

**TRANSLATION OF THE OFFICIAL PUBLICATION OF SINT MAARTEN (AB 2010, GT no. 24)**

**EXPLANATORY MEMORANDUM  
on the National ordinance establishing the framework for the central bank,  
monetary system, foreign exchange and exchange rates**

**Objective and purport**

The purpose of this draft is to regulate the entry into force of the following mutual arrangements:

- Central Bank Charter for Curaçao and Sint Maarten;
- Common Monetary System Regulation for Curaçao and Sint Maarten;
- Foreign Exchange Regulation for Curaçao and Sint Maarten;
- Caribbean Guilder Exchange Rate Regulation.

**Background and reasons**

In connection with the new political status for the island territories forming part of the Netherlands Antilles, which took effect on 10 October 2010, it is necessary to regulate the monetary system and supervision of this.

In the final agreement of 2 November 2006, the island territories of Curaçao and Sint Maarten agreed that there would be a single common central bank for Curaçao and Sint Maarten when they obtained the status of 'country' within the Kingdom of the Netherlands. At the same time, it was agreed that there would be a single supervisory authority (i.e. a common central bank) for the monetary supervision, business economic supervision and supervision of integrity and that uniform legislation on the central bank and supervision would apply in the future countries. Curaçao and Sint Maarten then reached further agreements on a joint central bank and the relevant regulations. These agreements, taking account of the fact that two different countries are involved here, included the following:

- a common central bank would be set up as a public legal person;
- there would be a single currency region with a common currency, in a fixed exchange rate relationship to the US dollar;
- the primary task is supervision of the financial sector (i.e. monetary supervision, business economic supervision and supervision of integrity) in both countries;
- this supervision serves to maintain the external value of the currency and the health of the financial system;
- decision-making by the countries will take place on a parity basis.

In order to prepare for the introduction of a common central bank, a common currency, a common foreign exchange system and the determination of the exchange rate, the island territories formed a commission known as the Common Central Bank Commission, consisting of representatives of each island territory and the Bank of the Netherlands Antilles.

**Legal basis**

Article 88 of the Constitution of Curaçao provides that the monetary system shall be regulated by national ordinance. Article 100(1) of the Constitution of Sint Maarten provides that there shall be a central bank that supervises the monetary system. Other tasks may be assigned to this central bank by national ordinance. The second paragraph provides that the monetary system shall be regulated by or pursuant to national ordinance.

Agreements must be reached with regard to the design of the central bank, the monetary system, foreign exchange and the determination of exchange rates, which are laid down in mutual arrangements (as referred to in Article 38(1) of the Charter for the Kingdom of the Netherlands.

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A mutual arrangement is effective only between the countries that reach the agreements, but is not automatically effective in the legal system of those countries. In order to be effective, the mutual arrangements must be embedded in law. The aforementioned mutual arrangements will be embedded in the legal system of each country through this national ordinance establishing the framework. This framework establishment national ordinance provides that the said matters shall be regulated by mutual arrangement and that those mutual arrangements are realised only if that regulation is enacted by national ordinance (by each of the countries concerned).

In principle, the procedure for establishment by national ordinance is less rigid and time-consuming than uniform national ordinances in which the regulations are laid down in an integrated manner. The establishment national ordinance ensures that the national legislators are involved in the establishment of the mutual arrangements. With this establishment national ordinance, therefore, the relevant mutual arrangements gain the force of law. As a result, they will automatically enter into force within the national legal system of each country.

**Article by Article section**

The Articles require no further explanation.

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