CENTRALE BANK VAN CURACAO EN SINT MAARTEN
(CENTRAL BANK)

Code of Practice for the Relationship between the External Auditor and the Supervisor

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I. INTRODUCTION

The role of the external auditor is to express an opinion on a financial institution's audited financial statements. The auditor's opinion lends credibility to the financial statements and promotes confidence in the financial system. The auditor is required to conduct the audit in accordance with International Standards on Auditing (ISA and NVCOS). Those standards require that the auditor complies with ethical requirements and plans and performs the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

In a regulatory context, the ability of regulators to rely on the audited information furnished by financial institutions is an integral part of the supervisory process. Auditors are duty-bound to follow the standards and principles in the ISA in the conduct of audits of entities. Similarly, the Centrale Bank van Curaçao en Sint Maarten (the Bank), seeks to adhere to the standards established by international regulatory standard setting bodies like the International Association of Insurance Supervisors (IAIS) and the Basel Committee on Banking Supervision (BCBS). The relationship between external auditors and the Bank is premised on both parties operating within a particular regulatory framework as well as within the limits and requirements placed on them by the standards to which they subscribe.

The tasks of the Bank and external auditors are becoming more and more demanding. In many respects, the supervisors and external auditors face similar challenges and, increasingly, their roles are being perceived as complementary. Not only do supervisors benefit from the results of the auditors' work, but they may also turn to the external auditor to undertake additional tasks when these tasks contribute to their role as supervisory authorities. At the same time, the external auditors, in carrying out their role, also look to supervisors for information that can help in discharging their responsibilities more effectively. The external auditor has an important role to play in the regulatory framework, which requires confidence in audited financial information to ensure that supervisory efforts and policies are effective, appropriate and based on accurate data. This requires an open, cooperative and constructive relationship between the Bank and the external auditor, so they can both provide effective input to the regulatory process. It is important, therefore, that the terms and scope of this relationship are clearly defined and understood by both the supervisor and the external auditor, as well as by the financial institutions that are regulated and supervised.

II. ABBREVIATIONS & DEFINITIONS

II.1 Abbreviations

a. **NOSII**: National Ordinance Supervision on the Insurance Industry (N.G. 1990, No. 77 and O.P. 2013, CT No. 688)
b. **NOIBB**: National Ordinance Insurance Brokerage Business (N.G. 2013, No. 13 and O.P. 2013, CT No. 708)
c. **NOSBCI**: National Ordinance on the Supervision of Banking and Credit Institutions 1994 (N.G. 1994, No. 4 and O.P. 2013, CT No. 691)
d. **NOST**: National Ordinance on the supervision of Trust service providers (N.G. 2003, No.114 and O.P. 2013, CT No.709)
e. **NOSIIA**: National Ordinance on the supervision of Investment Institutions and Administrators (N.G. 2002, No.137 and O.P. 2013, CT No. 707)
f. **NOSSE**: National Ordinance on the supervision of Securities Exchanges (N.G. 1998, No. 252)

All the above as amended by the National ordinances actualization and harmonization of the supervision ordinances of the Centrale Bank van Curaçao en Sint Maarten (N.G. 2015, No. 67 and A.B. 2018, no. 5).

II.2 Definitions

a. External Auditor: The **expert**[1] mentioned in article 2:121 paragraph 6 of the 'Burgerlijk Wetboek' being a chartered accountant (register accountant, RA) pursuant to Dutch regulations, an accounting consultant (accountant-administratie consulent, AA) as referred to in art. 2:393, first paragraph of the Dutch 'BW', a certified public accountant (CPA) according to US regulations, as well as a person who is allowed to act as an expert by means of a revocable license provided by the Minister of Economic Affairs, which proves that the respective person complies with the professional competence requirements. These requirements must be equivalent to that of a RA, AA or US CPA.

b. Financial institution: An entity which falls under one of the below categories.
1 an insurance company as defined in article 1, paragraph 1g, of the NOSII
2 an insurance intermediary as defined in article 1, paragraph 1a of the NOIBB
3 a credit institution as defined in article 1, paragraph 1c and 1 d of the NOSBCI
4 a trust service provider as defined in article 1, paragraph 1 of the NOST
5 an investment institution and administrator as defined in article 1, paragraph 1 of the NOSIIA
6 a securities exchange as defined in article 1, paragraph b of the NOSSE.

[1] Term as used in the supervision ordinances ("externe deskundige")

III. PURPOSE OF THE CODE

The aim and objective of this Code of Practice (the Code) is to enhance the regulatory process by promoting an effective relationship between the external auditor [2] of an individual supervised financial institution and the Bank in order to ensure enhanced supervision and also contribute to high quality external audits. In this respect, this Code sets out principles that establish:

a) The nature of the relationship between the Bank and external auditor;
b) The form and frequency that communication between the two parties should take; and
c) The responsibilities and scope for sharing information between the two parties, subject to the availability and accessibility of information to either party.

This Code is set out pursuant to:

- articles 26, 27a and 120b of the NOSII;
- articles 17a, 17b and 18a of the NOIBB;
- articles 15 and 24 of the NOSBCI;
- articles 16, 17 and 17a of the NOST;
- article 8, 9, 17, 18a of the NOSIIA; and
- article 4a, paragraph 1 and 2 of the NOSSE.

The nature of the relationship and information-sharing between the Bank and audit firms should be considered in the context of the respective roles and responsibilities of the Bank, external auditors, and a financial institution's board and management:

A. Roles and responsibilities of the Bank

The Bank is primarily concerned with maintaining the stability of the financial system and fostering the safety and soundness of financial institutions in order to protect the interests of the depositors, policyholders, pension plan members, beneficiaries, investors and other stakeholders. In this respect, the Bank monitors the present and future viability of financial institutions and uses their financial statements to assess their condition and performance.

The Bank is also concerned with the maintenance of a sound system of internal controls as a basis for safe and prudent management of the financial institution's business. It must be satisfied that each financial institution maintains adequate records prepared in accordance with consistent accounting policies and practices that enable the Bank to appraise the financial condition of the financial institution and the profitability of its business, and that the financial institution publishes or makes available on a regular basis financial statements that fairly reflects its condition.

When the Bank conducts an onsite examination, the conclusions drawn from the examination are communicated to the financial institution. These communications can be useful to external auditors inasmuch as they provide an independent assessment in important areas and focus attention on specific areas of supervisory concern.

[2] This code of practice is not intended to cover neither the relationship of the Central Bank with the Dutch Caribbean Accountants Associations (DCAA) nor the Nederlandse Beroepsorganisatie van Accountants (NBA).

B. Roles and responsibilities of the institution's Board and Management
A financial institution's Board is responsible for ensuring that management fulfills the following as it relates to an external audit. In particular, the Board is responsible for amongst others:
   i. Ensuring that the financial statements are prepared and presented fairly in accordance with international accounting principles;
   ii. Establishing accounting procedures that provide for the maintenance of sufficient documentation to support the financial statements;
   iii. Establishing and maintaining effective internal controls and procedures for financial reporting;
   iv. Ensuring that the external auditor has complete and unhindered access to, and is provided with, all necessary information that may have material effect;
   v. Providing all information to supervisory authorities as required by law;
   vi. Preventing and detecting fraud and other irregularities;
   vii. Engaging, monitoring and compensation of the external auditor;
   viii. Discussing and resolving disagreements between management and the auditor on financial reporting;
   ix. Reviewing reports received from the auditor on critical accounting policies, discussions with management and any material communications with management; and
   x. Reviewing and monitoring management's planned actions to implement auditor recommendations on the internal control environment;

C. Roles and responsibilities of the External Auditors(amongst others):
   i. Expressing an opinion on financial statements which are audited in accordance with ISA and NVCOS. The external audit involves procedures which include, but are not limited to, assessment of the risks of material misstatement of the financial statements, whether due to fraud or errors;
   ii. Considering internal control relevant to the financial institution's preparation and fair presentation of the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the financial institution's internal control;
   iii. Evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management; and
   iv. Evaluating the overall presentation of consolidated financial statements (where applicable).

While the relationship with the supervisor as guided by the Code is designed to enhance the effectiveness of both the audit and the supervisory process, it does not detract from the independent role the auditor plays in forming judgements and opinions on a financial institution's financial statements for the benefit of investors and other stakeholders.

IV. LEGISLATIVE REQUIREMENTS

The legislative powers of the Bank as it relates to the audit of financial institutions and requirements applicable to external auditors, can be found in the different supervision ordinances. Specifically:

a. The Bank was given statutory power over the appointment of the external auditor of financial institutions. This, to ensure that appointed external auditors have the necessary experience, resources and skills:
   - Article 27c of the NOSII
   - Article 17d of the NOIBB
   - Article 24 of the NOSBCI
   - Article 17b of the NOST
   - Articles 9c and 18b of the NOSIIA
   - Article 4c of the NOSSE
b. The auditor is required to immediately notify the Bank in writing about each and any circumstantial fact of which he became aware or encountered during his audit activities:
   - article 27a, paragraph 1 of the NOSII
   - article 17b paragraph 1 of the NOIBB
   - article 15, paragraph 2 of the NOSBCI
   - article 17a, paragraph 1 of the NOST
   - article 18a, paragraph 1 of the NOSIIA
   - article 4a, paragraph 2 of the NOSSE

   The auditor should make reference to abovementioned reporting duty in the Engagement letter.
c. The Bank is empowered to request everyone who has information of a financial institution in its possession to share this with the Bank:
   - article 120a of the NOSII
   - article 18 of the NOIBB
   - article 49a of the NOSBCI
   - article 20 of the NOST
   - article 35 of the NOSIIA
   - article 16 of the NOSSE

V. THE PRINCIPLES

This Code of Practice is premised on the principles set out below and should, to the extent that they are relevant be applied in a manner proportionate to the level of risk of the particular financial institution. The principles are as follows:

Principle 1: Auditors duty to report.
Principle 2: Supervisors and auditors shall share all information relevant to carrying out their respective statutory duties in a timely fashion.
Principle 3: Supervisors and auditors shall seek an open, cooperative and constructive relationship.
Principle 4: Supervisors and auditors should engage in regular dialogue.
Principle 5: Supervisors and auditors shall treat information shared between the two parties or received from regulated firms confidentially.
Principle 6: Outsourcing of supervisory work.

V.1. Auditors duty to report

There is a duty of the auditor to report to the Bank under the different supervision ordinances.

The external auditor is required to directly and immediately notify the Bank in writing about each and any circumstantial fact of which he became aware or encountered during his audit activities and which:

a. are in conflict with the license requirements;
b. are in conflict with the stipulations of the NOSII, NOIBB, NOSBCI, NOST, NOSIIA and NOSSE;
c. jeopardize the continuity of the financial institution; or
d. would inhibit the issuance of an unqualified opinion[3].

The external auditor should, in case of a notification as mentioned above, provide to the Bank a copy of his report with findings, the management letter, as well as all correspondence[4] with regard to the auditor's engagement. If deemed necessary by the Bank, the external auditor will be required to elaborate in a meeting on the aforementioned documents.

The abovementioned notification requirement is also applicable in case the external auditor is responsible for the audit of a subsidiary or parent company of the financial institution.[5] Such information should be provided to the Bank without the need of prior consent of the supervised institution to the external auditor.

An external auditor is permitted to communicate[6] to the Bank any information or opinion on a matter that has come to his knowledge in the course of his duties. The external auditor who has made a notification to the Bank pursuant to the provisions contained in the supervision ordinances, shall not be liable for the damage that a third party suffers as a result, unless it is plausible that in view of all facts and circumstances, in reasonableness no notification should have been given.

V.2. Supervisors and auditors shall share all information relevant to carrying out their respective statutory duties in a timely fashion

The supervision ordinances permit auditors to communicate to the Bank any information or opinion on a matter that the auditor reasonably believes is relevant to any function of the Bank.

When the Bank uses the audited financial statements in the course of supervisory activities, the Bank does not place sole reliance on mentioned statements. They are used to

[3] Examples are cases where the auditor has an irreconcilable difference of view with management over a material aspect of the financial statements, as a result of which the auditor intends to issue an unqualified audit opinion.
[4] In so far these contain information that is considered necessary for the proper fulfillment of the Bank's supervisory tasks.
[5] Paragraph 3, article 27a NOSII, paragraph 3, article 17b NOIBB, paragraph 4, article 15 NOSBCI, paragraph 3, article 17a NOST, paragraph 3, articles 9b and 18a NOSIIA, and paragraph 4, article 4a, NOSSE.
[6] Article 27a of the NOSII, article 17b of the NOIBB, article 15 of the NOSBCI, article 17a of the NOST, articles 9b and 18a of the NOSIIA and article 4a of the NOSSE.

complement supervisory work as these are not ordinarily the primary purpose for which the financial statements were prepared. An audit in accordance to ISAs is designed to provide reasonable assurance that the financial statements taken as a whole are free from material misstatement

There are many areas where the work of the supervisor and of the external auditor can be useful to each other. Communications from auditors to management and other reports submitted by auditors can provide supervisors with valuable insight into various aspects of the financial institution's operations.

The following are examples of types of other matters that may come to the attention of the auditor and may require supervisory action. Hence the need to share this information with the Bank:

- a serious conflict within the decision-making bodies of the unexpected departure of a manager in a key function
- the intention of the external auditor to resign or the removal of the external auditor
- material adverse changes in the risks of the financial institutions and possible risks going forward
- indication of fraud at a senior level
- cases where the auditor believes a matter should be communicated to the supervisor and management has failed to make such communication when requested to do so.

Similarly, external auditors may obtain insight from information originating from the Bank. When a supervisory inspection takes place, the conclusions drawn from the inspection are communicated to the financial institution. These communications can be useful to the external auditors inasmuch as they provide an independent assessment in important areas and focus attention on specific areas of supervisory concern. The supervisor should disclose information to the auditor that it judges to be relevant to the fulfilment of the auditor's statutory duties.

The supervisors and the external auditors cooperate with each other to make their contributions to the supervisory process more efficient and effective. The cooperation optimizes supervision while allowing each party to concentrate on its own responsibilities.

V.3. Supervisors and auditors shall seek an open, cooperative and constructive relationship

There should be an open and constructive two-way dialogue between the auditor and supervisor to support the effective fulfilment of their respective statutory functions. Communication could be both through formal channels, such as scheduled bilateral and trilateral meetings with relevant individuals, and through informal channels, such as telephone calls, (tele-conference) - meetings as appropriate. The nature and frequency of communications should be proportionate to the size and complexity of the supervised financial institution.

At all times, both parties should aim to create an open and cooperative relationship that supports the other in carrying out their statutory functions. Auditors and supervisors are encouraged to have a relationship where views can be expressed on an informal basis.

V.4. Supervisors and auditors should engage in regular dialogue

Communication between the supervisor and the auditor should be as frequent as necessary and in whatever form to ensure that the two parties' statutory responsibilities are effectively fulfilled. Such communication could cover areas of mutual concern. The form, content and frequency of this dialogue will vary depending on the characteristics and circumstances of the supervised institution.

If the Bank is to derive benefit from the work of the external auditors on a continuing basis, the Bank should discuss areas of supervisory concern with the accounting profession.

The Annex to this Code provides guidance on the content of these meetings. The topics suggested in the Annex are examples of the potential content of meetings for any regulated firm, as circumstances may dictate.

V.5. Supervisors and auditors shall treat information shared between the two parties or received from regulated firms confidentially

Both the supervisors and auditors are required by statute to treat the information received while carrying out their functions as confidential. Within legal constraints, there are, however, statutory gateways that allow auditors and the CBCS to share information. There is specific provision within the supervision ordinances[7] for the regulator to share confidential information with auditors for enabling or assisting either the CBCS or the auditor to perform their functions.

The supervision ordinances also allow auditors to communicate in good faith with supervisors without contravening other duties they are subject to (as discussed under Principle 2).

The regulator and auditors, when in receipt of information from the supervisor, are both bound by the confidentiality provisions under articles 78 of the NOSII, article 20 of the NOIBB, article 40 of the NOSBCI, article 23 of the NOST, article 25 of the NOSIIA and article 10 of the NOSSE.

There may be situations where supervisors impose additional restrictions on the further disclosure of information passed to auditors.

In order to preserve the concerns of both parties regarding the confidentiality of information acquired while carrying out their respective functions, it is normal that, when contacts between the supervisor and the external auditor become necessary, management of the financial institutions is also present or at least informed. The primary condition for excluding the management of the financial institutions from discussions would be that his presence would compromise their purpose.

V.6. Outsourcing of Supervisory work

In carrying out the supervisory task as referred to in article 120a of the NOSII, article 18 of the NOIBB, article 49a of the NOSBCI, article 20 and 20a of the NOST, article 35 and 36 of the NOSIIA and article 16 and 16a of the NOSSE, the Bank may pursuant to article 120b of the NOSII, article 18a of the NOIBB, article 49b of the NOSBCI, article 20a of

[7] For example, article 78 paragraph 2 of the NOSII.

the NOST, article 36 of the NOSIIA and article 16a NOSSE require the assistance of or have such supervision carried out by an external auditor to be designated by the Bank.

VI. TRILATERAL DIALOGUE

Where deemed necessary and considering the issues to be discussed, trilateral meetings with representatives of the financial institutions, and in particular its audit committee, will be instituted.

VII. REGULAR DIALOGUE WITH AUDITORS OR AUDIT FIRMS COLLECTIVELY

In order to promote a more efficient dialogue at the sectoral level, the Bank will when necessary set up regular dialogues with external auditors collectively to allow an exchange of views on current and emerging developments, at least annually.

VIII. PERIODIC REVIEW

This Code of Practice will be subject to a periodic review and will be updated to reflect changes to legislation, auditing practice and other relevant developments as necessary.

Either party may initiate discussions for amendment to or updating of this Code of Practice.

IX. ANNEX: GUIDANCE ON CONTENT OF AUDITOR/ SUPERVISOR BILATERAL MEETINGS

To improve the quality of the audit and the effectiveness of supervision, the content of meetings between the supervisor and auditor could be focused on areas such as those mentioned below. Please note that this list is not exhaustive and should only be considered as a guide.

- Risk assessment and scope - both the auditor's and supervisor's assessments in light of the external environment and the regulated firm's performance, business model, risk appetite, etc.
- Discuss recent supervisory risk assessments, skilled persons' report findings and other supervisory reviews.
- The regulated firm's strategy and business model. The regulated firm's competitive position.
- The regulated firm's approach to risk management.
- Observations on Internal control (governance effectiveness, control environment, application controls, IT controls, monitoring controls, etc.) and material control weaknesses identified.
- Culture and tone set from the top.
- Management incentives and their impact on culture and conduct risk.
- Provisions made in relation to conduct risk matters.
- Additional matters arising from the audit.
- Plans for potential skilled persons' reviews in the coming year.