

Enclosure: 1



CENTRALE BANK VAN ARUBA

Dispensation Policy regarding Pawnshops/Comprá y Benta Companies operating in Aruba based on section 48, paragraph 3 of the State Ordinance on the Supervision of the Credit System (*Landsverordening Toezicht Kredietwezen*, AB 1998 no. 16) (SOSCS)

1. Introduction

In connection with the increased number of pawnshops/compra y benta companies operating in Aruba and the associated risks, the Centrale Bank van Aruba (the CBA) has decided to establish, based upon section 48, paragraph 3, of the SOSCS, a dispensation policy with regard to pawnshops/compra y benta companies.

2. Legal framework

Pursuant to section 48, paragraph 1, of the SOSCS any natural person or legal entity is prohibited to grant credits in the course of his or her occupation or business, or in this respect to act as an intermediary. The term "to grant credits" includes the lending of money to a third party, whereby the lender or an affiliated party obtain monetary benefits from this transaction. In this respect and in view of the underlying objective of consumer protection, which justifies a broad interpretation of "credits", pawn/compra y benta activities fall under the scope of article 48, paragraph 1, of the SOSCS, as being the business of lending to natural persons on the security of pledged goods or as the business of purchasing tangible personal property on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

In accordance with section 48, paragraph 2, of the SOSCS the aforementioned prohibition shall not apply to:

- a. the Government;
- b. the CBA;
- c. international public entities in which the Kingdom of the Netherlands participates;
- d. companies or institutions which are registered in accordance with section 28, paragraph 2, of the SOSCS.

Pursuant to section 48, paragraph 3, of the SOSCS, the CBA may, based on a to that effect written and reasoned request, grant a dispensation from the prohibition as mentioned in section 48, paragraph 1, of the SOSCS if in its opinion the interests that the SOSCS seeks to protect are adequately safeguarded.

Pursuant to section 2, paragraph 2, of the SOSCS, the CBA may attach restrictions, stipulations and conditions to granted dispensations, provided that the facts or circumstances which refer to the person or institution on which the dispensation shall apply, require this for the purpose of sound banking policy.

3. Dispensation policy pawnshops/compra y benta companies

The CBA is willing to grant pawnshops/compra y benta companies a dispensation as mentioned in section 48, paragraph 3, of the SOSCS if the following restrictions and stipulations are met on a continuous basis.

1. The pawn/compra y benta activities are conducted by a limited liability company (“naamloze vennootschap” or N.V.) registered at the Chamber of Commerce of Aruba and has an establishment permit issued by the Department of Economic Affairs, Commerce and Industry (DEZHI) to conduct pawn activities.
2. The company maintains at all times an equity of at least Afl. 50,000.
3. The pawn/compra y benta activities are solely financed by the company’s shareholders’ own funds or by loans granted by the shareholders to the company. The source of the funds may not be subject to any doubts on the legality thereof.
4. The aggregate outstanding amount of the transaction(s) per individual must not exceed Afl. 4.000 at any time.
5. The properness of the holders of qualifying holding(s) of the company must be beyond any doubt; With “qualifying holding” is meant a direct or indirect holding of more than 10 percent of the issued share capital of a company or the ability to exercise directly or indirectly more than 10 percent of the voting right in a company, or the ability to exercise directly or indirectly a comparable degree of control in a company.
6. The fitness and properness of members of the managing board and other (co-) policymakers of the company must be beyond any doubt.
7. Insofar applicable, the fitness and properness of members of the supervisory board of the pawnshop/compra y benta company or any body within that company with comparable tasks must be beyond any doubt.
8. Any contemplated change with regard to the persons as mentioned in paragraph 3, under points 8, 9 and 10 must be reported in writing to the CBA; such changes may be implemented only upon prior written approval of the CBA.
9. The company must comply at all times with the CBA’s guidelines on the conduct of business of pawnshops/compra y benta companies (hereinafter: the Guidelines).
10. The company must be in compliance with the Sanctions State Decree combat Terrorism and Financing of Terrorism (*Sanctiebesluit bestrijding terrorisme en terrorismefinanciering*, AB 2010, 27), the State Ordinance for the Prevention and Combating of Money Laundering and Terrorist Financing (*Landsverordening voorkoming en bestrijding witwassen en terrorismefinanciering*, AB 2011, no. 28), and the Handbook for the prevention and detection of money laundering and combating the financing of terrorism issued by the CBA on June 1, 2011 (AML/CFT Handbook).
11. The company must comply with the Directive on the Publication of Effective Interest Rate for consumer loans issued by the CBA on June 20, 2011.

4. Submission of the request

In order to evaluate whether the aforementioned restrictions and stipulations can be met on a continuous basis the written request for dispensation must be accompanied by the following information and documents:

- a. Articles of incorporation.
- b. An extract from the registry of the Aruba Chamber of Commerce and a copy of the business establishment permit issued by the DEZHI.
- c. A copy of the shareholders’ register.
- d. Information on the source of funds of the shareholder(s).

- e. Filled out Personal Questionnaires (including supportive documents; see Explanatory Notes to Personal Questionnaire) for each person referred to in paragraph 3, under points 5, 6 and 7.
- f. Financial statements of the company, whether or not audited, over last three book years.
 - A description of the (intended) administrative organization and internal controls, as meant in the Guidelines
 - A policy plan as meant in the Guidelines
 - A business risk assessment as meant in Chapter 2.3, point 8 of the AML/CFT Handbook
- g. A business plan which should include the following items:
 - A description of the group/shareholders' structure, including the size of all respective shareholdings;
 - An organizational chart;
 - A description of the business activities; and,
 - A three-year financial projection (including assumptions applied).

The CBA maintains the right to request any additional information it deems necessary to evaluate a request made for a dispensation as meant in section 48, paragraph 3, of the SOSCS.

5. Effective date

This dispensation policy will come into force as of April 1, 2012.

Aruba, March 14, 2012.