

FGTS: protecting workers and promoting social development in BrazilNyedja da Silva Marinho¹

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1. INTRODUCTION	2
2. HISTORY OF THE FGTS.....	2
3. THE IMPORTANCE OF THE FGTS IN FINANCING SOCIAL INFRASTRUCTURE	4
TABLE 1. FGTS: BUDGET AND EXPENDITURE ON HOUSING AND WATER AND SANITATION IN 2000-2009 (R\$ THOUSAND).....	5
TABLE 2. INVESTMENT IN WATER AND SANITATION IN BRAZIL 2010-2014.....	6
4. SOCIAL PROTECTION, RETURN ON THE ACCOUNTS AND THE INVESTMENT OF RESOURCES.....	7
CHART A. GROSS INCOME, WITHDRAWALS FOR UNJUSTIFIED DISMISSAL AND NET SURPLUSES	8
TABLE 3. REASONS FOR WITHDRAWALS FROM FGTS ACCOUNTS: 2008-2009	8
CHART B. FGTS INVESTMENT BUDGET FOR 2007-2011 (R\$ BILLION)(1).....	9
TABLE 4. FGTS KEY FINANCIAL FIGURES: 2009	9
TABLE 5. INTEREST RATES FOR LOANS TO FGTS FINANCIAL AGENTS: 2011	10
TABLE 6. GROSS RATE OF RETURN PAID BY THE MAIN INVESTMENTS	10
5. TRIPARTITE GOVERNANCE AND THE FGTS BOARD OF TRUSTEES (CCFGTS).....	11
6. RECENT FGTS INVESTMENT POLICIES	13
TABLE 7. RATE OF RETURN ON FMP INVESTMENTS IN PETROBRAS AND VALE DO RIO DOCE	14
TABLE 8. FGTS INVESTMENT BUDGET AND SUPPLEMENT IN 2009	14
TABLE 9. FI-FGTS INVESTMENTS 2008-2009	15
7. CONCLUSIONS AND THE SCOPE FOR REPLICATION	16
BIBLIOGRAPHY	17
NOTES	18

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1. Introduction

The Brazilian government created the *Fundo de Garantia do Tempo de Serviço - FGTS* (Severance Pay Fund) in 1966 to replace the system then in force whereby employees were guaranteed job security after ten years of service. The triple objective was to provide severance pay in cases of unjustified dismissal, create a savings fund for workers and use the fund to finance housing and water and sanitation programmes.

The objective of this study is to show that the FGTS has successfully provided resources to compensate workers for unjustified dismissal and other adverse circumstances and thereby promoted social justice while, at the same time, accumulating capital to pay for social infrastructure, thereby protecting the environment, creating jobs and generating income, all of which have contributed to economic development.

The FGTS is unique because it provides resources for both social protection and social infrastructure without drawing on the government's budget. Moreover, for the last 21 years, all decisions about administration of the fund and the use of its resources have been taken by a tripartite body, the *Conselho Curador do FGTS - CCFGTS* (FGTS Board of Trustees). The participatory governance structure and the way that the fund benefits the whole of Brazilian society make the FGTS an interesting model for other countries that are looking for sustainable development instruments. The document is structured in the following way: the first section tells the history of the FGTS; the second analyses the importance of FGTS resources in funding the country's housing and water and sanitation programmes; the third examines interest rates on FGTS accounts and how resources are invested in housing and water and sanitation; the fourth explains the institutional arrangements for the operation and management of the fund; the fifth describes recent policy changes and the final section discusses whether the FGTS experience can be replicated.

2. History of the FGTS

The FGTS was created by Law 5.107 of 1966, at the start of the military regime that remained in power until 1985. The new fund replaced the severance pay system for employees of private companies that had been in place since 1943. In the old system, dismissed employees had the right to severance pay equivalent to one month's pay for every year or period greater than six months in employment. Employees were also entitled to job security after ten years employment with the same company and could only be dismissed for gross misconduct (legally and previously established) and after judicial investigation. Workers with job security had the right to double severance pay (two month's pay for every year of employment) if dismissed unjustifiably.¹ This system presented various operational problems, for example, employers did not always have the money to pay employees on termination of their employment; in the case of employees who enjoyed job security the cost of unjustified dismissal doubled, amongst others problems.

The new FGTS system established that employers should deposit a sum equal to 8% of monthly pay into a bank account in each employee's name, with a view to accumulating a sum that could be used for severance pay. Law 5.107/66 also provided that the sums accumulated in these accounts should be used to finance the country's housing programme. The creation of the FGTS was one of the country's most significant changes to the legal framework for employment contracts because it replaced the job security system with the FGTS system. On paper, workers could choose to remain within the old system or adhere to the new FGTS system on entering into an employment contract. In practice, companies only recruited workers who were prepared to choose the new system.²

The 1988 Constitution removed the option of choosing between the old system and the FGTS. The FGTS became compulsory for workers employed under Brazilian labour legislation, as set out in the *Consolidação das Leis do Trabalho – CLT* (Consolidated Labour Laws) and was included in the Constitution's chapter on Social Rights. Workers could no longer choose the job security system but the Constitution guaranteed the rights of workers who had already acquired job security. The FGTS is currently the only mechanism that regulates employment contracts in the private sector³, which minimises the number of unjustified dismissals.⁴

In 1969, three years after FGTS's enactment, Decree Law 949 established that the fund's resources should also be used to finance investment in building and improving water and sanitation infrastructure. This Decree Law set the seal on the FGTS's two essential functions: financing social protection and social infrastructure. The economic and political

contexts in the years following the creation of the FGTS were very different. From 1968 to 1972, the economy enjoyed a climate of optimism that was given the name of the "economic miracle", with annual rates of growth in Gross Domestic Product (GDP) of 11.1%, accompanied by a reduction in the already relatively low (for Brazil) rate of inflation and a surplus in the balance of payments.⁵ However, the country endured the torture and censorship imposed by the military regime, especially after Institutional Act N° 5 (AI 5) in 1968, which suspended *Habeas Corpus*. AI 5 was repealed in 1978.

The history of the FGTS is closely related to the political and institutional contexts in Brazil and can be divided into two periods: the first, from 1966 to 1985, when the FGTS was administered by the *Banco Nacional de Habitação - BNH* (National Housing Bank) and the second, from the mid-1980s to the present, which saw the implementation of structural changes to the fund's management and governance. After implementation of these changes, the FGTS entered a phase in which it succeeded in playing the roles for which it was created. The path for this successful phase was, however, marked by significant management and governance problems that will also be described below

Between 1966 and 1985 the BNH managed the FGTS. The BNH was a federal bank that did not operate in the retail sector and was created to implement the country's housing and water and sanitation programmes, as formulated by the now extinct Ministry of the Interior. Although it was created to implement policy, the BNH itself developed housing and water and sanitation policies. Law 5.107/66 established that BNH administer the FGTS under the guidelines of the Board of Trustees – CCFGTS, which was comprised of representatives of workers, employers and government, in accordance with Article 12 of this law. However, the CCFGTS only existed on paper and did not operate as a genuine forum for tripartite governance. In this period, the country was governed by the Institutional Acts, laws passed by the military regime. For example, in the year that the FGTS was created, Institutional Act n° 2 abolished all political parties and suspended constitutional guarantees.⁶

Ten years after its creation, the FGTS entered a period of profound uncertainty, for various reasons. The increasing number of defaults by borrowers resulted in enormous financial losses for the fund. Meanwhile, the 76 private banks at which employers deposited payments into employee accounts did not always transfer these deposits to the BNH within the 90 days required by law. There were an excessive number of changes in the rules of the rate of return for employee FGTS accounts,⁷ and there was no separation between FGTS' assets and those of the agency managing the fund, the BNH. From the start of the BNH's involvement, there were problems with the housing policy model adopted, which was the main target for investment of the fund's resources.

Throughout the BNH's existence, changes were made to try and adapt policy but they did not solve the problems.⁸ One of the main criticisms made of the BNH was its inability to service the lowest-income group, ostensibly the main reason why it was created. Another important aspect was its extreme centralisation and uniform approach to dealing with the issues it faced.⁹ The combination of problems relating to the management of FGTS employee accounts and implementation (mainly) of housing policy generated an explosive situation and left workers' assets extremely vulnerable.¹⁰

In the middle of the 1980s, it started a period of profound reform of the FGTS, together with a broad state reform, as part of the process of democratisation and discussion of the 1988 Constitution. In 1986, Decree Law N° 2.291 closed down the BNH and its functions were transferred to the *Caixa Econômica Federal – CAIXA* (Federal Savings Bank) including the coordination and implementation of housing, urban development and water and sanitation policy. In this period, the Ministry of Urban Development and the Environment (MDU) prepared guidelines for these policy areas. In March 1987, the MDU became the Ministry of Housing, Urbanisation and the Environment (MHU), which also took responsibility for administering urban transport. The CAIXA was placed under the MDU. There were further changes in 1988: the government created the Ministry of Housing and Social Welfare (MBES), which continues to be responsible for managing housing policy, and transferred responsibility for water and sanitation to the Ministry of Health. The CAIXA was placed under the Treasury, which is responsible for the implementation of fiscal and monetary policy.

A predominant feature of the Brazilian economy in the mid 1980s up to early 1990s was hyper-inflation. In order to tame it, the federal government implemented various unsuccessful economic plans such as the Cruzado Plan I and II (1986), the Bresser Plan (1987), Summer Plan (1989), Collor Plan I (1990) and II (1991). These plans affected the rates of return on FGTS's accounts and resulted in losses on workers' assets. Thus, in 1989, a group of steelworkers in Rio Grande do Sul state won a decision from the Supreme Court to replace those losses caused by the Summer and Collor Plans. In 2001 the main unions in Brazil and the government reached an agreement on the way to solve the issue nationally through approval of a new law – Complementary Law 110/01. This law increased from 40% to 50% the fine

on FGTS's balance in case of unjustified dismissal and increased from 8% to 8.5% the percentage of the worker's salary deposited monthly on FGTS accounts by employers. The proceeds from these new regulations and other revenues from the Treasury were used to compensate workers' losses on FGTS accounts.¹¹

At the beginning of the 1990s, the FGTS underwent the biggest management change in its history: the decentralised management of employee accounts was centralised by the CAIXA, a state-owned bank, despite criticism from private banks. Centralisation of the accounts resolved the problem experienced by workers who until then had to apply to different banks to access different FGTS accounts from different employers.¹² New rules and instruments were introduced to deal with defaults by borrowers. A liquidity fund was created¹³ to minimise the effect of very high withdrawals in particular periods, especially in periods of low economic growth. FGTS and CAIXA assets were split and henceforth administered separately. With regard to governance, the CCFGTS was also reorganised in this period and became a genuinely tripartite body, with representation from workers, employers and government.

With regard to the development of housing and water and sanitation policies, the government closed down the MBES in 1995 and created the Urban Policy Department (SEPURB), linked to the Ministry of Planning and Budget (MPO), accompanied by a continuous reduction in technical staff and a loss of development and implementation capacity. In 1999, the replacement of SEPURB by the Special Urban Development Department of the Presidential Cabinet (SEDU/PR) did not bring significant changes. Institutions remained uncoordinated and gradually lost their capacity to intervene.¹⁴

In 2003, the new Lula government created the Ministry for Cities (MCidades) which was given responsibility for developing national urban policy, including housing and water and sanitation policies. This represented an innovation in urban policy in Brazil because it overcame the traditional segmented approach by integrated housing, water and sanitation and transport administration with land use and planning.¹⁵ Creation of MCidades was a long-standing demand of the *Frente Nacional pelo Saneamento Ambiental* (National Water and Sanitation Network) and other social movements who claimed a single national institution responsible for water and sanitation.

The FGTS belongs to the workers and is administered by the government through an institutional arrangement that follows the guidelines of a collegiate tripartite structure regulated by Law 8.036 of 1990. Its resources are mainly used for the social protection of workers experiencing a range of adverse circumstances. The assets are invested in housing, water and sanitation and infrastructure. The investment is required to be at least 60% in social housing. Investment in water and sanitation and infrastructure will always be complementary to housing, as determined by Article 9^o, Paragraph IV, of Law 8.036. The CCFGTS now has 21 years of collegiate experience in the development of guidelines for the management of accounts and investment of the fund's resources.

3. The importance of the FGTS in financing social infrastructure

In April 2011, MCidades launched a participatory¹⁶ initiative to develop Brazil's first National Basic Water and Sanitation Plan (PLANSAB),¹⁷ as directed by Law N^o 11.445/07 on National Guidelines for Basic Water and Sanitation.¹⁸ In order to provide guidance for regional PLANSAB discussions, MCidades produced a report entitled *Panorama nacional do saneamento básico no Brasil* (National Situation of Basic Water and Sanitation in Brazil) which was a draft plan for the sector. The plan set out the level of expenditure on basic water and sanitation by the ministries that play a role in the sector and also described the type of financing, such as grants or loans. The plan analysed the availability of resources for financing water and sanitation policy over the last 40 years and affirmed the crucial importance played by FGTS resources since the end of the 1970s. Historically, according to this report, the most important sources of investment in water and sanitation were, in order of importance: FGTS and the *Fundo de Amparo ao Trabalhador - FAT* (Worker Protection Fund)¹⁹, the *Orçamento Geral da União - OGU* (Federal Budget), state and municipal government budgets and external loans provided by the World Bank, the IDB, the German KFW, and finally, the resources of service providers themselves.

However, the relative importance of FGTS resources in comparison to OGU resources in financing the policy varied in accordance with Brazil's economic situation and the choices made by successive governments. From the beginning of the 1970s until the 1980s, OGU resources were very important and FGTS resources complemented federal government efforts to implement a national water and sanitation policy.²⁰ Nevertheless, starting in 1983, FGTS resources became the main source for investment in water and sanitation. For example, in 1993, FGTS resources paid for 99.7% of investment in the two main national programmes: the National Plan for Water and Sanitation – PLANASA

and Water and Sanitation Programme for Urban Areas – PRONURB.²¹ The CAIXA also recognised the FGTS's importance in financing housing and water and sanitation in its report on the FGTS in 2008 (*Relatório de Gestão do FGTS de 2008*):

“...the FGTS has become the main, and at times the only source of investment in housing and water and sanitation. During the period from 1995 to 2008, these investments reached the significant sum of R\$ 71.5 billion, which all went to improve the living conditions of the Brazilian population in general and went some way to covering the enormous deficits in water and sanitation and housing services (around 8 million homes) as well as creating jobs and generating income for workers.”

In the water and sanitation sector, between 1996 and 2009, the federal government signed contracts to lend R\$ 28.1 billion and disbursed R\$ 16.4 billion. Once again, the FGTS showed its importance as a historically important source of investment, providing 67.7% of the total made available. The FAT provided R\$ 9 billion for these contracts, with the priority for services related to the provision of integrated water supply and sanitation.²²

Table 1 shows (in nominal values) the FGTS resources allocated to and used for housing and water and sanitation, the number of jobs created and the beneficiary population in 2000-2009. The budgeted resources in 2009 were five times greater in housing and 22.5 times greater in water and sanitation in comparison with 2000. The large increase in the figures for water and sanitation was due to such a low amount allocated in 2000 because of controls on credit in the public sector at that time. In the decade 2000-2009, loans totalling R\$ 68 billion were provided to the housing and water and sanitation sectors, creating 5.6 million new jobs and benefiting approximately 73 million people. The budget for water and sanitation is always higher than the amount spent, which shows a shortfall in implementation capacity.

Table 1. FGTS: Budget and Expenditure on Housing and Water and Sanitation in 2000-2009

Year	Sector	Budget R\$ 1,000	Expenditure R\$ 1,000	Formal jobs created ²³	Beneficiaries
2000 ⁽¹⁾	Housing	4,095,072	3,282,081	1,363,962	160,291
	Water and San	204,528	16,800		
2001 ⁽¹⁾	Housing	3,800,000	2,650,603	117,791	987,822
	Water and San	584,413	35	20	585
2002 ⁽¹⁾	Housing	3,074,520	2,914,992	108,990	932,357
	Water and San	1,125,480	254,265	56,447	1,582,377
2003	Housing	3,050,000	2,672,391	115,689	936,405
	Water and San	1,550,000	1,233,694	308,753	8,652,933
2004	Housing	5,050,000	3,584,913	237,366	1,687,028
	Water and San	2,400,000	1,941,075	373,231	10,461,112
2005 ⁽¹⁾	Housing	6,850,000	5,193,786	317,703	1,852,364
	Water and San	3,150,000	0	0	0
2006	Housing	7,452,944	6,476,830	405,728	1,455,924
	Water and San	2,490,000	481,729	91,348	2,560,420
2007	Housing	6,850,000	6,269,844	297,697	1,832,795
	Water and San	3,149,282	2,366,364	452,388	12,677,860
2008	Housing	10,450,000	9,246,320	289,421	1,777,617
	Water and San	5,950,000	3,162,908	197,067	16,773,088
2009	Housing	20,000,000	15,018,166	872,952	1,749,961
	Water and San	4,600,000	1,448,494	82,061	6,984,599
TOTAL		95,876,239	68,215,290	5,688,614	73,065,538

Source: CAIXA, FGTS Annual Reports 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009.

(1) According to the CAIXA's financial statements, in 2000, 2001 and 2005, there were problems associated with spending the resources allocated to water and sanitation, because of the significant limitations imposed by legislation restricting credit in the public sector and because many agencies in the sector were in debt.

In January 2007, the federal government launched the *Programa de Aceleração do Crescimento - PAC* (Accelerated Growth Programme), which planned investments of R\$ 503.9 billion in transport, energy, water and sanitation, housing and water resource infrastructure in the period 2007-2010. The PAC budget allocated to the MCidades for water and sanitation included R\$ 8 billion from the OGU (R\$ 4 billion for integrated sanitation and R\$ 4 billion for water supply and waste systems) in medium-sized and large cities and a further R\$ 20 billion of public money, through loans using FGTS and FAT funds.

Between 2007 and December 2010, the MCidades selected projects costing a total of R\$ 35.6 billion, with 64% provided by the loan of FGTS and FAT funds and 36% from the federal budget. During the same period, R\$ 22.8 billion of FGTS and FAT funds were allocated exclusively for water and sanitation. By way of comparison, the value of World Bank loans agreed for all sectors (water, agriculture, forests, public administration etc.) in Brazil during the same period totalled R\$ 15.3 billion and the amount disbursed was R\$ 9.6 billion.²⁴

In May 2010, the federal government launched PAC 2 with the aim of increasing the level of investment in urban and social infrastructure during the period 2011-2014. PAC 2 planned R\$ 45.1 billion investment in basic water and sanitation, including R\$ 41.1 billion to be managed by the MCidades and R\$ 4 billion by the *Fundação Nacional de Saúde – FUNASA* (National Health Foundation). About 50% of these resources were from the federal budget and 50% from the FGTS and the FAT. Table 2 shows these investments according to the type of project and also indicates how federal government tried to contribute the same amount to PAC 2 as the FGTS and the FAT.

Table 2. Investment in water and sanitation in Brazil 2010-2014

Sector	OGU	FGTS / FAT	TOTAL
Water	2.50	4.00	6.50
Reduction of water losses	1.00	1.00	2.00
Sewers	7.00	5.50	12.50
Drainage	5.00	4.00	9.00
Integrated sanitation	1.50	1.50	3.00
Solid waste	1.00	0.50	1.50
Plans and Projects	0.30	0.30	0.60
Private finance		5.00	5.00
Water and San small municipalities	4.0	1.0	5.0
TOTAL	22.3	22.8	45.1

Source: PLANSAB, April, 2011.

Finally, to emphasise the FGTS's importance for basic water and sanitation, it is important to highlight two aspects. First, historically the FGTS has mainly financed public providers in water and sanitation. The private sector has not figured very much in FGTS-financed water and sanitation projects. This can largely be explained by the fact that most institutions contracting loans are in the public sector. Another possible reason is the availability of other resources to the private sector.

Second, the FGTS has been using its own resources to implement a robust programme of subsidies to low-income groups in the housing sector. In 2009, in addition to a housing budget of R\$ 20 billion, the budget for subsidies was R\$ 4 billion, which was very high given the historic parameters of the FGTS. These subsidies consisted of discounts for financing the acquisition of new or existing properties by low-income sectors of the population and were planned in accordance with national housing policy guidelines formulated by the National Housing Department of the MCidades. The beneficiaries are workers with a gross family income of less than R\$ 2,790/month; the discount covers a

percentage of the cost of the property in the form of reduced interest rates paid by purchasers to the financial agents, a contribution to monthly instalments and a deposit towards the total cost of the property to be purchased. Funds for these subsidies are provided by returns on financial investments made by the FGTS and are reckoned considering: (i) up to 50% of such income from the previous financial year in this way, where this exceeds the *Taxa Referencial - TR* (Reference Interest Rate) plus nominal interest rates of 6% per annum; (ii) also it must also consider the economic-financial situation of the FGTS and the need to build reserves to cover future commitments.²⁵

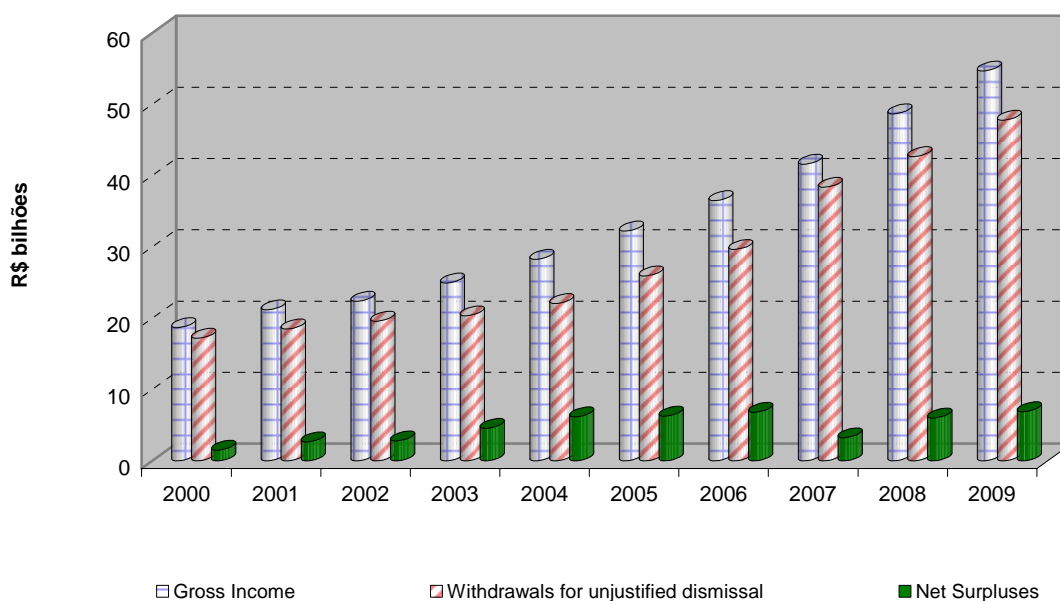
4. Social protection, return on the accounts and the investment of resources

Urban and rural workers have a right to the FGTS from the moment they enter into an employment contract in accordance with employment legislation, as set out in the CLT. Non-employed directors and workers employed on a casual basis also have a right to FGTS. Law 10.208/2001 gave employers the option of including domestic workers in their service in the FGTS system. Account holders cannot manage their accounts freely in the same way as a current account. Amounts can be withdrawn or used only in accordance with the rules of the fund. Workers can withdraw or use the funds in 24 circumstances, including the following:

1. unjustified dismissal;
2. end of fixed-term contract;
3. end of a contract because of company closure; the termination of part of its activities, the closure of one of its establishments, subsidiaries or agencies, the death of the employer if an individual or if the employment contract is legally judged to be null and void – item II of Art. 37 of the Federal Constitution, when the employee continues to have the right to a wage;
4. termination of the contract, with mutual acceptance of blame or because of force majeure
5. on retirement;
6. in the event of personal, urgent and serious need as a result of a natural disaster caused by rain or floods that have damaged the worker's home, on condition that the federal government issues an ordinance recognising an emergency or disaster situation;
7. suspension of a casualised worker;
8. death of the worker;
9. the holder of the account reaches the age of 70;
10. the worker or his/her dependent is HIV positive;
11. the worker or his/her dependent is suffering from cancer;
12. the worker or his/her dependent has a terminal illness and is near death;
13. no deposits were made into the account for a continuous three year period, and dismissal took place up to and including 13/07/90;
14. the worker remained outside the FGTS system for a continuous three year period, up to and including 13/07/90; in this case, withdrawal should take place the month after the birthday of the account holder;
15. the amortization, liquidation of the balance owed or payment of instalments by housing consortiums;
16. purchase of own home, payment of mortgage or payment of part of the instalments due on house purchase.

In the decade of 2000-2009, the FGTS experienced one of the best periods in its history and generated successively higher net surpluses, except for in 2007, when the surplus was lower than in 2006. Chart A shows gross receipts and withdrawals for unjustified dismissal, as well as net surpluses in this period.

Chart A. Gross Income, Withdrawals for Unjustified dismissal and Net Surpluses
2000-2009



Source: FGTS financial statements 2009, www.fgts.gov.br

Withdrawals for unjustified dismissal represent the biggest percentage of the total value of withdrawals since 2000, as shown by Chart A.²⁶ The most recent data published in the FGTS's financial statements for 2009²⁷ show that the fund has 587 million accounts (active and inactive), gross receipts of R\$ 54.7 billion and a net surplus of R\$ 7 billion. Table 3 shows the main reasons for withdrawals in 2008-2009 and the amounts withdrawn. Unjustified dismissal and retirement accounted for 76% of the total value of withdrawals in 2008, and 78% in 2009.

Table 3. Reasons for withdrawals from FGTS accounts: 2008-2009

Reason for withdrawal	2008	%	2009	%
Unjustified dismissal	26,491,727.00	62.1%	30,960,884.00	64.7%
Retirement	5,955,160.00	14.0%	6,146,875.00	12.9%
Purchase of own home	5,649,613.00	13.2%	5,686,850.00	11.9%
Inactive account	661,969.00	1.6%	723,831.00	1.5%
Cancer/HIV/ Terminal illness	330,489.00	0.8%	360,328.00	0.8%
Other	3,590,467.00	8.4%	3,945,994.00	8.3%
Total	42,679,425.00	100.0%	47,824,762.00	100.0%

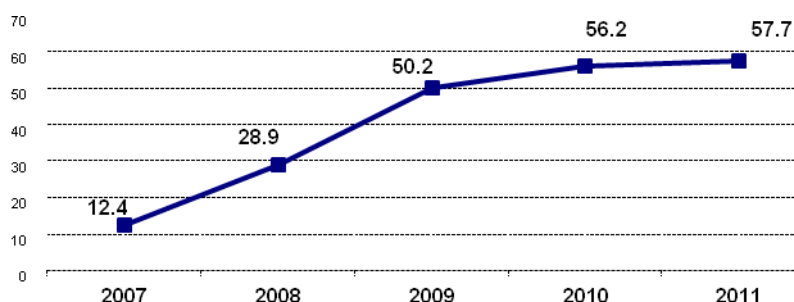
Source: CAIXA, FGTS Financial Statements, 2009.

As the FGTS has had a net surplus every year since 2000, its net assets have increased and so, therefore, has the scope for investing the fund's resources in the sectors provided for by the law. The investment of FGTS funds in housing and water and sanitation are set out in its investment budget. In addition, there is also the financial budget. The financial budget plans and administers FGTS individual accounts, the liquidity fund and investment of assets. Every year, the

financial and investment budgets of the FGTS are drawn up with reference to the amount withdrawn and net surplus or loss in the previous year.

Chart B shows the FGTS's annual investment budget for 2007-2011 (billions of R\$). It shows that the budget grew by 4.6 times in 2011 in comparison to 2007.

Chart B. FGTS investment budget for 2007-2011 (R\$ billion)(1)



Source: FGTS Annual Report 2009, prepared in accordance with the methodology of the Global Reporting Initiative (GRI). (1) CAIXA Circular 534, 29 December 2010.

In 2009, the FGTS had assets of R\$ 235 billion, net assets of R\$ 30.5 billion, and made payments totalling R\$ 47.8 billion to workers participating in the scheme, for reasons as set out in the law.

The data on the balances of FGTS individual accounts leaves no doubt as to the fund's social profile. Most of the accounts (93%) have a balance up to the equivalent of six minimum wages. As the minimum wage is R\$ 545 (US\$ 340.62),²⁸ this means up to R\$ 3,270 (US\$ 2,043.75). There are 47.5 million accounts with a balance of up to one minimum wage. Table 4 shows the key financial figures of the FGTS in 2009.

Table 4. FGTS key financial figures: 2009

Total Assets	R\$ 235 billion (US\$ 147 billion)
Net Assets	R\$ 30.5 billion (US\$ 19 billion)
Amount paid to workers	R\$ 47.8 billion (US\$ 30 billion)
Number of companies making monthly deposits into individual accounts	2.6 million
Net surplus	R\$ 6.9 billion (US\$ 4.3 billion)
Number of active accounts	78.7 million
Most of active accounts – 93%	Balance of > 6 min. wages (1MW = R\$ 545)
Number of accounts with a balance of less than one minimum wage	47.7 million accounts

Source: FGTS Annual Report 2009, prepared in accordance with the methodology of the Global Reporting Initiative (GRI).

To understand the interest rates charged on loans made with FGTS funds, it is necessary to understand how financial intermediaries operate when using FGTS funds in the housing and water and sanitation sectors. There are two types of financial operation in the FGTS: the first is called an *empréstimo* (loan) and takes place when the CAIXA lends to private banks. The second operation is called *financiamento* (financing) and takes place when the CAIXA or private banks lend FGTS resources to individual borrowers.

On average, in the housing sector, the FGTS charges financial agents 5% p.a. on loans and the average repayment period is 10.5 years. In the water and sanitation sector, the average interest on loans is 7% p.a. but this varies according to the type of investment.²⁹ Banks are authorised to charge borrowers a further 2.16% on average in the two sectors. Table 5 shows the nominal interest rates on loans for housing and water and sanitation projects for

private banks officially registered to operate with FGTS resources. However, these rates do not reflect the cost to the end borrower.

Since 2 June 2001, the CAIXA assumes the credit risk for loans to the banks. As the CAIXA is a federal bank, it is the federal government that therefore assumes the risk. The banks assume the credit risk on loans they themselves make to borrowers.³⁰

Table 5. Interest rates for loans to FGTS financial agents: 2011

Sector	Interest rates p.a.	Repayment period (years)	Grace period (months)
Housing ⁽¹⁾	5.0%	10.5	-
Water supply, drains, sewers, rainwater management and industrial treatment of water and effluents ⁽²⁾	6.0%	20	48
Liquids and re-use of water			
Integrated sanitation	5.0%	20	48
Institutional Development, Conservation and Recovery of Water Sources, Reduction and Management of Water Losses	6.0%	10	48
Solid Waste Management	6.0%	15	48
Studies, Projects and Plan for Basic Water and Sanitation	6.0%	5	48

⁽¹⁾ Average interest rates plus average variation of the TR, which changes every year; average repayment period for loans in the housing sector, according to the FGTS financial statements published by the CAIXA in *Demonstrações Contábeis de 2009 do FGTS*.

⁽²⁾ In accordance with MCidades Instruction Nº 02, 21 January 2011.

The two federal public institutions, the CAIXA and the BNDES, are the two biggest sources of development loans and financing in Brazil. The BNDES mainly finances heavy industry, agriculture, infrastructure, exports and innovation. The CAIXA finances social infrastructure. Although the BNDES also finances water and sanitation projects, most of the resources invested in infrastructure are allocated to transport and electricity. The difference between the annual interest rates charged by the CAIXA and the BNDES for investment in water and sanitation, for example, can be more than 3%. The cost of loans from the BNDES is, on average, 9.18% p.a. plus financial intermediation.

Workers' accounts receive interest calculated on the basis of the TR (Reference Rate), which compensates account holders for the loss of purchasing power, plus 3% p.a. in interest rates. Table 6 shows the average annual interest rate paid by FGTS individual accounts and other investment bodies and the *Índice Nacional de Preços ao Consumidor Amplo – IPCA* (National Extended Consumer Price Index) during the last four years.³¹ This comparison is a theoretical exercise and only an illustration. Workers cannot manage their accounts freely, but only in the circumstances provided for by law. The annual return on FGTS deposits was less than for other investment bodies available in Brazil during the last four years and did not keep up with the IPCA during 2008-2010 (see Table 6).

Table 6. Gross rate of return paid by the main investments

Application	2007	2008	2009	2010
FGTS ³²	4.5	4.5	3.9	3.6
IPCA	4.5	5.9	4.3	5.9
Savings account	7.6	7.9	6.9	6.9
Bank deposits	10.2	12.1	9.2	9.4
Gold	11.3	32.1	-3.05	32.3
Ibovespa	43.7	-41.2	82.66	1.0

Source: Central Bank of Brazil, except for FGTS (own calculation).

This difference in returns on FGTS and other accounts is the subject of debate in the media and even the National Congress, especially when the TR does not increase in line with inflation and workers with FGTS accounts therefore lose out. It is important to emphasise that FGTS accounts are guaranteed by the federal government, in accordance with paragraph 4, Article 13 of Law nº 8.036/90.

The rate of return on FGTS accounts is an issue that needs to be seen in context and cannot be analysed in isolation from the perspective of a private fund whose accounts must seek the maximum return possible. First, high interest rates involve greater risks that could inflict losses on the fund. Second, low economic growth results in net deficits, but the fund must nevertheless meet current and previous commitments. The possibility of low growth and a fall in the aggregate wage bill must be taken into account when determining long-term and short-term guidelines for the FGTS.

Third, housing finance policy in Brazil uses FGTS resources to conduct operations with borrowers in a way that is different to what would otherwise be the case if the fund did not exist. For example, interest rates for financing social housing are lower and in addition there are subsidies available to people on a low income, in the form of discounts on financial intermediation rates and monthly instalments.

The National Secretariat of Water and Sanitation – SNSA - within the Ministry of Cities sets in its investments programmes, (analysed and approved by the FGTS Board of Trustees), lower interest rates and longer repayment periods relative to the market. Despite that, many utilities cannot access FGTS loans because they do not meet its financial requirements. In 2008, the SNSA held discussions with important actors to design a programme to help those utilities. However, for a variety of political reasons, the programme did not take off.

Finally, investment in the housing, water and sanitation and infrastructure sectors are labour-intensive, especially in the construction industry. The jobs and income created by the FGTS are central pillars of the country's employment and income policy.

The UGT, the CUT and Força Sindical have been the trade union confederations that have most frequently taken a position on the issue of rate of return on FGTS accounts. In 2007, the UGT and *FGTS Fácil* (Easy FGTS), a consulting and recruitment company, launched a manifesto proposing a discussion on the issue with a view to increasing rates. A working group with representatives from the five trade union centrals represented on the CCFGTS was formed in the same year to discuss the issue, as according to *FGTS Fácil* calculations, interest rates paid on FGTS accounts were 29% less than the increase in the INPC (National Index of Consumer Price) during the period 1991-2007.

However, DIEESE (Inter-Union Department of Statistics and Socio-Economic Studies) maintained that FGTS rates gained 25.9% against the INPC in this period.³³ CAIXA also affirmed that between 1993 and 2009, rates of return on FGTS accounts were above inflation. Meanwhile, Bills have been presented to the National Senate with the purpose of changing the rate of return on FGTS accounts, for example, Bills 581/2007, 193/2008 and 301/2008. In May 2010, the Chamber of Deputies' Employment Committee held a public hearing to discuss these bills. In April 2011, the CUT launched a manifesto about the low rate of return paid on these accounts.³⁴ DIEESE, the CAIXA and the trade union centrals have not yet reached a consensus on this issue.

5. Tripartite governance and the FGTS Board of Trustees (CCFGTS)

The FGTS is administered by public institutions. The Ministry of Labour and Employment (MTE), MCidades and the CAIXA play the main roles, but other federal agencies play an important part in supervising and controlling the FGTS. The MTE's *Secretaria de Inspeção do Trabalho – SIT* (Labour Inspection Department) is responsible for ensuring that employers make the relevant contributions to the accounts of their employees; the *Procuradoria Geral da Fazenda Nacional – PGFN* (General Attorney's Office of the National Treasury) is responsible for the judicial and extrajudicial representation of the FGTS with regard to recovering debt from employers for the FGTS.

With regard to governance, the CCFGTS is the institution's supreme body. It is formed by 24 members in a tripartite structure that includes representatives of the six trade union centrals; six employer representatives and 12 federal government representatives. The Minister of Labour and Employment chairs the CCFGTS and the Minister of Cities is vice-chair. Worker and employer representatives, and their deputies, are chosen by their respective trade union centrals and employer federations and appointed by the Minister of Labour and Employment.³⁵ This structure was established by Decree 6.827/09.

The CCFGTS is advised by a *Grupo de Apoio Permanente – GAP* (Permanent Support Group), which was created to provide advice and support and conduct technical studies to CCFGTS. The GAP is a technical-political body formed by personnel from the 24 organisations that are represented on the Board, in accordance with Article 14 of the CCFGTS Internal Rules, approved by Resolution nº 320, of 1999.

MCidades has a fundamental role in policy development on housing, water and sanitation and infrastructure. In addition, MCidades administers the investment of resources; produces annual budgets and pluri-annual plans for the investment of resources; monitors the physical targets proposed for the beneficiary population and job creation; and supports the CCFGTS by preparing the technical studies necessary for operational improvements in the social housing, basic water and sanitation and urban infrastructure programmes.³⁶ However, policy development must follow the guidelines established by the CCFGTS. The latter supervises the operation of financing policies with a view to maintaining the fund's assets in the longer term and for future generations, as well as funding housing and water and sanitation policies.

The CAIXA is another institution which plays a crucial role in the institutional arrangement because it implements CCFGTS guidelines on the administration of workers' accounts and on housing and water and sanitation programmes. The CAIXA plays the dual role of implementing the programmes and acting as intermediary between the FGTS and private sector banks.³⁷ The private sector banks are the financial agents that act as intermediaries between the FGTS and borrowers.

There are two possible ways to change the guidelines for administering the accounts and for investing FGTS resources. The first and ordinary process is usually started by the GAP, during the weekly meetings that take place at the Ministry of Labour and Employment, where issues are presented and negotiations take place. Only then are proposals submitted to the CCFGTS for approval. Trustees can postpone approval by presenting a "*pedido de vista*". This is a formal request for postponement of a decision and must be agreed by a minimum of eight trustees out of a total of 24. The quorum for meetings is 13 trustees.³⁸

The second way happens when trustees, extraordinarily, put items on the agenda that have not been already submitted to the GAP. Proposals can be approved by the meeting or, if agreement cannot be reached, they are referred to the GAP for further discussion and later presentation to the Board. The presentation of issues extraordinarily is preceded by political negotiations between those most interested in the issue. The presentation of an item not on the agenda must follow procedures established by CCFGTS internal rules.

The process of approving a new housing or water and sanitation programme follows rules that are unwritten but accepted by trustees. The MCidades formulates national policy on housing and water and sanitation. So it is natural that the ministry leads on proposals for programmes in these sectors, but any trustee can present proposals. In general, proposals are discussed by the GAP, where the CCFGTS Executive Officer facilitates and mediates the discussion, negotiating with trustees, clarifying any doubts and seeking to dissipate any distrust that may emerge. At the same time, the officer's position on a particular issue reflects the views of a range of federal government institutions. After the discussion and negotiations have taken place, the issue is submitted to the Board for approval. However, even though the GAP may have approved a proposal, the Board may request more time to consider the proposal. In such cases, the proposal in question can only be put back on the agenda by the trustee who made such a request. Although this does not happen very often, these cases indicate deeper differences that the GAP is unable to resolve. Negotiations will then take place between ministers and trustees or the matter will be referred back to the GAP for further discussion.

In the 21 years that the GAP and the CCFGTS have been operating, relations between the trade union centrals, the government and the CAIXA have been characterised more by cooperation than conflict. This does not mean that there are not tensions, only that the tensions are generally resolved or tacitly postponed while the question "matures".

The most active trade union centrals in the GAP have been the CUT, the CGT and Força Sindical. In periods when the federal government significantly reduced the availability of resources for the sector in the federal budget or prevented state and municipal authorities from taking on new financial commitments with the fund's resources, the trade union centrals were very critical of federal government policy and accused the government of not fulfilling its responsibilities in the fields of water, sanitation and housing.

However, it is important to stress that although unions and employers might criticise government policies, historically speaking, the ministries in these sectors were responsible for developing housing and water and sanitation policy. Whenever capacity for developing policy in these ministries weakened, this represented an enormous loss for the fund, because the investment programme was unable to respond to public demand. Resources were redirected and this represented enormous losses for Brazil in terms of opportunity cost of investments.

This occurred, for example, in the period 1999-2002 when the government fiscal rules prevented state and municipal authorities from borrowing money to finance investment in basic water and sanitation.³⁹ These rules were an integral part of the fiscal regime⁴⁰ adopted in Brasil, when the main objective of economic policy became the generation of surpluses.⁴¹ With regard to policy on investment in basic water and sanitation, projects began to be prioritised in accordance with the chronological order in which they were listed on the *Sistema de Registro de Operações com o Setor Público – CADIP* (Register of Public Sector Operations System). A specific “waiting list” was created in which projects in water and sanitation were registered in accordance with the Central Bank’s CADIP register.⁴² If the municipality occupying first place in this list could not acquire new loans for any reason, this prevented all the rest from acquiring new loans. Although it might be difficult to understand as a criterion for public policy, the use of chronological order of registration prevailed for quite a long time.⁴³ It was not without reason that the criteria became known in the water and sanitation sector as the “*fila burra*” or “stupid queue”, as stated in the speech of former president Lula in the State of Mato Grosso.⁴⁴ In this period, the fund’s resources lost an important use for its resources.⁴⁵

Until 2002, the sectoral ministries did not have the political clout to fight the rules of the fiscal regime set by the National Monetary Council, even after an improvement took place in the financial and fiscal situation of states and municipalities and also considering the fact that the water and sanitation sector never defaulted on payments to the FGTS. The use of FGTS resources would only become more significant in the sector after the creation of the MCidades, in January 2003, and the diligent work of SNSA – National Secretariat of Water Supply and Sanitation’s team, led by the Secretary Mr. Abelardo Oliveira Filho, with the National Treasury during 2003 that involved changing the rules for federal agencies wanting to use FGTS resources to finance projects. Resolution N^o. 3.153, of 11 December 2003 authorised new credit operations for implementing water and sanitation initiatives and the MCidades was given the job of supervising these operations in accordance with the more flexible rules introduced by the Resolution.

6. Recent FGTS investment policies

In the field of social infrastructure, the biggest current housing and water and sanitation programmes are respectively *Minha Casa, Minha Vida* (My House, My Life) and *Programa Saneamento para Todos* (Water and Sanitation for All). Both were developed and proposed by the MCidades and approved by the CCFGTS. The growth in the allocation of fund resources for both programmes is shown in the section 3. The budget for 2011 was R\$ 23 billion for investment in social housing and R\$ 4.8 billion in basic water and sanitation.⁴⁶

From the point of view of workers, the most significant policies regarding investment of the FGTS surplus were introduced at the end of the 1990s, when workers with FGTS accounts were permitted to buy shares in privatised companies. In 2007, with the establishment of the FGTS Investment Fund (FI-FGTS) and, in 2010, when workers who had FGTS accounts were once again given the opportunity to buy shares in the state-owned oil company, Petrobras, which wanted to raise capital for the Pre-Sal oil exploitation programme.

At the end of the 1990s, workers with FGTS accounts were given the opportunity to invest part of the balance on their accounts in the purchase of company shares, through Law n^o 9.491, of 9 September 1997, which established the *Programa Nacional de Desestatização – PND* (National Privatisation Programme) and Decree N^o 2.594, of 15 May 1998, which regulated the programme. Article 31 of Law 9.491/97 authorised workers to use up to 50% of the balances in their accounts to buy shares issued by *Fundos Mútuos de Privatização – FMPs* (Mutual Privatisation Funds).⁴⁷ FMPs are regulated by the *Comissão de Valores Mobiliários – CVM* (Securities and Exchange Commission), the agency that regulates the stock markets and ensures their efficient and legal operation, and their role is to buy shares in state-owned companies (federal, state, municipal) that were included in the PND.

In August 2000, funds from 312,194 accounts were used to buy Petrobras shares for a total of R\$ 1.6 billion.⁴⁸ Table 7 shows the rate of return on some FMPs during the last year and accumulated rates from the date of issue.⁴⁹

Table 7. Rate of return on FMP investments in Petrobras and Vale do Rio Doce

Type of FMP	Starting date	Last 12 months	Accumulated
FMP-FGTS CL PETROBRÁS RF49	24/08/01	-6.47%	524.55%
FMP-FGTS PETROBRÁS II	17/08/00	-15.71%	883.83%
FMP FGTS VALE I	17/08/00	-6.28%	1,142.88%
FMP FGTS VALE II	27/03/02	-5.66%	1,214.56%
FMP FGTS VALE MIGRAÇÃO	26/02/02	-6.18%	1,109.60%

In June 2007, Law 11.491 created the FI-FGTS, into which the FGTS pays successive quotas of R\$ 5 billion from its net assets (assets minus liabilities), with a ceiling of 80% of the FGTS's net assets. At the time, the trade unions raised questions about the initiative, especially about the guarantee of profitability on these investments.⁵⁰ After many discussions in the CCFGTS, the FI-FGTS was approved.

FI resources must be invested in the construction, repair or extension of roads, ports, waterways, railways, energy or water and sanitation installations. The CCFGTS establishes criteria, guidelines and conditions for the use of FGTS resources by the FI-FGTS. The FI-FGTS's investment policy is proposed by an Investment Committee, formed by 12 people appointed by members of the CCFGTS, including three worker representatives, three employer representatives and six representatives of federal government agencies and institutions. The FI-FGTS is administered by the CAIXA and regulated by the CVM.⁵¹ The FI-FGTS has its own assets of R\$ 13.8 billion separate from the FGTS and this figure could rise to as much as R\$ 22.3 billion.

In December 2009, the CCFGTS approved the option for workers to use the funds in their FGTS accounts to acquire FI-FGTS quotas. Authorisation was provided by Article 20 of Law 8.036/90, as per the wording of Laws 11.491 of 20/06/07 and 12.087 of 11/11/09, which allowed workers to invest up to 30% of the balance of their FGTS accounts in this way. The CAIXA set up the Fundo de Investimento em Cotas do FGTS – FIC (Fund for Investment in FGTS-FIC Quotas) specifically for this purpose, as envisaged by the legislation. The first issue authorised was valued at R\$ 2 billion and workers could buy shares in FI-FGTS projects by acquiring FIC quotas. The capital generated by the sale of the quotas will be invested in projects in sectors authorised by the legislation. These quotas are market operations and therefore there is no guarantee of profits and investors are subject to the same risks. Investments made by workers have a 12 month grace period. After the grace period, workers can withdraw their investments for reasons set out in Law 8.036/90.

The FGTS has recently taken on an anti-cyclical role in the Brazilian economy through its investment budget. In 2009, in the context of a cooling down of the Brazilian economy in the final quarter of 2008 and the world economic recession, the CCFGTS decided to allocate supplementary resources to its investment budget. Table 8 compares the initial budgets for 2009 with the final budget, after the CCFGTS decisions set out in the FGTS Annual Report for 2009.

Table 8. FGTS Investment Budget and Supplement in 2009

Sector	Initial budget (R\$ billion)	Supplement (R\$ billion)	Final budget (R\$ billion)
Housing	14.84	13.00	27.84
Water and Sanitation	4.60	3.00	7.60
Urban Infrastructure (transport)	1.00	1.00	2.00
FI-FGTS ⁽¹⁾	10.00		10.00
Total	30.44	17.00	47.44

Source: CAIXA, FGTS Annual Report 2009.

(1) In the case of the FI-FGTS, this was anticipated expenditure.

In the period 2008-2009, FI-FGTS investments were concentrated mainly on energy projects (see Table 9). Investment in water and sanitation accounted for a relatively small part. From the beginning of its activities until December 2010, the FI-FGTS accumulated net assets of R\$ 18.9 billion from the investment of approximately R\$ 15.73 billion in a range

of infrastructure projects, from the R\$ 15 billion released up to 2009 and the additional R\$ 5 billion authorised by CCFGTS Resolution nº 620, of December 2009, which instructed the payment of the fourth instalment of FGTS resources into the FI-FGTS.

Table 9. FI-FGTS investments 2008-2009

Sector	Instruments	Value in R\$ 1,000				Total 2008-2009
		2008		2009		
Energy	Debentures	4,117,380	45%	1,671,000	37%	5,788,380
	FIDC	100,000	1%	200,000	4%	300,000
	Shares	86,532	1%	1,180,992	26%	1,267,524
	FIP		0%	308,545	7%	308,545
Railway and port infrastructure	Debentures	2,752,623	30%	-	0%	2,752,623
Railways	Debentures	923,037	10%	300,000	7%	1,223,037
	Shares	-	0%	110,000	2%	110,000
Ports	Debentures	246,420	3%	88,000	2%	334,420
	Shares	462,500	5%	-	0%	462,500
Roads	Debentures	500,000	5%	-	0%	500,000
Water and Sanitation	Debentures	60,540	1%	-	0%	60,540
	Shares	-	0%	650,000	14%	650,000
Total		9,249,032	100%	4,508,537.0	100%	13,757,569

Source: CAIXA, FGTS Annual Report 2009.

Up to 2010, FI-FGTS investments were as follows (percentages and sectors): 17.39% on energy; 7.4% on the construction, modernisation and repair of roads; 3.29% on the modernisation and repair of railways; 3.08% on the extension and construction of new ports; and 4.73% on water and sanitation. The remaining 45% were in the form of debentures issued by the BNDES to ensure the feasibility and development of infrastructure projects in the sectors covered by the FI-FGTS.⁵²

Recently, Law 12.276 of 30 June 2010 authorised the federal government to grant (chargeable) Petrobras the rights to study and recording of oil, natural gas and other hydrocarbon fluids in unallocated areas of the Pre-Sal. The law also authorised workers to use the money in their FGTS accounts to buy shares in Petrobras. However, this was only open to workers who had already invested in FMPs in 2000. According to the CAIXA, 25,544 workers decided to buy, which signified the release of R\$ 423.7 million for the purchase of shares in Petrobras.⁵³

7. Conclusions and the scope for replication

In 2000, the FGTS annual financial report produced by the CAIXA stated that the FGTS had the highest revenues in its history - R\$ 18.7 billion. A total of 1,828,475 companies made deposits into 168 million accounts held by workers. In 2009, the annual report did not point out the enormously high FGTS revenues of R\$ 54 billion. This is completely understandable because the FGTS has been generating increasingly high surpluses since 2000. In 2000, on the contrary, the high receipts caused a major surprise because of the deficits in 1997, 1998 and 1999.

The FGTS is now one of the biggest funds in Brazil, with assets of more than R\$ 261 billion in 2011, 78.7 million individual accounts and monthly deposits made by 2.6 million companies. The FGTS is a wealthy fund, but its owners come from lower-income population; 93% of accounts have a balance of up to R\$ 3,270 (US\$ 2,043.75); 47.5 million accounts have a balance of up to one minimum wage. This fund's resources protect workers, especially from unjustified dismissal and retirement, although workers can access these accounts for other reasons, for example, if they are seriously ill, want to buy a house or have been affected by floods.

At the same time, the fund's resources have been essential for financing social infrastructure. In some periods, when the federal government did not prioritise investment in social infrastructure, rather than playing a complementary role, the FGTS was the only funder of these policies. Whether contributing all the investment or playing a complementary role, the FGTS has played a historically and undeniably important role. The jobs created and income generated by these resources, especially in the labour-intensive construction industry, has also contributed to fulfilling policy goals in employment and income.

For the last 21 years, all decisions about the administration of FGTS accounts and investment of FGTS resources have been made through political negotiations in the tripartite bodies of the GAP and the CCFGTS. The FGTS's many operations protect workers, finance social infrastructure, create jobs and generate income, the three pillars of sustainability, which makes the FGTS a strategic fund for Brazil.

The prosperous phase experienced by the fund is not only the result of economic growth. It involves a combination of factors and lessons learned since the mid-1980s. After 44 years in existence and 21 years of tripartite decision making, the FGTS has accumulated a unique experience, which could be shared, and could be used by other countries seeking instruments to promote sustainable development.

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Notes

¹ As described in CINTRA, Marcos Antônio Macedo.

² See CINTRA, Marcos Antônio Macedo, *O Brasil na era da globalização: condicionantes domésticos e internacionais ao desenvolvimento*.

³ Brazil is not a signatory of ILO Convention 158. For more details, see DIEESE, *A Convenção 158 da OIT e a garantia contra a dispensa imotivada. Nota Técnica*, Number 61, March 2008.

⁴ Workers who have been unjustifiably dismissed are protected by the *Programa do Seguro Desemprego – PSD* (Unemployment Pay Programme), which provides them with an income, qualifications and help getting a new job. The PSD is funded by the *Fundo de Amparo ao Trabalhador – FAT* (Worker Protection Fund) which, like the FGTS, also finances infrastructure developments through the *Banco Nacional de Desenvolvimento Econômico e Social – BNDES* (National Economic and Social Development Bank). See below for more on FAT.

⁵ See the article: *Determinantes do 'Milagre' Econômico Brasileiro (1968-1973): Uma Análise Empírica* by Veloso, F.A. et al.

⁶ Article 18, Institutional Act n° 2, of 27.10.65. See <http://www2.camara.gov.br/legin/fed/atoins/1960-1969/atoinstitucional-2-27-outubro-1965-363603-publicacaooriginal-1-pe.html>

⁷ Indexation of the FGTS' accounts were quarterly until 1969, six-monthly from 1969 to 1972, annual from 1972 to 1975, quarterly from 1975 to 1989 and, finally, monthly as from 1989. The quarterly and six-monthly adjustments to the balances of the accounts were extremely prejudicial for workers and represented significant losses. See Nota Técnica DIEESE, Number 49, September 2007

http://www.sinergiaspcut.org.br/areas/novas_tecnologias/subsecao_dieese/pdf/2007_informe_fgts_setembro.pdf

⁸ See *Política Nacional de Habitação*, Ministério das Cidades. Caderno Midades Habitação, November, 2004. www.cidades.gov.br

⁹ Idem.

¹⁰ See CAIXA Report at <http://www1.caixa.gov.br/canalfgts/pdf/HistoricoFGTS.pdf>

¹¹ See FGTS 40 anos, Livro 3: Trabalhando pela maioria: a segurança dos trabalhadores

http://downloads.caixa.gov.br/arquivos/fgts/relatoriosacoos/Livro40Anos_T.pdf

¹² Employers made deposits at private banks of their choice and the banks were required to pay these sums into the BNH after 90 days. Workers wanting to know the total balance of their FGTS fund had to apply to a series of banks to check the balance in each of their accounts. This created an enormous amount of work for them and, at the same time, made them more vulnerable to employer management of the deposits. For example, let us assume that an employer did not deposit the appropriate amount for a particular employment contract and that the worker in question was now employed by the third company since that first contract. That worker would have to find out which bank the deposit should have been made in order to find out whether it had in fact been deposited. See FGTS 40 anos.

http://downloads.caixa.gov.br/arquivos/fgts/relatoriosacoos/Livro40Anos_G.pdf

¹³ In February 1990, the government created the Liquidity Fund corresponding to 2% of the monthly FGTS surplus. The balance of this Liquidity Fund is used to buy Federal Public Bonds, to create a specific portfolio, and maintain an amount corresponding to one and a half times the average value of withdrawals in the previous three months or, as a minimum, 2% of the balance of total accounts. See FGTS Financial Statements for 2001 at:

http://downloads.caixa.gov.br/arquivos/fgts/demonstracao_financeira_fgts/DEMONSTRACAO_FINANCEIRA_FGTS_2001.PDF

¹⁴ See *Política Nacional de Habitação*, Ministério das Cidades. Caderno Midades Habitação, November, 2004. www.cidades.gov.br

¹⁵ See *Relatório da Controladoria Geral da União – CGU* at:

<http://www.cgu.gov.br/Publicacoes/BGU/2003/Volume1/V23%20-%20MCID.pdf>

¹⁶ The participatory approach means that the Ministry of the Cities reports, consults and negotiate with stakeholders under the auspices of the “ConCIDADES – Conselho das Cidades” its proposals, programmes and budgets. The ConCidades was a mechanism created and institutionalized in 2003 and was a long-standing demand from social movements. The ConCidades aims at discussing and suggesting the National Policy of Urban Development which includes water and sanitation, housing, urban mobility, transport and land planning.

¹⁷ See *Proposta do Plano Nacional de Saneamento Básico – PLAN SAB*, M Cidades, Brasília, 2011. http://www.cidades.gov.br/secretarias-nacionais/saneamento-ambiental/programas-e-acoos-1/planos-de-saneamento-basico/VP_Plansab13042011.pdf

¹⁸ Article 52 of Law 11.445/07. See: http://www.planalto.gov.br/ccivil_03/_ato2007-2010/2007/lei/l11445.htm

¹⁹ The FAT was created by Law n° 7.998, of 11 January 1990. It is a special fund, of an accounting-financial nature, under the Ministry of Labour and Employment (MTE). It is used to cover the cost of the *Programa do Seguro-Desemprego* (Unemployment Pay Programme), *Abono Salarial* (Pay Bonus) and the Economic Development Programmes. It is administered by the *Conselho Deliberativo do Fundo de Amparo ao Trabalhador – CODEFAT* (FAT Advisory Board). For further details, see the analysis of CODEFAT in THEODORO, Mário, *Participação social em políticas públicas: os conselhos federais de política social - o caso codefat*. IPEA, *Texto para Discussão* n° 931, Brasília, December, 2002.

²⁰ See *Diagnóstico do Setor Saneamento: estudo econômico e financeiro*. Aliança Pesquisa e Desenvolvimento. Brasília: Ministry of Planning and Budget. Department of Urban Policy/IPEA, 1995. Programa de Modernização do Setor Saneamento – PMSS, Volume 7, Série Modernização do Setor Saneamento. <http://www.pmss.gov.br/PaginaCarrega.php?EWRERterterTERTer=47>

²¹ Calculations of investments in the sector did not include state and municipal expenditure because of the difficulty of consolidating data from all three levels of government. For more details, see *Diagnóstico do Setor Saneamento: estudo econômico e financeiro*, Aliança Pesquisa e Desenvolvimento. Brasília: Ministry of Planning and Budget. Secretaria de Política Urbana/IPEA, 1995. Programa de Modernização do Setor Saneamento – PMSS, Volume 7, Série Modernização do Setor Saneamento at <http://www.pmss.gov.br/PaginaCarrega.php?EWRERterterTERTer=47>

²² See PLAN SAB, p51. http://www.cidades.gov.br/secretarias-nacionais/saneamento-ambiental/programas-e-acoos-1/planos-de-saneamento-basico/VP_Plansab13042011.pdf

²³ Jobs created following all the prerogatives of the labor Law.

- ²⁴ See <http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/0,,countrycode:BR~menuPK:64820012~pagePK:64483921~piPK:64483961~subTitle:Lending+Vol~theSiteP>
- ²⁵ The discount policy is described in Resolutions N° 593, of 24 March 2009 and Resolution n° 460, of 14 December 2004. http://www.mte.gov.br/legislacao/resolucoes/2009/r_20090324_593.pdf
http://www.mte.gov.br/legislacao/resolucoes/2004/r_20041214_460.pdf
- ²⁶ The total value of withdrawals for unjustified dismissal is calculated in relation to the total value of withdrawals.
- ²⁷ See FGTS financial statements for 2009 at www.fgts.gov.br
- ²⁸ At an exchange rate of 1 US\$ = R\$ 1.6
- ²⁹ Average interest rates on loans in housing and sanitation are taken from the FGTS annual report for 2009. See http://downloads.caixa.gov.br/arquivos/fgts/relatoriogestao/Relatorio_de_Gestao_do_FGTS_2009.pdf
- ³⁰ See FGTS financial statements for 2001 at http://downloads.caixa.gov.br/arquivos/fgts/demonstracao_financeira_fgts/DEMONSTRACAO_FINANCEIRA_FGTS_2001.PDF
- ³¹ The IPCA is the official index used by the federal government to measure inflation goals, as agreed with the IMF, in July 1999.
- ³² Index of approximate return calculated using the TR, as published on the Central Bank website (www.bcb.gov.br) plus 3% per year.
- ³³ See Nota Técnica DIEESE, Number 49, September 2007 http://www.sinergiaspcut.org.br/areas/novas_tecnologias/subsecao_dieese/pdf/2007_informe_fgts_setembro.pdf
- ³⁴ See: CUT avalia gestão do FGTS e defende melhoria na remuneração das contas, 2 April 2011, at http://www.bancariospb.com.br/index2.php?option=com_content&do_pdf=1&id=9500
- ³⁵ Article 65 of Decree N° 99.684, 8 November 1990. Ver http://www.planalto.gov.br/ccivil_03/Decreto/D99684.htm
- ³⁶ Law 8.036/90, Article 6°.
- ³⁷ Law 8.036/90, Article 4° and Article 7° at <http://www010.dataprev.gov.br/sislex/paginas/42/1990/8036.htm>
- ³⁸ Resolution N° 598, 2 July 2009 http://www.mtb.gov.br/legislacao/resolucoes/2009/r_20090702_598.pdf
- ³⁹ Resolution n° 2.444 of 24 November 1997 and Resolution 2.521, of 8 July 1998, both by the National Monetary Council, suspended the main sanitation programme and amended the rules and restrictions on credit in the public sector. Both can be accessed at www.bcb.gov.br
- ⁴⁰ Resolution 2.827 of 30 March 2001 of the Central Bank amended the rules for credit in the public sector. See http://www.bndes.gov.br/SiteBNDES/export/sites/default/bndes_pt/Galerias/Arquivos/bf_bancos/RES_2827.PDF
- ⁴¹ REZENDE, Fernando, CUNHA, Armando. *O orçamento público e a transição do poder*. Rio de Janeiro, Editora FGV, 2003.
- ⁴² *Sistema de Registro de Operações com o Setor Público – CADIP*. For more details, see Cintra, M. p104.
- ⁴³ See the announcement of new contracts for the Sanitation for All Programme in 2006 by the ex-Minister for Cities, Márcio Fortes at <http://www.riosvivos.org.br/Noticia/Inscricoes+para+Saneamento+para+Todos+vai+ate+dia+30/8539>
- ⁴⁴ See the speech by the former president at www.info.planalto.gov.br/download/discursos/pr249-2@.doc
- ⁴⁵ See the analysis made by Prof. Leo Heller at http://www.abes-sc.org.br/novosite/?center=noticias&id_ultimas=115
- ⁴⁶ CAIXA Circular N° 534, 29 December 2010. http://downloads.caixa.gov.br/arquivos/circularescaixa/fgts_2010/CIRCULAR_CAIXA_534.pdf
- ⁴⁷ The law and the Decree can be accessed at: http://www.planalto.gov.br/ccivil_03/Leis/L9491.htm. Article 31 of Law 9.491/97 amended Articles 7, 18 and 20 of Law n° 8.036, of 11 May 1990, which regulates the FGTS.
- ⁴⁸ FGTS financial statements for 2000. See http://downloads.caixa.gov.br/arquivos/fgts/demonstracao_financeira_fgts/DEMONSTRACAO_FINANCEIRA_FGTS_2000.PDF
- ⁴⁹ The regulations for purchasing Vale do Rio shares include a series of Decrees, CVM Instructions and CAIXA Circulars: CAIXA Circular 287/03; Decree n° 99.684/90; Decree n° 1.510/95; Decree n° 1.539/95; Decree n° 2.430/97; Decree n° 3.595/00; Decree n° 2594/98; Law n° 7.670/88; Law n° 8.036/90; Law n° 9.491/97; CVM Instructions n° 279/98, n° 280/98, n° 295/98, n° 337/00, n° 339/00, n° 347/00, n° 354/01, n° 360/02, n° 397/03, n° 405/04 e n° 407/04. This list is available on the CAIXA website: http://www.caixa.gov.br/Voce/Investimentos/Fundos/Fundos_Mutuos_de_Privatizacao/Vale_do_Rio_Doce/CAIXA_FMP_FGTS_Vale_do_Rio_Doce_II/saiba_mais.asp
- ⁵⁰ http://www.sinergiaspcut.org.br/areas/novas_tecnologias/subsecao_dieese/pdf/2007_informe_fgts_setembro.pdf
- ⁵¹ The FI-FGTS is regulated by instructions issued by the *Comissão de Valores Mobiliários - CVM* (Property Values Commission) Instruction no. 462, of 26 November 2007, and its investments are not covered by credit risks as dealt with by Law no. 8.036, of 11 May 1990. The FI-FGTS is regulated by CCFGTS Resolution no. 530, of 4 July 2007. See FGTS Annual Report 2009, Annex I, *Notas Explicativas às Demonstrações Contábeis da Administração*, 31 December 2008 and 2009, p8: http://downloads.caixa.gov.br/arquivos/fgts/relatoriogestao/Relatorio_de_Gestao_do_FGTS_2009.pdf
- ⁵² See FI-FGTS Annual report 2010 at http://downloads.caixa.gov.br/arquivos/fi_fgts/relatoriogestao/Relat%F3rio_Gest%E3o_FI-FGTS_Exerc%EDcio_2010.pdf
- ⁵³ For details, see the FGTS Channel, news at <http://www.fgts.gov.br/noticias/noticia061.asp>