

NATIONAL ORDINANCE of 25 March 2002 for the registration of money transportations as part of the measures to combat money laundering (National Ordinance on the Obligation to report Cross-border Money Transfer)
(O.G. 2002, No. 74)

CHAPTER I
General provisions

Article 1

Provided that there are no stipulations to the contrary, in this National Ordinance and the provisions based thereon:

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| a. | Minister shall mean: | The Minister of Finance; |
| b. | reporting shall mean: | reporting as referred to in article 2; |
| c. | money shall mean: | domestic and foreign paper currency, coins and currency notes, as also negotiable instruments to bearer; |
| d. | person reporting shall mean: | the person making the report. |

CHAPTER II
Obligation to report

Article 2

1. Persons entering or leaving one of the island territories of the Netherlands Antilles shall be under the obligation to report money for a value of NAF 20,000.-- or more which they carry with them to the import and excise duties officials. The provisions of the first sentence shall also apply to people entering or leaving who are demonstrably travelling together and who jointly carry with them money for a value of NAF 20,000.- - or more.
2. Reporting shall take place by submitting a statement, according to a model to be laid down by the Minister, signed by the person reporting. In the event referred to in the first paragraph, second sentence, all persons referred to in the first paragraph, second sentence, shall individually be bound to satisfy the obligations laid down in or pursuant to this national ordinance.
3. If a money transportation is carried out by a professional carrier, but this carrier has not been enabled to make the report referred to in the first paragraph, the report shall be made to the Inspector of Customs and Excise Duties by the sender of the money no later than at the time when the money actually leaves or enters.
4. People entering must report no later than at the time when the customs and excise duties official may carry out an inspection of the luggage brought by travellers. If the competent authority establishes an inspection zone, reporting shall take place before entering the inspection zone. If no customs and excise duties official is

present there, the report must be made to the nearest customs and excise duties official immediately after passing.

5. People leaving must report no later than at the time when the police official employed with the Immigration Service may carry out a passport inspection or, if no passport inspection takes place, no later than at the time when the customs and excise duties official may carry out an inspection of the luggage brought by travellers. If no customs and excise duties official is present there, the report must be made to the nearest customs and excise duties official prior to passing.
6. Should no import and excise duties officials be present on any of the island territories of the Netherlands Antilles, the report must be made to police officials employed with the Immigration Service on the island territory concerned.
7. By ministerial decree with general operation it may be laid down, possibly by imposing limitations and instructions, that the report, referred to in the first paragraph, shall not apply to money brought in or taken out with the simple objective of direct transit.

Article 3

When reporting, as referred to in the second paragraph of article 2, the correct data must be provided as to:

- a. the identity and place of residence of the person reporting and the owner of the money;
- b. the magnitude, origin and destination of the money;
- c. the reason for selecting the method of transportation of the money.

Article 4

1. The Unusual Transactions Reporting Center, as referred to in article 2 of the National Ordinance Reporting of Unusual Transactions (O.G. 1996, no. 21), shall control the data obtained pursuant to article 3.
2. The officials referred to in article 5, first paragraph will immediately send to the Unusual Transactions Reporting Center, referred to in the first paragraph:
 - a. the reports, referred to in article 2;
 - b. copies of reports of the taking into custody of money.

CHAPTER III

Official authorities in the framework of supervision

Article 5

1. The import and excise duty officials as well as the police officials employed with the Immigration Service shall be responsible for the supervision of the observance of the provisions laid down by or by virtue of this national ordinance.
2. Only to the extent that such is reasonably required for the performance of their duties, the officials referred to in the first paragraph shall have the power to:
 - a. ask any information;

- b. subject property to inspection and to temporarily seize such property and take it with them for such purpose;
 - c. access all locations, with the exception of residences or parts of vessels intended as residences, accompanied by the people designated by them, without the explicit permission of the occupant;
 - d. search vessels that are mooring or landing, and any stationary aircraft and vehicles and their cargo;
 - e. take money into custody if the person reporting does not immediately provide them with the data, referred to in article 3, or if they have reasonable doubt as to the correctness of the data provided by the person reporting.
3. The officials referred to in the first paragraph shall immediately draw up a report of such taking into custody of money.
The money can be taken into custody for a maximum of seven days. This term may be extended once by a second period of a maximum of seven days by the head of their department. When this term has lapsed the money will immediately be returned to the person reporting, unless article 6, second paragraph is applied.
By national decree containing general measures rules shall be laid down as to the report on the taking into custody of the money, the place where the money is kept, the transfer and the control of the money.
4. If necessary, access to a place referred to in paragraph 2, section c., shall be provided with the assistance of police officers.
5. The officials referred to in the first paragraph shall have the authority to search the body and the clothing of people moving from or to vessels, vehicles or aircraft.
6. The body search or the search of clothes shall be carried out by officials of the same sex as the person subjected to such search.
7. Persons subjected to a body search or a search of clothes shall stand still at the first order by the officials referred to in the first paragraph, and shall follow such officials to a location designated by the officials.
8. The officials referred to in the first paragraph shall always be given all cooperation that is demanded on the grounds of the second, fifth and seventh paragraphs.
9. By national decree containing general measures, rules can be laid down regarding the way in which the officials referred to in the first paragraph shall carry out their tasks.

CHAPTER IV Detection

Article 6

1. In addition to the persons referred to in Article 184 of the Code of Criminal Procedure the import and excise duty officials and other tax officials appointed for this purpose by the Minister of Justice shall be responsible for the detection of the offences made punishable by this National Ordinance.
2. The officials or persons charged with the detection of offences as referred to in this national ordinance shall at all times have the power to take into custody any and all objects that are eligible for being taken into custody in relation to the provisions of

this national ordinance pursuant to the Code of Criminal Procedure. They can demand that such objects be surrendered. Article 5, third paragraph, shall apply *mutatis mutandis*.

1. By national decree containing general measures, rules can be laid down regarding the requirements which the officials referred to in the first paragraph shall comply with.

CHAPTER V Penal Provisions

Article 7

1. Contravention of the provisions referred to in articles 2, 3 or 8, first paragraph, to the extent that this occurs intentionally, shall be punished either with imprisonment of up to four years or with a fine of up to five hundred thousand guilders, or with both these punishments.
2. Contravention of the provisions referred to in the first paragraph, to the extent that this occurs unintentionally, shall be punished either with imprisonment of up to one year or with a fine of up to two hundred and fifty thousand guilders, or with both these punishments.
3. Contravention as referred to in the first paragraph shall be a criminal offence and contravention as referred to in the second paragraph shall be an offence.

CHAPTER VI Confidentiality

Article 8

1. Anyone involved in the implementation of this national ordinance shall be under the obligation to keep confidential all information that has come to their attention in their respective capacities, save in the event where publication of such information shall be necessary for the objective of this national ordinance.
2. The Minister may grant a release from the prohibition contained in the first paragraph to the import and excise duties officials.
3. The Minister of Justice may grant a release from the prohibition contained in the first paragraph to the police officials employed with the Immigration Service.

CHAPTER VII Final Provisions

Article 9

1. By or pursuant to a national decree containing general measures, further rules can be laid down for events not expressly arranged for in this national ordinance.
2. The Minister may lay down further instructions with regard to the application of the provisions of this national ordinance.

Article 10

1. This national ordinance may be cited as: "National Ordinance Obligation to Report Cross-Frontier Money Transportations".
2. This national ordinance shall enter into force after the date of publication of the Official Gazette in which it has been published.

