

Unofficial and not binding translation

2011 No. 30

**STATUTE PUBLICATION GAZETTE
OF
ARUBA**

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 (State Decree Wire Transfers) (AB 2011 No. 30).

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, for the protection of the Aruban financial system against money laundering and terrorist financing, it is desirable to prescribe further rules for natural persons or legal entities of whom/which the business activities consist *inter alia* of the conduct of money transfers;

Having regard to:

Article 6, fourth paragraph, of the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing;

After hearing the Advisory Council, has decided:

§1. General

Article 1

In this State Decree, the following terms shall mean:

Payer:	an accountholder that allows a money transfer from the account held by him, or, in the absence of an account, the party that gives the instruction to transfer money;
Beneficiary:	the party that is the contemplated ultimate receiver of the funds transferred;
Payment Service Provider:	a financial service provider of whom/which the professional or business activity consists <i>inter alia</i> of offering money transfer services;
Batch File Transfer:	several separate money transfers combined for reasons of the transmission thereof;
Money Transfer:	obtaining the disposal of monies or monetary instruments within the framework of a money transfer, in order to make these monies or monetary instruments - whether or not in the same form - payable or cause same to be made payable to a third party

elsewhere, or paying or making payable monies or monetary instruments, after these monies or monetary instruments – whether or not in the same form – were made available elsewhere, on the understanding that this monetary transfer is an unconnected service;

Intermediary Payment

Service Provider:

a payment service provider involved in the conduct of money transfers without acting on the instructions of the payer or the beneficiary;

Unique Identification Code:

a combination of letters, figures, or symbols, determined by the payment service provider, in accordance with the protocols of the payment and settlement system or the data interchange system that has been used for the money transfer;

Complete Information:

the information about a payer, which consists of:

1. the full name or names of the payer;
2. the address and account number of the payer, on the understanding that the address can be replaced by the place and date of birth of the payer, his client identification number, or his identity number as referred to in Article 3, first paragraph, letter c, of the Identity Cards Ordinance ('AB' [*Statute Publication Gazette*] 2001 No. 8).

Article 2

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

- a. money transfers conducted by means of a credit or debit card, provided 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 a unique identification code has been added to the money transfer, which makes it possible to trace back this money transfer to the payer;
- b. money transfers conducted via a cellular telephone or any other digital or information technology medium, if such money transfers have been paid in advance and do not exceed the amount of Afl. 300.-;
- c. money transfers during which the payer withdraws cash money from his own account;

- d. money transfers whereby there is a direct debit mandate between two parties, based on which payments between these parties can be made via accounts, provided that a unique identification code has been added to the money transfer, which makes it possible to trace back the transaction to the payer;
- e. money transfers to the Government for taxes, fines, or other levies;
- f. money transfers during which both the payer and the beneficiary are payment service providers acting for their own account.

§2. The recording of information during money transfers

Article 3

1. Payment service providers shall add the complete information about the payer to a money transfer.

2. If the account number of the payer is lacking, the payment service provider of the payer shall replace this number by a unique identification code, based on which the money transfer can be traced back to the payer.

3. Notwithstanding the first paragraph, payment service providers may limit themselves to the account number of the payer or a unique identification code, based on which the money transfer can be traced back to the payer, in case of money transfers whereby both the payment service provider of the payer and the payment service provider of the beneficiary are domiciled in Aruba. In that case, the payment service provider of the payer shall provide the payment service provider of the beneficiary with the complete information about the payer at the request of the payment service provider of the beneficiary within three workdays after receipt of such a request.

Article 4

If the payment service provider of the beneficiaries is domiciled outside Aruba, Article 3, first paragraph, shall not apply, in case of batch file transfers originating from one payer, to the combined separate money transfers, provided the batch file contains the information referred to in that first paragraph, and the account number of the payer or a unique identification code has been added to the separate money transfers.

§3. Obligations of the payment service provider

Article 5

The payment service provider of the beneficiary shall check whether the fields for information about the payer in the data interchange system or the payment and settlement system used for the money transfer have been filled out by using characters or input symbols that are allowed in

accordance with the procedures of the data interchange or the payment and settlement system. A payment service provider as referred to in the first sentence shall dispose of effective procedures to detect the lacking of the following information about the payer:

- a. in case of money transfers whereby the payment service provider of the payer is domiciled in Aruba, the information required pursuant to Article 3;
- b. in case of money transfers whereby the payment service provider of the payer is domiciled outside Aruba, the complete information about the payer referred to in Article 4, first paragraph, while, in case of batch file transfers, this information only has to be stated in the batch transfer and not in the separate money transfers combined in it.

Article 6

If, on receipt of money transfers, the payment service provider of the beneficiary establishes that the information about the payer required pursuant to this State Decree is incomplete, it shall refuse the transfer until it has received said information.

Article 7

Intermediary payment service providers shall ensure that all information received about the payer, which has been added to a money transfer, is kept together with that transfer.

Article 8

A payment service provider shall retain the data and information obtained pursuant to Articles 3 and 4 for a period of ten years, as of the date of the money transfer.

Article 9

1. A payment service provider shall dispose of procedures and measures concerning:

- a. the prompt provision to the Bank, at its request, of the information about the payer to be added to the money transfer and corresponding supporting documents;
- b. the decision-making on other payment service providers that regularly fail to provide the required information about the payer.

2. The Bank may lay down rules relating to the procedures and measures referred to in the first paragraph.

§ 4. 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.

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