[3]

The Constitution stipulates that the federal government will be funded by taxes, contributions and public debt, and in principle will not receive government transfers from the other members; also, that taxes and contributions will allocated among the members. Besides these sources, sub-national members can also

[2] The 1988 Constitution inserted some of these decree-laws into the new legal system because, although the new constitutional order was incompatible with the previous one, some of the decree-laws issued before 1988 remained. These include, for example, Decree-law nº 201 of 1967 which sets forth the responsibilities of mayors and council members with respect to PDM and Decree-law nº 2.848 of 1940, known as the Penal Code.

[3] In this case, the top of the pyramid (occupied by the federal Constitution) is replaced by state constitutions and municipal organic laws. Presidential decrees at the federal level are replaced by state governors' executive orders and mayors' decrees.

be funded by debt and transfers of resources from the federal government or from states to municipalities. The Constitution guarantees that their expenditures will be funded by various revenues.

Because the members of the federation are independent, they must prepare and execute their own budgetary laws which must list revenues and expenditures, including those related to their debt.

The Constitution delegated to the federal government the right to establish general rules on public finance.[4] Thus it enacted the Complementary Law nº 101 of 2000, known as the Fiscal Responsibility Law (LRF), which presents several rules regarding public debt, applied to all members of the Federation. Together with the federal Law nº 4,320 of 1964, they provide the "structural regulation of the public debt" since they lay the foundation for the country's public finances and debt management.[5]

In addition, the Budgetary Guidelines Law (LDO), which guides the Annual Budgetary Law (LOA), may contain provisions related to the public debt. These laws provide for "periodic" regulation of the public debt, because they are only in force for the fiscal year to which they apply.

The main characteristics of these laws are presented below.

2.1.1 Federal law nº 4,320 of 1964

This law establishes general financial standards for budgets and balance sheets of the federal government, states, municipalities and the Federal District. Although it was originally created as an *ordinary* law, it has the status of a *complementary* law since it was included as such in the 1988 federal Constitution (Article 165). In general, it establishes the following:

a) Budget, financial, public asset and accounting procedures for public sector entities;

b) Structural provisions for the budget laws;

c) Rules related to management's accountability and the publicizing of accounting reports.

Also, it contains rules for preparing, executing, accounting for and publicizing the budgets at each level of government. The International Monetary Fund (IMF), in its "Fiscal Transparency Manual" (FTM) of 2007, considers these rules as best practices with respect to fiscal transparency.

Regulated at the federal level by presidential decree no 93.872 of 1986, the law unifies the National Treasury's cash resources: All revenues and expenditures must pass through the "Single Account". Both the law and decree present concepts and rules on public debt (see Sections 2.2 and 2.4).

2.1.2 Complementary Law nº 101 of 2000

Known as Fiscal Responsibility Law (LRF), this law established rules to ensure responsible fiscal management. It is supported by the federal Constitution (Article 163) and applies to all levels of government (Article 1). It did not replace federal Law no 4,320 but changed some aspects, such as the concept of

[4] Article 24, I and II, and paragraph 1.

[5] These laws on the public debt regulatory framework apply to all entities of the Federation. However, there are specific laws at the federal level: Law no 10.179 of 2001, which addresses public debt securities under the National Treasury, and the Decree no 1.312 of 1974, which provides the legal framework for federal external bond issuances.

consolidated debt (see Section 2.2). It includes an entire chapter on the debt, including rules and penalties of a fiscal nature (see Section2.4).

Federal law no 10,028 of 2000, called the Law of Fiscal Crimes, changed features of three previous laws: (a) the Criminal Code[6], including a chapter called "Crimes against Public Finances;" (b) the Law no 1,079 of 1950, which defined the crimes for which the President and governors are responsible; and (c) the Decree Law no 201 of 1967, which defined the responsibility of mayors, incorporating a set of penalties (criminal punishments) for non-compliance with the LRF provisions, particularly those related to public sector indebtedness.

In general, the penalties are as follows:

Table 1. Penalties related to public debt management

Fiscal penalties	Criminal penalties	Political penalties
Source: LRF	Source: Law no 10,028 of 2000	Source: Federal Constitution
Suspension of voluntary transfers*. Prohibition against entering credit operation contracts. Attainment of fiscal targets.	Detention, loss of mandate and job, prohibition from holding public office for up to five years. Monetary penalties for administrative violations (30% of annual salary).	Federal intervention in a state or state intervention in a municipality.

* Except for those allocated for health, education and social assistance.

Sub-section 2.4 presents the violations associated with these penalties. Beyond them, public debt managers may be ineligible for any political post or be constrained by administrative penalties and ethical admonitions (see Section 2.3.2).

2.1.3 Federal Budgetary Guidelines Laws (LDOs) and Annual Budgetary Laws (LOAs)

The LDOs and the LOAs are ordinary laws, written on an annual basis, that apply to each member of the Federation. According to the Federal Constitution, the LDOs provide targets and priorities for the federal public administration and elaborate the Annual Budgetary Law.

The LDOs, which set rules for creating and executing the budget, and the LOAs, which contain the annual budget, are constitutionally supported by Article 165; they coordinate the functions and timing of macroeconomic decision-making and microeconomic allocations. Such coordination is crucial if the allocation system is to be integrated with fiscal targets and public debt management.

The LRF incorporated new aspects to the LDOs, particularly provisions related to planning and fiscal transparency (see Section 2.4.2.1).

2.2 Conceptual frameworks for public debt

The conceptual frameworks for public debt, provided in the above laws, can be divided into three categories pertain to: (a) stock concepts (public debt); (b) flow concepts (credit operations); and (c) potential debt-generating acts (granting of guarantees).

[6] Decree law no 2,848 of 1940.

2.2.1 Legal concept of public debt

According to the Presidential Decree no 93,872 of 1986, which regulates Law no 4,320 of 1964, the public debt includes floating (unfunded) debt and funded/consolidated debt (Article 115). Law no 4.320, along with the LRF, presents the concepts of floating and funded debt.

Floating debt can have two main sources:

Table 2. Floating debt

Obligations derived from expenditures in the annual budget	
Outstanding commitments (generally with public debt suppliers)	Outstanding debt services (interest and amortization)
Obligations derived from revenues not pertaining to the public sector*	
Deposits	Cash flow (Treasury) debt

*The money base is also classified as floating debt and is subject to provisions set forth by the National Monetary Council, according to norms established by Law no 4,595 of 1964, on regulating the national financial system.

Outstanding commitments are financial obligations related to budget expenditures and debt service already settled, but not paid by December 31 of each financial year,[7] along with interest and amortization on the public debt (Article 67).

Deposits are financial obligations related to amounts received by the public sector (including the judicial branch), as well as pledges in cash that, in principle, must be returned, after the occurrence of the contingent event.

Treasury debt involves financial obligations related to credit operations that anticipate budgetary revenues, called ARO. It should be noted that the LRF established rules for outstanding commitments and treasury debt, as part of the floating debt (see Section 2.4).

Funded debts are liabilities whose payment depends on appropriations in the Annual Budgetary Law. The original concept was in federal law no 4,320, which established that this debt included securities with maturities of over 12 months, which were assumed in order to address budget or financial imbalances related to public works and services (Article 98).

However, the LRF also began to include in this category credit operations with amortization in less than 12 months, whose revenues were included in the budget. Thus, the concept of public consolidated or funded debt became much broader, not only with regard to its component elements, but also maturities, which may be short or long term.

Table 3. Consolidated or funded debt (LRF, Article 29)

This refers to the total amount, determined without double accounting, of financial liabilities assumed by a member of the federation, according to laws, contracts, agreements or treaties, generated by credit operations and scheduled for amortization over a 12-month period.
It also includes credit operations with amortization in less than 12 months, whose revenue is included in the budget.

[7] Outstanding commitments are legally pledged expenditures, not eliminated and not paid in the same fiscal year, which must be covered during the following year. The increase in such commitments compromises future revenues and creates difficulties for financial management in the following year.

Funded or consolidated debt can be external or domestic and, according to the LRF, is subject to rules and limits defined by the Federal Senate (see Section 2.4).

Presidential Decree no 93,872 of 1986 (Article 115) stipulated that funded debt can be (a) contractual debt - financial liabilities assumed through contracts, treaties or similar instruments, and (b) securities debt - obligations assumed through public bonds issuances. In the latter case, the LRF (Article 29) presents the concept of public securities debt as that represented by securities issued by the federal government (including the Central Bank) and all other public entities.

2.2.2 Legal concept of credit operations

The LRF[8] broadened the concept of credit operations to include financial obligations resulting from mutual loans, credit concessions, bond issues, financing for acquisition of goods, anticipated revenue from the sale of goods and services, leasing and similar operations, including the use of financial derivatives. Other operations that imply financing of the public sector, even if not expressly stated here, can also be included in the category of credit operations. Article 29 also establishes that "debt assumption or acknowledgement by the member of the Federation will be equivalent to a credit operation."

According to the Law nº 4,320 of 1964, all credit operations must be specified in the annual budget[9] and contained in demonstrative statements.[10] The Law also sets rules and limits for contracting credit operations.[11] An important credit operation is the "refinancing of public security debt," which consists of bonds issued to pay the debt principal, subject to specific rules and limits.[12]

2.2.3 concept of concession of guarantee

According to LRF,[13] the concession of a guarantee is a commitment to fully honor a financial or contractual obligation assumed by a member of the Federation or its related bodies, being also subject to rules and limits.[14] Although it constitutes a public sector contingent liability, a conceded guarantee is not yet a liquid debt.

2.3 Responsibilities of public agents

The Federal Constitution defines the responsibilities of the Executive, Legislative and Judiciary branches at all levels of government with respect to fiscal issues and the public debt; these are consistent with the IMF's provisions on fiscal transparency, based on an evaluation it conducted in Brazil (IMF, 2001). The ethical standards for civil servants, particularly those referring to Federal Public Debt managers, are public and transparent, as required by the IMF in its Fiscal Transparency Manual (FTM), 2007 (item 4.2.1), and based on its 2001 evaluation.

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[8] Article 29.
[9] As provided in Law no 4,320 of 1964.
[10] According to LRF. For more details, see subsection 2.4.2.
[11] See subsection 2.4.1.
[12] See Section 2.4.
[13] Article 29.
[14] See Section 2.4.

Finally, according to the World Bank,[15] good governance requires that laws should identify the authorities that may contract or issue new debt, as well as the process of public debt management. Based on the evaluations, Brazil has adopted the management and governance best practices that are promoted by the international organizations.

2.3.1 The legislative branch

The following box lists the Senate's responsibilities in public debt matters, according to Article 52 of the Federal Constitution:

Table 4. Roles of the Federal Senate

Public debt	Credit operations	Guarantees
Funded debt To set global limits for the amount of funded debt, as proposed by the President, for all levels of government.	**Domestic and external credit operations** To set global limits/conditions for external and domestic credit operations for all levels of government	**Concessions of guarantees** To set limits/conditions for guarantees offered in external and domestic credit operations for the federal government
Public security debt To set global limits/conditions for the amount of the security debt for states, the Federal District and municipalities	**External credit operations** To authorize external financial operations for all levels of government	

The Federal Senate approved Resolutions no 40 and no 43 of 2001, which set global limits for the amount of funded public debt and public security debt of the Federal District, states and municipalities, as well for domestic and external credit operations and guarantees to be conceded by the members of the Federation.

These provisions are reproduced in state constitutions and municipal organic laws (constitutions), and allow the legislative branches of the various government levels to determine such matters.

The Federal Court of Accounts,[16] which is part of the Legislative branch, performs external audits of public administration, and is constitutionally mandated to audit public debt operations (see Section 3).

2.3.2 The executive branch

At the federal level, Law no 10,683 of 2003, provides for the organization of the Presidency and the ministries:[17] It is responsibility of the Ministry of Finance (MF) to manage the federal Government's domestic and external public debts. Moreover, the LRF states that the MF must verify compliance with the limits/conditions related to credit operations carried out by each Federation member.

[15] "Managing Public Debt: From Diagnostics to Reform Implementation".
[16] The Federal Court of Audit (TCU) is Brazil's supreme audit institution (SAI).
[17] This law deals with the organization of president Lula da Silva's administration, while earlier laws already regulated the role of

Law 10,683 was regulated by federal decree no 6,102 of 2007, which approved the internal structure of the MF, stipulating that the National Treasury Secretariat (STN)[18] would manage the public domestic and external debt, directly or indirectly under the federal government, as well verify aspects related to credit operations.

The MF Administrative Act no 183 of 2003 stipulates that the National Treasury will handle securities' operations and the STN Administrative Act no 410 of 2003 defines the rules for public security auctions.

The STN/MF has a key role in managing the domestic and External Federal Public Debt (EFPD), although for many years the role was shared with the Central Bank (CB). Until 2004, the CB was the National Treasury's agent for issuing bonds abroad, but the task was transferred to the Treasury in January 2005, when the latter began to centralize all actions with respect to the federal external debt. With regard to domestic debt, the STN (since it was created in 1986) has been issuing securities for fiscal policy purposes, while the CB remained responsible for issuing securities to conduct monetary policy. However, Article 34 of the LRF prohibited the CB from issuing its own securities; instead, it must use the Treasury securities in its portfolio to carry out its tasks. The law also provided for the transfer of the positive six-monthly balance from the CB to the Treasury, as well as its payment, when negative, by issuing securities for the monetary authority.

Managers of the federal executive branch are bound by the Code of Public Ethics[19] that penalizes wrongdoings by admonitions or dismissals, as well as with specific penalties for failing to comply with the LRF provisions (see Section 2.4) Also, top managers (ministers or secretaries) are bound by the Code of Conduct of the High Federal Administration, which provides for admonition and ethical censorship depending on the gravity of the violation.

The STN also issued a Code of Professional Conduct Ethics and Standards for its staff,[20] which provides restrictions for acquiring and selling stocks, securities or other financial products issued by federal state-owned companies or Federal Public Debt securities. These restrictions include the following: Staff must sell their assets in time frames of not less than 12 months from the date they were bought, make purchases up until the fifth working day of each month and buy only one purchase per asset per month. Failure to comply with the restrictions can lead to legal sanctions.

Besides these penalties, public servants who are convicted criminally as a last judicial resort, for crimes against the economy, public administration and public assets, and whose accounts related to the exercise of public positions or offices have been rejected by the Courts of Audit for irreparable irregularities, will not be eligible for elected positions.[21]

Finally, the Constitution requires there be an internal control agency in the executive branch (a kind of internal audit) to oversee credit operations, endorsements and guarantees, as well as the rights and assets of the federal government, thereby offering another level of enforcement. Federal Law no 10,180 of 2001

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the MF (with regard to public debt management). In each administration, a similar law provides for the form of organization of the federal executive branch. In the previous administration of president Fernando Henrique Cardoso, this provision was regulated by federal law no 9,649 of 1998.

[18] The National Treasury Secretariat (STN) was created by federal decree no 92,452 of 1986. Its responsibilities for managing the domestic public security debt and external debt were assigned by federal decree no 1,745 of 1995; these provisions were maintained in subsequent decrees. Currently, decree no 6,764 of October 2009 regulates the STN.

[19] Law no 8,027 of 1990.

[20] Approved in STN administrative act nº 27 of 2008. The *Code of Ethics for National Treasury staff* who work in the public debt department was originally approved in STN administrative act no 44 of 2001. This was replaced by STN administrative act no 602 of 2005, which imposed even stricter standards of conduct. The current instrument (STN administrative order no 27 of 2008) reinforces the requirements and extends the code to all Secretariat staff.

[21] Complementary law n. 64 of 1990.

assigned these functions to the Office of the Comptroller General (CGU). Government audits of the public debt are described in Section 3.

2.4 Rules for public sector indebtedness

According to the World Bank,[22] rules for indebtedness constitute good management practices. In this regard, the IMF's 2001 evaluation of the central government's finances found the rules, etc. to be detailed, comprehensive and readily available, as required by FTM 2007.[23]

2.4.1 Conditions, prohibitions, limits and penalties

The rules on conditions, prohibitions, limits and penalties can be divided into those for stock formation (public debt), contracting of credit operations (flows) and concessions of guarantees.

2.4.1.1 Rules for stock formation

The laws contain rules for floating debt (outstanding commitments) and funded/consolidated debt which are presented in the LRF and in Senate Resolutions no 40 and no 43 of 2001.

Regarding the floating debt, the LRF prevents the so-called "fiscal legacy," which is the transfer of debt with public service suppliers from one administration to the next. Under LRF, the limit of this debt is the cash available at the Executive branch or Legislative and Judicial branch agencies of each member of the Federation.

Table 5. Limit of floating debt (to all levels of government and their branches)

Rule (LRF)
Government entities are prohibited from entering into contractual obligations (expenditures) during the last eight months of their terms that cannot be fully paid within the term or have installments to be paid in the following fiscal period without enough cash available.
Verification of compliance (LRF)
Compliance with the limit will be verified at the end of the last fiscal year of the term of office.
Verification of compliance (LRF)
Crimes include (a) registering non-pledged expenditures as floating debt (authorizing expenditures that exceed the legal limit) and (b) failing to cancel such debt registered above the legal limit.

Floating debts need to be regulated to prevent them from being converted into funded or consolidated debts, as occurred with those associated with service providers to the National Social Security Institute (INSS), and required the government to issue public securities (by means of Law no 11,051 of 2004).

The LRF stipulated that 90 days after its publication, the President should send to the Senate a proposal limiting the consolidated debt of the three levels of government and to the National Congress a bill limiting the Federal Public Debt. The proposals refer to debt as a percentage of net current revenues (RCL)[24] and have become the cap for indebtedness. Until now, only the proposals sent to the Federal Senate have been passed.[25]

[22] "Managing Public Debt: From Diagnostics to Implementing Reforms," (Chapter 5).
[23] Items 3.1 and 3.2.

Table 6. Limits for net funded or consolidated debt (Federal Senate resolution nº 40, of 2001)

Federal government	States/DF*	Municipalities*
Debt may not exceed 350% of the RCL.	At the end of 15 years (2002-2017), debt may not exceed 200% of the RCL.	At the end of 15 years (2002-2017), debt may not exceed 120% of RCL.

*For the states and municipalities, the difference between the percentage in 2002 and the limit must be reduced at the ratio of 1/15 per year. If the limit is reached before the established deadline, it must be followed.

Compliance with the limits[26] must be verified at the end of each four-month period, although municipalities with populations under 50,000 may verify the numbers every six months. If the Federation members do not comply, the legal system pursues enforcement mechanisms that include the following:

Table 7. Mechanisms for enforcing limits for net funded/consolidated debt (to all levels of government)

Rule of debt reduction to the established limits (LRF and Senate Resolution no 40 of 2001)
If the consolidated debt exceeds the limit at the end of a 4-month period, it must comply by the end of the next three periods, with a minimum of 25% reduction in the first period.
Penalties
I - Fiscal penalties (LRF and Resolution no 40) Once the excess is verified, the member that violates the limit is: **a)** prohibited from contracting internal or external credit operations, including ARO, except to refinance the debt principal and **b)** required to obtain the balance needed to reduce the debt to the limit, restricting funding commitments, among other measures. These restrictions apply immediately if the amount of debt exceeds the limit during the first four-month period of the President's last year. Once the period for reducing the debt has ended, and if the excess persists, the member will also be prohibited from receiving voluntary transfers from the federal government or the states.
II - Criminal penalties or administrative infringements (federal law no 10,028 of 2000) The offense is considered a crime when the member has not ordered the excess debt to be reduced within the time set by the Federal Senate. The penalty is detention of three months to three years (for mayors) and/or loss of public office for up to five years (for mayors, governors and the President). These penalties do not exclude the possibility of trial and conviction for common crime. The offense is considered an infringement when the member does not meet the primary balance needed to reduce the debt to the established limit. The penalty is a fine of 30% of the annual income for the agent responsible. The infringement is determined by the Court of Accounts responsible for enforcement.

[24] The net current revenue (RCL) is the sum of revenues from taxes, contributions, assets, the industrial, farming and service sectors, current transfers and other current revenues, minus the amounts of funds transferred to other entities of the Federation (by constitutional or legal enforcement) and to civil servants' social security funds.

[25] Senate resolutions no 40 and no 43 of 2001.

[26] According to the LRF and senate resolution no 40 of 2001.

III - Political punishments (Federal Constitution, Articles 34 and 35) The federal government intervenes in the state or Federal District to reorganize the finances if either suspends payment of the funded debt for two consecutive years, except in case of force majeure. The states intervene in municipalities that suspend payment of the funded debt for two consecutive years, except in case of force majeure.
Social controls (LRF, Article 31)
The Ministry of Finance must disclose each month the list of members that exceed the limits of consolidated and public debt.

The LRF also allows the President to ask the Federal Senate or National Congress to review the limits when economic conditions change, either due to instability or changes in monetary or exchange rate policies.

2.4.1.2 Rules on flow: credit operations and refinancing the public debt

The rules for credit operations are based on legal and Constitutional requirements; the LRF sets the conditions for contracting them. These include: (a) authorization in the Annual Budgetary Law; (b) provisions in the Federal Senate's Resolutions no 40 and no 43 of 2001; (c) specific authorization from the Federal Senate (for external operations); and (d) compliance with the limit imposed by the *golden rule*.

The *golden rule*, as defined in the Federal Constitution, prohibits credit operations that exceed the sum of capital expenditures in the fiscal year.[27] The LRF enforces this by establishing that all resources obtained through credit operations and capital expenditures executed during the fiscal year must be considered. Also, Article 30 of the LRF states that the Federal Senate should set yearly limits for credit operations[28] (flows) for all levels of government.

Table 8. Limits for credit operations (Federal Senate resolutions nº 43, of 2001, and nº 48, of 2007)

Federal government	States, Federal District and municipalities
I - Credit operations	
60% of the RCL for contracting credit operations* per fiscal year.	16% of the RCL for contracting credit operations* per year; 11.5% of the RCL for servicing the debt (interest and amortization) per year.
II - Credit operations for anticipated budget revenues– ARO	
Still not regulated.	The outstanding debt may not exceed 7% of the RCL in the fiscal period.

* Except credit operations carried out to amortize the public debt that matures in the fiscal year.

[27] Except those authorized by the Legislature by absolute majority, and with a precise purpose.

[28] The concept of credit operations for compliance with the "golden rule" is not the same as that which applies to the new limit for (gross and net) debt to net current revenue - RCL, created by the LRF. While the former is restricted to operations that generate revenues, the latter adds to them the financial obligations connected to mutual loans, credit concessions, bond issuances, financing for acquisition of goods, anticipated revenues from the forward sale of goods and services, leasing and similar operations, including the use of financial derivatives (Article 29 of the LRF).

Compliance with limits must be verified at the end of each four-month period. Municipalities with a population of less than 50,000 may verify compliance every six months.

Credit operations through anticipated budget revenues (AROs) are conducted to meet cash shortfalls during the fiscal year and must comply with the limits. These operations may only be conducted from the tenth day of the following year and must be settled, including the payment of interest and other charges, by December 10 of the same year. Also, new operations may not be carried out until previous ones of the same nature are fully paid, as well as in the last year of the term of office of the President, governor or mayor (LRF, Article 38).

Credit operations are also bound by the following prohibitions:

Table 9. Prohibition of credit operations

Between members of the federation (LRF)**,* state financial institutions and their controllers** (LRF)* **and federation members and the Central Bank** (Federal Constitution and LRF)
Article 164 of the Constitution: a) The Central Bank may not grant loans (directly or indirectly) to the National Treasury and any agency or organization that is not a financial institution; b) The Central Bank may buy and sell National Treasury securities to regulate the money supply or the interest rate. **LRF, Articles 35 and 39:** a) Credit operations between the Central Bank and federal government are forbidden; b) The Central Bank may not issue public debt securities; c) The Central Bank may only buy federal government securities to refinance upcoming federal security debt maturing in its portfolio; d) The federal government (through the National Treasury) may not acquire federal debt instruments in the Central Bank's portfolio unless the operation aims to reduce the securities' debt.
Operations with suppliers (LRF)
The Federation member may not assume direct commitments, confession of indebtedness or similar operations with a supplier of goods, merchandise or services, by issuing, accepting or endorsing credit instruments, or without budgetary authorization for payment in the future.

* However, states and municipalities may acquire federal debt securities for investment purposes, and state financial institutions may acquire public debt securities to meet their clients' investment needs (LRF, Articles 35 and 36)

If federation members do not comply with these conditions, the legal system has a set of enforcement mechanisms, including:

Table 10. Penalties with regard to credit operations and refinancing of the public debt (for all levels of government)

I - Fiscal penalties (LRF and Resolution no 40 of 2001)
Federation members that do not comply with the limits (a) may not conduct internal or external credit operations, including ARO, except to refinance the principal of the public debt and (b) must obtain the primary balance required to scale down the debt to the limit, restricting funding commitments, among other measures.

II - Criminal penalties (federal law no 10,028 of 2000)
II.1 - Credit operations a) If mayors, governors or the President order, authorize or conduct credit operations prohibited by the LRF and Senate resolutions, they may be subject to prison sentences of one to two years and/or loss of office and being banned from public office for up to five years. These penalties do not exclude the possibility of trial and conviction on criminal charges. b) If mayors, governors and the President order or authorize the allocation of resources by issuing securities for a purpose other than those stipulated by law, they may be detained from three months to three years, may lose their political office and may be banned from public office for up to five years. These penalties do not exclude the possibility of trial and conviction on criminal charges. c) If public servants order, authorize or promote tender offers or place public debt securities in the financial market not allowed by law or without their registration in the central system of clearance and settlement, the penalty is a prison sentence of one to four years. II.2 - Credit operations by ARO If mayors contract or redeem ARO that are not legally permitted, they may be detained from three months to three years and/or lose their political positions and eligibility for public office for up to five years. These penalties do not exclude the possibility of trial and conviction on criminal charges.

2.4.1.3 Concessions of guarantees

A member of the Federation may concede guarantees in internal or external credit operations carried out by other members. The guarantee is conditioned by the provision of a counter-guarantee by the beneficiary member of the credit operation in an amount equal to or higher than the guarantee provided, as well as by the absence of overdue obligations from the requesting member to the guarantor and its controlled companies.

According to Senate resolution no 43, the concession of new guarantees requires the member of the federation to observe the limit of 22% of its RCL for the global balance of its conceded guarantees. Any guarantee above that limit will be considered null.[29] Moreover, the member whose debt was paid by the federal government or a state as a result of a guaranteed credit operation may not have access to new credit or financing until the debt is fully liquidated.

Finally, providing guarantees for credit operations without a counter-guarantee in an amount equal to or higher than the original one granted could result in detention of three months to one year.[30]

2.4.2 Planning and fiscal transparency

The LRF defines which documents are needed to ensure transparent fiscal management, which should be widely publicized, including online. These documents include (a) plans, budgets and budgetary guideline laws; (b) rendering of accounts and respective previous reports; (c) a summary budget execution report; and (d) a fiscal management report.

The law seeks greater transparency by encouraging popular participation. This is achieved by the federation member holding public hearings while the plans, Budgetary Guidelines Law and budgets are being devised.

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[29] LRF, article 40.
[30] Federal law no 10,028 of 2000.

2.4.2.1 Budgetary Guideline Laws (LDOs) and Annual Budgetary Laws (LOAs)

According to the LRF, the LDOs must set forth provisions on: (a) the balance between revenues and expenditures; and (b) criteria to limit pledges[31] to be used when the targets for the primary balance are at risk or when the consolidated debt exceeds the legal limit.

The LDOs must also contain appendices on: (a) fiscal targets; (b) fiscal risks; and (c) monetary, credit and exchange-rate policies.

Table 11. LDO appendices (LRF, Article 4)

Fiscal targets
These include: a) annual targets, in current and constant values, for revenues, expenditures, nominal and primary balances and the amount of the public debt for the fiscal year and the next two years; b) evaluations of the degree to which targets were achieved in the previous year; and c) reports detailing the methods used to calculate the results of the annual targets defined in (a), comparing them with those established in the three previous fiscal periods, as well as demonstrating their consistency with the assumptions and goals of the economic policy.
Fiscal risks
These involve an evaluation of contingent liabilities and other risks that can affect public accounts, and describe the steps to be taken, if the risks arise.
Monetary policy
This appendix describes the goals of monetary, credit and exchange rate policies, with their parameters and projections, for the subsequent fiscal period.

If a public servant proposes an LDO without an Appendix of Fiscal Targets, this constitutes a punishable administrative infringement, pursuant to Federal Law no 10,028 of 2000, with a fine of up to 30% of that person's annual income.

Article 3 of federal law no 4,320 of 1964 states that the Annual Budgetary Law (LOA) should list all revenues, including those from credit operations authorized by specific law. To this end, the LRF stipulates that all expenditures related to the public debt, whether public securities or contractual debt, and corresponding revenues, must also be included and that public debt refinancing operations must be listed (LRF, Article 5).

To calculate limits, the debt service must be separated into interest and updated principal. To this end, the LRF stipulates that the updating must not exceed the price index variation defined in the LDO or specific laws.

In addition to these provisions, the draft of the LOA must be consistent with the Multi-Year Plan (PPA), the Budgetary Guidelines Law (LDO) and the LRF provisions, and must include a statement that the budget program is consistent with the objectives/targets in the Fiscal Targets Appendix of the LDO. The draft law must also present a reserve to meet contingent liabilities and other fiscal risks and unforeseen events; its amount will be defined as a percentage of the net current revenue and its form of use will be determined in the LDO.

[31] First phase of a public expenditure. For more details, see Part II, Chapter 4.

After the year has begun, at the end of every two-month period, the government re-estimates revenues and expenditures for the whole year. If it is thought that revenues may not be sufficient to ensure compliance with the primary or nominal balance targets set in the Fiscal Target Appendix, the federal government must, within the next 30 days, take measures to restrict commitments and financial operations in the required amounts, according to the criteria in the LDO.

Federal budget laws and documents are widely publicized. Information on the federal budget instruments (PPA, LDO and LOA) is available at the Ministry of Planning, Budget and Management website. This was in keeping with best practices for fiscal transparency, as defined by the IMF in FTM 2007, and evaluated by that institution in 2001.

2.4.2.2 Public hearings

As mentioned earlier, the LRF seeks greater transparency by holding public hearings; this is another *best practice* as defined by the IMF in MTF 2007, which recommends public scrutiny of fiscal information. The public hearings include the following:

Table 12. Public hearings, according to LRF (Article 9)

Fiscal targets	Monetary, credit and exchange rate targets
Purpose	
Evaluation of compliance with fiscal targets.	Evaluation of compliance with the objectives and targets of monetary, credit and currency policies (demonstrating the fiscal impact and cost of operations and the results in the balance sheets).
When	
Every four months, at the end of May, September and February (of the following year).	Every semester, 90 days after the close of each semester.
Who is responsible	
Minister of Finance or Secretary of the National Treasury, at the federal level.*	President of the Central Bank.
For whom	
The National Congress Joint Budget Commission.*	Commissions of the National Congress.

* Or similar actors in the states, Federal District and municipalities.

2.4.2.3 Accounting, rendering of accounts and fiscal reports

The LRF ensures transparency by publishing accounts and fiscal reports. Under federal law no 4.320 of 1964, floating and funded debt must be recorded, and the latter must be done in a manner that allows the loan positions, amortization and interest to be verified at any time.

Also, the LRF states that, besides conforming with general public accounting standards, public accounts must record credit operations, outstanding commitments and other forms of financing with third parties in a way that demonstrates the amount and variation of the public debt in the period, detailing, at the least, the nature and type of creditor.

The bookkeeping accounting standards apply to all Federation members and refer to the consolidation and presentation of their accounts electronically. Standards will be issued by the Fiscal Management Council, a body recommended by the LRF, but not yet implemented. Until this occurs, pursuant to Article 50 of the LRF, the National Treasury (the central agency of the Federal Accounting System) may assume these tasks. Regarding this issue, in March 2009, the STN approved the First Edition of the Plan of Accounts Applied to the Public Sector, to be used by all levels of government.

The Ministry of Finance[32] determined that the STN should make Brazil's public accounting methods consistent with those of the International Accounting Standards published by the International Federation of Accountants (IFAC) and the Brazilian Accounting Standards applied to the Public Sector, edited by the Federal Accounting Board (CFC), based on Brazilian law.

Similarly, an Inter-Ministerial Administrative Act[33] re-instituted the working group created by a previous law[34] to evaluate and implement a new public finance statistics methodology, under the framework of the Government Finance Statistics Manual-2001 (GT GFSM-2001).

The bookkeeping standards draw on the balance sheets and other accounting statements used by all levels of government. The President's accounts must be sent to the National Congress within 60 days after the opening of the legislative session (until April 2 of each year), then forwarded to the Federal Court of Accounts for issuance of a opinion on its regularity, and then returned to the Congress for approval or rejection. This process is considered another best practice of fiscal transparency, as defined by the IMF.

Based on bookkeeping accounting standards, a summarized budget execution report and fiscal management report are issued by the executive of each level of government.

Table 13. Fiscal reports with information on public debt management

Summarized budget execution report (LRF, Articles 52 and 53)	**Fiscal management report** (LRF, Articles 54 and 55)
Composition	
This will include statements on: a) Revenues from credit operations and expenditures associated with debt payment which show the amounts related to refinancing of securities; b) Nominal and primary balances; c) Outstanding commitments; d) Compliance with the golden rule.	The report will include comparisons on: a) Consolidated and securities debt, with their limits; b) Stock of guarantees conceded with their limits; c) Credit operations, with their limits; d) Outstanding commitments with cash availability to pay them.
Publication	
Bi-monthly.	Every four months, at the end of May, September and January (of the following year*).
Who is responsible	
Minister of Finance or Secretary of the National Treasury.**	President of the Republic, Minister of Finance or Secretary of the National Treasury and the Federal General Comptroller.**

[32] By MF administrative act no 184 of 2008.

[33] Act no 263 of 2008, signed by the representatives of the Ministry of Finance, Ministry of Planning and the Central Bank.

[34] Inter-ministerial administrative act no 90, of 2007.

Penalties
I - Fiscal penalties: Failure to comply with the deadlines will prevent the Federation member from receiving voluntary transfers and conducting credit operations, except those intended to refinance the updated principal of the securities debt,*** until the situation is corrected.
II - Criminal penalty: none.
III - Administrative penalty: If the public servant does not publicize or send the fiscal management report to the Court of Audit within the deadlines and conditions established in law, the penalty is a fine equal to 30% of the annual income for the agent responsible.

* Municipalities with a population of less 50,000 may verify compliance once every six months.
** Or similar ones in the states, Federal District and municipalities.
*** Except for the federal government.

Beyond these actions, the Ministry of Finance will centralize and update the records of the domestic and external public debt, ensuring public access to the information, including: (a) charges and conditions of the contracts and (b) updated balances and limits related to the consolidated and securities debt, credit operations and concessions of guarantees.

Based on these provisions, the IMF determined that Brazil acquired a high degree of fiscal transparency, coupled with significant advances in the management of its public finances (IMF, 2001). The IMF also considers that, as a fiscal transparency requirement, public finances must be scrutinized by a national audit agency independent of the Executive. The following section reviews government audits in Brazil's regulatory system.

3 Government audits of the public debt

Government audits are critical to the regulatory system as they detect non-compliance with standards and violations of norms, thereby contributing significantly to enforcing the laws.

This section includes (a) the conceptual aspects of government audits and (b) an analysis of the institutions that perform them, focusing on aspects associated with their independence and objectivity, as well as their mandate to audit the public debt.

3.1 Conceptual aspects of government audits

Although most of the concepts adopted in government audits also apply to the private sector, their use within government involves some unique aspects. Three organizations issue standards for public sector audits: the International Organization of Supreme Audit Institutions (INTOSAI), the Institute of Internal Auditors (IIA), which issues International Standards for the Professional Practice of Internal Auditing), and the IFAC (International Federation of Accountants), which issues the International Standards on Auditing (ISA).

General auditing standards describe the qualifications that auditors and their institutions need to perform their work and present their conclusions in an efficient manner.

A standard common to all auditors and government Supreme Audit Institutions (SAI) is that they must be independent and experienced. INTOSAI published and distributed the document *The Lima Declaration of Guidelines on Auditing Precepts*, which states that:

> The concept and establishment of an audit is inherent in public financial administration as the management of public funds represents a trust. An audit is not an end in itself but an indispensable part of a regulatory system whose aim is to reveal deviations from accepted standards and violations of the principles of legality, efficiency, effectiveness and economy of financial management early enough to make it possible to take corrective action in individual cases, to make those accountable accept responsibility, to obtain compensation, or to take steps to prevent - or at least render more difficult - such breaches.

The same declaration distinguishes between internal and external auditing services:

> Internal audit services are established within government departments and institutions, whereas external audit services are not part of the organizational structure of the institutions to be audited. Supreme Audit Institutions are external audit services.
>
> Internal audit services necessarily are subordinate to the head of the department within which they have been established. Nevertheless, they shall be functionally and organizationally independent as far as possible within their respective constitutional framework.
>
> As the external auditor, the Supreme Audit Institution (SAI) has the task of examining the effectiveness of internal audits. If these are judged to be effective, efforts shall be made, without prejudice to the right of the Supreme Audit Institution, to carry out an overall audit, to achieve the most appropriate division or assignment of tasks and cooperation between the Supreme Audit Institution and internal audit.

The Lima Declaration, amended by the Mexico statement of 2007, explains the relationship between the audit institutions and each country's parliament, government and managers. It notes that the SAIs' autonomy must be assured in each country's constitution.[35]

With regard to the relationship between the government and its managers, the Declaration states that the SAIs audit the government, its administrative authorities and related organizations, but that the government is not hierarchically under the SAIs.

With regard to internal audits made by a department within a Federation unit that is subordinate to its highest authority, the Institute of Internal Auditors (IIA) - a US organization responsible for issuing professional standards for the audit area - declares that:

> Internal audit is a department, division, team of consultants or other practitioner(s) that provides independent, objective assurance and consulting services designed to add value and improve an organization's operations. The internal audit activity helps an organization accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of governance, risk management and control of processes.

The evaluation and improvement of risk management, controls and governance processes constitute the framework described as "internal controls," as defined by the Committee of Sponsoring Organizations (COSO), a US non-profit organization dedicated to improving financial reports. COSO notes that internal control is a process developed to guarantee, with reasonable certainty, that the objectives of an organization will be achieved in the following categories:

a) **Performance or strategy** (operational efficiency and effectiveness). This category is related to the organization's basic aims;

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[35] This autonomy is required even when they act as agents of the Congress and conduct audits at its request, as in Brazil.

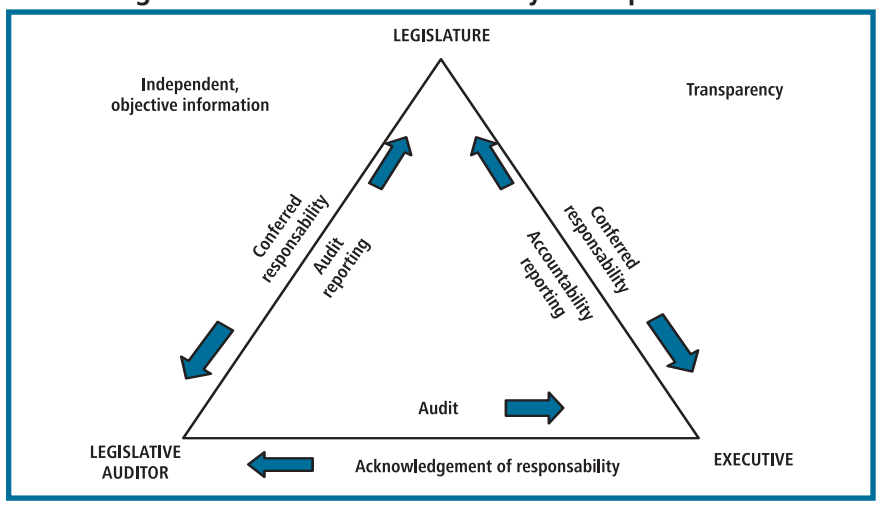
b) **Information** (confidence in the accounting/financial records). All transactions must be recorded and all records must reflect real transactions, classified by their correct values and categories;

c) **Compliance** with laws and instruments associated with the organization and its activities.

With regard to the government, auditors are independent actors in their relationship with the delegating party (e.g. National Congress, President or minister) and the public manager: The former delegates responsibility to the public manager to oversee public resources just as it delegates responsibility for the auditor to review the managers and produce reports or their efforts.

Thus, where dysfunction and deviations are observed, this should help managers and auditors in such a way that the former are alerted and helped to identify the problems, and when possible, resolve them, as well as to make the corrections and improvements needed to achieve the best results.

Diagram 2. Process of accountability in the public sector



Source: Ifac (2001)

3.2 Government audit institutions

3.2.1 Characteristics of Brazil's institutions

The Supreme Audit Institutions (SAIs) evolved to address two concerns: (a) the management of public resources and (b) limitations on the Executive.[36]

With respect to managing public resources, the task originates in the managerial units, which results in most SAIs being placed within the Executive branch (audit units). With regard to limitations on the Executive powers, the task originates in the Legislature, which results in the creation of specialized institutions (courts) for performing the oversight tasks.

Brazil's audit institutions include various organizations that perform at different levels in the federal context. They are:

[36] Bugarin et al., 2003; Vieira, 2005.

Table 14. Brazilian government audit institutions

	Federal government	State and Federal District	Municipalities
External control agencies	Federal Audit Courts (TCU)	Audit courts of these subdivisions	Audit Courts*
Internal control agencies	Federal Office of the Comptroller General (CGU) and sectoral agencies of the Executive, Legislative and Judicial branches	Internal control agencies of the Executive, Legislative and Judicial branches of the states or Federal District	Internal control agencies

* Only in the municipalities of São Paulo and Rio de Janeiro. In other municipalities, audits are performed by the state accounts' courts.

To comply with the IMF fiscal transparency requirements,[37] government finances and activities are audited internally. The Federal Office of the Comptroller General (CGU) carries out government audits with regard to the Federal Executive branch.

At the federal level, entities of the indirect administration (e.g. foundations and institutes)[38] have internal audit units. Public companies and public and private joint stock companies have fiscal councils and are audited by independent audit firms, beyond CGU and TCU.

External controls are efficient if the audit courts are independent from the audited agency, politically neutral and cannot be influenced by external sources. They must respond to the law rather than instructions from the entities audited, except to comply with decisions from higher courts (Portuguese Language Courts of Audit, 2007).

In Brazil, the 1988 Federal Constitution[39] expanded and consolidated the authority of the Federal Audit Court (TCU), giving it greater independence and expanding its scope of activities.[40] As the highest audit institution affiliated with INTOSAI, TCU is strong and independent and complies with international best practices.

3.2.2 Institutions and government audits

As mentioned earlier, the TCU has both a constitutional[41] and legal mandate[42] to audit the management of the Federal Public Debt, with a wide scope, as expanded by the LRF. These audits verify compliance (with norms and regulations) or performance (public debt managers' efficiency and effectiveness, and the attainment of targets). State and municipal audit courts also perform these functions with respect to the subdivisions' management of their public debt.

As noted earlier,[43] the TCU must audit the President's accounting statements annually, within 60 days of receiving them; these include information on public debt management (PDM). The assessments are then sent to the National Congress.

[37] Item 4.2.5 of FTM 2007.
[38] As the Social Security Institute.
[39] Articles 70 to 73.
[40] See Appendix I for a brief evaluation of the TCU.
[41] Federal Constitution, Article 71.
[42] Federal law no 8.443 of 1992.
[43] In subsection 2.4.2.3.

Also, other specific audits can be conducted. For example, from 2003 and 2007, they included the following:

Table 15. TCU evaluations of public debt management

2003	**Compliance audit** Evaluation of reliability and verification of above-the-line (revenues and expenditures flows) fiscal results.
2005	**Compliance audit** • Evaluation of reliability and verification of below-the-line (assets and liabilities, stock variations) fiscal results. • Evaluation of reliability and accuracy of contingent liabilities.
2005	**Performance audit** Evaluation of the National Treasury's management of assets and public debt
2005	**Performance audit** Evaluation of the transfer from the Central Bank to the National Treasury of the management of the external public debt.
2006	**Compliance audit** • Verification of the sums published as outstanding public debt in the fiscal management report/LRF. • Verification of the stock of conceded guarantees and credit operation flows, as recorded in the fiscal management report/LRF.
2007	**Compliance audit** Evaluation of the federal government's credit solvency risk with respect to the states of Minas Gerais, Rio Grande do Sul and São Paulo, due to debts that were renegotiated in the 1990s.

In addition to its constitutional and legal mandates, the LRF[44] establishes each branch's audit courts and internal control agencies' mission to enforce fiscal standards, particularly on: (a) achieving fiscal and monetary targets set in the Budgetary Guidelines Law (LDO); (b) monitoring the limits and conditions for credit operations as well as recording of outstanding commitments and (c) checking the steps taken to return consolidated and securities debt to their limits.

Also, the LRF[45] states that audit courts may warn the branches when they find that the consolidated and securities debt, credit operations and guarantees are over 90% of their limits. The audit courts can also prosecute public managers and impose penalties.[46] Government agents who violate the law are fined 30% of their annual income. Payment is the agents' personal responsibility.

The following are examples of violations associated with public debt management:

a) Failure to publicize or send the fiscal management reports to the legislature and audit courts within the time frames and conditions established by law;

[44] Article 59.
[45] Article 59.
[46] Federal Law no 10,028 of 2000.

b) Failure to include fiscal targets in the annual budgetary guidelines law (LDO);

c) Failure to set a limit for pledges as set by law.

The Federal Audit Court is also responsible for monitoring compliance with the LRF's ban on the Central Bank financing the National Treasury.

4 Conclusion

The chapter examined the regulatory framework for public debt and the government's audit processes. Based on the information released, Brazil's governance processes with respect to audits is consistent with best international practices, as described by organizations such as the World Bank, IMF and the International Organization of Supreme Audit Institutions (INTOSAI).

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Appendix 1

Table 16. Evaluation of the TCU with respect to the Lima Declaration of INTOSAI

I - Independence	
I.1 - The SAIs	
INTOSAI	The degree of their independence is determined by the Constitution; concrete aspects may be regulated by means of law. The SAIs need legal protection, guaranteed by a Supreme Court, to protect against interference with respect to carrying out their functions.
TCU	Its independence is mandated by the Federal Constitution, regulated by Federal Law no 8,433 of 1992 (Organic Law of the TCU), and protected by the Supreme Federal Court. The Constitution guarantees the independence of SAI members.
I.2 - Members and staff of the SAIs	
INTOSAI	The Constitution guarantees the independence of SAI members.
TCU	The Constitution guarantees independence to TCU members, which have the same prerogatives, prohibitions, income and advantages as Supreme Court members.
INTOSAI	SAI staff must be completely independent from the agencies they audit.
TCU	The Federal Constitution guarantees that the TCU maintains its own staff.
I.3 - Financial independence of the SAIs	
INTOSAI	The SAIs must maintain enough financial resources to develop their work.
TCU	The Constitution guarantees that resources will be transferred to the TCU on the 20th of each month.
II - Relation with the Congress, government and the administration	
II.1 - With Parliament	
INTOSAI	The Constitution regulates relations between the SAIs and Congress according to the circumstances and needs of each country.
TCU	The Constitution notes that the TCU may conduct audits at Congress's request. The TCU organic law regulates this possibility.
II.2 - With the government and administration	
INTOSAI	Government activities, its administrative authorities and other institutions are controlled by the SAIs.
TCU	The TCU, an external control agency, is under Brazil's Legislature.
II.3 - Reports to the Congress and society	
INTOSAI	As required by the Constitution, the SAIs must present annual reports to the Congress or state agencies on the results of their activities, and publish them for the public.
TCU	As required by the Constitution, the TCU must forward to the Congress annual and quarterly reports of its activities, and publish them on its website.

III - SAI functions	
III.1 - Basic functions	
INTOSAI	The basic SAIs' control functions are mandated in the Constitution and the details may be regulated by law.
TCU	The basic functions are mandated in the 1988 Constitution and others are in Federal Law no 8,443 of 1992 (Organic Law of the TCU).
III.2 - Control over government activity	
INTOSAI	All government activity is under the SAIs' control, regardless of whether it is included in the general budget.
TCU	The Constitution states that the TCU should control all public resources; the TCU's Organic Law provides for control of budgetary and non-budgetary resources.
IV - SAI powers	
IV.1 - Investigative tasks	
INTOSAI	The SAIs must have access to all documents related to the audited agencies' operations and may request any reports they consider necessary.
TCU	The Constitution guarantees the TCU access to all information, except that which is protected by fiscal or banking secrecy. The Organic Law of the TCU regulates this access, clarifying the information permitted and forbidden.
IV.2 - Execution of the SAIs' recommendations/determinations	
INTOSAI	Audited agencies must respond to the SAIs' findings within the time frames generally determined by law.
TCU	The TCU's Organic Law sets deadlines for responding to its requests; failure to respond may result in a fine.

Appendix 2

Table 17. Legal provisions for the public debt

Provision	Norm
I - Public debt	
1 - Components	Federal Law no 4,320 of 1964 (Articles 92 and 98), Federal Decree no 93.872 of 1986 (Article 115)
1.1 - Floating debt	
1.1.1 - Concept	Federal Law no 4,320 of 1964 (Article 92) and Federal Decree no 93,872 of 1986 (Article 115, paragraph 1º)
1.1.2 - Components	Federal Law no 4,320 of 1964 (Article 92), Federal Decree no 93,872 of 1986 (Article 115, paragraph 1)
1.1.2.1 - Outstanding commitments	
1.1.2.1.1 - Concept	Federal Decree no 93,872 of 1986 (Article 67)
1.1.2.1.2 - Rules and limits	LRF (Article 42)
1.1.2.1.3 - Criminal penalties	Law no 10,028 of 2000 (Decree-Law no 2,848 of 1940, Article 359)
1.1.2.2 - Credit operations through anticipation of budgetary revenues (ARO)	(see Section 1.4)
1.2 - Funded or consolidated debt	
1.2.1 - Concept	LRF (Article 29, I), Senate Resolution no 40 of 2001 (Article 1, paragraph 1, III)
1.2.2 - Components	Federal Decree no 93,872 of 1986 (Article 115, paragraph 2) and, indirectly, LRF (Article 29, I)
1.2.2.1 - Securities debt	
1.2.2.1.1 - Concept	LRF (Article 29, II)
1.2.3 - Rules and limits	Senate Resolution no 40 of 2001 (Article 3)
1.2.4 - Penalties	

Provision	Norm
1.2.4.1 - Fiscal	LRF (Article 51, paragraph 2) and Senate Resolution no 40 of 2001 (Article 5)
1.2.4.2 - Criminal	Law no 10,028 of 2000 (Law no 1,079 of 1950, Article 10, and Decree-Law no 201 of 1967, Articles 1 and 5)
1.2.4.3 - Political	Federal Constitution (Articles 34 and 35)
1.2.5 - Social control	LRF (Article 31, paragraph 4)
II - Credit operations	
1 - Concept	LRF (Article 29, III), Senate Resolution no 43 of 2001 (Article 3)
2 - Typology	
2.1 - Credit operation for refinancing of securities debt	
2.1.1 - Concept	LRF (Article 29, V)
2.2 - Credit operations through anticipation of budget revenues	Law no 4,320 of 1964 (Article 7)
2.2.1 - Rules and limits	LRF (Article 38) and Senate Resolution no 43 of 2001 (Articles 10 and 36)
3 - Criteria and conditions for contracting	LRF (Articles 32 and 33), Senate Resolution no 43 of 2001 (Articles 6 to 20)
3.1 - Golden rule	Federal Constitution (Article 167, III)
4 - Limits	Senate Resolution no 43 of 2001 (Articles 6 and 7)
5 - Vetoes	
5.1 - Operations between members of the Federation	LRF (Article 35)
5.2 - Operations between members of the Federation and the Central Bank	Federal Constitution (Article 164), LRF (Articles 34, 35 and 36) and Senate Resolution no 43 (Article 5)
5.3 - Operations with suppliers	LRF (Article 37)

Provision	Norm
6 - Penalties	
6.1 - Fiscal	LRF (Article 31)
6.2 - Criminal	Law no 10,028 of 2000 (Decree-Law no 2,848 of 1940, Articles 359-A and 359-H; Law no 1,079 of 1950, Article 10, and Decree-Law no 201 of 1967, Article 1)
III - Granting of guarantees	
1 - Concept	LRF (Article 29, IV)
2 - Rules and limits	LRF (Article 38) and Senate Resolution no 43 (Article 7, paragraph 2, Articles 9 and 10)
3 - Penalties	
3.1 - Criminal	Law no 10,028 of 2000 (Decree-Law no 2,848 of 1940, Article 359-E)
IV - Planning and fiscal transparency	
1 - Planning instruments	
1.1 - Budgetary Guidelines Law	Federal Constitution (Article 165)
1.1.1 - Fiscal targets appendix	LRF (Article 4)
1.1.1.1 - Penalty for not publishing	Law no 10,028 of 2000 (Decree-Law no 201 of 1967, Article 1)
1.1.2 - Fiscal risks appendix	LRF(Article 4)
1.1.3 - Monetary policy appendix	LRF (Article 4)
1.2 - Annual Budgetary Law	Federal Constitution (Article 165)
1.2.1 - Credit operations in the budget	Law no 4,320 of 1964 (Article 3) and LRF (Article 5)
2 - Fiscal transparency instruments	LRF (Article 48)
2.1 - Public hearings	LRF (Article 9)

Provision	Norm
2.2 - Accounting, producing accounts and fiscal reports	Law no 4,320 of 1964, LRF (Articles 49 and 50)
2.3 - Fiscal reports	LRF (Articles 52, 53, 54 and 55)
2.3.1 - Penalties	
2.3.1.1 - Fiscal	LRF (Article 51, paragraph 2)
2.3.1.2 - Criminal	Law no 10,28 of 2000 (Decree-Law no 201 of 1967, Article 1)
V - Government agents involved with public debt	
1 - Legislative	
1.1 - Functions	
1.1.1 - National Congress	Federal Constitution (Article 48)
1.1.2 - Federal Senate	Federal Constitution (Article 52)
2 - Executive	
2.1 - Functions	Federal Law no 10,683 of 2003
2.1.1 - Ministry of Finance	Federal Decree no 6,102 of 2007
2.1.1.1 - Delegated by the Ministry of Finance	Ministry of Finance Administrative Act no 183 of 2003
2.1.2 - Central Bank	LRF (Article 34)
2.1.3 - Federal Office of the General Comptroller	Federal Law no 10,683 of 2003
2.2 - Penalties	
2.2.1 - Criminal	
2.2.2 - Ethical	Federal Law no 8,027 of 1990 (Public Ethics Code), Code of Conduct of the High Federal Administration and Code of Ethics and Standards of Professional Conduct of the National Treasury Secretariat (STN Administrative Act no 602 of 2005)
2.2.3 - Ineligibility	Complementary Law no 64 of 1990

Provision	Norm
VI - Public debt audit	
1 - External control agencies (external audit)	
1.1 - Functions and mandate	Federal Constitution (Article 71) and Federal Law no 8,443 of 1992.
1.1.1 - Oversight of fiscal management	LRF (Article 59)
1.1.2 - Warnings related to public debt issues	LRF (Article 59)
1.1.3 - Enforcement of Penalties	Law no 10,028 of 2000 (Decree-Law no 201 of 1967, Article 5)
2 - External control agencies (internal audit)	
2.1 - Functions and mandate	Federal Constitution (Article 74) and Federal Law nº 10.180 of 2001