

OFFICIAL GAZETTE

NATIONAL ORDINANCE of 18 December 2002 on the Supervision of Investment Institutions and Administrators

IN THE NAME OF THE QUEEN!

THE GOVERNOR of the Netherlands Antilles,

considering:

that it is desirable to lay down rules concerning investment institutions and administrators and to put them under the supervision of the Bank of the Netherlands Antilles;

after consultation with the Advisory Council and in concert with Parliament has laid down the following Act:

CHAPTER I

Definitions

Article 1

In this Act and the provisions based thereupon:

- a) investment company shall mean:
the body corporate that raises or has obtained pecuniary means or other property to be used for collective investment with the objective of allowing the participants to benefit from the revenues of the investments;
- b) investment fund shall mean:
non-incorporated capital comprising pecuniary means or other property raised or obtained for collective investment with the objective of allowing the participants to benefit from the revenues of the investments;
- c) investment institution shall mean:
an investment company or investment fund;

- d) participant shall mean:
the shareholder in an investment company or the beneficiary in an investment fund;
- e) management company shall mean:
either the investment company or any other person fully or partially entrusted with the management of the investment fund;
- f) depositary shall mean:
the person to whom the investment institution's assets are entrusted for safe-keeping;
- g) administrative services shall mean:
the provision of services for investment institutions, whether for compensation or for free, in any event including:
 - 1. managing investment institutions, in any event including the provision of natural or legal persons as directors, representatives or other executive officers of investment institutions whose responsibilities shall include decision-taking;
 - 2. performing administration operations, including in any event, keeping the accounts and obtaining, recording, processing and providing information for purposes of the management or operation of an investment institution;
 - 3. providing an address for service and office facilities for investment institutions;
- h) administrator shall mean: a legal person whose objective is to provide administrative services;
- i) the Bank shall mean: the Bank of the Netherlands Antilles;
- j) the Court shall mean: the Court of First Instance;
- k) the Minister shall mean: the Minister of Finance.

CHAPTER II

General provision

Article 2

The provisions of this National Ordinance and the provisions made pursuant to it concerning an investment institution that qualifies as an investment fund shall be directed at the management company.

CHAPTER III

Licensing of investment institutions

§1 Licensing

Article 3

1. It shall be a punishable offence to raise or obtain pecuniary means or other property for purposes of participating in an investment institution which has not been licensed by the Bank or to offer participating interests in such an investment institution in or from the Netherlands Antilles.
2. The prohibition laid down in the first paragraph shall not apply to the offering of participating interests by natural persons other than in the exercise of their business or profession.

§2 Licensing requirements

Article 4

1. The Bank shall grant a license to an investment institution if the person applying for the license demonstrates that the investment institution and the depositary, if employed by the investment institution, satisfy the requirements laid down in the Bank's instructions concerning:
 - a) competence and integrity;
 - b) financial securities;
 - c) conduct of business; and
 - d) the provision of information to the participants in the investment institution and the general public.Such instructions shall also specify that the daily policy of the investment institution must be determined by no fewer than two natural persons and that if there is a Supervisory Board, such Board must comprise of at least three members.
2. The person applying for the license of an investment fund shall also demonstrate that:
 - a) the management company is a legal person with full competence;
 - b) the investment fund's assets are entrusted for safe-keeping with a depositary independent of the management company; and
 - c) the investment fund's assets are separated from the capital of the management company, the depositary and any natural or other legal persons.
3. The Bank shall decide on the application within 60 days of receiving the complete application and shall inform the person applying for the license of its decision by registered letter.
4. The Bank may grant a license to any person applying to it if such person demonstrates that it cannot be reasonably expected to fully satisfy certain requirements laid down by or pursuant to the first and the second paragraphs, and it demonstrates that the objectives intended by this National Ordinance are sufficiently realised otherwise.
5. The Bank shall ensure that the instructions referred to in the first paragraph are made public.

The Bank may at all times impose restrictions and conditions on the license in the interest of an adequate operation of the financial markets and the position of investors in such markets, if this is called for by the facts and conditions relating to the person to whom the license applies.

Article 6

The function of depositary shall only be taken by a corporate body whose business is to a significant degree the safe-holding and provision of administrative services for investment objectives on behalf of third parties.

Article 7

If the Bank is of the opinion that the name used or to be used for the investment institution in the Netherlands Antilles may lead to confusion, it may direct the investment institution to add an explanatory statement to such name.

§3 Reporting to the Bank / Instructions for investment institutions

Article 8

1. Every investment institution shall submit, on an annual basis, annual accounts including at least a balance sheet and a profit and loss account with explanatory notes on the past financial year in a form to be laid down by the Bank and within a time to be laid down by the Bank. An auditor's report and the management letters shall also be enclosed with the annual accounts.
2. Every investment institution shall submit periodical statements concerning its business to the Bank within the times laid down for this purpose.
3. The form in which the statements referred to in the second paragraph shall be drawn up, the successive points in time which they relate to, and the times within which they are to be submitted, shall be laid down by the Bank after consultation with the representative organisations, provided that they have been appointed in accordance with the provisions of article 31.
4. If the Bank deems it necessary for the purposes of efficient supervision, it may direct an investment institution:
 - a) to furnish it with statements as referred to in the second paragraph, concerning points of time with a shorter interval or concerning shorter times than laid down pursuant to the second paragraph;
 - b) to submit an external auditor's report concerning the statements referred to in the second paragraph.
5. A licensed investment institution shall not be allowed to amend its articles of association or its rules without prior permission of the Bank.
6. Any amendment of the articles of association or rules, in violation of the prohibition as referred to in the fifth paragraph, shall be null and void. At the request of the Bank the Court shall appoint an administrator with the power to reverse such invalid act.
7. When reversing the invalid act the administrator shall also act in the interest of the participants in the investment institution.

1. A licensed investment institution and the depositary, if employed by the investment institution, shall be obliged to observe the instructions laid down by the Bank as regards competence, integrity, financial securities, conduct of business and the provision of information.
2. Without prior permission of the Bank the investment institution shall not be allowed to appoint persons who determine the daily policy of the investment institution, nor to appoint the members of the Supervisory Board if it has such a Board.
3. At the request of the investment institution the Bank may decide that the investment institution or the depositary, if employed by the institution, does not have to satisfy all rules referred to in the first paragraph if it demonstrates that it cannot be reasonably expected to fully satisfy such rules and that the objectives intended by this National Ordinance are sufficiently realised otherwise. The Bank may amend or revoke a decision referred to above if it is of the opinion that the conditions under which the decision was made have changed to such extent that the objectives intended by this ordinance are no longer fulfilled.
4. The auditor who has to furnish a report with an investment institution's annual accounts pursuant to the rules referred to in the first paragraph, shall notify the Bank as soon as possible of any circumstance discovered during the execution of the relevant activities that:
 - a) has breached the requirements set in respect of obtaining the license;
 - b) has breached the obligations laid down by or pursuant to this National Ordinance;
 - c) threatens the continuity of the investment institution; or
 - d) might threaten the granting of an approving report concerning the fairness, consistency and clarity of the accounts.
5. The auditor referred to in the fourth paragraph shall immediately send the Bank copies of the audit report, of the management letter and of such correspondence as directly concerns the auditor's report with the annual accounts and/or of any periodical statements to be submitted to the Bank, if and to the extent that the Bank shall require an auditor's report with such statements. If required by the Bank, the auditor shall give the Bank an oral explanation of the annual accounts and the documents referred to above.
6. The notification obligation referred to in the fourth paragraph shall also apply *mutatis mutandis* to the auditor, referred to in the fourth paragraph, who, in addition to carrying out work for the investment institution, also carries out work for another company or institution, if the investment institution is a subsidiary of such other company or institution, or if such other company or institution is a subsidiary of the investment institution.
7. The auditor who has notified the Bank pursuant to the fourth or the sixth paragraph shall not be liable for damage or loss incurred by a third party as a result of such notification, unless it is demonstrated that, considering all facts and circumstances, in all reasonableness the notification should not have been submitted.

§4 Exemption

Article 10

1. The Bank may grant exemption from the prohibition laid down in article 3.

2. An exemption referred to in the first paragraph can be subject to restrictions and regulations in the interest of an adequate operation of the financial markets and the position of the investors in such markets. Restrictions shall only be set with respect to the scope of the exemption.

§ 5 Revoking the license

Article 11

1. The Bank shall only be allowed to revoke a license:
 - a) at the licensed institution's request;
 - b) if the information or documents furnished to obtain licensing prove to be incorrect or incomplete to such an extent that a different decision would have been taken if the correct and complete information and documents had been available at the time of taking the decision to grant the license;
 - c) if any new facts are discovered or circumstances take place on the grounds of which licensing would have been refused if they had been known or taken place prior to the time of granting the license;
 - d) if the licensed institution or the depositary employed by the investment institution has apparently ceased carrying out the activities referred to in article 3;
 - e) if the investment institution or the depositary employed by it no longer satisfies the requirements, rules, restrictions or instructions laid down by or pursuant to this National Ordinance or any other statutory obligations;
 - f) if the investment institution or the depositary employed by it has not or insufficiently performed an instruction or notification from the Bank as referred to in article 33 or article 34, or
 - g) if the investment institution has not actually commenced its business within a time to be laid down by the Bank.
2. If the Bank decides to revoke a license it shall do so by serving a bailiff's writ on the licensed institution concerned.

Article 12

1. The Bank may apply to the Court to have an investment company wound up if its license has been revoked. The Court shall appoint one or several liquidators.
2. The assets of an investment fund whose license has been revoked shall be liquidated within a time to be laid down by the Bank. The court shall appoint one or several liquidators on the Bank's request.
3. In respect of an investment fund which has been licensed pursuant to article 4, the Bank may grant dispensation concerning the provisions of the second paragraph, if the fund's activities are continued outside the public domain. In the interest of the participants such dispensation may be subject to restrictions and instructions.
4. The Bank shall immediately report to the Minister concerning an investment institution whose license has been revoked.

Article 13

If an investment institution suspends the acquisition of its participating interests, it shall immediately inform the Bank accordingly.

CHAPTER IV

Licensing of administrators

§1 Licensing

Article 14

No person shall be allowed to exercise the business of administrator in or from the Netherlands Antilles without prior licensing from the Bank.

§2 Licensing requirements

Article 15

1. The Bank shall grant a license to an administrator applying to it on condition that the applicant satisfies the requirements specified by the Bank concerning:
 - a) competence and integrity; and
 - b) conduct of business.Such instructions shall also specify that the daily policy of the administrator must be determined by no fewer than two persons and that if there is a Supervisory Board, such Board must comprise of at least three members.
2. The Bank shall grant the license by means of a registered letter within 60 days of receiving the complete application.
3. The Bank may grant a license to any administrator applying for a license if such administrator demonstrates that it cannot be reasonably expected to fully satisfy certain requirements laid down by or pursuant to the first paragraph, and it demonstrates that the objectives intended by this National Ordinance are sufficiently realised otherwise.

Article 16

The Bank may at all times impose restrictions and conditions on the license in the interest of an adequate operation of the financial markets and the position of investors in such markets, if this is called for by the facts and conditions relating to the administrator to whom the license applies.

§3 Reporting to the Bank / Instructions for administrators

Article 17

1. Every administrator shall submit, on an annual basis, annual accounts including at least a balance sheet

and a profit and loss account with explanatory notes on the past financial year in a form to be laid down by the Bank and within a time to be laid down by the Bank. An auditor's report and the management letters shall also be enclosed with the annual accounts.

2. Every administrator shall submit periodical written compliance reports concerning its business to the Bank within the times laid down for this purpose.
3. The form in which the reports referred to in the second paragraph shall be drawn up, the successive points in time which they relate to, and the times within which they are to be submitted, shall be laid down by the Bank after consultation with the representative organisations.
4. If the Bank deems it necessary for the purposes of efficient supervision, it may direct an administrator to furnish it with the written reports referred to in the second paragraph at points of time with a shorter interval or within shorter times than laid down pursuant to the second paragraph.
5. A licensed administrator shall not be allowed to amend its articles of association or its rules without prior permission of the Bank.
6. Any amendment of the articles of association or rules as referred to in the fifth paragraph shall be null and void. At the request of the Bank the Court shall appoint an administrator with the power to reverse such invalid act.
7. When reversing the invalid act the administrator shall also act in the interest of the parties concerned.

Article 18

1. A licensed administrator shall undertake to continue to observe the instructions laid down by the Bank with regard to expertise, integrity and business conduct.
2. Without the prior permission of the Bank the administrator shall not be allowed to appoint the persons who decide on the daily course of action of the administrator and, if there is a Supervisory Board, the members of the Board.
3. At the request of the administrator the Bank may decide that the administrator does not have to satisfy all rules referred to in the first paragraph if it demonstrates that it cannot be reasonably expected to fully satisfy such rules and that the objectives intended by this National Ordinance are sufficiently realised otherwise. The Bank may amend or revoke a decision referred to above if it is of the opinion that the conditions under which the decision was made have changed to such extent that the objectives intended by this ordinance are no longer fulfilled.
4. The auditor who has to furnish a report with an administrator's annual accounts pursuant to the rules referred to in the first paragraph, shall notify the Bank as soon as possible of any circumstance that he has discovered during the execution of the relevant activities and that:
 - a) has breached the requirements set in respect of obtaining the license;
 - b) has breached the obligations laid down by or pursuant to this National Ordinance;
 - c) threatens the continuity of the administrator; or
 - d) might threaten the granting of an approving report concerning the fairness, consistency and clarity of the accounts.
5. The auditor referred to in the fourth paragraph shall immediately send the Bank copies of the audit report, of the management letter and of such correspondence as directly concerns the auditor's report with the annual accounts and/or of any periodical statements to be submitted to the Bank, if and to the extent that the Bank shall require an auditor's report with such statements.

If required by the Bank, the auditor shall give the Bank an oral explanation of the annual accounts and the documents referred to above.

- 6 The notification obligation referred to in the fourth paragraph shall also apply *mutatis mutandis* to the auditor, referred to in the fourth paragraph, who, in addition to carrying out work for the administrator, also carries out work for another company or institution, if the administrator is a subsidiary of the other company or institution, or if the other company or institution is a subsidiary of the administrator.
7. The auditor who has notified the Bank pursuant to the fourth or the sixth paragraph shall not be liable for damage or loss incurred by a third party as a result of such notification, unless it is demonstrated that, considering all facts and circumstances, in all reasonableness the notification should not have been submitted.

Article 19

An administrator shall ensure at all times that sufficient competence is available within the investment institutions for which it performs administrative services and that the integrity of the directors who represent the investment institutions or who decide on the policy of the investment institutions, and of others who co-decide on the policy, satisfies the Bank's instructions. The administrator shall also ensure that in all reasonableness the investment institutions for which it performs administrative services are not in breach of the statutory obligations that apply to them.

Article 20

An administrator shall inform the Bank immediately if it is of the opinion or has reason to suspect that an investment institution for which it carries out administrative services:

- a) is or will not be capable of meeting its obligations;
- b) does not comply with instructions pursuant to this National Ordinance or other legislation or regulations that apply to such investment institution; or carries out its business in a manner that does or may harm the interests of its participants or other beneficiaries.

§4 Exemption

Article 21

1. The Bank may grant exemption from the prohibition laid down in article 14.
2. An exemption referred to in the first paragraph can be subject to restrictions and regulations in the interest of an adequate operation of the financial markets and the position of the investors in such markets. Restrictions shall only be set with respect to the scope of the exemption.

§ 5 Revoking the license

Article 22

1. The Bank shall only be allowed to revoke a license:
 - a) at the request of the licensed administrator;
 - b) if the information or documents furnished to obtain a license prove to be incorrect or incomplete to such an extent that a different decision would have been taken if the correct and complete information and documents had been available at the time of taking the decision to grant the license;
 - c) if any new facts are discovered or circumstances take place on the grounds of which a license would have been refused if they had been known or taken place prior to the time of granting the license;
 - d) if the administrator has apparently ceased to satisfy the definition stipulated in article 1, h;
 - e) if the administrator no longer satisfies the requirements, rules, restrictions or instructions laid down by or pursuant to this National Ordinance or any other statutory obligations;
 - f) if the administrator has not or insufficiently performed an instruction or notification from the Bank as referred to in article 33 or article 34; or
 - g) if the administrator has not actually commenced its business within a time to be laid down by the Bank.
2. If the Bank decides to revoke a license it shall do so by serving a bailiff's writ on the licensed administrator concerned.

Article 23

1. The Bank may apply to the Court to have an administrator wound up if its license has been revoked. The Court shall appoint one or several liquidators.
2. If requested the Bank shall report to the Minister concerning an administrator whose license has been revoked.

CHAPTER V

The register of investment institutions and administrators

Article 24

1. The Bank shall keep a register of investment institutions and administrators divided into two main sections as follows:
 - Section I - Investment institutions
 - Section II - AdministratorsThe Bank may subdivide the main sections into sub-sections for further categories of investment institutions and administrators to be specified by the Bank.
An investment institution or administrator licensed pursuant to article 3 or article 14 shall be entered in the register by the Bank on the very date of granting the license.
Such registration shall not be made in more than one main category or sub-category.

2. An investment institution or administrator whose license has been revoked shall be removed from the register.
3. The registration of an investment institution or an administrator as well as the removal from the register shall be published in De Curaçaosche Courant within two weeks of the day on which it was effected.
4. The Bank may decide to delay the publication of a removal referred to in the third paragraph until a time to be decided by the Bank if such publication could seriously harm the interests of the participants or the parties concerned.
5. In the month of January of every year a list of registered investment institutions and administrators as per 31 December of the preceding year shall be published in De Curaçaosche Courant.
6. The Bank shall keep a copy of the register open to public inspection free of charge.

CHAPTER VI

Non-disclosure and the exchange of data or information concerning investment institutions and administrators

Article 25

1. No data or information furnished pursuant to this National Ordinance or obtained from an institution as referred to in article 28 or obtained during the examination of accounts, documents or other information shall be made further use of or disclosed in any further or other manner than as required for the performance of tasks pursuant to the application of this National Ordinance or decisions taken pursuant to this National Ordinance.
2. Notwithstanding the provisions of the first paragraph the Bank shall be authorised to report a suspected offence in order to maintain a healthy financial industry. In cases where the Bank has reported a suspected offence, or in cases where the Bank is called on to act as a witness or an expert, the Bank shall be authorised to furnish information as part of the investigation, the preliminary judicial investigation or the court hearing.

Article 26

In the interest of an adequate operation of the financial markets and the position of the investors in such markets the Bank may, where necessary, in deviation of article 25 make public:

- a) its refusal to grant a license if such refusal can no longer be appealed against; or
- b) the fact that an investment institution or administrator to whom, in the opinion of the Bank, the prohibition outlined in article 3 or article 14 applies, does not have a license.

Article 27

The Bank may, notwithstanding article 25, periodically publish the most important data derived from data or information gained during the execution of the task assigned to it pursuant to this National Ordinance, provided that such data is not traced back to individual investment institutions or individual administrators. After permission in writing of the investment institution or the administrator concerned, data with regard to individual investment institutions or administrators may be published.

Article 28

Notwithstanding article 25 the Bank may furnish data or information obtained during the performance of the task assigned to it pursuant to this National Ordinance to governmental institutions on the Netherlands Antilles or abroad or to institutions appointed by the government of the Netherlands Antilles or foreign countries charged with the supervision of financial markets or of natural persons and legal persons active in those markets, unless:

- a) the objective for which such data or information is going to be used is insufficiently specified;
- b) the intended use of the data or information is not compatible with the supervision of financial markets or natural persons and legal persons active in such markets;
- c) the furnishing of the data or information would not be in keeping with the laws of the Netherlands Antilles or with public order or the data or information relates to individual investors;
- d) the non-disclosure of the data or information is not sufficiently guaranteed;
- e) it is reasonable to assume that the furnishing of the data or information will or could conflict with the interest that this ordinance attempts to protect; or
- f) there is insufficient guarantee that the data or information will not be used for any other objective than the one for which it is furnished.

Article 29

In the framework of supervision the Bank has the power to allow examinations by foreign bodies responsible for the supervision of investment institutions or administrators with investment institutions or administrators in this country that are under the consolidated supervision of such supervisory institutions. In such event the Bank shall set conditions to or provide instructions for the implementation of the supervisory activities in advance. The officers of the foreign bodies responsible for the supervision of investment institutions or administrators shall be obliged to strictly observe the Bank's instructions.

CHAPTER VII

Special provisions concerning investment institutions and administrators

Article 30

The Bank may grant or revoke a license pursuant to this National Ordinance, or set restrictions and conditions to such license, or amend restrictions and conditions previously laid down, if:

- a) the investment institution or its management company or the administrator has its registered office in a state where financial institutions from the Netherlands Antilles are not allowed or are subjected to unreasonable restrictions; or
- b) a natural person or corporate body with the nationality of a state referred to under a) above can directly or indirectly exercise dominant control of the investment institution or the administrator.

Article 31

1. By national decree an association of investment institutions and depositaries and/or administrators may be appointed as a representative association.
2. As regards the policy concerning the supervision of investment institutions and administrators the Bank shall consult the representative associations at least once a year and at all other times when the Bank deems such consultation necessary.

Article 32

The cost associated with the implementation of the provisions laid down by or pursuant to this National Ordinance shall be charged to the investment institutions and administrators. By national decree containing general measures further rules shall be laid down concerning the passing on of such cost.

CHAPTER VIII

Implementation, supervision and detection

Article 33

If the licensed investment institution or the depositary, if employed by the investment institution, or the administrator is found not to satisfy the requirements, rules, restrictions or instructions laid down by or pursuant to this National Ordinance, the Bank may issue an instruction to the investment institution, the depositary or the administrator specifying that it should satisfy such requirements, rules, restrictions or instructions within a time to be specified to the bank.

Article 34

1. If special circumstances threaten an adequate functioning of the investment institution, the depositary or the administrator as a result of which the Bank is of the opinion that reinforcement of the bodies of the investment institution, the depositary or the administrator has become desirable, the Bank may send a written notification of the fact that from a certain point in time all or certain bodies of the investment institution, the depositary or the administrator shall only be allowed to exercise their powers after the approval of one or several persons appointed by the Bank and duly observing the instructions by such persons.

2. If the Bank is of the opinion that special circumstances make immediate action necessary it may, contrary to the provisions of the first paragraph, immediately send a substantiated notification with immediate effect to the investment institution, the depositary or the administrator.
3. As regards the notification referred to in the first and second paragraphs, the following shall apply:
 - a) the bodies must fully cooperate with the persons appointed by the Bank;
 - b) the Bank may allow the bodies to perform certain acts without approval;
 - c) the Bank may replace the appointed persons at all times;
 - d) if any damage or loss has resulted from acts performed in violation of a notification as referred to in the first paragraph those persons who have performed such acts in their capacities of bodies of the investment institution, the depositary or the administrator, shall be personally liable towards the investment institution, the depositary or the administrator. The investment institution, the depositary or the administrator may invoke the invalidity of these acts if the other party knew or should have known that the required approval had not been granted; and
 - e) the notification shall remain effective until the circumstances referred to in the first paragraph no longer apply, however it shall be limited to a maximum of two years.

Article 35

1. If an investment institution or administrator fails to satisfy its obligations resulting from this National Ordinance or fails to satisfy such obligations in time, the Bank may impose a fine on the investment institution or administrator for every day that it has been negligent as regards the performance of its obligations.
2. The amount of the fine for the various offences shall be laid down by a national decree containing general measures.
3. Prior to imposing a fine, the Bank shall send the investment institution or administrator concerned written notification of its intent to impose a fine and shall allow it to remedy its failure within a reasonable period.

Article 36

1. The Bank officials appointed by the President of the Bank shall be responsible for the supervision of the observance of the provisions laid down in or by virtue of this Act.
2. Only to the extent that the following is reasonably required for the performance of their duties, the persons appointed by virtue of the first paragraph shall have the power to:
 - a. ask any information;
 - b. demand access to all financial accounts, documents and other information carriers and to make copies of such or to take such with them temporarily.

3. By national decree constituting general measures, rules can be laid down regarding the way in which the persons appointed pursuant to the first paragraph carry out their tasks.
4. The persons appointed pursuant to the first paragraph shall always be given all cooperation that is required on the grounds of the second paragraph.

Article 37

- 1 In addition to the officials referred to in article 184 of the Code on Criminal Procedure the Bank officials appointed for this purpose by national decree shall be responsible for the detection of the offences made punishable by this Act. Such appointment shall be published in De Curaçaosche Courant.
2. By national decree constituting general measures, rules can be laid down regarding the requirements which the officials appointed by virtue of the first paragraph should comply with.

CHAPTER IX

Penal Provisions

Article 38

1. Any breach of article 3, first paragraph; article 6; article 8, first paragraph; article 8, second paragraph; article 8, fifth paragraph; article 9, first paragraph; article 9, second paragraph; article 9, fifth paragraph; article 14; article 17, first paragraph; article 17, second paragraph; article 17, fifth paragraph; article 18, first paragraph; article 18, second paragraph; article 18, fifth paragraph; article 20; article 25, first paragraph; or article 36, fourth paragraph shall be punishable by confinement for up to one year and a fine of up to two hundred and fifty thousand guilders or by one of these punishments.
2. Any intentional breach of any of the provisions referred to in the first paragraph shall be punishable by up to four years' imprisonment and a fine of up to five hundred thousand guilders or by one of these punishments.
3. The acts made punishable by the first paragraph shall be considered misdemeanours (*overtredingen*). The acts made punishable by the second paragraph shall be considered felonies (*misdriften*).

CHAPTER X

Amendment of other National Ordinance

Article 39

The following new paragraph shall be added to article 11 of the Central Bank Statute 1985 (O.G. 1985 no. 183):

5. The Bank shall carry out the supervision of investment institutions and administrators as laid down in the National Ordinance on the Supervision of investment institutions and administrators.

CHAPTER XI

Final and transitional provisions

Article 40

1. The prohibitions laid down in articles 3 and 14 shall not apply until three months after this National Ordinance has taken effect.
2. In respect of investment institutions or administrators that have applied for a license from the Bank within three months of this National Ordinance taking effect, the prohibitions laid down in articles 3 and 14 shall not apply until on the second day after the Bank has dispatched its decision concerning the application.

Article 41

This National Ordinance shall take effect on 1 January 2003.

Article 42

This National Ordinance may be cited as: National Ordinance on the Supervision of Investment Institutions and Administrators.

Willemstad, 18 December 2002

F.M. DE LOS SANTOS GOEDGEDRAG

The Minister of Finance,

E.T.M. DE LANNOOY

The Minister of Justice,

N.V. RIBEIRO

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The Minister of General Affairs and
Foreign Relations,

E.N. YS