The new FIU law, Gabinete de Informação Financeira de Moçambique (GIFiM), which repeals and replaces Law 14/2007, of 27 June.

REPUBLIC OF MOZAMBIQUE

Assembly of the Republic

Law nº 2 /2018

of 19 June 2018

Given the need of repealing and replacing Law no. 14/2007 of 27 June, to bring into line the attributions and competences of the Mozambique Financial Intelligence Office with the anti-money laundering and terrorism financing legal framework, approved by Law no. 14/2013 of 12 August, under the provisions of article 179 (1) of the Constitution, the Assembly of the Republic determines:

Article 1

(Nature and Scope)

1. The Mozambique Financial Intelligence Office (Gabinete de Informação Financeira de Moçambique) known as GIFiM, is a public owned entity, with administrative and technical autonomy, under the authority of the Council of Ministers.

2. The Council of Ministers may delegate, to a member of the Government, the authority over the GIFiM.

3. GIFiM is governed by the provisions of this Law and by its own regulations.

Article 2

(Attributions)

1. The objective of GIFiM is to prevent and combat the use of the national financial system and other sectors of economic activity, for money laundering, terrorism financing and other related offences.

2. The following are the attributions of the GIFiM:

(a)To collect, receive, request, centralize, analyze and disseminate to the competent judicial and police authorities and to the regulatory and supervisory authorities, information related to economic and financial transactions which may involve money laundering, terrorism financing and other related activities;

b) Receive information from natural persons, national and foreign public and private entities, in accordance with the applicable legislation;

c) Receive complaints, including anonymous tip;

d) Collaborate with law enforcement authorities in the identification of funds and assets resulting from cross-border organized crime;

(e) To monitor the implementation of the sanctions adopted by the United Nations Security Council concerning the financing of terrorism in coordination with the Public Prosecutor's Office and the National Criminal Investigation Service, as well as the Defense and Security Forces and other competent authorities for this matter;

f) Supervise and penalize those institutions and entities that, pursuant to the law, are not yet under the supervision of an authority regarding the prevention and combating of money laundering and terrorism financing;

(g) Contribute to the establishment of a legal framework for the prevention and combating of money laundering and terrorism financing;

h) Promote and support the technical training of professionals who, pursuant to the law, intervene in the prevention and combat of money laundering and terrorism financing.

Article 3

(Duties)

1. In order to carry out the tasks laid down in article 2, the following are the duties of GIFiM:

(a) To promote and coordinate activities to prevent and combat money laundering and terrorism financing;

b) Request information from financial institutions, non-financial entities and the supervisory authorities referred to in articles 3 and 27 of Law no. 14/2013, of August 12, laying down the System of Prevention and Combating Money Laundering and Terrorism Financing in Mozambique, including those

established to identify possible funds, assets, rights and any other instruments to be frozen, seized or declared lost in favor of the State;

c) Organize, keep and manage its archive and database, these may be integrated into the national and international information networks for the fulfillment of its tasks, nonetheless, safeguarding the issues of protection and confidentiality;

d) To access to information and background information, under the terms to be agreed upon with the respective institutions on suspicious activities in their databases;

(e) Exchange information with other national authorities involved in the prevention and combating of money laundering and terrorism financing;

f) Exchange information with foreign counterparts, on its own initiative or at their request, within the framework of a memorandum of understanding between the parties and in strict compliance of the principle of reciprocity;

g) Carry out studies on the techniques used in money laundering and terrorism financing crimes;

h) Prepare statistics on money laundering and terrorism financing in collaboration with the competent bodies;

i) Issue information and opinion as requested by the competent authorities;

j) Issue out guidelines for entities and sectors without a specific regulator;

k) Carry out inspections in the premises of entities subject to the supervision of GIFiM in accordance with the law;

l) To impose administrative and monetary sanctions for entities under its supervision, for breach of this Law and the anti-money laundering and counter-terrorism financing Act;

m) Exercise other powers as provided by Law.

2. Without prejudice to the provisions of number 1, of this article, GIFiM should collaborate with regulatory authorities in drafting guidelines and other legal instruments on monitoring and supervision of reporting entities, namely:

a) Prepare guidelines and procedures;

b) Monitor compliance with procedures for reporting suspicious transactions;

(c) Verify the compliance of regulated institutions and entities with established rules and obligations for preventing and combating money laundering, terrorism financing and related crimes.

Article 4

(Duty of collaboration)

1. The public and private institutions shall cooperate with the GIFiM within the scope of its attributions.
2. Failure to comply with the duty of collaboration referred to in the preceding paragraph by public officials and agents shall be liable to disciplinary action, in accordance with the Statute of Civil Servants and other Public Employees without prejudice to criminal penalties, if applicable.
3. Failure to comply with the duty of collaboration referred to in paragraph 1 by employees of private institutions, shall be punishable in accordance with the Law on Prevention of Money Laundering and Terrorism Financing, without prejudice to civil and / or criminal penalties, if applicable.

Article 5

(Suspension of transactions)

If there is reasonable ground to conclude that there is an activity of money laundering, terrorism financing or other related crimes, the GIFiM must immediately propose to the Public Prosecutor's Office the suspension of the said transaction and the exercise of the competent criminal proceedings.

Article 6

(Coordination Council)

1. The Institutional coordination on prevention and combating money laundering and terrorism financing is provided by the GIFiM Coordination Council.
2. The following are members of the GIFiM Coordination Council:
   a) Prime Minister, who chairs the board;
   b) Attorney General of the Republic;
   c) Minister who oversees the area of Finance;
   d) Minister who oversees the area of security and public order;
   e) Minister who oversees the area of Justice;
   f) Governor of the Bank of Mozambique,
3. The Director General and Deputy Director-General of GIFiM shall attend the sessions of the Coordination Council.

4. Subject to the matters scheduled, the Coordination Council may invite other entities to attend the meetings.
5. It is the Coordination Council's particular duty to:
   a) Propose, to the Council of Ministers, the policies and strategies of GIFiM;
   b) Evaluate the proposals of the GIFiM plan of activities and the budget, before submitting them to the Council of Ministers;
   c) Assess and approve the management accounts;
   d) Assess the proposal for nominations of the Director-General and the Deputy Director-General of GIFiM;
   e) Assess the GIFiM annual report before submission to the Council of Ministers.
6. The GIFiM Coordination Council shall meet, ordinarily, once in a semester, and extraordinarily, whenever convened by its chairperson, or at the request of at least one-third of its members.

Article 7

(Directorate and mandate)

1. The GIFiM shall be headed by a Director General, assisted by a Deputy Director-General, both appointed by the Prime Minister, on a proposal presented by the Minister responsible for Finance, after the Coordination Council has been heard.
2. The Director General and Deputy Director-General of GIFiM shall serve for a renewable period of five years.
3. The Director General and the Deputy Director-General shall be appointed from among persons with recognized professionalism, of well-known repute and professional experience relevant to the duties and requirements of the function.

Article 8

(Responsibilities of the Director-General)

1. In the performance of his/her duties, the Director General of GIFiM shall, in general, guide and coordinate the activities of GIFiM, in particular:
   a) Represent the GIFiM;
   b) Guide, coordinate and supervise the activities carried out by the different GIFiM services;
   c) Issue directives, guidelines, and internal circulars;

d) Request information from other entities;

e) Authorize the exchange of information with national and foreign entities;

f) Issue guidelines and other directives for entities and sectors without their own regulator;

g) Enforce sanctions for the entities and sectors without own regulator, in the terms of the applicable legislation;

h) Propose changes to the organic and operational structure of GIFiM;

i) Approve the internal regulations and procedures;

j) Practice all acts regarding the appointment, promotion, retirement, removal, dismissal and expulsion of GIFiM personnel, within the limits of the Law;

k) Placing the personnel in the various areas of operation;

l) Confer power to the GIFiM employees;

m) Exercise disciplinary power within the limits of the law;

n) Prepare the budget and the financial statements of the GIFiM;

o) Sign memorandum of understanding with foreign counterparts, whenever this proves necessary to ensure the exchange of information and experiences;

p) Present the managerial accounts to the Administrative Court;

q) Exercise any other powers as provided by law.

2. The Deputy Director-General shall, in general, assist the Director General and replace him in his absences and impediments, the Director General may delegate to him the powers referred to in the preceding paragraph, except those provided for in sub-paragraphs h), j) and l).

Article 9

(Special Obligations)

All GIFiM employees, with the exception of administrative and supporting staff, must present a declaration of their assets, including income, pursuant to articles 57 and the subsequent articles of Law no. 16/2012, of August 14, with the necessary adjustments.

Article 10

(Confidentiality)

1. All persons working for or have worked for the GIFiM, or who have had access to information of a confidential nature, are obliged to keep their secrecy.
2. The publication, communication or dissemination of data or documents of a confidential nature, is prohibited, even after termination of a contract with GIFiM, except if authorized in the following cases:
   a) Publication of aggregated data for statistical purposes;
   b) Summarized reports or in aggregate form, so that the persons or subjects involved directly or indirectly cannot be identified;
   c) Sending information at the request of the Public Prosecution Service and of the police or investigation authorities;
   d) Sending information to other entities, and in this case, it should be expressly mentioned the legal provision that enables them to receive.
3. Failure to comply with the provisions of the previous numbers is subject to disciplinary and /or criminal liability, according to the applicable legislation.

Article 11

(Incompatibilities)

The functions of Director-General, Deputy Director-General and those of any GIFiM staff are incompatible with the exercise of:

a) Government positions;
(b) Remunerated activities, other than cultural, research or teaching activities;
c) Management of personal business or owned by third parties;
d) Positions of management, or any other function, in a financial entity, as well as in a designated non-financial activity or profession.

Article 12

(Reporting of Transaction)

1. All entities which, pursuant to Law No 14/2013 of 12 August establishing the anti-money laundering and counter-terrorism financing regime, are obliged to report on transactions that could constitute money laundering, terrorism financing and related crimes, shall do so exclusively to GIFiM.
2. The reporting entities are required to register with GIFiM.

3. Failure to comply with the provisions of the previous number is punishable under the terms of article 77 of Law no. 14/2013 of 12 August.

Article 13

(Dissemination of Financial Intelligence)

The GIFiM shall disseminate the information it produces to the competent judicial and police authorities and to the supervisory and regulatory authorities, without prejudice to other competent law enforcement authorities, whenever it proves necessary.

Article 14

(Reports)

1. The GIFiM shall prepare an annual report to be submitted to the Council of Ministers no later than 15 April of the year following that to which it refers, containing the statistical evaluation of the reports received and analyzed and the disseminated financial intelligence as well as the trends of the crimes provided for in Law no. 14/2013 of 12 August.
2. The report referred to under number 1 above shall be deposited in the Assembly of the Republic by the Council of Ministers no later than six months after its receipt.
3. It is at GIFIM´s discretion to publish the report for public consultation.

Article 15

(Staff)

1. The GIFiM staff is governed by the Statute of Civil Servants and other Public Employees, and contracts may be signed following the provisions of the Labor Law, in cases of fixed-term contracts.
2. GIFiM officials in charge of inspection and supervision shall be duly accredited and shall enjoy the attributes and powers of the agents of State authority when fulfilling their inspection functions.
3. The specific rights and obligations of GIFiM officials and agents shall be set forth in their own statute.

4. In GIFiM, it is in force a special regime of careers, management, leadership and technical functions and these shall be approved in the GIFiM staff regulations/statute.
5. The careers and functions in force at GIFiM are subject to the remuneration packages and incentives of the financial sector.

Article 16

(Regulation)

The Council of Ministers shall, within one hundred and eighty (180) days from the date of entry into force of this Law, approve:

a) The structure, organization and operation of GIFiM;

b) The specific statute of GIFiM staff;

c) The remuneration statute of GIFiM staff.

Article 17

(Repeal)

1. Law No. 14/2007, of June 27, establishing the Mozambican Financial Intelligence Office and other legislation is contrary to the present Law.
2. All references made by other decrees in relation to the repealed provisions shall be deemed to have been made hereinafter.

Article 18

(Entry into Force)

This Law shall enter into force on the date of its publication.

Enacted by the Assembly of the Republic, on 21. March 2018.

The Chairperson of the Assembly of the Republic*, Verónica Nataniel Macamo Ndlovo*

Promulgated on 11 June 2018.

To be published in the Government Gazette.

The President of the Republic, FILIPE JACINTO NYUSI.