

# Presentation license fee



October 8, 2013

# Outline presentation

- **Explanation license fee**
- **License fee issues Sint Maarten**
- **License fee and Article 58 LGO decree**

# Explanation license fee

# Legal basis license fee (1)

1. **Article 9 of the Central Bank Statute (2010):**
  - The Bank is the central foreign exchange bank of the countries and regulates the payments between residents and non-residents according to the Foreign Exchange Regulation of Curaçao and Sint Maarten (2010).
  - The Bank can, under certain conditions, authorize other local banks to operate as a foreign exchange bank.
  - Foreign exchange banks must pay a monthly fee for this authorization.

# Legal basis license fee (2)

## 1. Article 9 of the Central Bank Statute (2010):

- The license fee is calculated according to rules determined by uniform national decrees.
- The collected license fees are considered government revenues.
- The license fee collected in a specific country is fully transferred to that country.

# Legal basis license fee (3)

2. National Decree of October 27, 1995 (N.D. 1995, nr.187) stipulates:

- the calculation of the 1% fee (article 2);
- introduction as of January 1, 1996;
- Replacement of the then foreign exchange tax of 1.3%.

# Calculation license fee

License fee due by a foreign exchange bank is equal to 1% of the value of payments from residents to nonresidents and the (cash) sale of foreign exchange.

# Calculation license fee

## Exemptions:

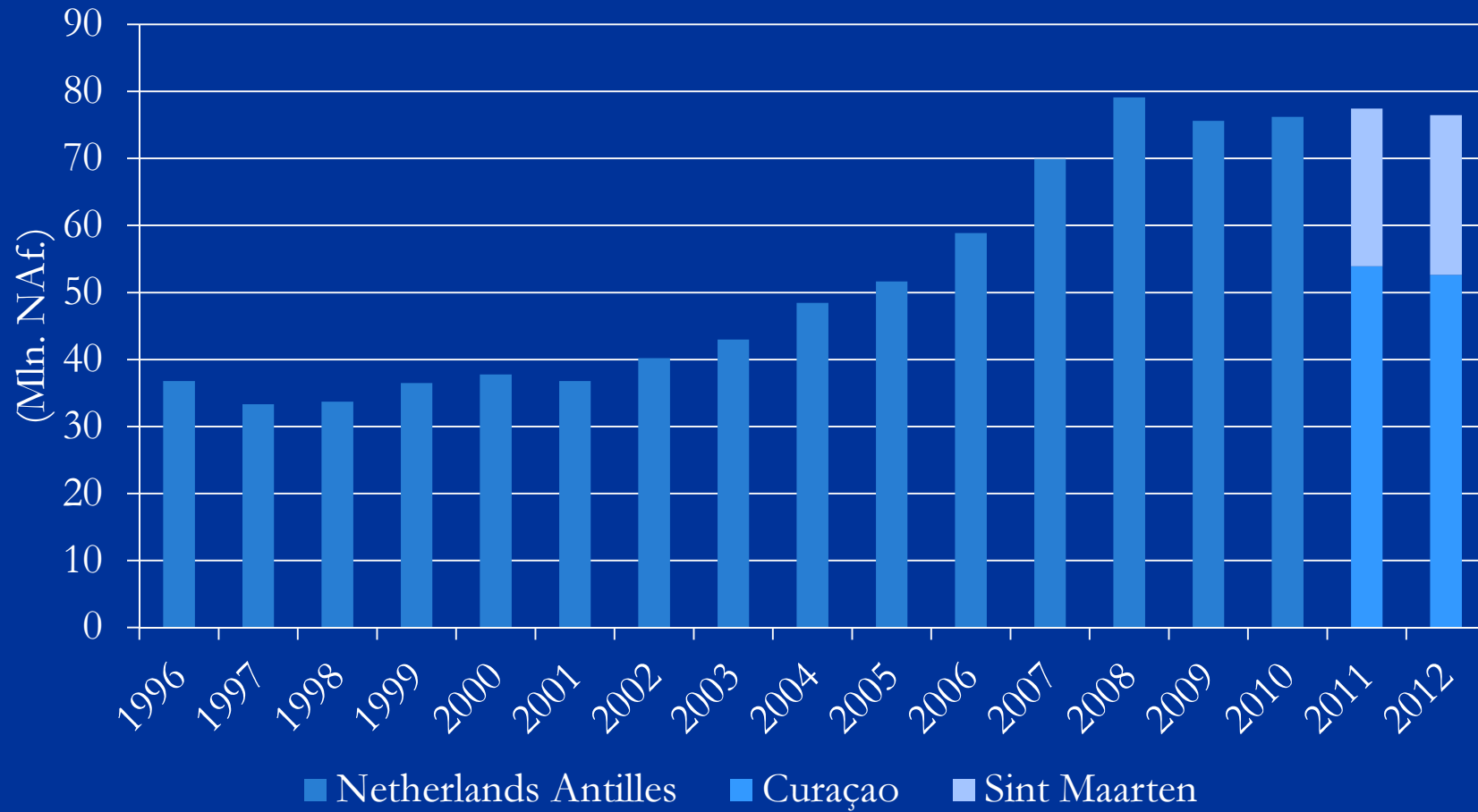
- government transactions;
- free-zone imports for re-export;
- re-investments of securities.



# Implementation license fee

- Foreign exchange banks pass on the license fee to their clients for:
  - resident payments to non-residents;
  - cash withdrawals from resident \$-accounts.
- License fee is included in the (official) selling rate of foreign exchange.
- License fee is calculated and charged by the Bank on a monthly basis from the reporting by the foreign exchange banks.
- The Bank collects the license fee and transfers the proceeds to the governments.

# License fee revenues



# License fee issues Sint Maarten

# License fee issues Sint Maarten

1. Programming errors in new system by a local bank.
2. Correct classification of a resident.
3. Payments with cheques.
4. Payments through different local commercial banks.

# Correct classification of a resident

Article 1 of the Foreign Exchange Regulation Curaçao and Sint Maarten defines residency as:

- 1) Person living in Sint Maarten/Curaçao, legally registered, with the intention to live for more than one year in Sint Maarten/Curaçao;
- 2) Companies or institutions established in Sint Maarten/Curaçao with the majority of their activities in Sint Maarten/Curaçao.

Open border with French side makes it difficult for commercial banks to properly determine residency.

# Payments with cheques

- Volume of payment transactions with cheques is very high.
- On the cheque you can see whether the issuer is a resident or non-resident.
- However: the issuer of the cheques does not necessarily know whether the casher of the cheque is a resident or non-resident.

# Payments through different local commercial banks

Common types of a transactions are:

- **Online transfers between accounts of different commercial banks:**
  - **Example:** a resident transfers funds from his/her account at bank A to a third party account at bank B.
- **Cheques cashed/deposited at one bank while the issuer of the cheque is a client of another bank:**
  - **Example:** a non-resident deposits a cheque on his/her account at bank C and the issuer of the cheque banks with bank A.

# License fee and Article 58 LGO Decree



# Article 58 LGO Decree

- LGO Decree regulates preferential access to the market of the European Union for overseas countries and territories of European countries.
- Article 58 stipulates that there may be no impediments to payments between the LGOs and the European Union.
- The license fee in its current setup may be considered a limitation.

# Solution

- **Amending Article 9 of the Central Bank-Statute:**
  - eliminate paragraph 6: the collected license fees are not part of the Bank's revenues;
  - eliminate paragraph 7: the license fee collected in a country is fully transferred to that country.
- **Amending Article 40 of the Central Bank-Statute:**
  - the profit related to the license fee will be distributed pro rata between the countries.

**Thank you for your  
attention**