

**REGULATION NO. 2000/6
ON THE ESTABLISHMENT OF A CENTRAL PAYMENTS OFFICE
OF EAST TIMOR**

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council Resolution 1272 (1999) of 25 October 1999,

Taking into account United Nations Transitional Administration in East Timor (UNTAET) Regulation No. 1999/1 of 27 November 1999 on the Authority of the Transitional Administration in East Timor,

After consultations in the National Consultative Council,

For the purpose of providing for efficient payments and sound banking systems by establishing the Central Payments Office of East Timor,

Promulgates the following:

Section 1

Central Payments Office

1.1 There shall be established a Central Payments Office of East Timor (hereinafter referred to as "Central Payments Office").

1.2 The Central Payments Office is an autonomous public legal entity. As such, the Central Payments Office shall have the capacity to enter into contracts; to institute legal proceedings and to be subject to such proceedings; and, for the purpose of its operations, to acquire, hold, and dispose of property, whether movable or immovable.

Section 2

Autonomy

2.1 The Central Payments Office shall exercise the responsibilities specifically granted by the present regulation or any other relevant

UNTAET regulations and such incidental powers as are necessary to carry out its responsibilities.

2.2 The Central Payments Office shall enjoy operational, administrative and judicial autonomy from any other person or entity, including the government and any of its agencies, and subsidiary organs or entities, unless specifically provided otherwise by law. The autonomy of the Central Payments Office shall be respected at all times and no person or entity shall seek to influence the management or the employees of the Central Payments Office in the discharge of their duties, or to interfere with the activities of the Central Payments Office, except in the discharge of a specific authority or duty provided for by law.

Section 3

Responsibilities

The Central Payments Office shall have the following responsibilities:

- (a) to formulate and implement measures, procedures and policies for payments as well as for settlement systems for transactions in the legal tender, once established by an UNTAET regulation, as well as in foreign currencies in East Timor;
- (b) to supervise these systems, including the right to issue instructions, guidelines, and internal rules, insofar as not inconsistent with any UNTAET regulations or directives;
- (c) to operate one or more payments systems;
- (d) to provide temporary payments and storage services to the Central Fiscal Authority, as established by UNTAET Regulation No. 2000/1, and other public authorities in East Timor, as established by UNTAET;
- (e) to provide payments and storage services for the benefit of foreign governments, foreign banks, and foreign monetary authorities and for public international organizations and other international institutions, in which it participates in accordance with Section 4 of the present regulation.
- (f) to act as fiscal agent of the Central Fiscal Authority and any other public authorities;
- (g) to safekeep foreign currency for the Central Fiscal Authority and other public authorities;

(h) to ensure an adequate supply of bank notes and coins of the legal tender, once established by an UNTAET regulation, for the settlement of cash transactions;

(i) to maintain a depository for safekeeping of currency;

(j) to license, supervise, and issue instructions and guidelines to banks;

(K) to supervise a bank receivership; and

(l) to license, supervise, and issue instructions and guidelines to dealers in currency exchange, in accordance with UNTAET Regulation 2000/5.

Section 4

International Cooperation

The Central Payments Office shall represent East Timor in meetings, international councils and organizations concerning payments, supervision and instruction of licensed financial institutions, and such other matters as are within its responsibilities under the present or any other UNTAET regulation.

Section 5

Offices

The head office of the Central Payments Office shall be in Dili. The Central Payments Office may establish branch offices, liaison offices, and facilities at places or in countries it deems necessary to conduct its operations.

Section 6

Accounts

The Central Payments Office may not open any accounts on its books other than on behalf of the Central Fiscal Authority and other public authorities, foreign banks and licensed dealers in foreign exchange, public international financial institutions, and donors, and except as provided otherwise in Section 38 of the present regulation.

Section 7

Internal Structure

The Central Payments Office shall be comprised of the management, the comptroller, and the general staff.

Section 8

Management

8.1 The management of the Central Payments Office shall consist of the General Manager, the Deputy General Manager for Supervision, and the Deputy General Manager for Payments, to be appointed by the Transitional Administrator.

8.2 The members of the management must be individuals of recognized integrity and professional expertise in financial and banking matters.

8.3 The members shall be removed from the management of the Central Payments Office only by the Transitional Administrator and only for reasons of good cause.

Section 9

Responsibilities of the General Manager

9.1 The General Manager shall serve as the chief executive officer of the Central Payments Office and is in charge of the day-to-day operations of the Central Payments Office.

9.2 The General Manager shall have the authority to take all actions that are required or deemed advisable for the administration or operations of the Central Payments Office, in fulfillment of its responsibilities under Section 3 of the present regulation, including entering into contractual commitments on behalf of the Central Payments Office, appointing and terminating the appointments of the comptroller and the general staff of the Central Payments Office, and representing the Central Payments Office in legal proceedings.

9.3 The General Manager shall be accountable to the Transitional Administrator for the execution of the decisions of the management, and for the direction and control of the administration and operations of the Central Payments Office.

9.4 The General Manager may, with the written approval of the Transitional Administrator, delegate responsibilities to other employees of the Central Payments Office. The Central Payments Office shall maintain a record of all such delegations.

9.5 The term of office of the General Manager shall be limited to the duration of the mandate of UNTAET.

Section 10

Responsibilities of the Deputy General Manager for Supervision

10.1 The Deputy General Manager for Supervision shall be accountable to the General Manager for the direction and control of the Department of Supervision, and for such other responsibilities as are specified in the present regulation.

10.2 The Deputy General Manager for Supervision shall have the authority to take the enforcement measures, provided for by the present regulation or any other relevant regulation, including the authority to order any bank to take remedial actions, or to impose penalties.

10.3 If the General Manager is absent or otherwise unable to act, the Deputy General Manager for Supervision shall act as chief executive officer of the Central Payments Office.

Section 11

Responsibilities of the Deputy General Manager for Payments

The Deputy General Manager for Payments shall be accountable to the General Manager for the direction and control of the Department of Cash Transactions and the Department of Payments Operations, and such other responsibilities as specified in the present regulation.

Section 12

Comptroller

12.1 The General Manager, with the approval of the Transitional Administrator, shall appoint the Comptroller of the Central Payments Office.

12.2 The Comptroller shall only be removed from office by a decision of the Transitional Administrator, after consultation with the General Manager.

12.3 The Comptroller has the following responsibilities:

(a) to perform periodic audits of the administration and operations of the Central Payments Office in order to ensure strict observance of the laws, regulations, and directives applicable to the Central Payments Office;

(b) to audit the accounts and records as well as the budgetary and accounting procedures and controls of the Central Payments Office, and to subsequently submit a report on the audit to the General Manager and the Transitional Administrator;

(c) to audit the periodic financial statements and related documents of the Central Payments Office, and, if these have been properly prepared, to issue certifications to that effect; and

(d) to ensure that an annual audit of the Central Payments Office by external auditors is carried out.

Section 13

General Staff

13.1 While being employed by the Central Payments Office, general staff of the Central Payments Office cannot be employed by any other person or entity.

13.2 The General Manager shall issue internal rules governing the employment of the other members of the management and the general staff, including conditions of employment, disciplinary measures, and provisions for the declaration and non-exploitation of conflicts of interest. The internal rules shall be in accordance with the general terms and conditions of employment, provided in an UNTAET regulation.

Section 14

Conflicts of Interest

14.1 While holding office, both management and comptroller shall devote their professional services exclusively to the Central Payments Office. They shall not occupy any other office or employment, whether remunerated or not, except as assigned or nominated by the Central Payments Office.

14.2 No member of the management or the general staff shall accept any gift or credit for themselves, or on behalf of any person with whom they have family, business, or financial relations.

Section 15

Confidentiality

No person who currently serves or has previously served as member of the management or the general staff, or as an auditor, agent or correspondent of the Central Payments Office shall,

(a) disclose, permit access to, or publicize non-public material information that was obtained in the performance of duties; or

(b) use such information, or allow such information to be used, for personal gain, unless expressly provided otherwise by law.

Section 16

Consultative and Advisory Functions

16.1 UNTAET shall consult the Central Payments Office on all significant financial and banking matters that are related to the responsibilities of the Central Payments Office.

16.2 The Central Payments Office shall also, as appropriate, provide advice on the above matters to the Transitional Administrator, and to all other public authorities, including the Central Fiscal Authority.

Section 17

Fiscal Function

In the following matters, the Central Payments Office may act as fiscal agent for the account of the Central Fiscal Authority and its agencies and instrumentalities, on the terms and conditions agreed upon with the Central Fiscal Authority, in accordance with UNTAET Regulation No. 2000/1:

(a) Collection of taxes, customs duties and other budgetary revenues;

(b) Execution of payment transactions concerning their accounts at the Central Payments Office; and

Such other matters as shall be consistent with the objectives and the basic tasks of the Central Payments Office.

Section 18

Depository and Cashier

18.1 The Central Payments Office may accept deposits, in any currency, from the Central Fiscal Authority or any other public authority.

18.2 As depository, the Central Payments Office shall receive and disburse moneys, keep account thereof, and provide other financial services related thereto. It shall pay to the limits of the deposited amounts against payment orders concerning such accounts.

18.3 The Central Payments Office shall charge reasonable fees on such deposits and

Section 19

Consultations on UNTAET Regulations

The Central Payments Office shall be consulted on any proposals for regulations, administrative directions, or other decisions with respect to matters that relate to the discharge of its functions and responsibilities, or that otherwise are within its areas of responsibility, before such proposals are submitted for promulgation by the Transitional Administrator.

Section 20

Payments, Clearing and Settlement Facilities

20.1 The Central Payments Office may organize, operate, or supervise systems for payment orders and for clearing and settlement of inter-bank payments, in such currencies as it determines, including payments by check and other payment instruments.

20.2 To that end, the Central Payments Office may decide on such procedures and issue such instructions as are necessary for the discharge of the aforementioned responsibilities, including such aspects as the format and medium for transmittal of data and the payment of fees, pursuant to Section 18.3 of the present regulation, provided that settlement on its books of account shall be for payments in foreign exchange only.

Section 21

Supervision and Licensing

The Central Payments Office shall be exclusively responsible for the licensing of banks and dealers in foreign exchange in East Timor, and for their supervision. To that end, the Central Payments Office shall have the following responsibilities:

(a) to issue such instructions, and guidelines and to take such other actions, including revoking bank licenses and licenses for dealers in foreign exchange, and to assume control of a failed licensed financial institution, as it deems necessary or advisable to discharge its responsibilities under the present regulation or any other subsequent regulation on bank licensing and supervision;

(b) to order an inspection of any licensed financial institution, by any of its officers or by any other qualified person or entity appointed to that effect by the Central Payments Office, including the examination of the books, records, documents and accounts of this institution in order to ascertain the condition of the affairs of the institution and whether it is in compliance with the present or any other relevant UNTAET regulation;

(c) to require a director of a bank to furnish to the Central Payments Office such information as is necessary for the Central Payments Office to discharge its supervisory functions and to issue instructions to banks and licensed dealers in foreign exchange; and

(c) to order any bank or licensed dealer in foreign exchange to take remedial actions, or, to impose such penalties, as provided in the present regulation or other regulations on bank licensing and supervision, if there has been an infraction by a bank or by one or more of its officers or directors with respect to:

- the violation of a provision of the present regulation or any other relevant

UNTAET regulation pursuant thereto;

- the violation of any condition or restriction attached to an instruction issued

to a bank or a licensed dealer in foreign exchange by the Central Payments

Office; or,

- the violation of any instruction or guidelines issued by the Central Payments Office.

Section 22

Compliance with Instructions

22.1 Each bank and licensed dealer in foreign exchange shall comply with instructions issued by the Central Payments Office.

22.2 Licensed financial institutions that engage in similar activities as banks and licensed dealers, and that are in comparable financial condition, shall be subject to similar instructions.

Section 23

Submission of Information by Public Authorities

The Central Fiscal Authority and other public authorities shall submit to the Central Payments Office such financial and economic information and documents, as required by the Central Payments Office for the discharge of its functions and responsibilities.

Section 24

Submission of Information by Banks and Dealers

24.1 Banks must furnish to the Central Payments Office such information concerning its operations and financial condition as required by the Central Payments Office for the discharge of its functions and responsibilities.

24.2 The Central Payments Office may publish such information and data, in whole or in part, in aggregate form, taking into consideration the primary activity and characteristics of the financial institutions.

Section 25

Supervision of Currency Exchange

The Central Payments Office, in accordance with UNTAET Regulation No. 2000/5, shall have the following responsibilities in regard of the supervision of currency exchange:

(a) to issue and implement instructions and guidelines governing foreign exchange transactions of individuals, non-financial enterprises, currency exchange bureaus, financial institutions, and Government agencies and instrumentalities, in accordance with applicable law;

(b) to supervise and issue instructions regarding currency exchange dealers and banks;

(c) to set limits on currency exchange positions of currency exchange dealers and banks;

(d) to establish the method for determining the value of currencies in relation to other currencies.

Section 26

Reporting of Currency Exchange Transactions

Pursuant to applicable law, licensed currency exchange dealers and banks, may be required by the Central Payments Office to report periodically to the Central Payments Office on their operations, including their open currency exchange positions, on a currency-by-currency basis. The Central Payments Office shall provide the reporting forms and supporting documents to be submitted.

Section 27

Dealing in Foreign Exchange

The Central Payments Office shall determine the rate at which it will buy, sell or deal in foreign currencies.

Section 28

International Clearing and Payments Agreements

The Central Payments Office may, either for its own account or for the account and by order of the public authorities of East Timor, enter into clearing and payments agreements, or any other contracts, with public and private central clearing institutions domiciled abroad.

Section 29

Currency Safekeeping

The Central Payments Office shall provide, upon payment of reasonable fees, as specified by an UNTAET directive, custodial facilities for banknotes and coins in currencies that it determines as a service to financial institutions and the public at large.

Section 30

Currency Inventory Plan

30.1 The Central Payments Office shall administer a currency reserve inventory in such currencies as it deems appropriate for the settlement of domestic and international transactions to ensure the regular supply of currency and to meet the requirements of the economy of East Timor.

30.2 The Central Payments Office may charge reasonable fees for this service, as specified by an UNTAET directive.

Section 31

Financial Year

The financial year of the Central Payments Office shall begin on the first day of July and end on the last day of June.

Section 32

Accounting Practices

The Central Payments Office shall maintain, at all times, accounts and records adequate to reflect its operations and financial condition, in accordance with international accounting standards.

Section 33

External Audit of the Accounts of the Central Payments Office

33.1 The accounts, records, and financial statements of the Central Payments Office shall be audited by internationally recognized external auditors, recommended by the General Manager and approved by the Transitional Administrator. Only the Transitional Administrator may dismiss such external auditors and only for good cause.

33.2 The Central Payments Office shall, as soon as possible after the last working day of each calendar quarter, but in any event within 15 working days, prepare summary financial statements as of the end of that quarter.

33.3 Upon completion, the CPO shall publish the financial statements certified by the external auditors.

Section 34

Prohibited Activities

34.1 Except where expressly provided otherwise by the present regulation, the Central Payments Office shall not have the right:

- a. to grant any credit, borrow directly, extend guarantees on borrowing from any source whether domestic or external, maintain any deposit, or make any monetary or financial gift;
- b. to engage in commerce, purchase the shares of any corporation or company, including the shares of any financial institution, or otherwise have an ownership interest in any financial, commercial, agricultural, industrial, or other undertaking; and
- c. to acquire, by purchase, lease, or otherwise, any real rights in respect of immovable property, except as necessary or expedient for the provision of premises, for the conduct of its administration and operations, or as incidental to the performance of its functions under the provisions of the present regulation.

34.2 No transaction carried out by the Central Payments Office may serve to extend credit to or for the benefit of any public authority or any other physical or legal entity.

Section 35

Exemption from Taxation

35 The Central Payments Office, its assets, property and income, and its operations and transactions, shall be exempt from all income, property, excise and capital gains taxes and duties.

Section 36

Inspection

36.1 The Central Payments Office shall have the rights to issue such instructions or guidelines that are necessary to facilitate the visit of offices of banks and dealers in foreign exchange, to examine their accounts, books, documents and other records, and to take such other actions as it deems necessary or advisable to enforce the provisions of the present regulation, insofar as these instructions or guidelines are consistent with applicable law.

36.2 All instructions and guidelines issued by the Central Payments Office that are applicable to more than only one institution shall be published in the Official Gazette of East Timor, and shall take effect on

the date of such publication or on such date as the guideline or instruction specifies. The Central Payments Office shall maintain a public register of such guidelines and instructions.

Section 37

Standards of Good Administration

37.1 The Central Payments Office shall discharge its responsibilities under the present regulation equitably and uniformly, and in accordance with sound administrative practices. It shall refrain from discharging any such responsibility to serve an objective that is contrary to the purpose and objectives of this responsibility or from exceeding what is required for the discharge of its responsibilities.

37.2 The decisions of the Central Payments Office, taken pursuant to the present regulation, shall be impartial and shall be motivated only by objective and rational considerations; they shall be executed with fairness and restraint.

Section 38

Transitional Provisions

38.1 From the date of entry into force of the present regulation, no bank shall transact business of a bank in East Timor, unless it receives a license from the Central Payments Office, in accordance with applicable law.

38.2 Until the Central Payments Office makes the determination that banks in East Timor are equipped to provide such services, the Central Payments Office may

- a. open demand deposit accounts on its books on behalf of persons and legal entities, in currencies it determines;
- b. receive and disburse moneys and keep account thereof; and
- c. provide payments and collection services related thereto.

The Central Payments Office shall only pay to the limits of the deposited amounts against payment orders on such accounts. The Central Payments Office shall pay no interest on such deposits. The accounts, including the payment of reasonable fees, shall be subject to such further terms and conditions, as specified by an UNTAET directive.

Section 39

Definitions

39.1 Wherever used in the present regulation, the following terms shall have the following meanings:

- a. "Bank" means a legal entity engaged in the business of accepting deposits from the public in East Timor and using such funds, either in whole or in part, to make extensions of credit or investments for the account and at the risk of the person carrying on the business;
- b. "Credit" means any direct or indirect commitment to disburse a sum of money in exchange for a right to repayment of the amount disbursed and outstanding and to payment of interest or other charges on such amount, any extension of the due date of a debt, any debt payment guarantee issued, and any commitment to acquire a right to payment of a sum of money; the term "credit" shall not include bank deposits and the purchase of debt securities in the secondary market;
- c. "Financial institution" means a bank or other legal entity that is engaged in the business of making extensions of credit or investments for the account of and at the risk of the person carrying on the business;
- d. "Guidelines" means non-obligatory recommendations or policy statements issued by the Central Payments Office for the information of banks and other parties concerned with Central Payments Office's operations;
- e. "Instruction" means a general obligatory determination issued by the Central Payments Office in implementation of the present regulation, or, of an instruction or guideline issued in accordance with the present regulation, directed to one or more types of banks or other persons or entities.
- f. "International accounting standards" means the most recent international accounting standards issued by the International Accounting Standards Committee; and
- g. "Reasonable fees" means fees that defray the direct and indirect costs that Central Payments Office incurs in providing the service or services for which the fee is charged.

Section 40

Judicial Review

In any court or arbitration proceeding arising out of or in connection with the present regulation against the Central Payments Office or an officer, employee, or agent of the Central Payments Office:

- a. the sole question before the court or arbitration court in determining whether the defendant acted unlawfully shall be whether the defendant acted in an arbitrary or capricious manner in light of the facts and the law or regulation at issue;
- b. an administrator, employee, or agent of the Central Payments Office shall not be liable for damages or otherwise liable for acts or omissions performed pursuant to and in the course of the duties and responsibilities unless such acts or omissions constitute intentional wrongful conduct; and
- c. the action in question shall continue without restriction during the period of an appeal, and any further appeal, or any other judicial proceedings related to the appeal.

Section 41

Penalties for the Violation of the Regulation and Instructions

41.1 If any bank or other account holder at the Central Payments Office, or any account holder's officers or directors, representing the account holder, or any other person subject to the Central Payments Office regulations or instructions commits an infraction consisting of:

- a. the violation of a provision of the present regulation or any other related UNTAET regulation, or any instruction issued by the Central Payments Office pursuant thereto;
- b. the violation of any condition or restriction attached to an authorization issued to a person by the Central Payments Office; or,
- c. the violation of any instruction issued by the Central Payments Office,

the Central Payments Office may:

- a. Issue written warnings;
- b. Conclude a written agreement with the governing body of that person providing for a program of remedial action;
- c. Issue written instructions to cease and desist from such infractions and to undertake remedial action;
- d. Impose fines on a person or legal entity, as defined by an UNTAET directive, 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 officials from positions in a licensed financial institution, and terminate their receipt of remuneration from the entity;
- f. Suspend or terminate the provision of Central Payments Office services to such entity; or
- g. Revoke the license issued by Central Payments Office to the entity.

41.2 Upon receipt of an application for review by any bank or dealer that has been subject to a penalty or other measure of a punitive nature imposed by the Central Payments Office, pursuant to the present regulation, the Central Payments Office shall conduct a review of the decision and inform the applicant of its decision, within 30 days of receipt of the application. In the event that the Central Payments Office confirms the penalty or measure, the bank or dealer may challenge the decision in a court of competent jurisdiction in East Timor.

Section 42

Implementation

In accordance with UNTAET Regulation No. 1999/1, the Transitional Administration has the power to promulgate such regulations and directives as are necessary for the implementation of the present regulation.

Section 42

Entry into Force

The present regulation shall enter into force on 22 January 2000.

Sergio Vieira de Mello
Transitional Administrator