



CENTRALE BANK VAN ARUBA

GUIDELINES ON THE CONDUCT OF BUSINESS BY AND THE ADMINISTRATIVE ORGANIZATION OF MONEY TRANSFER COMPANIES.

INTRODUCTION

The Centrale Bank van Aruba (CBA) has been charged with the supervision of the money transfer companies, which have been registered by the CBA based on the State Ordinance on the Supervision of the Money Transfer Companies (SOSMTC) (AB 2003 no. 60).

In accordance with section 6, paragraph 1 and 2, the CBA may, as far as this is necessary for the performance of the task assigned by this State Ordinance, issue guidelines concerning the operational management and administrative organization of the money transfer companies entered in the register. The CBA is also authorized to give money transfer companies directions concerning the way in which guidelines as meant in the first paragraph must be implemented.

In view of the aforementioned, the CBA has established the following guidelines on the conduct of business by and the administrative organization of the money transfer companies.

CHAPTER 1 GENERAL PROVISION

Article 1

In these regulations and the Appendixes relating hereto, the following terms shall be defined as stated below:

- a. the State Ordinance: the State Ordinance Supervision Money Transfer Companies;
- b. CBA: Centrale Bank van Aruba;
- c. money transfer activities: the receipt of cash or cash equivalent for the purpose of money transfer in order to make this cash or cash equivalent payable, or cause it to be payable, to a beneficiary elsewhere, whether or not in the same form; or the payment or making payable of cash or cash equivalent after this cash or cash equivalent has been made available elsewhere, whether or not in the same form. This money transfer being a stand-alone service;
- d. guaranteed money transfer: transactions whereby money is paid in by a customer in Aruba and paid out elsewhere to a beneficiary;
- e. advised money transfer: transactions whereby money is paid in by a customer elsewhere and paid out to a beneficiary in Aruba;
- f. administrative organization: all of the measures relating to the systematic collection, recording and processing of data, the purpose of which is to provide information to enable the money transfer company to be managed and operate and in order to comply with the requirement to prepare accounts in respect of the money transfer company;

- g. internal control: control of the formation of opinions or the activities of others insofar as the said control is exercised for the managing board of a money transfer company by or on behalf of the said managing board itself;
- h. reputable conduct of business: the management and control of the processes of a money transfer company so that the risks in relation to integrity, organization and management are minimized by the timely and correct identification, measurement, monitoring and control of the said risks.
- i. integrity risk: impairment of the reputation and the existing or future threat to the financial position or earnings of a money transfer company as a result of inadequate compliance with obligations under private, administrative, fiscal or criminal law, or with the regulations or reporting requirements of supervisory authorities, or with the standards, rules or codes of conduct drawn up by the money transfer company itself; when drawing up these standards, rules and codes of conduct, the money transfer company shall take account as far as possible of trends in social standards regarding the reputable conduct of business.
- j. incidents: events that represent a serious risk to the reputable conduct of the business of a money transfer company insofar as they concern the conduct of a shareholder, a supervisory board member, a director or a member of staff of the money transfer company, or of another legal entity or natural person who performs activities for the money transfer company, or of a third party, and events that represent a breach of the rules relating to the reputable conduct of business laid down pursuant to supervisory legislation.

CHAPTER 2 GUIDELINES RELATING TO THE CONDUCT OF BUSINESS BY AND THE ADMINISTRATIVE ORGANISATION OF MONEY TRANSFER COMPANIES

Article 2

The managing board of a money transfer company shall be charged with the day-to-day management of the activities of the money transfer company and shall be responsible for:

- a. the organization and control of the business processes to ensure that the business is conducted in a reputable manner;
- b. the set-up and efficient operation of a proper administrative organization;
- c. the set-up and efficient operation of the system of procedures and measures relating to internal control;
- d. all professional acts by members of staff of the money transfer company and its branches;
- e. compliance with statutory provisions regarding the periods for storing records.

Article 3

1. As part of its day-to-day policy, the managing board shall take measures to raise awareness of, and promote and maintain reputable conduct at all levels of the organization.
2. The reputable conduct of business shall mean that a money transfer company shall clearly comply with statutory standards, standards under administrative law, social standards and the standards, rules and codes of conduct drawn up by itself and that it shall comply with its obligations towards its customers and contracting parties.

3. When standards, rules and codes of conduct are drawn up by a money transfer company itself, the money transfer company shall take account of trends in social standards relating to reputable conduct as far as possible.

CHAPTER 3 GUIDELINES RELATING TO THE MANAGEMENT OF MONEY TRANSFER COMPANIES, INCLUDING THE REPUTABLE CONDUCT OF BUSINESS

Article 4

1. A money transfer company shall have an up-to-date policy plan setting out the policy principles regarding the control of integrity risks.
2. The policy principles shall be set out in further detail in procedures, rules and standards that shall be made known to and complied with by all relevant departments of the money transfer company.

Article 5

At all layers of its organization, a money transfer company shall have procedures and measures relating to internal control that shall serve to ensure compliance with at least:

- a. the rules laid down by or pursuant to 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) (AML/CFT State Ordinance) ;
- b. the policy plan;
- c. the tasks, responsibilities and powers of members of staff and departments, these being allocated in such a way that the risk of errors and improper use of assets or data is limited.

Article 6

1. A money transfer company shall have organizational and administrative procedures that set out the details of and implement the policy regarding the proper handling of incidents.
2. A money transfer company shall ensure that incidents are recorded.
3. A money transfer company shall inform the CBA without delay of incidents if, taking into account the seriousness, the size or the other circumstances of the incident, it is reasonable to expect that the CBA should be informed thereof.

Article 7

1. Based upon the policy plan, a money transfer company shall form an opinion regarding the integrity of new and existing members of staff and shall in any event:
 - a. obtain information about the integrity of the person concerned from employers by whom the person concerned has been employed during the last five years. The money transfer company shall request an authority from the person concerned in order to obtain the said information;
 - b. ask the person concerned explicitly about incidents in the past that may be relevant to an opinion about the integrity of the person concerned;
 - c. have the person concerned submit a certificate of good conduct.

2. The activities carried out for the purpose of compliance with paragraph 1 and the results of the said activities shall be recorded in writing by the money transfer company.
3. Paragraphs 1 and 2 shall apply *mutatis mutandis* in the event that the money transfer company enters into an agreement with third parties, such as recruitment and selection agencies, concerning the appointment of staff to positions that are integrity-sensitive.

CHAPTER 4 GUIDELINES RELATING TO THE ADMINISTRATIVE ORGANISATION OF MONEY TRANSFER COMPANIES

§ 1 Administrative organization

Article 8

1. A money transfer company shall have an organizational chart showing the various positions in the organization and which members of staff occupy these positions. If applicable, this organizational chart shall be set out up to and including the level of the branches of the money transfer company.
2. A money transfer company shall ensure that there is a proper segregation of duties for activities of a management, auditing, custodial or accounting nature.
3. The organizational structure must make adequate provision for the delegation of powers and must provide for the necessary segregation of duties referred to in paragraph 2 based upon conflicts of interests.

Article 9

1. The administrative organization of a money transfer company shall be set up in such a way that the following minimum requirements are satisfied:
 - a. the individual transactions that are carried out by the money transfer company must be recorded in the financial accounts in a timely manner;
 - b. the maximum amount per individual transaction may not exceed Afl. 5,000 per day or its equivalent in foreign currency. For internationally operating money transfer companies subject to effective consolidated supervision and prior approval by the CBA, the individual transaction limit is Afl. 10,000 or its equivalent in foreign currency.
 - c. for each transaction that a customer carries out with the money transfer company, a consecutively numbered transaction note must be issued and provided to the customer without being requested;
 - d. the money transfer company office must keep reconciled records so that all movements in the vault balances and those of customer service counters can be accounted for in a timely manner;
 - e. the actual cash and vault balances of the money transfer company must be reconciled to the balances shown in the financial accounts on a daily basis and this reconciliation must be verifiable in arrears;
 - f. discrepancies in cash and vault balances must be recorded in the financial accounts and reported to the managing board;
 - g. the money transfer company must have a system for recording the presence and absence of members of staff.

2. The administrative organization of a money transfer company must be set up in such a way that as a minimum the information set out in Appendix IV is included in the financial accounts and on the transaction note.

Article 10

1. A money transfer company must have a manual of procedures in which the positions, tasks and powers of the members of staff of the money transfer company, taking into account the minimum requirements laid down in respect of the administrative organization, are defined and recorded clearly and in writing, thus forming a framework for day-to-day management.
2. The manual of procedures shall be produced in Dutch or English and shall be updated periodically.
3. The manual of procedures shall in any case contain the requirements set out in Appendix I to these regulations.

Article 11

The managing board of a money transfer company shall be responsible for the internal control system and shall periodically evaluate its effectiveness and current relevance, and, if necessary, make adjustments thereto.

Article 12

A money transfer company shall have procedures and measures relating to internal control to ensure that there can be reasonable certainty that:

- a. its activities are being carried out in accordance with the policy principles laid down and the procedures drawn up;
- b. transactions and obligations are being entered into having regard to the applicable authorization procedures;
- c. the risks of loss from irregularities, fraud and errors are minimized and that they are identified at an early stage and, if possible, corrected;
- d. assets and liabilities are properly managed;
- e. risks are identified, properly evaluated and quantified in a timely manner;
- f. reports that are supplied to the CBA comply with the requirements laid down by the CBA in respect thereof and are delivered in a timely manner.

Article 13

1. A money transfer company shall have ledger records that are set up in accordance with the system of double-entry bookkeeping.
2. The administrative organization of a money transfer company shall be such that each transaction, liability and claim is recorded separately, accurately, completely, systematically and validly.
3. The financial accounts of a money transfer company shall enable it to draw up timely and proper reports for the managing board and the CBA.

Article 14

If a money transfer company also carries on other activities in addition to the activities referred to in section 1, of the State Ordinance, its records shall be organized so that the ledger records relating to money transfer activities are separate from the ledger records for the other activities.

Article 15

The financial accounts shall be kept in Dutch, English or Papiamentu and shall be available at all times to the CBA.

Article 16

1. A money transfer company shall draw up annual accounts and an annual report of the money transfer company.

§ 2 Special rules relating to the administrative organization of money transfer activities**Article 17**

The administrative organization of a money transfer company engaging in money transfer activities must be organized so that the following minimum requirements are satisfied:

- a. pursuant to section 3, paragraph 4 of the State Ordinance, the money transfer company must be in possession of a bank guarantee drawn up in accordance with the model established by the CBA;
- b. the financial accounts must be set up so that the money transfer company can establish the status of each money transfer and the net unutilized portion of the bank guarantee in a timely manner;
- c. the financial accounts must be set up so that all incoming and outgoing correspondence in respect of guaranteed money transfers and of advised money transfers are recorded in two separate records and that entries are made in respect thereof in the financial accounts.

Article 18

1. Guaranteed money transfers shall be recorded in the financial accounts in accordance with the entries system 1 incorporated in Appendix II to these guidelines.
2. Advised money transfers shall be recorded in the financial accounts in accordance with the entries system 2 incorporated in Appendix II to these guidelines.

CHAPTER 5 ACTIVITIES OF THE EXTERNAL AUDITOR**Article 19**

1. A money transfer company shall instruct an external auditor to audit, to be approved by the CBA, or assess the annual accounts of the money transfer company.
2. When making his or her report, an external auditor shall state either that the money transfer company has acted in accordance with the State Ordinance and with the requirements laid down by or pursuant to the State Ordinance, or that no evidence was produced that the money transfer company has acted contrary thereto.

Article 20

1. When a money transfer company instructs its external auditor to audit its annual accounts, it shall authorize the external auditor in writing to provide to the CBA upon request all information that

may reasonably be considered necessary for the CBA to carry out its supervisory role, with which the CBA is charged pursuant to the State Ordinance, properly.

2. The CBA shall give a money transfer company the opportunity to be present when information is provided by the external auditor.

Article 21

1. A money transfer company shall instruct the external auditor to review the following matters in particular:
 - a. whether transactions are being recorded in a timely manner;
 - b. the maintenance of the required segregation of duties, as referred to in article 8(2);
 - c. the reconciliation between the money flows reported to the CBA and the statement of movements during the financial year in the liquid assets in the annual accounts;
 - d. compliance with chapter 6, article 22.
2. The actual findings of the said reviews shall be reported in writing to the money transfer company.
3. The money transfer company shall provide to the CBA a copy of the letter of engagement signed by the external auditor and of the report further to the reviews of particular matters carried out by the external auditor.

CHAPTER 6 THE BANK GUARANTEE

Article 22

A money transfer company engaging in money transfer activities may not at any time allow the total sum of cash made available to it by customers for the purposes of guaranteed money transfers and cash or cash equivalent not yet paid or made payable to exceed the amount of the bank guarantee.

Article 23

If the registration of a money transfer company engaging in money transfer activities pursuant to section 7 of the State Ordinance is cancelled at the request of the money transfer company, the CBA shall return the bank guarantee of the money transfer company concerned to the bank which issued the guarantee, after an external auditor, as referred to in article 20(1), has declared that the money transfer company is no longer holding cash for the purpose of guaranteed money transfers and that all cash or cash equivalent received on that account have been paid to the beneficiaries elsewhere of the guaranteed money transfers concerned.

Article 24

A money transfer company engaging in money transfer activities shall notify customers with whom it has money transfer contracts of the following:

- a. the existence of the bank guarantee;
- b. whether it is possible to call upon the bank guarantee in writing in the event that;
- c. the money transfer company has been granted a definitive suspension of payments,
- d. the money transfer company has been declared bankrupt under a definitive court decision or
- e. the money transfer company is headed by a natural person with regard to whom the debt rescheduling arrangement has been declared definitively applicable;
- f. that claims under the bank guarantee must be submitted within eight weeks of the occurrence of

the circumstances set out under b. to the receiver, the trustee in bankruptcy or the liquidator and must include a copy of the money transaction contract(s) and a written declaration from the beneficiary/beneficiaries elsewhere that the cash has not been paid out nor made payable;

- g. the fact that it is not certain that the full amount of the guaranteed money transfer can be paid to a customer requesting a guaranteed money transfer, should the bank guarantee be called upon.

EXPLANATORY NOTES

General

The way in which a money transfer company organizes its administrative organization, including internal control, will partly depend on the nature, size and complexity of its activities. The concept of conducting business in a reputable manner, however, is not related to the nature and size of an institution's activities; it is a way of managing the business whereby standards imposed internally or externally are embedded in the institution's business process. The Centrale Bank van Aruba (CBA) is aware that it is not possible to fully rule out eventualities that lead to a violation of the system of measures and procedures; this system must therefore satisfy reasonable requirements.

The safeguards that ensure that an institution will conduct its business in a reputable manner will largely be embedded in the administrative organization and internal control, within which the segregation of duties, the allocation of tasks, responsibilities and powers, will be incorporated in procedures etc., thereby preventing unchecked errors from being made, assets from being disposed of improperly and data from being manipulated, as well as promoting the reputable conduct of business.

Purpose of the regulations

The purpose of these guidelines is to lay down compulsory rules for the conduct of business and the administrative organization of money transfer companies and their branches, including the financial accounts and the internal control system. The underlying principle is that money transfer companies are responsible for organizing and controlling their business processes so that their businesses are conducted in a reputable manner.

Basis of the guidelines

Pursuant to sections 6 (1 and 2) of the State Ordinance Supervision Money Transfer Companies (hereinafter referred to as "the State Ordinance") the CBA may issue guidelines concerning the management and administrative organization of the Money Transfer Companies entered in the register. The guidelines on the Conduct of Business by and the Administrative Organization of Money Transfer companies (hereinafter referred to as "the guidelines") serve to implement section 6 (1 and 2) of the State Ordinance. These guidelines also provide for the formulation of the bank guarantee model as referred to in section 3(4), of the State Ordinance.

Contents of the Regulations

The principle underlying these guidelines is that the institution itself is responsible for drawing up procedures, rules and standards, for embedding these in its business processes and for supervising their operation and compliance therewith. The managing board of the institution is responsible for ensuring that this is achieved in practice. This approach leaves scope for an interpretation that reflects the individual circumstances of an institution and new developments.

Article 1

Article 1 sets out the definitions for a number of key terms referred to in these regulations.

Articles 2 and 3

These articles make it clear that the managing board of an institution is responsible for the day-to-day management of that institution. This responsibility extends to determining policy, translating policy into operating measures and ensuring that these measures continue to work effectively.

With regard to Article 2, it may be noted that if the managing board has delegated management responsibility for parts of the business processes to staff, the board will continue to be responsible. Internal control activities that are to be carried out may be allocated as a sub-task to members of staff or to a separate internal control body.

Article 4

The policy principles for the control of integrity risks must be laid down by institutions in a policy plan and worked out in further detail in specific procedures, rules and standards. An internal control system is also required to ensure that there is compliance with the policy formulated. Particular attention needs to be paid to how to deal with incidents that pose a serious risk to proper management, how the integrity of members of staff is judged and to the provision of relevant information.

With regard to this article, it should be noted that a money transfer company has a general duty of care relating to its responsibility under criminal law. It is important that there is consensus about the requirements laid down in respect of the general duty of care because this will form the basis of the policy formulated by the money transfer company and the organizational measures it takes. The money transfer company must implement internal control measures so that it does not become culpably involved in objectionable practices. The policy plan must specifically address the prevention of conflicts of interest.

Article 5

The managing board must have a positive approach to internal control, which will be reflected, *inter alia*, by an effective response to signs of integrity risks. It is important that the money transfer company complies with the requirements laid down in 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) (*AML/CFT State Ordinance*), and the legislation on sanctions. The money transfer company must also give its staff proper and timely information regarding the AML/CFT State Ordinance, the legislation on sanctions and other requirements in accordance with the law, as well as regarding recent changes in the aforementioned State Ordinances.

Article 6

Records of incidents must include at least the characteristics of the incident, data concerning the person or persons who caused the incident and measures taken further to the incident.

The money transfer company shall inform the Bank about incidents if the incident is to be or has been reported to the judicial authorities, the continuation of the financial institution is at risk or could be a risk, there has been a serious shortcoming with regard to the organization or operation of measures to promote or maintain the reputable conduct of business by the institution and, in view of factors such as the expected publicity, the reputation of the institution is likely to be seriously impaired.

Article 7

For each position, a money transfer company must decide whether the position is integrity-sensitive. The following positions will be deemed to be integrity-sensitive:

- cashier;
- accountant;
- authorized signatory;
- internal auditor and;
- delegated management position.

Articles 8 to 16

A money transfer company is given scope to develop its own alternative effective administrative organization. Against this background, it should be noted that the detailed rules are not exhaustive in nature.

In order to ensure that there is always adequate information about the organizational structure of an institution, the institution must record this structure in an organizational chart. The money transfer company needs to make it clear how powers and responsibilities are allocated. In addition, a number of minimum requirements are laid down that must be taken into account when the administrative organization is set up. Finally, there is a provision that a manual of procedures must be compiled, laying down the positions, tasks and powers. Appendix I lays down the minimum information that has to be provided in the manual of procedures of a money transfer company. The internal control measures that serve to ensure compliance with the measures taken must also be stated.

Finally, the requirements in respect of the financial accounts are laid down, including the obligation for an institution to draw up annual accounts. The specific requirements for institutions engaging in money transfer activities are laid down in paragraph 2. Appendix II specifies how guaranteed and advised money transfer transactions should be recorded in the financial accounts.

Article 8

With regard to paragraph 3 it should be noted that such functions may not be combined in a single department or performed by a single staff member.

Article 10

Responsibility for updating procedures must be clearly allocated to a member of staff in the organization.

Articles 11 and 12

The cashier is the person who actually carries out money transactions. In the larger money transfer companies, a number of members of staff may fulfill the function of cashier, possibly combined with the counter service function. The accounting function comprises the recording of all transactions, including all activities resulting from the settlement of amounts receivable from or payable to third parties.

The managing board must form a judgment about the scope and depth of the internal control measures to be implemented. Internal control tasks may be delegated to and implemented by key staff members.

Article 13

The financial accounts must enable information to be provided from various perspectives, such as the results of branches, if applicable. The information provided must give proper information about financial developments affecting the money transfer company and the associated risks.

Article 14

The administrative segregation must be implemented stringently, for example, by splitting costs and by keeping separate bank accounts and physically separate funds.

Article 16

Without prejudice to the provisions governing the format of the annual accounts, the notes to the balance sheet must include a reconciling statement of movements in liquid assets during the financial year, distinguishing 'cash in hand' and 'cash at bank'. Movements in cash at bank and in hand must be shown by the reconciling arithmetic outcome of:

'opening balances + total receipts – total expenditure = closing balances'

Article 18

The two entries schedules are described in detail and set out as journal entries in Appendix II. The basic entries are shown without taking account of entries relating to recharged commission and costs.

Articles 19 to 21

Institutions must instruct an external auditor to audit or assess the annual accounts of the institution. In addition, institutions must instruct an external auditor to review a number of matters in particular and to report on his or her actual findings. The external auditor must also be authorized by the institution to provide information to the CBA upon request.

Article 20

With regard to paragraph 2, it should be noted that, if applicable, this information must also include the reasons why the external auditor is not accepting the engagement of the money transfer company.

Article 21

The money transfer company must instruct the external auditor to review, at least yearly, the functioning of the procedures and provisions contained in the manual of procedures drawn up by the money transfer company, relating to the timely recording of transactions and the proper segregation of the cashier's, auditor's and management functions, and to report his or her actual findings.

Appendix I

Manual procedures for Money Transfer Companies

Appendix I pertains to Article 11 of the guidelines on the Conduct of Business by and the Administrative Organisation of Money Transfer Companies

A money transfer company shall have a manual of procedures that covers at least the following matters:

Safekeeping of cash or cash equivalent

- security access when the money transfer company is entered at the start of the working day, the opening of the vault and the start-up of counter equipment;
- transfers of cash or cash equivalent within a money transfer company and between a money transfer company and third parties, for example, the head office, a bank or a branch;
- the management and issue of keys and the keeping of a register of keyholders;
- the periodic changing of the vault code, including when a staff member leaves the employment of the money transfer company;
- the receipt and delivery of cash or cash equivalent via money transport;
- the periodic changing of passwords, insofar as applicable;
- the management of accounts, including suspense accounts, deposits with third parties, and, if applicable, current accounts with the head office.

Cash transactions

- cash counting at each customer service counter at the start and end of service and prior to the handover of activities;
- the use of the counter and vault during the working day;
- daily vault stock-taking and reconciling accounting of cash and vault transactions;
- the maximum size of the vault and counter cash;
- instructions regarding additions to or withdrawals from counter cash from or to the vault;
- instructions regarding additions to or withdrawals from the vault to central cash balances, if applicable;
- daily recording and periodic analysis of cash discrepancies and the procedure for recording such discrepancies.

Attendance of members of staff

- an attendance register for all members of staff of a money transfer company and of any branches;
- cover arrangements in the event of staff absences.

Provision of information to customers

- the setting and changing of exchange rates and commission and checks on the accuracy of changes;
- daily updating and display of the exchange rates applicable for that day for the most popular currencies;
- daily updating and display of the commission applicable for the money transfers and any additional costs.

Other procedures

- authorization for transactions that are non-standard and/or where the maximum transaction size is exceeded;
- records and disclosures under 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) (AML/CFT State Ordinance)

Special procedures relating to money transfer activities

- the minimum terms and conditions, such as organizational, financial, social, etc., that a money transfer company has to satisfy before entering into a money transfer agreement;
- the way in which indebtedness between money transfer companies is settled, the agreed maximum outstanding amount and minimum number of times per annum;
- the permitted cash equivalent that can be used for settlement and the way in which the value must be determined.

Appendix II

Entries systems for Money Transfer Companies

Appendix II pertains to Article 18 of the guidelines on the Conduct of Business by and the Administrative Organisation of Money Transfer Companies

ENTRIES SYSTEM 1

Guaranteed money transfers

In view of Article 19(1) of the Regulations, **guaranteed** money transfers must be entered in the financial accounts in accordance with the entries system below. For the sake of this entries system, four successive actions may be distinguished, which can be described as follows:

- a) payment of cash or cash equivalent by a customer at a money transfer company in Aruba (money transfer company **A**), with the request to pay or to make payable the cash or cash equivalent, in the same form or otherwise, to a beneficiary elsewhere (office **B**);
- b) reciprocal acknowledgement of debt between offices A and B;
- c) office A receives a **payment message** (fax/e-mail) from office B, to the effect that the cash or cash equivalent has actually been paid to the beneficiary; and
- d) periodic settlement of indebtedness between offices A and B.

This means that where the actions listed above are concerned, the following sequence of entries will be made for each event.

ENTRIES SYSTEM GUARANTEED MONEY TRANSFERS

Actions (in the case of guaranteed money transfers):	Entries by office A:
a) Payment of cash or cash equivalent by customer at a money transfer company in Aruba (office A); A sends a payment advice note to office B ;	Debit: Cash Credit: Guaranteed
b) Reciprocal acknowledgement of debt between offices A and B;	transaction to be paid out
c) Office A receives a payment message (fax/e-mail) from office B that the money has been paid out to the beneficiary	Debit: Guaranteed transaction to be paid out Credit: Account to be settled with office B
d) Periodic settlement of indebtedness between offices A and B (via cash/bank)	Debit: Account to be settled with office B Credit: Cash/Bank
NB: <i>Offices A and B may be the same (financial) institution, or branches of the same money transfer company. In that case too, the above entries system continues to apply, mutatis mutandis; the transactions are then usually effected via intra-group accounts.</i>	

Role of bank guarantee in guaranteed money transfers

So long as no message has been received from office B that payment has been made to the beneficiary elsewhere, office A must ensure that the total amount of debt positions does not exceed the amount of the bank guarantee.

Registration of transactions with third parties

All transactions with third parties (customers, money transfer company, beneficiaries, branches etc.) must be recorded in a timely manner by office A so that it is possible at any time to determine:

- the outstanding or owed position per counterparty and currency type;
- the amount to be settled with office B;
- that the balance “Guaranteed transaction to be paid out” does not exceed the amount of the bank guarantee;
- how claims on and liabilities to other money transaction offices have been settled (cash or cash equivalent).

Report by telephone and confirmation

If office A reports the receipt of cash or cash equivalent from a customer to office B by telephone, this report must be confirmed in writing or electronically (fax or e-mail) by office A.

Settlement of claims and liabilities

When settling claims and liabilities, the money transfer company shall record the type of settlement in the financial accounts. There are two types of settlement:

- a) cash settlement;
- b) cashless settlement.

ENTRIES SYSTEM 2

Advised money transfers

In view of Article 19(2) of the Regulations, **advised** money transfers must be entered in the financial accounts in accordance with the entries system below. For the sake of this entries system, four successive actions may be distinguished, which can be described as follows:

- a) a money transfer company in Aruba (office **D**) receives a **payment advice note** from an office elsewhere (office **C**) to the effect that cash or cash equivalent, in the same form or otherwise, must be paid by office D to a beneficiary;
- b) reciprocal acknowledgement of debt between office D and office C elsewhere;
- c) office D (c1) pays or makes payable the cash or cash equivalent to the beneficiary and sends a **payment message** (fax/e-mail) to office C, to the effect that the cash or cash equivalent has actually been paid to the beneficiary (c2);
- d) periodic settlement of indebtedness between offices D and C.

This means that where the actions listed above are concerned, the following sequence of entries will be made for each event.

ENTRIES SYSTEM ADVISED MONEY TRANSFERS

Actions (in the case of advised money transfers):	Entries by office D (SA = suspense account)
a) <u>a money transfer company in Aruba (office D) receives a payment advice note from an office elsewhere (office C) to the effect that cash or cash equivalent, in the same form or otherwise, must be paid by office D to a beneficiary; and</u> b) Reciprocal acknowledgement of debt between offices D and C;	Debit: SA money transfer advice to make payment Credit: Advised transfer to be paid out
C1) Office D makes a payment to the beneficiary;	Debit: Advised transfer to be paid out Credit: Cash/bank
C2) Payment message (fax/e-mail) sent by office D to office C, to the effect that the cash or cash equivalent has been paid out to the beneficiary	Debit: Account to be settled with office C Credit: SA money transfer advice to make payment
d) Periodic settlement of indebtedness between offices D and C (via cash/bank)	Debit: Cash/bank Credit: Account to be settled with office C
NB: <i>Offices D and C may be the same (financial) institution, or branches of the same money transfer company. In that case too, the above entries system continues to apply, mutatis mutandis; the transactions are then usually effected via intra-group accounts.</i>	

Registration of transactions with third parties

All transactions with third parties (customers, money transfer company, beneficiaries, branches etc.) must be recorded in a timely manner by office D so that it is possible at any time to determine:

- the outstanding or owed position per counterparty and currency type;
- the amount to be settled with office C;
- how claims on and liabilities to other money transfer company have been settled (cash or cash equivalent).

Report by telephone and confirmation

If office D reports the receipt of cash or cash equivalent from a customer to office C by telephone, this report must be confirmed in writing or electronically (fax or e-mail) by office D.

Settlement of claims and liabilities

When settling claims and liabilities, the money transfer company shall record the type of settlement in the financial accounts. There are two types of settlement:

- c) cash settlement;
- d) cashless settlement.

Appendix III

BANK GUARANTEE

Appendix III pertains to Chapter 6 of the Guidelines on the Conduct of Business by and the Administrative Organisation of Money Transfer Companies

Model bank guarantee

The undersigned,

having its registered office in

and its principal place of business in

hereinafter referred to as “the bank”,

WHEREAS:

- a) _____, having its registered office at _____, in _____, hereinafter referred to as “the money transfer company” intends to conclude one or more money transaction contracts in writing with contractual counterparties, hereinafter referred to as “customers”, for which the customers make available cash or cash equivalent;
- b) In this guarantee a “money transaction contract” is understood to be a written agreement between the money transfer company and a customer, the money transfer company receiving cash or cash equivalent, for the purposes of a money transfer, from the customer, which is intended to be paid or to be made payable, in the same form or otherwise, to a beneficiary elsewhere;
- c) Pursuant to section 3(4) of the State Ordinance Supervision Money Transfer Companies, all money transfer companies must have a bank guarantee for the benefit of customers, as security for the cash or cash equivalent made available by the customers to the money transfer company for the purposes of money transfers, which has not yet been paid out or made payable, in the event that (i) the money transfer company has been granted a definitive suspension of payments, (ii) the money transfer company has been declared bankrupt under a definitive court decision, (iii) the money transfer company is headed by a natural person with regard to whom bankruptcy has been declared.

DECLARES:

1. That it irrevocably and unconditionally guarantees a maximum amount of Afl 50,000 (in words: fifty thousand florins) to customers who have made available cash or cash equivalent to the money transfer company for the purposes of money transfers, which has not yet been paid out or made payable, in the event of a situation as referred to under C of the preamble to this guarantee;
2. The bank shall delay payment until it has received the permission of the Centrale Bank van Aruba, to payout at most the amount made available for the purposes of money transfers, which has not yet been paid out or made payable. This guarantee does not cover other amounts, such as interest, costs etc.;
3. Claims under this guarantee must be submitted within eight weeks of the occurrence of a situation as referred to under C of the preamble to this guarantee to the receiver, the trustee in bankruptcy or the liquidator, and must include a copy of the money transaction contract(s) and a written declaration from the third party/parties elsewhere that the monies have not been paid out nor made payable;
4. As soon as possible after the term of eight weeks stated in article 3, the receiver, trustee in bankruptcy or the liquidator shall send the claims, together with the documents pertaining to these claims to the bank, accompanied by a declaration that (i) the claims are in accordance with the financial accounts of the money transfer company, or (ii) that the claim appears deceitful;
5. The bank shall send the claims submitted pursuant to article 4 to the Centrale Bank van Aruba, with the request to either approve payment or to withhold approval. The Centrale Bank van Aruba shall subsequently (1) give the bank written approval to pay out the claims mentioned under (i) in article 4 or (2) withhold approval in the case of the claims mentioned under (ii) in article 4;
6. Where the claims mentioned under (i) in article 4 are concerned, and with due observance of the provisions of article 5, the bank shall, if the total of the claims mentioned in article 3 exceeds the maximum amount of this guarantee, pay out the equivalent of the maximum amount of the guarantee. In the case of claims mentioned under (ii) in article 4, the bank shall reserve the equivalent amount(s) of the claim(s);
7. In the case mentioned in (ii) in article 4, the bank will inform the customer concerned forthwith in writing that the Centrale Bank van Aruba has withheld approval of the payment;
8. If, in a case referred to in (ii) in article 4 recourse is had to a legal remedy against the approval given or withheld by the Centrale Bank van Aruba, the bank shall reserve the amounts referred to in article 6 for the duration of the procedure, until a definitive decision has been taken, after which the bank shall pay the amounts reserved to the claimants proportionately to the claims

referred to in (i) in article 4, to at most the total amount of each money transaction contract;

9. This guarantee is valid up to and including the date on which it was returned to the undersigned;
10. This guarantee is subject to Aruban law. All conflicts arising from or pertaining to this guarantee shall be submitted in the first instance to the competent court in Aruba.

Place:

Date:

Signatures: Bank representatives
 Money Transfer Company Representatives

Appendix IV

Minimum information in the financial accounts of the Money Transfer Companies

Appendix IV pertains to Article 9 of the Regulations on the Conduct of Business by and the Administrative Organization of Money Transfer Companies.

The administrative organization of a money transfer company that effects money transfers activities must be organized so that at least the following information is included in the financial accounts and on the transaction note:

- a. consecutive numbering;
- b. transaction date;
- c. nature of the transaction;
- d. amount received and currency type;
- e. amount paid out and currency type;
- f. commission charged;
- g. name and address of the customer;
- h. name and address of the beneficiary;
- i. name and address of the money transfer company in the country of the beneficiary;
- J. name and address details of the place of business of intermediaries, if applicable, any identifying mark.