

Unofficial and not binding translation

State Ordinance containing regulations on the supervision of money transaction companies (State Ordinance Supervision Money Transaction Companies) (AB 2003 no. 60)

Section 1. General provisions

Article 1

For the purposes of this State Ordinance and the provisions stipulated by virtue of this State Ordinance, the following terms shall be defined as stated below:

- Money Transaction:
- a. obtaining the disposal of monies or monetary instruments within the framework of a money transaction, 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 transaction is an unconnected service;
 - b. the exchange of coins or banknotes against other coins or banknotes or the payment of coins

or banknotes by presenting a credit card or debit card or against delivery of checks and money orders;

c. other related activities designated by State Decree containing General Administrative Orders;

qualifying holding: a direct or indirect interest of more than 10% of the subscribed share capital of a money transaction company, or the ability to exercise directly or indirectly more than 10 percent of the voting rights in a money transaction company, or the ability to exercise directly or indirectly any comparable control;

Money laundering: an offence as meant in Articles 2:404, 2:405 and 2:406 of the Criminal Code of Aruba (AB 1991 no. GT 50);

Terrorist financing: the criminal offense as meant in Article 2:55 of the Criminal Code of Aruba;

Third Party: a. the natural person who does not act as a representative of a money transaction company;

b. the legal entity or company that does not form part of a credit institution as meant in Article 1, first paragraph, of the State Ordinance on the Supervision Credit System (Statute Publication Gazette [SPG] 1998, No. 16), of which a money transaction company forms part, nor the money transaction company itself;

Money Transaction Company: the natural person, legal entity or company that conducts money transactions as a profession or trade on behalf, or at the request of a Third Party, or that is engaged as a profession or trade in the conclusion thereof;

Register: the register meant in Article 3, first paragraph;

the Bank: the Central Bank of Aruba;

the Minister: the Minister charged with handling the financial affairs.

Article 2

1. It is prohibited to be active as a money transaction company.
2. The prohibition contained in the first paragraph shall not apply to:
 - a. the natural person, legal entity or company that is registered as a money transaction company in the Register;
 - b. the Bank;
 - c. credit institutions that are in the possession of a license as meant in Article 4 or Article 24, first paragraph, of the State Ordinance on the Supervision of the Credit System.
 - d. the country of Aruba

Article 3

1. There shall be a Register of money transaction companies held by the Bank.
2. A money transaction company shall be entered in the register on a request to that effect, unless the Bank:
 - a. is of the opinion that the integrity of the financial system is affected, or it is plausible that it could be affected by the entry;

- b. is of the opinion that the integrity of the persons, referred to in Article 4, first paragraph, subparagraphs a, b, and c, is not beyond doubt;
- c. is of the opinion that the suitability of one or more of the persons, referred to in Article 4, first paragraph, subparagraph a or b, is insufficient, individually or jointly, in connection with the conduct of the money transaction business, or the performance of the duties in question at the money transaction company;
- d. has a reasonable suspicion that the company or a person as referred to in Article 4, first paragraph, subparagraphs a, b, or c, commits or will commit money laundering or terrorist financing;
- e. is of the opinion that the accounting procedures or operational management of the company are insufficient to promote and maintain an ethical operational management or to comply with the statutory obligations to which the company is subject.

3. There is question in any case of impairment of the integrity as meant in the second paragraph, subparagraph a, if the Bank has a reasonable suspicion that the money transaction company or one or more of the persons meant in Article 4, first paragraph, subparagraphs a, b or c, commit or will commit money laundering or terrorist financing or involved in money laundering or terrorist financing.

4. A money transaction company that performs or intends to perform money transactions as mentioned in article 1, paragraph a, of the definition of money transaction, shall dispose of a bank guarantee on which one may exclusively draw after permission of the Bank; the Bank shall lay down the model of the bank guarantee,

5. The minimum amount of the bank guarantee as meant in the fourth paragraph, shall be fixed by State Decree containing General Administrative Orders.

Article 4

1. A request for entry as referred to in Article 3, second paragraph, shall contain the following data;

- a. the identity, background, and a certificate of good conduct, as well as other data to be determined by the Bank, based on which the Bank can ascertain the integrity and suitability of the directors and other persons who determine or co-determine the policy of the enterprise or institution;
- b. the identity, background, and a certificate of good conduct, as well as other data to be determined by the Bank, based on which the Bank can ascertain the integrity and suitability of the members of the board of supervisory directors or of the body of the enterprise or institution that has a task similar to that of the board of supervisory directors;
- c. the identity, background, and a certificate of good conduct, as well as other data to be determined by the Bank, based on which the Bank can ascertain the integrity of those who hold a qualifying holding in the enterprise or institution and, if the holder of a qualifying holding is a legal entity, of the persons who determine or co-determine the day-to-day policy of this legal entity, as well as the extent of the qualifying holding in question;
- d. the name, address, and place of domicile, and the address and place of domicile of the branch offices;
- e. the contemplated operational management, including the measures aimed at the promotion and maintenance of an ethical operational management and the administrative organization;
- f. the number of registration with the Chamber of Commerce and Industry;
- g. the type of money transactions the enterprise carries out or intends to carry out.

2. If the Bank so desires with a view to a proper evaluation of the application, the applicant shall supply other or further information or documents. The Bank shall decide on the application within thirteen weeks after it has received the supplementary data or documents.

3. A money transaction company shall pay the Bank a fee in respect of the application for registration in the register, the amount of

which shall be fixed by State Decree containing General Administrative Orders.

Article 5

1. The entry in the register shall contain the name, the address and domicile of the money transaction company, the address and domicile of the branch offices, the date of entry in the register, the number of the registration in the Trade Register and the kind of Money Transactions the company conducts or intends to conduct.

2. A money transaction company entered in the register shall not appoint any persons to positions as referred to in Article 4, first paragraph, subparagraphs a and b, without the prior permission from the Bank.

3. A money transaction company entered in the register shall notify the Bank in writing and in advance of each contemplated change occurring in the data, referred to in Article 4, first paragraph, subparagraph c, insofar as it concerns the number, the identity of the persons mentioned in it, or the extent of the qualifying holding in question.

4. Within thirteen weeks after receipt of a complete application, the Bank shall decide on that application. If the Bank requests additional information, this period shall commence after the date of receipt of this additional information.

5. The money transaction company shall promptly notify the Bank in writing of changes in the data, referred to in Article 4, first paragraph, other than referred to in the second and third paragraph.

Article 6

1. A money transaction company shall pursue adequate policy for an ethical conduct of its business and shall set up its operational management in such a way that the ethical conduct of its business is safeguarded.

2. At any rate, the policy and the operational management, referred to in the first paragraph, shall be aimed at:

- a. the countering conflicts of interests;
- b. the suppression of money laundering and terrorist financing;
- c. the compliance with rules laid down by or pursuant to the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing (AB 2011 No. 28) and other statutory regulations on the prevention and combating of money laundering and terrorist financing;
- d. the prevention of punishable offenses or other violations of the law by the money transaction company or its employees, which could affect the confidence in the enterprise or in the financial markets;
- e. the countering of relationships with clients or other business relationships, which could prejudice the confidence in the money transaction company or in the financial markets;
- f. the countering of other acts by the money transaction company or its employees, which are in conflict with generally accepted standards according to unwritten law to such an extent, that this could prejudice the confidence in the money transaction company or in the financial markets.

3. The Bank may give Money Transaction Companies directives with regard to the ethical conduct of the business and the way in which it is determined whether the integrity of a person, referred to in Article 4, first paragraph, subparagraphs a, b, and c, is beyond doubt, and whether this person is suitable, and which facts and circumstances are to be taken into consideration for that purpose.

4. Insofar as necessary for the performance of the duty imposed on it by this State Ordinance, the Bank may give Money Transaction Companies entered in the register directives with regard to the accounting procedures and operational management, including the financial accounts and internal control.

5. The directives, referred to in the third paragraph, may be related to the implementation of the regulations of other state ordinances.

6. The Bank may give a money transaction company instructions with regard to the way in which directives as referred to in the third and fourth paragraph shall be implemented.

Article 6a

A money transaction company shall not be associated through persons or legal entities in a formal or factual control structure:

- a. that is so nontransparent that it constitutes or can constitute an obstacle to the adequate exercise of supervision of that enterprise;
- b. if foreign law applies to these persons or legal entities, and this foreign law constitutes or can constitute an obstacle to the adequate exercise of supervision of the money transaction company.

Article 7

1. The Bank shall cancel the entry in the register of the money transaction company:

- a. at the company's request;
- b. in case of death of the natural person conducting the company as a sole proprietorship;
- c. in the event the company or the natural person conducting the company is declared bankrupt
- d. in the event of dissolution of the legal entity or firm conducting the business of a money transaction company;
- e. in the event of termination of the activities as a money transaction company;
- f. if the Bank is of the opinion that the company does not or not sufficiently comply with the regulations laid down by or pursuant

to the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing or in other statutory regulations on the prevention and combating of money laundering and terrorist financing.

2. The Bank may cancel the entry in the register of a money transaction company:

- a. in the event the company evidently does not conduct money transactions any longer, or is no longer active in the effectuation thereof as a profession or trade;
- b. in the event the company does not fulfill its statutory obligations, including the obligations by virtue of the Articles 6, 9 and 23;
- c. in the event it is of the opinion based on an investigation into the integrity of one of the persons mentioned in Article 4, first paragraph, subparagraphs a, b, c and g, or it is of the opinion based on the management or administrative organization of the company, that the integrity of the financial system is impaired or it is plausible that it could be impaired;
- d. in the event it receives information that, if it had been familiar with this information at the moment of the application for registration, this would have led to it that the application would not have been granted;
- e. if one of the managing directors or the person who determines the day-to-day operations of the company, or co-determine same, has been declared bankrupt.

3. There is question in any case of impairment of the integrity as meant in the second paragraph, subparagraph c, if there is reasonable suspicion that:

- a. the money transaction company or one or more persons meant in the opening lines of this paragraph commit or will commit money laundering or terrorist financing, or are involved in money laundering or terrorist financing;
- b. the management or administrative organization of a money transaction company is insufficient to promote or maintain an

integer conduct of business or to comply with other statutory obligations imposed on the company.

4. If the Bank cancels the registration at a moment that the money transaction company has obtained monies or monetary instruments at its disposal within the framework of a money transaction, and it did not yet made the payment or made this payable, it shall give this company directions as regards to the way of settlement of the money transaction in question.

Article 8

1. The Bank shall publish an entry in the register and a cancellation of an entry in the Government Gazette of Aruba.

2. Each year in the month of January, the Bank shall publish a copy of the register in conformity with the situation as of December 31 of the preceding year in the Government Gazette of Aruba.

3. The register shall be open for inspection by each and everyone free of charge at the office of the Bank.

Article 9

By State Decree, containing General Administrative measures, having consulted the Bank, costs incurred in the implementation of this State Ordinance may be recovered from the registered credit institutions.

Section 4. Exemptions

Article 10

1. In special cases, the Bank is authorized to grant natural persons and legal entities exemption from the prohibition contained in Article 2, first paragraph. Regulations and limitations shall be attached to the exemption.

2. An application to grant an exemption shall be filed in writing with the Bank. Article 4, first, second and third paragraph shall apply mutates mutandis.

3. The application shall be rejected if, based on an evaluation of the integrity of one of the persons meant in Article 4, first paragraph, subparagraphs a through c, or based on the management or the administrative organization of a company, the Bank is of the opinion that:

- a. the interests this State Ordinance seeks to protect are insufficiently safeguarded, or
- b. the integrity of the financial system is impaired by this, or it is plausible that it could be impaired, or
- c. it is insufficient to promote or maintain a sound management or to comply with the other statutory obligations resting on the company.

4. The Articles 3, third paragraph, and 8, first paragraph shall apply mutates mutandis.

Article 11

1. The Bank may withdraw an exemption granted, if the reason for granting it no longer exists; such a decision shall state the ground for withdrawal. The natural person or legal entity with regard to whom/which it was decided to withdraw the exemption, shall be given the opportunity to file an application for registration as a money transaction company, unless it is immediately clear that it concerns a case as meant in Article 3, second paragraph.

2. The prohibition meant in Article 2, first paragraph shall not apply as regards the person or a company that on the day prior to the withdrawal of an exemption granted, has filed an application for registration, until the second day after the decision on the application was dispatched.

3. The Articles 8, first paragraph, and 9 shall apply mutatis mutandis to natural persons or legal entities that were granted an exemption.

Section 5. Supervision and supply of information

Article 12

1. The persons employed by the Bank and designated for this purpose by the President of the Bank shall be charged with supervising the compliance with the provisions laid down by or pursuant to this State Ordinance. Such State Decree shall be announced in the Official Gazette of Aruba.

2. The persons designated pursuant to the first paragraph may exercise the supervision in a risk-oriented manner. They shall report on the exercise of the powers mentioned in the third paragraph to the President of the Bank or to the executives within the Bank to be designated in writing by the President.

3. Only to the extent reasonably required for the performance of their duties, the persons designated pursuant to the first paragraph shall be authorized:

- a. to request all information;
- b. to demand inspection of all business books, documents, and other data carriers and to make transcripts or copies thereof;
- c. to enter all places, except for houses without the express permission of the resident.

4. If necessary, access to a place as referred to in the third paragraph, letter c, shall be gained with the aid of the police.

5. The State Decree on General Provisions for the Exercise of Supervision (AB 1998 No. 70) or the state decree replacing same shall apply to the manner in which the persons designated pursuant to the first paragraph shall perform their duties.

6. Anyone shall give the persons designated pursuant to the first paragraph all cooperation requested based on the third paragraph.

Article 13

Insofar as the information referred to in Article 12, third paragraph, subparagraph a, concerns data provided to the Bank pursuant to another statutory regulation, the company can comply with the obligation mentioned in Article 12, sixth paragraph, as regards that information by considering these data to have been provided pursuant to this State Ordinance.

Article 14

Without prejudice to Article 6, the Bank may lay down rules with a view to a sound management of the Money Transaction Companies, which in any case shall be understood to be rules concerning:

- a. the prevention of conflict of interest;
- b. the prevention of involvement of the company and of its employees in offenses harming the confidence in the Money Transaction business or in the financial markets in general;
- c. the prevention of involvement of the company and of its employees in acts that are otherwise so unacceptable in social and economic life that they harm the confidence in the Money Transaction business or in the financial markets in general;
- d. the establishment of the identity, the nature and the background of the clients of the company.

Article 15

1. Each year, within six months after the end of the financial year, a registered money transaction company shall send the Bank an annual report concerning its operations and administrative organization.

2. The report meant in the first paragraph shall be accompanied by a certificate of fairness of an auditor of the financial information supplied, unless the size of the money transaction company does not

allow this, in which case one may restrict oneself to a review opinion of an auditor.

3. If the Bank is of the opinion that an auditor does not provide or no longer provides the necessary guarantees that he can fulfill his task properly in relation to a money transaction company, the Bank may decide with respect to this auditor that he is no longer authorized to make the reports meant in the second paragraph in relation to that money transaction company.

4. The Bank shall notify the Money Transaction Company in question immediately of a decision as meant in the third paragraph.

Article 16

Without prejudice to Article 6, if a circumstance presents itself in a money transaction company as meant in Article 3, second paragraph, subparagraphs a, d, or e; or in Article 7, second paragraph, subparagraphs b through e, the Bank may give the company or a person as meant in Article 4, first paragraph, subparagraphs a, b or c, an instruction to follow a certain course of action as regards named subjects, in order to achieve that the circumstance in question occurs no longer. The company, or the person in question, shall comply with the instruction within a reasonable term to be determined by the Bank.

Section 6. Exchange of information

Article 17

A service provider as referred to in Article 1, first paragraph, of the State Ordinance on the Prevention and Suppression of Money Laundering and Terrorist Financing shall not provide any services to money transaction companies to which the prohibition referred to in Article 2, first paragraph, applies, insofar as it knows or can suspect in reason.

Article 18

1. Anyone who performs or performed any duty for the purposes of this State Ordinance or a decision made pursuant to this State Ordinance is not allowed to use data or information provided or obtained pursuant to this State Ordinance or received from a foreign body as referred to in Article 19, further or differently or to make it known further or differently than required for the performance of his duty or by this State Ordinance.

2. Notwithstanding the first paragraph, the Bank shall be authorized to make statements by using data or information obtained in the performance of its duty pursuant to this State Ordinance, provided these data or that information cannot be traced back to separate persons or institutions.

3. The first paragraph shall not affect the obligation to make a statement, in accordance with the Code of Criminal Procedure of Aruba (AB 1996 No. 75), as a witness in criminal cases with regard to data or information obtained in the performance of the duty assigned to him pursuant to this State Ordinance. Likewise, it shall not affect the obligation to make a statement, in accordance with the Code of Civil Procedure of Aruba (AB 2005 No. 34), as a witness or a party in a personal appearance of parties in civil cases with regard to data or information obtained in the performance of the duty assigned to him pursuant to this State Ordinance, and this on the understanding that such an obligation shall only apply, insofar as it concerns a money transaction company that has been declared bankrupt or that has been dissolved by court decision, and that it does not apply to data or information related to enterprises or institutions that are or were involved in an attempt to enable the money transaction company in question to continue its business.

Article 19

1. Notwithstanding Article 18, first paragraph, the Bank shall be authorized to exchange data and/or information obtained in the performance of the duties assigned to it pursuant to this State Ordinance with bodies designated by foreign public authorities, which are charged with:

- a. the supervision of persons and institutions that are active in the financial markets, or
- b. the supervision of the compliance with legislation and regulations concerning the prevention and suppression of money laundering and terrorist financing.

2. The power, referred to in the first paragraph, shall not be exercised, if:

- a. the purpose for which the data or information will be used has not been sufficiently specified;
- b. the contemplated use of the data or information is not in line with the supervision of financial markets or persons working in these markets;
- c. provision of the data or information is contrary to public order or the laws of Aruba;
- d. the secrecy of the data or information has not been sufficiently guaranteed;
- e. provision of the data or information is or could be contrary in reason to the interests this State Ordinance intends to protect;
- f. it has not been sufficiently guaranteed that the data or information will not be used for a purpose other than for which they are provided.

2. Insofar as the data or information, referred to in the first paragraph, have been obtained from a foreign supervisory body, the Bank shall not provide them to another foreign supervisory body, unless the body from which the data or information have been obtained approved the provision of the data and information and, if applicable, approved the use for a purpose other than for which the data or information have been provided.

3. If a foreign supervisory body requests the Bank to use data or information, which the Bank provided pursuant to the first or second paragraph, for a purpose other than for which they have been provided, the Bank shall only comply with that request, if:
- a. the contemplated use is not contrary to the first or second paragraph; or
 - b. the supervisory body concerned could obtain these data or information from Aruba, for that other purpose, in a way other than provided for in this State Ordinance, with due observance of the applicable legal procedures.

Article 20

1. The Bank shall be authorized to consult the registers of and to ask all information from the Chamber of Commerce and Industry, the Department of Land Surveying and Real Estate Registration, the Civil Registry, as well as other bodies to be designated by State Decree containing General Administrative Orders.

2. The bodies mentioned in the first paragraph shall give the Bank all cooperation free of charge and within the reasonable period set by it, as requested pursuant to the first paragraph.

3. Notwithstanding Article 18, first paragraph, the Bank is authorized to provide data or information obtained in the performance of the duties assigned to it pursuant to this State Ordinance to persons and bodies charged with the exercise of criminal-law powers pursuant to the Code of Criminal Procedure of Aruba.

Article 21

1. For the performance of its duty pursuant to this paragraph, the Bank may demand data or information from anyone, if this is necessary for the performance of the duty of a body referred to in

Article 19, first paragraph. Article 12, third through sixth paragraph, shall be equally applicable.

2. At the request of a body as referred to in the first paragraph, the Bank may ask data and information from or conduct an investigation or cause same to be conducted at a money transaction company or at anyone who can be suspected in reason of disposing of data or information that may be important to the requesting body.

3. The person who has been asked for data or information as referred to in the second paragraph shall provide same within a reasonable period to be set by the Bank.

4. The person at whom an investigation as referred to in the second paragraph is conducted shall give all cooperation necessary for the proper conduct of that investigation. Article 12, third and fourth paragraph, shall be equally applicable.

Article 22

The Bank may allow that an officer of a body as referred to in Article 19, first paragraph, participates in the implementation of a request as referred to in the second paragraph. The officer referred to in the first sentence shall comply with the instructions of the employee of the Bank, charged with the implementation of the request. The order referred to in Article 21, fourth paragraph, shall also apply to the officer referred to in the first sentence.

Section 7. Administrative sanctions

Article 23

1. For the violation of the provisions laid down by or pursuant to Articles 2, first paragraph, 3, fourth paragraph, 5, second through fourth paragraph, 6, 6a, 7, fourth paragraph, 10, first

paragraph, second sentence, 12, sixth paragraph, 14 through 17, 21, third and fourth paragraph, and 22, third sentence, the Bank may impose a penalty charge order.

2. For the violation of the provisions laid down by or pursuant to this State Ordinance, the Bank may also impose an administrative fine not exceeding Afl. 1,000,000.- per separate violation.

3. Violations as referred to in the first and second paragraph can be committed by natural persons and legal entities. Article 1:127, second and third paragraph, of the Criminal Code of Aruba shall be equally applicable.

4. The Bank shall adopt guidelines for the exercise of the powers, referred to in the first and second paragraph, and shall record them in a policy document. The policy document shall at any rate contain a description of the procedures to be followed when exercising the powers, referred to in the first and second paragraph. The policy document, referred to in the first sentence, as well as all modifications to be introduced to same afterwards shall be announced in advance in a manner to be determined by the Bank.

5. By State Decree containing General Administrative Orders, rules shall be laid down with regard to the principles for the determination of the amount of the penalty charge order and the administrative fine per violation. The violations shall be classified into categories based on the severity of the violation, with the corresponding basic amounts, minimum amounts, and maximum amounts.

6. Forfeited penalties and administrative fines shall accrue to the Bank.

Article 23a

1. If, at the time of committing a violation, a period of five years has not yet expired since an administrative fine was imposed on the violator for a similar violation, the maximum amount of the

administrative fine, referred to in Article 23, second paragraph, shall be Afl. 2,000,000.- for each separate violation.

2. Notwithstanding Article 23, second paragraph, the Bank may set the amount of the administrative fine at a maximum of twice the amount of the benefit obtained by the violator as a result of the violation, if his benefit exceeds Afl. 1,000,000.-.

Article 23b

1. If the Bank intends to impose an administrative fine, it shall notify the person concerned thereof, stating the grounds on which the intention is based.

2. The Bank shall give the person concerned the opportunity to express his view, either in writing or orally, within a reasonable period, before imposing the administrative fine by decision.

3. If, after the person concerned has expressed his view, the Bank decides that no administrative fine will be imposed for the violation, the person concerned shall be informed hereof in writing.

Article 23c

1. At the request of the violator, the Bank may cancel a penalty charge order, suspend the duration thereof for a specific period, or reduce the penalty, in case the violator is permanently or temporarily unable in whole or in part to comply with his obligations.

2. Furthermore, at the request of a violator, the Bank may cancel a penalty charge order, if the decision has been effective one year without having forfeited the penalty.

Article 24

The person towards whom an act has been performed by the Bank, to which he could reasonably attach the conclusion, that an administrative penalty will be imposed on him on account of

infringement of the provisions of or by virtue of this State Ordinance, is not obligated to make any statement concerning that matter. He shall be informed hereof, before he will be asked verbally for information.

Article 25

1. The administrative penalty shall be due within six weeks after the date of the decision by which it was imposed.

2. The administrative fine shall be augmented by the legal interest to be counted from the day after the six weeks have lapsed since the notification of the decision.

Article 26

1. The power to impose an administrative penalty shall cease to be in effect:

- a. if criminal proceedings have been instituted on account of the violation, and the court hearings has started, or the right to prosecution has ceased to exist pursuant to Article 1:149 of the Criminal Code of Aruba;
- b. three years after the day the infringement was committed.

2. The term meant in the first paragraph, subparagraph b, will be interrupted by a notification of the decision by which the administrative penalty was imposed.

3. The right to institute criminal proceedings shall lapse, if an administrative fine was already imposed on the subject matter for the same infringement.

4. The Bank and the Public Prosecution Service shall consult periodically on the choice between imposing an administrative fine or criminal-law sanction to avoid unlawful concurrence of those sanctions.

Article 27

1. With a view to the protection of the financial system and the fight against money laundering and terrorist financing, the Bank has the power, in deviation from Article 18, first paragraph, to bring the offense as well as the name, address and domicile of the party involved, which the order for penalty payments or the administrative fine was imposed, to the notice of the public.

2. By regulation of the Minister, rules may be enacted concerning the exercise of the power meant in the first paragraph.

3. The decision to bring to the notice of the public shall become effective on the day on which the offense was brought to the notice of the public, without the operation being suspended for the duration of the appeal period or, if appeal has been instituted, of the appeal, if no address is known of the party concerned, and cannot be obtained either with reasonable efforts.

Article 27a

1. If a forfeited penalty or fine is not paid within the period set by the Bank, a demand will be made to the infringer to pay the amount of the penalty or fine, plus the cost of the demand, within two weeks.

2. In the absence of payment, the amount and the costs, referred to in the first paragraph, shall be augmented by the collection costs, collected by the Bank by writ of execution.

3. The writ of execution shall be published by serving a process as referred to in the Code of Civil Procedure of Aruba and shall constitute entitlement to enforcement, which may be enforced while applying the provisions of this Code.

4. The writ of execution shall at any rate state:

- a. the words ‘writ of execution’ in the heading;
- b. the amount of the collectable principal sum, augmented by the statutory interest due;

- c. the order or the statutory provision from which the amount due arises;
- d. the costs of the demand and of the writ of execution;
- e. that it may be enforced for the account of the violator.

5. For a period of six weeks after the date of service, an objection may be lodged against the writ of execution. Objection shall be lodged against the Bank with the Court and in the manner stipulated for filing claims. Provided it has been lodged in a timely fashion and in the prescribed manner, the objection shall suspend the enforcement.

Article 28

1. The Bank shall keep note of the activities that took place within the framework of an investigation, prior to the imposition of an administrative fine; it shall state in these notes the persons who carried out these activities.

2. The report meant in Article 30 shall state the application of the powers granted in this Section.

Article 28a

1. The Bank may, in view of the interest this State Ordinance seeks to protect, issue a public warning in case of infringement of any prohibitory provision of this State Ordinance, if necessary, stating the considerations that led to the warning.

2. The Minister may lay down rules concerning the exercise of the power as referred to in the first paragraph.

3. The decision to issue a public warning has been published, without suspending the effect for the duration of the appeal period or, if an appeal has been lodged, of the appeal, if no address of the subject matter is known, and the address also cannot be obtained by reasonable efforts.

Article 28b

1. If the Bank intends to issue a public warning, it shall notify the person (legal/natural) concerned in writing of the intended decision and shall give him the opportunity to express his views.

2. The Bank may decide not to apply the first paragraph, if the urgency of the matter dictates otherwise, or if no address of the person (legal/natural) concerned is known, and the address also cannot be obtained by reasonable efforts.

Section 8. Penal provisions

Article 29

1. The person who intentionally violates a regulation, condition, or limitation laid down by or pursuant to Articles 2, first paragraph, 3, fourth paragraph, 5, second through fourth paragraph, 6, 6a, 7, fourth paragraph, 10, first paragraph, second sentence, 12, sixth paragraph, 14 through 17, 21, third and fourth paragraph, and 22, third sentence, shall be punished with imprisonment not exceeding six years or a fine of the sixth category.

2. The person who does not intentionally violate a regulation, condition, or limitation laid down by or pursuant to the Articles mentioned in the first paragraph shall be punished with imprisonment not exceeding one year, or with a fine of the fourth category.

3. The offenses referred to in the first paragraph are crimes; the offenses referred to in the second paragraph are violations.

Section 9. Final provisions

Article 30

1. Each year, prior to July 1, the Bank shall report to the Minister on the activities it carried out within the framework of this State Ordinance.

Article 31

1. This State Ordinance shall become effective as of the day after the day of its publication in the Statute Publication Gazette of Aruba, it being understood that the prohibition mentioned in Article 2, shall not apply to Money Transaction Companies that are registered as such in the Trade Register, during one hundred and eighty days after its effective date.

2. It may be cited as State Ordinance Supervision Money Transaction Companies.