

**FOREIGN EXCHANGE REGULATION 2 0 1 7**

**IMPLEMENTATION DECREES**

**OF THE**

**FOREIGN EXCHANGE REGULATION**

**CURAÇAO AND SINT MAARTEN**

**(2 0 1 0)**

The Foreign Exchange Regulation 2017 comprises instructions, publications and general administrative regulations with regard to foreign exchange transactions based on the Foreign Exchange Regulation Curaçao and Sint Maarten (2010). The Foreign Exchange Regulation 2017 takes effect on March 1, 2017, and thereby replaces the Foreign Exchange Regulation of May 1, 2009.

Willemstad, February 20, 2017

**Centrale Bank van Curaçao en Sint Maarten**



mr. J.M. Hasselmeyer LL.M.  
President a.i.

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## CHAPTER 1

### INSTRUCTIONS FOREIGN EXCHANGE BANKS

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## **Publication concerning Foreign Exchange Transactions AW/2017-1**

The Centrale Bank van Curaçao en Sint Maarten,

considering

the provisions in article 7, paragraph 2 of the Foreign Exchange Regulation Curaçao and Sint Maarten (2010),

announces

that the foreign exchange banks have been given the following instructions:

### **Instruction no. 1: General provisions**

- 1.1 The definitions of article 1 of the Foreign Exchange Regulation Curaçao and Sint Maarten (2010) shall apply to all the instructions that have been given and are given to foreign exchange banks.
- 1.2 In all the instructions that have been given and are given to foreign exchange banks, foreign exchange shall be understood to mean: foreign monetary instruments, foreign means of payment, claims against non-residents and foreign securities, all as described in article 1, sub 6 through 10 of the Foreign Exchange Regulation Curaçao and Sint Maarten (2010).
- 1.3 The foreign exchange banks are obliged to comply with the administrative regulations in all their foreign exchange transactions. These are given pursuant to article 9 of the Foreign Exchange Regulation Curaçao and Sint Maarten (2010).

### **Instruction no. 2: Authority foreign exchange banks**

- 2.1 Without prejudice to the other instructions, regulations and provisions given by or pursuant to the Foreign Exchange Regulation Curaçao and Sint Maarten (2010), foreign exchange banks are authorized to perform the following activities:
  - a. acquiring, holding, encumbering and alienating foreign currency both for themselves and for residents and non-residents;
  - b. opening, holding and closing accounts in their own name at banking and giro institutions abroad;
  - c. having the accounts, referred to under b., credited, respectively debited, for, among other things, commissions, interest, dividends, instruments of payment sent and intermediation in payment transactions;

- d. acting as an intermediary in international payment transactions and in other financial transactions between residents and non-residents;
  - e. concluding financial transactions with non-residents in the course of conducting their foreign banking operations, such as borrowing and extending credit and opening deposits; for extending credit to non-residents in guilders to the amount of NAf.150,000 or more, a license is required.
  - f. paying, respectively receiving, interest on the financial transactions referred to under e.
- 2.2 Foreign currency shall be held and alienated by a foreign exchange bank at its own expense and risk.
- 2.3 Foreign exchange banks are not allowed to hold other foreign currencies than currencies which the Bank quotes and publishes without a license to that effect from the Bank.
- 2.4 Foreign exchange banks are allowed to open, hold and close accounts in the name of non-residents in their books:
- a) denominated in one of the foreign currencies permitted in 2.3;
  - b) denominated in guilders, in which case:
    - the total credit balance in guilders of one and the same non-resident may not exceed the amount of NAf.250,000.

In order to hold credit balances exceeding this limit, a license will have to be requested.

These accounts must be entered in the non-resident column of the Chart of Accounts. The Bank reserves the right to change or revoke this facility, if it considers such desirable, pursuant to monetary developments.

### **Instruction no. 3: foreign currency rates**

- 3.1 The buying and selling rates of the most important foreign currencies are officially quoted and published by the Bank on a daily basis.
- 3.2 The rates of foreign currencies fixed and published daily by the Bank must be adhered to by foreign exchange banks, respectively calculated crosswise in payment transactions between residents mutually, between residents and non-residents and between foreign exchange banks mutually. The foreign exchange banks are, however, allowed to determine more favorable rates themselves for transactions exceeding NAf.25,000. For

the record, the Bank wishes to point out that, in spite of the abovementioned, reporting transactions to the Bank must take place by using the official rates.

- 3.3 The rates of foreign currencies fixed and published daily by the Bank need not be calculated crosswise by foreign exchange banks when conducting their foreign banking business, as referred to in instruction no. 2, under 2.1, sub b.
- 3.4 The Bank can verify at foreign exchange banks whether they comply with the obligations referred to under 3.2.

**Instruction no. 4: currency transactions with the Bank**

- 4.1 Until further notice, the Bank is prepared to sell non-cash dollars to, respectively buy from the foreign exchange banks at the buying and selling rates applicable to foreign exchange banks, with due observance of the provision in instruction no. 5.2. The Bank will immediately inform the foreign exchange banks of a decision to postpone or change this possibility.
- 4.2 The Bank is free to sell, respectively buy, the other officially quoted foreign currencies, if a request to that effect is made by one or more foreign exchange banks.
- 4.3 In the event of supplying foreign currencies, both in the case of selling and buying, the risk of interrupted communications will not be to the account of the Bank.
- 4.4 With respect to the buying, respectively selling, of US dollars, the following rules shall apply:
- In the event of a purchase of US dollars by the Bank, the value-dating takes place on the same day, if the Bank is informed of this before 11.00 a.m. and the delivery by the Federal Reserve Bank of New York takes place before 11.00 a.m., New York time.
  - In the event of selling US dollars, the value-dating takes place on the work day on which the foreign exchange bank gives the Bank the purchase order, provided the Bank receives the order before 15.00 hours.
  - A selling order, respectively purchase order, which has been received by the Bank after 15.00 hours, is considered to have been received on the next work day.
- 4.5 The value-dating in the event of buying or selling the other officially quoted foreign currencies is determined by the Bank per transaction.
- 4.6 Means of payment and receivables payable on demand in a currency other than that of which the rates are quoted and published daily, are, in principle, not sold to, respectively bought from, foreign exchange banks by the Bank.

### **Instruction no. 5: working balance foreign exchange banks**

- 5.1. Foreign exchange banks are obliged to report weekly, on Monday, their foreign net working balance of the past Friday. In the event of late receipt of the report, that is to say after Monday, the Bank will charge an administration fee of NAf.1,000 per day for late receipt of the report. These fees will be charged on a monthly basis.
- 5.2 It is not permitted to have the total foreign obligations of a foreign exchange bank to exceed its total foreign claims.

In the event of a foreign exchange bank having a negative balance, the Bank will charge this bank an administration fee which is calculated on a weekly basis as follows: the Bank's pledging rate on the negative balance multiplied by 7 days and divided by 360 days. These fees will be charged on a monthly basis.

### **Instruction no. 6: foreign exchange licenses**

- 6.1 It is prohibited for foreign exchange banks to execute transactions before the required foreign exchange license has been provided by the Bank.
- 6.2 A foreign exchange license is required for certain capital transactions and the remittance of profit and dividend if the transaction amount is NAf.150,000 or more (unless otherwise stated). The overview on page 9-12 indicates for which transactions a foreign exchange license is required and what information must be provided along with the application.

When applying for a foreign exchange license, a standard form should be used, which can be downloaded from the website of the Bank ([www.centralbank.cw/download-license-forms](http://www.centralbank.cw/download-license-forms)).

## **Overview capital transactions which require a foreign exchange license**

### **1. To receive a foreign loan of NAf.150.000 or more (including a loan from a foreign related company).**

- Name and address/place of incorporation of the resident person/company receiving the foreign loan.
- Copy of valid legal identification document.
- Name and address/place of incorporation of the foreign person/company extending the loan.
- The amount of the loan in foreign currency.
- Loan terms: interest rate, maturity, and amortization schedule.
- Purpose of the loan.

### **2. To extend a loan to a non-resident of NAf.150.000 or more (including a loan to a foreign related company).**

- Name and address/place of incorporation of the resident person/company/financial institution extending the loan.
- Copy of valid legal identification document.
- Name and address/place of incorporation of the non-resident receiving the loan.
- The amount of the loan.
- Loan terms: interest rate, maturity, and amortization schedule.
- Purpose of the loan.

The standard request form that must be used for the transactions mentioned under 1 and 2 is: **'Standard request form foreign exchange license Loans.'**

### **3. To open and maintain a foreign bank account by legal entities and to make transfers to this account.**

- Name and address/place of incorporation of the company that wants to open a foreign bank account.
- Extract from the register of the Chamber of Commerce.
- Name and address/place of incorporation of the financial institution abroad.
- Currency denomination of the account.

The standard request form that must be used is: **'Standard request form foreign exchange license Foreign bank account.'**

**4. Transfers by individuals to their private foreign bank account above NAf.250.000 annually.**

- Name and address of the individual who wants to transfer money to his private foreign bank account.
- Copy of valid legal identification document.
- Name and address/place of incorporation of the financial institution abroad.
- Amount of the transfer.
- Currency denomination of the account.

The standard request form that must be used is: **‘Standard request form foreign exchange license Other capital transactions.’**

**5. To open and maintain a current account by legal entities with their foreign related companies and to make transfers to this account.**

- Name and address/place of incorporation of the legal entity that wants to open and hold the current account.
- Extract from the register of the Chamber of Commerce.
- Name and address/place of incorporation of the foreign related company.
- An overview of the business structure.

The standard request form that must be used is: **‘Standard request form foreign exchange license Intercompany account.’**

**6. To open and maintain a non-resident trust account/solicitor’s client account (Stichting Derdengelden) at a local bank by trust companies/notaries/lawyers or other independent professionals for the settlement of transactions of their non-resident clients.**

- Name and address/place of incorporation of the trust company/notary/lawyer or other independent professional.
- Extract from the register of the Chamber of Commerce.
- Name and address/place of incorporation of the local bank where the account will be opened.
- Currency denomination of the account.

The standard request form that must be used is: **‘Standard request form foreign exchange license Non-resident local account for Trust companies or Stichting Derdengelden.’**

**7. To open or maintain an account denominated in Antillean guilders with a balance of more than NAf.250.000 on behalf of a non-resident.**

- Name and address/place of incorporation of the local bank.
- Name and address/place of incorporation of the non-resident.
- Copy of valid legal identification document.
- Maximum amount expected on the account denominated in Antillean guilders.
- Reason for increasing the limit.

The standard request form that must be used is: **‘Standard request form foreign exchange license NAf account for non-resident with balance > NAf.250.000.’**

**8. To make investments abroad of NAf.150.000 or more per transaction.**

- Name and address/place of incorporation of the individual/company/financial institution making the investment abroad.
- Copy of valid legal identification document/extract from the register of the Chamber of Commerce.
- Name and address/place of incorporation of the company/institution/investment fund where the investment is made.
- Amount and type of investment.

The standard request form that must be used is: **‘Standard request form foreign exchange license Foreign securities investment.’**

**9. To participate in a local company by a non-resident for NAf.150.000 or more.**

- Name and address/place of incorporation of the local company.
- Extract from the register of the Chamber of Commerce.
- Name and address/place of incorporation of the non-resident.
- Copy of valid legal identification document/extract from the register of the foreign Chamber of Commerce.
- Number of shares and the nominal value per share of the participation.
- Authorized and issued capital of the local company.

**10. To participate in a foreign company by a resident for NAf.150.000 or more.**

- Name and address/place of incorporation of the foreign company.
- Extract from the register of the foreign Chamber of Commerce.
- Name and address/place of incorporation of the resident individual/company.
- Copy of valid legal identification document/extract from the register of the Chamber of Commerce.
- Number of shares and nominal value per share of the participation.

**11. To transfer shares in a local company to a non-resident for NAf.150.000 or more.**

The possibilities are: - transfer from a resident to a non-resident;  
- transfer between non-residents.

- Name and address/place of incorporation of the local company.
- Extract from the register of the Chamber of Commerce.
- Name and address/place of incorporation of the buyer.
- Name and address/place of incorporation of the seller.
- Copy of valid legal identification document/extract from the register of the Chamber of Commerce of the buyer as well as the seller.
- Amount and number of shares that are transferred.

The standard request form that must be used for the transactions mentioned under 9, 10 and 11 is: **'Standard request form foreign exchange license Direct investment.'**

**12. To enter into a guarantee agreement with a non-resident.**

- Name and address/place of incorporation of the local person or company entering into the guarantee agreement.
- Copy of valid legal identification document/extract from the register of the Chamber of Commerce.
- Name and address/place of incorporation of the non-resident.
- Amount of the guarantee and maturity of the guaranteed loan.

The standard request form that must be used is: **'Standard request form foreign exchange license Other capital transactions.'**

**13. To distribute dividends or profits to non-residents for NAf.150.000 or more.**

- Name and address/place of incorporation of the local company.
- Name and address/place of incorporation of the non-resident.
- Amount that is being distributed and currency denomination of the transaction.
- Extract from the register of the Chamber of Commerce.
- A financial statement.

The standard request form that must be used is: **'Standard request form foreign exchange license Distribution of profits or dividends.'**

## CHAPTER 2

### CAPITAL PAYMENT TRANSACTIONS

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## **Publication concerning Foreign Exchange Transactions 2017/K.1A**

### **Concerning: purchasing and selling foreign securities.**

The Centrale Bank van Curaçao en Sint Maarten,  
considering

the provision in article 11, paragraph 1 of the Foreign Exchange Regulation Curaçao and Sint Maarten (2010),

announces that

a general license has been granted to residents to purchase, acquire in ownership, keep in custody and sell foreign securities with due observance of the following provisions:

- a. The purchase and sale of foreign securities must take place through the intermediation of a foreign exchange bank in Curaçao or Sint Maarten.
- b. A resident is allowed to have the sales proceeds of foreign securities, and also of foreign stock dividends and of claims deposited on an E-account at a foreign exchange bank in Curaçao or Sint Maarten.
- c. A resident is allowed to purchase foreign securities to the debit of an E-account in his name, insofar as the E-account does not show a debit balance.
- d. Except for the possibility under c., a resident is allowed to purchase securities as referred to in, respectively, Publication 2017/K.1A and/or 2017/K.1B without a special license not exceeding the equivalent of an amount of NAf.150,000 per transaction (insofar as this amount has not been acquired from domestic credit extension).

**Publication concerning  
Foreign Exchange Transactions 2017/K.1B**

The Centrale Bank van Curaçao en Sint Maarten,  
considering

the provisions in article 11, paragraph 1 and article 16, paragraph 2 of the Foreign Exchange Regulation Curaçao and Sint Maarten (2010),

announces that

1. a general license has been granted to residents to open and hold shareholders' accounts with so-called open-end investment companies, with due observance of the following provisions:
  - a. The purchase and sale of these shares must take place through the intermediation of a foreign exchange bank in Curaçao or Sint Maarten.
  - b. A resident is allowed to have the dividends and/or the sales proceeds of shares, and also the sales proceeds from stock dividends and/or claims from these shares reinvested in his name at another or the same open-end investment company.
  - c. Except for the possibility under b., a resident is allowed to purchase securities as referred to in, respectively, Publication 2017/K.1A and/or 2017/K.1B without a special license not exceeding the equivalent of an amount of NAf.150,000 per transaction (insofar as this amount has not been acquired from domestic credit extension).
2. residents, for the shares pertaining to them, of which they hold shareholders' accounts in their name, as referred to sub 1 above, have been granted exemption from the obligation to give these shares in open custody abroad to a non-resident for addition to a custody account in the name of the Bank or in the name of a foreign exchange bank.

**Publication concerning  
Foreign Exchange Transactions 2017/K.2**

**Concerning: dispensation from the prohibition to import and export precious metals and stones**

The Centrale Bank van Curacao en Sint Maarten,  
considering

the provisions in article 16, paragraph 1 of the Foreign Exchange Regulation Curaçao and Sint Maarten (2010),

announces that

all residents are granted a license to import and export precious metals, gold and precious stones.

**Publication concerning  
Foreign Exchange Transactions 2017/K.3**

The Centrale Bank van Curaçao en Sint Maarten,  
considering

the provisions in article 11 of the Foreign Exchange Regulation Curaçao and Sint Maarten (2010),

announces that

a general license has been granted to residents to alienate to or acquire from non-residents real estate situated in Curaçao, Sint Maarten or abroad and to receive payments from, respectively make payments to, non-residents for alienating, respectively acquiring, real estate situated in Curaçao, Sint Maarten or abroad.

**Publication concerning  
Foreign Exchange Transactions 2017/K.4**

The Centrale Bank van Curaçao en Sint Maarten,  
considering

the provision in article 13, paragraph 4 of the Foreign Exchange Regulation Curaçao and Sint Maarten (2010),

announces that

residents are granted exemption from the obligation to collect and deposit, as described in article 13, paragraphs 2 and 3 of the Foreign Exchange Regulation Curaçao and Sint Maarten (2010). Insofar as it has been decided to collect the foreign monetary instruments or foreign receivables that have become payable, credit balances can be deposited on an account in their name at a non-resident banking or giro institution. Upon request, the balances and the transactions on the account, as referred to above, must be reported to the Bank per quarter.

**Publication concerning  
Foreign Exchange Transactions 2017/K.5**

The Centrale Bank van Curaçao en Sint Maarten,  
considering

the provisions in article 11, 12 and 13 of the Foreign Exchange Regulation Curaçao and Sint Maarten (2010),

announces that

resident natural persons are granted a license to open and hold an account in their name at a non-resident banking or giro institution, with due observation of the following condition:

that the resident natural persons holding an account with a non-resident banking or giro institution may not deposit more than the equivalent of NAf.250,000 per year, per resident through the intermediation of a foreign exchange bank from Curaçao or Sint Maarten.

## **Publication concerning Foreign Exchange Transactions 2017/K.6**

The Centrale Bank van Curaçao en Sint Maarten,  
considering

the provisions in article 11 of the Foreign Exchange Regulation Curaçao and Sint Maarten (2010),

announces that

residents conducting life- or nonlife insurance operations and also residents acting as a pension fund are granted a license to place annually the capital to be invested by them with non-residents, provided the following investments are minimally made with residents:

- 40% of the sum of the first NAf.10 million of the total provisions and debts;
- 50% of the sum of the following NAf.10 million of the total provisions and debts; and
- 60% of the rest of the sum of the total provisions and debts.

**Publication concerning  
Foreign Exchange Transactions 2017/K.6A  
Supplement to the Publication concerning Foreign Exchange Transactions  
2017/K.6**

Residents conducting life or nonlife insurance operations and residents acting as a pension fund, hereafter referred to as ‘the Institution’, which meets the conditions stated below, may place, in derogation of the Publication concerning Foreign Exchange Transactions 2017/K.6, an amount that is equal to the capital invested by it in qualifying local investments with non-residents.

**Conditions**

- A qualifying local investment is considered to be a durable investment made by the Institution in the form of equity capital, quasi equity capital or a loan (with the exception of refinancing) for a project executed in Curaçao or Sint Maarten that has or will have at least a limited positive economic impact for Curaçao or Sint Maarten.
- The Institution must submit in advance a written request to the Bank for the application for placing capital with non-residents referred to above.
- The Institution must submit to the Bank all the information that is relevant to the qualifying local investment together with its request. The Bank can request further information.
- The Bank will notify its decision -after receiving and assessing the required information- on the request in writing and can -in the event of a positive decision- attach conditions to this.
- If the Institution alienates the qualifying local investment, the approval for the permitted placing of capital with non-residents will be revoked and the invested capital related to such will have to be remigrated at the instruction of the Bank.
- All report forms, pertaining to the Publication concerning Foreign Exchange Transactions 2017/K.6B, will have to be submitted to the Bank in a timely manner.

**Publication concerning  
Foreign Exchange Transactions 2017/K.6B  
Supplement to the Publication concerning Foreign Exchange Transactions  
2017/K.6**

Additional condition to the general license as incorporated in the Publication concerning Foreign Exchange Transactions 2017/K.6.

If the resident that conducts life-insurance or nonlife insurance operations and the resident that acts as a pension fund, hereafter referred to as 'the Institution', does not hold at least the minimum investments with residents, as explained in the Publication concerning Foreign Exchange Transactions 2017/K.6, thereby taking into account the provisions in the Publication concerning Foreign Exchange Transactions 2017/K.6A and 2017/K.6C, the Institution is obliged:

- to pay the Bank a levy for the total shortage of minimal investments with residents; and
- to make that payment within 30 days after receiving the invoice in question from the Bank.

The percentage for the calculation of the levy for the past quarter is the average 3-month dollar libid plus a number of basis points. The percentage, including the change in the number of basis points, will be announced on a quarterly basis by the Bank on its website: [www.centralbank.cw/uploads/files/K6B.pdf](http://www.centralbank.cw/uploads/files/K6B.pdf)

The levy is imposed by means of an invoice of the Bank after each calendar quarter on the basis of data obtained from the Institution.

The levy is determined in accordance with the following formula:

$$\frac{(\text{Amount shortage of minimal investments with residents} * \text{levy percentage} * 3)}{12}$$

12

Every Institution, with or without a shortage of minimal investments with residents, has to report the relevant data in connection with this Publication to the Bank within 6 weeks after each calendar quarter by making use of the attached form (see page 23).



**Form to Foreign Exchange Transactions Notice 2017/K.6B  
(Due within 6 weeks after reporting date)**

**For the exclusive use of the  
Centrale Bank van Curaçao en Sint Maarten**

**Amounts in NAf. 1,000**

**Confidential**

**Name of institution:**

**Reporting date (calendar quarter end):**

**Investments with residents as per reporting date:**

Real estate

Unconsolidated companies & participations

Stocks

Bonds and other fixed income securities

Participations in non-affiliated investment pools

Mortgage loans

Other loans

Deposits with financial institutions

Other investments

From separate accounts statements


**Total investments with residents**

Of which:

- in qualifying local investments
- in debt of the central government and island governments of the former Netherlands Antilles redeemed by the Dutch government
- other exemptions


**Provisions and liabilities as per reporting date:**

Total provisions for insurance (pension) obligations

Current liabilities

Other liabilities

Contingent liabilities

From separate accounts statements

Total provisions and liabilities


**Publication concerning  
Foreign Exchange Transactions 2017/K.6C  
Supplement to the Publication concerning Foreign Exchange  
Transactions 2017/K.6**

Residents that conduct life-insurance or nonlife insurance operations and residents that acts as a pension fund, hereafter referred to as ‘the Institution’, and that meet the conditions stated below, may, in derogation of the Publication concerning Foreign Exchange Transactions 2017/K.6, completely invest the amounts that are received in the framework of the redemption of the debts of the Central Government and the Island Territories of the former Netherlands Antilles by the Netherlands, with non-residents.

**Conditions**

- The outstanding amounts per debt certificate of the Central Government and the Island Territories of the former Netherlands Antilles in portfolio must be reported to the Bank within 6 weeks after the end of a quarter as of the 4<sup>th</sup> quarter of 2008. This survey must be submitted simultaneously with the report form pertaining to the Publication concerning Foreign Exchange Transactions 2017/K.6B.
- All the report forms pertaining to the Publication concerning Foreign Exchange Transactions 2017/K.6B and the survey of the debt certificates must be submitted punctually to the Bank.

## **Explanation of the Publication concerning Foreign Exchange Transactions 2017/K.6, 2017/K.6A, 2017/K.6B and 2017/K.6C**

This explanation contains further clarification about relevant aspects arising from the:

- Publication concerning Foreign Exchange Transactions 2017/K.6 (2017/K.6)
- Publication concerning Foreign Exchange Transactions 2017/K.6A (2017/K.6A)
- Publication concerning Foreign Exchange Transactions 2017/K.6B (2017/K.6B); and
- Publication concerning Foreign Exchange Transactions 2017/K.6C (2017/K.6C)

hereafter jointly referred to as ‘the Publications’

The residents, referred to in the Publications, that conduct a life insurance or a nonlife insurance business and the resident that acts as a pension fund are referred to as ‘the Institution’.

### **General**

2017/K.6 comprises a general license to the Institution to place investments with non-residents, provided the Institution holds at least an indicated minimum amount of investments with residents. For the calculation of that amount, the total provisions and debts are taken in consideration.

2017/K.6A is a supplement to 2017/K.6 and is intended to relax the provisions in 2017/K.6, by, in derogation thereof, allowing the Institution to place an equal amount as that of its total qualifying local investments with non-residents. Due to this, the Institution gets additional room to make investments with non-residents. In the calculation of the above-mentioned minimum amount of investments with residents, an adjustment now takes place.

2017/K.6B is a supplement to 2017/K.6 and is intended as a further relaxing of the provisions in 2017/K.6, by allowing the Institution to hold a smaller amount than the minimum in investments with residents as required in 2017/K.6. Due to this, the Institution gets more room to make investments with non-residents. However, for the total shortage in minimum investments with residents, a levy is due to the Bank by the Institution.

2017/K.6C is a supplement to 2017/K.6 and is intended as a further relaxation of the provisions in 2017/K.6, by allowing the Institution to completely invest the amounts that are received in the framework of the redemption of the debts of the Central Government and the Island Territories of the former Netherlands Antilles by the Netherlands with non-residents.

### **Numerical examples**

The relevant calculations on the basis of the Publications are illustrated in the five numerical examples attached.

## Numerical example 1

(only 2017/K.6 is applicable)

*Amounts in NAf.1,000*

<u>Assets</u>		<u>Liabilities</u>	
Investments with residents (1)	297,000	Equity capital	50,000
Investments with non-residents	153,000	Provisions	450,000
Other assets	<u>100,000</u>	Debts and other liabilities	<u>50,000</u>
	<b><u>550,000</u></b>		<b><u>550,000</u></b>

1) The institution does not have any qualifying local investments.

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### Application 2017/K.6

Total provisions and debts (P&D): 500,000

Minimum to be invested with residents:

- 40% of the first NAf.10,000 of the P&D 4,000

- 50% of the following NAf.10,000 of the P&D 5,000

- 60% of the rest of the P&D 288,000

Total minimum to be invested with residents: 297,000

Actual investments with residents: 297,000

Shortage of minimum investments with residents: 0

### Application 2017/K.6A

The institution does not have any qualifying local investments.

2017/K.6A is consequently not applicable.

### Application 2017/K.6B

The institution does not have any shortage of minimum investments with residents.

2017/K.6B is consequently not applicable.

## Numerical example 2

(only 2017/K.6 and 2017/K.6B are applicable)

*Amounts in NAf.1,000*

<u>Assets</u>		<u>Liabilities</u>	
Investments with residents (1)	275,000	Equity capital	50,000
Investments with non-residents	175,000	Provisions	450,000
Other assets	<u>100,000</u>	Debts and other liabilities	<u>50,000</u>
	<u>550,000</u>		<u>550,000</u>

1) The institution does not have any qualifying local investments.

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### Application 2017/K.6

Total provisions and debts (P&D): 500,000

Minimum to be invested with residents:

- 40% of the first NAf.10,000 of the P&D 4,000

- 50% of the following NAf.10,000 of the P&D 5,000

- 60% of the rest of the P&D 288,000

Total minimum to be invested with residents: 297,000

Actual investments with residents: 275,000

Shortage of minimum investments with residents: 22,000

### Application 2017/K.6A

The institution does not have any qualifying local investments.

2017/K.6A is consequently not applicable.

### Application 2017/K.6B

The institution has a shortage of minimum investments with residents.

2017/K.6B is then applicable. The levy on the shortage is calculated as follows:

$$\frac{\text{Shortage minimum investments residents} * \text{levy percentage} * 3}{12}$$

12

Assume the percentage is: 6.26%

The levy will then be:  $\frac{22,000 \times 6.26\% \times 3}{12} = 344.3$

12

### Numerical example 3

(only 2017/K.6 and 2017/K.6A are applicable)

*Amounts in NAf.1,000*

<u>Assets</u>		<u>Liabilities</u>	
Investments with residents (1)	275,000	Equity capital	50,000
Investments with non-residents	175,000	Provisions	450,000
Other assets	<u>100,000</u>	Debts and other liabilities	<u>50,000</u>
	<u>550,000</u>		<u>550,000</u>

1) These investments are inclusive of 22,000 in qualifying local investments.

---

#### **Application 2017/K.6 + 2017/K.6A**

Total provisions and debts (P&D): 500,000

Minimum to be invested with residents:

- 40% of the first NAf.10,000 of the P&D 4,000

- 50% of the following NAf.10,000 of the P&D 5,000

- 60% of the rest of the P&D 288,000

297,000

- Total qualifying investments -22,000

Total minimum to be invested with residents: 275,000

Actual investments with residents: 275,000

Shortage of minimum investments with residents: 0

#### **Application 2017/K.6B**

The institution does not have any shortage of minimum investments with residents.

2017/K.6B is consequently not applicable.

#### Numerical example 4

(only 2017/K.6, 2017/K.6A and 2017/K.6B are applicable)

Amounts in NAf.1,000

<u>Assets</u>		<u>Liabilities</u>	
Investments with residents (1)	275,000	Equity capital	50,000
Investments with non-residents	175,000	Provisions	450,000
Other assets	<u>100,000</u>	Debts and other liabilities	<u>50,000</u>
	<u>550,000</u>		<u>550,000</u>

1) These investments are inclusive of 20,000 in qualifying local investments.

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#### Application 2017/K.6 + 2017/K.6A

Total provisions and debts (P&D): 500,000

Minimum to be invested with residents:

- 40% of the first NAf.10,000 of the P&D 4,000

- 50% of the following NAf.10,000 of the P&D 5,000

- 60% of the rest of the P&D 288,000

297,000

- Total qualifying investments -20,000

Total minimum to be invested with residents: 277,000

Actual domestic investments: 275,000

Shortage of minimum investments with residents: 2,000

#### Application 2017/K.6B

The institution has a shortage of minimum investments with residents.

2017/K.6B is then applicable. The levy on the shortage is calculated as follows:

$$\frac{\text{Shortage minimum investments residents} \times \text{levy percentage} \times 3}{12}$$

12

Assume the percentage is: 6.26%

The levy will then be:  $\frac{2,000 \times 6.26\% \times 3}{12} = 31.3$

12

### Numerical example 5

(only 2017/K.6, 2017/K.6A and 2017/K.6C are applicable)

*Amounts in NAf.1,000*

<u>Assets</u>		<u>Liabilities</u>	
Investments with residents (1)	275,000	Equity capital	50,000
Investments with non-residents	175,000	Provisions	450,000
Other assets	<u>100,000</u>	Debts and other liabilities	<u>50,000</u>
	<u>550,000</u>		<u>550,000</u>
1) These investments are inclusive of	22,000	in qualifying local investments;	
	10,000	in redeemed public debt by the Netherlands.	

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#### **Application 2017/K.6, 2017/K.6A + 2017/K.6C**

Total provisions and debts (P&D): 500,000

Minimum to be invested with residents:

- 40% of the first NAf.10,000 of the P&D 4,000

- 50% of the following NAf.10,000 of the P&D 5,000

- 60% of the rest of the P&D 288,000

297,000

- Total qualifying investments -22,000

- Redeemed public debt by the Netherlands -10,000

Total minimum to be invested with residents 265,000

Actual investments with residents: 275,000

Room for extra investments abroad: 10,000

#### **Application 2017/K.6B**

The institution does not have a shortage of minimum investments with residents.

2017/K.6B is consequently not applicable.

## CHAPTER 3

### CURRENT PAYMENT TRANSACTIONS

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## **Publication concerning Foreign Exchange Transactions 2017/L.1**

The Centrale Bank van Curaçao en Sint Maarten,  
considering

the provisions in article 10, paragraph 1, of the Foreign Exchange Regulation Curaçao and Sint Maarten (2010),

announces that current payment transactions (also) include the following payments:

- General goods
- Oil and oil products
- Goods for refinement/processing
- Repairs to goods
- Bunkering
- Aviation
- Shipping
- Tourism
- Telecommunications
- Construction
- Financial services
- Computer and information services
- Royalties and licenses
- Other business services
- Private, cultural and recreational services
- Government services n.i.e.
- Income from labor
- Distributed profits and dividends
- Interest on loans and securities
- Income from other financial assets
- Receipts offshore taxes
- Other income transfers government
- Income transfers foreign employees
- Premiums nonlife insurances
- Benefits nonlife insurances
- Other income transfers

## **Publication concerning Foreign Exchange Transactions 2017/L.2**

The Centrale Bank van Curaçao en Sint Maarten,  
considering

the provision in article 10, paragraph 1 of the Foreign Exchange Regulation Curaçao and Sint Maarten (2010),

announces that:

- profit transfers and distribution of dividends of NAf.150,000 or higher may only take place, after the Bank has established on the basis of the profit and loss account over the year in question, to what amount there is a profit;
- a request for approval of the intended profit transfer or distribution of dividend must be filed with the Bank in writing, on submission of the relevant annual financial statements.

## **CHAPTER 4**

### **GENERAL ADMINISTRATIVE REGULATIONS**

**(part 1)**

#### **FOREIGN EXCHANGE BANKS & MONEY TRANSFER OFFICES**

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## **FOREIGN EXCHANGE BANKS & MONEY TRANSFER OFFICES**

For the compilation of the balance of payments and obtaining insight into the nature of the payment transactions between residents and non-residents, a reporting system has been developed, whereby residents, pursuant to article 9 of the Foreign Exchange Regulation Curaçao and Sint Maarten (2010), are obliged to provide the Bank with data on these transactions. On the basis hereof, the following is stipulated by the Centrale Bank van Curaçao en Sint Maarten for reporting:

### **A.1 Manner of reporting by foreign exchange banks and money transfer offices**

Foreign exchange banks and money transfer offices authorized by the Bank must report their foreign exchange transactions to the Bank as follows:

1. The data must be reported in a standard format via the AFT<sup>1</sup> system of the Bank or via another medium to be designated by the Bank.
2. The data, as referred to under 1, must be accompanied by a cover letter on the official letter paper of the foreign exchange bank or the money transfer office and signed by an authorized employee. The foreign exchange bank or the money transfer office must provide the Bank with proof that the employee who signs the cover letter is authorized to do so.
3. The data under 1 must also be accompanied by a certified printout of the transactions.

The data must be reported accurately, completely and truthfully, so that the Bank can group the component parts of the balance of payments and verify the reports. The reports must also be submitted on time. The Bank has determined that as of August 2003 all transactions under NAf.5,000 may be aggregated according to country and currency.

For a specific explanation of the reports that foreign exchange banks and money transfer offices have to submit on behalf of residents, please refer to chapter 7, A1.

### **A.2 Instructions for submitting the A and B-transactions, C and D-statements**

The A and B-transactions and the C statement<sup>2</sup> must be sent to the Balance of Payments section of the department of SIRO<sup>3</sup> of the Bank within 21 days after the month in question. The D-statement<sup>4</sup> must be sent within 28 days after the month in question, to the Balance of Payments section of the department of SIRO of the Bank.

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<sup>1</sup> Automatic File Transfer system

<sup>2</sup> See chapter 7 for definitions

<sup>3</sup> Statistical Information and Reporting

<sup>4</sup> See chapter 7 for definitions

### **A.3 Administrative costs**

All foreign exchange banks and money transfer offices are obliged to submit their data correctly, completely and on time to the Bank on the medium designated by the Bank. Incorrect and/or incomplete reports will be returned by the Bank to the foreign exchange bank or money transfer office in question.

Transactions are considered to be incorrect when:

- their value is NAf.150,000 or higher and the explanation given does not correspond with the transaction code used;
- the transaction code is incorrect, also if the value is less than NAf.150,000;
- the transaction code differs from the one indicated in the foreign exchange license.

Transactions are considered to be incomplete when:

- their value is NAf.150,000 or higher and no description or an unclear description was provided<sup>5</sup>;
- no foreign exchange license was received prior to executing the transaction;
- no foreign exchange license number is stated;
- the name of the resident and/or non-resident is missing or not stated correctly;
- additions have not been received within 28 days after the end of the reporting month.

Foreign exchange banks and money transfer offices that are in breach of the foregoing for the first time during a quarter must see to it that the correct and/or complete data arrive at the Bank within two weeks after the date of the return letter. Aforementioned term is reduced to one week from the second and subsequent breaches during a quarter. If the reports have not been submitted after the aforementioned periods have expired, the reports will be considered late. If the report, after correction by the foreign exchange bank or money transfer office, is still incomplete or incorrect, the report will be considered as not received.

The Bank will charge the foreign exchange banks and the money transfer offices that report at least twice within a quarter after the periods referred to under A.2 and above, an administration fee amounting to NAf.1,000 per report per day that the report is late.

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<sup>5</sup> An explanation is not necessary for transactions that are aggregated and reported with the transaction code 95.

## A.4 Guidelines for establishing residency

### I. Guidelines for establishing residency of natural persons

#### Guideline for the use of a passport

1. Ask the client if he/she lives in Curaçao or Sint Maarten.
2. Check the indicated place of residence in the passport. If this does not match with the information provided by the client, check if there is a stamp in the passport with a date of registry or a date indicating when the client left the country:
  - if the place of residence in the passport is abroad and the client states to live in Curaçao or Sint Maarten, the date of registry must be checked;
  - if the place of residence in the passport is in Curaçao or Sint Maarten and the client states not to live in Curaçao or Sint Maarten, the date the client left the country must be checked.

#### Guideline for the use of the identification card (sédula)

A client with a temporary ID card with a validity that is less than 1 year:

- ask the client whether he/she is living longer than 1 year in Curaçao or Sint Maarten;
- If the answer is yes, the client will have to prove this by means of a work permit/residence permit.

#### Guideline for using a driver's license

1. Ask the client whether he/she lives in the Curaçao or Sint Maarten.
2. Check the ID number on the driver's license:
  - If the answer to question 1 is negative and the ID number on the driver's license is the same as a passport number, the client is a non-resident.
  - If the answer to question 1 is affirmative and the ID number on the driver's license is the same as the ID number issued by the Civil Registry, the client is a resident.

A passport number is a combination of letters and numbers; an ID number consists only of numbers indicating date of birth plus two digits at the end.

If the foreign exchange bank or the money transfer office to which the documents and other records are submitted notes that the data provided are insufficient for the identification of their client, the foreign exchange bank or the money transfer office will be obliged to request supplementary information from their client. Supplementary information is understood to mean: an energy bill, a telephone bill or any other documents to be determined by the Bank.

## **II. Guidelines for establishing residency of legal entities**

A legal entity must identify itself for all its banking transactions. The following procedure is recommended for the proper identification of legal entities:

1. Ask the client for a certified extract from the register of the Chamber of Commerce. Pay attention to the following information: name of the entity, address and status at the Chamber of Commerce.
2. Ask the client for a copy of his/her business establishment license from the Ministry of Economic Development of Curaçao or the Ministry of Economic Affairs, Tourism, Telecommunication and Transport of Sint Maarten. If the license has not been officially granted, you can also ask for a copy of the request form.

### a) Legal entity (“onshore”)

The business establishment license granted to a resident legal entity can be recognized by the official logo of Curaçao or Sint Maarten.

### b) Legal entity (“offshore”)

The business establishment license granted to a non-resident legal entity does not have the official logo of Curaçao or Sint Maarten. The request form is made up by a notary office, law firm or a trust office and addressed to the Ministry of Economic Development of Curaçao or the Ministry of Economic Affairs, Tourism, Telecommunication and Transport of Sint Maarten. Under other remarks, you can specifically see that the “legal entity is incorporated for non-residents”.

### c) Legal entity (“E-zone”)

A legal entity established in the E-zone is in principle considered a non-resident. A copy of the admission granted by the Ministry of Economic Development of Curaçao must be submitted as proof (E-zone license). If a legal entity established in the E-zone claims to be a resident legal entity, a copy of the decision of the Ministry of Economic Development of Curaçao must be submitted (see the National Ordinance of Economic Zones 2000, P.B. 2001, no. 18).

3. If the client has a decision of the Bank in which exemption of the articles 10 through 16 of the Foreign Exchange Regulation Curacao and Sint Maarten (2010) is granted, the client must be considered a non-resident legal entity.

## **CHAPTER 5**

### **GENERAL ADMINISTRATIVE REGULATIONS (part 2)**

#### **ENTERPRISES THAT ARE NOT FOREIGN EXCHANGE BANKS OR MONEY TRANSFER OFFICES**

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## **ENTERPRISES THAT ARE NOT FOREIGN EXCHANGE BANKS OR MONEY TRANSFER OFFICES**

As of January 2000, the balance of payments of Curaçao and Sint Maarten is compiled in accordance with international guidelines. Besides the reports of foreign exchange banks and money transfer offices, transactions conducted via foreign accounts and several other reports by enterprises that are not foreign exchange banks or money transfer offices, must also be submitted.

### **Manner of reporting by enterprises (surveys)**

For enterprises, depending on their situation/transactions, a number of reporting models have been developed (see chapter 7, B Reporting models). After assessing the activities of an enterprise, the Bank will determine which reports they should submit. Enterprises can submit the following reports:

#### **1. Foreign bank statements**

Opening and holding accounts in one's own name with non-residents, irrespective of the currency.

This report is meant to compile the transactions of enterprises through foreign bank accounts. Enterprises need a license from the Bank to open and hold a foreign bank account. Subsequently, they are obliged to report the transactions via these accounts for the compilation of the balance of payments.

If an enterprise fails to apply for a license, the Bank has still another way to discover the existence of foreign accounts, namely when transfers from and to this account take place via local banks.

See the website of the Bank, <http://www.centralbank.cw/foreign-bank-account>, for an explanation of the foreign bank account reports.

#### **2. Intercompany account**

Opening and holding of current accounts with non-residents (including non-banks) for settling mutual claims and debts.

This report is meant for resident enterprises that have a direct investment relationship of more than 10% with a foreign enterprise. It often happens that these enterprises have a mutual current account in their own administration that does not run via the local banking sector.

See the website of the Bank, <http://www.centralbank.cw/intercompany-account>, for an explanation of the intercompany account reports.

### **3. Trade credit**

Giving (supplier credit) or receiving (buyer credit) of a credit to/from a non-resident with regard to import or export goods and/or services.

This report is meant to measure the trade credit acquired and granted. For an open economy, like that of Curaçao and Sint Maarten, it is necessary to have a good insight into the outstanding amount of and development in trade credit. Measuring the trade credit is a supplement to measuring the trade in goods and services.

See the website of the Bank, <http://www.centralbank.cw/trade-credit>, for an explanation of the trade credit reports.

### **4. International Investment Position (IIP)**

The Bank has introduced since 2014 a survey to collect annual data on transactions and positions in foreign assets and liabilities. The collected data are used to improve the compilation of the balance of payments and to create new statistics on the international investment position (IIP) for Curaçao and Sint Maarten. This survey is based on guidelines of the International Monetary Fund (IMF) to improve the coverage and quality of statistics on international capital flows and to facilitate international data comparability.

The monitoring of private capital flows and positions and their composition is very important for macroeconomic analysis. In a small open economy with relatively free mobility of capital, it is only through surveys that data on transactions and positions in foreign assets and liabilities can be collected. Compilation of these data is mandated by the International Monetary Fund (IMF) for its international monitoring and assessment role. Also major credit rating agencies use these data in their assessments.

The survey should be reported in accordance with the reporting instructions of the Bank and can be downloaded as a Microsoft Excel 2007 file from the website of the Bank: <http://www.centralbank.cw/iip-survey-general>.

For more information about the IIP survey, please refer to the the website of the Bank: <http://www.centralbank.cw/uploads/files/Manual%20IIP%20survey%281%29.pdf>.

**CHAPTER 6**

**GENERAL ADMINISTRATIVE REGULATIONS**

**(part 3)**

**LICENSE FEE**

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## **LICENSE FEE**

Pursuant to article 9, paragraph 3 of the Central Bank Statute for Curaçao and Sint Maarten (2010), the Bank is the only institution that can authorize other banks to operate as a foreign exchange bank. Since 1996, banks are required to pay a monthly fee to the Bank for this authorization. This fee is called the license fee.

The license fee is set at 1% of the value of all transactions taking place from a resident to a non-resident account and on cash purchases of foreign currency. The amounts that are collected by the Bank in Curaçao and Sint Maarten are transferred fully to the governments of the countries.

License fee is included in the selling rate of foreign exchange. The banks are allowed to determine a more favorable selling rate for amounts exceeding NAf.25,000. However, when reporting transactions to the Bank, the official rate must be used.

A limited number of transactions are exempt from license fee, namely:

- transactions of the governments (see list pages 44 – 48);
- free-zone imports that are intended for re-export;
- re-investment transactions.

### **Reinvestment**

Under reinvestment is understood: to (partially) invest once again means obtained from the sale of and or income obtained from foreign investment instruments or means obtained from the maturity of a foreign investment instrument, through the intervention of a foreign exchange bank and to the credit of a resident, in other foreign investment instruments.

The means obtained from the foreign investment instruments, regardless the currency, may be credited to an E-account. However, the obtained means may not be cashed in favor of third parties. The (partially) from the foreign investment instruments obtained means should be reinvested in other foreign investment instruments within a period of maximum 60 days after the date that the means became available to be considered for exemption from the license fee. Investments in intergroup finance companies is not considered a reinvestment.

The license fee matrix and a further explanation can be downloaded from the website of the Bank: <http://www.centralbank.cw/index.php?eid=309>

## **CURACAO GOVERNMENT ENTITIES EXEMPTED FROM LICENSE FEE**

### Ministerie van Algemene zaken

- Directie Communicatie en Voorlichting
- Constitutionele Zaken
- Directie Buitenlandse Betrekkingen (DBB)
- Directie Risicobeheersing en Rampenbeleid
- Veiligheidsdienst Curaçao
- Ombudsman
- Wetgeving en Juridische Zaken

### Ministerie van Bestuur, Planning & Dienstverlening

- Bentana di Informashon
- Bureau Rijbewijzen
- Bevolkingsregister (Kranshi)
- Centraal Bureau voor de Statistiek (CBS)
- Nationaal Archief
- Vergunningen Loket

### Ministerie van Economische Ontwikkeling

- Curaçao Tourism Bureau
- Departamentu di IJkwezen
- Inspekshon Ekonomiko
- Sektor di Desaroyo Ekonomiko i Inovashon
- Sektor di Koperashon Ekonomiko International
- Sektor di Maneho
- Sektor Sosten na Empresa

### Ministerie van Financiën

- Douane
- Meldpunt Ongebruikelijke Transacties (MOT)
- Ministerie van Financiën, Financieel Beleid en Begrotingsbeheer
- Nieuwe Belastingorganisatie
- Stichting Belastingaccountantsbureau (BAB)

### Ministerie van Gezondheidszorg, Milieu en Natuur

- Geneeskunde en Gezondheidszaken (G&Gz)
- Maneho Agrario i Peska
- Maneho di Medio Ambiente i Naturalesa
- Veterinaire Zaken
- Volksgezondheid Instituut Curaçao (VIC)

#### Ministerie van Justitie

- Brandweer Curaçao
- Controle en Beveiliging
- Sentro di Detenshon i Korekshon Kòrsou
- Hof van Justitie/Het Stadhuis
- Justitiële Jeugdinstelling Curaçao
- Korps Politie Curaçao
- Kustwacht
- Landsrecherche
- Nieuwe Toelatingsorganisatie Curaçao
- Opleidingsinstituut Rechtshandhaving en Veiligheid (ORV)
- Parket van de Officier van Justitie
- Parket van de Procureur-Generaal
- Stichting Gezinsvoogdij instelling
- Stichting Reclassering Curaçao
- Voogdijraad

#### Ministerie van Onderwijs, Wetenschap, Cultuur en Sport

- Organisashon di Maneho Enseñansa, Siensia, Kultura i Deporte
- Sektor di Ehekushon Enseñansa i Siensia
- Direktiva di Skolnan Públiko
- Sentro di Ekspertisio pa Prueba i Eksamen
- Sektor di Ehekushon Kultura i Deporte
- Formashon Sosial Kòrsou

#### Ministerie van Sociale Ontwikkeling, Arbeid en Welzijn

- Inspekshon di Labor & Seguridat na Trabou
- Kasnan di Bario
- Mediadó di Estado
- Sektor di Famia i Hubentut

#### Ministerie van Verkeer, Vervoer en Ruimtelijke Planning

- Domeinbeheer
- Curacaose Burgerluchtvaart Autoriteit
- Maritieme Autoriteit Curaçao
- Meteorologische Dienst Curaçao
- Openbare Werken
- Ruimtelijke Ordening en Planning
- Verkeer en Vervoer

### Overige

- Afdeling Voorlichting van de Raad van Ministers (RVD)
- Algemene Rekenkamer
- Koninklijke Marechaussee
- Koninklijke Marine/Defensie
- Landsloterij Curaçao
- Raad van Advies
- Sociaal Economische Raad Curaçao

## **SINT MAARTEN GOVERNMENT ENTITIES EXEMPTED FROM LICENSE FEE**

### Ministry of General Affairs

- Civil Registry
- Council for Education & Labor
- Council of Advice
- Department of Communication
- Department of Foreign Relations (BB)
- Department of Interior Affairs and Kingdom Relations (BAK)
- Fire Department and Disaster Management
- General Audit Chamber
- Legal Affairs and Legislation (JZ&W)
- National Archives
- Ombudsman
- Organized Consultative Entity for Civil Servants Affairs
- Public Service Center (PSC)
- Resources and Support Services
- Secretariat of the Council of Ministers
- Security Service
- Social Economic Council Sint Maarten
- Voluntary Corps

### Ministry of Tourism, Economic Affairs, Transport & Telecommunication

- Department of Civil Aviation, Shipping and Maritime Affairs
- Department of Economic Licenses
- Department of Economy, Transportation and Telecommunication
- Department of Public Transportation
- Department of Statistics
- Economic Inspection Department
- Meteorological Department
- Tourism Department

### Ministry of Finance

- Administration Department
- Department of Finance
- Department of Fiscal Affairs
- Receivers Office
- Tax Administration

#### Ministry of Public Health, Social Development and Labor

- Ambulance
- Community Development, Family and Humanitarian Affairs
- Department of Collective Prevention
- Department of Labor Affairs
- Department of Public Health
- Department of Social Development
- Department of Social Services
- Inspectorate Public Health, Social Services and Labor

#### Ministry of Justice

- Attorney General Office
- Bureau Unusual Financial Transactions
- Coast Guard
- Court of Guardianship
- Customs
- Department of Judicial Affairs
- Immigration and Border Protection Services
- Joint Court of Justice
- Justice Academy
- Police Corps of Sint Maarten
- Prison and House of Detention
- Public Prosecutor Office

#### Ministry of Education, Culture, Youth & Sports Affairs

- Department of Culture
- Department of Education
- Department of Sports
- Department of Youth
- Division for Educational Innovation
- Division of Examinations
- Division of Public Education
- Division of Study Financing
- Student Support Services Division

#### Ministry of Public Housing, Spatial Development, Environment and Infrastructure

- Inspection Department
- Department of New Projects and Management
- Department of Permits
- Domain Affairs
- Infrastructure Management Department

## **CHAPTER 7**

### **GENERAL ADMINISTRATIVE REGULATIONS**

**(part 4)**

#### **REPORTING REGULATIONS AND GUIDELINES FOR A AND B-TRANSACTIONS, C AND D-STATEMENTS**

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## REPORTING REGULATIONS AND GUIDELINES FOR A AND B- TRANSACTIONS, C AND D-STATEMENTS

The starting point with the reports is that all payments between residents and non-residents must be reported by the foreign exchange banks and money transfer offices authorized by the Bank. The payments can take place in foreign currency as well as in Antillean guilders. In principle, payments in foreign currencies between residents, just as payments between non-residents, will be disregarded.

Making a correct distinction between residents and non-residents is of vital importance for correct reporting. In summary<sup>6</sup>, a resident is a natural person residing for more than a year in Curaçao or Sint Maarten or a legal entity that is established in Curaçao or Sint Maarten and also develops its principal activities within these territories. Thus, for example, investment and financing companies, established in Curaçao or Sint Maarten, but which perform their activities mainly elsewhere, are considered non-residents of Curaçao or Sint Maarten for the balance of payments registration.

On behalf of residents, the following transactions and statements are reported to the Bank by the foreign exchange banks and authorized money transfer offices:

### 1. Cover letter

Separate cover letters must be prepared for the cash and transferred payments and receipts. In the money column, the net amount must be stated, that is to say, including the amounts of the negative transactions. This net amount is decisive for establishing the license fee.

### 2. A-transaction:

An A-transaction is the registration of a transfer payment (money orders, bank checks, traveler's checks, etc.) from a resident to a non-resident or cash foreign exchange purchases by residents.

When reporting A-transactions, the following must be indicated:

- Nature of the payment:

For a correct classification of the different items of the balance of payments, the nature of the transaction must be stated with a code number. For a description of the items, please refer to the code list on page 57 and 58.

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<sup>6</sup> The complete definition is to be found in article 1, sub 1a through e of the Foreign Exchange Regulation Curaçao and Sint Maarten (2010).

- Equivalent in NAf:  
The equivalent in Netherlands Antilles guilders is obtained from the conversion of the amount into a foreign currency against the official exchange rate on the day of the transfer.
- License number:  
If a license is required for a transaction, you must apply for this at the Bank. If your client has already obtained a license, the number of the license must be stated. In the event of redemption and interest payments on loans, the number of the original license for contracting the loan must be stated.
- Name of the resident:  
The name of the resident who initiates the transaction must be stated completely.
- Name of the non-resident:  
The name of the beneficiary non-resident must be stated completely.
- Country of the non-resident:  
You must note here the ISO country code of the beneficiary non-resident. For an extensive list of the ISO country codes, please refer to: <https://www.iso.org/obp/ui/#search/code/>
- Currency of the amount:  
You must note here the ISO currency code of the amount, also if the amount is transferred in NAf. For an extensive list of the ISO currency codes, please refer to: <http://www.oanda.com/help/currency-iso-code-country>.
- Amount in foreign currency:  
You must note here the amount that the client wishes to transfer.
- Type of transaction:  
You must indicate here whether the transaction is subject to the license fee or is exempt from the license fee. Transactions that are subject to the license fee are designated with AGT or ACT and transactions that are exempt from the license fee must be designated with AGF or ACF:
  - AGT is used for outgoing transfers that are subject to the license fee;
  - AGF is used for outgoing transfers that are exempt from the license fee;
  - ACT is used for outgoing cash transactions that are subject to the license fee;
  - ACF is used for outgoing cash transactions that are exempt from the license fee.

- Description:

Here, you must give a detailed description of the transaction with an amount of NAf.150,000 or more.

3. B-transaction:

A B-transaction is the registration of a transfer payment (money orders, bank checks, traveler's checks, etc.) from a non-resident to a resident or cash foreign exchange sales by residents.

With regard to the reporting of a B-transaction, please refer to what is stated at the A-transaction, with the following adjustments:

- Name of the resident:

The name of the beneficiary resident must be stated completely.

- Name of the non-resident:

The name of the non-resident who initiates the transaction must be stated completely.

- Type of transaction:

B-transactions are designated with BGF or BCF:

- BGF is used for incoming transfers that are exempt from the license fee;
- BCF is used for incoming cash transactions that are exempt from the license fee.

The transfers must be reported in an Excel file together with the cover letter. The cash transactions must be reported in the C-statement together with the cover letter.

4. C-statement:

The C-statement is a monthly statement of total amounts of currency transactions over the counter of foreign exchange banks and by money transfer offices authorized by the Bank. For administrative reasons, it is not necessary to verify whether these currency transactions are related to residents or non-residents.

The amounts must be reported in thousands of Netherlands Antilles guilders, indicating the total amounts of the various cash transactions by currency.

In order to have the amounts of the C and D-statements correspond with each other, a negative A or B-transaction must be reported of all the cash transactions at the expense of or in favor of non-residents (see under 5).

The amount of license fee must be calculated on the amount in line 11 of the C-statement: “Total” in the column “subject to the license fee”.

The C-statement can be downloaded from the website of the Bank:  
<http://www.centralbank.cw/C-staat>

5. Negative A and B-transactions:

These transactions are corrections of transactions reported earlier. The following corrections are distinguished:

- correction of an A-transaction by means of a negative A-transaction
- correction of a B-transaction by means of a negative B-transaction
- correction of a cash transaction of a non-resident by means of a negative A or B-transaction

For the reporting of these transactions, please refer to the explanation on the A and B-transactions.

Also for negative A and B-transactions, a cover letter and an Excel-file with the A and B-transactions must be reported to the Bank. The correction must be registered in the month in which the transaction took place. Also the D-statement must be corrected.

Corrections must always be signed by an authorized person.

6. D-statement:

The D-statement consists of four reports and is meant for the verification of all foreign exchange transactions performed in a month. The reporting institution itself can verify whether the report to the Bank is complete.

The D-statement must be completed timely and correctly by the 28<sup>th</sup> of each month, signed by an authorized person of the reporting institution. If one or more of the four reports have not been submitted timely, the D-statement will be considered as incomplete and send back to the reporting institution for proper completion.

The D-statement comprises the following reports:

1. D-form;
2. Overview currency transactions with the Bank and other foreign exchange banks;
3. Specification of the currency transactions per bank; and
4. Checklist D-statement.

The reporting instructions for each report of the D-statement are as follows:

### **D-form**

Lines 1 and 7:

The net foreign position is determined by balancing the assets and liabilities columns for non-residents of the Chart of Accounts. On line 1, the balance at the end of the previous month is filled out. A positive balance is obtained, if the claims on non-residents and foreign assets are higher than the liabilities to non-residents. A positive balance must be filled out in the debit column "Receipts", whereas a negative balance is stated in the credit column "Expenditures".

On line 7, this is done the other way round for bookkeeping reasons.

Line 2:

Here, the total amount is stated of all the A and B-transactions that were reported to the Bank in the reporting month.

Line 3:

Here, the total amount of the cash transactions is stated, as indicated under line 11 of the C-form.

Line 4:

Here, the equivalent of the currency must be stated which were bought from, respectively, sold to the Bank in the reporting month and settled on the daily statement of the Bank. In addition, you must register on this line transfers from your foreign currency accounts at the Bank to abroad and from abroad to your foreign currency accounts at the Bank.

In order to simplify the verification of the correctness of the amounts filled out, all foreign exchange transactions must be itemized according to cash and transactions or transfers. In the electronic version of the D-statement, these totals are linked to the totals in the overview of currency transactions with the Bank and foreign exchange banks (List 2).

Line 5:

Here, the equivalent of the currency must be stated which the banks bought from, respectively, sold to each other (interbank transactions) in the reporting month. In addition to the purchase and sale of foreign currency, the mutual settlement of a foreign payment transaction performed for a resident who is a client of another local bank must also be included in the local interbank foreign exchange transactions. Please note that in such cases, the reporting of the original foreign transaction must be performed only by the bank that has executed this transaction and, consequently, sees a change occurring in

its foreign position. The subsequent settlement of currencies must be stated on the D-form by both banks.

In the electronic version of the D-statement, these totals are linked to the totals in the overview of currency transactions with the Bank and foreign exchange banks (List 2).

Line 6:

This line is meant for the reporting of valuation differences and differences in the rate of exchange as a consequence of foreign currency trading. The general rule is that this difference may not be greater than 3% of the sum of the receipts (debit) or expenditures (credit) reported on the lines 2, 3, 4 and 5, depending on which side the difference in the rate of exchange is reported. In the event of a higher deviation, the D-form will be considered as incomplete and send back to the reporting institution for proper completion.

Line 7:

This line is to verify if the sum of the Debit column is equal to the sum of the Credit column.

The D-form must be signed by an authorized person of the reporting institution.

### **Overview of currency transactions with the Bank and foreign exchange banks**

In this report, the total of currency transactions between the reporting institution, on the one hand, and the Bank and the other foreign exchange banks, on the other hand, in the reporting month must be reported. In the electronic version of the D-statement, the totals in this report are linked to the totals in the specification of the currency transactions per bank (List 3).

This report must also be signed by an authorized person of the reporting institution.

### **Specification of the currency transactions per bank**

The reporting institution must fill out this specification for each foreign exchange bank it had transactions with and for the transactions with the Bank during the reporting month. This report is a more detailed specification of the total in List 2 (Overview of currency transactions with the Bank and foreign exchange banks) by date of the transaction, description of the transaction, currency, and the equivalent in ANG.

In the second column, you must give a description of the transaction. For example, you can indicate here whether the transaction concerns a settlement of a foreign exchange transaction which was performed for a resident who is a client of another local bank.

In the third column, you must specify the currency of the transaction, while the value in foreign currency must be reported in the fourth column. Subsequently, all transactions must be converted into ANG and reported as “cash” or “transfer” to simplify the verification of the correctness of the amounts filled out. To register the ANG values, you must use the columns: Transfer ANG DT, Transfer ANG CR, Cash ANG DT and Cash ANG CR. These columns must be filled out in non-rounded amounts.

In the electronic version of the D-statement, you will find a sheet for each foreign exchange bank and the Bank. You must only complete the sheets for the foreign exchange banks you had carried out transactions with (including the Bank). Each completed sheet must be printed and signed by an authorized person of the reporting institution.

### **Checklist D-form**

This report is a general verification list consisting of seven rules. For each rule, you must verify if it matches the condition indicated in the right column. If the rule, matches the condition, the grey block in front of each line must be checked.

This report must also be signed by an authorized person of the reporting institution.

The D-statement can be downloaded from the website of the Bank:

<http://www.centralbank.cw/D-staat>

## **A2 a. Code list current payment transactions**

- 0. Goods
- 00. General goods
- 03. Oil and oil products
- 04. Goods for refinement/processing
- 05. Repairs to goods
- 06. Bunkering
  
- 1. Transportation services
- 13. Aviation, passengers
- 14. Aviation, freight
- 15. Aviation, other
- 16. Shipping, passengers
- 17. Shipping, freight
- 18. Shipping, other
  
- 2. Other services
- 20. Tourism
- 22. Telecommunications
- 23. Construction
- 24. Financial services
- 25. Computer and information services
- 26. Royalties and licenses
- 27. Other business services
- 28. Private, cultural and recreational services
- 29. Government services n.i.e.
  
- 3. Income
- 33. Income from labor
- 34. Distributed profits
- 35. Interest on loans
- 36. Dividends
- 37. Interest on securities
- 38. Income from other financial assets
  
- 4. Income transfers
- 40. Receipts offshore taxes
- 45. Other income transfers government
- 46. Income transfers foreign employees
- 47. Premiums non-life insurances
- 48. Benefits non-life insurances
- 49. Other income transfers

## **A2 b. Code list capital payment transactions**

- 5. Capital transfers
- 50. Grants from the Netherlands
- 51. Grants from the EU
- 53. Emigration transfers
- 58. Patents, copyrights
- 59. Other capital transfers
  
- 6-9. Financial transactions
- 60. Direct investment abroad
- 61. Other financial transactions of direct investors abroad
- 62. Direct investment in Curaçao or Sint Maarten
- 63. Other financial transactions of direct investors in Curaçao or Sint Maarten
- 64. Foreign stocks
- 65. Foreign bonds
- 66. Foreign money-market papers
- 67. Foreign financial derivatives
- 68. Stocks, bonds and other money-market papers issued in Curaçao or Sint Maarten
- 69. Government bonds issued in Curaçao or Sint Maarten
- 70. Loans granted by Curaçao or Sint Maarten, short term
- 71. Loans granted by Curaçao or Sint Maarten, long term
- 73. Loans granted by foreign countries, short term
- 74. Loans granted by foreign countries, long term
  
- 87. Other assets, short term
- 88. Other assets, long term
- 89. Other liabilities, short term
- 90. Other liabilities, long term
- 91. Life insurance premiums paid/received
- 92. Life insurance benefits paid/received
  
- 94. Transactions between residents settled abroad
- 95. Transactions of amounts smaller than NAf.5,000
- 96. Transactions between non-residents
- 97. Transfers from/to foreign bank accounts of companies
- 98. Transfers for the settlement of intercompany accounts
- 99. Transfers of agents of transportation companies

## **CHAPTER 8**

### **GENERAL ADMINISTRATIVE REGULATIONS**

**(part 5)**

#### **INTEGRITY REQUIREMENTS WHEN SUBMITTING AN APPLICATION FOR A FOREIGN EXCHANGE LICENSE OR EXEMPTION**

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## INTEGRITY REQUIREMENTS WHEN SUBMITTING AN APPLICATION FOR A FOREIGN EXCHANGE LICENSE OR EXEMPTION

1. It must be clear for the Bank that the one that is granted a foreign exchange license or exemption (= dispensation from the provisions in articles 10 through 16 of the Foreign Exchange Regulation Curaçao and Sint Maarten (2010) is identified and does not appear on a sanction list pertaining the sanction decisions and rules of Curaçao or Sint Maarten.
2. Identification by the (financial) service provider must take place in accordance with the Financial Services Identification Act (*Landsverordening Identificatie bij Dienstverlening (LID)*) of Curacao, respectively, Sint Maarten and/or the various Provisions and Guidelines on the Detection and Deterrence of Money Laundering and Terrorist Financing of the Bank. Sanction screening by the (financial) service provider must take place in accordance with the implementation decrees of the Sanction Act of Curaçao (P.B. 2014, nr. 55), respectively, in accordance with the Sanction Regulation of Sint Maarten (O.B. 2015, nr. 15) and/or the various Provisions and Guidelines on the Detection and Deterrence of Money Laundering and Terrorist Financing of the Bank.
3. Every (financial) service provider who submits an application on behalf a client for a foreign exchange license or exemption, has to send copies of the relevant identification documents of the client along with the application.
4. The identification documents of a legal entity must contain, in addition to the certified extract from the Chamber of Commerce and Industry, a copy of the articles of incorporation, the identification documents of the Managing Directors, Attorneys'-in-fact, Supervisory Directors and of the Ultimate Beneficial Owner(s) (UBO), as defined in the various Provisions and Guidelines on the Detection and Deterrence of Money Laundering and Terrorism Financing of the Bank<sup>7</sup>. For the sanction screening by the Bank, a complete list of the UBOs and a copy of the shareholders register must also be submitted. These documents allow the Bank to subject these natural persons to sanction screening also after granting a foreign exchange license or exemption.
5. In connection with the identification of **natural persons**, providing a written statement by the civil-law notaries, trust offices and law firms will also suffice, in which it is laid down that the identification was performed in accordance with the provisions of the LID and/or Provisions and Guidelines of the Bank, referred to above, and that those concerned were subjected to sanction screening where no match was observed. This statement must be signed by a person who is authorized to represent the institution/company in question.

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<sup>7</sup> Including comparable interested parties, for example the case of a private fund foundation.

6. If there are several/other agencies that perform the identification and sanction screening of clients, it is permitted for the one that has conducted the identification and sanction screening to send said identification documents or signed statement, provided the latter is under effective anti-money laundering and counter terrorism finance (aml/ctf) supervision. In the case of foreign exchange licenses and exemptions local civil-law notaries, trust offices and law firms are also permitted to do this, because they fall under the LID regulations. Aml/ctf supervision is considered adequate for jurisdictions that are undergoing the follow-up of the third mutual evaluation or that are not yet subjected to the fourth round of mutual evaluation when the (FATF, IMF and FSRB<sup>8</sup>) Mutual Evaluation Report on that jurisdiction contains less than 10 “Non Compliant” (NC) or “Partially Compliant” (PC) qualifications of the 16 Key and core FATF recommendations and a “Compliant” or “Largely Compliant” qualification for FATF recommendation 23<sup>9</sup>.

Aml/ctf supervision is considered adequate for jurisdictions that are already subjected to the fourth round of mutual evaluation when after discussion of the (FATF, IMF or FSRB) Mutual Evaluation Report on that jurisdiction not any of the following situations is applicable:

- i. the jurisdiction has 8 or more NC/PC ratings for technical compliance;
  - ii. the jurisdiction has a NC/PC rating for one or more of the recommendations<sup>10</sup> 3, 5, 10, 11 and 20;
  - iii. the jurisdiction has a low or medium level of effectiveness for 7 or more of the 11 results concerning effectiveness;
  - iv. the jurisdiction has a low level of effectiveness for 4 or more of the 11 results concerning effectiveness.
7. In the case of a “shelf company” already formed and a Private Fund Foundation (*Stichting Particulier Fonds (SPF)*), all formal steps, including the application for a foreign exchange exemption, have been dealt with in advance. However, the one that is stated as owner at the formation, for, among other things, obtaining a foreign exchange exemption, is not by definition the UBO at the moment that this company has become active. For these institutions, there is a transition policy: at the moment that these companies and foundations become active, the one that is the UBO, must be identified in an adequate manner, be subjected to sanction screening and be reported to the Bank. In this case, a statement, as referred to above, is also sufficient.
  8. Future changes of the name and/or UBO must also be reported to the Bank. This also applies, for that matter, to corporations that were not formed in the past as a “shelf company” and in which case a change of the name and/or a change of the

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<sup>8</sup> FATF Style Regional Bodies.

<sup>9</sup> This concerns the old FATF recommendation 23.

<sup>10</sup> The list that follows concerns the revised FATF recommendations of 2012.

UBO takes place. No foreign exchange license/exemption will be granted to corporations, private fund foundations and others, if the UBO does not (yet) exist.

9. Applications for foreign exchange licenses and/or exemptions that do not meet the integrity requirements, will not be honored by the Bank
10. For each application for a foreign exchange exemption, a fee will be charged by the Bank in order to cover the administrative costs.