

## Unofficial Translation<sup>1</sup>

### **State Ordinance Exchange Rate Margin Compensation Centrale Bank van Aruba**

**Title:** State Ordinance Exchange Rate Margin Compensation  
Centrale Bank van Aruba

**Source:** AB 2014 no. 57

#### §1. Definitions

##### Article 1

1. In this State Ordinance and all provisions made pursuant thereto, the following terms shall mean:

- Bank : the Centrale Bank van Aruba;
- foreign exchange bank : a credit institution that has been granted authorization by the Bank, as referred to in Article 12, second paragraph, of the Central Bank Ordinance ('SG' [*State Gazette*] 1991 No. GT 32);
- exchange rate margin compensation : the monthly net compensation referred to in Article 2, first paragraph;
- purchase transactions : all purchases of foreign currency by a foreign exchange bank from the public, both noncash and cash money;
- sales transactions : all sales of foreign currency by a foreign exchange bank to the public, both noncash and cash money;
- foreign exchange report : the monthly report to be submitted by a foreign exchange bank to the Bank pursuant to Article 8 of the State Ordinance on Foreign Exchange Transactions (SG 1990 No. GT 6), containing all payments to and receipts from abroad, both noncash and cash money, settled through it, for the compilation of the balance of payments.

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

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## §2. Exchange rate margin compensation

### Article 2

1. The foreign exchange banks shall owe the Bank an exchange rate margin compensation.
2. The exchange rate margin compensation shall be payable per calendar month.

### Article 3

1. The exchange rate margin compensation amounts to  $\frac{3}{8}$  percent of the equivalent in Aruban florin charged on the sales transactions, minus  $\frac{1}{8}$  percent of the equivalent in Aruban florin paid on the purchase transactions.
2. The percentages referred to in the first paragraph may be changed, after having consulted the Bank, by State Decree containing General Administrative Orders.

## §3. Payment and collection

### Article 4

1. The exchange rate margin compensation due shall be paid within 15 calendar days after the end of each calendar month based on a declaration.
2. The Bank shall determine the manner of making the declaration.
3. If a foreign exchange bank does not, or not timely, comply with the first paragraph, the Bank may determine the amount of the payable exchange rate margin compensation at its own initiative based on the foreign exchange report submitted for the month in question and charge same.
4. If the Bank finds inaccuracies in the declaration, referred to in the first paragraph, it may adjust it at its own initiative and recalculate the exchange rate margin compensation based on the foreign exchange report submitted for the month in question.
5. The Bank shall charge the exchange rate margin compensation that has been recalculated pursuant to the third and fourth paragraph to the foreign exchange bank by means of an assessment.

## §4. Special measures

### Article 5

1. Without prejudice to Article 4, third paragraph, the Bank may impose a penalty charge order on a foreign exchange bank of Afl. 1000.- for each day that this foreign exchange bank violates Article 4, first paragraph.

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2. The Bank shall impose the penalty charge order in writing, stating the violated provision.

3. Forfeited penalties shall accrue to the Bank.

4. 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 its obligations.

5. 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 6

1. If a forfeited penalty that has become due is not paid within the period set by the Bank, a demand in writing shall be made to the violator to pay the amount of the penalty, plus the costs 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 increased 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 (SG 2005 No. 34) 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, increased 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 of First Instance 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.

## §5. The supervision

## Article 7

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

2. The persons designated pursuant to the first paragraph shall report on the exercise of the powers, mentioned in the third paragraph,

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to the President of the Bank or to the executives within the Bank to be designated in writing by the President.

3. The employees of the Bank, designated pursuant to the first paragraph, shall be authorized, exclusively as far this is necessary in reason for the fulfillment of their tasks:

- a. to request all information;
- b. to demand inspection of all books, records and other data carriers and to make transcripts thereof or copies thereof;
- c. to enter all places, with the exception of houses without the specific authorization of the occupant.

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

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

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

#### §6. Penal provision

##### Article 8

1. Acting contrary to Articles 2, first paragraph, or 7, sixth paragraph shall be punished with imprisonment not exceeding one year or a fine not exceeding Afl. 250,000.-.

2. The offences referred to in the first paragraph are violations.

#### §7. Final provision

##### Article 9

1. This State Ordinance shall enter into force on a date to be determined by State Decree.

2. It can be cited as the State Ordinance Exchange Rate Margin Compensation Centrale Bank van Aruba.

3. No exchange rate margin compensation shall be payable in respect of transactions carried out by a foreign exchange bank before the date referred to in the first paragraph.