

Long title: Central Bank Ordinance

Short title: Central Bank Ordinance

Source: AB 1991 GT 32

Amendments: AB 1998 17 (Entry into force 1998 26); AB 2009 no.75; AB 2014 no. 5

## CHAPTER I

### General provisions

#### Section 1

In this state ordinance, the following terms mean:

The Bank: the Centrale Bank van Aruba;

The Country: the legal entity Aruba;

The Minister: the Minister of Finance

Credit institutions: enterprises or institutions established in Aruba whose business largely consists of accepting funds and/or granting loans, except for credit unions;

Credit institution: an enterprise or institution within the meaning of Section 1, paragraph 1 of the State Ordinance on the Supervision of the Credit System.

#### Section 2

1. There is a bank in Aruba, called the Centrale Bank van Aruba. It can be referred to in legal matters as the Centrale Bank.
2. The Bank is a legal entity.

## CHAPTER II

### Resources of the Bank

#### Section 3

1. The Bank's capital amounts to Afl. 10,000,000.
2. The capital is derived from the assets assigned to the Bank on the basis of Sections 8, paragraph 2, and 10 of the Mutual Arrangements on the Division of Assets of the Bank of the Netherlands Antilles (*Onderlinge Regeling Boedelscheiding Bank van de Nederlandse Antillen*).
3. The value of the Bank's assets referred to in paragraph 2 will be determined for the first time by the Supervisory Board on the basis of a proposal by the president of the Bank.
4. The Bank's assets will then be revalued periodically by the president according to the rules set by the Supervisory Board.

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<sup>1</sup> No rights can be derived from this unofficial translation.

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## Section 4

1. The Bank forms a reserve fund up to an amount of Afl. 10,000,000 to cover losses of the Bank.

2. The Bank is authorized to increase this amount, after approval from the Minister. That increase must, however, not cause the sum of the Bank's capital and the reserve fund to rise above 15% of the Bank's liabilities, according to the situation at the end of the previous financial year.

## Section 5

The Bank is authorized to form earmarked reserves, with approval from the Minister.

## Section 6

1. The Bank is authorized to invest its capital and reserves according to rules established by the Supervisory Board on a motion by the management.

2. The results obtained from the aforementioned investments must be included in the Bank's profit and loss account.

## CHAPTER III

### Task and activities of the Bank

## Section 7

1. The Bank is the issuing bank. As such it is authorized to the exclusion of all others to issue banknotes in Aruba. It provides for the circulation of currency in Aruba, in so far as this consists of banknotes, and it is charged with circulating government notes and coins on behalf of the Country.

2. The banknotes will serve as legal tender, as long as they have not been withdrawn from circulation.

3. The type of paper, dimensions and print of the banknotes to be issued are determined by the management in consultation with the Supervisory Board and announced to the public.

4. The Bank is not obliged to compensate loss, total or partial destruction of or damage to banknotes.

5. In the event of suspicion of a punishable act or at the written request of an interested party, it is within the discretion of the Bank to demand a receipt for and an endorsement of banknotes from persons presenting them for payment or exchange.

6. Sections 296, paragraphs 2 and 3, 297 and 298 of the Code of Commerce of Aruba do not apply to banknotes.

## Section 8

1. The Bank may withdraw banknotes from circulation. In that case, holders of banknotes will be notified to present them for exchange. The notification will be published in the bulletin in which the Government publishes official announcements.

2. After ten years have passed from publication of the notification referred to in paragraph 1, the amount of the banknotes not presented for exchange will be added to the

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profit of the current financial year. Banknotes presented afterwards for exchange will be debited to the profit and loss account.

3. After thirty years have passed from publication of the notification referred to in paragraph 1, the right to demand exchange of the relevant banknotes will lapse.

#### Section 9

1. After consultation with the management and Supervisory Board, regulations will be issued on the limitation of the total number of banknotes to be issued and other immediately claimable liabilities of the Bank, in a state decree, containing general regulations.

2. The state decree referred to in the first paragraph may authorize the Minister in exceptional circumstances, on the recommendation of the Supervisory Board and management, to reduce the percentage of cover of the Bank's liabilities temporarily to a minimum mentioned in said decree.

#### Section 10

1. The Bank is responsible for the stability of the value of the currency of Aruba and determines the monetary policy aimed at maintaining said stability.

2. The Bank will provide the Minister with advice on financial matters on its own initiative or at the Minister's request.

#### Section 11

1. In accordance with rules to be laid down by or pursuant to State Ordinance, the Bank shall supervise the following enterprises and institutions:

- a. credit institutions, credit unions and other enterprises and institutions whose business is to attract nominally repayable funds from the public or to grant credit to the public on a commercial basis;
- b. insurers;
- c. money transfer companies;
- d. company pension funds;
- e. trust service providers;
- f. other financial, non-financial enterprises and institutions and professionals to be designated by state ordinance.

2. The Bank shall promote a financially healthy and sound development of the enterprises and institutions, referred to in the first paragraph.

#### Section 12

1. The Bank is the central foreign exchange bank for Aruba and as such regulates payment transactions with foreign countries according to rules laid down by state ordinance. It manages the available foreign exchange and controls how they are spent.

2. The Bank may authorize credit institutions to operate as foreign exchange banks under conditions to be set by it.

3. The Bank is authorized to set the rates for foreign exchange transactions, with due observance of the value of the Aruban currency and the applicable international agreements to which Aruba is a party.

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### Section 13

- The Bank is also authorized to conduct the following activities:
- a. discounting bills of exchange and other commercial paper with two or more jointly and severally liable parties, with terms not exceeding six months, and treasury notes payable by the Country with terms not exceeding six months;
  - b. buying, selling and issuing bills of exchange and cheques, as well as settling written or telegraphed payment orders;
  - c. receiving money in custody, on deposit or in current account;
  - d. buying and selling of:
    - I. bills of exchange accepted by a credit institution, established in Aruba, and treasury notes payable by the Country with a remaining term of not more than six months, as well as the discounting of such instruments;
    - II. coins and coinage materials;
    - III. bonds issued by public and private legal persons established in Aruba;
    - IV. debt instruments of which the interest and repayment are guaranteed by the Country;
    - V. claims secured by mortgages on immovable property located in Aruba or the rights which are subject hereto, as well as providing money under such mortgages to an amount not exceeding eighty per cent of the estimated value of such property;
  - e. receiving in custody of coins, coinage materials or negotiable papers;
  - f. granting advances as loans or in current account with valuable papers, claims, goods, warrants, coins and coinage materials as security;
  - g. issuing guarantees within the exercise of its tasks;
  - h. investing its foreign currency in foreign government notes, in banker's acceptances or in certificates of indebtedness of foreign credit institutions or placing its foreign currency on deposit with foreign credit institutions;
  - i. providing capital to enterprises in the field of agriculture, livestock breeding, fisheries and industry against collateral security;
  - j. other activities assigned to the Bank under or pursuant to a state ordinance.

### Section 14

1. The Bank is the Country's banker and is accountable as such to the Minister as well as to the Court of Audit. It will provide its services free of charge.
2. The Bank may be entrusted by state decree with acting as cashier for institutions created by state ordinance. It will also provide these services free of charge.
3. The Bank is also entrusted with holding all monetary instruments and valuable papers in custody free of charge for the Country and the institutions referred to in paragraph 2.
4. The Bank may appoint credit institutions as its agents for the purpose of providing services to third parties on its behalf.

### Section 15

1. The Bank may grant advances to the Country to meet temporary requirements for cash due to seasonal differences between the Country's revenues and expenditure during the financial year, provided that the total of these advances never amount to more than ten per cent of the Country's revenue in the previous financial year.
2. The Bank must grant the advances referred to in paragraph 1 free of interest.

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## Section 16

1. Except as provided in Section 15, the Bank will not grant any unsecured credit or advances. Unsecured credit or advances do not include entrusting money or goods in its own interest to agents who are not in its employ.

2. The Bank will not purchase securities, except as provided in Sections 6, paragraph 1, and 13, subparagraph h., nor any property other than that required to conduct its business, or in cases where the purchase of property is necessary to prevent loss.

3. The Bank will not participate in enterprises.

4. The Bank will not advance any money with vessels or aircraft as security.

## Section 16a

1. The Bank, its President, Directors, Supervisory Board and personnel shall not be liable for damage caused in the normal performance and exercise of their duties and powers to be performed and exercised by or pursuant to this or other State Ordinances, unless the damage is due to deliberate intent or willful recklessness.

2. The limitation of the liability, referred to in the first paragraph, shall be equally applicable to third parties who perform and exercise duties and powers on behalf or on the instructions of the Bank or of the bodies and persons mentioned in the first paragraph.

3. The Bank shall reimburse all reasonable costs incurred by the bodies and the persons, referred to in the first paragraph, and the third parties, referred to in the second paragraph, arising from court proceedings resulting from the duties and powers performed and exercised or to be performed and exercised by these bodies, persons or third parties by or pursuant to this or another State Ordinance, unless these proceedings show that there has been deliberate intent or willful recklessness of these bodies, persons, or third parties.

## CHAPTER IV

### Management of the Bank

## Section 17

1. The Bank is to be managed by a president, assisted by one or two executive directors.

2. If the president is absent or unable to act, the latter's position will be taken over by the executive director designated for that purpose by the president, failing which this appointment will be made by the chairman of the Supervisory Board.

3. The president represents the Bank in and out of court in his capacity as the Bank's highest ranking officer.

## Section 18

1. The president and executive director(s) are appointed by the Governor based on a nomination of three persons made by the Supervisory Board. The Governor will consider the nomination in so far he considers it useful.

2. On the recommendation of the Supervisory Board, the Governor may suspend or dismiss the president and executive director(s) in a motivated state decree. In case of suspension, if necessary, the Supervisory Board will also nominate three persons to fill the relevant position temporarily.

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3. The employment conditions of the president and the executive director(s) are to be set out in regulations to be laid down by the Supervisory Board after consulting the Minister.

#### Section 19

1. The president determines the policy and conducts the management of the Bank in the broadest sense. He is charged with the administration of the Bank's property and is authorized to perform all acts of disposition in respect of that property, in so far as this authority is not limited under or pursuant to this state ordinance.

2. One of the executive directors will be appointed as secretary of the Bank and will be charged as such with implementing the policy relating to the Bank's properties and the administration and care of the secretarial office.

3. After the president and executive director(s) and the Supervisory board have been consulted, general guidelines for the performance of the duties of the president and executive director(s) can be set out in a state decree, containing general regulations.

#### Section 20

1. The president is authorized to employ and dismiss staff employed by the Bank under civil law.

2. The employment conditions for staff of the Bank will be laid down in regulations determined by the Supervisory Board and the president after consulting the Minister.

#### Section 21

1. The Bank must make provisions for the pensions of the president, executive director(s) and staff.

2. The pension payments and further rules to be set in relation to the provisions for pensions will be set out in regulations determined by the Supervisory Board and the president after consulting the Minister.

#### Section 22

After consulting the Supervisory Board, the president will be authorized to call representatives of credit institutions to a meeting under his chairmanship as an advisory committee for the purpose of informing and advising the president, executive director(s) and Supervisory Board on matters regarding which they wish to know the committee's views.

#### Section 23

1. There will be a Supervisory Board, consisting of at least three and at most five members.

2. The Government Commissioner is the chairman of the Supervisory Board. He is appointed and dismissed by the Governor.

3. The other members of the Supervisory Board are appointed by the Governor on a nomination of three persons for each position, made by the Supervisory Board after consulting the president and the executive director(s).

4. The supervisory directors referred to in the preceding paragraph will be appointed for a term of five years. They will be eligible for reappointment immediately after their term expires.

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5. In special cases, the supervisory directors referred to in paragraph 3 may be suspended or dismissed before the end of the term by the Governor in a motivated state decree.

#### Section 24

1. The Supervisory Board supervises the Bank's operations and oversees the management of the Bank's property as well as the funds entrusted to it.
2. All duties not explicitly assigned to the president or the executive director(s) under or pursuant to this state ordinance will be among the duties of the Supervisory Board.
3. In a state decree, containing general regulations, rules can be set out concerning the exercise of the duties of the Supervisory Board.

#### Section 25

1. The Supervisory Board will meet at least once per quarter and further as often as the chairman or two members of the board or the president deems necessary or desirable.
2. At the meetings of the Supervisory Board, if so requested, the president will report on the general economic and financial development of Aruba and on the policy pursued and administration and management conducted by the Bank.

#### Section 26

1. The supervisory directors will receive remuneration to be determined by the Minister after consulting them and the president.
2. The expenses arising from the preceding paragraph will be payable by the Bank.

#### Section 27

1. The Government Commissioner supervises the Bank's activities on behalf of the Country and in doing so will act in accordance with general or specific instructions given by the Minister.
2. The Government Commissioner will be entitled to attend the meetings of the Bank's management and, if necessary, have an advisory role in those meetings.
3. The president and the executive director(s) are obliged to provide the Government Commissioner on request with all information and, in doing so, hand over the books, records and other data carriers which the latter considers necessary for the proper discharge of his duties.

#### Section 28

1. The supervisory directors, the president and the executive director(s) must have reached the age of thirty upon their appointment, possess the experience and capacities needed for the relevant position and reside in Aruba.
2. Persons who are employed at or have interests in trust offices and credit institutions established in Aruba cannot simultaneously be employed in one of the positions referred to in paragraph 1.
3. Among the supervisory directors themselves, between them and the president and the executive director(s), as well as between the president and the executive director(s), there must be no relation by blood or affinity up to the second degree. Spouses may not act at the same time in one of the aforementioned capacities at the Bank. If affinity occurs after their

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appointment, the aforementioned officers may not continue their work at the Bank without permission from the Minister.

#### Section 29

1. Upon accepting their appointment, the supervisory directors, the president and the executive director(s) must take an oath or make a solemn affirmation before the Governor. In doing so, they must undertake to maintain the confidentiality of the knowledge they gain on the basis of their positions, in so far as disclosure of such knowledge is not prescribed under or pursuant to a state ordinance.

2. The duty of confidentiality of the other staff will be laid down in the staff regulations referred to in Section 20, paragraph 2.

### CHAPTER V

#### Budget, balance sheet and profit and loss account

#### Section 30

1. The financial year of the Bank runs from the first of January up to and including the following thirty-first of December.

2. Each year, before December 1, the president will present a budget of the Bank's expenditures for the next financial year to the Supervisory Board for approval. After the budget has been approved, it will be submitted to the Minister and Parliament for their information.

#### Section 31

1. Each year, before July 1, the president and the executive director(s) will prepare the balance sheet and the profit and loss account of the past financial year and, after an audit by an external auditor designated by the Supervisory Board, present them to the Supervisory Board for adoption.

2. The changes occurring during a financial year in the value of the gold and foreign exchange reserves and the commercial assets of the Bank, except those relating to the assets in which the capital and reserves referred to in Sections 4 and 5 have been invested, are to be entered on the liability side of the balance sheet. They will not be taken into account in the preparation of the profit and loss account.

3. In their next meeting, the Supervisory Board will adopt the annual accounts referred to in paragraph 1. A copy will be sent to the Minister. If the Supervisory Board has objections against the annual accounts presented to them, after consulting the president and the executive director(s), they will present these objections to the Governor for a decision.

4. Adoption of the annual accounts will serve to discharge the president and executive director(s) from liability.

#### Section 32

The president will publish a summary balance sheet once a month in the bulletin in which official government announcements are published.



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Section 33

1. Any profit evident from an approved annual profit and loss account will first of all be credited to the capital, in so far as it amounts to less than the amount stipulated in Section 3, paragraph 1, and then to the general reserve, in so far as it is less than the amount stipulated under or pursuant to Section 4. The remainder will be credited to the Country, barring application of Section 5.

2. Any loss evident from an approved annual profit and loss account will be charged to the general reserve. In case this reserve is insufficient to cover the loss completely, the remainder will be charged to the capital of the Bank.

3. The Bank is authorized to grant advances to the Country from the profit earned in the current financial year, on the understanding that:

- a. only two advances may be granted in any financial year;
- b. no advance may amount to more than 25 percent of the amount credited to the Country in the previous financial year pursuant to the second sentence of paragraph 1, or – if no advances were granted – not more than 25 percent of the profit earned in the previous financial year;
- c. no advance may amount to more than 50 percent of the profit earned up to the time of the request or – if an advance was already granted – 50 percent of the profit earned between the time of the first advance and the time of the second request;
- d. no advance will be granted if the capital of the Bank and the general reserve together amount to less than Afl. 20,000,000.

Section 34

The Bank's outgoing documents and records are exempt from stamp tax.

CHAPTER VI

Transitional and final provisions

Section 35  
(deleted)

Section 36

The staff employed by the Bank of the Netherlands Antilles, Aruba branch office, on December 31 1985 will be employed by the Central Bank of Aruba while retaining their positions, ranks, salary grades, allowances and any other facilities.

Section 37

In case at least 3 members have not yet been appointed to the Supervisory Board and the position of president or executive director becomes vacant, these officers will be appointed without the nomination list made by the Supervisory Board as required in Section 18, paragraph 1.

Section 38

The appointment of the first two members of the Supervisory Board, not being the Government Commissioner, will be made by the Governor based on a nomination of three

members for each position made by the Government Commissioner after consulting the president.

Section 39

This state ordinance may be cited as the Central Bank Ordinance.