



MINISTERIAL REGULATION

No. 2016/165

Regulation of the Minister of Justice, of February 15th, 2016, containing an amendment of the Regulation on Indicators of Unusual Transactions in order to increase the responsibility of reporters in accordance with recommendation 20 of the Financial Action Task Force

The Minister of Justice,

Whereas:

The Caribbean Financial Action Task Force has observed that in the reporting of unusual transactions, persons and institutions fail to make a report if a transaction does not literally conform to the description of a subjective indicator in an Appendix to the Regulation on Indicators of Unusual Transactions;

It is therefore necessary to replace the Regulation on Indicators of Unusual Transactions by general standards and values in order to stimulate the personal insight, personal knowledge and personal responsibility of reporters in the execution of the National Ordinance Reporting Unusual Transactions;

In view of Article 10 of the National Ordinance Reporting Unusual Transactions;

DECREES:

Article I

The Regulation on Indicators of Unusual Transactions shall be amended as follows:

A

Article 1 shall read as follows:

Article 1

The following definitions shall apply for the purposes of this Regulation:

- a. cash transaction: payment with the aid of cash or a similar means of payment, in any event including a credit card or prepaid payment instrument (prepaid card), debit card, cheque, traveller's cheque, bank draft or money order;
- b. wire transfer: payment by means of the transfer of an amount of money to an account intended for cashless payments at a bank or an equivalent financial institution;
- c. Head: Head of the Reporting Centre.

B

Articles 2 to 12 and the accompanying Appendices shall be withdrawn.

C

A new Article 2 shall be inserted, reading as follows:

Article 2 *Objective indicators*

1. The following are deemed to be indicators of executed or intended unusual transactions:
 - a. transactions reported to the police or the judicial authorities;
 - b. transactions performed by or for a natural person, legal entity, group or entity for which a restriction applies pursuant to the National Ordinance on Sanctions and that appears on a list drawn up by the Head;
 - c. all wire transfers of NAf 500.000 or higher, or the counter-value thereof in foreign currency; or,
 - d. all cash transactions of NAf 25.000 or higher, or the counter-value thereof in foreign currency;
2. The provisions of paragraph 1 do not apply to inter-bank transactions by the Central Bank of Curaçao and Sint Maarten, or by credit institutions.
3. By way of derogation from paragraph 1(c) and 1(d), every transaction of casinos, online gaming companies and lotteries by or for their clients, for an amount of NAf 5.000 or higher, or the counter-value thereof in foreign currency, is deemed to be an indicator for the reporting of executed or intended transactions.
4. By way of derogation from paragraph 1(d), every transaction of foreign currency exchange offices, amounting to NAf 5.000 or higher, or the counter-value thereof in foreign currency, is deemed to be an indicator for the reporting of executed or intended transactions.
5. By way of derogation from paragraph 1(d), every cash deposit on a credit card or prepaid payment instrument (prepaid card) amounting to NAf 5.000 or higher, or the counter-value thereof in foreign currency, is deemed to be an indicator for the reporting of executed or intended transactions.

D

A new Article 3 shall be inserted, reading as follows:

Article 3 *Subjective indicators*

Without prejudice to the provisions of Article 2, the following shall be deemed to be indicators of executed or intended unusual transactions:

- a. transactions that differ from the client's profile; and
- b. transactions that give rise to the suspicion that these may be related to money laundering or financing of terrorism.

E

Article 13 shall be renumbered as Article 4 and the phrase 'referred to in Article 4' in the first paragraph shall be replaced by 'referred to in Article 2'.

F

Article 14 shall be renumbered as Article 5 and the phrase 'referred to in Article 4' in that Article shall be replaced by 'referred to in Article 2'.

G

A new Article 6 shall be inserted, reading as follows:

Article 6

The Head shall announce a reporting code and draft a user guide for each indicator on the Reporting Centre website.

H

Article 15 shall be withdrawn and Article 16 shall be renumbered Article 7.

Article II

The Regulation on Indicators of Unusual Transactions concerning fiduciary services shall be withdrawn.

Article III

The Ministerial Regulation for the implementation of Article 1(1)(a)(11) and 1(1)(a)(13) of the National Ordinance Reporting Unusual Transactions shall be withdrawn.

Article IV

This regulation shall enter into force on May 1st, 2016.

This Regulation and the Notes shall be published in the Official Publication.

The Minister of Justice,