

Unofficial and not binding translation

AB¹ 2011 No. 30 CENTRAL REGISTER OF LAWS May 12, 2021
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Title : STATE DECREE containing General Administrative Orders of May 19, 2011 for the implementation of Article 6, fourth paragraph, of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing

Short Title : State Decree Wire Transfers

Source : AB 2011 No. 30

Amendments : AB 2014 o. 64; AB 2020 No. 84; AB 2021 No. 76
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§1. General

Article 1

In this State Decree, the following definitions shall apply:

- originator : an account holder who authorizes a wire transfer from the account held by him, or, in the absence of an account, the person who gives the order to transfer funds;
- beneficiary : the party who is the intended final recipient of the transferred funds;
- payment service provider : a financial service provider whose professional or business activity consists *inter alia* of wire transfer services;
- batch file transfer : several individual wire transfers that are bundled together for transmission;
- wire transfer : a transaction carried out by a payment service provider on behalf of an originator by electronic means with a view to making funds available to a beneficiary at a payment service provider, irrespective of whether the originator and the beneficiary are the same person;

¹ AB = Official Bulletin

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- intermediary payment service provider : a payment service provider that participates in the execution of wire transfers without acting on the orders of the originator or the beneficiary;
- State Ordinance : the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing (AB 2011 No. 28);
- unique identifier : a combination of letters, numbers or symbols, determined by the payment service provider, in accordance with the protocols of the payment and settlement system or messaging system used for the wire transfer;
- complete information on the originator : the information on an originator that consists of:
1. the full name or names of the originator;
 2. the account number of the originator or, if the wire transfer is not executed from or to an account, the unique identifier of the transaction by means of which the transaction can be traced back;
 3. for wire transfers of Afl. 1,800.- or more, the address or place and date of birth of the originator or the customer identification number or the identity number as referred to in Article 3, paragraph 1, subparagraph c, of the Identity Cards Ordinance (AB 2001 No. 8);
- complete information on the beneficiary : the complete information on a beneficiary that consists of:
1. the full name or names of the beneficiary;
 2. the account number of the beneficiary or, if the wire transfer is not executed from or to an account, the unique identifier of the transaction by means of which the transaction can be traced back.

§2. Obligations of the payment service provider of the originator

Article 2

This State Decree shall not apply to the following wire transfers:

- a. wire transfers executed by means of a credit or debit card, provided that the beneficiary has an agreement with the payment service provider, based on which the payment for the supply of goods and the provision of services is possible, and the wire transfer is accompanied by a unique identifier that makes it possible to trace back this wire transfer to the originator;

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- b. wire transfers executed by cellular telephone or any other digital or information technology means if such wire transfers have been paid in advance and do not exceed the amount of Afl. 300.-;
 - c. wire transfers during which the originator withdraws cash money from his own account;
 - d. wire transfers that involve a direct debit mandate between two parties, based on which payments between these parties can be made via accounts, provided that the wire transfer is accompanied by a unique identifier that makes it possible to trace back the transaction to the originator;
 - e. wire transfers to the Government for taxes, penalties and fines or other levies;
 - f. wire transfers during which both the originator and the beneficiary are payment service providers acting for their own account.

§3. The recording of information accompanying wire transfers

Article 3

1. The payment service provider of the originator shall ensure that a wire transfer is accompanied by the complete information on the originator and the complete information on the beneficiary.

2. The payment service provider of the originator shall verify the accuracy of the complete information on the originator based on documents, data or information obtained from a reliable and independent source before transferring the funds.

3. Notwithstanding the first paragraph, in case of wire transfers where both the payment service provider of the originator and the payment service provider of the beneficiary are located in Aruba, it will be sufficient for the payment service provider of the originator to provide the account number of the originator or a unique identifier by means of which the wire transfer can be traced back to the originator. In such a case, the payment service provider of the originator shall, if so requested by the payment service provider of the beneficiary, provide the payment service provider of the beneficiary with the complete information on the originator within three workdays after having received such a request.

4. Notwithstanding the second paragraph, the information referred to in that paragraph does not have to be verified if the wire transfer is less than Afl. 1,800.- and does not appear to be related to any other wire transfers that, together with the wire transfer in question, amount to Afl. 1,800.- or more, unless there is a suspicion of money laundering or terrorist financing.

5. Without prejudice to Article 4, the payment service provider of the originator shall not execute any wire transfers until full compliance with this Article has been guaranteed.

Article 4

If the payment service providers of the beneficiaries are located outside Aruba, Article 3, first paragraph, shall not apply, in case of batch

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file transfers originating from one originator, to the bundled individual wire transfers, provided that the batch file contains the complete information on the originator and the complete information on the beneficiaries referred to in that first paragraph, and the individual wire transfers are accompanied by the account number of the originator or a unique identifier. Article 3, second and fourth paragraphs, shall apply mutatis mutandis.

Article 5

The payment service provider of the originator shall retain the information as referred to in Articles 3 and 4 in Aruba, in an accessible and retrievable manner, for a period of ten years as of the date of the wire transfer.

§3. Obligations of the payment service provider of the beneficiary

Article 6

1. The payment service provider of the beneficiary shall verify whether the data fields for information on the originator and beneficiary in the messaging system or the payment and settlement system used for the wire transfer have been completed using characters or input symbols permitted based on the procedures of the messaging system or the payment and settlement system. A payment service provider as referred to in the first sentence shall have effective and risk-based procedures in place, including, where appropriate, retrospective or real-time monitoring, for detecting a lack of presence of the following information on the originator or beneficiary:

- a. for wire transfers where the payment service provider of the originator is located in Aruba, the complete information on the beneficiary and the account number of the originator or a unique identifier by means of which the wire transfer can be traced back to the originator;
- b. for wire transfers where the payment service provider of the originator is located outside Aruba, the complete information on the originator and the complete information on the beneficiary, where, in case of batch file transfers originating from a single originator, the batch file shall contain that information, and the individual wire transfers shall be accompanied by the account number of the originator or a unique identifier.

2. The payment service provider of the beneficiary shall follow appropriate policies and have risk-based procedures and measures in place to determine whether a wire transfer, which is not accompanied by the complete information on the originator or the complete information on the beneficiary, should be executed, refused or suspended, and what follow-up action is appropriate. The policies, procedures and measures as referred to in the first sentence shall also be aimed at the decisions to be made regarding other payment service providers that regularly fail to provide the required information on the originator or the beneficiary.

3. The policies, procedures and measures as referred to in the first and second paragraphs shall be recorded in writing. The Bank may give directives with respect to the policies, procedures and measures as referred to in the first sentence.

4. Without prejudice to Article 3 of the State Ordinance, the payment service provider of the beneficiary shall verify, in case of wire transfers of at least Afl. 1,800.- or more, and the payment service provider of the originator is located outside Aruba, the identity of the beneficiary based on documents, data or information obtained from a reliable and independent source before transferring the funds, unless this identity has been verified previously.

5. The payment service provider of the beneficiary shall retain the documents, data or information obtained pursuant to the fourth paragraph in Aruba, in an accessible and retrievable manner, for a period of ten years as of the date of the wire transfer.

§4. Obligations of intermediary payment service providers

Article 7

1. The intermediary payment service provider shall ensure that all received information on the originator and the beneficiary that accompanies a wire transfer is retained with that transfer.

2. If it is not possible to comply with the first paragraph due to technical limitations, the intermediary payment service provider shall retain all information received on the originator and the beneficiary accompanying the wire transfer, in an accessible and retrievable manner in Aruba, for a period of ten years as of the date of the wire transfer.

3. The intermediary payment service provider shall verify whether the data fields for information on the originator and beneficiary in the messaging system or the payment and settlement system used for the wire transfer have been completed using characters or input symbols permitted based on the procedures of the messaging system or the payment and settlement system. A payment service provider as referred to in the first sentence shall have effective and risk-based procedures in place, including, where appropriate, retrospective or real-time monitoring, for detecting a lack of presence of the following information on the originator or beneficiary:

- a. for wire transfers where both the payment service provider of the originator and the payment service provider of the beneficiary are located in Aruba, the complete information on the beneficiary and the account number of the originator or a unique identifier by means of which the wire transfer can be traced back to the originator;
- b. for wire transfers where the payment service provider of the originator or the payment service provider of the beneficiary is located outside Aruba, the complete information on the originator and the complete information on the beneficiary, where, in case of batch file transfers originating from a single originator, the batch file shall contain that information, and the individual wire transfers shall be accompanied by the account number of the originator or a unique identifier.

4. The intermediary payment service provider shall follow appropriate policies and have risk-based procedures and measures in place to determine whether a wire transfer, which is not accompanied by the complete information on the originator or the complete information on the beneficiary, should be executed, refused or suspended, and what follow-up action is appropriate. The policies, procedures and measures as referred to in the first sentence shall also be aimed at the decisions to be made regarding other payment service providers that regularly fail to provide the required information on the originator or the beneficiary.

5. The policies, procedures and measures as referred to in the third and fourth paragraphs shall be recorded in writing. The Bank may give directives with respect to the policies, procedures and measures as referred to in the first sentence.

§5. Obligations of all payment service providers

Article 8

1. A payment service provider shall have written procedures and measures in place regarding the prompt provision to the Bank, at its request, of the information on the originator and the beneficiary and related supporting documents accompanying wire transfers.

2. The Bank may give directives with respect to the procedures and measures as referred to in the first paragraph.

§6. Specific obligations of money transaction companies

Article 9

1. Money transaction companies as referred to in the definition of the term “money transaction company” in Article 1 of the State Ordinance on the Supervision of Money Transaction Companies (AB 2003 No. 60) that carry out money transactions as referred to in the definition of the term “money transaction”, subparagraph a, Article 1 of that State Ordinance shall ensure that they comply with the provisions of this State Decree in all countries in which they are active, whether or not through an agent.

2. A money transaction company as referred to in the first paragraph, which checks a wire transfer both on the part of the originator and on the part of the beneficiary, shall:

- a. include all information on the originator and the beneficiary in its assessment as to whether a report as referred to in Article 26 of the State Ordinance should be made;
- b. report an unusual transaction in each country involved in the money transfer in question and provide all relevant transaction data to the competent authorities, including the Financial Intelligence Unit as referred to in Article 1 of the State Ordinance.

§7. Final provision

Article 10

1. This State Decree shall enter into force on a date to be determined by state decree.
2. It may be cited as State Decree Wire Transfers.