Mutual Regulations as referred to in article 38, first paragraph of the Charter of the Kingdom of the Netherlands regulating the foreign exchange transactions for Curacao and St. Maarten (Foreign Exchange Transactions Regulations for Curacao and St. Maarten)

CURAÇAO AND ST. MAARTEN

Whereas,

it is stated in article 88 of the State Regulation[Constitution] of Curacao that the monetary system shall be regulated by a national ordinance and whereas it is stated in article 100 of the State Regulation of St. Maarten that the monetary system shall be regulated by or by virtue of a national ordinance;

And whereas

it is agreed in the Final Agreement of 2 November 2006 that there will be one central bank for Curacao and St. Maarten with one set of legislation and one Supervisor for the monetary supervision, the financial supervision and the integrity supervision;

And whereas

Curacao and St. Maarten made agreements in principle on 26 November 2008 about a joint central bank and the relevant regulations;

And whereas

the in-principle agreements in any case comprise the following:

- that a central bank will be established as a public legal entity/public corporate body;

- that there is one currency area with a single/common currency in a fixed exchange-rate relation to the United States dollar;

- that the principal responsibility of the Central Bank is the supervision of the financial sector in the two countries, including the monetary supervision, the economic and commercial supervision as well as the integrity supervision;
that said supervision serves to maintain the external value of the currency and soundness of the financial system;

that the decision-making by the countries takes place on the basis of parity between the countries;

NOW THEREFORE:

CURAÇAO AND ST. MAARTEN HAVE AGREED AS FOLLOWS:

CHAPTER 1 Definitions
Article 1

The following definitions will apply for the application of the provisions laid down by or by virtue of these Regulations:

1. Residents: a. natural persons who are residing in the country Curaçao or the country St. Maarten; and have been entered in the population registers or who, effective from the date of their arrival, are physically residing in the country Curaçao or the country St. Maarten for longer than one year; as soon as that year has expired;

b. legal persons, partnership firms and limited partnerships that are established in the country Curaçao and the country St. Maarten;

c. branches, branch offices, enterprises and agencies, if not categorized under b;

d. administrative bodies and services established in the country Curaçao and the country St. Maarten;

e. persons, legal persons and other institutions designated by the Central Bank of Curaçao and St. Maarten, if not categorized under a, b, c and d.

2. non-residents: a. natural persons, legal persons, partnership firms, limited partnerships, branches, branch offices, companies and agencies not categorized under the definition of residents;

b. diplomatic and consular representatives of foreign powers and international organizations in the country Curaçao and the country St. Maarten;
c. the diplomatic, career consular and administrative officers of foreign nationality, referred to under b, their spouses and children living together with them;

3. gold: gold coins, fine gold, gold alloys (unprocessed and semi-manufactured)

4. precious metals: silver, platinum and platinum metals (unprocessed and semi-manufactured);

5. precious stones: diamonds and similar precious stones (in raw or semi-manufactured state);

6. valuable paper/negotiable instruments: cheques, bills of exchanges, promissory notes and similar valuable papers as well as travellers' letters of credit and credit cards with the exception of securities;

7. means of payment: coins (with the exception of gold coins), banknotes and similar means of exchange

8. amounts owed/claims: debts expressed in money insofar as they are not represented by monetary instruments or securities

9. securities: a. share certificates, debenture bonds, fixed-trust share certificates, participation certificates, profit-sharing certificates, founder's certificates, option certificates, treasury bills, subscriptions in debt and share registers and similar stocks and titles;

b. certificates of the securities and titles referred to under subsection a;

c. scrips of the securities/stocks referred to under subsections a and b.

10. foreign securities: securities other than those issued by or at the expense of public corporations of the country Curaçao or the country St. Maarten, or private legal persons, partnership firms and limited partnerships established in the country Curaçao or the country St. Maarten;

11. property: movable property within the meaning of the Civil Code of each Country, with the exception of gold, precious metals, precious stones, means of payment, valuable papers, securities and documents in which claims are represented;
12. offshore company: a public limited company and a private limited company established in the country Curaçao or the country St. Maarten whose object, under the Articles of Incorporation, is pursued upon orders and for the benefit of one or more non-residents or the company itself, by means belonging to one or more non-residents or the company itself and whose issued shares are owned by one or more non-residents or limited or private company considered as non-residents by or by virtue of these Regulations;

13. foreign exchange office: an institution which buys or sells foreign means of payment, cheques, travellers' letters of credit and claims from credit cards;

14. foreign exchange bank: a bank authorized under article 9, paragraph 3, of the Central Bank Statute for Curaçao and St. Maarten (Off. Journal xxxx xxx) to operate as foreign exchange bank;

15. foreign country/country abroad: the area outside the country Curaçao and the country St. Maarten;

16. guilder: the Caribbean guilder;

17. Bank: the Central Bank of Curaçao and St. Maarten

18. Country: country Curaçao or country St. Maarten

19. Countries: country Curaçao and country St. Maarten

CHAPTER II General Provisions

Article 2

1. The general foreign exchange policy is vested in the Government of the Countries;

2. The Bank is responsible for the implementation, for account and risk of the Countries, of these Regulations.

Article 3

1. The value of the guilder is laid down in the Regulation on the Exchange Rate of the Caribbean guilder, which value will be observed by the Bank in determining the rates for foreign currencies

August 31, 2010a
2. The rates determined by the Bank for foreign currencies shall be maintained by the Bank, the foreign exchange banks, the foreign exchange offices in money transfers/payment transactions.

Article 4

1. In case the interest of the national economy so requires, the Minister of Finance of a country may by national decree establish rules with regard to the financial traffic, along with designated persons, groups of persons, organizations, firms, institutions, entities or countries, respectively, along with the designated goods within the meaning of article 1 of Book 3 of the Civil Code of each Country.

2. In case the interest of the international rule of law or the implementation of an international agreement or obligation so requires, the Ministers of Finance, acting jointly, will by uniform national decree establish rules with regard to the financial traffic, along with designated persons, groups of persons, organizations, firms, institutions, entities or countries, respectively, along with the designated goods within the meaning of article 1 of Book 3 of the Civil Code of each Country.

3. The rules referred to in the first and second paragraphs may be related to:
   a. the freezing of goods, either directly or indirectly;
   b. the authority to perform acts of management or of disposition relating to funds or assets that are maintained by institutions or credit institutions established in the Countries, as referred to in the uniform national ordinance regarding rules for the supervision of the banking and credit institutions or other financial institutions;
   c. the authority to effect payments, directly or indirectly, or to provide capital or other financial means; the rules also contain general guidelines which are observed by the Bank in the exercise of the powers conferred to the Bank by or by virtue of these Regulations.

4. The rules referred to in the third paragraph may contain general guidelines which shall be observed by the Bank in the exercise of the powers conferred to the Bank by or by virtue of these Regulations.

5. The Ministers of Finance and the Ministers of Justice of the Countries may upon request and upon the advice of the Bank jointly grant dispensation or exemption from the obligation to comply with the rules established on the basis of the first and second paragraphs. The dispensation or exemption may be subject to restrictions and regulations.
Article 5

1. In case of urgency the rules referred to in article 4, first and second paragraphs, may be established by order of the Ministers of Finance. Except if prematurely withdrawn, such order will remain in force until the time when a national decree in council, in pursuance of article 4, first and second paragraphs, concerning the same subject, enters into effect, but not later than six months after the day on which the decree has entered into effect.

2. Orders issued in pursuance of the first paragraph shall be published in the journals in which each Country proclaims the official notices.

Article 6

The conditions, rules and provisions laid down by or by virtue of these Regulations, are not applicable to the Bank in case it concerns values which the Bank possesses for its own account, or are retained by the Bank for account of the Countries.

Article 7

1. With respect to the performance of their duties in accordance with conditions, rules and provisions laid down by or by virtue of these Regulations, the foreign exchange banks are not subject to supervision by the Bank.

2. With regard to the performance of duties of foreign exchange banks as referred to in the first paragraph, the Bank has the authority to give directions to the foreign exchange banks; said directions constitute part of the conditions under which authorization has been granted to the bank to operate as foreign exchange bank.

Article 8

1. The Bank has the authority, in a license, and under conditions stipulated by the Bank, to grant authorization to persons or institutions to operate as a foreign exchange office.

2. In the performance of their activities the foreign exchange offices shall observe the directions referred to in article 7, insofar as such directions are applicable to their activities; the directions constitute part of the
conditions under which the authorization referred to in the first paragraph, has been granted.

3. The foreign exchange offices are subject to supervision by the Bank with regard to the performance of their activities.

Article 9

1. Everybody is under the obligation, at the Bank’s request, to provide all information and data to the Bank, which is of importance for the compilation of the balance of payments.

2. Notwithstanding the provisions of article 1, transactions between residents of the Countries will be considered as balance of payment transactions of the separate countries when drawing up the balance of payments.

3. The Bank has the authority to establish administrative rules for obtaining the information and data referred to in the first paragraph.

CHAPTER III Payment transactions/payment traffic/flow of payments

Article 10

1. The current payment traffic consists of payments and receipts to, non-residents with regard to goods, services, income and income transfers, which are further broken down into regulations or provisions laid down by or by virtue of these Regulations.

2. The payment traffic with foreign countries, referred to in the first paragraph of this article is, in principle, free; said freedom may be restricted by conditions, rules or provisions laid down by or by virtue of these Regulations.

3. If the Bank is of the opinion that, as a consequence of the payment traffic/flow of payments with countries abroad, the foreign exchange reserves position of the Countries is affected to a serious degree, or that such a development threatens to arise, the Bank may establish rules with regard to the payments and receipts referred to in the second paragraph; these rules may include a prohibition to effect, respectively, to receive designated payments without a permit.
Article 11

1. Except for the payments traffic/flow of payments referred to in article 10 all other payment transactions with foreign countries, including the capital movements, are prohibited without a license/permit.

2. It is prohibited to residents, except with a license/permit, to perform or cooperate in acts relating to or leading to the payment transactions and capital movements referred to in the first paragraph; it is also prohibited to provide guarantees, security and other warrants in order to perform or to cooperate in these acts.

Article 12

Except if exemption has been granted, payments to non-residents made in whatever foreign currency must be effected either to the debit of an account held in the name of the Bank or in the name of a foreign exchange bank issued/made out in that currency or in favour of an account registered in the name of the non-residents in the books of the Bank or of a foreign exchange bank issued/made out in that currency.

Article 13

1. In case residents have not sold or have not issued foreign monetary instruments belonging to them or have not submitted such instruments for collection and have not transferred such instruments to a foreign exchange bank, they will be obligated, without delay, to collect the foreign monetary instruments or foreign claims belonging to them as soon as a monetary instrument is payable or as soon as a claim is demandable.

2. The collection referred to in the first paragraph must be effected either by depositing the demandable amount on an account in a country abroad standing in the name of the Bank or in the name of a foreign exchange bank, or to pay the claimable amount to the debit of deposits held by a non-resident of the Bank or at a foreign exchange bank.

3. In case a foreign monetary instrument or a foreign claim is collected in the manner referred to in the second paragraph, it will be permitted to credit the amount concerned, to an account issued in a foreign currency and standing in the resident’s name at the Bank or at a foreign exchange bank.

4. Exemption can be granted from the provisions of this article.
Article 14

It is prohibited to residents, without a permit, to retain in their books any deposits expressed in the Caribbean guilder in the name of or for the benefit of a non-resident, in case said deposits are or have been created by transfer from a foreign country or by depositing Caribbean guilders or foreign currencies by or upon the instructions of non-residents.

Article 15

Except for travelling purposes it is prohibited to everybody, without a license/permit to export means of payment.

Article 16

1. It is prohibited to residents, without a permit to import or to export precious metals, gold, precious stones, securities and similar values.
2. Except if exemption has been granted to them, residents are obligated to deposit foreign securities in safe custody:
   a. domestically: with the Bank or a foreign exchange bank;
   b. abroad: with a non-resident in order to be added to a depository in the name of the Bank or in the name of a foreign exchange bank;
3. With regard to safe custody of securities, which are provided with coupon or dividend sheets, it will suffice to deposit said coupon and dividend sheets in the manner referred to in the second paragraph.

CHAPTER IV Licenses/permits

Article 17

1. If a license/permit or an exemption is required by or in pursuance of these Regulations for the performance of and the cooperation in acts, the Bank will have the authority to grant such license/permit or exemption.
2. In case certain acts for which a license/permit is required by or by virtue of these Regulations, are recurrently performed, the Bank may grant a general license/permit or exemption for the performing of or cooperating in such acts.
3. A license/permit or exemption may be granted on conditions: if a condition is not fulfilled, the license/permit or exemption will be considered not to have been granted.

4. A license/permit or exemption can be made subject to obligations.

**Article 18**

1. The Bank will grant the license/permit or the exemption referred to in article 17, first and second paragraphs, if the requirements set by the rules of the Bank relating to integrity, are satisfied. The Bank shall take see to the publication of said rules.

2. Everybody to whom a license/permit has been granted by or by virtue of these Regulations, is obligated to continue to meet the requirements set by or by virtue of these Regulations for obtaining the license/permit or exemption, and also to satisfy the conditions stipulated by and the obligations attached to the license/permit or exemption.

**Article 19**

In case the Bank is of the opinion that there are certain circumstances, the Bank may *a posteriori* grant a license or exemption for the performing of and the cooperating in an act: said license/permit or exemption is deemed to have been granted at the time of the performing of or the cooperating in said act.

**Article 20**

Licenses/permits or exemptions required by or by virtue of these Regulations for the performing of or the cooperating in an act, may be applied for by and be granted to everybody who is party to or is cooperating in such act. If the license/permit is granted it will be applicable to all persons who are party to or are cooperating in the act.

**Article 21**

1. The licensee or the person with an exemption is under the obligation to adhere to and to continue to adhere to the rules established by the Bank with regard to integrity.

2. For the implementation of recommendations, warnings and regulations of international or intergovernmental organizations, the Bank may issue rules for the institutions supervised by the Bank in pursuance of these
Regulations; such organs are obliged to adhere to and to continue to adhere to those rules.

3. The Bank will take care of the publication of the rules referred to in the first and second paragraphs, including the publication of those rules on the website of the Bank, mentioning the date of issue.

Article 22

1. The Bank may withdraw the license/permit or exemption:
   a. in case the licensee or the party with an exemption makes a request for withdrawal. The Bank shall decide on the request within 60 days after its receipt;
   b. in case the data or documents provided in order to obtain the license/permit or exemption turn out to be so incorrect or incomplete that a different decision would have been made, if the correct circumstances has been fully known at the time of reviewing the request;
   c. in case circumstances occur or facts become known on account of which the license or exemption would have been refused, if such circumstances had occurred or such facts had been known at the time the license or exemption was granted;
   d. in case the licensee or the person with an exemption has died;
   e. in case the licensee or the person with an exemption has entered into liquidation;
   f. in case the licensee or the person with an exemption is declared bankrupt;
   g. in case the licensee or the person with an exemption abuses or makes an improper use of the license or of the exemption;
   h. in case the licensee or the person with an exemption does not or does not any longer comply with the obligations imposed by or by virtue of these Regulations.

2. The decision to withdraw the license or exemption, or the refusal to withdraw the license or exemption is notified to the person concerned by bailiff’s writ served upon instructions of the Bank.

3. As soon as the decision to withdraw the license or the exemption has become irrevocable, the Bank will publish the decision, together with the reasons, in the journals in which each Country announces its official notices if the Bank deems it necessary in the interest of the financial traffic. In case the Bank is of the opinion that such is in the interest of the financial traffic, the Bank may also publish the decision together with the reasons.
for withdrawal, referred to in the first sentence, in another manner determined by the Bank. The costs of publication shall be borne by the person whose license or exemption has been withdrawn.

4. In case the publication could cause serious damage to the interests of the persons concerned, the Bank may postpone the publication referred to in the third paragraph to a later point in time as determined by the Bank.

CHAPTER V Offshore companies

Article 23

In case the Bank grants an exemption to an offshore company from the conditions, rules and provisions laid down by or by virtue of articles 10, 11, 12, 13, 14, 15 and 16, the Bank may state that the offshore company is considered as a non-resident with respect to the payment transactions/traffic/flow of payments.

Article 24

1. In case the Bank has issued an exemption and statement as referred to in article 23, the provisions of article 26 will not be applicable with regard to the offshore company concerned, unless the Bank has a reasonable suspicion that acts are being performed which are contrary to the conditions on which the exemption referred to in article 23 was granted.

2. In case the Bank, acting on the basis of the investigation in conformity with the provisions of article 78, establishes that one or more conditions of the exemption referred to in article 23 have been violated, the Bank can withdraw the exemption at least three months after the Bank has, by registered letter, informed the legal representative of the respective offshore company of its intention to withdraw the exemption.

CHAPTER VI Special provisions

Article 25

All documents drawn up in connection with the application and fulfillment of the provisions laid down by or virtue of these Regulations, are exempt from stamp duty and from registration formalities.
Article 26

1. Except if otherwise provided in these Regulations no compensation will be paid for damages arising from the conditions, rules and provisions laid down by or by virtue of these Regulations.

2. In case an act for which a license or an exemption is required, has been performed without such license or exemption, the interested parties involved in the act cannot reciprocally seek to rely on (invoke) the lack of the license or exemption.

Article 27

1. Data and information provided or obtained by or by virtue of the provisions of these Regulations about individual citizens and non-residents and information received from an institution as referred to in article 28, first and second paragraphs, will not be published and are confidential.

2. It is prohibited to everybody who performs a duty on account of the application of these Regulations or of decisions taken by virtue of these Regulations, to make a further or different use of or to reveal data or information provided in pursuance of these Regulations or received from an institution as referred to in article 28, or of data and information obtained from the audit of books, records or other information carriers, for purposes other than for the exercise of his duties or for purposes required under these Regulations.

3. Notwithstanding the provision of the first and second paragraphs, the Bank has the authority, in the interest of the financial traffic/transactions, to report a suspicion of a criminal act or in the cases whereby the Bank is called up to act as witness or expert, the Bank shall have the authority, within the framework of the investigation, the preliminary inquiry or the hearing in court, to provide information.

4. Notwithstanding the provisions of the first and second paragraphs, the Bank has the authority by using data or information obtained in the performance of its duties as assigned in these Regulations, to divulge information, provided that such information cannot be traced back to individual residents and non-residents. However, with the written consent of the resident or non-resident concerned, the data or information relating to individual residents or non-residents will be published.

5. Notwithstanding the provisions of the first and second paragraphs, the Bank is authorized to inform the Reporting Centers referred to in the national ordinances on the reporting of unusual transactions, in case the
Bank, in carrying out its duties assigned under these Regulations, detects facts pointing to a suspicion of money laundering or the financing of terrorism.

Article 28

1. Notwithstanding article 27, first and second paragraphs, the Bank has the authority to provide data or information obtained in the performance of its duties assigned by these Regulations, to government agencies of the Countries or to foreign governmental agencies, or to assigned agencies of the Countries or abroad, who are charged with the supervision of financial markets or of legal persons, companies or natural persons operating on those markets, unless:
   a. the purpose for which the data or information will be used are insufficiently defined;
   b. the intended use of the data and information does not fit within the framework of the supervision of financial markets or of legal persons, companies or natural person operating on those markets;
   c. the providing of the data or information would not be consistent with the statutory provisions or the public order of the Countries;
   d. the secrecy of the data or information is not sufficiently guaranteed;
   e. the providing of the data or information is or could be reasonably contrary to the interest which these Regulations envision to protect;
   f. it is insufficiently guaranteed that the data or information will not be used for a purpose other than the object for which they were provided;

2. Notwithstanding article 27, first and second paragraphs, the Bank may provide data and information which the Bank has obtained in the performance of its assigned duties to the Public Prosecutor of each Country, to the Reporting Centers referred to in the national ordinances on the reporting of unusual transactions or to other authorities charged with the investigation and prosecution, insofar as such data or information, in the Bank's opinion, are or could be important for investigations or future inquiries to be made by the Public Prosecutor or each Country, or to the Reporting Centers referred to in the national ordinances regarding the reporting of unusual transactions or to other authorities charged with the investigation and prosecution.
Article 29

1. For the purpose of the implementing of treaties on the exchange of data and information or for the implementation of binding decisions of international organizations relating to the supervision of financial markets and of legal persons, companies or natural persons who are operating on those markets, the Bank may, for the benefit of an authority operating in a State which, together with the Countries, is party to a treaty, or which, together with the Countries is subject to one and the same binding decision of an international organization and which is responsible within such State for the implementation of statutory rules on the supervision of foreign exchange transactions, ask information from or initiate an inquiry from everybody who, pursuant to these Regulations, is subject to the Bank’s supervision or from everybody who can reasonably be suspected to have data or information that can be of importance for the implementation of the statutory regulations referred to hereinafore.

2. The person who is requested to provide data or information as referred to in the first paragraph, shall provide such data and information within a period stipulated by the Bank.

Article 30

1. The Bank may allow an officer of a foreign agency as referred to in article 29, first paragraph, to participate in the implementation of a request as referred to in said paragraph.

2. The person at whom an inquiry as referred to in article 29, first paragraph, is being instituted, will render every cooperation to the officer referred to in the first paragraph, which is necessary for a proper execution of said inquiry, on the understanding that the person who is subject to the inquiry and who is not subject to supervision under these Regulations, is only obliged to grant access to business-related data and records.

3. The officer referred to in the first paragraph shall follow the directions of the person who is charged with the execution of the inquiry and will be supervised by said person.

Article 31

1. The applicant for an exemption from the provisions of articles 10 through article 16 has to pay a fee to the Bank with regard to said application.
2. The costs involved for the implementation of the provisions laid down by or by virtue of these Regulations will be passed on to the holders of a license, to those with an exemption, to foreign exchange banks, or foreign exchange offices. By national decree providing for general measures, further rules will be established about the passing on of costs; and the determining of the amount of the fees referred to in this article.

3. The amount of the fees referred to in this article will be set in such manner that the total of the amounts to be charged will collectively be at most equal to the costs incurred by the Bank for the processing of the applications for licenses and exemptions, and for the supervision of the foreign exchange banks and foreign exchange offices by the Bank.

4. The fee payable in accordance with the second paragraph is to be paid within four weeks after the date of the letter imposing the payment obligation.

5. In case of failure to effect payment, the amount payable under the second paragraph, will be increased by the statutory interest applicable in the respective Country, counting from the day on which the period referred to in the foregoing paragraph, has expired.

6. In case the amount due under the second paragraph is not paid within the stipulated period, the Bank will send a written warning to pay the amount increased by the costs of the payment demand within two weeks. The demand will contain the notification that the amount increased by the costs of the payment demand will be collected in accordance with the seventh paragraph, in case no payment is effected within the stipulated period.

7. In case of failure to effect timely payment, the Bank may collect the amount increased by the costs of the payment demand as well as the collecting charges by issuing a writ of execution.

8. The writ of execution will be served by bailiff's notification at the expense of the person involved and is enforceable within the meaning of the Second Book of the Code of Civil Procedure of each Country.

9. Article 64 is applicable, mutatis mutandis.

Article 32

It is prohibited to a resident to cooperate in an agreement or an act of which he knows or should reasonably know that a license or exemption is required for the entry into the agreement or the performance of the act pursuant to or by virtue of the conditions, rules and provisions laid down in these Regulations, unless said person has made sure, a priori, that the required license or exemption has been obtained.
Article 33

1. In case the licensee or the person with an exemption does not comply with the obligation imposed by or by virtue of these Regulations, the Bank may order the licensee or person with an exemption, within the period stipulated by the Bank, as yet to comply with these Regulations.

2. In case the Bank has not received a satisfactory answer from the licensee or the person with an exemption, within the stipulated period, or in case the Bank is of the opinion that its directions are insufficiently followed, the Bank may notify the licensee or the exempted person, by registered letter, that the Bank will proceed to publishing the order referred to in the first paragraph. The order will be published in the journals in which the Countries in the official notices of the Countries are placed, and also in one or more dailies at the Bank’s discretion. If desired by the licensee or the exempted person the Bank may also publish the correspondence conducted between the Bank and the licensee or exempted person, in connection with the order given by the Bank.

3. The Bank may not proceed to publication until the order referred to in the first paragraph has become irrevocable. In case the licensee or the exempted person complies as yet with the order or if the Bank withdraws the order, the Bank will proceed to publishing said compliance in the same manner as the mode used for the previous publication.

CHAPTER VII  Order for incremental penalty payments

Article 34

An order for incremental penalty payments is a remedial sanction, including:

a. an order to remedy the violation in whole or in part, and

b. the obligation to pay an amount of money, if the order is not or not timely carried out.

Article 35

1. The Bank can impose an order for incremental penalty payments upon the licensee or exempted person who does not or does not timely comply with obligations imposed by or by virtue of these Regulations.

2. The order for incremental penalty payments can be imposed as soon as there is a clear and imminent danger of the violation.
3. The order for incremental penalty payment will specify the remedial action to be taken.
4. When imposing an order for incremental penalty payment for remedying a violation or for the prevention of further violation a period will be stipulated within which the violator can carry out the order without incurring a penalty.
5. A decision to impose an order for incremental penalty payment shall be laid down in writing.
6. The Bank will impose the penalty either for payment of a lumpsum or for an amount per time unit in which the order has not been carried out or for an amount per violation. The amount will be reasonably proportional to the severity of the violated interest and proportional to the effect envisaged by the penalty.
7. The amount of the penalty for the various violations will be determined by National Decree for general measures.

Article 36

A penalty incurred shall be paid within six weeks after it has become payable by the operation of the law.

Article 37

1. In case an order for incremental penalty payment has been imposed, the Bank may revoke the order at the violator’s request, or suspend the term of the order for a particular period, or decrease the penalty in case of permanent or temporary impossibility, in whole or in part, for the violator to meet his obligations.
2. In case an order for incremental penalty payment is imposed, the Bank, acting at the violator’s request, may revoke the order, if the order has been in effect for one year, without the penalty having been incurred.

Article 38

Notwithstanding Article 65, first paragraph, the authority to collect a forfeited penalty payment will become prescribed by the lapse of one year after the day on which it was incurred.
Article 39

No order for incremental penalty payment can be imposed in case there are grounds for justifying the violation.

Article 40

1. Before proceeding to sending a demand for payment of the penalty, the Bank will decide by means of an order about the collection of the penalty sum.
2. At the request of an interested party the Bank will furthermore issue an order for the collection of the penalty amount.
3. The Bank shall decide on said request within a period of six weeks.

Article 41

1. In case a ruling for withdrawal or amendment of the order for incremental penalty payment results in an impossibility to maintain an order already issued for the collection of said penalty amount, the ruling will become extinguished.
2. The Bank may issue a new collection order which is in agreement with the amended order for incremental penalty payment.

Article 42

An objection, appeal or a request for injunctive relief directed against the order for incremental penalty payment, is also related to an order for the collection of the penalty amount, in case the interested party is contesting said order.

CHAPTER VIII  Administrative penalty

Article 43

An administrative penalty is a punitive sanction constituting an unconditional obligation to pay a sum of money.
Article 44

1. The Bank may impose an administrative penalty on the licensee or exempted person who does not or does not timely comply with the obligations imposed by or by virtue of these Regulations, for each day he has been in default.

2. The amount of the administrative penalty for the various violations will be determined by National Decree in council, and will in any case be attuned to the severity and the duration of the violation plus the degree of the violator’s culpability in the violation.

3. Before proceeding to imposing a penalty, the Bank will send a written notification to the person involved, stating its intention to impose a penalty as well as the grounds for the Bank’s intentions.

Article 45

No administrative penalty will be imposed, if
a. the violation is not imputable to the violator;
   b. the violator is deceased;
   c. a previous administrative penalty was imposed upon the violator for the same violation.

Article 46

No administrative penalty will be imposed in case a criminal prosecution has been instituted against the violator for the same behavior and in case the hearing in court has already started, or in case the right to institute a criminal investigation has lapsed in pursuance of Article 76 of the Penal Code of each Country.

Article 47

1. An administrative penalty will lapse, in case the penalty is not irrevocable at the time of the violator’s death. An irrevocable administrative penalty will lapse in case the penalty has not yet been paid at the time of the violator’s death.

2. An already imposed administrative penalty will lapse in case the Joint Court of Justice of Aruba, Curacao, St. Maarten and of Bonaire, St. Eustatius and Saba, acting in pursuance of Article 25 of the Code of Criminal Procedure of each Country, orders the prosecution of the violator.
3. The authority to impose an administrative penalty will lapse/cease to exist/be extinguished one year after the day on which the violation was committed.

4. In case an administrative penalty is objected to or in case an appeal is lodged against such penalty, the time of extinction will be suspended until an irrevocable decision has been issued on the objection or appeal.

Article 48

1. In case the persons referred to in Article 78, first paragraph, are hearing/examining a natural person or a legal person with a view to the administrative penalty to be imposed upon him, said persons will not be obliged, for that purpose, to make statements about the violator. The persons concerned will be informed about this before, they are asked oral questions about the violation.

2. In case an appeal is lodged against an administrative penalty the person upon whom the penalty is imposed, will not be obliged to make statements about the violation.

Article 49

1. The Bank or the person referred to in article 78, first paragraph, may draw up a report about the violation.

2. The report will be dated and shall in any case state the following:
   a. the name of the violator;
   b. the violation and the violated rule;
   c. if necessary, an indication of the place where and the time or period when the violation was detected;

3. A copy of the report will be sent or issued to the violator at the latest at the time of announcing the decision to impose the administrative penalty.

4. In case an official record as referred to in Article 186 of the Code of Criminal Procedure of each Country, is drawn up, this record will take the place of the report with respect to the application of this report.

Article 50

1. The moment the violator is given the opportunity to comment on the intention to impose an administrative penalty, the report will be sent or issued to the violator along with the request to the violator to express his views.
2. If it is decided by the Bank, after the violator has expressed his opinion, that:
   a. no administrative penalty will be imposed for the violation, or
   b. the violation will as yet be submitted to the Public Prosecutor, the violator will be notified of this decision in writing.

   Article 51

   A decision to impose an administrative penalty will in any case state:
   a. the fact in regard to which the penalty is imposed, as well as the violated rule;
   b. the sum of money to be paid and also an explanation about that amount; and
   c. the period referred to in Article 55, within which the penalty must be paid.

   Article 52

   The work involved for the imposition of a penalty will be done by persons who have not been involved in detecting the violation and in the investigations preceding detection.

   CHAPTER IX

   Article 53

   This paragraph applies to monetary debts arising from the order for incremental penalty payment and the administrative penalty.

   Article 54

   1. The obligation to pay a sum of money will be laid down by an order.
   2. The order will in any case state:
      a. the sum of money to be paid;
      b. the period within which payment must be effected.

   Article 55

   Except if Article 36 is applied, payment must be effected within six weeks after the order is published in the prescribed manner, unless a later point in time is stated in the order.
Article 56
1. Payment is to be effected at an office designated by the Bank or by transfer to a bank account designated by the Bank for that purpose.
2. Payment shall be effected in Caribbean guilders, unless otherwise stipulated by the Bank.
3. Payment must be effected at the time payment is made at the office or, in case of transfer, the account of the Bank will be credited.
4. The costs involved for the payment will be borne by the debtor.

Article 57
1. The violator will be in default in case he has not effected payment within the stipulated six-week period.
2. In case of default, a statutory interest will be payable in accordance with Articles 119 first and second paragraph, and 120, first paragraph of Book 6 of the Civil Code of each Country.
3. The Bank shall issue an order on the amount of the statutory interest to be paid.

Article 58
1. The Bank will send a written payment demand to the defaulting debtor to effect payment within two weeks, reckoning from the date on which the demand payment was dispatched.
2. It shall be stated in the payment demand that in case of overdue payment, the debtor may be forced to effect payment by collection measures to be carried out at the debtor’s expense.
3. The Bank may charge an amount for the payment demand. The charge to be paid, shall be stated in the demand.

Article 59
1. The Bank may issue a writ of execution. A writ of execution is a written order issued by the Bank for the settlement of a monetary debt as referred to in Article 53.
2. A writ of execution entitles the Bank to proceed to enforcement, which can be executed by the application of the provisions of the Code of Civil Procedure of each Country.
3. A writ of execution will be issued only if full payment has not been effected within the period stipulated in the notice demanding payment.
Article 60

1. The default charges, the statutory interest and the costs involved for the writ of execution may also be collected.
2. The writ of execution may be related to various obligations to effect payment of a sum of money by the debtor to the Bank.
3. The service and the enforcement of the writ of execution will be effected at the expense of the person against whom it has been issued.
4. The charges are also payable if, due to payment of the amounts due, the writ of execution has not or has not fully been enforced.

Article 61

1. The writ of execution shall in any case state the following:
   a. at the heading, the word: writ of execution;
   b. the amount of the collectable principal amount;
   c. the order or statutory provision from which the monetary debt arises;
   d. the costs of the writ of execution;
   e. the writ of execution may be enforced at the debtor's expense.
2. If applicable the writ of execution shall state the following:
   a. the charges for the payment demand; and
   b. the effective date of the statutory interest.

Article 62

1. The notice of a writ of execution is given 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 case state the name of the judicial authority where the writ of execution and its enforcement may appealed against in conformity with Articles 438 and 438a of the Code of Civil Procedure of each Country.

Article 63

With regard to the collection the Bank also possesses the powers conferred to a creditor by virtue of private law.
Article 64

1. During six weeks after the date of the service of the writ of execution objections may be served upon the Bank by means of a summons.
2. The objection will not suspend the enforcement. At the request of the public legal entity Curacao, the public legal entity St. Maarten, the Court may terminate the suspension of the enforcement.

CHAPTER X  Prescription/limitation period

Article 65

1. Except if the legal action for payment of a sum of money as referred to in Article 53 arises from an order for incremental penalty payment, the writ of execution will become prescribed/time-barred five years after the stipulated period of payment have lapsed.
2. Once the prescription is a fact the Bank can no longer use its powers to demand payment and to issue and enforce a writ of execution.

Article 66

1. The limitation period/prescription can be suspended by an act of prosecution in accordance with article 316, first paragraph of Book 3 of the Civil Code of each Country. Article 316, second paragraph of Book 3 of each Country is applicable mutatis mutandis.
2. Acknowledgement of the right to payment will suspend the prescription of the legal action against the person who acknowledges said right.
3. The Bank can also suspend the prescription by a payment demand as referred to in Article 58 or by an act of enforcement of a writ of summons.

Article 67

1. With the suspension of the prescription a new prescription period will begin to run as from the commencement of the following day.
2. The new period is equal to the original period but shall not be longer than five years.
3. However, if the prescription is suspended by the institution of a claim followed by allowance, article 324 of Book 3 of the Civil Code of each Country will be applicable *mutatis mutandis*.

**Article 68**

1. The prescription period/period of limitation of the legal action instituted for payment to the Bank will be extended by the time during which the debtor is granted extension of payment after the commencement of said period.

2. The first paragraph is applicable *mutatis mutandis*, if:

   a. the debtor has been granted a moratorium /extension of payment;
   b. the debtor is declared bankrupt;
   c. the enforcement of a writ of execution has been suspended pursuant to a pending legal action, on the understanding that the period by which the limitation period is extended, commences on the day on which the legal action is instituted by means of a summons.

**CHAPTER XI  Publication of violations**

**Article 69**

Notwithstanding Article 27, first and second paragraphs, the Bank may issue a public notice in order to encourage compliance with these Regulations regarding:

a. the Bank's refusal to honor an application for a license or exemption, when said refusal has become irrevocable and the applicant is acting as if the license or the exemption was granted to him.

b. the act with regard to which an order for incremental penalty payment or an administrative penalty has been imposed, the violated rule, as well as the name, the address and the place of residence of the person upon whom the order for incremental penalty payment or the administrative penalty has been imposed.

**Article 70**

A person against whom the Bank has performed an act from which he may reasonably conclude that the Bank is intended, by virtue of Article 69, to publish any acts or omissions, is not under the obligation to make any statement in this
regard. He will be informed about this before an oral request for information is submitted to him.

Article 71

1. In case the Bank is intended, in pursuance of Article 69, to publish a fact, the person involved shall thereof be notified with a statement of the grounds on which such intention is based.

2. The Bank is not obliged to give the opportunity to the person involved, to express his views, in case the address of the person involved is not known and if such address can be traced with reasonable effort.

Article 72

The decision to publish a violation by virtue of Article 69, shall in any case state:

a. the violation will be disclosed;
b. the manner in which the violation will be published;
c. the period after which the violation is made public.

Article 73

Unless the promotion of the compliance with these Regulations cannot be postponed, the effect of the decision to divulge a violation by virtue of Article 69 will be suspended until the period of objection and appeal has lapsed or, in case an objection or an appeal is lodged, or suspended until the objection or appeal has been decided upon.

Article 74

The decision shall enter into effect on the day the violation has been made public without its effect being suspended by virtue of Article 73, in case the person involved has no known address and such address cannot be traced with a reasonable effort.

Article 75

1. The authority to make a violation public by virtue of Article 69 shall cease to exist, if criminal prosecution has been initiated about the violation and the investigation at the Court session has already started or in case the right to prosecute has been extinguished in pursuance of Article 76 of the Penal Code of each Country.
2. The right to prosecute with regard to a violation as referred to in Article 69 shall cease to exist/be extinguished in case the Bank has already given publicity to the violation.

Article 76

The authority, by virtue of Article 69, to give publicity to a violation shall cease to exist three years after the day on which the violation occurred.

Article 77

The work in connection with the publication of a violation by virtue of Article 69, will be carried out by persons who have not been involved in the detection of the violation and the preceding investigation.

CHAPTER XII  Supervision and investigation

Article 78

1. The supervision of and the compliance with the provisions laid down by or by virtue of these Regulations is entrusted to officers of the Bank appointed for that purpose by the President of the Bank, as well as the customs officers. Such appointment shall be made public in the journals in which official notices are published by the Countries.

2. The officers appointed by virtue of the first paragraphs are authorized, exclusively insofar as such is in reasonableness necessary in the exercise of these duties:
   a. to ask all information;
   b. to demand access to all books, records and other information carriers and to make copies thereof and to remove them temporarily;
   c. to examine and to survey goods within the meaning of Article 1 of Book 3 of the Civil Code of each Country and for that purpose to remove them temporarily;
   d. to examine vessels, stationary vehicles and their cargo;
   e. in the company of the designated persons, to enter all places, including dwelling houses or sections of vessels used for dwelling purposes without the express consent of the inhabitant/occupant.

3. The entry of dwelling houses or sections of vessels used as dwelling houses, as referred to in paragraph 2, subsection 3, Title X of the Third Book of the Code of Criminal Procedure of each Country will be applicable mutatis
mutandis, with the exception of articles 155, fourth paragraph, 156, second
paragraph, 157, second and third paragraph, 158, first paragraph, last
phrase, and on the understanding that the authority will be granted by the
Procurator General.

4. If necessary, the entry/access to a location as referred to in the second
paragraph, subsections d en e, will be effected with the assistance of the
police.

5. Everybody is obliged to render every cooperation to officers appointed by
virtue of the first paragraph, needed in pursuance of the second paragraph.

Article 79

1. In exercising the supervision referred to in Article 78, first paragraph, the
Bank may enlist the services of or assign the duties, in whole, to an external
expert appointed by the Bank, or other experts, as referred to in Article 121
of Book 2 of the Civil Code of each Country. The Bank may pass the costs
involved, in whole or in part, to the licensee or exempted person
concerned.

2. If the supervision referred to in Article 78, first paragraph, or if certain
duties falling within the framework of said supervision is assigned by the
Bank to an external expert as referred to in Article 121 of Book 2 of the Civil
Code of each Country or to another expert, such experts will be under the
obligation to report their findings directly to the Bank and, after obtaining
permission from the Bank, to send a copy of the report to the licensee or the
exempted person concerned.

3. At the Bank’s request the licensee or the person with an exemption will be
under the obligation to appoint a recognized expert who reports directly to
the Bank on the internal organization of the licensee or the exempted
person.

Article 80

1. The investigating of acts that are punishable under or by virtue of these
Regulations is entrusted to the officers of the Bank designated by National
Decree, in conjunction with the officers referred to in Article 184 of the
Code of Criminal Procedure of each Country. Such appointment is made
public in the journals in which the Countries publish their official notices.

2. By National Ordinance providing for general measures rules may be
established about the requirements to be met by the functionaries
appointed by virtue of the first paragraph.
CHAPTER XIII  Penal Provisions

Article 81

1. Actions contrary to any provision laid down by or by virtue of Article 3, second paragraph, Article 4, first paragraph, Article 7, second paragraph, Article 8, second paragraph, Article 9, 10, first paragraph, Articles 11, 12, 13, first paragraph, Articles 14, 15 and 16, first and second paragraphs, Article 18, second paragraph, Article 21, first and second paragraphs, Article 27, first and second paragraphs, Article 29, second paragraph, Article 30, second and third paragraphs, Article 32, 33, first paragraph, Article 78, fifth paragraph and Article 79, second and third paragraphs, will be punished by a term of imprisonment not exceeding one year and a financial penalty not exceeding two hundred fifty thousand Caribbean guilders or by one of these punishments.

2. Actions that are intentionally in violation of the rules mentioned in the first paragraph will be punished by a term of imprisonment not exceeding four years and a financial penalty not exceeding five hundred thousand Caribbean guilders or by one of these punishments.

3. The acts that are punishable under the first paragraph are minor offenses and the acts that are punishable under the second paragraph are crimes.

CHAPTER XIV  Transitional and final provisions

Article 82

License, permits, dispensations or exemptions with their attached conditions and obligations, which have been granted in pursuance of the National Ordinance on Foreign Exchange Transactions (Off. Gaz. 1981, no. 67) will be deemed to have been granted by virtue of these Regulations, except if they have lost their validity and except if they are contrary to the provisions laid down by or by virtue of these Regulations.

Article 83

1. These Regulations may be cited as “Regulations for Foreign Exchange Transactions Curacao and St. Maarten”.

2. Until the moment of issue of the Caribbean Guilder in conformity with the Regulations for a Common Monetary System for Curacao and St. Maarten,
the term “Netherlands Antillean Guilder” must be read wherever reference is made to the “Caribbean Guilder”.

3. Except if otherwise provided in these Regulations the further rules and implementing provisions pursuant to the National Ordinance on Foreign Exchange Transactions (Off. Gaz. 1981, no. 67) as they were applicable before these Regulations entered into effect, will remain valid until they are replaced with other rules and implementing provisions in conformity with these Regulations.