



**Substitution text of PJI 2/III (1^a) – First Amendment to Law 17/2011, of 28 December,
approving the Legal Regime of the Fight Against Money Laundering and Terrorist Financing**

Proposed by Commissions A and C

Statement of reasons

In the last two decades, money laundering and related crimes, notably drug trafficking, corruption, kidnaping and terrorism have turned into crimes whose effects can no longer be measured at a local level. If in the past these crimes were limited to certain regions, their harmful effects have gone beyond national borders, causing instability in the financial systems and putting economic activities at risk.

There is no doubt that money laundering is a growing global threat and that the steps taken to tackle this problem are part of a massive international effort. In the last ten years, innumerable countries and international organizations have become involved in the fight against money laundering and terrorist financing, promoting internal and international cooperation to ensure that financial institutions and some non-financial activities and professions take the necessary steps in order to minimize the harmful effects of these crimes.

The Democratic Republic of Timor-Leste cannot ignore this widespread international effort, as money laundering and terrorist financing allow traffickers, gun smugglers, terrorists and corrupt officials and others to keep up their criminal activities, facilitating their access to illicit profits which can damage the reputation of national financial institutions and, if not controlled, undermine public trust on the integrity of national financial system, putting the democratic rule of law at stake.

In this context, it is a concern of the Democratic Republic of Timor-Leste to create all the normative instruments capable of ensuring on-going surveillance by the regulatory authorities, banks, financial centres and other vulnerable institutions to prevent money laundering and terrorist financing from

jeopardizing the stability and integrity of the financial system or the trustworthiness of Timorese institutions

Thus, pursuant to article 9.1a) 7 of the Constitution, and under the terms of Articles 9.1.b) and 90 of the Rules of Procedure of National Parliament, the undersigned Members of Parliament hereby submit the following draft Bill:

Article 1

Purpose

This document introduces the First Amendment to Law 17/2011, of 28 December approving the Legal Regime of the Fight Against Money Laundering and Terrorist Financing, and the Third Amendment to the Criminal Code, approved by Decree-Law 19/2009, of 8 April.

Article 2

Amendment

Articles 6, 10, 14, 23, 24, 33, and 42 of Law 17/2011, of 28 December shall henceforth be worded as follows:

“Article 6

Competences

FIU has the competences assigned to it under this law and remaining applicable legislation, in particular, to receive, analyse and disseminate suspicious information regarding money laundering or terrorist financing.

Article 10

Identification of customers by financial and non-financial entities

1. (...):

- a) Establishing business relationships;
- b) (former point a);
- c) (former point b)
- d) (former point c)

2. (...).

3. (...).

4. (...).

5. (...).

6. The entities referred to in Article 3 take the adequate measures to determine whether the customer or the beneficiary owner is a politically exposed person.

7. The financial institutions and non-financial activities and professions should conduct on-going monitoring of their relationship with the customer, including scrutiny of the transactions carried out to ensure that the transactions are consistent with their knowledge of the person, the business and risk profile and, where necessary, the source of the funds.

8. (...).

10. Based on the risk assessment of the type of customer, business relationship or transactions, the competent supervisory authority may determine the circumstances under which the obligations set forth herein, may be reduced or simplified in respect of the identification and verification of the identity of the customer or beneficiary owner.

11. (former paragraph 10).

Article 14

Special control of certain transactions

1. (...)

2. (...)

3. Increased measures of diligence regarding operations carried out with the politically exposed persons are always applicable.

4. The entities referred to in Article 3 should keep a record of the specific information regarding the transactions referred to in paragraphs 1, 2 and 3 above and the identity of all parties involved, and the report to be drawn up in the manner laid down in Article 15 which should be conveyed to FIU at its request, or to any competent supervisory authority, pursuant to the law.

Article 23

Duty to report

1. (...)

2. In the situations referred to in art 3.2 b), lawyers are not bound by the duty to report if the information is obtained in the context of the evaluation of the legal situation of the client, within a legal

consultation, in the exercise of his/her mission of defence or representation of the client in legal proceedings, or in respect of legal proceedings, including legal advice on how to lodge or to avoid a lawsuit, and any other information obtained prior to, in the course of or after the lawsuit.

3. (...)

4. (...)

Article 24

Suspension of transactions

1. (...)

2. FIU may request the Public Prosecution Office to suspend the transaction when so justified pursuant to the law. However, the transaction may be carried out if the decision to suspend is not upheld by the judge within three working days after communication made by the entity involved.

3. If judicially upheld, the suspension of the transaction has a maximum duration of 30 working days from the communication provided in 1 above.

4. (former paragraph 3).

5. The suspension, in good faith, of transactions which are deemed suspicious, for the period established in 2 above, shall not involve the entities referred to in Article 3 in liability of any kind, even if the suspicion is not confirmed.

Article 33

Interceptions and records

1. When necessary to investigate the crimes specified in Article 32 - A, by means of judicial order, the following is admissible for a given period of time

- a) access to computer systems, computer networks, servers and electronic mail;
- b) placement of communication under surveillance, interception and recording and transcription of voice and image, by any means, without the knowledge and consent of the subject;
- c) control of postal services and opening of order or correspondence.

2. Articles 177 to 180 of the Code of Criminal Procedure are applicable.

Article 42

Liability of legal persons

1. A legal person on behalf of whom or to whose benefit money laundering is committed, or through whom terrorist financing is committed, through a natural person, acting individually or in his/her

capacity as member of a body of a legal person, or holding a high position, using the power of representation of such legal person or authority to make decisions on behalf of the legal person, or exercising control within the legal person, in the exercise of such powers, will be punished with a fine in the minimum amount of the laundered amount and up to three times the value of the same, irrespective of the individuals being convicted for having committed the crime or as accomplices of the crime.

2. (...).

3. (...).

Article 3

Addition

Articles: 1 - A, 23 - A, 32 - A, 33- B, 35- A, 35 - B, 35- C are added, to Law 17/2011, of 28 December, and shall be worded as follows:

Article 1 - A

Definitions

For the purposes of this law,

1. "Bearer shares" means negotiatble instruetns attributing owership of a legal person to a person holding a non-registered certificate of the same;
2. "'Shell banks" means a bank set up in a country or territory where it has no physical presence, involving meaningful mind and management, and which is unaffiliated with a regulated financial group;
3. "Beneficiary owner": means the natural person who has ultimate ownership of or final control over a client, the person in whose interest an operation is made or the person who actually controls a legal person or a legal entity or arrangement.
4. "Assets" means assets of any nature, tangible or intangible, movable or immovable, and all legal documents or instruments, including in electronic or digital form, attesting the ownerhisp or other rights over such assets.
5. "Subject Entities" means the entities referred to in Article 3 of this law;
6. "Politically exposed persons" means the natural persons who are or have been entrusted until one year ago with prominent political or public functions, as well as their close family members and persons known to have close corporate or commercial relationships with them. For the purposes of this law:

- a) " Prominent political or public functions ":
- i) Heads of State, heads of Government and Government members;
 - ii) Members of Parliament;
 - iii) Members of superior courts and other high-level judicial bodies, whose decisions are final and binding, unless in exceptional circumstances;
 - iv) Members of board of directors and boards of auditors of central banks;
 - v) Heads of diplomatic missions and consulates;
 - vi) High-ranking Military and Police officers;
 - vii) Members of the board of directors and boards of auditors of public companies and corporations wholly owned or controlled by the State, public institutes, public foundations, public establishments under whatever legal form;
 - viii) Members of executive boards of international organizations;
- b) "close family members ":
- i) The spouse or the unmarried partner;
 - ii) The parents and offspring, their spouses or unmarried partners;
 - iii) The sibling;

7. "Business relationship" means a commercial or professional relationship between subject entities and their clients, which is expected, at the time when the contact is established, to have an element of duration;
8. "Bearer negotiable instruments" means the instruments endorsed without restriction, where title thereto passes upon delivery.
9. "Occasional transaction" means any transaction carried out by the subject entities outside an established business relationship;

Article 23 - A

Exemption of liability

The disclosure of information in good faith regarding a transaction considered suspicious by the entities referred to in Article 3, in the fulfilment of the duties specified in Articles 21, 23 and 24, shall not involve the disclosing party in liability of any kind, even if the suspicion is not confirmed.

Article 32 - A

Scope of application

1. This chapter sets forth a special system for the collection of evidence, breach of professional secrecy and confiscation of property for the crimes of:

- a) Drug trafficking;
- b) Terrorist organizations, terrorism and terrorist financing;
- c) Trafficking of arms;
- d) Corruption, embezzlement and economic participation in a business;
- e) Money laundering;
- f) criminal association;
- g) Smuggling;
- h) Sexual exploitation of a third person and pornography involving minors
- i) Forgery of money.

2. The provisions of this law only apply to the crimes specified in points g) to i) of the preceding paragraph if the crime is committed in an organized manner.

Article 33- B

Undercover agents

1. For purposes of the criminal prosecution of the crimes specified in Article 32 - A, the following investigation procedures are permitted, in addition to those already authorised by the Code of Criminal Procedure, contingent upon the express and detailed authorization of the judicial authorities:

- a) infiltration of police officers in the circuit, in order to gather evidence, locate the assets and dismantle the criminal structures used to commit those crimes;
- b) conduct of a criminal investigation officer is not being punishable, if authorised and within the terms of the authorization;
- c) no action against holders of assets intended to be used in the committing of the crimes specified in Article 32-A, found in national territory, with the purpose of identifying and holding accountable the greatest number of persons involved in the operation and prevent the same from taking place;
- d) in case of no action, the authorization will only be possible provided that the probable itinerary of the assets is known and the identity of the criminal is maintained under police surveillance and monitoring.

2. The authorization to be given by the Public Prosecution Office for the conduct of an undercover agent must be notified to the judge, and the authorisation is deemed validated if an order of refusal is not issued within the subsequent seventy two hours.
3. The criminal police body shall report each action of the undercover agent to the Public Prosecution Office within forty eight hours after completion of the same.
4. The judicial authority shall only order the joining to the proceedings of the report referred to above if it is deemed absolutely indispensable as a means of evidence.
5. The evaluation of the indispensability may take place at the end of the investigation stage.
6. Specific regulations should be enacted to govern the procedures referred to in the preceding paragraphs.

Article 35- A

Seizures

1. The assets seized under criminal proceedings for the committal of the crimes foreseen in this law may be assigned to operational use by criminal police bodies, upon order of the competent judicial authority declaring its operational usefulness.
2. The assets referred to in 1 above may be temporarily used by the criminal police bodies, following the determination of their operational usefulness, from the date of seizure until confiscation or restitution, if they are to be confiscated by the State at the end of the proceedings.
3. For the purposes of the preceding paragraph, all interested parties must be notified.
4. Upon the seizing of the asset, and determination of its operational usefulness, the asset shall be recorded, examined and appraised.
5. The value of the appraisal sets the amount of the damages payable to the owner, in case the asset is not ultimately confiscated by the State.
6. The appraisal of the asset is carried out by experts appointed by the judicial authority, before whom they take an oath to perform the duty assigned to them.
7. The determination that the asset ceases to have operational usefulness occurs with the confiscation by the State or the restitution to the relevant owner or legitimate holder.

Article 35 - B

Breach of professional secrecy

During the investigation and trial phases of the legal proceedings for the crimes specified in Article 32 – A, the entities listed in Article 3.1 shall provide all information and documents, requested by the judicial authority in a duly grounded order, regarding the financial situation of the suspects, which are relevant to uncovering of the truth.

Article 35- C

Control of accounts

1. During the investigation and trial phases of the legal proceedings for the crimes specified in Article 32 – A, following a duly grounded order, the bank and payment accounts held by the *arguidos* and suspects may be put under surveillance, as well as the accounts not held by the *arguidos* and suspects that have been used for committing the crimes.
2. The credit or payment institutions must notify the judicial authority within 24 hours any operations in the accounts referred to in the preceding paragraph.
3. Institutions and employees are bound by a duty of confidentiality.

Article 4

Systematic Amendment of Law 17/2011, of 28 December

Section I of Chapter IV of Law 17/2011, of 28 December shall henceforth have the heading “Special regime of collection of evidence, breach of professional secrecy and confiscation of assets.”

Article 5

Amendments to the Criminal Code

Articles 133 and 313 of the Criminal Code, approved by Decree-Law 19/2009 of 8 April, as amended by Law 17/2011, of 28 December, shall henceforth be worded as follows:

Article 133

Terrorist financing

Anyone who, by any means, either directly or indirectly, supplies, gathers or holds funds or assets of any kind, as well as proceeds or rights which can be converted into money, with the intent of using the whole or part of the same to plan, prepare or commit the actions specified in Article 131.1, and in Article 132.1, will be punished by 12 to 25 years’ imprisonment.

Article 313

Money laundering

1. Anyone who, knowing that the assets or proceeds derive from, or of from an act of participation in, crimes of terrorism, guns or nuclear product trafficking, trafficking or sale of persons, pornography involving minors, corruption, fraud or extortion, tax fraud, illicit exploitation of gambling, trafficking of protected species and trafficking of human organs or tissues or other serious crimes, subject to at least 2 years' imprisonment:
 - a) (...)
 - b) (...)
 - c) (...)
2. (...)
3. (...)
4. (...)
5. (...)
6. Revoked
7. (...)
8. (...)

Article 6

Addition to the Criminal Code

Articles 133 - A, 133 - B, 313 - A and 313 - B, are added to the Criminal Code, approved by Decree-Law n 19/2009 of 8 April, as amended by Law 17/2011, of 28 December, with the following wordings:

Article 133- A

Aggravating circumstances of terrorist financing

1. The maximum and maximum limits of the punishments laid down in Article 133 can be increased by one third, pursuant to the criminal law:
 - a) if the crime is committed within a commercial or economic activity;
 - b) if the crime is committed within the activities of an organized crime group.
2. The application of the preceding paragraph cannot result in a conviction of more than 25 years' imprisonment.

Article 133 - B

Attenuating circumstances of terrorist financing

1. The provisions set forth in criminal law on attenuating circumstances apply to the crimes specified in Article 133.
2. The punishments provided for in Article 133 can be specially attenuated under the terms set forth in Article 57, if the person committing the crime gives information to the judicial authorities enabling to:
 - a) Prevent or limit the effects of the crime;
 - b) Identify, pursue or accuse other criminals;
 - c) Obtain evidence;
 - d) Prevent other crimes of money laundering or terrorist financing from being committed;
 - e) Deprive the groups of organized crime from its resources or proceeds of the crime.

Article 313- A

Aggravating circumstances in the crime of money laundering

1. The maximum and maximum limits of the punishments laid down in Article 313 can be increased by one third:
 - a) if a prison sentence exceeding the maximum provided in the preceding articles is applicable to the underlying crime;
 - b) if the crime is committed within a commercial or economic activity;
 - c) if the crime is committed within the activities of an organized crime group;
 - d) if the amount being laundered exceeds 500,000.00 US dollars;
 - e) if the intent is to promote the continuation of criminal activity.
2. The application of the preceding paragraph cannot result in a conviction of more than 25 years' imprisonment.

Article 313- B

Attenuating circumstances in the crime of money laundering

1. The provisions set forth in criminal law on attenuating circumstances apply to the crimes specified in Article 313.
2. The punishments provided for in Article 313 can be specially attenuated pursuant to Article 57 if the person committing the crime gives information to the judicial authorities enabling to:
 - a) Prevent or limit the effects of the crime;
 - b) Identify, pursue or accuse other criminals;
 - c) Obtain evidence;
 - d) Prevent other crimes of money laundering or terrorist financing from being committed;

e) Deprive the groups of organized crime from its resources or proceeds of the crime:

Article 7

Revocation

Articles 12, 39, 40 and 41 of Law 17/2011, of 28 December, are hereby revoked.

Article 8

Republication

Law 17/2011, of 28 December, approving the legal regime of the fight against money laundering and terrorist financing is republished in an annex to this law.

Article 9

Entry into force

This law enters into force on the day following its publication.

Approved on

The President of National Parliament,

Vicente da Silva Guterres

Promulgated on

The President of the Republic

Taur Matan Ruak

ANNEX

**Republication ordered by Law xxx, of Law 17/2011, de 28 December, approving the Legal
Regime of the Fight Against Money Laundering and Terrorist Financing**

**CHAPTER I
General Provisions**

**SECTION I
Purpose and Definitions**

Article 1

Purpose

This law approved the legal regime of prevention and fight against the laundering of money from illicit activities and terrorist financing.

Article 1 - A

Definitions

For the purposes of this law:

1. "Bearer shares" means negotiable instruments attributing ownership of legal person to a person holding a non-registered certificate of the same;
2. "Shell banks" means a bank set up in a country or territory where it has no physical presence, involving meaningful mind and management, and which is unaffiliated with a regulated financial group;
3. "Beneficiary owner": means the natural person who has ultimate ownership of or final control over a client, the person in whose interest an operation is made or the person who actually controls a legal person or a legal entity or arrangement.
4. "Assets" means assets of any nature, tangible or intangible, movable or immovable, and all legal documents or instruments, including in electronic or digital form, attesting the ownership or other rights over such assets.
5. "Subject Entities" means the entities referred to in Article 3 of this law;

6. "Politically exposed persons" means the natural persons who are or have been entrusted until one year ago with prominent political or public functions, as well as their close family members and persons known to have close corporate or commercial relationships with them. For the purposes of this law:
- a) " Prominent political or public functions " :
 - i) Heads of State, heads of Government and Government members;
 - ii) Members of Parliament;
 - iii) Members of superior courts and other high-level judicial bodies, whose decisions are final and binding, unless in exceptional circumstances;
 - iv) Members of board of directors and boards of auditors of central banks;
 - v) Heads of diplomatic missions and consulates;
 - vi) High-ranking Military and Police officers;
 - vii) Members of board of directors and boards of auditors of public companies and corporations wholly owned or controlled by the State, public institutes, public foundations, public establishments under whatever legal form;
 - viii) Members of executive boards of international organizations;
 - b) "close family members " :
 - i) The spouse or the unmarried partner;
 - ii) The parents and offspring, their spouses or unmarried partners;
 - iii) The sibling;
7. "Business relationship" means a commercial or professional between subject entities and their clients, which is expected, at the time when the contact is established, to have an element of duration;
8. "Bearer negotiable instruments" means the instruments endorsed without restriction, where title thereto passes upon delivery.
9. "Occasional transaction" means any transaction carried out by the subject entities outside an established business relationship;

Article 2
Scope of application

1. The entities referred in article 3 are subject to the provisions of this law
2. The crimes of money laundering and terrorist financing are those set forth and punished under the applicable criminal legislation.

Article 3

Financial and non-financial entities

1. The following are the financial entities covered by this law:
 - a) credit institutions, including micro-finance institutions;
 - b) insurance companies, including related investment and brokerage companies;
 - c) financial companies and leasing companies;
 - d) issuers and/or managers of credit or debit cards;
 - e) natural or legal person exercising the activity of purchase and sale or exchange of currency on a professional basis;
 - f) Any natural or legal person exercising the activity of transfer of funds on a professional basis;
 - g) Any person exercising other activities and operations to be indicated by the competent supervisory authority.
2. The following are the non-financial entities covered by this law:
 - a) Casinos, including casinos operated through the Internet;
 - b) Any persons providing financial services or intervening or assisting in financial or real estate operations, on behalf of their clients, without prejudice to professional secrecy
 - c) Accountants, independent auditors and tax consultants;
 - d) Any other activities and professions designated by law.

Section II

Financial Intelligence Unit

Article 4

Creation

The Financial Intelligence Unit, abbreviated FIU, is created at the Central Bank of Timor-Leste.

Article 5

Nature, Organization and Operation

The nature, organization and operation of FIU are set forth by Decree-Law.

Article 6

Competences of FIU

FIU has the competences attributed to it under this law and remaining applicable legislation, in particular to receive, analyse and disseminate the information suspected to be related to money laundering or terrorist financing.

CHAPTER II

Prevention

SECTION I

General Duties

Article 7

Obligation to declare transportation of cash or bearer negotiable instruments

1. Any person entering or leaving the territory of Timor-Leste, transporting cash or bearer negotiable instruments amounting to 10,000.00 US dollars or more must declare the same to the customs authorities.
2. Copies of customs declarations are immediately conveyed to FIU by the customs authorities.
3. The customs authority seizes non-declared bearer negotiable instruments, in whole or in part, when there is a grounded suspicion de money laundering or terrorist financing or in case of misrepresentation.
4. Within three working days, the competent judicial authority shall analyse the seizure of assets made under the terms set forth in the preceding paragraph.
5. The decision of the competent judicial authority upholding the seizure must include a clear description of the seized assets and the circumstances under which the seizure took place.

SECTION II

Duties of the financial institutions

Article 8

Transparency of the financial transactions

1. Only the banking entities having a physical presence in national territory, or affiliated with a financial group in a country or territory subject to effective and consolidated supervision, can be set up in national territory.
2. Financial entities must refuse to establish or continue commercial relationships with banking entities registered in jurisdictions where they are not physically present or are not members of a financial group registered in a country or territory subject to effective and consolidated supervision.
3. The opening or maintenance of anonymous accounts, accounts under fictitious names or anonymous passbooks is not permitted under any circumstance whatsoever.
4. The financial entities cannot initiate or maintain commercial relationships or carry out transactions with financial entities in a foreign country if such country allows the accounts to be used by shell banks.

Article 9

Transparency of legal persons and legal entities or arrangements

1. Subject to the declaration, registration and publicity obligation under the Companies Law, under the Commercial Registration Code and remaining applicable legislation, legal persons registered in national territory must provide, when so requested by the competent authority, the information adequate and necessary for the purposes of identifying the beneficial owners and their control structure.
2. In cases where bearer shares are issued, pursuant to the law, the holders of such shares must deposit the same with the legal person that has issued the same or in a share register, should it exist.
3. The law specifies how the information relating to the beneficial owners and control of the legal entities and arrangements is registered.

Article 10

Identification of customers by financial and non-financial entities

1. The entities referred to in Article 3 must identify their customers and beneficial owners, and undertake verification of their identity on the basis of documents from independent sources, data or information when:
 - a) Establishing business relationships;
 - b) making occasional transactions amounting to 10,000,000 US dollars whenever the transaction is carried out in a single or in several operations which appear to be linked.

- c) When there are doubts about the veracity or adequacy of customer identification data
 - d) When there are grounded suspicious of money laundering or terrorist financing.
2. The entities referred to in Article 3 gather information regarding the purposes and intent of the business relationship.
 3. The entities referred to in Article 3 carry out the identification and verification of the identity of their customers as follows:
 - a) The identification of natural persons and verification of their identity includes the full name and the national identification number;
 - b) The identification of legal persons includes verification of the name or corporate name, registered office, identification of the members of the corporate bodies, registrations of the company or similar proof of its legal status, corporate type and shareholding structure;
 - c) The identification of relevant legal instruments;
 - d) The entities referred to in Article 3 identify the beneficiary owner and take the necessary measures to verify its identity, including the identification of natural persons who have controlling powers, as well as identification of the legal person responsible for the management of the legal person.
 4. In case where there is doubts on whether or not the customer is referred to in 1 above is acting on his/her own behalf, the entities referred to in Article 3 verify the identity of the person or persons in whose name or on whose behalf the customer is acting.
 5. In respect of business relationships or transactions carried out with a customer not physically present, the entities referred to in Article 3 shall take specific and adequate measures consistent with the increased risk of money laundering and terrorist financing.
 6. The entities referred to in Article 3 take the adequate measures to determine whether the customer or the beneficiary owner is a politically exposed person.
 7. The financial institutions and non-financial activities and professions should conduct on-going monitoring of their relationship with the customer, including scrutiny of the transactions carried out to ensure that the transactions are consistent with their knowledge of the person, the business and risk profile and, where necessary, the source of the funds.
 8. In respect of international banking relationships, financial entities should:
 - a) Verify the identity of the respondent institutions with whom they have banking correspondence relationships;
 - b) Gather information about the nature of the activities carried out by respondent institution;

- c) determine from the information available the reputation of the respondent institution and the quality of supervision;
 - d) Assess the anti-money laundering and terrorist financing; financing controls applied by the respondent institution;
 - e) With respect to payments through an account, ensure that the respondent institution has verified the identity of the customer and has adopted mechanisms of on-going control of these customers, and is able to gather relevant identification upon a request;
 - f) Comply with the instructions given by the competent authorities;
9. The non-financial entities referred to in Article 3 can only have a business relationship when they are able to meet their due diligence obligations referred to in the preceding paragraphs.
10. Based on the risk assessment of the type of customer, business relationship or transactions, the competent supervisory authority may determine the circumstances under which the obligations set forth herein may be reduced or simplified in respect of the identification and verification of the identity of the customer or beneficiary owner.
11. The provisions set forth in this Article 10 apply to the customers of the financial entities already in operation prior to the approval of this law.

Article 11

Special duties of identification

1. Insurance companies, intermediaries and brokers exercising their activities in the insurance sector must identify their customers and verify their identity, under the terms set forth in the preceding Article, where the annual premium exceeds 1,000.00 US dollars, if the single annual premium does not exceed 2.500,00 US Dollars or, in case of insurance policies for pension schemes taken out in respect of a contract of employment or a professional activity of the insured, if there is a surrender clause and they can be used as collateral.
2. Casinos should verify the identity of the customer making transactions amounting to 1,000.00 US Dollars or more, pursuant to the preceding Article.
3. Dealers in precious metal or precious stones should identify their customer in the manner required by the preceding Article, to the extent that payments to them are made in cash in an amount of 5,000.00 US Dollars or more.

4. Real estate agents and brokers should identify the parties in the manner required by the preceding Article when involved in transactions respecting the purchase and sale and the purchase for resale of real properties.
6. The entities referred to in the preceding paragraphs must identify their customers and verify their identity if there are grounded suspicions of money laundering or terrorist financing operations.

Article 12

Domestic programmes of prevention and fight against money laundering and terrorist financing

1. The entities referred to in Article 3 must promote and implement programmes intended to prevent and fight against money laundering and terrorist financing within the procurement, on-going vocational training and internal audit policy.
2. The entities referred to in Article 3 appoint an officer responsible for ensuring internal compliance with the rules and procedures set forth in this law.
3. The competent supervisory authority may, by means of regulations, determine the taking by the entities referred to in Article 3 of specific measures consistent with the risk of money laundering on the basis of the turnover, pursuant to the law.

Article 13

Obligations in respect of electronic transfers

1. Financial institutions, whose activity includes electronic transfers must obtain and verify the full name, the account number or, if there is no account number, the reference number accompanying the transfer and the domicile, or in case of absence of domicile, the national identity number and place of birth, including, when necessary, the name of the financial institution, the name of the payer of such transfers, and the information included in the payment message or form accompanying the transfer.
2. The institutions referred to in the preceding paragraph must gather all the information and convey the same, when they act as intermediaries in a chain of payments.
3. The Central Bank may issue instructions regarding cross-border transfers, integrated in a sole file of transfers.
4. Paragraphs 1 and 2 hereabove do not apply to transfers made by debit or credit card, whenever the number of the debit or credit card accompanies the transfers, and do not apply to transfers

between financial institutions, where both the payer and the beneficiary are financial institutions acting on their own behalf.

5. If the institutions referred to in paragraph 1 receive cash or transfers of values not containing complete information of the payer, they shall take the necessary measures to obtain and verify such information with the institution that issued the order of the beneficiary and, in case where they fail to provide the same, they must refuse the transfer in question and forward a report to FIU.

Article 14

Special control of certain transactions

1. The entities referred to in Article 3 are bound to a special duty of control of the transactions involving amounts which are abnormally high, unusual and without an apparent economic and licit source.
2. The entities referred to in Article 3 are bound to a special duty of control of the business relationships and transactions with natural and legal persons or legal entities or arrangements, with origin or destination in countries or territories from or to countries not subject to effective and consolidated.
3. Enhanced due diligence measures must be taken in respect of operations carried out with politically exposed persons.
4. The entities referred to in Article 3 should keep a record of the specific information regarding the transactions referred to in paragraphs 1, 2 and 3 above and the identity of all parties involved, and the report to be drawn up in the manner laid down in Article 15 which should be conveyed to FIU at its request, or to any competent supervisory authority, pursuant to the law.

Article 15

Record Keeping

1. As entities referred to in Article 3 shall maintain records containing, in an adequate record system, and available for consultation by FIU or by other competent entity, the following information:
 - a) Copies of the identity documents of customers or representatives of beneficial owners obtained in the manner prescribed in this Chapter, accounts forms and correspondence, for a period of at least five years after the business relationship has ended;

- b) Information obtained pursuant to the provisions of this Chapter, enabling the reconstruction of transactions made by customers and written reports prepared in accordance with the preceding Article, for a period of five years after the transaction;
 - a) Records of all reports delivered to FIU, for a period of at least five years after the date of delivery of report;
 - b) Copy of the feedback given by FIU to the reports on suspicious transactions, for a period of five years after receipt if such information.
2. The competent supervisory authority may, by means of regulations and internal orders, determine the type and extent of the measures to be taken for compliance of the obligations set forth in this Article by the financial institutions, based on the risk of money laundering and terrorist financing operations and the turnover.

Article 16

Prevention of money laundering and terrorist financing in financial and non-financial entities

1. The entities referred to in Article 3 shall develop programmes to prevent money laundering and terrorist financing including:
- a) Guidelines, internal procedures and controls, including appropriate mechanism to verify compliance and adequate procedures to ensure demanding criteria for the hiring of employees;
 - a) On-going training of managerial staff and employees with a view to improving their recognition of transactions and operations which may be related to money laundering or terrorist financing and to instruct them as to how to proceed in such cases;
 - a) Internal audit regulations to verify the conformity and adequacy of the internal programmes with measures prescribed by law.
2. The competent supervisory authority may issue guidelines regarding the type and extent of the measures adequate to the compliance of the provisions set forth in this Article, based on the risk of money laundering and terrorist financing operations.

Article 17

Compliance with obligations by subsidiaries and branches

1. The financial institutions shall cause its subsidiaries and branches abroad to meet the provisions of Articles 10 to 16, to the extent permitted by the local laws and regulations.

2. If local laws and regulations do not allow compliance with the provisions of 1 above, the financial entities shall notify the competent supervisory authorities accordingly.

Article 18

Casinos

Casinos can only operate if duly licensed by the competent authorities under the terms established by law.

Article 19

Non-profit Organizations

Any non-profit organization collecting, receiving, granting or transferring funds as part of its activities shall be supervised by the Ministry of Finance, which may approve regulations to ensure that these organizations are not in any way being used for money laundering or terrorist financing purposes.

CHAPTER III

Tracing money laundering and terrorist financing

SECTION I

Duties and responsibilities of the FIU

Article 20

Confidentiality

1. All FIU employees and agents are subject to a special duty of confidentiality regarding the information obtained within the scope of or arising from their functions, and such duty of confidentiality shall survive termination of their functions and the information obtained may only be used for the purposes set forth by this law.
2. The infringement of the provisions set forth in the preceding paragraph will result in disciplinary or criminal liability under the terms of the law.

Article 21

Access to Information

1. FIU may request any additional information deemed necessary to the exercise of its duties, from any entity or person bound by the duty to inform, pursuant to Article 22 hereunder.
2. FIU may access information which is deemed necessary for the exercise of its duties, owned by, or under the custody of the entities referred to in Article 3, when prior judicial authorization has been obtained in accordance with the terms provided for under criminal procedural legislation.
3. The application of paragraphs 1 and 2 above is subject to the restrictions laid down in Article 23.2.
4. FIU may additionally request any information deemed useful to the exercise of its duties,
 - a) from police authorities;
 - b) from supervisory Authorities;
 - c) from other State services; and
 - d) to legal authorities, under the terms of the applicable provisions.

Article 22

Breach of Duty to Inform

Should the entities referred to in Article 3 fail to comply with the duty to inform provided for in Articles 21.1 and 21.2, the competent supervisory authorities shall inform the FIU accordingly.

SECTION II

Suspicious transactions

Article 23

Duty to Inform

1. When grounded suspicion exists that certain funds or assets result from criminal activity, are connected to or will be used for terrorist financing, or if there is knowledge of a fact that may be indicative of a money laundering criminal act, or terrorist financing, the entities referred to in Article 3 must inform the FIU immediately, by way of a report, under the terms of Article 25, even if dealing with an attempt to carry out a transaction.
2. In the situations referred to in art 3.2 b), lawyers are not bound by the duty to report if the information is obtained in the context of the evaluation of the legal situation of the client, within a legal consultation, in the exercise of his/her duty of defence or representation of a client, or in respect of legal proceedings, including advice on how to lodge or to avoid a lawsuit, and any other information obtained prior to, in the course of or after the lawsuit.

3. Dealers in precious stones and metals should notify FIU of any suspicious transactions amounting 10,000.00 U.S. Dollars or more.
4. Real Estate agencies and brokers should notify the FIU of any suspicious operations, when they are involved in the purchase and sale and the purchase for resale on behalf of a client.

Article 23 - A

Exemption of Liability

The disclosure of information in good faith regarding a transaction considered suspicious by the entities referred to in Article 3, in the fulfilment of the duties specified in Articles 21, 23 and 24, shall not involve the disclosing party in liability of any kind, even if the suspicion is not confirmed.

Article 24

Suspension of Transactions

1. The entities referred to in Article 3 should abstain from carrying out transactions which they suspect may be connected to money laundering or terrorist financing, and should inform to the FIU of their suspicious.
2. FIU may request the Public Prosecution Office to suspend the transaction when so justified pursuant to the law. However, the transaction may be carried out if the decision to suspend is not upheld by the judge within two working days after the communication made by the entity involved.
3. If judicially upheld, the suspension of the transaction has a maximum duration of 30 working days from the communication provided in 1 above.
4. In cases where it is not possible to suspend the transaction referred to in paragraph 1, the financial institutions shall provide the FIU with the information regarding that transaction, as well as all information pertaining to the payers and the beneficial owners.
5. The suspension, in good faith, of transactions which are deemed suspicious, for the period established in 2 above, shall not involve the entities referred to in Article 3 in liability of any kind, even if the suspicion is not confirmed

Article 25

Prohibition of disclosure of confidential information

The entities referred to in Article 3, their employees and agents shall not disclose, or in any way facilitate information which has been provided or is to be provided to the FIU, as well as any information regarding investigations on crimes of money laundering or terrorist financing.

Article 26

Mandatory Reporting

Whenever the FIU has evidence of criminal activity, it shall report all of the relevant information to the Public Prosecution Office, so that the proper proceedings may be lodged.

CHAPTER III

Supervision and Sanction Regime

SECTION I

Supervisory Authorities

Article 27

Duties and Powers

1. The competent supervisory authorities guarantee compliance by financial institutions and non-financial activities and professions with the requirements established in Chapter II, herein.
2. Under the terms of this law, the supervisory authorities may:
 - a) Adopt the necessary measures to establish adequate criteria of good standing and reputation regarding direct or indirect ownership, control or participation in the administration, management or other activities of a financial institution or a casino;
 - b) Regulate and supervise compliance of financial institutions and casinos regarding the obligations referred to in Chapters II and III and carry out on-site audits;
 - c) Issue instructions, guidelines or recommendations that guarantee compliance with the obligations contained in Chapters II and III by financial institutions and non-financial activities and professions,
 - d) Cooperate and share information with other competent authorities and provide assistance in investigations and procedures or legal proceedings concerning money laundering or related crimes, as well as terrorist financing;
 - e) Ensure that financial institutions and their affiliates and branches, whose majority capital is held by foreigners, adopt and apply the appropriate measures for compliance with this law;
 - f) Immediately inform FIU of any suspicious transactions or actions which may be related with money laundering or terrorist financing;
 - g) Promote cooperation with the homologous foreign authorities, under the terms of the law;

- h) Maintain statistics on the measures taken and sanctions imposed within the scope of this Chapter.

Article 28

Special provisions on remittance of cash or money transfer services

Any person or entity wishing to render, on a professional basis, services of remittance or transfer of cash and values must register with the Central Bank of Timor-Leste, that will define the basic conditions under which such services will be provided.

Article 29

Registration of other non- financial Professions and Activities

The exercise of non-financial activities or professions is subject to registration, under the terms of the law.

SECTION II

Sanction Regime

Article 30

Administrative Offenses

Failure to comply with obligations and duties, or failure to follow the procedures established in Chapters II and III of this law qualify as administrative offenses.

Article 31

Administrative Sanctions

1. The administrative offenses referred to in the previous Article are punishable with a fine ranging between 5,000.00 and 500,000.00 U.S. Dollars.
2. The law defines the competencies for lodging administrative offence proceedings, as well as the imposition of fines to the entities referred to in Article 3.
3. The failure to comply with the obligations established in Chapters II and III of this law by the entities referred to Article 3, may result in the application, by the competent authorities, of one or several of the following ancillary sanctions:
 - a) Written warning;
 - b) Order to comply with specific instructions;
 - c) Order to submit recurrent reports on the measures being applied;

- d) Disallow the exercise of professional duties for a period of 6 months to 3 years;
 - e) Substitute or limit the powers of managers, directors or controlling owners, including the appointment of an *ad-hoc* board member for a period ranging from 6 months to 3 years;
 - f) Suspend, limit or withdraw the license and disallow continued activity or exercise of profession for a period ranging from 6 months to 3 years.
3. The competent authorities shall notify the *Direcção-Geral de Registos e Notariado*, to be entered into the commercial registry, of any sanctions prohibiting managers and board members of a legal entity from conducting business, in whole or in part, and the lifting of such prohibitions, under the terms of paragraph 3 of this Article,

Article 32

Breach of duties by financial and non-financial entities

1. The following shall be considered breaches committed intentionally or by gross negligence and are punishable with a fine ranging between 250.00 and 150.000,00 U.S. Dollars in the case of individuals, and ranging between 1.250,00 and 750.000,00 U.S. Dollars in the case of legal entities:
- a) Failure to declare currency negotiable bearer instruments amounting to 10,000.00 U.S. Dollars or more or the equivalent in a different legal tender, or a misrepresentation;
 - b) Establishing or maintaining commercial relationships with banking or financial entities with registered office or which are affiliates of entities with registered office in countries or territories which are not subject to effective and consolidated supervision.
 - c) Establishing or maintaining commercial relationships with a respondent financial entity in a foreign country in which they are permitted to use their accounts **through s.**
 - d) Set up bank in Timor-Leste that has no physical presence in national territory and which is unaffiliated with a regulated financial group;
 - e) Failure to maintain adequate, precise or current information regarding the beneficial owner and the controlling structure of the legal entity and other legal entity or arrangement under the terms of this law;
 - f) Failure to request the identity of the customer and to take appropriate measures for risk management established herein;
 - g) Failure to maintain control measures and records as provided for hereunder;
 - h) Failure to provide access to information or to records in a timely manner even when requested by competent authorities, under the terms of the law;

- i) Failure to submit reports to the FIU according to the provisions of Article 23;
 - j) Not to refuse a transaction if the same is mandatory pursuant to Article 24;
 - k) Disclose the information referred to in Article 25 to a customer or third party.
2. Ancillary sanctions prohibiting the exercise of professional activities for a period between 6 months and 3 years may also be applied to individuals who breach one of the duties listed above.
3. The sanctions imposed for the breaches listed in paragraphs 1 and 2 are without prejudice of any sanctions and measures provided by law.
4. The application of any sanctions set forth in the paragraph 1 are subject to a preliminary assessment procedure, to ensure the right of defence and the right of appeal.

CHAPTER IV

Special system for collecting evidence, violation of professional secrecy and loss of assets

SECTION I

Investigation

Article 32 - A

Scope of application

1. This chapter sets forth a special system for the collection of evidence, breach of professional secrecy and confiscation of property for the crimes of:
- a) Drug trafficking;
 - b) Terrorist organizations, terrorism and terrorist financing;
 - c) Trafficking of arms;
 - d) Corruption, embezzlement and economic participation in a business;
 - e) Money laundering;
 - f) criminal association;
 - g) Smuggling;
 - h) Sexual exploitation of a third person and pornography involving minors
 - i) Forgery of money.
2. The provisions of this law only apply to the crimes specified in points g) to i) of the preceding paragraph if the crime is committed in an organized manner.

Interceptions and records

1. When necessary to investigate the crimes specified in Article 32 - A, by means of judicial order, the following is admissible for a given period of time
 - a) access to computer systems, computer networks, servers and electronic mail;
 - b) placement of communication under surveillance, interception and recording and transcription of voice and image, by any means, without the knowledge and consent of the subject;
 - c) control of postal services and opening of order or correspondence.
2. Articles 177 to 180 of the Code of Criminal Procedure are applicable.

Article 33- B

Undercover agents

1. For purposes of the criminal prosecution of the crimes specified in Article 32 - A, the following investigation procedures are permitted, in addition to those already authorised by the Code of Criminal Procedure, contingent upon the express and detailed authorization of the judicial authorities:
 - a) infiltration of police officers in the circuit, in order to gather evidence, locate the assets and dismantle the criminal structures used to commit those crimes;
 - b) conduct of a criminal investigation officer is not being punishable, if authorised and within the terms of the authorization;
 - c) no action against holders of assets intended to be used in the committing of the crimes specified in Article 32-A, found in national territory, with the purpose of identifying and holding accountable the greatest number of persons involved in the operation and prevent the same from taking place;
 - d) in case of no action, the authorization will only be possible provided that the probable itinerary of the assets is known and the identity of the criminal is maintained under police surveillance and monitoring.
2. The authorization to be given by the Public Prosecution Office for the conduct of an undercover agent must be notified to the judge, and the authorisation is deemed validated if an order of refusal is not issued within the subsequent seventy two hours.
3. The criminal police body shall report each action of the undercover agent to the Public Prosecution Office within forty eight hours after completion of the same.
4. The judicial authority shall only order the joining to the proceedings of the report referred to above if it is deemed absolutely indispensable as a means of evidence.
5. The evaluation of the indispensability may take place at the end of the investigation stage.

6. Specific regulations should be enacted to govern the procedures referred to in the preceding paragraphs.

Article 34

Concealment of identity and protection of witnesses

1. The judge may, at his/her own discretion or at the request of the Public Prosecution Office or of the witness, determine that:
 - a) The identity is not to be included in the incriminatory statement if there are grounded concerns that the witness may suffer from serious harm if his/her identity is revealed;
 - b) the identity of a witness is kept secret if determined that the witness, a family member or one of the witness' associates may be in danger as a result of his/her testimony.
2. The identity of the witness shall only be concealed if required by the crime investigation and other investigative methods prove inadequate for the uncovering of the truth.
3. In the cases set forth in paragraph 1, statements are made pursuant to the terms of Article 230 of the Code of Criminal Procedure, or by video conference, concealing the witness' physiognomy.
4. Pursuant to the terms of paragraph 1 of Article 76 of the Code of Criminal Procedure the incriminatory statement referred to in the previous paragraph, shall always be given without the presence of accused,
5. The provisions of this Article do not prejudice the provisions of the Code of Criminal Procedure and Law 2/2009 dated 6 May regarding witness protection.

CHAPTER V

Measures

SECTION I

Interim and Permanent Measures

Article 35

Interim Measures

1. The court may, of its own initiative or at the request of the Public Prosecution Office, impose interim measures, including the freezing or seizing of funds or assets, with the intention of preserving their availability which, pursuant to Article 43, may be liable for confiscation.

2. The above provision is applicable subject to the rights of third parties regarding good faith.
3. The application of these measures may end at any time by order of the court that requested such measures, or at the request of the prosecution, or persons claiming ownership of the funds or assets.

Article 35- A

Seizures

1. The assets seized under criminal proceedings for the committal of the crimes foreseen in this law may be assigned to operational use by criminal police bodies, upon order of the competent judicial authority declaring its operational usefulness.
2. The assets referred to in 1 above may be temporarily used by the criminal police bodies, following the determination of their operational usefulness, from the date of seizure until confiscation or restitution, if they are to be confiscated by the State at the end of the proceedings.
3. For the purposes of the preceding paragraph, all interested parties must be notified.
4. Upon the seizing of the asset, and determination of its operational usefulness, the asset shall be recorded, examined and appraised.
5. The value of the appraisal sets the amount of the damages payable to the owner, in case the asset is not ultimately confiscated by the State.
6. The appraisal of the asset is carried out by experts appointed by the judicial authority, before whom they take an oath to perform the duty assigned to them.
7. The determination that the asset ceases to have operational usefulness occurs with the confiscation by the State or the restitution to the relevant owner or legitimate holder.

Article 35° - B

Breach of professional secrecy

During the investigation and trial phases of the legal proceedings for the crimes specified in Article 32 – A, the entities listed in Article 3.1 shall provide all information and documents, requested by the judicial authority in a duly grounded order, regarding the financial situation of the suspects, which are relevant to uncovering of the truth.

Article 35- C

Control of accounts

1. During the investigation and trial phases of the legal proceedings for the crimes specified in Article 32 – A, following a duly grounded order, the bank and payment accounts held by the *arguidos* and suspects may be put under surveillance, as well as the accounts not held by the *arguidos* and suspects that have been used for committing the crimes.
2. The credit or payment institutions must notify the judicial authority within 24 hours any operations in the accounts referred to in the preceding paragraph.
3. Institutions and employees are bound by a duty of confidentiality.

Article 36

Freezing of assets linked to terrorist financing

1. Funds and any other financial assets of terrorists, of those who finance terrorism and of terrorist organizations and referenced in the United Nations Security, under the terms of Chapter VII of the United Nations Charter, or in Council Resolution 1373 (2001), of the United Nations Security Council or subsequent Resolutions, must be frozen following instructions from the Central Bank or by any other means provided for by law.
2. The instructions referred to in the previous paragraph should define the terms, conditions and limits of the freezing period of the assets and are published in the *Jornal da República* (the Timor-Leste Official Journal).
3. The entities referred to in Article 3, where such funds and other financial assets are deposited must be frozen immediately.
4. The entities referred to in Article 3 should immediately notify the FIU and the Central Bank in the case of financial institutions regulated by it, of the existence of funds linked to terrorists, terrorist organizations or individuals or associated entities, as well as those owned by the individuals or organizations referenced in the lists drawn up by the United Nations Security Council or in Resolution no. 1373 (2001) of the United Nations Security Council or other subsequent Resolutions.
5. The failure to comply with the duties referred to above by the entities listed in Article 3, where such funds and other financial assets are deposited, is punishable with a daily fine ranging from 500.00 to 5,000.00 U.S. Dollars.
6. Any person or organization whose funds or other financial assets are frozen under the terms of this Article may request the Central Bank or the competent authority that ordered the freezing to

remove his/her/its name from the list, and the restitution of the funds or other financial assets within 30 days following publication of the list.

7. An appeal may be filed against any decision dismissing the request of removal from the list or of restitution of funds or other assets.

SECTION II

Crimes

Article 37

Money laundering

Money laundering is a crime punishable under Article 313 of the Criminal Code.

Article 38

Terrorist financing

Terrorist financing is a crime punishable under Article 133 of the Criminal Code.

Article 39

REVOKED

Article 40

REVOKED

Article 41

REVOKED

Article 42

Liability of Legal Persons

1. A legal person on behalf of whom or to whose benefit money laundering is committed, or through whom terrorist financing is committed, through a natural person, acting individually or in his/her capacity as member of a body of a legal person, or holding a high position, using the power of representation of such legal person or authority to make decisions on behalf of the legal person, or exercising control within the legal person, in the exercise of such powers, will be punished with a fine in

the minimum amount of the laundered amount and up to three times the value of the same, irrespective of the individuals being convicted for having committed the crime or as accomplices of the crime.

2. In addition to the cases provided for above, a legal person may be held liable when, as a result of lack of supervision or control, the practice of money laundering and terrorist financing was allowed for their own benefit, and through a natural person who acted under their authority.

3. Legal persons may also be subject to one of the following ancillary sanctions:

- a) Impediment, for a period ranging from six months to three years, to continuing to exercise directly or indirectly certain economic activities;
- b) Placement under judicial supervision;
- c) Termination of the activities which were used to carry out the crime for a period ranging from six months to three years;
- d) Winding up;
- e) Publication of the sentence at his/her own expense.

SECTION III PERMANENT MEASURES

Article 43

Confiscation by the State

1. The following may be confiscated by the State:

- a) Proceeds from the crime, capitals and assets or other assets of equivalent value;
- b) Criminally derived funds or property
- c) Instruments used to commit the crime;
- d) Funds or assets with which the proceeds of the crime may have been mixed into.

2. The measures listed above may be applied to any person who owns or is in possession of the assets, except where the owner can prove that the same were acquired for a fair monetary value, in return for the rendering of services of equal value or through any other legitimate means and that there was no knowledge of the illegal origin thereof.

3. The decision must identify the assets, funds and property in question so as to enable identification and location thereof.

Article 44

Invalidity of Legal Transactions

1. The court declares invalid any legal transaction entered into for the purpose of preventing confiscation, as defined in Article 43 above.
2. If the agreement to be held invalid has already been performed, the party acting in good faith shall only be reimbursed for the amount actually paid.

Article 45

Destination of confiscated assets

The assets and proceeds of the crime, confiscated pursuant to Article 43, shall revert to the State.

CHAPTER VI

International judicial cooperation in criminal matters

Article 46

Duty to cooperate

The competent authorities shall promote the broadest cooperation with the competent authorities of other States for the purpose of international judicial cooperation in criminal matters under the terms of the applicable domestic and international legislation.

Article 47

Non-political nature of the crimes

Political motives, or the mere existence of political motives, cannot be used as justification for the crimes of money laundering and terrorist financing.

CHAPTER VII

Transitory and Final Provisions

Article 48

Amendment to Decree-Law no. 19/2009, dated 8 April

Articles 133 and 313 of the Criminal Code approved by Decree-Law 19/2009, of 8 April, are hereby amended and shall henceforth have the following wording:

Article 133

Terrorist financing

Anyone who, by any means, either directly or indirectly, supplies, gathers or holds funds or assets of any kind, as well as proceeds or rights which can be converted into money, with the intent of using the whole or part of the same to plan, prepare or commit the actions specified in Article 131.1, and in Article 132.1, will be punished by 12 to 25 years' imprisonment.

Article 313

Money laundering

1. Anyone who, knowing that the assets or proceeds derive from, or of from an act of participation in, crimes of terrorism, guns or nuclear product trafficking, trafficking or sale of persons, pornography involving minors, corruption, fraud or extortion, tax fraud, illicit exploitation of gambling, trafficking of protected species and trafficking of human organs or tissues or other serious crimes, subject to imprisonment for at least 2 years:

a) Converts, transfers, aid or enable any operations for the conversion or transfer of those assets or proceeds, in whole or in part, directly or indirectly carried out for the purpose of concealing or disguising the illegal origin of the same, or of assisting any person who is involved in the commission of such activity to evade the legal consequences of his actions;

b) Conceals or disguises the true nature, source, location, disposition or movement of the rights with respect to or ownership to those assets or proceeds;

c) Acquires or receives such benefits in any capacity or uses them, holds them or maintains the same, is punished by 4 to 12 years' imprisonment.

2. Punishment for the crimes specified in points a) and c) of the previous paragraph still takes place even if the actions pertaining to the crime have taken place outside national territory or the location of the action or the persons who have committed the crime are unknown.

3. The knowledge, intent or purpose, required as constitutive elements of the crime, may be entered as factual, effective and specific concrete circumstances.

4. For demonstration and evidence of the illegal origin of the income it is not necessary for the agent to have been previously convicted of the commission of the underlying crime.

5. Underlying infraction include crimes committed outside national territory, when the actions are qualified as a crime in the country in which they were committed, and in the territory of Timor-Leste.

6. An attempt to launder Money is punishable, but may be subject to a reduction in the sentence, under the general terms.

7. The punishments provided for the committing of the typical illicit actions described points a) and c) of paragraph 1 should not exceed the maximum limit provided for the corresponding underlying infractions.

Article 49

Additions to Decree-Law n 19/2009, of 8 April

The following articles have been added to the Criminal Code, approved by Decree-Law n 19/2009 of 8 April, and shall henceforth be worded as follows:

Article 133- A

Aggravating circumstances of terrorist financing

1. The maximum and maximum limits of the punishments laid down in Article 133 can be increased by one third, pursuant to the criminal law:

- a) if the crime is committed within a commercial or economic activity;
- b) if the crime is committed within the activities of an organized crime group.

2. The application of the preceding paragraph cannot result in a conviction of more than 25 years' imprisonment.

Article 133 - B

Attenuating circumstances of terrorist financing

1. The provisions set forth in criminal law on attenuating circumstances apply to the crimes specified in Article 133.

2. The punishments provided for in Article 133 can be specially attenuated under the terms set forth in Article 57, if the person committing the crime gives information to the judicial authorities enabling to:

- a) Prevent or limit the effects of the crime;
- b) Identify, pursue or accuse other criminals;
- c) Obtain evidence;
- d) Prevent the committing of other crimes of money laundering or terrorist financing;
- e) Deprive the groups of organized crime from its resources or proceeds of the crime.

Article 313- A

Aggravating circumstances in the crime of money laundering

1. The maximum and maximum limits of the punishments laid down in Article 313 can be increased by one third:

- f) if a prison sentence exceeding the maximum provided in the preceding articles is applicable to the underlying crime;
- g) if the crime is committed within a commercial or economic activity;
- h) if the crime is committed within the activities of an organized crime group;
- i) if the amount being laundered exceeds 500,000.00 US dollars;
- j) if the intent is to promote the continuation of criminal activity.

2. The application of the preceding paragraph cannot result in a conviction of more than 25 years' imprisonment.

Article 313- B

Attenuating circumstances in the crime of money laundering

1. The provisions set forth in criminal law on attenuating circumstances apply to the crimes specified in Article 313.

2. The punishments provided for in Article 313 can be specially attenuated pursuant to Article 57 if the person committing the crime gives information to the judicial authorities enabling to:

- a) Prevent or limit the effects of the crime;
- b) Identify, pursue or accuse other criminals;
- c) Obtain evidence;
- d) Prevent the committing of other crimes of money laundering or terrorist financing;
- e) Deprive the groups of organized crime from its resources or proceeds of the crime:

Article 50

Entry into Force

This law enters into force on the day following its publication.