TIMOR-LESTE PETROLEUM FUND DRAFT LAW

Section-by-section comments and suggested changes from Banking & Payments Authority of Timor-Leste March 2005.

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Article 6: Petroleum Fund Receipts	
6.1 The following amounts are Petroleum Fund receipts:	
(a) the gross revenue, including tax revenue, of Timor-Leste from any petroleum operations, including prospecting or exploration for, and development, exploitation, transportation, sale or export of petroleum, and other activities relating thereto;	
(b) any amount received by Timor-Leste from the Designated Authority pursuant to the Treaty;	
(c) any amount received by Timor-Leste from the investment of Petroleum Fund receipts, net of management expenses including that paid to the Central Bank pursuant to the management agreement referred to in Article 8.3;	The netting of management fees against income should not occur. The income should be accounted for on a gross basis, and separate provision made for the payment of expenses, including management fees.
(d) any amount received from direct or indirect participation of Timor-Leste in petroleum operations; and	
(e) any amount received by Timor-Leste relating, directly or indirectly, to petroleum resources not covered in subparagraphs (a) to (d).	
6.2 The opening balance of the Petroleum Fund is the total amount of the payments received by Timor-Leste, up to the commencement of the present Act, as *First Tranche Petroleum*, from the Joint Authority pursuant to the terms of the Exchange of Notes, or from the Designated Authority pursuant to the terms of the Treaty, increased by such amount, if any, as determined by the Government.	
Article 7: Transfers	
7.1 The only debits permitted to the Petroleum Fund are electronic transfers made in accordance with this article to the credit of a single State Budget account.	We propose: The only debits permitted to the Petroleum Fund shall be transfers made in accordance with this article to: (i) the credit of a single State Budget account; (ii) the Central Bank for services provided in accordance with the Management Contract. (iii)remunerate the external auditors (iv) remunerate Members of the Investment Advisory Board per Article 10.8(b).

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	Justification: The Management Contract shall establish that the Central Bank will be reimbursed for expenses associated to managing the Fund. Given that expenses to operate the Bank shall not be part of the State Budget's appropriations system, this provision is needed so that the reimbursement of expenses can be transferred to the Bank. [Please observe that the translation to Portuguese of "a single State Budget account" should be "Conta Unica" do Orcamento do Estado, and not "Unica Conta", which could be interpreted as one specific account (among others) do Orcamento do Estado.]
7.2 The total amount transferred from the Petroleum Fund for a fiscal year shall not exceed the appropriation amount approved by Parliament for the fiscal year. Subject to Article 7.3, transfers from the Petroleum Fund by the Central Bank in the fiscal year, shall only take place after publication of the budget law, or any subsequent changes thereto, in the *Jornal da República*, confirming the appropriation amount approved by Parliament for that fiscal year.	
7.3 Subject to Article 7.4, no transfer shall be made from the Petroleum Fund in the fiscal year unless the Government has first provided Parliament with reports:	
(a) specifying the estimated sustainable income for the fiscal year for which the transfer is made;	
(b) specifying the estimated sustainable income for the preceding fiscal year; and	
(c) from the independent auditor certifying the amount of the estimated sustainable income in paragraphs (a) and (b).	
7.4 No transfer shall be made from the Petroleum Fund in a fiscal year in excess of the estimated sustainable income for the fiscal year unless the Government has first provided Parliament with:	
(a) the reports described in Article 7.3(a) and (b);	
(b) a report estimating the amount by which the estimated sustainable income for fiscal years commencing after the fiscal year for which the transfer is made will be reduced as a result of the transfer from the Petroleum Fund of an amount in excess of the estimated sustainable income of the fiscal year for which the transfer is made;	
(c) a report from the independent auditor certifying the estimates of the reduction in estimated sustainable income in paragraph (b); and	
(d) a detailed explanation of why it is in the long-term interests of Timor-Leste to transfer from the Petroleum Fund an amount in excess of the estimated sustainable income.	
7.5 Transfers from the Petroleum Fund are exceptionally permitted for purposes of refund of tax, in the event of overpayment of tax under Article 6.1(a). This amount represents a reduction of the Petroleum Fund receipts, and shall not be considered as part of the appropriation approved under Article 7.2.	
Chapter III – Investment and Protection Rules	
Article 8: Management of the Petroleum Fund	

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8.1 The Government is responsible for the overall management of the Petroleum Fund. In the exercise of any management functions and competences entrusted thereto, the Minister shall be accountable before the Prime Minister, and they both shall be accountable before the Council of Ministers and before Parliament.	
8.2 The Minister shall not make any decisions in relation to the investment strategy or management of the Petroleum Fund without first seeking the advice of the Investment Advisory Board in accordance with Article 10.	
8.3 The Minister shall enter into an agreement with the Central Bank for the operational management of the Petroleum Fund and the Central Bank shall be responsible for the operational management of the Petroleum Fund.	
8.4 The Central Bank may propose to the Minister, either of its own motion or at the request of the Minister, the appointment of one or more investment managers to be responsible for managing the investment of amounts in the Petroleum Fund.	We are concerned that investment managers can be appointed but not removed. We suggest the following: "After consultation with the Minister, the Central Bank may issue, renew or cancel mandates for one or more external managers to be responsible for managing a portion of the total assets of the Petroleum Fund, restricted to that the value of any mandate does not exceed 30% of the current value of the Petroleum Fund." **Justification:** Managers of government-sponsored funds normally rely on a large number of external managers to perform the managing function of these funds. Unlike internal managers, the turn over of external managers tends to be high making the process of issuing, renewing or canceling mandates a very technical activity per se. External managers have to be constantly checked for qualifications, performance and responsiveness. Decisions regarding mandates based on those criteria are therefore time sensitive. If decisions on mandates are unduly adjourned, the value of the fund's assets can be adversely affected. Besides, Article 8.5 already stipulates stringent qualifying restrictions.
8.5. The Central Bank may appoint an investment manager proposed under Article 8.4 only if the Minister is satisfied that:	We suggest that the text "appoint an investment manager" be replaced with "issue a mandate for an external manager". We suggest that provision be made for the central bank to maintain other investment professionals necessary to the investment function, e.g. security custodians, brokers, advisors, etc at its discretion.
(a) the investment manager is a legal person with sufficient equity capital and adequate guarantees and insurances against operational risks;	
(b) the investment manager has a sound record of operational and financial performance; and	
(c) the references and reputation of the investment manager in the field of fund management are of the highest standard.	
8.6 The Government tendering procedures shall be followed for any appointment made pursuant to Article 8.5.	We foresee difficulties should these appointments be made following "government tendering procedures" that include provisions for tenders to be undertaken by the

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	Government Procurement Office. We believe that the intention of the proposed Article should be retained, but allowing the central bank to undertake the tendering process following a suitably open and transparent process not less rigorous than the standards set for regular government procurements.
8.7 The Petroleum Fund shall be managed prudently in accordance with the principle of good governance for the benefit of current and future generations. The duty of the investment manager is to maximise the return on the Petroleum Fund investments having regard to appropriate risk as indicated by the investments permitted under Article 9, any subsidiary legislation under this Act, any instructions by the Minister and the management agreement referred to in Article 8.3.	
8.8 The Central Bank shall present to the Minister quarterly reports on the performance and activities of the Petroleum Fund no later than twenty (20) days after the end of each quarter. The Central Bank shall provide for the publication of its reports in such form and manner as may be adapted for public information no later than forty (40) days after the end of the quarter. The Central Bank shall ensure that in releasing, or allowing access to, such reports measures are taken to prevent the disclosure of confidential information.	We believe that the central bank quarterly reports should not be adapted or modified for public consumption, but should be issued as written.
Article 9: Investment Rules	
9.1 Amounts in the Petroleum Fund shall be invested only in qualifying instruments described in Article 9.2.	We believe that the provisions as proposed for Article 9 are entirely appropriate as an investment policy for the initial years of the Fund but over time will become more and more inappropriate as guidance. We are therefore concerned that as worded the "rules" will become institutionalised by default to the detriment of future generations. We are also concerned that Article 9 may be replaced in time by a new set of rules by parliament. In doing so, parliament would be in effect taking over a large part of the role envisaged for the Investment Advisory Board, and the process of changing the investment rules would be slow and cumbersome. Furthermore, the existing wording does not allow even small amounts of money to be invested in other financial instruments – thereby meaning that no capacity-building will take place until at least five years have passed. With these matters in mind, we propose the following: "9.1 During the transitional period, amounts in the Petroleum Fund shall be invested according to the following schedule: a) At least 90% in qualifying instruments described in Article 9.2. b) Up to 10% according to the investment strategy determined by the Minister in accordance with this law."
9.2 Subject to Article 9.3, a qualifying instrument is:	"9.2 Subject to Article 9.3, a qualifying instrument is: (a) a debt instrument denominated in United States Dollars that bears interest or a fixed amount equivalent to interest, that is:

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	(i) rated Aa3 or higher by the Moody's rating agency or rated AA– or higher by Standard & Poor's rating agency; and (ii) issued by or guaranteed by the World Bank or by a sovereign State, other than Timor-Leste, provided the issuer or guarantor is rated Aa3 or higher by the Moody's rating agency or rated AA– or higher by Standard & Poor's rating agency; or (b) a United States Dollars deposit with, or a debt instrument denominated in United States Dollars that bears interest or a fixed amount equivalent to interest issued by: (i) the Bank for International Settlements [*IMF? WB? ADB? and other recognised multilateral financial institutions*]; (ii) the Central Bank of a sovereign State, other than Timor-Leste, with a long-term foreign currency rating of Aa3 or higher by the Moody's rating agency or AA– or higher by the Standard & Poor's rating agency."
(c) a debt instrument denominated in United States Dollars that bears interest or a fixed amount equivalent to interest, that is:	
(iii) rated Aa3 or higher by the Moody's rating agency or rated AA– or higher by Standard & Poor's rating agency; and	
(iv) issued by or guaranteed by the World Bank or by a sovereign State, other than Timor-Leste, provided the issuer or guarantor is rated Aa3 or higher by the Moody's rating agency or rated AA– or higher by Standard & Poor's rating agency; or	
(d) a United States Dollars deposit with, or a debt instrument denominated in United States Dollars that bears interest or a fixed amount equivalent to interest issued by:	
(iii) the Bank for International Settlements;	
(iv) the Federal Reserve Bank of the United States; or	
(v) the Central Bank of a sovereign State, other than Timor-Leste, with a long-term foreign currency rating of Aa3 or higher by the Moody's rating agency or AA– or higher by the Standard & Poor's rating agency.	
9.3 The investment manager shall dispose of an instrument if it ceases to be a qualifying instrument because of a change in the rating of the instrument or the issuer of the instrument within one month of the instrument ceasing to be a qualifying instrument.	
9.4 The average interest rate duration of Petroleum Fund qualifying instruments under Article 9.2 shall be less than six (6) years.	The Minister shall issue a mandate under the form of a Management Contract for the Central Bank to manage the Petroleum Fund. The Management Contract shall specify the investment strategy of the Fund to be followed. It shall contain specific instructions for at least the following: a) Exposure limits for the Fund's portfolio of fixed and variable income instruments; b) Benchmark portfolios for fixed and variable portfolios of the Fund and maximum; limits expected return differentials can deviate from the benchmarks;

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	c) Currency and market distribution for the Fund's investment portfolio; d) Exposure limits for risks derived from (i) markets, (ii) interest rate; (iii) exchange rate; (iv) credit; (v) operational; (vi) ownership interest (vii) others; e) Standard for ethical principles applicable to investment.
9.5 A derivative instrument that satisfies Article 9.2 is a qualifying instrument only if the financial exposure does not exceed the exposure that would have resulted from investing directly in the underlying instrument.	The amounts invested in derivative instruments shall be calculated as if they were invested directly in the underlying instruments, with these amounts considered for calculation of the exposure to risk of the derivative's asset class.
9.6 The range of instruments included as qualifying instruments in Article 9.2 shall be reviewed by the Minister at the end of the first five (5) years of the Petroleum Fund existence, having regard to the size of the Petroleum Fund.	"9.6 The transitional period applicable to this article is 5 (five) years counted from the inception of the Petroleum Fund."
	Justification: The text of this paragraph sets the long-term strategy to be followed by the Fund's management. Adopting this format, the investment rules for the transitional period will lapse and the permanent investment guidelines will automatically take effect.
Article 10: Investment Advisory Board	
10.1 There is hereby established an Investment Advisory Board that is responsible for:	
(a) developing for the Minister performance benchmarks of desired returns from, and appropriate risks of, the investments of the Petroleum Fund;	
(b) advising the Minister on the investment instructions that the Minister shall provide to the investment managers of the Petroleum Fund appointed pursuant to Article 8;	We suggest replacing the term "investment managers" with "external managers"
(c) advising the Minister on the performance of the investment manager or managers and making recommendations to the Minister on the appointment or removal of investment managers; and	We suggest replacing the term "investment managers" with "external managers"
(d) advising the Minister on the need for changes in the overall investment strategy or management of the Petroleum Fund, including the making of recommendations as to such changes.	
10.2 Subject to Article 10.3, the Minister shall seek the advice of the Investment Advisory Board before making a decision on any matter relating to the investment strategy or management of the Petroleum Fund. If the Investment Advisory Board does not provide the	We believe that the words "in a timely manner, having regard to the nature of the advice sought" should be replaced with "within 15 days or such longer time as the Minister shall determine"

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advice requested in a timely manner, having regard to the nature of the advice sought, the Minister shall make the decision.	
10.3 If, having regard to the nature of the decision, there is insufficient time to seek the advice of the Investment Advisory Board in relation to a particular decision, the Minister shall make a decision without first seeking the advice of the Investment Advisory Board.	
10.4 If the Minister makes a decision under Article 10.2 or 10.3, the Minister shall immediately report the making of the decision to the Investment Advisory Board. The Minister shall reexamine the decision having regard to any subsequent advice provided by the Investment Advisory Board.	
10.5 Any advice given by the Investment Advisory Board on investment strategy or management of the Petroleum Fund shall take into account:	
(a) the overall objective that the Petroleum Fund be a fund of income from the exploitation of non-renewable petroleum resources for the benefit of current and future generations;	
(b) the current conditions, opportunities and constraints in investment markets, and the constraints under which the Central Bank and other key institutions in Timor-Leste operate; and	
(c) the need to ensure that sufficient amounts are available when needed for transfers referred to in Article 7.	
10.6 The members of the Investment Advisory Board shall be:	
(a) the Director of Treasury;	
(b) the Head of the Central Bank;	
(c) two persons appointed by the Minister with significant experience in investment management; and	
(d) one other person appointed by the Minister.	
10.7 The Central Bank shall provide the secretariat for the Investment Advisory Board and any support required by the board to carry out its functions.	
10.8 The Minister shall provide, in accordance with Timor-Leste law:	
(a) a person to sit on the secretariat of the Investment Advisory Board; and	
(b) appropriate remuneration for the members of the Investment Advisory Board appointed under Article 10.6(c) and 10.6(d).	
10.9 The Investment Advisory Board shall determine the rules of procedure under which it operates.	
10.10 When required by Parliament, the Government shall provide Parliament with all advices given thereto by the Investment Advisory Board. The Minister shall ensure that in releasing, or allowing access to, advices given thereto, measures are taken to prevent the disclosure of confidential information.	
Article 11: No Encumbrances on the Assets of the Petroleum Fund	
11.1 Any amount that is invested pursuant to Article 9 shall, at all times, remain the property of Timor-Leste.	

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11.2 Any contract, agreement or arrangement, to the extent that it purports to encumber the assets of the Petroleum Fund, whether by way of guarantee, security, mortgage or any other form of encumbrance, is null and void.	
Chapter IV – Supervision of the Petroleum Fund	
Article 12: Maintenance of Petroleum Fund Accounts and Records	
12.1 The Director of Treasury is responsible for maintaining the Petroleum Fund accounts and records in accordance with the International Accounting Standards in force, to reflect the operations and financial condition of the Petroleum Fund.	
12.2 The Director of Treasury shall submit to the Minister quarterly management information reports and analyses on the performance and activities of the Petroleum Fund no later than twenty (20) days after the end of each quarter.	
12.3 The Director of Treasury is responsible for reporting on the performance and activities of the Petroleum Fund for the purpose of the annual financial statements of Timor-Leste.	
Article 13: Internal Audit	
The accounts, records, and financial statements of the Petroleum Fund shall be audited every six months by the Government bodies responsible for the internal audit of the concerned Government departments.	We believe that it is the duty of the external auditors to provide financial audits, and it is the duty of internal auditors to provide assurance concerning the systems and procedures. Accordingly, we suggest the following: "The duties of the Internal Auditor shall include: (a) evaluating the quality of existing and proposed management and financial control systems; (b) testing the operation of those systems and the reliability and integrity of information and transactions generated; (c) testing the adequacy of controls for safeguarding the assets of the Fund and, when appropriate, verifying the existence of assets; (d) testing compliance with laws, regulations, administrative directions, Rules, Instructions, Guidelines, orders and policies governing the Fund's operations; (e) performing special reviews when requested by the Minister, and (f) liaising with the auditors of the Fund."
Article 14: Annual Report	
14.1 The Minister/Government shall submit an Annual Report for the Petroleum Fund for a fiscal year to Parliament, at the same time as the annual financial statements of that year are submitted to Parliament.	
14.2. The Annual Report for the Petroleum Fund shall be prepared in a manner that makes it readily adaptable for public information, and shall contain the following information for the fiscal year for which the Report is prepared:	
(a) audited financial statements conducted by the independent auditor, comprising:	
(i) an income and expenditure statement;	

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(ii) a balance sheet, including a note listing the qualifying instruments of the Petroleum Fund;	
(iii) details of all appropriations and transfers from the Petroleum Fund; and	
(iv) notes to the financial statements, as appropriate;	
(b) a report signed by the Minister describing the activities of the Petroleum Fund in the year, including all advice provided by the Investment Advisory Board, any reports prepared by the independent auditor under Article 20 and drawing attention to particular issues or matters that may be of concern or interest to Parliament;	
(c) a statement by the Treasurer drawing attention to any accounting issues or practices arising from the Report that may materially affect the interpretation of amounts or activities shown within it;	
(d) the income derived from the investment of Petroleum Fund assets during the fiscal year compared with the income of the previous three fiscal years;	
(e) a comparison of the nominal income realized on the investment of Petroleum Fund assets with the real return after adjusting for inflation;	
(f) a comparison of the income derived from the investment of Petroleum Fund assets with the benchmark performance indices provided to the Minister pursuant to Article 10.1;	
(g) a comparison of the estimated sustainable income for the fiscal year with the sum of transfers from the Petroleum Fund for the year;	
(h) in the event of Government borrowings, the liabilities shall be reflected in the presentation of Petroleum Fund accounts so as to give a true representation of the past and expected future development of the Government's net financial assets and rate of savings; and	
(i) a list of persons holding positions relevant for the operation and performance of the Petroleum Fund, including:	
(i) the Minister;	
(ii) the Director of Treasury;	
(iii) the members of the Investment Advisory Board;	
(iv) the investment manager or managers;	
(v) the Head of the Central Bank; and	
(vi) the members of the Petroleum Fund Consultative Council.	
16.8 Members of the Petroleum Fund Consultative Council have security of tenure and, unless otherwise provided for by law, may not be suspended, retired or removed from office.	
16.9 The appointment of a member of the Petroleum Fund Consultative Council ceases if the member:	
(a) is declared bankrupt or insolvent;	
(b) is convicted of a criminal offence; or	
(c) is unfit for office.	
[16.10 Until such time as specific procedures for the removal of a member under paragraph (c) of Article 16.9 are established by law, the procedures applicable for the removal of judges	We believe that this law is the correct place for determining these provisions.

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shall apply.]	
Article 17: Working Principles and Powers of the Petroleum Fund Consultative Council	
17.1 In conducting its activities, the Petroleum Fund Consultative Council shall take into account:	
1. the overall objective that the Petroleum Fund be a fund of income from the exploitation of non-renewable petroleum resources for the benefit of current and future generations; and	
2. the principles for the operation of the Petroleum Fund as outlined in this present Act.	
17.2 When:	
(a) the Government introduces legislation to Parliament to appropriate an amount from the Petroleum Fund, and	
(b) the amount the legislation would appropriate in the fiscal year is greater than the estimated sustainable income of the Petroleum Fund for the fiscal year,	
the Petroleum Fund Consultative Council shall submit, in a timely manner, an opinion to the Parliament on the Government's proposed appropriation. If the Petroleum Fund Consultative Council does not provide its opinion in a timely manner, Parliament shall make the decision.	We believe that it may be appropriate to review the use of the word "timely"
17.3 Parliament shall provide for the publication of the advices of the Petroleum Fund Consultative Council, including minority opinions, in such form and manner as may be adapted for public information. Parliament shall ensure that in releasing, or allowing access to, advices of the Petroleum Fund Consultative Council measures are taken to prevent the disclosure of confidential information.	
17.4 For purposes of advising Parliament, the Petroleum Fund Consultative Council shall consult widely in the community and, to this end, shall hold an annual forum on issues relating to the Petroleum Fund.	
17.5 The Petroleum Fund Consultative Council shall determine the rules of procedure under which it will operate.	
17.6 Parliament shall provide adequate funding for the operations of the Petroleum Fund Consultative Council, including appropriate remuneration for members of the Petroleum Fund Consultative Council, through the budgetary appropriation for the operation of Parliament.	
17.7 The Minister and/or the Head of the Central Bank shall furnish the Petroleum Fund Consultative Council with information it requests on any aspect of the operation or performance of the Petroleum Fund for the purpose of its monitoring of the Petroleum Fund. The Petroleum Fund Consultative Council shall ensure that measures are taken to prevent the disclosure of confidential information.	
Chapter VI – Transparency	
Article 18: Transparency as a Fundamental Principle	
18.1 The management of the Petroleum Fund shall always be carried out, and the related duties of all relevant parties shall be discharged, with the highest standard of transparency. Unless it is demonstrated that certain information should be treated as confidential, it shall be	We are fully committed to the concept of transparency. Nonetheless we are concerned that the "highest standard" is logically the revelation of everything. The central bank must have the capacity to undertake market operations with the Fund's

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deemed susceptible of public release.	assets without feeling that its every move must be made public, which could adversely influence the return on the Fund. We therefore suggest that consideration be given to not so much emphasising that "confidentiality" is the criterion, but perhaps to consider the withholding of information that if released could adversely affect the value of the Fund. We wish to avoid the interpretation that illegal payments could be suppressed because they would naturally be considered confidential.
18.2 In the exercise of its functions and competences, and as provided for in this present Act, Parliament, the Government, the Minister, Central Bank, Investment Advisory Board and the Petroleum Fund Consultative Council shall take all necessary measures to ensure transparency mechanisms and free access to public information.	
18.3 The Minister shall ensure that this present Act, any subsidiary legislation made thereunder, any instructions relating to the Petroleum Fund, the management agreement referred to in Article 8.3 and the reports referred to in Article 7.3 and 7.4 are readily available to the public.	
Article 19: Payments into the Petroleum Fund Account	
For all purposes of Timor-Leste law, a payment made as a Petroleum Fund receipt shall not be treated as paid unless it has been deposited, fully and effectively, in the Petroleum Fund earmarked receipts account.	We believe that the phrase "payments made as Petroleum Fund receipts" is not clear since it implies the two-way transfer of funds. We suggest that the term "receipts" be adopted to make the wording consistent with the definitions in Article 6. Accordingly, we suggest: "An obligation to make a payment into the Fund under this law shall not be treated as discharged until the funds have been received unconditionally into the Petroleum Fund earmarked receipts bank account."
Article 20: Payments made as Petroleum Fund Receipts	
20.1 The independent auditor shall prepare a report for the Minister of all payments made as Petroleum Fund receipts for each fiscal year.	We suggest replacing the term "payments made as Petroleum Fund receipts" with "Petroleum Fund receipts other than from investment activities" to avoid having to disclose the individual dividends and interest receipt from potentially hundreds of small investments, the overall reporting of which is sufficiently covered under the financial reporting and auditing provisions.
20.2 The independent auditor's report shall state the aggregate amounts of payments made as Petroleum Fund receipts for each payer for the fiscal year.	
20.3 If there are reasonable grounds for the independent auditor to believe that there is a discrepancy between the Petroleum Fund receipts and the payments made as Petroleum Fund receipts, the independent auditor may require any payer to provide any information and to make proof of facts necessary for the clarification of such discrepancy.	We believe that this clause should be widened to allow the auditors of the Fund to obtain such information and explanations from all parties (including taxpayers and their auditors) as they may require to verify that the receipts of the Fund have been accurately accounted for and paid into the Fund. We believe that the auditors should undertake such work whether or not they suspect there may be a discrepancy.
20.4 If the independent auditor concludes that there is a discrepancy that cannot be accounted for, the independent auditor shall refer the matter to the Minister. In referring the matter to the Minister, the independent auditor shall provide all information that the independent auditor	

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possesses regarding the discrepancy in question.	
20.5 The Minister shall provide for the publication of the independent auditor's report in such form and manner as may be adapted for public information. The independent auditor shall ensure that in preparing the report measures are taken to prevent the disclosure of confidential information.	We believe that all audit reports should be made public in full without adaptation, and that the auditors should not be restricted in what they report.
Chapter VII – Penalties	
Article 21-A: Scope	
The provisions included in this Chapter are without prejudice of criminal and civil liability under general law.	
Article 21-B to "n":	
[To be drafted at a later stage, taking into account the developments in the general penal regime which are expected to take place in the near future.]	We believe that these provisions should be drafted now and included in the present law.
Chapter VIII – Transitional and Final Provisions	
Article 22: Appointment of Investment Managers	
The requirement of Article 8.6 enters into force six (6) months after the date of entry into force of this present Act, and shall apply to all appointments of investment managers made thereafter. Any appointment of investment managers made during the six (6) months after the date of entry into force of this present Act shall lapse after the five (5) year period referred to in Article 9.6.	We believe that the appointment of investment managers should be subject to this law from the start. Accordingly we suggest that this Article be deleted.
Article 23: Independent Auditor	
Once the hierarchy of the administrative, tax and audit courts is established, and without prejudice of the powers and competences of such courts, there shall be appointed an independent auditor, which will be an internationally recognized accounting firm selected by the Government.	As worded, this article suggests that there shall be no auditors in the initial years. We suggest the following changes: 1. That in addition to any auditors required by law to audit government monies, that internationally recognised independent auditors shall be appointed. 2. That the auditors, once appointed, should not be able to be removed except for good cause (e.g. collapse of Arthur Andersen) until their contract has been completed.
Article 24: Subsidiary Laws and Regulations	
The Government and the Minister may make regulations for the effective carrying out of the provisions of this present Act including regulations of a transitional nature consequent upon the making of this present Act.	