

# **GUIDELINES<sup>1</sup>**

## **FOR THE LICENSING AND OPERATIONS OF MONEY TRANSFER OPERATORS**

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<sup>1</sup> The Guidelines “originally was written in Tetun” the English version was translated to facilitate availability for the applicant’s; the contents of this version should be based on Tetun version.

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# **Guidelines for the Licensing and Operations of Money Transfer Operators**

## **I. Objectives**

The Guidelines serve as a transitional arrangement introduced by Banco Central de Timor-Leste to facilitate persons who wish to conduct a money or value transfer services in Timor-Leste with clear information on license process and regulation on other activities on this services.

The principal objectives of this Guidelines are to encourage the sound and efficient growth of remittance services in the economy and to reduce the risk of Money Transfer Operators (MTOs) in Timor-Leste becoming vehicles for/or victims of financial crime and suffering the consequential damages.

## **II. Legal base**

The Legal base for this are pursuant to article 28 of Law no. 17/2011 on the Legal Regime to Prevent and Combat Money Laundering and the Financing of Terrorism and article 29 and 31 of Law N.º 5/2011 on Organic Law of Central Bank of Timor-Leste that granted exclusive authority to Central Bank to license, license, registry and supervision financial institution and clearing activities, payment and securities settlement system.

## **III. Applicability**

The Guidelines shall apply to persons or business entities providing Remittance Services in Timor-Leste including Agents of a MTO, their Administrators and Principal Shareholders.

## **IV. General provisions**

### **1. Definitions**

- 1.1. In this Guidelines, unless otherwise stated, the terms below shall have the following meaning:
  - a). “Administrator” means any person who is an officer of a Money Transfer Operators and has the authority to enter into commitments for the account of the Money Transfer Operator.
  - b). “Agent” means a legal or natural person who is authorized by a Money Transfer Operator to provide Remittance Services on behalf of that MTO.
  - c). “Money Transfer Operator or MTO” means a legal or natural person that provides Remittance Services, and no other type of financial services, to persons in Timor-Leste.
  - d). “Principal Shareholder” means any person who directly or indirectly owns ten percent or more of any class of shares with voting rights of a MTO;
  - e). “Remittance Service” means a service that enables members of the public to send and/or receive funds transfers.

- f). “Politically Exposed Person” or “PEP” means individuals, resident and non-resident, who are or have been entrusted with prominent public functions (heads of state or of government, senior government, judicial or military officials, senior executives of publicly owned corporations), senior politicians, including persons or companies clearly related to them (i.e. families, close associates, etc), and members of senior management (i.e. directors, deputy directors and members of the board or equivalent functions) of the international organizations.

## **2. Prohibitions and restrictions**

- 2.1. No registered MTO shall engage in any financial activity other than providing Remittance Services to persons in Timor-Leste.
- 2.2. A MTO shall keep the accounting and other corporate records of its money transfer activities separate from the records of its other commercial activities.

## **V. Licensing process**

### **3. License application and decision**

- 3.1. Persons who wish to establish or continue the business of a Money Transfer Operator in Timor-Leste shall apply in writing to the BCTL for a license using the form prescribed in annex 1 of this Guideline and submit the information and materials as required in that form.
- 3.2. Money Transfer Operator that wishes to appoint an Agent shall apply in writing to the BCTL for a license for that Agent using the form prescribed in annex 2 of this Guideline and submit the information and materials as required in that form.
- 3.3. Applications referred to in the paragraph above shall also be accompanied by the Declaration Form as provided in annex 3 of this Guideline.
- 3.4. Applicants shall pay an administration fee of US\$250 (two hundred and fifty United States dollars) for a Money Transfer Operator and US\$50 (fifty dollar United States dollars) for an Agent. This fee is non-refundable, including cases where the application is unsuccessful or the licence of a Money Transfer Operator licence or its Agent is subsequently revoked pursuant to paragraph 4.
- 3.5. The BCTL shall, within forty five (45) business days from the date of lodgment of an application, either grant a license to the applicant or inform the applicant in writing that the application is denied.
- 3.6. The decision to grant the license shall be based on the conditions that the Principal Shareholders and/or Administrators of the applicant fulfill the following requirements:
- a). Have no evidence of financial fraud, tax avoidance, and default on indebtedness.
  - b). No evidence of any financial or administrative problems at his/her previous work.
  - c). Any previous involvement in insolvent or bankrupt companies
  - d). Free from criminal proceeding.
  - e). Never been convicted of a crime.
- 3.7. The decision to refuse a license shall be final and shall include an explanation of the grounds on which the license was refused.
- 3.8. A license to provide Remittance Services shall be granted for an indefinite period of time, subject to paragraph 4, and shall not be transferable.

#### **4. Revocation of a license**

- 4.1. The BCTL may revoke the license of a Money Transfer Operator or its Agents under the following circumstances:
  - a). Upon the request of the Money Transfer Operator;
  - b). Following an infraction of the present Guideline; or any instructions/regulations issued by BCTL or any applicable law; or
  - c). On one or more of the following grounds:
    - i. the license was obtained on the basis of false information submitted by or concerning the applicant;
    - ii. the MTO has not commenced operations within sixty (60) business days after the receipt of the license without the applicant having given written notice to the BCTL;
    - iii. the owner or owners of the MTO have decided to dissolve or to liquidate the MTO, or the MTO has ceased to exist as a legally or operationally independent entity;
    - iv. the MTO has intentionally or continually presented fraudulent reports or reports with false information to the BCTL;
    - v. the MTO, in the opinion of the BCTL, has engaged in illegal practices, false accounting practices, or fraudulent acts causing potential harm to customers;
    - vi. the licensee, at any time fails to pay its liabilities or in the opinion of the BCTL the affairs of the MTO are conducted in a manner detrimental to its customers.
- 4.2. The decision to revoke the license of a MTO shall automatically result in the revocation of the license of its Agents.
- 4.3. A decision by the BCTL to revoke a license shall be communicated in writing to the MTO or the Agent concerned.
- 4.4. The decision to revoke a license shall immediately be published in newspapers of wide circulation wherever the offices of the MTO concerned are located.

### **VI. Report and supervision**

#### **5. Operations**

- 5.1. A MTO shall, at all times, maintain a minimum balance of US\$10,000.00 (ten thousand United States dollars) or such other amount as the BCTL may determine in case by case basis, in a bank licensed to operate in Timor-Leste.
- 5.2. A MTO shall, at all times, produce a written receipt for each customer which shall indicate the names, date of birth, addresses and identification number of the customer and the beneficiary, the date of transfer takes place, the dollar amount and the fee charged, if applicable.
- 5.3. The records to be maintained by the MTO pursuant to paragraphs 10.1 to 10.2.

#### **6. Reports and inspection**

- 6.1. A MTO is required to record all operations including the activities of its Agents that it carries out within the scope of its license activities.
- 6.2. A MTO shall submit a consolidated monthly report to the BCTL no later than ten (10) business days into the following month, pursuant to annex 4 of this Guideline.

- 6.3. The BCTL may conduct inspections at any time on the premises of MTOs or any of its Agents. The inspection shall include examine the books, records and other relevant documents and information.

## **VII. Customer protection**

### **7. Disclosure requirements**

- 7.1. A MTO shall clearly disclose the terms and conditions of the Remittance Services that it provides including all fees and charges imposed.
- 7.2. The notice in the previous paragraph and the MTO license shall be displayed in a prominent place easily accessible to the customer.

### **8. Responsibilities and complaint management**

- 8.1. A MTO shall be responsible for the outwards remittance and delivery of transferred funds to the intended beneficiary.
- 8.2. A MTO shall not be responsible for the delay or non-receipt of funds being transferred inwards unless a valid funds transfer Guideline has been received from the remitting party.
- 8.3. In the event that an outward remittance is lost or unduly delayed in transit, the MTO shall reimburse its customer with the remittance amount and the fees paid, or re-send the remittance at no additional cost to the customer.
- 8.4. In the event that a customer believes that a MTO has failed to meet its obligations under this Article, the customer shall have the right to submit a complaint to the MTO:
  - a). The complaint shall be in writing;
  - b). The complaint shall set out all the relevant facts;
  - c). The complaint shall be supported by copies of all relevant documents, including a copy of the remittance receipt;
  - d). If appropriate, the complaint shall be supported by a statutory declaration from the intended beneficiary that the funds have not been received.
- 8.5. A MTO shall investigate each complaint received and shall respond to the customer in writing within ten (10) business days setting out a proposed remedy to the customer's complaint.

## **VIII. Customer identification, record-keeping and transaction report**

### **9. Customer identification**

- 9.1. A MTO is prohibited from dealing with unknown customers and shall cease to deal with customers who refuse to provide details as required in the following paragraph.
- 9.2. A MTO shall conduct a formal customer identification and verification process to establish the identity of its customer before providing any Remittance Service.
- 9.3. A MTO shall conduct customer identification process for its customers based on the following:
  - a). Obtain the identification document of the customer and the beneficiary and register the full name, date of birth, address, and identification number of the customer and/or the beneficiary when the amount of the transaction is less than US\$500 (five hundred United States dollars).

- b). For transactions are equivalent or above US\$500 (five hundred United States dollars), copy of the identification of the customer is required.
  - c). For transactions are equivalent or above US\$2,500 (two thousand and five hundred United States dollars), beside comply with requirements established on previous paragraphs, it also required to request information on source of fund and reason conducting transaction.
- 9.4. If there is doubt as to whether a customer specified in paragraph 9.3 above acts for his/her own account, the MTO shall take all reasonable measures to verify the identity of the person or persons on whose behalf the customer is acting.
- 9.5. If a staff member in a MTO identifies a customer as PEP, it is required to obtain information as described in paragraph 9.3 point b). and c). and it shall obtain prior authorization from the highest level of management before executing any remittance service.
- 9.6. A MTO is prohibited from acting as intermediaries in a chain of payments.
- 9.7. If a MTO receives money or value transfers that do not contain the complete originator information they shall take necessary measures to obtain and verify the missing information from the ordering institution or the beneficiary and, should those fail to release the information, they shall refuse acceptance of the transfer and report it to the BCTL and the other competent authorities established by law.

## **10. Record keeping**

- 10.1. A MTO shall maintain records in an appropriate record keeping system required in paragraph 9.1 to 9.6 above and other information required in this Guideline and ensures that the records and underlying information are readily available to the BCTL and other competent authorities established by law.
- 10.2. The records referred to in the previous paragraph shall be maintained for at least five years.

## **11. Transactions report**

- 11.1. A MTO that suspects or has reasonable grounds to suspect that funds are the proceeds of crime, or are related or linked to, or are to be used for the financing of terrorism, or that have knowledge of a fact or an activity that may be an indication of money laundering or financing of terrorism, is required to submit promptly a report setting forth its suspicions to the BCTL and the other competent authorities established by law, using the form prescribed in annex 5 of this Guideline, even in the case of attempted transactions.
- 11.2. A MTO shall report all transactions equal to US\$2,500 (two thousand and five hundred United States dollars) to the BCTL and other competent authorities established by law using the form prescribed in annex 5 of this Guideline.

## **IX. Final provisions**

### **12. Remedial measures and administrative penalties**

- 12.1. The remedial measures and penalties provided for infractions described in this Article shall be determined by the BCTL on a case by case basis.
- 12.2. The BCTL may take actions or impose penalties described in paragraph 12.3 below with respect to a MTO or an Agent if it determines that the MTO or the Agent or any of its Administrators or Principal Shareholders is committed of an infraction consisting of:

- a). The violation of a provision of the present Guideline or of any Guideline, instruction, circular or order issued by the BCTL applicable to a MTO;
  - b). The violation of any condition, restriction, or provision of an authorization issued to a MTO or an Agent by the BCTL;
  - c). The violation of a provisions establish in Law no. 17/2011 of 28 December on the Legal Regime to Prevent and Combat Money Laundering and the Financing of Terrorism.
- 12.3. Following a determination prescribed in paragraph above, the BCTL may take one or more of the following actions or impose the following penalties:
- a). Issue written warnings;
  - b). Issue written orders to cease and desist from such infractions and to undertake remedial action;
  - c). Impose fines on the MTO or the Agent or any of its Administrators or Principal Shareholders as detailed below:
    - i. Amount US\$250 (two hundred and fifty United States dollars) to US\$1,000 (one thousand United States dollars) once or per day for each day for the following infractions:
      - (1). Fails to submit or submit incomplete or inaccurate information as required in paragraph 6.2.
      - (2). Fails to cooperate with the examiners of the BCTL appointed for the purpose of paragraph 6.3.
      - (3). Fails to comply with requirement established under paragraph 9.6.
    - ii. Amount US\$500 (five hundred United States dollars) to US\$1,500 (one thousand and five hundred United States dollars) once or per day for each day for the following infractions continue:
      - (1). Fails to comply with to comply with requirement established under paragraph 2.1 and 2.2.
      - (2). Fail to disclose the terms and conditions of the Remittance Services and other information as required in paragraphs 7.1 and 7.2.
    - iii. Amount US\$5,000 (five thousand United States dollars) to US\$ 500,000 (five hundred thousand United States dollars) once or per day for each day for the following infractions:
      - (1). Fails to identify the customers and maintain an appropriate record keeping system as required in paragraphs 9.1 to 9.5 and 10.1 to 10.2.
      - (2). Fails to report the transaction as required in paragraphs 11.1 to 11.2.
- 12.4. The measures and penalties provided in paragraph 12.3 shall not preclude the application of other civil or criminal penalties as provided in other applicable laws.

Dili, 25 February 2013

**Abraão de Vasconcelos**  
Governor



## Annex 1: Application Form to Become a Money Transfer Operator<sup>2</sup>

### I. PARTICULARS OF THE APPLICANT

1. Full name
2. Full address
3. Proposed name of the MTO
4. Full address of location where the business will be conducted
5. Name of the bank where in which the applicant has an account and will use when providing Remittance Services


### II. COPY OF DOCUMENTS TO BE SUBMITTED<sup>3</sup>

1. Identification card. Foreigners are required to submit also permanent residency permit.  Yes  No
2. Curriculum vitae of the proposed Administrators and Shareholders (*as detailed as possible*).  Yes  No
3. Business registration (*for business entities only*).  Yes  No
4. Police clearance certificate stating that the person[s] has not been convicted of a crime nor is in the process of being prosecuted for a crime.  Yes  No
5. Statement from relevant tax authorities stating that the applicant has complied with all past and current tax obligations.  Yes  No
6. Bank statement.  Yes  No

### III. PURPOSE TO ESTABLISH THE MTO

*(Please provide a narrative explanation of not more than 500 words which outlines why the applicant[s] is applying to become a Money Transfer Operator)*

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I/We hereby declare that the foregoing information is true. I/We are aware that submitting false information will lead to denial of my/our application.

Signature:

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<sup>2</sup> The application shall present by principal shareholder or a designated person.

<sup>3</sup> It is required to submit all document related to any person involved in the application.

## Annex 2: Application Form to Appoint an Agent<sup>4</sup>

### I. PARTICULARS OF THE APPLICANT

1. Name of the MTO
2. Address
3. License number issued by the Central Bank (if provided)


### II. PARTICULARS OF THE PROPOSED AGENT

1. Full name
2. Full address
3. Proposed name of the Agent (if applicable)
4. Full address of location where the business will be conducted (if different from above).
5. Name of the bank in which the applicant has an account and will use when providing Remittance Services


### III. COPY OF DOCUMENTS TO BE SUBMITTED

1. Identification card. Foreigners are also required to submit a permanent residency permit.  Yes  No
2. Curriculum vitae of the person[s] responsible for the Agent. (as detailed as possible).  Yes  No
3. Business registration (for business entities only).  Yes  No
4. Police clearance certificate stating that the person[s] has not been convicted of a crime nor is in the process of being prosecuted for a crime.  Yes  No
5. Statement from relevant tax authorities stating that the applicant has complied with all past and current tax obligations.  Yes  No
6. Bank statement.  Yes  No

I/We hereby declare that the foregoing information is true. I/We are aware that submitting false information will lead to denial of my/our application.

Signature:

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<sup>4</sup> Application form for Agent, it is required signature of a principal shareholder or administrator of the MTO.

### **Annex 3: Personal Declaration Form<sup>5</sup>**

I/We hereby undertake to abide by and be governed by the " Order n.º001/2013 dated 25 February 2013 on Guidelines for the Licensing and Operations of Money Transfer Operators issued by Banco Central de Timor-Leste, and such other applicable Instructions, Circulars, Orders or Guidelines as issued by or may be issued by Banco Central de Timor-Leste.

I/We also certify that all information submitted in connection with this application is true and correct, and authorize Banco Central de Timor-Leste to make such enquiries as it may deem appropriate to verify it.

I/We understand that any misleading or inaccurate information will lead to the rejection of the application, or if already approved the cancellation of the Money Transfer Operator license.

Signature:

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<sup>5</sup> Declaration for Agent shall be signed by both the Administrator of the MTO and the persons to be appointed as Agent.

## Annex 4: Consolidated Monthly Report<sup>6</sup>

NAME OF MTO: \_\_\_\_\_

MONTH:

### Remittances by Sector

Sector	Outbound		Inward	
	Number	Value (USD)	Number	Value (USD)
1. Public sector				
2. Private business				
3. Individual				
4. NGO				
5. Other				

### Remittances by Nature

Sector	Outbound		Inward	
	Number	Value (USD)	Number	Value (USD)
1. Transfer to family				
2. Education				
3. Business investment or purchase				
4. Payment or buying				
5. Saving				
6. Other				

### Remittances by Destination

Sector	Outbound		Inward	
	Number	Value (USD)	Number	Value (USD)
1. Domestic				
2. Asia-Pacific				
a) Indonesia				
b) Malaysia				
c) Philippine				
d) Thailand				
e) Singapore				
f) Fiji				
g) Papua New Guinea				
h) Others				
3. Australia				
4. Africa				
a) South Africa				
b) Angola				
c) Cave Verde				
d) Mozambique				
e) Nigeria				
f) Others				
5. Americas				
6. Europe				

### Remittances by Amounts

Amounts	Outbound		Inward	
	Number	Value (USD)	Number	Value (USD)
1. Up to \$500				
2. \$500 - \$2,500				
3. \$ 2,500 - \$5,000				
4. Over \$5,000				

<sup>6</sup> Monthly consolidated report including information from Agent must be signed by Administrator.

## Annex 5: Transactions Report<sup>7</sup>

### I. Information of MTO

1. Name of the MTO

2. Address

3. Contact Number

4. Lincense Number of BCTL

### II. Information of Customer

1. Full Name

2. Date of Birth

3. Full Address

4. Contact Number

5. Type of identification

6. Identification number

### III. Information of Transaction

1. Type of report

Suspicious Trans.

Cash Transaction

2. Type of transaction

Outbound

Inward

3. Amount

4. Reason of suspicious activity

*(Please provide a narative explanation of why suspicious activity information when ticked suspicious transaction)*

Signature:

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<sup>7</sup> Transaction report must be signed by administrator or a senior officer.