

Autoridade Bancária e de Pagamentos de Timor - Leste
Banking and Payments Authority of Timor - Leste

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RESOLUTION OF THE GOVERNING BOARD
No.09/2003

Concerning the Approval of the

INSTRUCTION NO. 03/2003
ON THE OPENING AND MAINTENANCE OF DEPOSIT ACCOUNTS

THE GOVERNING BOARD

PURSUANT TO:

1. Section 17.b of UNTAET Regulation N0. 2001/30 giving BPA the authority to issue rules, instructions, and guidelines;
2. Section 27.2 of UNTAET Regulation N0. 2000/8 that requires banks to maintain proper credit documentation and other information concerning its business in relation with its customers;
3. Section 165 of the Constitution of the Democratic Republic of Timor-Leste concerning the continued applicability of laws in force at the date the adoption of the Constitution.

TAKING INTO ACCOUNT

1. the need for banks operating in Timor-Leste to maintain complete identification of depositors as a means of avoiding the banking system being used for money laundering and criminal activities;
2. that banks should be transparent in their charges for services and fees to depositors.

HEREBY RESOLVES TO APPROVE THE FOLLOWING INSTRUCTION

INSTRUCTION 03/2003
ON THE OPENING AND MAINTENANCE OF DEPOSIT ACCOUNTS

Section 1
Definitions

“Bank” means a person engaged in the business of accepting deposits from the public in Timor-Leste and using such funds, either in whole or in part, to make extensions of credit or investments for the account of and at the risk of the person carrying on the business as prescribed by Regulation 2000/8 on Bank License and Supervision.

“Deposit” is defined in section 49(j) of the Regulation as a sum of money paid on terms:

- (a) that it is to be repaid in full, with or without interest or premium of any kind, and either on demand or at a time agreed by or on behalf of the person making the payment and the person receiving it; and
- (b) that are not related to the provision of property or service or the giving of security.

Section 2
Requirements

1. Opening and Maintenance of Deposit Accounts

- a) Banks may open bank accounts to accept deposits from the public.
- b) Each depositor shall fill and sign a form that shall be the proposal and after signature of the bank’s staff shall become a contract.
- c) The contract must be signed by the staff member of the bank responsible for validating the depositor’s data and by the manager of the bank or branch.
- d) Banks shall request complete identification from depositors and copy of the identification documents shall be maintained on file.
- e) Banks shall take reasonable steps to verify the validity of the documents presented by the customer.
- f) The following information on the depositors must be disclosed.

i) Natural Persons

Complete name;

Complete address (street, number, "suco", village, city, and detailed contact number, if any);

Proof of residence of declaration signed by two of bank's depositor;

Source of income;

Identification (ID) Number;

Nationality;

Tax Identification Number (TIN), if any;

Specimen signature of depositor(s).

ii) Cooperate Entities

Article of Association or Business Registration Form (accepted temporarily);

Documents authorizing director and/or officials to open bank accounts and to sign on behalf of the entity;

Name of directors or officials;

Complete address, as above;

Identification number of each director and official (e.g. National ID, Passport);

Country of incorporation /registration;

Tax Identification Number (TIN) in Timor-Leste;

Copy of financial statements for the last three financial years or copy of the fiscal income statement;

List of authorized signatories and specimen signatures.

iii) Association and Charities

Article of Association or Registration Charities;

Documents authorizing director and/or officials to open bank accounts and to sign on behalf of the entity;

Name of directors or officials;

Complete address, as above;

Identification number of each director and official (e.g. National ID, Passport);

Country of incorporation /registration;

Tax Identification Number (TIN) in Timor-Leste;

List of authorized signatories and specimen signatures.

- g) Deposit accounts requested for persons under the age of majority or for individuals mentally incapacitated shall be operated by and authorized representative fully recognized in accordance with relevant law governing power of attorney.
- h) Banks are obliged to inform depositors by written notice about their rights and obligations such as the minimum balance policy adopted to maintain accounts, the conditions to provide checks and to use them and the account maintenance fee, if any.
- i) Banks must inform depositors that the accounts cannot be charged without the depositor's written authorization, except tax affecting financial transactions, the maintenance fee, if any, and the reversal of dishonored deposits. All other charges require previous notice and written authorization from the customer.
- j) Bank shall inform depositors regarding the movements of their balance in writing or some other mode of communication as deemed appropriate.

2. Closing a Customer's Account

- a) For the sake of good business, banks should avoid operating inactive accounts indefinitely. Banks should take necessary steps, including reasonable incentives, for customers to close such inactive accounts.
- b) Bank may close an account on its own authority the following circumstances:
 - (a) If any bank decides to close an account, a written notice shall be sent to the customer specifying the reasons for closing the account.
 - (b) If the customer does not respond in accordance with the notification within 30 (thirty) days of the date on which the notice has been received, the bank may stop the customer's activities on the account;
 - (c) If the customer's activities on the account could result in financial losses to the bank, the bank may stop the customer's activities on the account from the date on which the notice as stated in Section B.2. a was sent.
- c) When closing a current account banks may take the following actions:
 - (a) Request the depositor to return all the check forms including debts cards associated with the account;
 - (b) Request the depositor to present a signed declaration stating that he/she has not written checks on the account that have not yet been presented, or an order from the customer to cancel checks that are presented after the account is closed;
 - (c) Maintain a balance necessary for the coverage of all outstanding debits, including account management fees that are or will be due on the customer's account.
- d) Banks shall immediately return any document of debit or credit presented after the account has been closed noting "the account is closed".
- e) Customer identification documents shall be retained for five years after an account is closed.

Section 3
Restrictions

1. Banks shall not open accounts without obtaining the customer's prior written authorization.
2. Banks are prohibited from opening accounts for clients using abbreviated names or acronyms. All depositors' names shall be written in full.

Section 4
Enter Into Force

This instruction shall enter into force the date of its issuance.

Signed at Dili, this 18 July 2003

Luis Quintaneiro
Chairman

