



**DECREE-LAW No. 16/2014,
of 18 June 2014**

FINANCIAL INTELLIGENCE UNIT (FIU)

Considering the regime for the prevention of and fight against money laundering and terrorist financing established under Law no. 17/2011 of 28 December as amended;

Particularly considering the provisions of articles 4 and 5 of Law no. 17/2011 of 28 December, under the terms of which the Financial Intelligence Unit is established at the Central Bank of East Timor, where the type, organization and functioning of the aforementioned unit is established by Decree-Law;

In accordance with article 115, paragraph 1, sub-paragraphs a) and e) and article 116, paragraph d) of the Constitution of the Republic, the Government decrees the following for purposes of ensuring validity under the law:

**SECTION I
TYPE AND PURPOSE**

**Article 1
Type**

Hereinafter abbreviated as FIU, the Financial Intelligence Unit is an administrative entity created at the Central Bank of East Timor that is responsible for requesting and analysing information related to suspicious transactions and other information related to crimes of money laundering and terrorist financing, and for disseminating this information to competent authorities in accordance with Law no. 17/2011 of 28 December.

**Article 2
Mandate**

For the pursuit of its activities, the FIU is responsible for:

- a) Receive reports prepared pursuant to Law no. 17/2011 of 28 December;
- b) Collect and access the information it deems relevant to the prevention and combating of crimes of money laundering and terrorist financing pursuant to Law no. 17/2011 of 28 December;
- c) Analyse information cited in the foregoing paragraph and report transactions to the Public Prosecutor's Office suspected of being criminal in nature;

- d) As justifiably requested, collaborate with judicial authorities and other entities responsible for prevention and suppression of crimes of money laundering or terrorist financing, particularly through the transfer of data and the rendering of technical support and expertise;
- e) Provide timely feedback to relevant authorities and oversight and monitoring authorities concerning the routing and results of communications related to suspected money laundering or terrorist financing;
- f) Enter into memoranda of understanding with foreign entities that exercise functions similar to those of the FIU;
- g) Provide and receive information from other entities on the crimes of money laundering and terrorist financing;
- h) Cooperate with regulatory and oversight authorities to enable them to ensure compliance with the obligations set forth in Law no. 17/2011 of 28 December;
- i) Periodically submit comments to the institutions identified in article 3 of Law no. 17/2011 of 28 December concerning reports or information provided under this law;
- j) Issue decisions concerning violations and apply administrative penalties to any natural or legal persons for which there is no specific monitoring or regulatory authority responsible for ensuring compliance with the requirements established under Law no. 17/2011 of 28 December;
- k) Carry out research programs on developments in the area of money laundering and terrorist financing and improve means of detecting, preventing and disrupting money laundering and terrorist financing activities;
- l) Coordinate activities with other entities for disclosure and reporting to the general public concerning subject matter related to combating money laundering and terrorist financing;
- m) Ensure the maintenance of a database to facilitate secure and appropriate data and record collection and dissemination, by law, of such information to authorities responsible for preventing and combating money laundering and terrorist financing;
- n) Any other powers determined by law.

SECTION II

ORGANIZATIONAL STRUCTURE

Article 3

Organization

1. Within the scope of their respective responsibilities, the FIU and Central Bank shall collaborate and cooperate in order to fulfil their respective purposes.
2. An Executive Director appointed by the Governor of the Central Bank shall head the FIU.
3. The Governor of the Central Bank sets the compensation of the Executive Director.
4. The FIU shall be comprised of the staff that the Central Bank deems necessary for the fulfilment of its objectives.

5. If proposed by the Executive Director, the staff cited in the foregoing paragraph may be assigned or requisitioned to services to which they are contractually bound, or hired under an individual employment contract.

Article 4

Term of office

1. The title of the Executive Director does not permit the accumulation of any other duties.
2. The term of office of the Executive Director is four years, and may be renewed for equal periods of time.

Article 5

Removal from office

1. The Executive Director may be removed if such individual is:
 - a) Convicted of a crime punishable by imprisonment;
 - b) Convicted as a debtor in bankruptcy or insolvency proceedings;
 - c) Disqualified or suspended from the practice of a profession by the competent authority or by final court decision;
 - d) Engaged in illegal activities;
 - e) Carrying out his/her duties in a clearly improper manner;
 - f) In breach of article 7.
2. In the event of removal from office or resignation of the Executive Director, an alternate, who shall serve a new term of office pursuant to this article, shall be appointed.
3. The Governor of the Central Bank is responsible for the decision about removal from office cited in paragraph 1 as well as the appointment cited in paragraph 2 of this article.

Article 6

Powers of Executive Director

The Executive Director is responsible for:

- a) Daily management and operations of the FIU;
- b) Exercising all powers, duties and responsibilities pursuant to Law no. 17/2011 of 28 December and this Decree-Law;
- c) Ordering notification of the Attorney General's Office if suspected money laundering, terrorist financing or any other unlawful act is found to exist;
- d) Ordering, in writing, the delegation of any power, duty or function conferred to the Executive Director under this Decree-Law to members of the FIU;
- e) Coordinating and proposing mechanisms for cooperation and exchange of information that enable fast, efficient action in the prevention of money laundering and terrorist financing;
- f) Requesting information or documentation by law;
- g) Performing any legal acts or filing or defending any legal action on behalf of the FIU.

Article 7
Confidentiality

1. The FIU Executive Director and staff are barred from disclosing any information they receive in the exercise of their duties, except in cases provided by law, including after such parties are no longer performing their duties.
2. The party that disclosed information must not be identified under any circumstances.

SECTION II
BUDGET AND REPORT

Article 8
Annual Budget

The financial costs necessary for operation of the FIU must be included in the Annual Budget of the Central Bank, whereby the Executive Director must submit an appropriate annual budget for FIU activities, to be approved by the Central Bank.

Article 9
Report

1. Within four months after the end of each calendar year, the FIU shall prepare an annual report explaining the activities carried out during such calendar year.
2. The annual report cited above shall be submitted to the Governor of the Central Bank and must be published and distributed to competent authorities, subject to duties of notification of, cooperation with and disclosure to the Central Bank.

SECTION III
EXCHANGE OF INFORMATION

Article 10
Cooperation with other public entities

1. Any natural or legal person subject to the duty to notify set forth in article 23 of Law no. 17/2011 of 28 December must provide information and collaborate as necessary to carry out the duties of the FIU.
2. In the event of justified suspicion of crime, the FIU may exchange information subject to confidentiality with public entities responsible for preventing or combating crimes of money laundering and terrorist financing, whereby such entities are bound to the duty of confidentiality.
3. The requests for information cited in paragraph no. 1 are submitted through completion of a specific form signed by the competent authority.

Article 11
Cooperation agreements

1. Through its Executive Director, the FIU may enter into memoranda of understanding with foreign counterparts related to cooperation and exchange of information.

2. Any memorandum of understanding entered into pursuant to the preceding paragraph must:
- a) Be entered into on the basis of reciprocity and contain only information that the foreign entity reasonably believes to be relevant for investigation of a crime of money laundering or terrorist financing.
 - b) Restrict the use of information for purposes relevant to the investigation or prosecution of a crime of money laundering or terrorist financing;
 - c) Stipulate that the information be treated as confidential and will not be disclosed otherwise without the express consent of the FIU; and
 - d) Be entered into only when the law applicable to the foreign entity or transmitted information ensures a level of protection and confidentiality equivalent to that provided under the laws of East Timor.
3. The FIU may establish mechanisms for exchange of information with judicial authorities and other entities legally responsible for preventing and combating crimes of money laundering and terrorism financing.

Article 12

Disclosure of information to foreign agencies

1. Subject to the provisions of article 11, the FIU may disclose information to a foreign entity pursuant to the terms and conditions set forth in the memorandum of understanding.
2. Without prejudice to the preceding paragraph and in the absence of memorandum of understanding, the FIU may disclose information to a foreign entity for purposes of an investigation, criminal case or proceedings related to a crime of money laundering or terrorist financing when such disclosure is deemed to be absolutely essential to the cited investigation or case and the conditions set forth in article 11, paragraph 2, sub-paragraphs b), c) and d) are observed.
3. Any disclosure set forth under the terms of the foregoing paragraph shall be treated as confidential information and must not be disclosed without the prior consent of the FIU.

SECTION IV

ADMINISTRATIVE OFFENSE PROCEEDINGS

Article 13

General provisions

1. The provisions of this section define the administrative proceeding that the FIU must follow when such body possesses such authority pursuant to article 2(j) through application of the administrative penalties set forth in articles 31 and 32 of Law 17/2011 of 28 December.
2. All administrative proceedings shall be conducted in an official East Timorese language, whereby the FIU may appoint a translator if the accused is a foreign citizen or entity.
3. Criminal codes and codes of criminal procedure, subject to proper modification, apply to all matters not covered by this law.

4. If multiple crimes or administrative offenses are verified, or if, on the same basis, a person is accused of a crime and administrative offense, respectively, the competent authority for the criminal investigation shall be responsible for processing of the administrative offense.

Article 14

Inquiries process

1. The FIU shall initiate an administrative proceeding whenever it is notified of violation by any person of any of the duties set forth under Law no. 17/2011 of 28 December, provided that such proceeding is within the jurisdiction of the FIU.
2. The FIU shall notify the offender of the acts of which such party is accused, and the latter is granted a 15-day period to present its defense.
3. The FIU may take statements from the offender.

Article 15

Rights of accused

1. The accused may attend the administrative proceeding personally or through its legal representative, with the former assured the right to access the case and to copies of the case file, subject to the restrictions set forth by law.
2. As necessary for the proper execution of the proceedings and in order to protect third parties or the national interest, the FIU may classify any documents or information corresponding to the proceedings as confidential, prohibiting access thereto by the accused.

SECTION II

FINAL DECISION AND APPEAL

Article 16

Final decision

1. If an administrative offense is determined to have occurred, the FIU shall issue a penalty decision within ninety business days following the term set forth in article 14(2). Under penalty of nullity, such decision must contain the following:
 - a) Identification of the accused;
 - b) Description of the purported act and the evidence obtained, as well as indication of the rules under which such act is punishable;
 - c) The fine and additional penalties applied;
 - d) Notification that the decision becomes final and enforceable if not contested in court within 15 days;
2. The offender or its legal representative is notified of the penalty decision cited in the foregoing paragraph.
3. The Executive Director may order publication of the final decision.

Article 17

Appeal

1. Decision by the FIU to apply a fine or additional penalty is subject to judicial review.
2. The appeal shall be submitted in writing to the FIU within 15 days of notification of the penalty decision, which must include summary allegations and conclusions.

Article 18

Method and term

1. Once the appeal is received, the FIU shall submit the case file to the court within 48 hours.
2. Until such case file is submitted, the FIU may revoke the decision to apply a fine.

Article 19

Execution of decision

1. The FIU is responsible for monitoring compliance with its decisions.
2. In the event of partial or full non-compliance with the decision, such non-compliance shall be reported to the competent authority, which shall take the measures necessary to ensure judicial enforcement of said decision.

SECTION V

FINAL PROVISIONS

Article 20

Entry into force

This Decree-Law shall take effect on the day following its publication.

Approved in the Council of Ministers, 3 February 2014

Prime Minister,

Kay Rala Xanana Gusmão

Enacted on 9 June 2014

Be it published

President of the Republic

Taur Matan Ruak