

TRANSLATION OF THE OFFICIAL PUBLICATION OF SINT MAARTEN

Mutual arrangement as referred to in Article 38(1) of the Charter for the Kingdom of the Netherlands, regulating foreign currency transactions for Curaçao and Sint Maarten (Regulation foreign currency transactions for Curaçao and Sint Maarten).

CURAÇAO and SINT MAARTEN,

Having taken into consideration that:

Article 88 of the Constitution of Curaçao provides that the monetary system shall be regulated by national ordinance and Article 100 of the Constitution of Sint Maarten provides that the monetary system shall be regulated by or pursuant to national ordinance;

It was agreed in the closing accord on 2 November 2006 that there shall be a single central bank for Curaçao and Sint Maarten with a single set of laws and a single supervisory authority for monetary supervision, financial supervision and supervision of integrity;

Curaçao and Sint Maarten reached agreements in principle on 26 November 2008 concerning a joint central bank and the relevant legislation;

in any event the following was agreed in the agreements in principle:

- that a joint central bank shall be set up as a public legal entity;
- that there shall be a single currency area with a common currency, in a fixed exchange rate with the US dollar;
- that the main task is supervision of the financial sector in both countries, including monetary supervision, business-economic supervision and supervision of integrity;
- that this supervision serves the maintenance of the external value of the currency and the health of the financial system;
- that decision-making by the countries shall take place on the basis of parity between the countries.

Have agreed as follows:

CHAPTER 1 Definitions

Article 1

The following definitions apply for the application of the provisions of or pursuant to this regulation:

1. residents:
 - a. natural persons who are domiciled in the country of Curaçao or the country of Sint Maarten and recorded in the population registers or who have actually resided in the country of Curaçao or the country of Sint Maarten for more than one year since the date of their arrival, as soon as that year has passed;
 - b. legal entities, commercial partnerships and limited partnerships established in the country of Curaçao or the country of Sint Maarten;
 - c. branches, sub-offices, companies and agencies established in the country of Curaçao or the country of Sint Maarten, to the extent that these are not covered in b.;
 - d. administrative authorities and services established in the country of Curaçao or the country of Sint Maarten;
 - e. the persons, legal entities and other institutions designated by the Central Bank of Curaçao and Sint Maarten, to the extent that these are not covered by a, b, c and d.
2. non-residents:
 - a. natural persons, legal entities, commercial partnerships, limited partnerships, branches, sub-offices, companies and agencies not covered by the description of residents;
 - b. diplomatic and consular representations of foreign powers and international organisations in the country of Curaçao or the country of Sint Maarten;

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- c. the diplomatic, professional consular and administrative civil servants attached to the representations referred to in b., holding foreign nationalities, their spouses and children living with them;
- 3 gold:
gold coins, fine gold, gold alloys (unprocessed and semi-manufactures);
- 4. precious metals:
silver, platinum and platinum metals (unprocessed and semi-manufactures);
- 5. gems:
diamonds and similar gems (in raw or semi-processed condition);
- 6. negotiable financial instruments:
cheques, bills of exchange, promissory notes and similar negotiable instruments, as well as travellers' letters of credit and credit cards, with the exception of securities;
- 7. legal tender:
coins (with the exception of gold coins), banknotes and similar media of exchange;
- 8. receivables:
debts expressed in money, to the extent that these are not embodied in negotiable instruments or securities;
- 9. securities:
 - a. share certificates, bonds, mortgage bonds, certificates of deposit fractions, participation certificates, profit-sharing certificates, founder's shares, share purchase warrants, treasury bills, records in registers of debts and of shares and similar negotiable instruments and rights;
 - b. certificates or depositary receipts for the negotiable instruments and rights referred to in sub-paragraph a.;
 - c. provisional certificates or scripts of the negotiable instruments referred to in sub-paragraphs a. and b.;
- 10. foreign securities:
securities other than those issued by or for public-law entities of the country of Curaçao or the country of Sint Maarten, or private-law legal entities, commercial partnerships and limited partnerships registered in the country of Curaçao or the country of Sint Maarten;
- 11. goods:
moveable goods, within the meaning of the Civil Code of each country, with the exception of gold, precious metals, gems, legal tender, negotiable instruments, securities and documents embodying receivables;
- 12. offshore company:
a public limited liability company or private limited liability company registered in the country of Curaçao or the country of Sint Maarten, the objective of which, according to its articles of association, is pursued on the instructions of and for one or more non-residents or the company itself, with resources belonging to one or more non-residents or the company itself and the issued shares of which are owned by one or more non-residents or by a public limited liability company or private limited liability company designated as non-resident by or pursuant to this regulation;
- 13. exchange office:
an institution that buys and sells foreign legal tender, cheques, travellers' letters of credit and credit card receivables;
- 14. foreign exchange bank:
a bank authorised to operate as a foreign exchange bank pursuant to Article 9(3) of the Central Bank charter for Curaçao and Sint Maarten (PB xxxx, xxx);
- 15. abroad:
the area outside the country of Curaçao and the country of Sint Maarten;
- 16. guilder:
the Caribbean guilder;
- 17. Bank:
the Central Bank of Curaçao and Sint Maarten;
- 18. Country:
the country of Curaçao or the country of Sint Maarten;
- 19. Countries:
the country of Curaçao and the country of Sint Maarten.

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CHAPTER II General provisions

Article 2

1. The governments of the countries are responsible for the general foreign exchange policy.
2. The Bank is responsible for the execution of this regulation, at the risk and expense of the Countries.

Article 3

1. The Bank observes the value of the Caribbean guilder, as laid down in the Caribbean Guilder Exchange Rate Regulation, in determining exchange rates for foreign currencies.
2. The exchange rates for foreign currencies fixed by the Bank are applied in payments by the Bank, the foreign exchange banks and the exchange offices.

Article 4

1. If required in the interests of public management, the Minister of Finance of a Country may impose rules by national decree financial transactions with persons, groups of persons, organisations, companies, institutions, entities or countries, as designated in that decree, the goods designated in that decree, within the meaning of Article 1 of Book 3 of the Civil Code of each Country.
2. If required in the interests of the international rule of law or the execution of an international agreement or obligation, the Ministers of Finance shall jointly impose rules by uniform national ordinance financial transactions with persons, groups of persons, organisations, companies, institutions, entities or countries, as designated in that decree, respectively the goods to be designated in that decree, within the meaning of Article 1 of Book 3 of the Civil Code of each Country.
3. The rules referred to in paragraphs 1 and 2 may relate to:
 - a. the freezing of goods, by direct or indirect means;
 - b. the authority to perform management or issue orders in relation to funds or assets held by institutions or credit institutions established in the Countries, as referred to in the uniform national ordinance supervisory rules for the banking sector and credit system or other financial institutions;
 - c. the authority to make direct or indirect payments or to provide capital or other financial resources,and shall contain general guidelines that the Bank must observe in exercising the powers afforded to it by or pursuant to this regulation.
4. The rules referred to in paragraph 3 may contain general guidelines that the Bank must observe in exercising the powers afforded to it by or pursuant to this regulation.
5. On request, after taking advice from the Bank, the Ministers of Finance and the Ministers of Justice of the Countries may jointly grant dispensation or exemption from the obligation to comply with the rules laid down pursuant to paragraphs 1 and 2. The dispensation or exemption may be made subject to restrictions and conditions.

Article 5

1. In an urgent case, the rules referred to in Article 4(1) and 4(2), may be laid down by administrative decisions of the Ministers of Finance. Unless withdrawn earlier, such decisions remain in effect until such time as a national decree, containing general measures, concerning the same subject, has entered into force pursuant to Article 4(1) and 4(2), but not for longer than six months after the day on which it has entered into force.
2. Administrative decisions issued pursuant to paragraph 1 shall be recorded in the journals in which each Country places its official notices.

Article 6

The conditions, rules and provisions laid down by or pursuant to this Regulation do not apply to the Bank, to the extent that this concerns securities that the Bank holds on its own account or for the account of the Countries.

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Article 7

1. The foreign exchange banks are subject to the supervision of the Bank in relation to the performance of their work in compliance with the conditions, rules and provisions laid down by or pursuant to this regulation.
2. The Bank is authorised to issue instructions to the foreign exchange banks in relation to the performance of their work, referred to in paragraph 1; these instructions form part of the conditions under which these banks are authorised to operate as foreign exchange banks.

Article 8

1. The Bank is authorised to grant persons or institutions authorisation to operate as an exchange office under a licence, subject to the conditions that it imposes.
2. In performing their work, the exchange offices shall observe the instructions, referred to in Article 7, to the extent that this applies to their work; the instructions form part of the conditions under which the authorisation, referred to in paragraph 1 is granted.
3. Exchange offices are subject to the supervision of the Bank with regard to the performance of their work.

Article 9

1. Everyone is required to provide the Bank, on request, with all information and data that are of importance for the preparation of the balance of payments.
2. By way of derogation from the provisions of Article 1, transactions between residents of the Countries are deemed to be balance of payments transactions of the individual countries in the preparation of the balance of payments.
3. The Bank is authorised to issue administrative orders in order to obtain the information and data, referred to in paragraph 1.

CHAPTER III Payments

Article 10

1. Current payments consist of payments and receipts from and to non-residents for goods, services, income and income transfers that are sub-divided into rules or provisions laid down by or pursuant to this Regulation.
2. The foreign payments, referred to in paragraph 1 of this Article, are in principle free; this freedom may be restricted by conditions, rules or provisions laid down by or pursuant to this Regulation.
3. If the Bank takes the view that, as a result of foreign payments, the foreign currency reserve position of the Countries has been seriously harmed or that there is a threat of such a development, the Bank may lay down rules regarding the payments and receipts, referred to in paragraph 2; these rules may include the prohibition of payment or receipt of designated payments without a licence.

Article 11

1. Apart from the payments, referred to in Article 10, all other foreign payments, including capital transactions, are prohibited without a licence.
2. The performance of, or assistance in actions relating to, or that lead to the payments and capital transactions, referred to in paragraph 1, and the provision of guarantees, surety and other security for the performance or assistance in such actions is prohibited for residents, other than pursuant to a licence.

Article 12

Except in the case of dispensation, payments to non-residents must be made in a foreign currency and must be charged to an account denominated in that currency, held in the name of the Bank or of a foreign exchange bank, or must be credited to an account denominated in that currency and held in the name of the non-resident in the books of the Bank or of a foreign exchange bank.

Article 13

1. If residents have not sold their foreign negotiable instruments or foreign receivables, or have not issued these for collection and transferred them to a foreign exchange bank, they are required to provide for collection of their foreign negotiable instruments or foreign receivables

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without delay, as soon as a negotiable instrument becomes payable or a receivable becomes exigible.

2. The collection, referred to in paragraph 1, must take place either by providing for the amount receivable to be deposited in a foreign account in the name of the Bank or in the name of a foreign exchange bank or by providing for the payment of the amount receivable from a credit balance of a non-resident or of the Bank, or of a foreign exchange bank.
3. If the collection of a foreign negotiable instrument or a foreign receivable takes place in the manner, referred to in paragraph 2, crediting of the relevant amount in a foreign currency account in the name of the resident at the Bank or at a foreign exchange bank is permitted.
4. Dispensation may be granted from the provisions of this Article.

Article 14

Other than pursuant to a licence, residents are not permitted to keep a credit balance in Caribbean guilders in their books, of any description, for or in the name of a non-resident, to the extent that this credit balance arises or arose through a transfer from foreign countries or through a deposit of Caribbean guilders or foreign currency by or on the instructions of non-residents.

Article 15

Other than for travel purposes, no-one is permitted to export legal tenders other than under a licence.

Article 16

1. Residents are not permitted to import or export precious metals, gold, gems, securities and similar assets other than under a licence.
2. Subject to dispensation, residents are required to deposit their foreign securities in safe custody:
 - a. within the Countries: at the Bank or at a foreign exchange bank;
 - b. abroad: with a non-resident, for addition to a deposit in the name of the Bank or in the name of a foreign exchange bank.
3. With regard to securities to be deposited in safe custody that are provided with coupon sheets or dividend coupon sheets, the deposit of such coupon sheets or dividend coupon sheets in safe custody in the manner, referred to in paragraph 2, will suffice.

CHAPTER IV Licences

Article 17

1. To the extent that a licence or dispensation is required by or pursuant to this Regulation for the performance or assistance in actions, the Bank is authorised to grant the licence or dispensation.
2. If a licence or dispensation is required by or pursuant to this Regulation for certain actions that tend to be performed repeatedly, the Bank may grant a general licence or dispensation for the performance of, or assistance in such actions.
3. A licence or dispensation may be granted subject to conditions; if a condition is not met, the licence or dispensation is deemed not to have been granted.
4. Obligations may be attached to a licence or dispensation.

Article 18

1. The Bank shall grant the licence or dispensation, referred to in Article 17(1) and 17(2), if the requirements laid down in the rules of the Bank concerning integrity are met. The Bank shall provide for the disclosure of these rules.
2. Anyone who is granted a licence or dispensation by or pursuant to this regulation is required to comply with the requirements laid down by or pursuant to this regulation for obtaining the licence or dispensation, and to continue to comply with the conditions laid down by, and the obligations associated with the licence or dispensation.

Article 19

If, in the view of the Bank, exceptional conditions pertain, the Bank may grant a licence or dispensation for the performance of or assistance in an action after the event; this licence or

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dispensation is deemed to have been granted at the time of the performance of, or assistance in that action.

Article 20

Licenses or dispensations required by or pursuant to this regulation for the performance of, or assistance in an action may be requested from and granted to anyone, who is party to, or assists in such an action. If the licence is granted, it applies for all persons who are party to or assist in the action.

Article 21

1. The licence-holder or the person with dispensation is required to comply, and to continue to comply with rules concerning integrity, to be laid down by the Bank.
2. In order to implement recommendations, warnings and regulations of international or inter-governmental organisations, the Bank may issue rules for the institutions under its supervision pursuant to this regulation, which are required to comply, and to continue to comply with such rules.
3. The Bank shall provide for the disclosure of the rules, referred to in paragraphs 1 and 2, including the posting of those rules on the Bank's website, stating the issue date.

Article 22

1. The Bank may withdraw the licence or dispensation if:
 - a. the licence-holder or the person granted dispensation requests their withdrawal. The Bank shall issue a decision on such a request within 60 days of its receipt;
 - b. the data or documents provided in order to obtain the licence or dispensation prove to be inaccurate or incomplete, to the extent that a different decision would have been taken on the application if the correct circumstances had been fully known in the assessment of the application;
 - c. circumstances arise or facts become known on the basis of which the licence or dispensation would have been refused if these had arisen or been known before the date on which the licence or dispensation was granted;
 - d. the licence-holder or person granted dispensation is deceased;
 - e. the licence-holder or person granted dispensation is in liquidation;
 - f. the licence-holder or person granted dispensation has been declared bankrupt or has been issued a mandatory liquidation order;
 - g. the licence-holder or person granted dispensation abuses or makes improper use of the licence or of the dispensation;
 - h. the licence-holder or person granted dispensation does not, or no longer complies with the obligations laid down by or pursuant to this regulation.
2. The Bank shall serve the decision to withdraw the licence or dispensation, or the refusal to withdraw the licence or dispensation on the person concerned by bailiff's writ.
3. As soon as a decision to withdraw a licence has become final, the Bank shall publish the decision and, if it considers this necessary in the interests of financial transactions, the reasons for the withdrawal, in the journals in which each Country publishes official notices. If it considers this necessary in the interests of financial transactions, the Bank may also announce the decision and the reasons for the withdrawal, referred to in the first sentence, in another manner, as it sees fit. The costs of the announcement shall be borne by the party from which the licence or the dispensation is withdrawn.
4. The Bank may postpone the publication referred to in paragraph 3 to a date that it shall fix if the announcement could cause serious harm to the interests of the interested parties.

CHAPTER V Offshore companies

Article 23

If the Bank grants an offshore company dispensation from the conditions, rules and provisions laid down by or pursuant to Articles 10, 11, 12, 13, 14, 15 and 16, it may declare that the offshore company is deemed to be a non-resident with regard to payments.

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Article 24

1. If the Bank has issued dispensation and the declaration, referred to in Article 23, the provisions of Article 26 do not apply to the relevant offshore company unless the bank reasonably suspects action in contravention of the conditions subject to which the dispensation, referred to in Article 23, is granted.
2. If the bank establishes, on the basis of the investigation in compliance with the provisions of Article 78, that one or more of the conditions, referred to in Article 23, have been contravened, it may withdraw the dispensation at least three months after notifying the legal representative of the relevant offshore company of its intention to do so, by registered mail.

CHAPTER VI Special provisions

Article 25

All documents drawn up in connection with the application of and compliance with the provisions laid down by or pursuant to this Regulation are free of seals and of the formality of registration.

Article 26

1. Unless provided otherwise by this Regulation, no compensation shall be paid for damages resulting from the conditions, rules and provisions laid down by or pursuant to this Regulation.
2. If an action, for which a licence or dispensation is required, is performed without a licence or dispensation, the parties with an interest in the action may not invoke the absence of the licence or dispensation against each other.

Article 27

1. Data and information concerning individual residents and non-residents, provided or obtained as a result of the provisions laid down by or pursuant to this regulation, and data and information received from an institution as referred to in Article 28(1) and 28(2), shall not be published and are confidential.
2. Everyone who performs any task on the grounds of the application of this regulation or decisions taken pursuant to this regulation is forbidden to make any further or other use of data or information provided pursuant to this regulation or received from an institution as referred to in Article 28, or of data or information obtained in the investigation of books, documents or other information carriers, or to publish or otherwise disclose this, beyond what is required for the performance of that task or by this regulation.
3. By way of derogation from the provisions of paragraphs 1 and 2, the Bank is authorised, in the interests of financial transactions, to report suspicions of criminal offences. In the cases in which the Bank has made a report, or in the cases in which the Bank is called to act as a witness or expert, the Bank is authorised to provide information in relation to the detection, preliminary court investigation or the hearing of the case in court.
4. By way of derogation from the provisions of paragraphs 1 and 2, the Bank is authorised to issue notices, making use of data or information obtained in the performance of its task mandated pursuant to this regulation, provided that these cannot be traced to individual residents and non-residents. With the written consent of the resident or non-resident concerned, the data or information concerning individual residents or non-residents may be published.
5. By way of derogation from paragraphs 1 and 2, the Bank is authorised to inform the notification points referred to in the national ordinances concerning reporting of unusual transactions if it discovers facts in the performance of its task mandated pursuant to this regulation which give rise to suspicions of money laundering or financing of terrorism.

Article 28

1. By way of derogation from Article 27(1) and 27(2), the Bank is authorised to provide data or information obtained in the performance of its task mandated pursuant to this regulation to government agencies of the Countries or foreign government agencies, or to other agencies in the countries or abroad, designated by the government, which are responsible for supervision of the financial markets or of legal entities, partnerships or natural persons operating in those markets, unless:
 - a. the purpose for which the data or information will be used is insufficiently determined;

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- b. the envisaged use of data or information is not consistent with supervision of financial markets or of legal entities, partnerships or natural persons operating in those markets;
 - c. the provision of the data or information would be inconsistent with the legal regulations or the public order of the Countries;
 - d. the confidentiality of the data or information is insufficiently assured;
 - e. the provision of the data or information reasonably is in conflict with, or could potentially conflict with the interests that this regulation serves to protect;
 - f. there is insufficient assurance that the data or information will not be used for a purpose other than that for which they are provided.
2. By way of derogation from Article 27(1) and 27(2), the Bank is authorised to provide data or information obtained in the performance of its task, mandated pursuant to this regulation, to the Department of Public Prosecutions of each Country, the notification points referred to in the national ordinances concerning reporting of unusual transactions, or other authorities responsible for detection and prosecution, to the extent that, in the view of the Bank, those data or information are or could be of importance for the investigations of, or investigations still to be opened by the Department of Public Prosecutions of each country, the notification points referred to in the national ordinances concerning reporting of unusual transactions, or other authorities responsible for detection and prosecution.

Article 29

1. In order to implement treaties on the exchange of data or information, or to implement binding decisions of organisations governed by international law in relation to the supervision of the financial markets or of legal entities, partnerships or natural persons operating in those markets, the Bank may, for an institution operating in a state that is party to a treaty with the Countries, or that is subject to the same binding decision of an organisation governed by international law as the Countries and that is responsible in that State for the implementation of statutory regulations concerning supervision of foreign exchange transactions, request information of or open investigations or have investigations opened into any party under its supervision pursuant to this regulation or any party that can reasonably be assumed to possess data or information that could be important for the implementation of the aforementioned statutory regulations.
2. Parties requested to provide data or information as referred to in paragraph 1 shall provide those data or information within a term to be fixed by the Bank.

Article 30

1. The Bank may permit an official of a foreign institution as referred to in Article 29(1) to participate in the implementation of a request as referred to in that paragraph.
2. The person with respect to whom an investigation is opened as referred to in Article 29(1) shall provide the official, referred to in paragraph 1, with all the assistance necessary for the proper conduct of that investigation, on the understanding that the person with respect to whom an investigation is opened and who is not under supervision pursuant to this regulation is only required to provide access to commercial data and documents.
3. The official, referred to in paragraph 1, shall follow the instructions of the person responsible for conducting the investigation and is under the supervision of that person.

Article 31

1. An applicant for dispensation from the provisions of Article 10 up to and including Article 16 owes a sum to the Bank in relation to that application.
2. The costs associated with the implementation of the provisions laid down by or pursuant to this regulation shall be charged on to the holders of licences or dispensation, foreign exchange banks or exchange offices. By national decree, containing general measures, further rules shall be laid down for the passing on of costs and the amounts referred to in this Article shall be fixed.
3. The amounts, referred to in this Article, shall be fixed at a level where the total amounts to be charged are equal to at most the costs that the Bank incurs in relation to the handling of the licence and dispensation applications and with regard to the supervision of the foreign exchange banks and exchange offices that it performs.
4. The amount due in paragraph 2 is paid within four weeks of the date of the letter imposing the payment obligation.

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5. If payment is not made, the amount due in paragraph 2 is increased by interest at the legal rate in the Country concerned, to be calculated from the date on which the term referred to in the preceding paragraph expires.
6. If the amount payable in paragraph 2 is not paid within the set term, the Bank shall send a written admonition to pay the amount plus the costs of the admonition within two weeks of the date of the admonition. The admonition shall contain notice that the amount increased by the costs of the admonition, to the extent that this amount is not paid within the set term, shall be claimed in accordance with paragraph 7.
7. In the absence of prompt payment, the Bank may collect the amount plus the costs of the admonition and of the collection by writ of execution.
8. The writ of execution shall be served by bailiff's writ at the expense of the person concerned and gives rise to an entitlement to enforcement, within the meaning of Book Two of the Code of Civil Procedure of each Country.
9. Article 64 is likewise applicable.

Article 32

A resident is not permitted to assist in an agreement or action in respect of which he knows or can reasonably be expected to know that a licence or dispensation is required for its contracting or performance on the grounds of conditions, rules and provisions laid down by or pursuant to this Regulation, unless he verified in advance that the required licence or dispensation was granted.

Article 33

1. If the licence-holder or the person to whom dispensation was granted does not comply with the obligations imposed by or pursuant to this regulation, the Bank may issue instructions to the licence-holder or the person with dispensation to comply with these within a term that it sets.
2. If the Bank does not receive a satisfactory response from the licence-holder or the person to whom dispensation was granted within the term that it set, or if, in the view of the Bank, its instructions have not been followed or have not been followed adequately, it may notify the licence-holder or the person with dispensation by registered mail that the Bank will publish the instructions, referred to in paragraph 1. Publication shall take place in the journals in which the Countries place official notices, as well as in one or more daily newspapers, at the discretion of the Bank. If the licence-holder or the person with dispensation so requires, the correspondence conducted between the Bank and the licence-holder or the person with dispensation in response to the instructions will also be published in the publication.
3. The Bank may publish the instructions, referred to in paragraph 1, only when its decision to do so has become final. If the licence-holder or the person with dispensation complies with the instructions after the publication, or the Bank withdraws the instructions, the Bank shall give notice of this in the same manner as the aforementioned publication.

CHAPTER VII Astreinte

Article 34

'Astreinte' refers to a recovery sanction involving:

- a. an order for full or partial reversal of the violation, and
- b. the obligation to pay a sum of money if the order is not carried out, or is not carried out promptly.

Article 35

1. The Bank may impose an astreinte on a licence-holder or person with dispensation who fails to comply with the obligations laid down by or pursuant to this regulation, or who fails to do so promptly.
2. The astreinte may be imposed as soon as there is an obvious threat of the violation.
3. The astreinte shall describe the recovery measures to be taken.
4. An astreinte that serves to reverse a violation or to prevent a further violation shall be accompanied by the fixing of a term within which the offender can carry out the order without being liable for a penalty.
5. A decision to impose an astreinte shall be recorded in writing and is an administrative decision.

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6. The Bank shall fix the penalty either as a lump sum or as an amount for each unit of time in which the order is not carried out or for each violation of the order. The amounts shall be in reasonable proportion to the seriousness of the interests harmed and the envisaged effect of the penalty.
7. The amount of the penalty for the different violations shall be laid down by national decree, containing general measures.

Article 36

A penalty that has fallen due shall be paid within six weeks of the date on which it becomes due by law.

Article 37

1. If an astreinte is imposed, the Bank may, at the request of the offender, revoke the order, suspend the term of the order for a particular period, or reduce the penalty in the event of the permanent or temporary inability of the offender to meet its obligations, partially or in full.
2. If an astreinte is imposed, the Bank may, at the request of the offender, revoke the order if the administrative decision has been in effect for one year without the penalty falling due.

Article 38

By way of derogation from Article 65(1), the power to collect a penalty that has fallen due is prescribed by the passage of one year from the date on which it falls due.

Article 39

To the extent that grounds for the justification of the violation existed, no astreinte may be imposed.

Article 40

1. Before issuing a warning to make payment of the penalty, the Bank shall issue an administrative decision concerning the collection of the penalty.
2. The Bank shall also issue an administrative decision concerning the collection of the penalty at the request of an interested party.
3. The Bank shall issue a decision on the request within six weeks.

Article 41

1. If it follows from an administrative decision to withdraw or alter an astreinte that an administrative decision to collect the penalty that has already been issued cannot be upheld, that administrative decision shall lapse.
2. The Bank may issue a new collection order that is consistent with the altered astreinte.

Article 42

Objections, appeals, or petitions for provisional relief against the astreinte also relate to an administrative decision serving for collection of the penalty, to the extent that the interested party contests that administrative decision.

CHAPTER VIII Administrative penalty

Article 43

An 'administrative penalty' refers to the punitive sanction involving an unconditional obligation to pay a sum of money.

Article 44

1. The Bank may impose an administrative penalty on a licence-holder or a person with dispensation who fails to comply with the obligations imposed by or pursuant to this regulation, or fails to do so promptly, for each day that he was in default.
2. The amount of the administrative penalty for the different violations shall be laid down by national decree, containing general measures and shall in any event be matched to the severity and the duration of the violation, as well as to the extent to which an accusation can be made against the offender in that regard.

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3. Before imposing an administrative penalty, the Bank shall notify the person concerned in writing of the intention to impose a penalty, stating the grounds on which that intention is based.

Article 45

No administrative penalty shall be imposed if:

- a. the violation cannot be attributed to the offender;
- b. the offender is deceased;
- c. an administrative penalty has already been imposed on the offender previously, for the same violation.

Article 46

No administrative penalty shall be imposed if criminal proceedings have been instituted against the offender for the same conduct and the inquiries in court have commenced, or the right to criminal prosecution has lapsed pursuant to Article 76 of the Criminal Code of each country.

Article 47

1. An administrative penalty shall lapse if it has not become final by the date of the offender's decease. A final administrative penalty shall lapse, to the extent that it has not yet been paid on that date.
2. An administrative penalty already imposed shall lapse if the Common Court of Justice of Aruba, Curaçao, Sint Maarten, and of Bonaire, Sint Eustatius and Saba orders prosecution of the offender for that offence, applying Article 25 of the Code of Criminal Procedure of each country.
3. The authorisation to impose an administrative penalty lapses one year from the date on which the violation took place.
4. If an objection or appeal is submitted against the administrative penalty, the prescription term is suspended until a final decision is handed down on the objection or appeal.

Article 48

1. If the persons referred to in Article 78(1) hear a particular natural person or legal entity with a view to imposing an administrative penalty on them, such persons are not required to submit statements on the violation for that purpose. The persons concerned shall be notified of this before they are requested orally to provide information in that regard.
2. If an appeal is filed against an administrative penalty, the party on which the penalty is imposed is not obliged to submit statements concerning the violation.

Article 49

1. The Bank or the persons referred to in Article 78(1) may draw up a report on the violation.
2. The report shall be dated and shall in any event contain:
 - a. the name of the offender;
 - b. the violation, as well as the rule violated;
 - c. if necessary, an indication of the location and time at which, or period during which the violation was observed.
3. A copy of the report shall be sent or handed to the offender no later than the date of the announcement of the administrative decision to impose the administrative penalty.
4. If a procès-verbal is drawn up of the violation, as referred to in Article 186 of the Code of Criminal Procedure of each country, this shall replace the report for the purposes of the application of this paragraph.

Article 50

1. At the time at which the offender is given an opportunity to present its views on the intention to impose an administrative penalty, the report shall be sent or handed to the offender together with the invitation to do so.
2. If the Bank decides, after the offender has presented its views, that:
 - a. no administrative penalty shall be imposed for the violation, or
 - b. the violation shall be submitted to the public prosecutor,the offender shall be notified of this in writing.

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Article 51

An administrative decision to impose an administrative penalty shall in any event state:

- a. the offence concerning which the penalty is imposed, as well as the rule violated;
- b. the sum of money payable, as well as an explanation of the amount; and
- c. the term, as referred to in Article 55, within which the penalty must be paid.

Article 52

The work in connection with the imposition of a penalty shall be performed by persons who were not involved in establishing the violation and the investigation preceding this.

CHAPTER IX Debts

Article 53

This paragraph applies to debts arising from the astreinte and the administrative penalty.

Article 54

1. The obligation to pay a sum of money shall be laid down by administrative decision.
2. The administrative decision shall in any event state:
 - a. the sum of money payable;
 - b. the term within which payment must take place.

Article 55

Unless Article 36 applies, payment shall take place within six weeks of the announcement of the administrative decision in the prescribed manner, unless the administrative decision shows a later date.

Article 56

1. Payment shall take place to a branch to be determined by the Bank or through crediting of a bank account designated for that purpose by the Bank.
2. Payment shall be made in Caribbean guilders, unless otherwise provided by the Bank.
3. Payment shall take place on the date on which the payment is made to the branch, or in the case of crediting, the date on which the account of the Bank is credited.
4. The costs of payment shall be borne by the debtor.

Article 57

1. The offender is in default if he has not paid within the prescribed term of six weeks.
2. The default results in interest falling due at the legal rate, in compliance with Articles 119(1), 119(2) and 120(1) of Book 6 of the Civil Code of each Country.
3. The Bank shall fix the amount of the interest payable at the legal rate by administrative decision.

Article 58

1. The Bank shall issue a debtor who is in default a written admonition to pay within two weeks from the date on which the admonition is sent.
2. The admonition shall state that in the event of failure to pay promptly, payment may be enforced by measures to collect the debt, to be implemented at the costs of the debtor.
3. The Bank may charge a fee for the admonition. The fee shall be stated in the admonition.

Article 59

1. The Bank may issue a writ of execution. The term writ of execution refers to a written order of the Bank serving to enforce payment of a debt, as referred to in Article 53.
2. A writ of execution gives rise to entitlement to enforcement that may be executed with the application of the rules of the Code of Civil Procedure of each Country.
3. A writ of execution shall be issued only if full payment has not been made within the admonition term set in compliance with Article 58.

Article 60

1. The admonition fee, interest at the legal rate and the costs of the writ of execution may also be collected with the writ of execution.

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2. The writ of execution may relate to different obligations of the debtor to pay a sum of money to the Bank.
3. The service and enforcement of the writ of execution shall take place at the expense of the person against which it is issued.
4. The costs are also due if the writ of execution is not executed, or is not executed in full, due to payments of the amounts owing.

Article 61

1. The writ of execution shall in any event state:
 - a. the term writ of execution in the heading;
 - b. the amount of the principal to be collected;
 - c. the administrative decision or legal rule from which the debt arises;
 - d. the costs of the writ of execution; and
 - e. the fact that it can be executed at the expense of the debtor.
2. If applicable, the writ of execution shall state:
 - a. the amount of the warning fee; and
 - b. the commencement date for interest at the legal rate.

Article 62

1. A writ of execution shall be announced by means of the service of a bailiff's notification as referred to in the Code of Civil Procedure of each Country.
2. The bailiff's notification shall in any event state the judicial institution at which the writ of execution and its enforcement in accordance with Articles 438 and 438a of the Code of Civil Procedure of each Country can be contested.

Article 63

With regard to the collection, the Bank also possesses the powers of a creditor under private law.

Article 64

1. The writ of execution may be contested by summoning the Bank for a period of six weeks following the date of its service.
2. Contesting of the writ leads to suspension of the enforcement. At the request of the public legal entity of Curaçao or the public legal entity of Sint Maarten, the judge may withdraw the suspension of the enforcement.

CHAPTER X Limitation

Article 65

1. The legal action for payment of a sum of money as referred to in Article 53, lapses five years after the expiration of the prescribed payment term, unless this arises from an astreinte.
2. Following the expiration of the term of limitation, the Bank may no longer exercise its powers to issue admonitions and to issue and enforce a writ of execution.

Article 66

1. The limitation is interrupted by prosecution action in compliance with Article 316(1) of Book 3 of the Civil Code of each Country. Article 316(2) of Book 3 of the Civil Code of each Country is likewise applicable.
2. Recognition of the right to payment interrupts the limitation of the legal action against the person who recognises the right.
3. The Bank may also interrupt the limitation through an admonition as referred to in Article 58 or through action for the enforcement of a writ of execution.

Article 67

1. Through the interruption of the limitation, a new term of limitation commences from the start of the following day.
2. The new term is equal to the original term, but shall not exceed five years.
3. However, if the limitation is interrupted through the institution of a claim that is subsequently granted, Article 324 of Book 3 of the Civil Code of each Country is likewise applicable.

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Article 68

1. The term of limitation of the action for payment of the Bank shall be extended by the time in which the debtor is granted an extension of the payment term following the commencement of that term.
2. Paragraph 1 is likewise applicable if:
 - a. the debtor has been granted a moratorium on payments;
 - b. the debtor has been declared bankrupt or is subject to a mandatory liquidation order;
 - c. the enforcement of a writ of execution has been suspended pending current legal action, on the understanding that the term by which the prescription is extended commences on the date on which the legal action is instituted by means of a summons.

CHAPTER XI Disclosure of violations

Article 69

By way of derogation from Article 27(1) and 27(2), the Bank may, in order to promote compliance with this regulation, publicise:

- a. its refusal to grant a requested licence or dispensation, if that refusal has become final and the applicant acts as if it had been granted the licence or the dispensation;
- b. the offence concerning which an astreinte or an administrative penalty has been imposed, the rule violated as well as the name and address of the person against which the astreinte or the administrative penalty has been imposed.

Article 70

A person against whom the Bank has taken action from which he can reasonably conclude that the Bank will publicise his actions or omissions pursuant to Article 69 is not required to make any statements in that regard. The person shall be notified of this before being requested orally to provide information.

Article 71

1. If it intends to publicise an offence pursuant to Article 69, the Bank shall notify the person concerned in writing, stating the grounds on which that intention is based.
2. The Bank is not required to give the person concerned an opportunity to present his views if no address is known for the person concerned and the address also cannot be obtained through reasonable efforts.

Article 72

The administrative decision to publicise an offence pursuant to Article 69 shall in any event state:

- a. the offence that is publicised;
- b. the manner in which the offence will be publicised;
- c. the term after which the offence will be publicised.

Article 73

Unless the promotion of compliance with this regulation brooks no delay, the effect of the administrative decision to publicise an offence pursuant to Article 69 shall be suspended until the expiration of the term for submission of objections or appeals or, if an objection or appeal is filed, until a decision has been handed down on the objection or appeal.

Article 74

The administrative decision enters into force on the date on which the offence is publicised, without suspension of its entry into force pursuant to Article 73, if no address is known for the person concerned and the address also cannot be obtained through reasonable efforts.

Article 75

1. The authority to publicise an offence pursuant to Article 69 shall lapse if criminal prosecution has commenced in relation to the offence and the investigation in court has commenced or if the right to criminal prosecution has lapsed pursuant to Article 76 of the Criminal Code of each Country.
2. The right to criminal prosecution concerning an offence, as referred to Article 69, lapses if the Bank has already publicised the offence.

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Article 76

1. The authorisation to publicise an offence pursuant to Article 69 lapses three years from the date on which the offence took place.
2. The term, referred to in paragraph 1, shall be interrupted through the announcement of the administrative decision by which the offence is publicised.

Article 77

The work in connection with the publicising of an offence pursuant to Article 69 shall be performed by persons who were not involved in the establishment of the offence and the investigation that preceded this.

CHAPTER XII Supervision and detection

Article 78

1. The officials of the Bank to be designated to that end by the President of the Bank shall be responsible for the supervision of compliance with the provisions laid down by or pursuant to this regulation, as well as the customs officers. Such appointments shall be announced in the journals in which the Countries publish their official notices.
2. The officials appointed pursuant to paragraph 1 are authorised, solely to the extent that this is reasonably necessary for the performance of their tasks, to:
 - a. request all information;
 - b. require access to all books, documents and other information carriers and to take copies of these or to temporarily remove these for that purpose;
 - c. temporarily remove goods, within the meaning of Article 1 of Book 3 of the Civil Code of each Country, for the purpose of subjecting them to recording and investigation;
 - d. inspect vessels, stationary vehicles and their cargoes;
 - e. enter all locations, including residential properties and sections of vessels intended for residence, without the explicit consent of the occupant, accompanied by such persons as they designate.
3. Title X of Book 3 of the Code of Criminal Procedure of each Country is likewise applicable to the entry of residential properties and sections of vessels intended for residence as referred to in paragraph 2(e), with the exception of Articles 155(4), 156(2), 157(2), 157(3) and the final sentence of 158(1), and on the understanding that the authorisation is granted by the Attorney-General.
4. If necessary, a location as referred to in paragraph 2(d) and 2(e) may be entered with the aid of the police.
5. Everyone is required to provide the officials designated pursuant to paragraph 1 with all assistance required pursuant to paragraph 2.

Article 79

1. In conducting the supervision, referred to in Article 78(1), the Bank may enlist the support of, or delegate the conduct of all supervision to an external expert as referred to in Article 121 of the Civil Code of each Country or to other experts, to be designated by the Bank. The Bank may charge on part or all of the associated costs to the relevant licence-holder or person with dispensation.
2. If the Bank delegates the conduct of the supervision, referred to in Article 78(1), or certain work relating to such supervision, to an external expert as referred to in Article 121 of Book 2 of the Civil Code of each Country or to another expert, that expert is required to report its findings directly to the Bank in writing and, with the consent of the Bank, to send a copy of this to the relevant licence-holder or person with dispensation.
3. At the request of the Bank, the licence-holder or person with dispensation is required to designate a recognised expert who reports directly to the Bank on the internal organisation of the licence-holder or the person with dispensation.

Article 80

1. In addition to the civil servants, referred to in Article 184 of the Code of Criminal Procedure of each Country, the officials of the Bank designated for that purpose by national decree are responsible for the detection of facts that are made punishable by or pursuant to this

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regulation. Such a designation shall be announced in the journals in which the Countries publish official notices.

2. Rules concerning the requirements with which the officials designated in accordance with paragraph 1 must comply shall be laid down by national decree, containing general measures.

CHAPTER XIII Penal provisions

Article 81

1. Action in contravention of any provision by or pursuant to Articles 3(2), 4(1), 7,(2), 8(2), 9, 10(1), 11, 12, 13(1), 14, 15, 16(1), 16(2), 18(2), 21(1), 21(2), 27(1), 27(2), 29(2), 30(2), 30(3), 32, 33(1), 78(5), 79(2) and 79(3) shall be penalised with detention of no more than one year and a financial penalty of no more than two hundred and fifty thousand Caribbean guilders, or by one of these penalties.
2. Deliberate action in contravention of the rules, referred to in paragraph 1, shall be penalised with detention of no more than four years and a financial penalty of no more than five hundred thousand Caribbean guilders, or by one of these penalties.
3. The offences made punishable in paragraph 1 are violations and the offences made punishable in paragraph 2 are criminal offences.

CHAPTER XIV Transitional and final provisions

Article 82

Licences, exemptions or dispensations, with the associated conditions and obligations, granted pursuant to the National ordinance foreign currency transactions (P.B. 1981, No. 67) shall, to the extent that they have not yet lost their validity and do not contravene the provisions laid down by or pursuant to this regulation, be deemed to have been granted pursuant to this regulation.

Article 83

1. This regulation may be referred to as the 'Regulation foreign currency transactions for Curaçao and Sint Maarten'.
2. Until the date of the issue of the Caribbean guilder in compliance with the Regulation on a Common Monetary System for Curaçao and Sint Maarten, references in this regulation to 'the Caribbean guilder' should be read as 'the Netherlands Antilles guilder'.
3. Unless otherwise provided in this regulation, further rules and implementing regulations based on the National ordinance foreign exchange transactions (P.B. 1981, No. 67), as applying before this Regulation entered into force, shall remain in effect until they are replaced by other further rules and implementing regulations in compliance with the provisions of this Regulation.

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