

**Unofficial and not binding translation**

**2011 No. 29**

**STATUTE PUBLICATION GAZETTE  
OF  
ARUBA**

STATE ORDINANCE of May 20, 2011 containing the transitory law in connection with the entry into force of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing (Enactment Ordinance State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing) (AB 2011 no. 29).

Issued May 20, 2011

The Minister of Justice and Education,

A.L. Dowers

## IN THE NAME OF THE QUEEN!

THE acting GOVERNOR of Aruba,

Having considered:

that, in connection with the contemplated adoption and entry into force on short notice of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing and the revocation of the State Ordinance on the Identification when Providing Services ('AB' [*Statute Publication Gazette*] 1995 No. 86) and the State Ordinance on the Obligation to Report Unusual Transactions (AB 1995 No. 85), it is desirable to provide for transitory provisions for the service providers within the meaning of these two State Ordinances and to lay down further rules relating to the instructions given by the reporting center mentioned in the latter State Ordinance;

After hearing the Advisory Council and consulting with Parliament, has adopted the following State Ordinance:

## §1. General provisions

## Article 1

In this State Ordinance, the following terms shall mean:

- Existing Service Provider : a service provider as referred to in Article 1, first paragraph, of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing, which was already active as such on the date of entry into force of this State Ordinance;
- Customer : a customer as referred to in Article 1, first paragraph, of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing;
- Customer Base : the customer base of an existing service provider, as it read on the date of entry into force of this State Ordinance;
- Customer Due Diligence : the due diligence, referred to in Article 3, first paragraph, of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing;

Risk Assessment	:	an assessment of the degree of sensitivity of a customer or of categories of customers to money laundering and terrorist financing;
Money Laundering	:	the crime, referred to in Articles 430b, 430c, and 430d of the Criminal Code of Aruba (AB 1991 No. GT 50);
Terrorist Financing	:	the crime, referred to in Article 140a of the Criminal Code of Aruba;
the Bank	:	the Central Bank of Aruba;
Reporting Center	:	the Reporting Center Unusual Transactions, referred to in Article 20, first paragraph, of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing;
Reporting Center	:	the reporting center unusual transactions, referred to in Article 2 of the State Ordinance Reporting Center Unusual Transactions (AB 1995 No. 86).

§ 2. The performance of customer due diligence with respect to existing customers and related matters

#### Article 2

1. Within two months after the date of entry into force of this State Ordinance, existing service providers shall adopt a written policy plan with corresponding procedures for the performance of a risk assessment of their customer base. When drawing up the policy plan, the provisions of Chapter 2 of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing shall be taken into account.

2. Based on the policy plan, existing service providers shall perform a risk assessment of their customer base and record the results of this risk assessment within four months after the date of entry into force of this State Ordinance.

3. With respect to customers or categories of customers posing a high money laundering and terrorist financing risk, existing service providers shall perform customer due diligence within six months after the date of entry into force of this State Ordinance; these customers or categories of customers shall at any rate include those that would fall under the scope of Articles 11, 12, or 13, first and second paragraph, of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing, if that State Ordinance would apply to them on the date of entry into force of this State Ordinance, or those for whom it has been determined pursuant to Article 6, third paragraph, of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing, that they have a high risk profile.

4. With respect to customers or categories of customers for whom it has been determined based on a risk assessment that they pose a low

money laundering and terrorist financing risk, existing service providers shall perform customer due diligence within two years after the date of entry into force of this State Ordinance; these customers or categories of customers shall at any rate include those that would fall under the scope of Article 10, first paragraph, of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing, if that State Ordinance would apply to them on the date of entry into force of this State Ordinance, or for whom it has been determined pursuant to Article 6, third paragraph, of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing, that they have a low risk profile.

5. With respect to the other customers or categories of customers, existing service providers shall perform customer due diligence within twelve months after the date of entry into force of this State Ordinance.

6. With respect to the designated non-financial service providers as referred to in Article 1, first paragraph, of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing, which were already active as such on the date of entry into force of this State Ordinance, as well as with respect to the financial service providers as referred to in Article 1, first paragraph, of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing, which do not dispose of a license or registration of the Bank on that same date, the periods mentioned in the first through fifth paragraph shall be extended by six months.

7. Within one month at the latest of the entry into force of this State Ordinance, the Bank shall draw up one or more guidelines for service providers as referred to in the sixth paragraph for the adoption of the policy plan and corresponding procedures, referred to in the first paragraph. A guideline as referred to in the first sentence shall be announced in a manner to be determined by the Bank.

8. Until the moment of performing customer due diligence as referred to in the third through sixth paragraph, Article 7 of the State Ordinance on Identification when providing Services (AB 1995 No. 86) shall continue to apply to the data and information stored in accordance with Article 6 of that State Ordinance.

### Article 3

1. Within three months after the date of entry into force of this State Ordinance, existing service providers shall comply with the provisions laid down by or pursuant to Articles 45, 46, and 47 of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing.

2. With respect to the service providers, referred to in Article 2, sixth paragraph, the period mentioned in the first paragraph shall be extended by six months.

#### Article 4

Articles 37 through 44 of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing shall be equally applicable to Article 2, first through fifth paragraph, and Article 3.

§ 3. Transitory provisions concerning the reporting center and unusual transactions already disclosed

#### Article 5

The person who held a position with the reporting center shall automatically belong to the staff of the Reporting Center in the same position he held and subject to the same employment conditions of the reporting center as of the date of entry into force of this State Ordinance.

#### Article 6

1. Unusual transactions that were disclosed to the reporting center pursuant to Article 11, first paragraph, of the State Ordinance on the Obligation to Report Unusual Transactions, and that were subject to investigation by this agency on the day prior to the date of entry into force of this State Ordinance shall be considered unusual transactions, referred to in Article 26, first paragraph, of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing as of the date of entry into force of this State Ordinance.

2. Data or information, provided to the reporting center pursuant to Article 11 or 12 of the State Ordinance on the Obligation to Report Unusual Transactions shall be considered data and information, referred to in Article 26 and Article 27, respectively, first paragraph, of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing as of the date of entry into force of this State Ordinance.

#### Article 7

1. Articles 14, 15, and 21 of the State Ordinance on the Obligation to Report Unusual Transactions shall continue to apply to:

- a. reports made before the entry into force of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing in accordance with Article 11, first paragraph, of the State Ordinance on the Obligation to Report Unusual Transactions;
- b. data and information provided before the entry into force of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing in accordance with Articles 11 or 12, second paragraph, of the State Ordinance on the Obligation to Report Unusual Transactions.

2. Article 20 of the State Ordinance on the Obligation to Report Unusual Transactions shall continue to apply to data and information provided or received within the framework of the application of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing before the entry into force of that State Ordinance.

#### Article 8

The agreements entered into by the head of the reporting center before the entry into force of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing pursuant to Article 11, second paragraph, of the State Ordinance on the Obligation to Report Unusual Transactions with agencies outside Aruba with duties similar to the reporting center shall be considered agreements entered into by the head of the Reporting Center as of the date of entry into force of this State Ordinance.

#### Article 9

A written instruction given before the entry into force of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing pursuant to Article 13, first paragraph, of the State Ordinance on the Obligation to Report Unusual Transactions shall be considered an instruction as referred to in Article 48, third paragraph, of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing as of the date of entry into force of this State Ordinance.

#### Article 10

As regards violations of the provisions laid down by or pursuant to the State Ordinance on the Identification when Providing Services or the State Ordinance on the Obligation to Report Unusual Transactions, committed before the entry into force of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing, which are discovered after the date of entry into force of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing, the rules laid down by or pursuant to the State Ordinance on the Identification when Providing Services or the State Ordinance on the Obligation to Report Unusual Transactions shall continue to apply.

### § 4. Final provisions

#### Article 11

The following shall be revoked:

- a. the State Ordinance on the Identification when Providing Services;

- b. the State Ordinance on the Obligation to Report Unusual Transactions.

#### Article 12

1. As of the date of entry into force of this State Ordinance, the following shall apply for a period not exceeding one year:

- a. the State Decree on the Register Regulations Reporting Center Unusual Transactions (AB 1999 No. 50) to Article 22, third paragraph, of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing;
- b. the Regulations on Indicators Financial Service Providers 1999 (AB 1999 No. 19), the Regulations on Indicators Insurance Business (AB 2002 No. 29), the Regulations on Indicators Casinos (AB 2002 No. 12), the Regulations Indicators Professionals (AB 2009 No. 18), and the Regulations Indicators Traders in Valuables (AB 2009 No. 19) to Article 25 of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing.

2. As of the date of entry into force of this State Ordinance, the designation of the employees of the Bank as supervisory body within the meaning of Articles 9, first paragraph, of the State Ordinance on the Identification when Providing Services, and 23, first paragraph, of the State Ordinance on the Obligation to Report Unusual Transactions, shall be subject to Article 35, first paragraph, of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing.

#### Article 13

1. This State Ordinance and the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing shall enter into force on a date to be determined by State Decree. This State Ordinance may be revoked by State Decree.

2. It may be cited as Enactment Ordinance State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing.

Given in Oranjestad, May 20, 2011  
A. Tromp-Yarzagaray

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

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

The acting Minister of General Affairs,  
M.E. de Meza

The acting Minister of Economic Affairs,  
Social Affairs, and Culture,  
A.L. Dowers