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PROCLAMATION NO. 181/2018

Proclamation to Amend the Proclamation No. 175/2014 on Anti-Money Laundering and Combating Financing of Terrorism

Legal Notice No.130/2018

Regulations Issued to Determine the Duties of Financial Institutions, Designated Non-financial Businesses and Professionals in the Prevention of Money Laundering, Terrorism Financing and other Serious Offences

Directive No. 1/2018

Directive Issued to Determine the Composition, Organization, Operation and Resources of the Financial Intelligence Unit

PROCLAMATION NO. 181/2018

Proclamation to Amend the Proclamation No. 175/2014 on Anti-Money Laundering and Combating Financing of Terrorism

Whereas, the establishment of an FIU and the determination of its functions, responsibilities and resources need to be harmonized with those of law enforcement national agencies involved in the fight against crimes in general, and the Bank of Eritrea as supervisory agency for financial institutions;

Whereas, arrangements for the placement of the FIU within the government structure needs to be tailored having regard to the particular features of the legal and administrative systems;

Whereas, a review of the provisions of the Anti-Money Laundering and Combating Financing of Terrorism Proclamation No. 175/2014 that has been done since its issuance made it imperative that these amendments be issued for a better implementation of its objectives;

Now, therefore, the following amendment is issued:

Article 1. Short Title

This Proclamation may be cited as the “Proclamation to Amend the Proclamation No. 175/2014 on Anti-Money Laundering and Combating Financing of Terrorism - Proclamation No. 181/2018”.

Article 2. Amendment

The following amendments shall be made to the Proclamation No. 175/2014 on Anti-Money Laundering and Combating Financing of Terrorism:

- 1) Paragraphs (2) and (29) of Article 2(1) are hereby deleted and replaced by the following new paragraphs (2) and (29) of Article 2(1) respectively:

(2) **“Beneficial Owner”** refers to the natural person who ultimately owns or controls a customer or account, the person on whose behalf a transaction is being conducted, or the person who ultimately exercises effective control over a legal person or arrangement by directly or indirectly holding or controlling at least 25% in the capital or at least 25 % of the voting rights of a company, or who controls of right or de facto the legal entity;

(29) **“Shell Bank”** means a bank that has no physical presence in the country in which it is incorporated and licensed, unless such bank is wholly owned by one or more financial institutions forming part of a regulated financial services group that is subject to effective consolidated supervision.

2) Under Article 14, the following new paragraph (f) to sub-Article (1), and sub-Articles (3) and (4) are hereby inserted:

(1)(f) undertake National Risk Assessment by applying methodology and predicate activity as it may find appropriate.

(3) The Powers of the FIU shall be to:

- (a) issue instructions to stop transactions;
- (b) apply to a competent court of jurisdiction for an order to freezing of accounts;
- (c) conduct inquiries on behalf of foreign counterparts; and
- (d) ensure that non-profit associations established pursuant to the relevant provisions of the Civil Code are not misused to defeat the objectives and purposes of this Proclamation.

(4) the FIU shall have such operational independence in terms of having

- a) its own staff,
- b) documentation and computer system,
- c) office premises, and
- d) budget

3) The words that read “...and the supervisory authority...” in the second line under

paragraph (b) of Article 14(1) are hereby deleted.

- 4) The following new Article 14A is hereby inserted after Article 14:

**Article 14A. Investigation of Money Laundering and Terrorist Financing
Cases by Investigative or Law Enforcement Agencies**

Where reports are received by Law enforcement and investigative agencies pursuant to Article 14(b) of this Proclamation, they shall have the power to investigate the reported case in accordance with the applicable provisions of the law.

- 5) Article 18 is hereby deleted and replaced by the following new Article 18:

Article 18. Administrative Sanctions by the FIU

Whenever the FIU determines that a financial institution is not complying or has not complied with an obligation set-out in this Proclamation, it can impose such administrative sanctions against reporting institutions for non-cooperation or non-compliance as it finds appropriate.

- 6) The following new Article 29A is inserted after Article 29

- a) A supervised entity that fails to register with the FIU as may be required by applicable Regulations commits an offence and shall be liable to a fine not exceeding Fifty Thousand (50,000.00) Nakfa.
- b) A reporting entity or any director, partner, officer, principal or employee of the reporting entity who discloses to its customer or to a third party that a report or any other information concerning suspected money laundering, financing of terrorism or any other serious offence shall be, is being or has been, submitted to the FIU, or that a money laundering, financing of terrorism or any other serious offence investigation is being, or has been, carried out, except in circumstances as may be set out or required by law to do so commits an offence and shall, upon conviction, be liable to a fine not exceeding Fifty Thousand (50,000.00) Nakfa or imprisonment for a period not exceeding two years, or both.

7) Under Article 30, the following new Sub-Articles (10) and (11) are hereby inserted after sub-Article (9):

“(10) a person who access financial intelligence and information on the database without obtaining authorization from the Director in accordance with applicable Directives;

(11) served as an officer but is no longer employed with the FIU and fails to return the identification document given to him for the performance of functions assigned to the FIU;

8) The following new sub-Articles (4) and (5) are hereby inserted under Article 34:

(4) the provisions under sub-Article (1) shall also be understood to include laundering the proceeds of crime committed abroad.

(5) where the crime of money laundering is committed through agents, the financial and non-financial intermediaries for whom they acted shall be criminally liable for their negligence where negligence as defined in the relevant provisions of the Penal Code can be established.

9) Sub-Article (1) of Article 35 is hereby deleted and replaced by the following new Sub-Article (1) of Article 35:

(1) The funds associated with money laundering, those funds associated with terrorists and who finance terrorists and terrorist organizations shall be frozen by the decision of the FIU. Such decision shall define the terms, conditions and time limits applicable to the freezing. A financial institution holding such funds shall immediately freeze them upon receiving the decision of the supervisory authority.

Article 3. Effective Date

This Proclamation shall come into force on the date of its publication in the Gazette of Eritrean Laws.

Done at Asmara, this 16th day of March, 2018

Government of Eritrea

Legal Notice No.130/2018

Regulations Issued to Determine the Duties of Financial Institutions, Designated Non-financial Businesses and Professionals in the Prevention of Money Laundering, Terrorism Financing and other Serious Offences

Part I

Preliminary

Article 1.- Issuing Authority

These Regulations are issued pursuant to the powers conferred upon the Bank of Eritrea by Articles 40 of the Anti-Money Laundering and Combating Financing of Terrorism Proclamation No. 175/2014.

Article 2.- Short Title

These Regulations may be cited as the “Regulations Issued to Determine the Duties of Financial Institutions, Designated Non-financial Businesses and Professionals in the Prevention of Money Laundering, Terrorism Financing and other Serious Offences - Legal Notice No. 130/2018”.

Article 3.- Scope of Applicability

These Regulations apply to all financial institutions and DNFBPs (designated non-financial business and professionals) in Eritrea.

Article 4.- Interpretation

In these Regulations, unless the context otherwise requires:-

- 1) **“account”** means any facility or arrangement by which a reporting entity does any of the following:-
 - a) accept deposits of funds or other assets;
 - b) allow withdrawals or transfers of funds or other assets; or
 - c) pay negotiable or transferable instruments or orders drawn on, or collects negotiable or transferable instruments or payment orders on behalf of any other person.
- 2) **“bearer negotiable instrument”** includes any monetary instrument in bearer form such as travelers’ cheque, negotiable instruments, including cheque, promissory note and money order, that is either in bearer form, endorsed without restriction, made out to a fictitious payee, or otherwise in such form that title thereto passes upon delivery.
- 3) **“Currency”** means the coin and paper money of the government of Eritrea, or of a foreign country, that is designated as legal tender or is customarily used and accepted as a medium of exchange.
- 4) **“CTF”** means Combating Terrorism Financing.
- 5) **“Director”** means the director of the Financial Intelligence Unit (FIU).
- 6) **“DNFBP”** means a designated non-financial businesses and professionals.
- 7) **“FATF”** means the Financial Action Task Force, an intergovernmental organization founded in 1989 to develop policies to combat money laundering, the purpose of which expanded in 2001 to act on terrorism financing.

8) **“FIU”** means a Financial Intelligence Unit as referred under Article 13 of the AML/CFT Proclamation No. 175/2014.

9) **“Foreign FIU”** means a Financial Intelligence Unit of any country established in such countries for the purpose of meeting the Financial Action Task Force’s forty plus nine special FATF recommendations.

10) **“Foreign Designated Authority”** means the authority designated for the receipt, requesting, analysis and dissemination of disclosures of suspicious transaction reports in a foreign country.

11) **“Law Enforcement Local Authority”** includes:-

a) The Eritrean Police Force

b) “ “ Security Intelligence Agency,

c) “ “ Immigration Department,

d) “ “ Inland Revenue Department of the Ministry of Finance

e) “ “ Customs Department of the Ministry of Finance

12) **“Record”** means any material on which information is recorded or marked and which is capable of being read or understood by a person, or by an electronic system or other device.

13) **“Reporting Entity”** means an institution regulated by a supervisory authority and required to make a suspicious transaction report under these Regulations.

14) **“Sanction”** includes a fine, suspension, de-registration, or any other penalty that may be prescribed by or under these Regulations, but does not include imprisonment.

- 15) **“Shell Bank”** means a bank that has no physical presence in the country in which it is incorporated and licensed, unless such bank is wholly owned by one or more financial institutions forming part of a regulated financial services group that is subject to effective consolidated supervision.
- 16) **“Suspicious Transaction Report”** means a report submitted on suspected money laundering, financing of terrorism or other serious offence or attempted money laundering, financing of terrorism or other serious offence, whether in a form of data message or otherwise.
- 17) Terms defined under the Anti-Money Laundering and Combating Financing of Terrorism Proclamation No 175/2014 shall have the same meaning ascribed to them in that Proclamation.

Part II

Prevention of Money Laundering, Terrorism

Financing and other Serious Offences

Article 5.- Prohibition of Establishment of Anonymous Accounts

A reporting entity shall not establish or maintain an anonymous account of any fictitious name.

Article 6.- Prohibition against Shell Banks

A shell bank shall not be established or permitted to operate in the State of

Eritrea. Eritrean Financial Institutions should not establish correspondence or other related relationships with foreign shell banks.

Article 7.- Obligation to Report Suspicious Transactions

(a) Subject to the provisions of sub-paragraphs (b) and (c) hereof, a reporting entity or a director, principal, officer, partner, professional or employee of a financial institution, that suspects or has reasonable grounds to suspect that any property,

(i) is the proceeds of a crime, or

(ii) is related or linked to, or is to be used for, terrorism, terrorist acts, or by terrorist organizations or persons who finance terrorism,

Shall, not later than three working days after informing the suspicion, submit a report settling out the suspicions to the FIU.

(b) sub-paragraph (a) shall also apply to attempted transactions,

(c) Notwithstanding sub-paragraph (a), a legal practitioner, a notary public, an accountant or other DNFBPs, shall submit a report under sub-paragraph (a) if;

(i) the legal practitioner, notary public or accountant, engages, on behalf of, or for a client, in a financial transaction associated with an activity specified in relation to such professionals under these Regulations, and

(ii) the relevant information upon which the suspicion is based was not received from, or obtained on, a client -

- in the course of ascertaining the legal position of the client; or

- in performing their task of defending or representing that client,

or concerning judicial, administrative, arbitration or mediation proceedings, including advice on instituting or avoiding proceedings, whether such information is received or obtained before, during or after such proceedings.

(d) A financial institution shall refrain from carrying out a transaction which it suspects to be related to money laundering, financing of terrorism or any other serious offence.

(e) The FIU shall issue guidelines on the procedures for and form, in which the suspicious transaction reports shall be submitted and shall publish guidance in order to assist reporting entities to fulfill their obligations under this paragraph.

Article 8.- Obligation to Report Currency Transactions

A reporting entity shall promptly but not later than two working days, submit a report to the FIU on any cash transactions exceeding USD 10,000 or its equivalent in other convertible currencies, whether conducted as a single transaction or several transactions that appear to be linked.

Article 9.- Disclosing Information Regarding Compliance

Where it appears to a supervisory authority that a reporting entity or any of its directors, officers or employees, is not complying, or has not complied, with the obligations set out in these Regulations, it shall immediately inform the FIU accordingly.

Article 10.- Inapplicability of Confidentiality Provision

No secrecy or confidentiality provision in any other law shall prevent a

reporting entity from fulfilling its obligations under these Regulations.

Article 11.- Prohibition against Tipping-off

1) A reporting entity or any director, partner, officer, principal or employee of the reporting entity shall not disclose to its customer or to a third party that a report or any other information concerning suspected money laundering, financing of terrorism or any other serious offence shall be, is being or has been, submitted to the FIU, or that a money laundering, financing of terrorism or any other serious offence investigation is being, or has been, carried out, except in the circumstances set out in sub-Article (2) or where otherwise required by law to do so.

2) Sub-Article (1) shall not apply to a disclosure which:-

(a) Is made to carry out a function that a person has relating to the enforcement of any provision of these Regulations or of any other law; or

(b) In the case of a legal practitioner or accountant acting as an independent professional, when seeking to dissuade a client from engaging in an illegal activity, that a suspicious transaction report shall be made, is being made or has been made to the FIU.

(c) A person who contravenes sub-Article (1) commits an offence and shall, upon conviction, be liable to a fine not exceeding Fifty Thousand (50,000.00) Nakfa or imprisonment for a period not exceeding two years, or both.

**Article 12.- Protection of identity of Persons and Information
Relating to Suspicious Transaction Reports**

- 1) Except for the purposes of the administration of these Regulations, a person shall not disclose any information to identify or that is likely to identify the person who prepared or made a suspicious transaction report or handle the underlying transaction.
- 2) A person shall not be required to disclose a suspicious transaction report, or any information contained in the report or provided in connection with it, or the identity of the person preparing or making such a report or handling the underlying transaction in any judicial proceeding unless the court is satisfied that the disclosure of the information is necessary in the interests of justice.

Article 13.- Communication with foreign Competent Authority

Notwithstanding any other written law, the FIU may communicate anything disclosed to it under these Regulations to a foreign designated authority if,

- a) The Director considers the disclosure necessary to enable the foreign designated authority to discharge its functions of receipt, requesting, analysis and dissemination of suspicious transaction reports.
- b) There exists an arrangements between Eritrea and the foreign State under which the foreign designated authority has agreed to communicate to Eritrea, upon Eritrea's request, information received by the foreign designated

authority that corresponds to anything required to be disclosed to the FIU under these Regulations, or

c) The FIU is satisfied that the foreign designated authority has given appropriate undertaking, for:-

(i) protecting the confidentiality of anything communicated to it, and

(ii) controlling the use that will be made of the thing disclosed, including an undertaking that it will not be used as evidence in any proceedings.

Article 14.- Customer Identification Requirements

1) A reporting entity shall identify its customers and verify its customers' identities by means of reliable and independent source documents or information, when:

a) opening an account for or establishing a business relationship with a customer;

b) a customer, who is neither an account holder or is in an established business relationship with a financial institution, wishes to carry out a transaction in an amount on any currency transaction exceeding USD 10,000 or its equivalent in other convertible currencies, whether conducted as a single transaction or several transactions that appear to be linked;

c) notwithstanding paragraph (b), the customer wishes to carry out a domestic or international wire-transfer of monetary amounts on any currency transaction exceeding USD 10,000 or its equivalent in other convertible currencies, whether

conducted as a single transaction or several transactions that appear to be linked;

d) doubts exist about the veracity or accuracy of previously obtained customer identification information; or

e) there is a suspicion of money laundering, financing of terrorism or any other serious offence involving the customer or the customer's account.

2) For the purposes of this part "independent source document of information" shall include, a passport, driver's license, a national identification document or a certified certificate of incorporation.

3) A reporting entity shall identify and verify the identity of each customer and obtain other information required by this sub-Article before it establishes an account or a business relationship, or before it carries on further business if it suspects money laundering, financing of terrorism or any other serious offence or doubts, the veracity, or accuracy of previously obtained customer identification information.

4) A reporting entity shall, with respect to each customer, obtain and verify, as part of its obligation under sub-Article (1):-

a) For a normal person, the full name, address, date and place of birth;

b) For a legal person, the corporate name, office address, legal status and legal form, provisions governing the authority to bind the legal person, and such information as is necessary to understand the ownership and control of the legal person;

- c) For legal arrangements, the name of the trustees, the settler and the beneficiary of express trusts, and any other parties with authority to manage, vary or otherwise control the arrangements.
- d) In addition to the identity of a customer, the identity of any person acting on behalf of the customer, including evidence that such person is properly authorized to act in that capacity;
- e) Information on the intended purpose and nature of each business relationship.

Article 15.- Customer not Physically Present

A reporting entity shall, where it conducts any business relationship or executes transactions with customer who is not physically present for purposes of identification:-

- a) Take adequate measures to address the specific risk of money-laundering, financing terrorism and any other serious offence;
- b) Ensure that the due diligence conducted is no less effective than where the customer appears in person; and
- c) Require additional documentary evidence or supplementary measures to verify or certify the documents supplied by the customer, or confirmatory certificates from financial institutions or other documentary evidence or measures as may be prescribed.

Article 16.- Obligations Regarding Wire Transfers:

- 1) A financial institution undertaking any wire transfers on any currency transaction exceeding USD 10,000 or its equivalent in other convertible currencies, whether conducted as a single transaction or several transactions that appear to be linked shall:
 - (a) identify and verify the identity of the originator,
 - (b) obtain and maintain the account number of the originator, or
 - (c) in the absence of an account number, a unique reference number, obtain and maintain the originator's address or, in the absence of address, the national identity number.
- 2) Notwithstanding the requirements of sub sub-Article (1), a financial institution is not required to verify the identity of a customer with which it has an existing business relationship where it is satisfied that it already knows and has verified the true identity of the customer,
- 3) Where a financial institution acts as an intermediary in a chain of payments, it shall re-transmit all of the information it received with the wire transfer.

Article 17.- High Risk Customers

A reporting entity shall have appropriate risk management systems to:-

- a) Identify customers whose activities may pose a high risk of money laundering and financing of terrorism and shall exercise enhanced identification, verification and ongoing due diligence procedures with respect to such customers; and

b) Determine if a customer or a beneficial owner is a high risk customer and if so shall:

(i) Obtain approval from senior management of the reporting entity before establishing a business relationship with the customer, or later, as soon as an existing customer is identified as a high risk customer,

(ii) Take all reasonable measures to identify the source of wealth and funds and other assets of the customer, and

(iii) Provide increased and ongoing monitoring of the customer and the business relationship to prevent money laundering, terrorism financing or the commission of any other serious offences and to permit the reporting entity to fulfill its obligations under these Regulations, including all of its due diligence and reporting requirements.

Article 18.- Obligation to Report Currency Transactions

A reporting entity shall, promptly but not later than forty eight working hours, submit a report to the FIU on any currency transaction exceeding USD 10,000 or its equivalent in other convertible currencies, whether conducted as a single transaction or several transactions that appear to be linked.

Part III

Offences and Penalties

Article 19.- Failure to comply with Identification Requirements

A person who intentionally or negligently:-

- a) Fails to undertake the identification of a customer or otherwise to fulfill the customers identification and risk management requirements in accordance with customer identification requirements;
- b) Opens an anonymous account or an account in a fictitious name for a customer in violation of article (13);
- c) Fails to fulfill the obligations relating to the obtaining of information for the processing of a wire-transfer as required under Article (24),

commits an offence and shall, upon conviction by the competent court, be punishable with simple imprisonment from three months to one year or fine not exceeding Ten Thousand (10,000.00) Nakfa or both.

Article 20.- Failure to submit with Regard to Suspicious Transaction or other Reporting

A person who intentionally or negligently fails to submit a report to the FIU as required by these Regulations, commits an offence and is liable, upon conviction, to a penalty provided under Article 30 of the

Anti-Money Laundering and Combating Financing of Terrorism
Proclamation No. 175/2014.

Part – IV

Miscellaneous

Article 21.- Requirement for Supervised Entity to Register

- a) A supervised entity shall, within three months of the coming into force of this Directive register with the FIU.
- b) A supervised entity that fails to register with the FIU as required by sub-Article (a), commits an offence and shall be liable to a fine as prescribed in the AML/CFT Proclamation No. 175/2014.

Article 22.- Change of Address of Supervised Entity

Where a supervised entity changes its registered office or principal place of business, it shall within three months of such change notify the FIU of the new address of its registered office or principal place of business.

Article 23.- Oath of Office Secrecy

Before any officer commences duty under these Regulations, he shall take the Oath of Office Secrecy.

Article 24.- Effective Date

These Regulations shall come into force as of their publication in the Gazette of Eritrean Laws.

Done at Asmara, this 16th day of March 2018

Bank of Eritrea

Directive No. 1/2018

Directive Issued to Determine the Composition, Organization, Operation and Resources of the Financial Intelligence Unit

Part I

Preliminary

Article 1. Short Title

This Directive may be cited as the “Directive Issued to Determine the Composition, Organization, Operation and Resources of the Financial Intelligence Unit – Directive No. 1/2018”.

Article 2. Objectives

The objectives of the FIU shall be to:-

- a) Detect and deter any offence of money laundering and the financing of terrorism;
- b) Maintain public confidence in the financial system;
- c) Sensitize financial institutions to establish and maintain policies and procedures to guard against money laundering and financing of terrorism; and
- d) Proactively work with the law-enforcement agencies, regulators, regional and other international anti-money laundering groups and to effectively assist in deterring, detecting and combating all threats of money laundering and financing of terrorism to our country in particular and the global economy in general.

Part II

Functions, Powers, Authority and Immunity of the Financial Intelligence Unit

Article 3. Functions of the FIU

- 1) The FIU shall be responsible for the collection of financial intelligence and information and the analysis, dissemination, and exchange of such

financial intelligence and information among law enforcement authorities, financial institutions in Eritrea and internationally.

2) Notwithstanding the generality of sub-Article (1), the functions of the FIU are to:-

- a) receive, request and analyze suspicious transaction reports required under this Directive, and the Anti-Money Laundering and Combating Financing of Terrorism Proclamation No. 175/2014 or any other written law, including information from any foreign designated authority;
- b) analyze and evaluate suspicious transaction reports and information as to determine whether there is sufficient basis to transmit reports for investigation by the law enforcement agencies or foreign designated authority;
- c) disseminate information to law enforcement agencies, where there are reasonable grounds to suspect money laundering or financing terrorism;
- d) provide information, advice and assistance to law enforcement agencies in furtherance of an investigation;
- e) provide information relating to suspicious transactions in accordance with this Directive and the Anti-Money Laundering and Combating Financing of Terrorism Proclamation No. 175/2014 to any foreign designated authority subject to such conditions as the Director may determine;
- f) enter into an agreement or arrangement in writing, with a foreign designated authority which the Director considers necessary or desirable for the discharge or performance of its functions;
- g) conduct inquiries on behalf of foreign designated authorities and notify them of the outcome;
- h) inform the public and reporting entities of their obligations and measures that have been or might be taken to detect, prevent and deter money laundering and financing of terrorism;

- i) access directly or indirectly, on a timely basis, financial, administrative or law enforcement information, required for the better carrying out of its functions under this Directive and the Anti-Money Laundering and Combating Financing of Terrorism Proclamation No. 175/2014.

Article 4. Extent of the FIU's Authority

- 1) Subject to sub-Article (2), the FIU shall not, in the performance of its function under this Directive and the Anti-Money Laundering and Combating Financing of Terrorism Proclamation No. 175/2014 or any other law, be subject to the direction or control of any person or authority;
- 2) The Director may, in writing, give the FIU, such directions as he considers necessary in the public interest, and the FIU shall give effect to those directions to the extent that they are not inconsistent with this Directive.
- 3) The FIU may have the authority to:
 - a) Request information from any financial institution, any supervisory agency, any DNFBP, and any law enforcement agency, for purposes of this Directive.
 - b) Instruct a financial institution, in writing, to suspend the processing of a suspicious transaction or suspicious activity for a period not exceeding 3 working days.
 - c) Enter the premises of any financial institution during business hours to inspect any record kept in respect of money laundering or financing of terrorism, and ask any question related to such records, make notes and take copies of a whole or a part of, the record.
 - d) Enter into written agreements with a local authority or foreign Financial Intelligence Unit pertaining to Money laundering and Terrorist Financing.
 - e) Freeze transaction for up to 72 hours.

Article 5. Immunity

- a) An action shall not lie against the Director, Officers or Staff of the FIU, or any person acting under the authority of the Director for anything done or omitted to be done, in good faith in the discharge of any functions, duties or powers under this Directive.
- b) The provisions of this Directive shall have effect notwithstanding any obligation as to secrecy or other restriction on the disclosure of information imposed under any written law or otherwise.
- c) Where any judgment order is obtained against the FIU, no execution, attachment, or process of any nature, shall be issued against the FIU or against any property of the FIU, but the FIU shall cause to be paid out of its revenues such amount as may, by the judgment order, be awarded against the FIU to the person entitled to such amount.

Part III

Composition and Structure of the Financial Intelligence Unit

Article 6. Structure of the FIU

The FIU shall have the following Divisions to perform and exercise its powers, functions and duties:

- a) The Regulatory Division,
- b) The Analytics and Compliance Division,
- c) The Assets Division,
- d) The Legal Affairs Division, and
- e) The Registry.

Article 7. Composition of the Financial Intelligence Unit

The FIU shall be composed of the following organs:

- a) The Director;
- b) Heads of the Divisions on Regulatory, Analytics and Compliance, Assets, and Legal Affairs; and

- c) Other Staff

Article 8. Duties of the Director

The Director of the FIU shall be responsible for:

- a) the management of the FIU, and
- b) the preparation of an annual budget for each new financial year, in accordance with the budgetary process which shall be submitted to the President of the State of Eritrea.

Article 9. Heads of Divisions of the FIU

Heads of each division of the FIU shall lead the respective divisions of the FIU under the supervision of the Director.

Article 10. Other Staff of the FIU

The FIU shall be staffed with qualified and adequate number of staffs and officers as are required for the proper performance of its functions.

Part V

Operation of the FIU with Respect to Collection, Analysis, Dissemination, Storage of Financial Intelligence and Information, Exchange of Information with Local and Foreign FIU's and Monitoring the Effectiveness of the System

Article 11. Collection of Information

- a) The FIU may request financial information from financial institutions by means of written order signed by the Director of the FIU, and/or, in limited or exigent circumstances, the Director can make an oral request for information from a financial institution.

- b) The financial institutions shall have an obligation to respond to the written or oral request immediately.
- c) A financial institution failing to furnish the information requested under this Directive within the period set out to submit, commits an offence and is subject to a fine as prescribed in the AML/CFT Proclamation No. 175/2014.
- d) Where the Director makes an oral request, he shall as soon as reasonably practicable, but in any event within twenty four hours, forward a written request.

Article 12. Information to Analyze STR/SAR and Establishment of System for analysis

a) Requirement to analysis STR/SAR;

Where the FIU receive a STR/SAR or any financial intelligence and information either;

- i. From the result of a request by the FIU to a financial institution; or
- ii. Through the financial institution having reason to believe that some suspicious activity occurred, thereby transmitting to the FIU a voluntary report of the activity; the FIU shall analyze it.

b) Establishment of system for analysis:-

The Director shall put in place and Implement a System for the Effective Analysis of:-

- i. Financial information received from a financial institution; and
- ii. A STR/SAR received from a financial institution.

Article 13. Dissemination of Information

- a) The Director may upon written request, disseminate financial intelligence information to:-
 - (i) Local authorities (law enforcement, or the Attorney General's Office), or
 - (ii) To foreign authorities.
- b) The Director may, upon disseminating financial information, impose the conditions upon which the information may be used; and
- c) Where the Director determines that the sharing of information that is being requested shall require the requesting party to agree to the terms and conditions upon which the information is being shared, it shall subject the sharing of the information to such terms and conditions.

Article 14. Storage of Financial Intelligence and Information

- a) Protection of Financial Intelligence and Information.
 - (i) Where financial intelligence and information has been collected by the FIU, the Director shall insure that the financial intelligence and information in its custody or under its control is secure;
 - (ii) Where reference is made in sub-article (a)(i) to ensuring that the financial intelligence and information is secure, such arrangements shall apply to the collection, storage, access, disclosure, exchange and dissemination of the information.
- b) Responsibilities of the Director in respect of Protection of data:-
 - i. The Director shall be responsible for the development and implementation of internal policies that are in accordance with data protection requirements of the FIU and any other written law.

- ii. The Director shall ensure that financial intelligence and information in the FIU's custody or under its control is secure in the following manner:-
 - copying and storing data into more than one electronic device on an on-site or off-site facility on a daily base; and
 - storing data on an off-site backup facility in the event of a natural disaster, technical malfunction or manmade incidents.
- (iii) The Director shall limit the personnel of the FIU who may access the FIU's database and give specific authorizations in that regard.
- (iv) The Director shall cause a log to be kept of all persons who access the FIU's data base.
- (v) A person who access financial intelligence and information on the database without authorization from the Director under sub-article (b)(iii), commits an offence and shall be liable to a fine as prescribed in the AML/CFT Proclamation No. 175/2014.
- (vi) The Director shall establish a security system or protocol for the physical storage of files and financial intelligence and information received by the FIU.

Article 15. Monitoring the Effectiveness of the System

The FIU shall implement a system for monitoring the effectiveness of its policies with respect to money laundering and financing of terrorism by maintaining a comprehensive statistics on:-

- i. Suspicious transaction or suspicious activity report received and transmitted to law enforcement
- ii. Money laundering and financing of terrorism investigations;
- iii. Property frozen, seized and confiscated; and
- iv. International requests for mutual legal assistance or other co-operation.

Part VI

Sources of Fund and Reports

Article 16. Sources of Fund

The main source of funds of the FIU shall be from:-

- a) Government budget support or subsidy, and
- b) Donations and grants from domestic or international sources.

Article 17. Periodic Reports

1) The FIU shall provide –

a) statistics on:-

- i. the number of disclosures made; and
- ii. the results of the disclosures.

b) information on matters such as the number of STRs/SARs received;

c) the number of STRs/SARs received in relation to the sectors or types of institutions and the geographic areas from which reports have been referred and information:-

- i. as to the types of institutions which STRs/SARs and the types of transactions reported; and
- ii. on current techniques, methods, trends or typologies and examples of actual money laundering cases with no direct offences as to persons or institutions.

2) Reports under sub-Article (1) shall be made available by the FIU on a quarterly basis.

Article 18. Annual Reports

- 1) Within sixty days of the end of the financial year; the Director shall submit an annual report, to the President of the State of Eritrea, of the performance of the FIU, including statistics on suspicious transactions and suspicious activities reports, the results and typologies of money laundering activities, or offences and the financing of terrorism.

- 2) The Director must not, however, disclose any information in the report that would directly or indirectly identify:-
- a) an individual who provided the annual report or information under this Directive; or
 - b) A person about whom a report or information was provided under this Directive.

Part VII

Miscellaneous

Article 19. Identification Documents

- a) An officer performing functions assigned to the FIU under this Directive shall be provided with identification document signed by the Director.
- b) Where the person is no longer employed with the FIU, he/she shall return the identification document given to him.
- c) A person who contravenes sub-section (b), commits an offence, and is subject to a fine as prescribed in the AML/CFT Proclamation No. 175/2014.

Article 20. Oath of Office Secrecy

Before any officer commences duty under this Directive, he shall take the Oath of Office Secrecy.

Article 21. Effective Date

This Directive shall come into force on the date of its publication in the Gazette of Eritrean Laws.

Done at Asmara, this 16th day of March, 2018

Government of Eritrea