

DECREE-LAW No. 17/2015

of 24 June 2015

NATIONAL PAYMENT SYSTEM

National payment systems cover the institutional arrangements and infrastructure for the transfer of funds. The essential purpose of a national payment system is to support the efficient and secure transfer of funds between individuals, commercial and other entities and, financial institutions.

An appropriate payment system not only enables funds to be transferred safely and efficiently between participants in the system, but also supports a country's monetary policy, financial stability and overall economic development.

Central banks are key actors in the development of a national payment system and generally perform a variety of functions. They act as operators, users of payment services and catalysts for the reform of payment systems. In addition, they have the task of supervising payment and securities clearing and settlement systems, which are fundamental to the functioning of the financial sector and the economy in general.

To be effective, market and payment arrangements and payment systems supervision and regulation require a legal framework that provides security, stability and reduces their inherent risk.

With this decree-law, and in accordance with the provisions of Articles 4, 5, 28 and 30 of Law no. 5/2011 of 15 June, which establishes the obligation of the Central Bank of Timor-Leste to establish, regulate and supervise the National Payment System as a whole, in order to promote its efficiency and safety, as well as to limit risks, especially systemic risks, and to foster transparency and protection of customers, the functions and powers of the Central Bank of Timor-Leste to regulate and supervise the national payment system, while establishing a regime for the authorization of payment service providers and operators are defined. In addition, settlement, clearing and finality of payments are regulated, as are electronic payments and e-money.

Thus,

The Government decrees the following under Article 115(1)(e) n) and (o) of the Constitution of the Republic and Article 28(1) of Law No. 5/2011 of 15 June, to be enforced as law:

CHAPTER I

GENERAL ARRANGEMENTS

Article 1

Object and Scope

1. This Decree-Law establishes the legal framework applicable to the regulation and management of the National Payment System.
2. This decree-law shall apply throughout the territory of the Democratic Republic of Timor-Leste and to any provision of Payment Services or System operating in whole or in part within the country.
3. The provisions of this Decree-Law shall not apply to the State, to Municipalities and to services and agencies of the direct and indirect administration of the State when acting in the exercise of public authority except and to the extent that they are acting as a Participant, Operator or Payment Service Provider.

Article 2

Definitions

1. For the purposes of this Decree-Law, the following definitions shall apply
 - a) **"Agent"** means a natural or legal person that provides Payment Services on behalf of a Bank or Payment Service Provider;
 - b) **"Bank"** means a legal person duly authorized by the Central Bank to carry out activities, which include receiving deposits or other repayable funds from the public in order to invest them for its own account by granting credit;
 - c) **"Central Bank"** the Central Bank of Timor-Leste, established by Law No. 5/2011 of 15 June;
 - d) **"Central Counterparty" or "CC"** means the entity that acts as intermediary between buyers and sellers, becoming, in a Settlement System, buyer for each seller and seller for each buyer;
 - e) **"Central Securities Depository" or "CSD"** means an entity in which securities are deposited, and facilitates the processing of transactions in book-entry form. Securities may be held in a CSD either in immaterial form (electronic registration) or in the form of physical securities. A CSD can also provide custody and asset management services;
 - f) **"Cheque"** means a form of credit addressed to a Bank and payable on demand, issued to a bank account based in Timor-Leste and payable in the country;
 - g) **"Circulars"** and/or **"Instructions"** have the meaning attributed to them in Law no. 5/2011, of 15 June;
 - h) **"Clearing"** the process of transmitting, reconciling and/or confirming orders for transfers of funds or securities at a time prior to Settlement and includes the Netting of orders and the establishment of final positions for Settlement;
 - i) **"Close-out Netting"** means a Netting Agreement under which, upon the occurrence of certain events specified by the parties to the Agreement, all or some of the transactions referred to in the Netting Agreement may be terminated, and if terminated, the respective final amount maturing, becoming due and payable;
 - j) **"Clearing House"** means an entity that provides Clearing or Settlement services to a System, including the Central Bank;
 - k) **"Clearing System"** means a set of procedures by which Participants submit and communicate information concerning the transfer of funds or securities to other Participants either through a centralized System or in a single location and includes mechanisms for calculating Participants' positions on a bilateral or multilateral basis with a view to facilitating the Settlement of their obligations;
 - l) **"Credit Transfer"** means the set of transfers, initiated with the payment order by the payer, executed with the purpose of making a payment to the payee. The term covers any payment order issued by the Bank or Payment Service Provider of the payer, or an intermediary, addressed to execute the payment order of the payer;
 - m) **"Direct Debit"** the set of transfers, initiated by the beneficiary, based on the authorization granted by the originator to the beneficiary, to the Payment Service Provider of the beneficiary or the originator. The term covers any payment order issued by the Bank or Payment Service Provider of the payee, or an intermediary, addressed to execute the order of the payee;

- n) **"Electronic cashing of Cheques"** means the electronic transmission by an institution authorized to cash-out Cheques of an image and payment information of a Cheque to the creditor institution at which it is cashed;
- o) **"Electronic funds transfer"** means any transfer of funds that is initiated by a person through an instruction, authorization or order addressed to a Payment Service Provider to debit or credit an account held with that Payment Service Provider by electronic means and includes, but is not limited to, transactions at automated payment terminals, automated teller machines, account deposits or withdrawals of funds, transfers initiated by telephone, internet, card and other devices;
- p) **"Electronic money"** means monetary value stored electronically, including in magnetic form or on any other tangible or intangible device (such as SIM cards or computer systems), represented by a claim on the issuer, which is issued upon receipt of the funds for the purpose of making payment transactions and which is accepted as a means of payment by a third party other than the issuer;
- q) **"Final Net Value"** means the net value obtained after the setting off or otherwise ascertained net value of obligations between the parties under the Settlement Rules issued by the Central Bank or a Settlement Agreement entered into between the parties.
- r) **"Financial guarantee"** an asset that is provided by the guarantor to ensure the fulfilment of an obligation by the guarantor. The collateral arrangements of financial collateral can take several legal forms; the collateral can be obtained, inter alia, through a transfer of title or a pledge;
- s) **"Gross Settlement"** means the Settlement of transfer orders for funds or securities that occurs individually on the basis of consecutive and individual instructions;
- t) **"Money Transfer Services"** means payment services that accept cash or another Payment Instrument (including Electronic Money instruments) at one location and pay the corresponding sum in cash or otherwise to a payee at another location by means of communication, message, transfer or through a clearing network to which the Money Transfer Service belongs;
- u) **"Multilateral Netting"** means an agreement between three or more parties to settle their obligations;
- v) **"National Payment System"** means the set of services associated with the issue, receipt and processing of payment orders or transfers of funds in national or foreign currency, including:
 - i. issuance and management of Payment Instruments,
 - ii. Payment, Clearing and Settlement Systems, including those that process and register securities, as well as the agreements and procedures related to those Systems and Services, such as their interfaces, and
 - iii. the Payment Service Providers themselves, including System Operators, as well as any third party acting on their behalf, either as an Agent or through outsourcing arrangements, operating wholly or partly within the territory of the Democratic Republic of Timor-Leste.
- w) **"Net Settlement"** means the Settlement procedure in which the final settlement of transfer instructions takes place on a net basis in one or more isolated and predetermined periods during the processing day;
- x) **"Netting"** means the determination of net payment obligations or the determination of the Net Final Amount in respect of settlement obligations between two or more Participants in a System;

- y) **"Netting Agreements or Netting Arrangements"** means an agreement, in writing, which converts several claims and obligations into one net claim or net obligation and includes Bilateral Netting, Multilateral Netting, Novation Netting, Advance Payment Netting or a combination of any of these;
- z) **"Novation Netting or Netting by Novation"** means a Netting Agreement between the parties covering a set of transactions in which an account of amounts due is maintained and the parties' rights and obligations in relation to that account are continuously extinguished and replaced by a single amount due from one party to the other;
- aa) **"Operator"** means the Central Bank or any other entity licensed or authorized by the Central Bank to operate a System;
- bb) **"Orders"** has the meaning assigned to it in Law No. 5/2011 of 15 June;
- cc) **"Participant"** means a party recognized under the rules of a System as capable of trading, clearing and settling through the System with other Participants, either directly or indirectly. A direct participant is a participant in a System which is responsible for settling its own payments, its customers' payments and the payments of indirect participants on whose behalf it settles;;
- dd) **"Payment Service Provider"** means any entity that provides Payment Services;
- ee) **"Payment Card"** means a card or other device, including a code or other means of access to an account, which may be used to withdraw cash or to make payments, and covers cards or devices regardless of whether they are credit, debit or prepaid cards;
- ff) **"Payment Instrument"** means any instrument, tangible or intangible, which enables a person to obtain money, goods or services or to make payments or transfer money. These include, but are not limited to, Cheques, transfers of funds initiated on paper or in dematerialized form (such as ATMs, automated payment terminals, internet, telephone, mobile phones), Payment Cards, including prepaid ones;
- gg) **"Payment Services"** means:
 - i. services enabling cash deposits and withdrawals,
 - ii. execution of payments,
 - iii. issue and/or acquisition of Payment Instruments,
 - iv. provision of Money Transfer Services, and
 - v. any other services ancillary to money transfer, which also include the issuance of Electronic Money and Electronic Money instruments, the term does not, however, cover the provision of Internet or communications or network access services only;
- hh) **"Payment System"** means any System or set of procedures for the processing, clearing and/or settlement of funds;
- ii) **"Real-time Gross Settlement or LVTR"** means Settlement which executes the final settlement of funds, payment obligations and registration in the securities and instruments account on a transaction-by-transaction basis, in real time while these occur during trading hours during a trading day;
- jj) **"Regulations"** has the meaning attributed to it in Law No. 5/2011 of 15 June;

- kk) **"Settlement"** means the act of fulfilling obligations by transferring funds or securities between two or more parties;
 - ll) **"Settlement Agent"** means an entity that provides accounts for the Participants of a System to hold funds and settle transactions between System Participants;
 - mm) **"Settlement Rules"** means rules, irrespective of how they have been established, which provide the framework within which payment obligations are calculated, cleared or settled and include rules for action in the event that a Participant is unable or likely to become unable to meet its obligations to the Payment System, Clearing House, IC or other Participants. These rules cover the settlement of obligations relating to securities;
 - nn) **"Settlement System"** means a System established and operated by the Central Bank or any other System for the fulfilment of payment obligations and the settlement of securities obligations;
2. Unless expressly provided otherwise, the term **"Systems"** in this Decree-Law shall mean without distinction a Payment, Clearing and/or Settlement System.

CHAPTER II POWERS AND FUNCTIONS OF THE CENTRAL BANK

Article 3 General Powers

The Central Bank has, under this decree-law, functions and powers to:

- a) define the policies for the continuous modernization of the National Payment System;
- b) authorize Payment Service Providers and System Operators in accordance with the provisions of this decree-law and complementary regulations;
- c) determine general or individual conditions, standards, norms and/or procedures for the implementation of this decree-law and complementary regulations with respect to any authorized entity and its activity and to ensure that such conditions, standards, norms and procedures are duly respected;
- d) serve as a forum for the discussion of matters of common interest and policies concerning the National Payment System; and
- e) perform any other functions that it may have in relation to Payment, Settlement or Clearing Systems or the issuance of Payment Instruments in order to enable them to be effective and to achieve their objectives.

Article 4 Operational Function of the Central Bank

The Central Bank may provide infrastructures for Payment, Clearing and Settlement Systems to the respective Traders or their Participants; to this end, the Central Bank may:

- a) establish, hold, operate and participate in the Clearing and Settlement Systems;
- b) act as a CSD for the Participants;
- c) hold cash accounts for Traders and Participants which may be used for the Clearing and Settlement of transfers within a System;
- d) hold securities in accounts for Traders and Participants which may be used for the operation of the Systems;

- e) extend the intraday credit determined by the Central Bank to entities which are participants in Payment, Clearing and Settlement Systems. For this purpose, adequate Guarantees must be provided to the Central Bank; and
- f) act as CSD in relation to Government securities.

Article 5

Cooperation with Other Entities

1. The Central Bank shall cooperate with other public authorities in charge of the regulation and supervision of financial institutions and other entities directly or indirectly involved in the provision of Payment Services and their operation in the Democratic Republic of Timor-Leste, as well as in the regulation, monitoring and supervision of capital markets in the country.
2. The Central Bank has the capacity to cooperate with other monetary authorities and international organizations with functions in the area of payment supervision and oversight.

Article 6

Council of the National Payment System

1. The Central Bank may, by circular or instruction, establish a Council of the National Payment System (hereinafter referred to as the "Council").
2. The objectives of the Council are to advise the Central Bank on the regulation and supervision of the National System of Payments, including, but not limited to, establishing the operational and technical standards and other rules relating to Payment Services and the Settlement and Clearing of payments and securities.

CHAPTER III

AUTHORIZATION

Article 7

Authorization Principle

1. No person, natural or legal, may provide Payment Services or operate any of the Systems unless duly authorized by the Central Bank. The powers of the Central Bank to grant an authorization for this purpose shall also include the powers to, upon verification of the respective assumptions, suspend or revoke such authorization.
2. To obtain an authorization from the Central Bank to provide payment services or to operate a System, an applicant may be subject to an obligation to maintain own funds at levels specified by the Central Bank. The level of funds may be determined by the type of services provided, the average or aggregate amount of payments or other factors that the Central Bank considers relevant.
3. In case of management of Payment Instruments, the Central Bank may replace the granting of authorization by simple registration when the operation and management of a certain category of Payment Instruments does not involve specific risks to the market or when the submission to the authorization procedure may significantly affect competitiveness.
4. Banks that already provide Payment Services under a license granted by the Central Bank do not need to obtain a new authorization to provide Payment Services under this Decree-Law. Nevertheless, they shall comply with the operational requirements and information provision and disclosure requirements established by the Central Bank and shall be subject to the supervision rules and requirements applicable to natural and legal persons authorized under the terms of this Decree-Law.

5. Without prejudice to the provisions of the preceding paragraph, Banks shall be required to obtain an authorization to operate the Systems.
6. Authorizations granted under this Article shall be subject to the procedure established by the Central Bank for this purpose.
7. No authorization or right acquired under this Decree-Law, in whole or in part, shall be transferable except under the terms defined by the Central Bank, and any transfer in violation of the applicable rules shall be null and void.
8. An authorization granted under this Decree-Law may be renewed under the terms and subject to the payment of fees or other costs as determined by the Central Bank.
9. The Central Bank may, for the purposes of this Decree-Law, modify any condition of any authorization granted by means of amendment, substitution, elimination or other modification. When the Central Bank, on its own initiative, decides on a modification to the conditions of an authorization, it shall notify the authorization holder of the reasons for the proposed modification and allow him or her a period of not less than five (5) working days to provide his or her comments before the final decision is taken.

CHAPTER IV SUPERVISION

Article 8 Powers of the Central Bank

1. The Central Bank may, at any time, adopt general rules and define criteria for the conduct of Payment Service activities or for the operation of Systems, addressed to all participants or to a specific category.
2. The Central Bank may, at any time, issue directives or rules applicable to Banks, Payment Service Providers or Operators in relation to their organization, management, operation, relationship with customers and relations with the Systems, as well as in relation to any other matters, with a view to the efficient application of the provisions of this decree-law.
3. The Central Bank may, when it deems necessary for the performance of its functions under the terms of this Decree-Law, examine, with or without prior notification, the premises, apparatus, equipment, instruments, records or other documents, accounts or transactions of a Bank, a Payment System Participant, an authorized operator or issuer of Payment Instruments and any of its offices in Timor-Leste or abroad.

Article 9 Rules of Systems

1. Each Operator of a System shall establish written rules for the administration, management and operations of the System it operates, containing a minimum level of rules on liquidity management, credit and settlement risk, rules determining when a payment instruction and settlement are final, governance, access, contingency and operational risk arrangements, rights and duties of the Participants and the System Operator. Such rules must comply with the provisions of this Decree-Law and any rules, decisions or resolutions issued by the Central Bank on this matter.

2. The Central Bank may order the amendment or revocation of any rules established by an Operator under the terms of paragraph 1 of this Article, whenever it deems appropriate and taking into account:
 - a) whether the amendment or revocation is in the public interest;
 - b) the interests of the current Participants in the System;
 - c) the interests of those who may, in the future, wish to access the System, and
 - d) any other matters which the Central Bank considers relevant.
3. No Operator of a System may make any change to the System that may affect its structure, operation or administration without:
 - a) the Central Bank's approval; and
 - b) such change has been communicated to the Participants of the System not less than thirty (30) days in advance of its approval by the Central Bank.
4. Notwithstanding the provisions of the preceding paragraph, the Central Bank may, in the interest of monetary policy, financial stability or public interest, authorize the Operator to give less than thirty (30) days' prior notice.

Article 10

Access to the Systems

The rules for access to the Systems shall be objective, non-discriminatory and proportionate and shall not prevent access beyond what is necessary to prevent specific risks such as settlement, operational and commercial risks and in order to protect the financial and operational stability of the Payment System.

Article 11

Outsourcing of Activities

1. A Payment Service Provider or Operator shall inform the Central Bank whenever it intends to outsource operational functions.
2. Outsourcing of relevant operational functions may not occur if this impairs the quality of the internal control of the Operator or Provider or the Central Bank's ability to supervise their compliance with the obligations contained in this Decree-Law.
3. For the purposes of paragraph 2, an operational function is considered relevant if a defect or failure in its execution is likely to impair the uninterrupted compliance by an Operator or Service Provider with the conditions of its authorization, or its financial performance, or the soundness or continuity of its services.
4. The Central Bank shall ensure that an Operator or Service Provider, when outsourcing relevant operational functions, complies with the following conditions:
 - a) outsourcing may not involve the delegation of responsibilities by senior management;
 - b) the relationship and obligations of the issuer to the users of any applicable Payment Instrument remain unchanged;
 - c) the conditions that the Payment Service Provider or Operator must comply with in order to be authorized and which remain in accordance with this Decree-Law are not compromised;
 - d) none of the conditions under which the authorization was granted are removed or changed; and
 - e) the outsourcing of activities does not give rise to any unauthorized or illegal transfer or disclosure of confidential information.

Article 12

Use of Agents

1. Whenever a Bank or Payment Service Provider intends to provide Payment Services to customers, in particular when related to a Payment Instrument, through a Payment Agent, it shall communicate the following information to the Central Bank:
 - a) the name and address of the Agent;
 - b) a description of the internal arrangements that will be used by the Agent in order to comply with the money laundering and terrorist financing obligations; and
 - c) the identity of the directors and persons responsible for the management of the Agent to be used in providing services and evidence that they are suitably qualified and capable persons.
2. As soon as the Central Bank receives the information pursuant to paragraph 1, it shall enter the Agent in a publicly accessible register. No Agent may perform any activities under the agency contract before being registered in that register.
3. Before registering the Agent in the respective register, the Central Bank may, if it considers that the information submitted is incorrect, take measures to verify the said information.
4. If, after taking steps to verify the information provided, the Central Bank does not consider that the information provided pursuant to paragraph 1 is correct, it shall refuse to register the Agent.
5. The principal shall ensure that Agents acting on his/her behalf inform customers that they are acting on behalf of the principal.

Article 13

Responsibility

1. 1. When Banks, Operators or Payment Service Providers resort to third parties for the performance of their operational functions, they shall adopt all appropriate measures in order to ensure compliance with the provisions of this Decree-Law.
2. Banks, Operators and Payment Service Providers are fully responsible for any acts of their employees, Agents, branches or entities to whom activities are outsourced.

Article 14

Compliance with the Legislation on the Prevention and Combating of Money Laundering and Terrorist Financing

1. Banks, Payment Service Providers and Operators shall comply with the requirements and regulations on the Prevention and Combating of Money Laundering and Terrorist Financing established by law, as well as any regulations issued by the Central Bank on these matters.
2. Banks, Payment Service Providers and Operators shall also ensure that any third party acting on their behalf or Agents comply with applicable laws and requirements.

Article 15

Record Keeping

1. Banks, System Participants, Operators and Payment Service Providers shall keep the records obtained by them in the course of their operations and administration for a minimum period of five years from the date of establishment of the record, or for any other period established by the Central Bank.
2. Records pursuant to paragraph 1 may be kept by electronic means in accordance with Article 29 of this Decree-Law.

Article 16**Access and Disclosure of Information**

1. Banks, System Operators, System Participants and Payment Service Providers shall provide all information requested by the Central Bank and make available all records, minutes, financial statements, cash instruments, securities, coupons or any other documents related to their activity or the activity of their affiliates, for inspection by any auditor appointed by the Central Bank, at the time and in the manner determined by the Central Bank or the auditor.
2. No information obtained by the Central Bank pursuant to paragraph 1 may be disclosed, directly or indirectly, to third parties, except:
 - a) for the purposes of performing the Central Bank's functions under the terms of this Decree-Law;
 - b) when necessary to protect the financial integrity, effectiveness or security of the System;
 - c) when disclosed to a recipient legally entitled to access such information;
 - d) when ordered by a judicial authority; or
 - e) if required by law.
3. The Central Bank may carry out audits or appoint independent auditors to audit the financial statements, records, documents and other information of a System Operator and its Participants and a Payment Service Provider, and such entities shall, to the extent necessary, assist the Central Bank to enable it or its auditors to carry out the audit.
4. The provisions of this Article shall apply, with due adaptations and respect for the applicable laws, to the State, Municipalities and to the services and bodies of direct and indirect administration of the State to the extent that they act as Operator, Participant or Payment Service Provider.

Article 17**Fees and Charges**

1. The Central Bank may apply fees and charges to Banks, System Operators and Participants and to Providers of Payment Services, in order to cover the direct and indirect costs incurred in the performance of their supervisory and regulatory tasks.
2. The Central Bank may also apply fees and charges for the provision of operational services and/or infrastructure.

CHAPTER V**SANCTIONS FRAMEWORK****Article 18****Corrective Measures and Administrative Penalties**

1. The corrective measures and penalties provided for in this Decree-Law shall be assessed on the basis of the seriousness of the infringement, its effects on systemic risk, the stage at which it was detected, whether the agent voluntarily reported the infringement, and the appropriateness of the measure or penalty to correct or terminate the infringement.
2. The Central Bank may take one or more of the following remedial measures against Banks, System Operators and Participants and Payment Service Providers, their directors, officers or agents, if it determines that one or more of these entities or persons have violated any of the duties or obligations provided for in Articles 7, 8 and 9. (b) the provisions of Articles 7, 9(3), 11, 12, 14, 15, 16, 20, 24, 34, 35 or 37 of this Decree-Law or of any rule issued by the Central Bank under the provisions of Article 8(1) and (2):

- a) issue written warnings; or
 - b) issue written orders requiring the agent to cease and desist from the practice of the act and take corrective measures.
3. Under the terms of the preceding paragraph, and taking into account the seriousness of the infringement, the Central Bank may adopt one or more of the following administrative penalties:
- a) fines between 1,000.00 and 500,000.00 U.S. dollars;
 - b) suspend or remove from office administrators, directors, or employees of agents;
 - c) suspend or revoke the authorization granted to a Bank, Operator, Payment Service Provider or Participant.
4. The application of administrative measures and sanctions under this Article, terms and procedures shall be established by instruction of the Central Bank, with due regard for the defendants' guarantees of defense.

Article 19

Special Infractions

1. An administrator, director or employee of an Operator or Participant in a System who:
- a) obstructs the performance of an auditor acting under the terms of this Decree-Law or an inspection by the Central Bank carried out by an inspector duly authorized by the Central Bank;
 - b) damages, destroys, tamper with or falsifies the accounts, books or records of an authorized Operator or Participant in a System;
 - c) makes false records or fails to record substantial elements in the accounts of an authorized System with the intention of falsifying; or
 - d) violates or obstructs the application of any provision of this law or complementary regulation, shall be subject to the payment of a fine in the amount between 5,000.00 and 500,000.00 U.S. dollars and/or suspension or interdiction of the exercise of any activity regulated by the Central Bank.
2. The procedure to be adopted for the application of sanctions under this article, as well as the respective deadlines, shall be established by means of an instruction from the Central Bank.
3. The provisions of this Article shall be without prejudice to any criminal or civil liability that may arise.

CHAPTER VI

SETTLEMENT, CLEARING AND FINALITY OF PAYMENT TRANSACTIONS

Article 20

Settlement Accounts

1. Any Participant in a System shall, in accordance with its rules:
- a) open and maintain settlement accounts with the Central Bank or with an authorized Settlement System Operator, including maintaining minimum balances, under the terms and conditions determined by the Central Bank (and thereby act as direct participant); or
 - b) appoint another Participant who has opened a settlement account as Settlement Agent to settle all obligations of the first Participant in relation to any other Participant arising from daily netting (and thereby act as an indirect participant).

2. Where a Settlement Agent is appointed in accordance with paragraph (b) of the preceding paragraph, the Participant shall, prior to settlement on its behalf of any obligation of the Settlement Agent, inform the Operator in writing of such appointment, together with the Settlement Agent's written confirmation of such appointment.
3. Any Participant intending to revoke the appointment of a Liquidation Agent shall notify the Operator in writing at least seven (7) days before the repeal takes effect.

Article 21

Definitive nature of payments

1. Any System shall specify the rules to give finality to its operations, in accordance with the provisions of this Decree-Law and as established by the Central Bank. This shall include rules establishing the irrevocability of orders as soon as they are registered in the System, unless special circumstances prevail.
2. The registration of payments made under the preceding paragraph may not be revoked, annulled or withdrawn, including but not limited to, in cases of insolvency or bankruptcy proceedings or other proceedings or acts with a similar purpose, except by court order.

Article 22

Financial Guarantee for Payment and Settlement of Obligations

The rights and remedies of a Trader, Participant, Clearing House, Central Counterparty and any other part of the System or the Central Bank in relation to the financial Guarantee given to secure a payment or the fulfilment of any obligation within a System are not prejudiced by insolvency or bankruptcy proceedings or proceedings with a similar object and purpose. In particular, such rights and remedies shall not be subject to any suspension or order affecting the ability of creditors to exercise their rights in relation to the financial guarantee provided.

CHAPTER VII

SETTLEMENT AND RECOVERY OF AN OPERATOR OR PARTICIPANT IN THE SYSTEM

Article 23

Notification to the Central Bank of Settlement Procedures

Where an Operator or Participant in an authorized System is in liquidation or insolvency proceedings or is subject to any form of administration by the courts, it shall, at the time when liquidation or administration by the courts is decided or commenced, immediately submit to the Central Bank a copy of the respective order, resolution or decision.

Article 24

Prohibition

An Operator or Participant which is in insolvency proceedings, in liquidation, under administration or has entered into voluntary winding up proceedings is prohibited from operating or participating in any System for the duration of such proceedings or administration.

Article 25

Definitive and Irrevocable Character

Notwithstanding any provision to the contrary in any Insolvency or Bankruptcy Act, the liquidation or submission to judicial administration by a Participant in a System or an Operator shall not affect the finality and irrevocability of any registration or payment which becomes final and irrevocable pursuant to Article 21 of this Act before a copy of the applicable decision or order is submitted to the Central Bank.

Article 26**Rules of the Central Bank and of Authorized Systems for Binding Liquidators**

1. Where an institution participating in one of the Systems goes into liquidation, is subject to administration or otherwise declared insolvent by court order, any provisions of Netting Agreements to which the Participant is a party or of any Netting Rules and practices applicable to the System shall be binding on the bankruptcy, insolvency or liquidation estate of, as the case may be, the liquidator or administrator of, as the case may be, the respective Participant in respect of any payment or settlement of an obligation:
 - a) which was determined by Netting at a time prior to the formal commencement of the liquidation or receivership proceedings, as the case may be; and
 - b) which is fulfilled on or after the date of commencement of winding-up proceedings or administration decision, as applicable.
2. Paragraph 1 of this Article shall apply notwithstanding any provisions to the contrary contained in laws or decree-laws that are in force in the Democratic Republic of Timor-Leste on that date.

Article 27**Safeguarding of Rights**

The provisions of this Chapter do not restrict or prevent any person from exercising his/her rights under this Decree-Law provided that this does not prevent or affect the finality of a payment or settlement instruction or the validity and enforceability of a Netting Agreement under this Chapter.

Article 28**Conflict of Laws**

1. In the event of the insolvency of a foreign Participant, the rights and obligations relating to the Liquidation shall be governed by the law of the Democratic Republic of Timor-Leste.
2. The rights and obligations of a local Participant in a foreign System shall be governed by the laws applicable to that foreign System.

CHAPTER VIII**ELECTRONIC TESTS****Article 29****Admissibility of Electronic and Optical Means of Proof**

The existence, content and time limits for execution of any transfer order, its registration in a System and its execution shall constitute admissible evidence in any event, whether civil, commercial, criminal or administrative, where the transfer order is executed in relation to any Participant or third party, in writing or on a durable medium which ensures its traceability in electronic or optical form or the printing of the document in electronic or optical form.

Article 30**Admissibility of Electronic and Optical Files**

The files of a System, Operator, Payment Service Provider, Payment Instrument Issuer or Participant are maintained by a durable means that ensures their traceability in electronic or optical form or in electronic or optical document printing.

CHAPTER IX ELECTRONIC CHECK PRESENTATION

Article 31 Electronic Presenting of Cheques

1. A Bank may present a Cheque for payment to the Bank in which the Cheque is to be cashed by notifying the said Bank of the essential characteristics of the Cheque by electronic or other means, instead of presenting the Cheque itself.
2. If a Cheque is presented for payment pursuant to this Article, the presentation shall not be required to take place at the place or at the time specified or on a business day.
3. When a Cheque is presented under the terms of this Article, the Bank presenting the Cheque and the Bank to which the Cheque is drawn shall be subject to the same obligations regarding the receipt and payment of the Cheque as if the Cheque had been physically presented for payment.
4. For the purposes of this Decree-Law, the essential characteristics of a Cheque are:
 - a) The indication "payable only in Timor-Leste";
 - b) The signature of the drawer;
 - c) The serial number of the Cheque;
 - d) The identifying code of the Bank to which the Cheque is drawn;
 - e) The account number of the drawer of the cheque; and
 - f) The amount of the Cheque inserted by the drawer in figures and in words.
5. Without prejudice to the provisions of the preceding paragraphs, if, before the end of the period of operation on the following business day after the presentation of the Cheque in accordance with this Article, the Bank in which the Cheque is drawn requires the Bank by which the Cheque is presented to present its own Cheque:
 - a) the presentation made under the terms of this Article shall be void; and
 - b) the provisions of this Article shall not apply to the subsequent presentation of the Cheque.
6. A request made under paragraph 5 of this Article shall not constitute a refusal of the Cheque for non-payment.

CHAPTER X ELECTRONIC FUNDS TRANSFER AND ELECTRONIC MONEY

Article 32 Powers of the Central Bank

In implementing the provisions of this decree-law and in accordance with any other rules applicable to Electronic Transactions, the Central Bank shall issue Circulars, Instructions, Orders or any other measures applicable within the scope of its powers, in order to regulate matters relating to payment orders and transfers of funds carried out through electronic messages, including, where deemed relevant, the protection of users of Electronic Payment Instruments.

Article 33**Transparency of Fees**

1. The measures adopted by the Central Bank under Article 32 shall impose on any Payment Service Provider applying fees to clients for the execution or receipt of Wire Transfers, that it provides, in accordance with paragraph 2 of this Article, information to the client:
 - a) that a fee is applicable; and
 - b) the amount of the relevant fee.
2. The information required under paragraph 1 in relation to any fee shall be:
 - a) displayed in a visible manner at an accessible place and at the place where the client initiates the Electronic Funds Transfer, including electronic interfaces; and
 - b) submitted as established by the Central Bank.
3. No fee may be applied in respect of an Electronic Transfer of Funds initiated by a client and for which information is required pursuant to paragraph 1 unless the client receives such information pursuant to paragraph 2 and elects to proceed with the transaction.

Article 34**Transfer Terms and Conditions**

1. The terms and conditions of Electronic Funds Transfers involving a client's account shall be disclosed by the Bank or Payment Service Provider at the time the client engages an Electronic Funds Transfer service so that it is clearly understood by the client and in accordance with the regulations issued by the Central Bank.
2. The disclosure referred to in the preceding paragraph shall include:
 - a) the responsibility of the client for Unauthorized Electronic Transfers of Funds and information on the need for prompt reporting of any loss, theft, or unauthorized use of a Payment Instrument, access code or other means of access;
 - b) the telephone contact to which the client should report any suspicion that an unauthorized Electronic Transfer of Funds has occurred or will occur;
 - c) the type and nature of Wire Transfers of Funds that the client may execute, including any limitations on the frequency or amounts of the Wire Transfers;
 - d) any costs of Wire Transfers of Funds or the possibility of making such transfers;
 - e) the client's right to cancel a pre-authorized Electronic Transfer of Funds and the procedure for such cancellation;
 - f) the client's right to receive information regarding Wire Transfers of Funds;
 - g) the liability of the Bank or Payment Service Provider to the client;
 - h) the circumstances under which the Bank or the Payment Service Provider may, in the normal course of business, disclose information relating to the client's account to third parties; and
 - i) informing the client of the possibility of charges being applied in the event that the client initiates a transfer from an ATM or other electronic terminal which is not operated by the Card issuer or other means of access.
3. A Bank or other Payment Service Provider shall notify the client in writing or by other means as established by the Central Bank, at least twenty-one days prior to the effective date, of any material change in the terms and conditions of the client's account that is required to be disclosed, unless such change is immediately necessary for the maintenance or recovery of the security of an Electronic Funds Transfer system or the client's account, in which case such notification shall occur as soon as possible.

Article 35**Issuance of Electronic Currency**

In addition to the general requirements established in this Decree-Law or by the Central Bank for obtaining authorization as Payment Service Provider, the applicant must prove that the following conditions are met:

- a) The provision of Electronic Money does not include the granting of credit;
- b) Electronic Money is issued in exchange for the equivalent of legal tender in Timor-Leste or foreign currency or highly liquid assets as accepted by the Central Bank;
- c) Electronic Money issuers shall provide statistics on the amount of Electronic Money loaded and amounts redeemed in their periodic financial statements and sufficient and reliable information to the Central Bank to supervise and control the volume and evolution of Electronic Money supply in the economy; and
- d) Issuers are obliged to reimburse, in legal tender, at the bearer's request and at par value, the monetary value held in Electronic Currency. The management of treasury funds and reimbursement of the value held in Electronic Currency by the issuer to the bearer should be clearly defined.

CHAPTER XI**FINAL AND TRANSITORY PROVISIONS****Article 36****Dispute Resolution Through Arbitration**

1. Any dispute or litigation between Operators and/or Participants of a System within the scope of or in connection with this Decree-Law shall be resolved by recourse to an arbitration tribunal constituted pursuant to paragraph 2 of this Article.
2. In the event that the dispute or litigation is not resolved by agreement between the parties:
 - a) if it is between only two parties, each party shall appoint an arbitrator and both parties shall jointly appoint a third arbitrator to preside over the tribunal;
 - b) if it is between three or more parties, each party shall appoint an arbitrator and, the parties shall jointly appoint an additional arbitrator who shall preside over the tribunal.
3. In the event that, thirty days after the request for arbitration, any party has not appointed an arbitrator, or if, within thirty days after the appointment of the arbitrators the parties have not appointed the third or additional arbitrator, as applicable, any party may request the Court of Appeal to make such appointment.
4. The proceedings of the arbitral tribunal shall be established by the arbitrators and the presiding arbitrator shall have the authority to determine, in a final manner, any matters concerning the proceedings in case of disagreement.
5. The arbitral tribunal shall act by a simple majority and the deliberations shall be final and binding on the parties.
6. The chairman of the arbitral tribunal shall have the right to vote and, in the event of a tie, shall have the casting vote.
7. The Central Bank may establish rules concerning the arbitration procedures laid down in this Article.

Article 37

Liability for Unlawful Facts

1. Within the scope of the implementation of the provisions of this Decree-Law, the managers, employees or agents of the Central Bank may only be held liable for damages that result from illicit actions or omissions, committed by them with intent or with diligence and zeal manifestly inferior to those to which they were obliged by reason of their position.
2. The Central Bank shall be jointly and severally liable with its officers, employees and agents for the actions and omissions referred to in the preceding paragraph, and shall have the right of appeal.

Article 38

Transitional Provisions

1. Banks and/or other Operators or Participants in a System or their administrators, operating on the date of entry into force of this decree-law, shall adapt their organization, administration and operations to the requirements herein established within six months of the aforementioned date.
2. Banks and/or other Operators or Participants in a System or their administrators, whose organization, administration or operations are not in conformity with the requirements of any measure that may be issued by the Central Bank under the terms of this Decree-Law, shall make the necessary adjustments within the time limits established for this purpose by the respective measure.

Article 39

Revision of the Decree-Law

The Central Bank shall be heard on the revision of this Decree-Law, as well as on other legislative initiatives related to its contents or which may in any way affect the provisions herein.

Article 40

Repeal Rule

All legislation and regulations in force that are contrary to this Decree-Law shall be repealed.

Article 41

Entry into Force

This Decree-Law shall enter into force on the day following its publication. Approved by the Council of Ministers on April 21, 2015.

The Prime Minister,

Rui Maria de Araújo

Enacted on 18-06-2015

Be it published.

The President of the Republic,

Taur Matan Ruak