

**Unofficial and not binding translation  
2011 No. 78**

**STATUTE PUBLICATION GAZETTE  
OF  
ARUBA**

STATE DECREE containing General Administrative Orders of December 8, 2011 for the implementation of Article 37, fifth paragraph, of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing (AML/CFT State Ordinance) (AB 2011 No. 28) (State Decree regarding the principles for administrative enforcement AML/CFT State Ordinance).

Issued December 27, 2011

The Minister of Justice and Education,

A.L. Dowers

## IN THE NAME OF THE QUEEN!

THE GOVERNOR of Aruba,

Having considered:

that, for reasons of the effective application of the penalty order and the administrative fine to enforce the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing (AB 2011 No. 28), it is necessary to lay down rules relating to the basis for the determination of the amount of the penalty charge order and the administrative fine per violation;

Having regard to:

Article 37, fifth paragraph, of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing (AB 2011 No. 28);

After hearing the Advisory Council, has decided:

## §1. General

## Article 1

In this State Decree, the following terms shall mean:

Penalty Charge Order: the penalty charge order, referred to in Article 37, first paragraph, of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing (AB 2011 No. 28);

Administrative Fine: the administrative fine, referred to in Article 37, second paragraph, of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing (AB 2011 No. 28).

## Article 2

For the purposes of imposing a penalty charge order and an administrative fine, the following classification into categories shall apply:

Article	Category
3	2
4	2
5	2
6, first, second, or fourth paragraph	2
7	2
8, first paragraph	1
9	2
10, second paragraph	1
10, third paragraph	2
11	2
12	2
13	2
14	2
15	2
16	2
17	2
18	2
19	1
26, first paragraph	2
26, second and third paragraph	1
27	2
28, second paragraph	1
31	2
33	1
34	1
35, sixth paragraph	2
36, fourth paragraph	2
45, first paragraph and second paragraph	2
45, third paragraph	1
46	2
47	2
48, second and third paragraph, second sentence	2
50, first, second, and fourth paragraph	1
54	2

## §2. The penalty charge order

### Article 3

1. The Bank shall set a penalty charge order at either an amount per time unit during which the order was not complied with, or a lump sum, or per violation of the order.

2. The Bank shall also determine an amount beyond which no penalty shall be forfeited anymore.

3. The minimum amounts for all categories shall always be Afl. 0.-.

4. The basic amounts for all categories shall amount to half the maximum amounts, mentioned in the fifth through sixth paragraph.

5. The following classification shall apply to the maximum amount per time unit:

Category	Maximum amount per calendar day
1	Afl. 10,000.-
2	Afl. 100,000.-

6. As regards the maximum amount per violation of the order and the lump sum, the following classification shall apply:

Category	Maximum amount per separate violation
1	Afl. 100,000.-
2	Afl. 1,000,000.-

7. The Bank shall set a penalty at the basic amount.

8. The Bank shall decrease or increase the basic amount, referred to in the fourth paragraph, by at most 100%, if such a decrease or increase is justified by the severity of the violated interest and the contemplated effect of the penalty.

9. If the benefit acquired as a result of the violation or the benefit to be acquired as a result of not complying with the order exceeds the amounts mentioned in the fifth through seventh paragraph, the Bank may set the amount of the penalty at double these amounts at most.

### §3. The administrative fine

#### Article 4

As regards the basic amounts, minimum amounts, and maximum amounts for the administrative fine, the following classification shall apply:

Category	Basic amount	Minimum amount	Maximum amount
1	Afl. 50,000.-	Afl. 0.-	Afl. 100,000.-
2	Afl. 500,000.-	Afl. 0.-	Afl. 1,000,000.-

#### Article 5

1. The Bank shall set an administrative fine at the basic amount.

2. The Bank shall decrease or increase the basic amount, referred to in the first paragraph, by at most 100%, if such a decrease or increase is justified by:

- a. the severity or duration of the violation, or
- b. the degree to which blame can be attributed to the violator.

3. When determining the administrative fine, the Bank shall take into account the financial capacity of the violator. Within this framework, the Bank may decrease the administrative fine to be imposed by at most 100%.

§ 4. Final provision

Article 6

1. This State Decree shall enter into force as of January 1, 2012.
2. It may be cited as State Decree regarding the principles for administrative enforcement AML/CFT State Ordinance).

Given in Oranjestad, December 8, 2011  
F.J. Refunjol

The Minister of Finance, Communication,  
Public Utilities, and Energy,  
M.E. de Meza

The Minister of Justice and Education,  
A.L. Dowers