

-Leste

Avª Bispo Medeiros, PO Box 59, Dili, Timor-Leste

Public Instruction N.º

Article 2

Scope

1. This Public Instruction shall apply to any person, organization or company, including microfinance institutions, that operate in Timor-Leste and that have more than \$500,000.00 (five hundred US dollars in customer Guarantee Accounts, but shall exclude issuers of collective investment schemes and finance companies and other entities that raise funds solely from related parties, or from corporate or wholesale sources.
2. This Public Instruction applies to ODTIs with precedence over any other law, regulation or instruction related to financial services.

Article 3

Prohibition and restrictions

1. No organization shall commence, or carry on, the business of taking Deposits, or accumulate customer Guarantee Accounts in excess of \$500,000.00 (five hundred US dollars) unless and until such institution has been licensed in accordance with the provisions of this Public Instruction.
2. ODTIs shall maintain Deposit liabilities at a level less than US\$ 1,000,000.00 (one million US dollars)
3. No ODTI shall use the word “bank” in its name.

Article 4

Financial activities

1. ODTIs shall be authorized in their license to engage in the financial activities described as follows:
 - a). Hold the funds of customers in Guarantee Accounts.
 - b). Take Deposits in the form of saving and time deposits bearing interest or not in the official currency.
 - c). Provide financing facilities, with or without collateral security, in cash or in kind, for such terms and subject to such conditions as may be prescribed but shall exclude business in foreign exchange transactions.
 - d). Accept pledges, mortgages, hypothecations or assignments to it of any kind of movable or immovable property for the purpose of securing loans and advances made by it.
 - e). Mobilize and provide financial and technical assistance and training to micro enterprises.
 - f). Borrow and raise money and open accounts at banks.
 - g). Pay, receive, collect and remit money within the territory of Timor-Leste.
 - h). Open account or make any agency arrangement with, and to act as agent or correspondent of, any bank or financial institution.
 - i). Provide safe custody facilities and other payments services.
 - j). Clear and settle its accounts or the accounts of its clients through a bank.
 - k). Receive grants from the government and from any other sources. and
 - l). Other financial activities as the BPA may determine from time to time.
2. No ODTI shall engage in financial activities other than those specifically authorized by its license.

CHAPTER II
ORGANIZATION OF ODTIs

Article 5
Organization of ODTIs

1. ODTIs must be organized as companies under the Law on Commercial Companies.
2. Each ODTI shall enjoy freedom of contract, including the right to own and dispose of movable property and, subject to applicable law, immovable property, and may be a party to legal proceedings.

Article 6
Minimum Capital requirements

The minimum Capital amount required to acquire an ODTI license shall be \$500,000.00 (five hundred US dollars) or such other amount prescribed by the BPA from time to time.

Article 7
Governing structure

1. Each ODTI shall be governed by a Board of Directors which may establish committees at its discretion and as the BPA may determine.
2. The Board of Directors of an ODTI shall have the following responsibilities:
 - a). to establish the strategic objectives and policies of the ODTI;
 - b). to hire and dismiss the chief executive officer of the ODTI;
 - c). to supervise the implementation of Board policies and decisions;
 - d). to set and enforce clear lines of responsibility and accountability throughout the ODTI;
 - e). to establish appropriate accounting procedures and accounting controls for the ODTI, and, as it deems appropriate, to commission audits at the expense of the ODTI;
 - f). to supervise the external audit of the ODTI;
 - g). to monitor compliance with the present Public Instruction and laws applicable to the ODTI.
3. The Board of Directors of an ODTI shall have an uneven number of not less than five (5)

defined in the Commercial Companies Law.

2. No amendment of the articles of association of an ODTI shall be made without prior written consent of the BPA.
3. Each ODTI shall be governed by internal by-laws, approved by its Board of Directors, which establish:
 - a). the roles and responsibilities of the Board of Directors, including the functions of

- a). the business plan is based on reasonable assumptions; and
 - b). the qualifications, experience, and integrity of its Administrators and Principal Shareholders are appropriate for its business plan and the Administrators meet the criteria established in this Public Instruction.
 - c). In the case of ODTIs that are operating at the time of their application, the results of the third-party appraisal that satisfy the BPA.
8. The decision of the BPA to refuse a license shall be final and shall include an explanation

determined by the BPA;

- iii). another ODTI that holds a significant interest in the ODTI has had its license revoked;
 - iv). a merger or sale of substantially all the assets of the ODTI;
 - v). the owner or owners of the ODTI have decided to dissolve or to liquidate the ODTI, or the ODTI has ceased to exist as a legally or operationally independent entity;
 - vi). the ODTI, at any time fails to pay its liabilities or in the opinion of the BPA the affairs of the ODTI are conducted in a manner detrimental to its depositors;
 - vii). the ODTI fails to pay the annual license fee.
2. In the event that an ODTI requests that the BPA revoke its license, the BPA shall decide on the request within thirty (30) business days after its receipt and designate the effective date of the revocation.
 3. A decision by the BPA to revoke or not to revoke a license shall be communicated in writing to each ODTI or branch office concerned and shall give the grounds for the decision and the process for appeal.
 4. The decision to revoke a license shall immediately be published in the *Jornal da República* and in one or more newspapers of general circulation wherever the offices of the ODTI concerned are located.
 5. Procedures including notice and registration of re

Article 16

Mergers

In order to have legal effect, merger, amalgamation or sale of substantially all the assets of an ODTI shall require prior written authorization of the BPA.

CHAPTER IV PRUDENTIAL REQUIREMENTS

Article 17

General prudential principles

1. ODTIs shall conduct their administration and operations in accordance with sound administrative and accounting procedures, the requirements of the present Public Instruction, and the instructions or guidelines issued by the BPA applicable to ODTIs.
2. ODTIs shall maintain adequate Capital and liquid resources, and ensure that their assets are protected against risk of loss.
3. No ODTI shall make a Capital Distribution if, in the opinion of the BPA, after making the distribution, the ODTI would have less than the minimum Regulatory Capital.

Article 18

Capital requirements

1. ODTIs shall maintain at all times the minimum amount of Regulatory Capital as defined by the BPA.
2. ODTIs shall maintain a minimum capital adequacy ratio of not less than twenty (20) percent.
3. All instructions regarding the definition and calculation of Regulatory Capital, the capital adequacy ratio and risk-weighted assets that apply to banks shall apply in equal measure to ODTIs.

Article 19

Liquidity requirements

1. ODTIs shall maintain an amount of highly liquid assets that is at least twenty (20) percent of total liabilities, or thirty (30) percent of Deposit liabilities, whichever number is higher.
2. All instructions regarding the general objectives, definitions, principles of liquidity management, highly liquid assets, reporting and responsibilities for monitoring compliance that apply to banks shall apply in equal measure to ODTIs.

Article 20

Exposure limits and transactions with related parties

1. The maximum aggregate amount of liabilities that an ODTI shall be permitted to have committed or outstanding to or for the benefit of any single person or group of interrelated persons is one (1) percent of its regulatory capital.
2. ODTIs shall not enter into transactions with or for the benefit of a person who is related to the ODTI.
3. For the purposes of the previous paragraph, persons who are related to an ODTI shall include without limitation:

- a). any Administrator or shareholder of the ODTI;
- b). any person who is related to such Administrator or Principal Shareholder by marriage, consanguinity to the second degree, or business interest;
- c).

- a). its articles of association and by-laws and all amendments thereto;
- b). a register of its shareholders, including the number of shares registered in the name of each shareholder;
- c). minutes of meetings and resolutions of the Board of Directors; and
- d). minutes of meetings and resolutions of the shareholders.

Article 24
Accounts and Financial Statements

1. ODTIs shall maintain at all times accounts and records and prepare annual financial statements adequate to reflect their operations and financial condition in accordance with generally accepted accounting standards.
2. Annual financial statements shall be prepared within thirty (30) business days of the balance date in such form and detail and in accordance with such accounting standards as shall be prescribed by instruction of the BPA respecting the preparation and presentation of the accounts of the OD7he tl financial st, i si.3ua 2.nngcount 7a0n-3hengGMPAtite1(n)14(t)4 oial -al nu(t i10(me)4(u(tin1.5o,d3(n((tc,ua)-36e)-g)ri)4)10(to,d3(r((t(ar)4(d)4(s)8(.))Tj 0.c 0 Tw 16.354

Article 26

Reports and inspection

1. Each ODTI shall prepare and submit to the BPA reports concerning its financial activities,

3. No ODTI shall conceal, convert, or transfer cash or other property, knowing that such property is derived from criminal activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in such activity to evade the legal consequences of his action.
4. ODTIs shall immediately report to the BPA any suspicious transaction.

- d). impose fines on the ODTI or on its Administrators or Principal Shareholders in an amount from US\$ 50.00 .00 (fifty one thousand US dollars) per day for each day that the infraction continues; provided, however, that fines shall be of similar

