



VI CONSTITUTIONAL GOVERNMENT

DECREE-LAW Nº 17/2015

OF 24, JUNE

NATIONAL PAYMENT SYSTEM

The national payments system comprises the institutional and infrastructure arrangements for the transfer of funds. The over-riding purpose of having a national payments system is to support the efficient and safe transfer of funds between individuals, businesses and other legal entities, and financial institutions.

A proper payment system not only means that funds can be transferred safely and reliably between these entities, but also supports monetary policy, financial stability and the overall economic development of a nation.

Central banks are core contributors to national payment system development, and generally play a number of roles. They are operators, users of payment services and catalysts for payment system reform; furthermore they have the role to supervise payment and securities settlement systems, essential infrastructures for the functioning of the financial sector and the overall economy.

To be effective, market and payment arrangements, oversight and regulatory regimes relating to the payment system require a sound legal framework that provides legal certainty and reduces risk.

With this Decree-Law and pursuant to the provisions set forth in articles 4, 5, 28 and 30 of Law nº 5/2011 of 15 June that establishes the obligation of the Banco Central de Timor-Leste to institute, regulate and oversee the National Payment System as a whole with the purpose to promote its efficiency and security as well to limit the risks, namely systemic and promote the transparency and consumer protection, the powers and responsibilities of the Banco Central de Timor-Leste are established to regulate and oversee the national payment system whereas, at the same time, provisions are made for the authorisation of providers and operators of payment services. Further, legal status is given to settlement, netting and finality of payments, and also electronic payments and electronic money.

Thus,

Under the provision of article 115, paragraph 1 subparagraphs e), n) and o) of the Constitution and article 28 nº 1 of Law nº 5/2011 of 15 June, the Government enacts the following to be valid as Law:

CHAPTER I

GENERAL PROVISIONS

Article 1

Scope and application

1. This Decree-Law establishes the legal framework for the regulation and management of the National Payment System.
2. This Decree-Law is applicable to the whole of the Democratic Republic of Timor-Leste, and to any Payment Services provided and System operating wholly or partially in the country.
3. The provisions of this Decree-Law are not applicable to the State, Municipalities and to state direct or indirect administration bodies when acting vested in their public authority, except in the extent and when acting as Participant, Operator or Payment Service Provider.

Article 2

Definitions

1. For the purposes of this Decree-Law, the following definitions shall apply:
 - a) "Netting Arrangement" means an arrangement in writing to convert several claims or obligations into one net claim or one net obligation and includes bilateral netting, Multilateral Netting, Netting by Novation, Close-out Netting, payments netting or a combination of any of these;
 - b) "Agent" means a natural or legal person which acts on behalf of a Bank or Payment Service Provider in providing Payment Services;
 - c) "Settlement Agent" means an entity providing accounts for the Participants of a System to hold funds and to settle transactions between Participants in the System;
 - d) "Electronic presentment of Cheques" means the electronic transmission, by an institution authorized to draw a Cheque, of an image and payment information of the Cheque, to the payee institution on whom it is drawn;
 - e) "Bank" means an institution duly authorised by the Central Bank to undertake activities comprising namely to receive deposits or other repayable funds from the public and to grant credits for its own account;
 - f) "Central Bank" means the Banco Central de Timor-Leste established by Law nº 5/2011 of 15 June;
 - g) "Clearing House" means any entity that provides Clearing or Settlement services for a System, including the Central Bank;

- h) "Payment Card" means any card, or other device, including a code or any other means of access to an account, that may be used to obtain money or to make payments, and includes cards or devices irrespective of whether they are credit, debit or stored-value cards;
- i) "Cheque" means a bill of exchange payable on demand, drawn on a Bank account in Timor-Leste and payable in the country;
- j) "Circulars and/or "Instructions" shall have the meaning attributed to them by Law nº 5/2011 of 15 June;
- k) "Clearing" means the process of transmitting, reconciling and/or confirming funds or securities transfer instructions prior to Settlement and includes the Netting of instructions and the establishment of final positions for Settlement;
- l) "Close-out netting" means a Netting arrangement under which, following the occurrence of certain events specified by the parties to the arrangement, all or any of the transactions referred to in the Netting arrangement may be terminated, and where so terminated the termination value becomes due and payable;
- m) "Multilateral Netting" means an arrangement among three or more parties to net their obligations;
- n) "Netting by novation" means a Netting Arrangement between the parties to a series of transactions where an account of amounts due is kept and the rights and obligations of the parties in respect of the account are continuously extinguished and replaced by a new single amount payable by one party to the other;
- o) "Central Counter-Party or CCP" means an entity which interposes itself between buyers and sellers, so becoming the buyer to every seller and the seller to every buyer in a Settlement System;
- p) "Direct Debit" means the series of transfers, initiated by the payee, on the basis of the payer's consent given to the payee, to the payee's Payment Service Provider or to the payer's own Payment Service Provider. The term includes any payment order issued by the payee's Bank or Payment Service Provider, or an intermediary intended to carry out the payee's order;
- q) "Central Securities Depository or CSD" means an entity in whose register securities are immobilized, and enabling securities transactions to be finally processed by book-entry. Securities can be held at the CSD either in dematerialized (that is, as electronic records) or physical form. A CSD also provides custodial and asset services;
- r) "Collateral" means an asset that is delivered by the collateral provider to secure an obligation to the collateral taker. Collateral arrangements may take different legal forms; collateral may be obtained using the method of title transfer or pledge;

- s) "Payment Instrument" means any instrument, whether tangible or intangible, that enables a person to obtain money, goods or services or to otherwise make payments or transfer money. These include, but are not limited to, Cheques, funds transfers initiated by any paper or paperless device (such as automated teller machines, points of sale, internet, telephone, mobiles), Payment Cards, including prepaid;
- t) "Settlement" means the act of discharging obligations by transferring funds or securities between two or more parties;
- u) "Net Settlement" means a Settlement procedure in which final settlement of transfer instructions occurs on a net basis at one or more isolated, pre-specified times during the processing day;
- v) "Gross Settlement" means the Settlement of funds or securities transfer instructions that occurs individually on an instruction by instruction basis;
- w) "Real-Time Gross Settlement or RTGS" means a Settlement that effects final settlement of funds, payment obligations and book entry of securities and instruments on a real-time transaction-by-transaction basis as these occur during operating hours in a processing day;
- x) "Electronic Money" means electronically, including magnetically or in any other tangible or intangible device (such as a SIM card or a software), stored monetary value as represented by a claim on the issuer, which is issued on receipt of funds for the purpose of making payment transactions and which is accepted as a means of payment by persons other than the issuer;
- y) "Netting" means the determination of the net payment obligations or the determination of the Net Termination Value of settlement obligations between two or more System Participants within a System;
- z) "Operator" means the Central Bank or any other entity licensed or authorised by the Central Bank to operate a System;
- aa) "Orders" shall have the meaning attributed to them by Law nº 5/2011 of 15 June;
- bb) "Participant" means a party who is recognized in the rules of a System as eligible to exchange, clear and settle through the System with other Participants either directly or indirectly. A direct participant is a participant in a System who is responsible for the settlement of its own payments, those of its customers and those of the indirect participants on whose behalf it is settling;
- cc) "Payment Services Provider" means any entity providing Payment Services;
- dd) "Settlement Rules" means the rules, however established, that provide the basis upon which payment obligations are calculated, netted or settled and includes rules for the taking of action in the event that a Participant is unable or likely to become unable to meet its obligations to a Payments System, Clearing House, CCP or other Participants. This also covers settlement of obligations from securities;

- ee) "Regulations" shall have the meaning attributed to them by Law n^o 5/2011 of 15 June;
- ff) "Payment Services"
 - i. services enabling cash deposits and withdrawals,
 - ii. execution of payment transactions,
 - iii. issuing and/or acquisition of Payment Instruments,
 - iv. provision of Remittance Services, and
 - v. any other services functional to the transfer of money, this shall also include the issuance of Electronic Money and Electronic Money instruments. The term does not include the provision of solely online or telecommunication services or network access;
- gg) "Money Transfer Services" means a payment service that accepts cash or other Payment Instruments (including E-money instruments) in one location and pays a corresponding sum in cash or other form to a beneficiary in another location by means of a communication, a message, transfer or through a clearing network to which the Remittance Service belongs;
- hh) "Clearing System" means a set of procedures whereby Participants present and exchange information relating to the transfer of funds or securities to other Participants through a centralized System or at a single location and includes mechanisms for the calculation of Participants' positions on a bilateral or multilateral basis with a view to facilitating the Settlement of their obligations;
- ii) "Settlement System" means a System established and operated by the Central Bank or any other System for the discharge of payment obligations as well as of settlement of obligations in relation to securities;
- jj) "National Payment System" means the whole of the services that are associated to sending, receiving and processing of orders of payment or transfers of money in domestic or foreign currencies, including:
 - i. issuance and management of Payment Instruments,
 - ii. Payment, Clearing, and Settlement Systems, including those processing and registering securities, as well as arrangements and procedures associated to those Systems and Services, such as links, and
 - iii. Payment Service Providers themselves, including System Operators and any third party acting on behalf of them, either as an Agent or by way of outsourcing agreements, whether entirely or partially operating inside the Democratic Republic of Timor-Leste.
- kk) "Payment System" means any System or arrangement for the processing, Clearing and/or Settlement of funds;
- ll) "Credit Transfer" means the series of transfers, beginning with the payer's payment order, made for the purpose of making payment to the payee. The term includes any payment order issued by the payer's Bank or Payment

Service Provider, or an intermediary intended to carry out the payer's payment order;

mm) "Electronic Funds Transfer" means any transfer of funds which is initiated by a person by way of instruction, authorization or order to a Payment Service Provider to debit or credit an account maintained with that provider through electronic means and includes, but it is not limited to point of sale transfers, automated teller machine transactions, direct deposits or withdrawal of funds, transfers initiated by telephone, internet, card and other devices;

nn) "Net Termination Value" means the net amount obtained after setting off or otherwise netting the obligations between the parties in accordance with Settlement rules issued by the Central Bank or a Netting Arrangement entered into between the parties.

2. Unless otherwise provided, the term "System" in this Decree-Law shall indistinctly refer to a Payment, Clearing and/or Settlement System.

CHAPTER II

POWERS AND DUTIES OF THE CENTRAL BANK

Article 3

General powers

The Central Bank, pursuant to this Decree-Law, shall have the following functions and powers:

- a) elaborate policies for continuous modernization of the National Payment System;
- b) authorise Payment Services Providers and Operators of Systems in conformity with the terms of this Decree-Law and any further regulation;
- c) determine general or individual conditions, standards, rules and/or procedures to implement this Decree-Law and any further regulation regarding any authorised entity and their activities and ensure that such conditions, standards, rules and procedures are duly applied;
- d) act as a forum for the consideration of matters of policy and mutual interest concerning the National Payment System; and
- e) perform any such other functions relating to Payment, Clearing or Settlement Systems or the issuance of Payment Instruments permitting the accomplishment of its functions.

Article 4

Operational role of the Central Bank

The Central Bank may provide facilities for Payment, Clearing and Settlement Systems, to their Operators or their Participants; in that regard, the Central Bank may:

- a) establish, own, operate and participate in the Payment, Clearing and Settlement Systems;
- b) act as a CCP to Participants;
- c) hold cash accounts for Operators and Participants, which may be used for the Clearing and Settlement of transfers into a System;
- d) hold securities on accounts for Operators and Participants, which may be used for the working of Systems;
- e) extend intra-day credit as determined by the Central Bank to entities that are participating in Payment, Clearing and Settlement Systems. Adequate collateral must be granted to the Central Bank to this end; and
- f) act as a CSD for Government securities.

Article 5

Cooperation with other authorities

1. The Central Bank shall cooperate with other public authorities engaged in the regulation and supervision of financial institutions and other entities directly or indirectly involved in the provision of Payment Services and their operation in the Democratic Republic of Timor-Leste, as well as on the regulation, monitoring and supervision of capital markets in the country.
2. The Central Bank shall have the power to cooperate with other monetary authorities and international organizations dealing with regulation and oversight of payments.

Article 6

Establishment of the National Payment System Council

1. The Central Bank have the power to establish a National Payment System Council (hereinafter referred to as "the Council") by way of an Instruction or Circular.
2. The objective of the Council shall be to advise the Central Bank on the regulation and oversight of the National Payment System, including, but not limited to, setting operational and technical standards and other rules affecting Payment Services and the Clearing and Settlement of payments and securities.

CHAPTER III

AUTHORISATION

Article 7

Principle of Authorisation

1. No person or entity may either provide Payment Services or operate a System unless such person is duly authorised by the Central Bank. The powers of the Central Bank to give an authorisation shall also include those of suspending or revoking such authorisation under predetermined circumstances.
2. In order to obtain an authorisation from the Central Bank, an applicant may be required to maintain capital adequacy at levels specified by the Central Bank. Capital level may be determined by the type of service, average value of payments, aggregate value and other factors as the Central Bank deems necessary.
3. The Central Bank may substitute the requirement of authorisation in case of offering of Payment Instruments with that of registration when the management of a specific category of Payment Instruments does not involve specific risks for the market or the submission to the authorisation process could strongly compromise competitiveness.
4. Banks already providing Payment Services under a banking license granted by the Central Bank are not required to obtain a new authorisation to provide Payment Services under this Decree-Law. However, they will be required to comply with operational, reporting and disclosure requirements as may be set by the Central Bank, and shall be subject to oversight requirements for authorised entities and persons under this Decree-Law.
5. Notwithstanding the previous paragraph Banks are required to obtain an authorisation for the operation of Systems.
6. The authorisations referred to in this article are granted in accordance with and in compliance with the procedures prescribed by the Central Bank in this respect.
7. An authorisation or any right acquired under this Decree-Law, whether wholly or partly, shall not be transferable except as may be prescribed by the Central Bank, and any transfer in contravention thereof shall be void.
8. An authorisation given under this Decree-Law may be renewed in such manner and subject to payment of such fees and/or other payments as prescribed by the Central Bank.
9. The Central Bank may, for the purposes of this Decree-Law, amend any condition of any authorisation issued by way of alteration, substitution, addition, omission or other modification. Where the Central Bank, of its own initiative, directs any amendment in the conditions of an authorisation, it shall serve a notice on the authorised institution informing the latter of the reasons for the proposed amendment, and providing a minimum period of 5 (five) business days within which the authorised institution may provide its comments on the proposed change before final decision.

CHAPTER IV OVERSIGHT

Article 8

Powers of the Central Bank

1. The Central Bank may at any time adopt general rules and criteria for the conduct of Payment Services or the operation of Systems, either generally addressing the totality of entities or a specific category.
2. The Central Bank may at any time issue directives or regulations applicable to Banks, Payment Services Providers or Operators with respect to their governance, management, operations, relations with customers, and relations with Systems and any other matter for the efficient administration of this Decree-Law.
3. The Central Bank may, where it is of the opinion that it is necessary for the purposes of carrying out its functions under this Decree-Law, examine, with or without any prior notice, the premises, apparatus, equipment, machinery, books or other documents, accounts or transactions of a Bank, Payment System Participant, an authorized Operator or issuer of Payment Instruments and any of his offices in or outside of the country.

Article 9

Rules of Systems

1. Each Operator of a System must establish written rules for the governance, management and operations of the System that the Operator runs, including at a minimum rules on management of liquidity, credit and settlement risk, rules determining the time when a payment instruction and a Settlement is final, corporate governance, access, contingency arrangements and operational risk, rights and liabilities of Participants and the System Operator. Such rules shall be in compliance with the requirements of this Decree-Law, and any instructions, regulations, directives or other orders issued by the Central Bank in this regard.
2. The Central Bank may vary or revoke any rules of the Operator established under number 1 of this article, where it considers appropriate to do so, having regard to:
 - a) whether the variation or revocation would be in the public interest;
 - b) the interests of the current Participants in the System;
 - c) the interests of persons who, in the future, may desire access to the System; and
 - d) any other matters the Central Bank considers relevant.
3. No Operator of a System shall cause any change in the System which would affect the structure, operation or administration of the System without:
 - a) the approval of the Central Bank; and
 - b) giving notice of not less than 30 (thirty) days to the Participants of the System after the approval of the Central Bank.

4. Notwithstanding number 2 of this article, the Central Bank may, in the interest of monetary policy, financial stability, or the public interest, allow the Operator to give notice for a period shorter than 30 (thirty) days.

Article 10

Access to Systems

The rules on access to Systems shall be objective, non-discriminatory and proportionate and those rules shall not inhibit access more than is necessary to safeguard against specific risks such as settlement risk, operational risk and business risk and to protect the financial and operational stability of the Payment System.

Article 11

Outsourcing of Activities

1. Where an Operator or a Payment Service Provider intends to outsource operational functions, it shall inform the Central Bank accordingly.
2. Outsourcing of important operational functions may not be undertaken in such a way as to impair materially the quality of the Operator or Provider's internal control or the ability of the Central Bank to monitor their compliance with all obligations laid down in this Decree-Law.
3. For the purposes of number 2, an operational function shall be regarded as important if a defect or failure in its performance would materially impair the continuing compliance of an Operator or Service Provider with the requirements of its authorisation, or its financial performance, or the soundness or the continuity of its services.
4. The Central Bank shall ensure that when an Operator or Service Provider outsources important operational functions, it complies with the following conditions:
 - a) the outsourcing shall not result in the delegation by senior management of its responsibility;
 - b) the relationship and obligations of the issuer towards the users of any relevant Payment Instrument shall not be altered;
 - c) the conditions with which the Operator or the Payment Service Provider is to comply in order to be authorised and remain so in accordance with this Decree-Law shall not be undermined;
 - d) none of the other conditions subject to which the authorisation was granted shall be removed or modified; and
 - e) the outsourcing of activities will not entail any unauthorised or unlawful transfer or disclosure of confidential information.

Article 12

Use of Agents

1. When a Bank or a Payment Service Provider intends to provide Payment Services, in particular when linked to a Payment Instrument, to customers through an Agent it shall communicate the following information to the Central Bank:
 - a) the name and address of the Agent;
 - b) a description of the internal control mechanisms that will be used by the Agent in order to comply with the obligations in relation to money laundering and terrorist financing; and
 - c) the identity of directors and persons responsible for the management of the Agent to be used in the provision of the services and evidence that they are fit and properly qualified persons.
2. When the Central Bank receives the information in accordance with number 1 it shall list the Agent in a register available to the public. No Agent shall carry out any activities under the agency prior to being listed in the said register.
3. Before listing the Agent in the register, the Central Bank may, if it considers that the information provided is incorrect, take further action to verify the information.
4. If, after taking action to verify the information, the Central Bank is not satisfied that the information provided pursuant to number 1 is correct, it shall refuse to list the Agent in the register.
5. The principal shall ensure that Agents acting on its behalf inform customers of their acting as Agents of a specific principal.

Article 13

Liability

1. When Banks, Operators or Payment Services Providers rely on third parties for the performance of operational functions, they shall take reasonable steps to ensure that the requirements of this Decree-Law are complied with.
2. Banks, Operators and Payment Service Providers shall remain fully liable for any acts of their employees, or any Agent, branch or entity to which activities are outsourced.

Article 14

Respect of Anti-Money Laundering and Counter-Terrorism Financing Legislation

1. Banks, Payment Services Providers and Operators shall meet the requirements and comply with Anti-Money Laundering and Counter-Financing of Terrorism procedures as set forth in the law, as well as regulations adopted by the Central Bank to this end.

2. Banks, Payment Services Providers and Operators shall also guarantee that any third party acting on their behalf or Agents shall comply with the law and requirements applicable.

Article 15

Retention of Records

1. Banks, System Participants, System Operators and Payment Service Providers shall retain all records obtained by them during the course of their operation and administration for a minimum period of five years from the date of the establishment of a record, or such other period as the Central Bank may require.
2. The retention of records under number 1 may be effected by electronic means in conformity with article 29 of this Decree-Law.

Article 16

Access to information and Disclosure

1. A Bank, Operator of a System, a System Participant and a Payment Service Provider shall provide any information requested by the Central Bank and produce all books, minutes, accounts, cash instruments, securities, vouchers or any documents relating to its business or the business of its affiliates for the inspection of any examiner appointed by the Central Bank at such time and manner the Central Bank or the examiner specifies.
2. However information is obtained as per number 1 by the Central Bank, these shall not be directly or indirectly disclosed to another person except:
 - a) for the purposes of the performance of one of the functions in terms of this Decree-Law;
 - b) where this is necessary to protect the financial integrity, effectiveness or security of the System;
 - c) where this is made to a recipient who is legally authorized to get such information;
 - d) when ordered by a judicial authority; or
 - e) if required by law.
3. The Central Bank may conduct audits or commission independent auditors to conduct an audit of the accounts, books, documents and other records of an Operator of a System and its Participants, as well as of a Payment Service Provider, and each such entity shall assist the Central Bank to the extent necessary for the purpose of enabling the Central Bank or its auditors to carry out an audit.

Article 17

Fees and charges

1. The Central Bank may impose charges or fees that shall defray its direct and indirect costs incurred in providing its oversight and regulatory services, to Banks, Operators and Participants of Systems or Payment Service Providers.
2. The Central Bank may also impose charges or fees for the provisions of operational services and/or infrastructure.

CHAPTER V

SANCTIONATORY REGIME

Article 18

Remedial Measures and Administrative Sanctions

1. The remedial measures and penalties provided for in this article shall be determined based upon the seriousness of the infringement, its effect on systemic risk, the stage at which it was detected, whether the perpetrator voluntarily reported it, and what measure is appropriate to remedy or terminate the infringement.
2. The Central Bank may adopt one or more of the following remedial measures to Banks, Operators and System Participants and to Payment Service Providers, its managers, employees or Agents if it determines that one or more of these entities or persons has committed an infringement consisting of the violation of any of the provisions set forth in articles 7º, 9º paragraph 3, 11º, 12º, 14º, 15º, 16º, 20º, 24º, 34º, 35º or 37º of this Decree-Law or any measure of the Central Bank issued pursuant to article 8º paragraphs 1 and 2 of this Decree-Law:
 - a) issue written warnings; or
 - b) issue written orders to cease and desist from such infractions and to undertake remedial action.
3. Pursuant to the previous number and taking into consideration the seriousness of the infringement, the Central Bank may adopt one or more of the following administrative sanctions:
 - a) impose a fine in an amount between 1,000.00 and 500,000.00 United States Dollars;
 - b) suspend temporarily or dismiss officers, managers or employees of perpetrators from their positions;
 - c) suspend or revoke the authorisation of a Bank, Operator, Payment Service Provider or Participant.
4. The application of the measures and administrative sanctions under this article, time frames and applicable process are defined by way of Instruction by the Central Bank, with respect for sufficient guarantees for the rights of the defendants.

Article 19
Specific Offences

1. To a director, manager or employee of a System Operator or Participant that:
 - a) obstructs the proper performance of an auditor in accordance with this Decree-Law or inspection of the Central Bank by an inspector duly authorised by the Central Bank;
 - b) damages, destroys, alters or falsifies accounts, books or records of an authorised System Operator or Participant;
 - c) with intent to deceive, makes false entries or fail to enter material items in the accounts of an authorised System; or
 - d) contravenes or obstructs the provisions of this Decree-Law or regulations issued to implement this Decree-Law, will be subject to a fine from 5,000.00 to 500,000.00 United States Dollars and/or suspension or interdiction from any activities regulated by the Central Bank.
2. The time frames and applicable process for the application of penalties under this article are defined by way of Instruction by the Central Bank.
3. The provisions of this article are without prejudice to any applicable civil or criminal responsibility.

CHAPTER VI
SETTLEMENT, NETTING AND FINALITY OF PAYMENT

Article 20
Settlement Accounts

1. Every Participant to a System shall, pursuant to the applicable rules:
 - a) open and maintain settlement accounts on the books of the Central Bank or a authorised Settlement System Operator, including the maintenance of minimum balances, on such terms and conditions as the Central Bank may specify (and so act as a direct participant); or
 - b) appoint another Participant which has opened a settlement account as a Settlement Agent to settle all obligations due from the first-mentioned Participant to any other Participant arising out of each day's clearing (and so act as an indirect Participant).
2. In the case where a Participant appoints a Settlement Agent under paragraph b) of number 1 of this article the Participant shall, before any obligation is settled by the Settlement Agent on his behalf, give the Operator notice in writing of the

appointment, accompanied by a written confirmation from the Settlement Agent of such appointment.

3. Any Participant who intends to terminate the appointment of his Settlement Agent, shall notify the Operator in writing not less than 7 (seven) days before the date of termination of such appointment.

Article 21

Finality of payment

1. A System shall specify the rules to achieve finality in its operations, in accordance with the provisions of this Decree-Law and as prescribed by the Central Bank. This shall include rules establishing irrevocability of orders once these have entered into the System, unless special conditions apply.
2. The entry or payment that has been effected in terms of number 1 of this article shall not be revoked, reversed, or set aside, including, without limitation, by insolvency or bankruptcy proceedings or any other act similar in purpose and effect, except if ordered by a court.

Article 22

Collateral for payment and settlement obligation

The rights and remedies of an Operator, a Participant, a Clearing House, a Central Counter-Party and any other third party into the System or the Central Bank with respect to collateral granted to it as security for a payment or the performance of an obligation incurred in a System shall not be affected by insolvency or bankruptcy proceedings or any other act similar in purpose and effect. In particular, such rights and remedies may not be the subject of any stay provision or order affecting the ability of creditors to exercise rights and remedies with respect to the collateral.

CHAPTER VII

WINDING UP AND ADMINISTRATION OF A SYSTEM OPERATOR OR PARTICIPANT

Article 23

The Central Bank to be notified of winding up

Where an Operator or a Participant in an authorised System is wound up or placed in scheme of administration, the Operator or Participant at whose instance the winding up or the administration order or the decision, as the case may be, was issued, shall with no delay lodge a copy of the order or decision with the Central Bank.

Article 24

Prohibition

An Operator or a Participant against which a winding-up application or scheme of administration has been lodged or decision for voluntary dissolution is made is prohibited from operating or participating in any System until such application or scheme is disposed of or finally determined.

Article 25

Finality and irrevocability

Notwithstanding anything to the contrary in any enactment relating to insolvency or bankruptcy, the winding up or the opening of scheme of administration of a Participant in a System or an Operator shall not affect the finality or irrevocability of any entry or payment which became final and irrevocable in terms of article 21 of this Decree-Law before the copy of the relevant order or decision was lodged with the Central Bank.

Article 26

Rules of the Central Bank and authorized systems to bind liquidators

1. If an institution participating in a System is wound up or placed in administration or otherwise declared insolvent by a court, any provision contained in a written Netting Arrangement to which the Participant is a party or any Netting rules and practices applicable to the System, are binding upon the liquidation mass, bankrupt or winding-up assets, liquidator or administrator, as the case may be, of the Participant concerned in respect of any payment or settlement obligation:
 - a) which has been determined through Netting prior to the issue of the winding-up or arrangement order, as the case may be; and
 - b) which is discharged on or after the date of the winding-up or arrangement order or discharge of which was overdue on the date of the winding-up or scheme of administration order, as the case may be.
2. Number 1 of this article shall apply notwithstanding anything to the contrary in any other law or decree-law for the time being in force in the Democratic Republic of Timor-Leste.

Article 27

Preservation of rights

The provisions of this Chapter shall not restrict or preclude any person from enforcing his rights under the Decree-Law in so far as it does not affect the finality of payment instruction or settlement or the validity and enforceability of a Netting Arrangement under this Chapter.

Article 28

Conflict of Laws provisions

1. In the event of insolvency of a foreign Participant, the rights and obligations relating to Settlement shall be governed by the laws of the Democratic Republic of Timor-Leste.
2. The rights and obligations of a domestic Participant in a foreign System shall be governed by the laws governing that foreign System.

CHAPTER VIII

ELECTRONIC EVIDENCE

Article 29

Admissibility of Electronic and Optical Evidence

The existence, content and timing of any transfer order, its entry into a System and its execution shall be admissible evidence in all cases, be it civil, commercial, criminal or administrative where the transfer order is made towards any Participants or third parties in writing or through a durable medium to ensure its traceability in an electronic, optical form or the printout of the electronic or optical document.

Article 30

Admissibility of Electronic and Optical Archives

The archives of a System, Operator, Payment Services Provider, issuer of Payment Instruments or Participant may be held in the form of a durable medium to ensure their traceability in an electronic, optical form or the printout of the electronic or optical document.

CHAPTER IX

CHEQUES IN ELECTRONIC FORM

Article 31

Electronic Presentment of Cheques

1. A Bank may present a Cheque for payment to the Bank on whom it is drawn by notifying him of its essential features by electronic means or otherwise, instead of by presenting the Cheque itself.

2. If a Cheque is presented for payment under this article, presentment needs not be made at the proper place or at a reasonable hour on a business day.
3. Where presentment of a Cheque is made under this article, the Bank who presented the Cheque and the Bank on whom it is drawn shall be subject to the same duties in relation to the collection and payment of the Cheque as if the Cheque itself had been presented for payment.
4. For the purposes of this article, the essential features of a Cheque are:
 - a) the indication of "payable in Timor-Leste only";
 - b) signature of the drawer;
 - c) serial number of the Cheque,
 - d) code which identifies the Bank on whom the Cheque is drawn,
 - e) account number of the drawer of the Cheque, and
 - f) amount of the Cheque is entered by the drawer of the Cheque, in figures and in words.
5. Without prejudice to the provisions set forth in the previous paragraphs if, before the close of business on the next business day following presentment of a Cheque under this article, the Bank on whom the cheque is drawn requests the Bank by whom the cheque was presented to present the Cheque itself:
 - a) the presentment under this article shall be disregarded, and
 - b) this article shall not apply in relation to the subsequent presentment of the Cheque.
6. A request under number 5 above for the presentment of a Cheque shall not constitute dishonour of the Cheque by non-payment.

CHAPTER X

ELECTRONIC FUND TRANSFERS AND ELECTRONIC MONEY

Article 32

Powers of the Central Bank

In implementing the provisions of this Decree-Law, and in accordance with any other relevant laws on Electronic Transactions, the Central Bank shall promulgate Circulars, Instructions, Orders or other relevant measures within its powers to cover specific issues on payment orders and money transfers executed by electronic messages, including, when deemed relevant, the protection of users of electronic Payment Instruments.

Article 33

Transparency of Fees

This document is a translation for information purposes only and does not dispense with the need to consult the original Portuguese version published in the Official Gazette. Banco Central de Timor-Leste cannot accept any liability for the correctness/accuracy of the translation.

1. The measures issued by the Central Bank under article 32 shall require any Payment Service Provider who imposes a fee on any customer for executing or receiving Electronic Transfers, to provide notice in accordance with number 2 of this article to the customer of the fact that:
 - a) a fee is imposed; and
 - b) the amount of any such fee.
2. The notice required by number 1 with respect to any fee shall:
 - a) be posted at a prominent and conspicuous place in the location at which the customer initiates the Electronic Fund Transfer, including electronic interfaces;
 - b) appear as may be determined by the Central Bank.
3. No fee may be imposed in connection with any Electronic Fund Transfer initiated by a customer for which a notice is required under number 1, unless the customer receives such notice in accordance with number 2 and it elects to continue in the manner necessary to effect the transaction after receiving such notice.

Article 34

Terms and Conditions of Transfers

1. The terms and conditions of Electronic Fund Transfers involving a customer's account shall be disclosed by the Bank or Payment Service Provider at the time the customer contracts for an Electronic Fund Transfer service, in a manner that is clearly understood by the customer, and in accordance with the rules issued by the Central Bank.
2. Such disclosures shall always include the following:
 - a) the customer's liability for unauthorized Electronic Fund Transfers and notice of the advisability of prompt reporting of any loss, theft, or unauthorized use of a Payment Instrument, access code or other means of access;
 - b) the telephone number of the person to be notified in the event the customer believes that an unauthorized Electronic Fund Transfer has been or may be effected;
 - c) the kind and nature of Electronic Fund Transfers which the customer may initiate, including any limitations on the frequency or amount of such transfers;
 - d) any charges for Electronic Fund Transfers or for the right to make such transfers;
 - e) the customer's right to stop payment of a preauthorized Electronic Fund Transfer and the procedure to initiate such a stop payment order;
 - f) the customer's right to receive information of Electronic Fund Transfers;
 - g) the Bank or other Payment Service Provider's liability to the customer;

- h) the circumstances under which the Bank or other Payment Service Provider will in the ordinary course of business disclose information concerning the customer's account to third parties; and
 - i) a notice to the customer that a fee may be imposed if the customer initiates a transfer from an ATM or other electronic terminal that is not operated by the issuer of the Card or other means of access.
3. A Bank or other Payment Service Provider shall notify a customer in writing or such other means as may be prescribed by the Central Bank from time to time, at least twenty-one days prior to the effective date of any material change in any term or condition of the customer's account required to be disclosed, unless such change is immediately necessary to maintain or restore the security of an Electronic Fund Transfer system or a customer's account in which case said communication shall take place as possible.

Article 35

Issuance of Electronic Money

In addition to general requirements established by this Decree-Law or the Central Bank for obtaining an authorisation as a Payment Service Provider, any applicant shall prove that the following conditions are met:

- a) the provision of Electronic Money shall not include the provision of credit;
- b) Electronic Money must be issued in exchange for the equivalent of Timor-Leste official currency or other currencies or highly liquid assets as acceptable by the Central Bank;
- c) Electronic Money issuers shall provide statistics on e-money loaded and redeemed values in their periodic financial statements; they should also be able to provide sufficient and reliable information to the Central Bank to monitor and control the quantity and velocity of Electronic Money supply in the economy;
- d) Issuers shall be obliged to redeem Electronic Money value in official currency, at par, upon request. The management of the underlying float and redemption of Electronic Money value by the issuer to the holder shall be clearly defined.

CHAPTER XI

FINAL AND TRANSITORY PROVISIONS

Article 36

Settlement of disputes by Arbitration

1. Any dispute between Operators and/or Participants into a System concerning any matter arising under this Decree-Law shall be submitted to arbitration by a tribunal of arbitrators appointed pursuant to number 2 of this article.

2. In case of a dispute or litigation not solved by agreement between the parties:
 - a) between only two parties, each party shall be entitled to appoint one arbitrator, and the two parties shall together appoint a third arbitrator, who shall be the chairperson of the tribunal;
 - b) if the dispute is between three or more parties, each party shall be entitled to appoint one arbitrator and all the parties shall together appoint an additional arbitrator, who shall be the chairperson of the tribunal.
3. If within thirty days of receipt of the request for arbitration, any party has not appointed an arbitrator or if within thirty days of the appointment of the arbitrators the parties have not appointed the third arbitrator or, as the case may be, the additional arbitrator, any party to the dispute may request that the Court of Appeal make the required appointment.
4. The procedure of the tribunal shall be fixed by the arbitrators, but the chairperson of the tribunal shall have full power to settle all questions of procedure in any case of disagreement.
5. A majority vote of the arbitrators shall be sufficient to reach a decision which shall be final and binding on the parties.
6. The chairperson of the tribunal shall be entitled to vote, and in the event of a tie, shall have a casting vote.
7. The Central Bank may establish the rules under which the arbitrators operate.

Article 37

Liability for unlawful acts

1. Within the application of this Decree-Law, the responsibility of officers, employees or agents of the Central Bank is limited to damages occurred as a result actions or illicit omissions from such officers, employees or agents, undertaken with fault or with care and diligence manifestly inferior to those which should be abide to taking into consideration the relevant position.
2. The Central Bank is severally liable for the acts and omissions refereed to in the previous paragraph and enjoy right of recourse.

Article 38

Transitory Provisions

1. Banks and/or other System Operators or Participants or their administrators conducting business on the effective date of this Decree-Law shall conform their organization, administration and operations to the requirements set forth herein within six months from the effective date of this Decree-Law.
2. Banks and/or other System Operators or Participants or their administrators whose organization, administration or operations do not conform in one or more material

respects with the requirements of any measure to be issued by the Central Bank pursuant to this Decree-Law, such Bank or System or their Operator shall conform to the requirements of the measure within the time period to be specified by such measure.

Article 39

Revision of the Decree-Law

The Central Bank shall be consulted about the revision of the present Decree-Law and other legislative initiatives within the scope of this Decree-Law or that can, in any way, affect the provisions herein.

Article 40

Revocation

All previous legislation and regulation with provisions in contrary to this Decree-Law is repealed.

Article 41

Entry into Force

This Decree-Law shall enter into force in the following day after its publication.

Approved in Council of Ministers on 21 April 2015.

The Prime Minister,
Rui Maria de Araújo

Promulgated on 18-06-2015

To be published.

The President of the Republic,
Taur Matan Ruak