

*Autoridade Bancária e de Pagamentos de Timor-Leste*

*Banking and Payments Authority of Timor-Leste*

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**GOVERNING BOARD RESOLUTION  
N.º 11/2010**

**Concerning the approval of  
Public Instruction N.º 06/2010  
On the Licensing and Supervision of Other Deposit Taking Institutions (ODTIs)**

**THE GOVERNING BOARD**

**Pursuant to:**

1. Article 6.(1) of UNTAET Regulation no. 2001/30 that gives the BPA specific power to license, supervise and regulate Banks;
2. The provisions of paragraph 6 Article 2 of UNTAET Regulation no. 2000/8 on the Licensing and Supervision of Banks which gives the BPA power to make exemption in whole or in part from the application of the Regulation to banks whose total deposit liabilities are less than US\$ 1,000,000.00;
3. Section 165 of the Constitution of the Democratic Republic of Timor-Leste concerning the continued applicability of laws in force at the date of the adoption of the Constitution.

**Taking into account that:**

1. all residents of Timor-Leste can benefit from access to financial services;
2. organizations that specialize in providing financial services to low income populations require regulation that is specific to the risks associated with those services;
3. specialized regulation for ODTIs will facilitate their organizational development and their ability to grow in a safe and sound manner;
4. specialized regulation for ODTIs helps protect the banking system against money laundering and criminal activities;
5. specialized regulation for ODTIs provides protection to their customers and members;
6. wider consultations with relevant stakeholders have been conducted.

**For the Purpose of**

1. promoting the supply of financial services to the entire population of Timor-Leste; and
2. protecting the legitimate interest of the depositors.

**HEREBY RESOLVES TO ADOPT THE FOLLOWING**

**Public Instruction N.º 06/2010**  
**On the Licensing and Supervision of Other Deposit-Taking Institutions**

**CHAPTER I**  
**GENERAL PROVISIONS**

**Article 1**  
**Definitions**

In this Public Instruction, unless otherwise stated the terms below shall have the following meaning:

- a). "BPA" means the Banking and Payments Authority of Timor-Leste established under UNTAET Regulation 2001/30;
- b). "Principal Shareholder" means a person that owns directly or indirectly ten percent or more of any class of shares with voting rights of an ODTI;
- c). "Administrator" means any person who is a member of the board of directors or an officer who is authorized to legally obligate an ODTI;
- d). "Auditor" means any person who is appointed in accordance with the provisions of this Public Instruction for the audit of the accounts of an ODTI;
- e). "Bank" means a person engaged in the business of accepting deposits from the public in Timor-Leste and using such funds, either in whole or in part, to make extensions of credit or investments for the account of and at the risk of the person carrying on the business;
- f). "Capital" means the net worth or own funds of an ODTI being the difference between its assets and liabilities in accordance with balance sheet accounts that reflect applicable accounting principles;
- g). "Regulatory Capital" means capital defined by the BPA from time to time for regulatory purposes, which may differ from the definition of capital in paragraph f).;
- h). "Guarantee Account" means an account, bearing interest or not, that holds the funds of a customer as a condition of receiving goods or services or as a guarantee for a loan from the same institution;
- i). "Credit" means an arrangement in which a lender gives money or property to a borrower, and the borrower agrees to return the property or repay the money, usually along with interest and/or fees, at some future point(s) in time;
- j). "Deposit" means a sum of money placed on account in an ODTI:
  - i). that is to be repaid in full by the ODTI, with or without interest or premium of any kind, and either on demand or at a time agreed by or on behalf of the ODTI and the account holder; and
  - ii). that is not held as a condition for receiving goods or services, or as collateral;
- k). "Capital Distribution" means a distribution of cash or other property by an ODTI to its shareholders;
- l). "Other deposit-taking institutions, hereinafter referred to as "ODTI" means any organization or company that is licensed according to the terms of this instruction;
- m). "Person" includes an individual and a juridical person (a company, partnership, association, and group of persons acting together with a common purpose, whether or not organized as a formal business entity).

## **Article 2**

### **Scope**

1. This Public Instruction shall apply to any person, organization or company, including microfinance institutions, that operate in Timor-Leste and that have more than \$500,000.00 (five hundred US dollars in customer Guarantee Accounts, but shall exclude issuers of collective investment schemes and finance companies and other entities that raise funds solely from related parties, or from corporate or wholesale sources.
2. This Public Instruction applies to ODTIs with precedence over any other law, regulation or instruction related to financial services.

## **Article 3**

### **Prohibition and restrictions**

1. No organization shall commence, or carry on, the business of taking Deposits, or accumulate customer Guarantee Accounts in excess of \$500,000.00 (five hundred US dollars) unless and until such institution has been licensed in accordance with the provisions of this Public Instruction.
2. ODTIs shall maintain Deposit liabilities at a level less than US\$ 1,000,000.00 (one million US dollars)
3. No ODTI shall use the word “bank” in its name.

## **Article 4**

### **Financial activities**

1. ODTIs shall be authorized in their license to engage in the financial activities described as follows:
  - a). Hold the funds of customers in Guarantee Accounts.
  - b). Take Deposits in the form of saving and time deposits bearing interest or not in the official currency.
  - c). Provide financing facilities, with or without collateral security, in cash or in kind, for such terms and subject to such conditions as may be prescribed but shall exclude business in foreign exchange transactions.
  - d). Accept pledges, mortgages, hypothecations or assignments to it of any kind of movable or immovable property for the purpose of securing loans and advances made by it.
  - e). Mobilize and provide financial and technical assistance and training to micro enterprises.
  - f). Borrow and raise money and open accounts at banks.
  - g). Pay, receive, collect and remit money within the territory of Timor-Leste.
  - h). Open account or make any agency arrangement with, and to act as agent or correspondent of, any bank or financial institution.
  - i). Provide safe custody facilities and other payments services.
  - j). Clear and settle its accounts or the accounts of its clients through a bank.
  - k). Receive grants from the government and from any other sources. and
  - l). Other financial activities as the BPA may determine from time to time.
2. No ODTI shall engage in financial activities other than those specifically authorized by its license.

**CHAPTER II**  
**ORGANIZATION OF ODTIs**

**Article 5**  
**Organization of ODTIs**

1. ODTIs must be organized as companies under the Law on Commercial Companies.
2. Each ODTI shall enjoy freedom of contract, including the right to own and dispose of movable property and, subject to applicable law, immovable property, and may be a party to legal proceedings.

**Article 6**  
**Minimum Capital requirements**

The minimum Capital amount required to acquire an ODTI license shall be \$500,000.00 (five hundred US dollars) or such other amount prescribed by the BPA from time to time.

**Article 7**  
**Governing structure**

1. Each ODTI shall be governed by a Board of Directors which may establish committees at its discretion and as the BPA may determine.
2. The Board of Directors of an ODTI shall have the following responsibilities:
  - a). to establish the strategic objectives and policies of the ODTI;
  - b). to hire and dismiss the chief executive officer of the ODTI;
  - c). to supervise the implementation of Board policies and decisions;
  - d). to set and enforce clear lines of responsibility and accountability throughout the ODTI;
  - e). to establish appropriate accounting procedures and accounting controls for the ODTI, and, as it deems appropriate, to commission audits at the expense of the ODTI;
  - f). to supervise the external audit of the ODTI;
  - g). to monitor compliance with the present Public Instruction and laws applicable to the ODTI.
3. The Board of Directors of an ODTI shall have an uneven number of not less than five (5) or more than nine (9) members.
4. Members of the Board of Directors shall be appointed by the general meeting of shareholders of the ODTI for a period of not more than four (4) years.
5. Board members may be re-appointed for subsequent periods by the general meeting of shareholders of the ODTI.
6. The general meeting of shareholders of an ODTI may establish the remuneration for Board members. However, remuneration of the Board of Directors and senior management of an ODTI shall be subject to approval of the BPA for the first three years of the operations of an ODTI.
7. Members of the Board of Directors cannot delegate their responsibilities to others.

**Article 8**  
**Articles of Association and by-laws**

1. Each ODTI shall have articles of association prepared in accordance with the requirements

defined in the Commercial Companies Law.

2. No amendment of the articles of association of an ODTI shall be made without prior written consent of the BPA.
3. Each ODTI shall be governed by internal by-laws, approved by its Board of Directors, which establish:
  - a). the roles and responsibilities of the Board of Directors, including the functions of permanent internal committees;
  - b). the duties and authorities of the chief executive officer;
  - c). permanent policies and procedures of the ODTI; and
  - d). other aspects that the BPA might indicate by instruction.
4. Each ODTI shall maintain on file with the BPA a duly certified copy of its articles of association, its by-laws, and a list of the s of the ODTI, together with their specimen signatures and a description of the limits of their authority.

#### **Article 9**

##### **Principal office, branches and agents**

1. The principal office of an ODTI shall be approved by the BPA and shall not be changed without prior approval of the BPA.
2. The ODTI may establish branch offices with the prior approval of the BPA.
3. ODTIs may, with prior authorization from the BPA, contract with third-party agents to conduct transactions on behalf of the ODTI.

#### **Article 10**

##### **Qualifications of Administrators**

1. All persons elected or appointed as Administrators of an ODTI must be approved by the BPA prior to assuming office.
2. All persons elected or appointed as Administrators of an ODTI must be of good repute and must meet the following criteria regarding qualifications, experience and integrity:
  - a). Held responsible management positions in his/her career in a capacity that is related to the responsibilities that he or she will fulfill in the ODTI.
  - b). Has not been associated with any illegal activity especially relating to banking and related businesses.
  - c). Has not been convicted of any criminal offence, involved in any fraud/forgery, financial crime, etc.
  - d). No evidence of any financial or administrative problems at his/her previous work.

#### **Article 11**

##### **Disqualification and removal of Administrators**

A person shall not be eligible to become a member of the Board of Directors of an ODTI, or shall by decision of the general or special meeting of shareholders of the ODTI be relieved of his membership on the Board of Directors of the ODTI, or, if such meeting fails to act within 30 days after the BPA having issued an instruction concerning disqualification, by the BPA, in the event that:

- a). the person has by law been deprived of the right to sit on the Board of Directors of a juridical person;
- b). the person has been convicted of a crime;
- c). the BPA has determined that the person has been a party to a transaction that violates the present Public Instruction or an instruction issued by the BPA for ODTI; or
- d). the person has been subject to an insolvency proceeding as a debtor.

## **CHAPTER III LICENSING**

### **Article 12 License application and decision**

1. Persons who wish to establish an ODTI in Timor-Leste shall apply in writing to the BPA for a license.
2. The application submitted shall be signed by an authorized person[s] and shall be submitted in one of the official languages of Timor-Leste or in English.
3. Applicants shall authorize, in writing, a spokesperson to act on their behalf regarding the application process.
4. The application to license an existing or proposed ODTI shall be accompanied by the following information:
  - a). the articles of association, by laws, and any other corporate documents required for legal organization or, in case of an unformed entity, the proposed version of those documents;
  - b). the qualifications and experience of the Administrators, including business or professional history for the past three years;
  - c). the proposed amount of Capital of the ODTI;
  - d). a business plan setting out, inter alia, the organizational structure, the types of financial activities envisaged, and projected financial statements for the first three years;
  - e). the name, residence, business or professional history and financial statements for the past three years of each person, organization or company who is or who proposes to be a Principal Shareholder of the ODTI, and the amount and percentage; and,
  - f). in the case of ODTIs that are operating prior to their license application,
    - i). an appraisal by a competent third party of the ODTI's policies, procedures and asset quality, performed according to terms of reference defined by the BPA; and,
    - ii). the audited financial statements and annual reports for the past three years or since inception whichever is longer.
5. Upon review of the information submitted, the BPA may request additional information as it deems necessary in order to assist in the application review process.
6. Within sixty (60) business days counted from the date of the receipt of the application and supplementary information the BPA shall grant a preliminary approval, or deny, the application and notify the applicant of its decision in writing, provided that the application has been completed to the satisfaction of the BPA.
7. The decision to grant the preliminary approval of, or deny, the application shall be based on the following criteria:

- a). the business plan is based on reasonable assumptions; and
  - b). the qualifications, experience, and integrity of its Administrators and Principal Shareholders are appropriate for its business plan and the Administrators meet the criteria established in this Public Instruction.
  - c). In the case of ODTIs that are operating at the time of their application, the results of the third-party appraisal that satisfy the BPA.
8. The decision of the BPA to refuse a license shall be final and shall include an explanation of the grounds on which the license was refused.
  9. If preliminary approval of an application for a license is granted, the applicant must fulfill the following conditions before final approval by the BPA for a license for the ODTI to commence those activities in which it is authorized to engage:
    - a). the payment by shareholders to the ODTI of its initial capital funds, evidenced by deposit of the capital funds in the ODTI's reserve account in the BPA;
    - b). the hiring and training of the staff of the ODTI;
    - c). the lease or purchase of operations equipment and the establishment of operations systems, including risk measurement and controls and internal audit and controls; and
    - d). the lease or purchase of premises.
  10. If an ODTI fails to comply within six (6) months with the conditions specified in the previous paragraph, the preliminary approval of the application for a license shall lapse.
  11. The BPA shall issue final approval of the ODTI license based on the results of an on-site examination of the ODTI premises and confirmation of satisfactory compliance with all conditions described in paragraph 9 of this Article.

**Article 13**  
**Scope of license and fees**

1. A license shall be granted for an indefinite period of time, subject to Article 14, and shall not be transferable.
2. The BPA may charge fees for processing an application for a license. Such fees shall not be refunded if an application is denied, an ODTI does not commence business or ceases operations, or the license is revoked pursuant to Article 14 of the present Public Instruction.
3. The BPA may charge fees for the issuance and the possession of a license.

**Article 14**  
**Revocation of a license and its publication**

1. The BPA may revoke the license of an ODTI under the following circumstances:
  - a). upon a request of the ODTI;
  - b). following an infraction of this Public Instruction; 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 ODTI has not commenced operations within one hundred and eighty (180) business days after the receipt of the license, or such further period as may be

- determined by the BPA;
- iii). another ODTI that holds a significant interest in the ODTI has had its license revoked;
  - iv). a merger or sale of substantially all the assets of the ODTI;
  - v). the owner or owners of the ODTI have decided to dissolve or to liquidate the ODTI, or the ODTI has ceased to exist as a legally or operationally independent entity;
  - vi). the ODTI, at any time fails to pay its liabilities or in the opinion of the BPA the affairs of the ODTI are conducted in a manner detrimental to its depositors;
  - vii). the ODTI fails to pay the annual license fee.
2. In the event that an ODTI requests that the BPA revoke its license, the BPA shall decide on the request within thirty (30) business days after its receipt and designate the effective date of the revocation.
  3. A decision by the BPA to revoke or not to revoke a license shall be communicated in writing to each ODTI or branch office concerned and shall give the grounds for the decision and the process for appeal.
  4. The decision to revoke a license shall immediately be published in the *Jornal da República* and in one or more newspapers of general circulation wherever the offices of the ODTI concerned are located.
  5. Procedures including notice and registration of receivership, powers and duties of receiver shall be determined by the BPA.

#### **Article 15** **Licenses of existing ODTIs**

1. Persons conducting the business of an ODTI in Timor-Leste on the date on which the present Public Instruction enters into force that wish to operate as an ODTI in Timor-Leste must submit an application for a license within one hundred and eighty (180) business days of the effective date of the present Public Instruction.
2. Persons described in the previous paragraph that have not submitted an application by such date or whose application has been denied pursuant to the provisions of Article 12 of the present Public Instruction shall cease to conduct the business of an ODTI or wind up their affairs, in accordance with applicable laws or regulations other than the present Public Instruction, one hundred and eighty (180) business days after the date on which the present Public Instruction enters into force.
3. Within the time period specified by the BPA by instruction or order to an ODTI that its organization, administration, financial condition, or operations do not conform in one or more material respects with the requirements of the present Public Instruction or with any instruction or order issued by the BPA pursuant thereto, such ODTI or their owners or Administrators shall conform to the requirements of the present Public Instruction.
4. The BPA shall have the authority to determine the time period for full compliance with the requirements established under this Public Instruction.
5. The BPA shall maintain a central register for inspection by the public. The register will record for each licensed ODTI the name, the addresses of the head office and branch offices, and current copies of the articles of incorporation, by-laws and the names of Administrators and shareholders.



## **Article 16**

### **Mergers**

In order to have legal effect, merger, amalgamation or sale of substantially all the assets of an ODTI shall require prior written authorization of the BPA.

## **CHAPTER IV PRUDENTIAL REQUIREMENTS**

### **Article 17**

#### **General prudential principles**

1. ODTIs shall conduct their administration and operations in accordance with sound administrative and accounting procedures, the requirements of the present Public Instruction, and the instructions or guidelines issued by the BPA applicable to ODTIs.
2. ODTIs shall maintain adequate Capital and liquid resources, and ensure that their assets are protected against risk of loss.
3. No ODTI shall make a Capital Distribution if, in the opinion of the BPA, after making the distribution, the ODTI would have less than the minimum Regulatory Capital.

### **Article 18**

#### **Capital requirements**

1. ODTIs shall maintain at all times the minimum amount of Regulatory Capital as defined by the BPA.
2. ODTIs shall maintain a minimum capital adequacy ratio of not less than twenty (20) percent.
3. All instructions regarding the definition and calculation of Regulatory Capital, the capital adequacy ratio and risk-weighted assets that apply to banks shall apply in equal measure to ODTIs.

### **Article 19**

#### **Liquidity requirements**

1. ODTIs shall maintain an amount of highly liquid assets that is at least twenty (20) percent of total liabilities, or thirty (30) percent of Deposit liabilities, whichever number is higher.
2. All instructions regarding the general objectives, definitions, principles of liquidity management, highly liquid assets, reporting and responsibilities for monitoring compliance that apply to banks shall apply in equal measure to ODTIs.

### **Article 20**

#### **Exposure limits and transactions with related parties**

1. The maximum aggregate amount of liabilities that an ODTI shall be permitted to have committed or outstanding to or for the benefit of any single person or group of interrelated persons is one (1) percent of its regulatory capital.
2. ODTIs shall not enter into transactions with or for the benefit of a person who is related to the ODTI.
3. For the purposes of the previous paragraph, persons who are related to an ODTI shall include without limitation:

- a). any Administrator or shareholder of the ODTI;
  - b). any person who is related to such Administrator or Principal Shareholder by marriage, consanguinity to the second degree, or business interest;
  - c). any legal person that has a significant interest in a juridical person in which the ODTI has a significant interest;
4. The maximum aggregate amount of Credits that an ODTI shall be permitted to have committed or outstanding to or for the benefit of its employees is one (1) percent of its Regulatory Capital.
  5. Transactions between ODTIs and their employees, or any person related to the employee, must be conducted with terms and conditions consistent with the terms and conditions that the ODTI offers to customers who are not employees.

#### **Article 21 Investment restrictions**

ODTIs are prohibited from purchasing real estate or shares in another company for investment purposes.

#### **Article 22 Credit classification and provisioning**

1. ODTIs shall classify all Credits on a monthly basis, assigning each Credit into one of the categories as determined in Schedule 1 of this Public Instruction according to the number of days past due of the oldest payment in arrears.
2. Credits shall be classified according to the original repayment schedule in the contract and may not be rescheduled.
3. At the time of Credit classification, the impairment to the value of a Credit shall be recognized by booking the allowance for credit loss according to the allowance percentage that applies to the classification category, or by charging off the credit, and in both cases charging the income statement in the period in which the impairment occurs.
4. Credits classified in categories Under Supervision through Losses shall be placed in non-accrual status.
5. When a Credit is placed in non-accrual status, all uncollected interest or fees which have been previously accrued shall be reversed and interest and fees shall no longer be accounted for as income except as received in cash.
6. A non-accrual credit shall only be restored to normal status when the ODTI has received payment of all past due principal, interest and fees and the ODTI expects repayment of the remaining contractual principal, interest and fees according to the schedule in the original contract.
7. No ODTI shall extend credit secured by its own equity securities.

### **CHAPTER V REPORTS AND RECORDS**

#### **Article 23 Corporate records**

Every ODTI shall prepare and maintain at its head office written corporate records containing:

- a). its articles of association and by-laws and all amendments thereto;
- b). a register of its shareholders, including the number of shares registered in the name of each shareholder;
- c). minutes of meetings and resolutions of the Board of Directors; and
- d). minutes of meetings and resolutions of the shareholders.

**Article 24**  
**Accounts and Financial Statements**

1. ODTIs shall maintain at all times accounts and records and prepare annual financial statements adequate to reflect their operations and financial condition in accordance with generally accepted accounting standards.
2. Annual financial statements shall be prepared within thirty (30) business days of the balance date in such form and detail and in accordance with such accounting standards as shall be prescribed by instruction of the BPA respecting the preparation and presentation of the accounts of the ODTI.
3. An ODTI shall submit audited financial statements along with all Auditors' reports and recommendations and management responses to the BPA within three (3) months of the close of its financial year.
4. Every ODTI shall maintain proper credit documentation and any other information concerning its business relations with its customers and other persons that the BPA may prescribe by instruction.
5. The accounts, records and financial statements of an ODTI shall also reflect the operations and financial condition of its subsidiaries and branch offices, both on an individual and on a consolidated basis.

**Article 25**  
**Audit**

1. The accounts of an ODTI for each financial year shall be audited by an independent external Auditor approved by the BPA.
2. The audit shall be conducted according to accepted auditing procedures and to instructions defined by the BPA.
3. The independent external Auditor shall:
  - a). assist in preparing financial statements;
  - b). review the annual report and prepare an audit opinion as to whether the financial statements present a full and fair view of the financial condition of the ODTI;
  - c). review the adequacy of internal audit and control practices and procedures and make recommendations for remediation; and
  - d). inform the BPA in regard to any ODTI or any of its subsidiaries about:
    - i). any fraudulent act by any Administrator, employee or agent.
    - ii). any irregularity or deficiency in the administration or operations that could result in a material loss for the ODTI or its subsidiaries.
    - iii). all matters raised in the management letter.

## **Article 26**

### **Reports and inspection**

1. Each ODTI shall prepare and submit to the BPA reports concerning its financial activities, liquidity, solvency, and profitability, and those of its subsidiaries, which accurately reflect the financial condition of the ODTI and each of its subsidiaries on an individual and a consolidated basis.
2. The reports referred in the previous paragraph shall be prepared in such form and detail and shall be submitted at such intervals as shall be prescribed by the BPA.
3. Each ODTI and each of its subsidiaries shall be subject to inspections by examiners of the BPA or by Auditors or other agents appointed by the BPA.
4. In their inspections of ODTIs and their subsidiaries, the BPA and its Auditors or agents may:
  - a). examine the accounts, books, documents and other records of the ODTI or subsidiary; and
  - b). require Administrators, employees and agents of the ODTI or subsidiary to provide all such information on any matter relating to its administration and operations as they shall reasonably request.
5. Each ODTI and each of its subsidiaries shall admit and cooperate fully with the examiners of the BPA and the Auditors or agents appointed by the BPA. No one shall attempt to harass, intimidate, or exert influence on an examiner of the BPA or the Auditors or the agents appointed by it.
6. Each affiliate of an ODTI and providers of professional or operations services to ODTIs shall provide information to the BPA as the BPA may reasonably request concerning the ODTI's operations and relations with such persons.

## **Article 27**

### **Disclosure of basic terms and conditions**

1. Each ODTI shall regularly notify its customers of the precise nature of the business of the ODTI, and of terms and conditions associated with the Deposits made and Credits received by them, according to standards defined by the BPA.
2. ODTIs shall display important terms and conditions of their Deposits and Credits information in a conspicuous location available for viewing. Information shall be presented in the language commonly used by its clients.
3. ODTIs shall not charge fees for providing the information required in the previous paragraphs.
4. The BPA may publish, or cause to be published, any information about the ODTIs that the BPA determines is necessary for full disclosure of information to the public.

## **CHAPTER VI ANTI MONEY LAUNDERING**

## **Article 28**

### **Prevention of criminal use of ODTI for money laundering purposes**

1. ODTIs shall make all reasonable efforts to determine and document the true identity of its clients and shall develop and implement effective procedures and methods for the purpose.
2. ODTIs shall obtain and maintain copies of identification of their client.

3. No ODTI shall conceal, convert, or transfer cash or other property, knowing that such property is derived from criminal activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in such activity to evade the legal consequences of his action.
4. ODTIs shall immediately report to the BPA any suspicious transaction.

## **CHAPTER VII FINAL PROVISIONS**

### **Article 29**

#### **Disclosure of conflicts of interest and fiduciary obligations**

1. An Administrator of an ODTI who:
  - a). is a party to a material contract or a proposed material contract with the ODTI, or
  - b). is an Administrator of, or has a material interest in or a material relation to any person who is a party to a material contract or a proposed material contract with the ODTI,shall disclose in writing to the ODTI the nature and extent of the material interest or relation and shall refrain from voting on any matter related thereto that becomes the subject of action by the Board of Directors of the ODTI.
2. The disclosure required in the previous paragraph shall be made by the Administrator at the time the contract or proposed contract comes or ought reasonably to come to the attention of the Administrator.
3. Administrators and employees of ODTIs shall have an overriding fiduciary duty to the ODTI that they serve and to its customers to place the interests of the ODTI and the interests of the customers of the ODTI before their own pecuniary interest.

### **Article 30**

#### **Infractions, penalties and remedial measures**

1. The remedial measures and penalties provided for infractions described in this Article shall be determined by the BPA in case by case basis.
2. The BPA may take actions or impose penalties described in paragraph 3 below with respect to an ODTI if it determines that the ODTI or any of its Administrators or Principal Shareholders is guilty of an infraction consisting of:
  - a). the violation of a provision of the present Public Instruction or of any instruction issued by the BPA applicable to ODTIs;
  - b). an action that results in a material reduction of the ODTI's solvency or ability to meet its obligations to depositors;
  - c). the violation of any condition, restriction, or provision of an authorization issued to an ODTI by the BPA.
3. Following a determination prescribed in paragraph 2 above, the BPA may take the following actions or impose the following penalties:
  - a). issue written warnings;
  - b). conclude a written enforcement agreement with the Board of Directors providing for a program of remedial action;
  - c). issue written orders to cease and desist from such infractions and to undertake remedial action;

- d). impose fines on the ODTI or on its Administrators or Principal Shareholders in an amount from US\$ 50.00 — 1,000.00 (fifty — one thousand US dollars) per day for each day that the infraction continues; provided, however, that fines shall be of similar amount for entities with comparable total assets for the same type of infraction;
  - e). suspend temporarily or dismiss Administrators from positions in an ODTI and terminate their receipt of remuneration from the ODTI;
  - f). prohibit a Principal Shareholder from direct or indirect exercise of voting rights attached to shares of the ODTI;
  - g). require a shareholder to dispose to all or any part of his direct or indirect ownership interest in the ODTI; or,
  - h). revoke the license of the ODTI and appoint a receiver for the ODTI whose powers will be determined by the BPA.
4. The measures and penalties provided in this Article shall not preclude application of other civil penalties or criminal penalties as provided in other applicable law.

**Article 31**  
**Enter into Force**

This Public Instruction shall enter into force from the date of its publication.

Signed at Dili, this 17<sup>th</sup> day of December 2010

**Abraão de Vasconcelos**  
Chairman

## SCHEDULE 1: Credit Classification and Provisioning

Credit classification	Days past due	Allowance
Standard	0	2%
Under supervision	1 – 30	10%
Substandard	31 – 60	25%
Doubtful	61 – 90	50%
Loss	>90	100%