

Regulations for the prevention of money laundering and terrorist financing in the Bonaire, Sint Eustatius and Saba public bodies (Money laundering and terrorism financing (BES Islands) Act (Wet ter voorkoming van witwassen en financieren van terrorisme BES))

LEGISLATIVE PROPOSAL

We Beatrix, by the grace of God, Queen of the Netherlands, Princess of Oranje-Nassau, etc. etc. etc.

Greetings to all who shall see or hear these presents! Be it known:

Whereas We have considered that it is necessary to merge the Identification (Provision of Services) (BES Islands) Act (*Wet identificatie bij dienstverlening BES*), the Disclosure of Unusual Transactions (BES Islands) Act (*Wet melding ongebruikelijke transacties BES*) and the Cross-Border Currency Movement (BES Islands) Act (*Wet grensoverschrijdende geldtransporten BES*) into one Act addressing the prevention of the abuse of the financial system for money laundering and terrorist financing;

We, therefore, having heard the Advisory Division of the Council of State and after joint consultations with the States-General, have approved and decreed as We hereby approve and decree:

CHAPTER 1. GENERAL PROVISIONS

Section 1.1

1. This Act and the provisions based on the Act understand, unless specified otherwise, the following terms as:

- a. abroad: another country in the Kingdom or another state, as well as the European territory of the Netherlands;
- b. customer: the person with whom a business relationship is established or on whose behalf a transaction is carried out, including in the event of the conclusion, provision of intermediary services on the conclusion, or paying benefits pursuant to a life insurance contract as referred to in the Financial Markets (BES Islands) Act (*Wet financiële markten BES*), the person who pays the premium and the person whom receives the benefit;
- c. correspondent bank relationship: a permanent relationship between credit institutions in different countries or fulfilment of orders;
- d. service: a service specified in Annex A to this Act provided by a service provider in or from Bonaire, Sint Eustatius or Saba;
- e. service: any person performing a service in the course of their profession or business;
- f. identification: the statement of a person's identity;
- g. terrorist financing:
 - 1°. the deliberate acquisition or possession of objects with a monetary value for the purposes of committing an indictable offence as referred to in Section 84a of

the Criminal Code (BES Islands) (*Wetboek van Strafrecht BES*);

2°. the deliberate provision of objects with a monetary value for the purposes of committing an indictable offence as referred to in Section 84a of the Criminal Code (BES Islands) (*Wetboek van Strafrecht BES*);

3°. the provision of financial support, as well as the deliberate fundraising for an organisation of which the purpose is to an indictable offence as referred to in Section 84a of the Criminal Code (BES Islands) (*Wetboek van Strafrecht BES*).

h. *money*: domestic and foreign paper currency, coins and currency notes, as well as negotiable instruments payable to bearer;

i. report: a report as referred to in Section 3.5;

j. reporting centre: the reporting centre for the disclosure of unusual transactions as referred to in Section 3.1, first paragraph;

k. De Nederlandsche Bank: De Nederlandsche Bank N.V.;

l. unusual transaction a transaction deemed to be such pursuant to Section 3.4;

m. Our Minister: Our Minister of Finance;

n. public bodies: the Bonaire, Sint Eustatius and Saba public bodies;

o. prominent political persons: natural persons who, other than middle or lower civil servants, hold or have held a prominent public office as referred to in Section 1.2, first paragraph, with the exception of those who left office at least one year previously and the direct members of family or close associates of these persons as referred to in Section 1.2, second and third paragraphs;

p. supervisory authority:

1°. the administrative bodies designated jointly by a ministerial regulation issued by Our Minister and Our Minister Security and Justice, each to the extent that the body is entrusted by the ministerial regulation with the supervision of compliance with the provisions prescribed by or pursuant to this Act;

2°. Our Minister, to the extent that the administrative bodies referred to under a are not entrusted with the supervision of compliance with the provisions prescribed by or pursuant to this Act;

q. *supervisor*: a person entrusted pursuant to Section 5.4 with the supervision of compliance with the provisions stipulated by or pursuant to this Act;

transaction: an operation or combination of operations by or on behalf of a customer in connection with the procurement or provision of services.

r. ultimate beneficial owner: a natural person who:

1°. holds an interest of 25 percent or more in the equity interest or can exercise more than 25 percent of the voting rights at the shareholders' meeting of a legal person other than a foundation or can exercise actual control of this legal person in some other manner; or

2°. is a beneficiary of or has special control of 25 percent or more of the assets of a foundation or trust as referred to in the Convention on the Law Applicable to Trusts and on their Recognition (Treaty Series 1985, 141);

s. transit account: a bank account held at a credit institution with its registered offices in the public bodies by a foreign credit institution which can be credited or debited by a customer of the latter credit institution without the intervention of the credit institution with its registered offices in the public bodies;

t. trust: a trust within the meaning of the Convention on the Law Applicable to Trusts and their Recognition concluded at The Hague on 1 July 1985 (Treaty Series 1985, 141);

u. verification of identity: establishing that the stated identity corresponds with the actual identity;

v. business relationship: a business, professional or commercial relationship between a service provider and a natural person or legal person that is related to the service provider's professional activities and that is assumed to exist for a period of time at the time the contact is made.

2. This Act and the provisions based on the Act understand the terms "collective investment scheme", "securities exchange", "electronic money", "external

specialist", "financial enterprise", "qualified holding", "money transactions", "group", "credit institution", "life insurer", "life insurance", "trust services", "trust office", "insurer", "establishment" and "registered offices" in the same manner as the Financial Markets (BES Islands) Act (*Wet financiële markten BES*).

3. The annex referred to in the first paragraph, under d, may be amended by an Order in Council. This Order in Council enters into force four weeks after the publication of the Bulletin of Acts, Orders and Decrees in which the Order is announced. The House Representatives and Senate of the States-General receive prompt notification of the announcement.

4. An Order in Council as referred to in the third paragraph is adopted on the recommendation of Our Minister and Our Minister of Security and Justice.

Section 1.2

1. Prominent public offices, including offices at an international level, are deemed to be the offices of:

- a. heads of state, government leaders, ministers and state secretaries;
- b. members of parliament;
- c. members of supreme courts, constitutional courts and other higher judicial courts that render judgments against which no further appeal can be lodged other than in exceptional circumstances;
- d. members of courts of audit and of boards of central banks;
- e. ambassadors, *chargés d' affaires* and senior army officers;
- f. members of executive, management or supervisory bodies of public enterprises.

2. Direct members of family are deemed to be:

- a. the spouse;
- b. a partner who pursuant to national law is deemed to be equivalent to a spouse;
- c. the children and their spouses or partners;
- d. the parents.

3. Close associates are deemed to be:

- a. a natural person of whom it is known that this person and a person who holds or has held a prominent public office are the joint ultimate beneficial owners of a legal entity or juristic construction or maintain close business relationships;
- b. a natural person who is the sole beneficiary of a legal entity or juristic construction formed for the purposes of the actual benefit of a person who holds or has held a prominent public office.

Section 1.3

This Act is applicable to the Bonaire, Sint Eustatius and Saba public bodies.

Section 1.4

This Act is not applicable to the persons referred to in Annex 1, under n and o, to the extent that they carry out work for a customer relating to the determination of the customer's legal position, representation and defence in law, the provision of advice prior to, during or after a legal action, or the provision of advice on the institution or avoidance of legal action.

Section 1.5

1. Everyone subject to the application of this Act, or to decisions made pursuant to it, who carries out or who has carried out any duty, is forbidden to pass on or use in any other way any data or intelligence that was provided or

received under this Act, or that was received from any foreign supervisory body, or to make it more widely known or known in any other way other than for the exercise of their duties or as this Act provides.

2. In derogation from the first paragraph the supervisory board is authorised to provide any other supervisory body or foreign supervisory body with data or intelligence that was provided or received under this Act or received from any foreign supervisory body, unless:

- a. the purpose for which the data or intelligence will be used has not been made sufficiently specific;
- b. the intended use of the data or intelligence does not fit within the context of the supervision or legislation for the prevention of money laundering and the financing of terrorism;
- c. the provision of the data or intelligence is incompatible with the law or the public order of the public bodies;
- d. the secrecy of the data or intelligence has not been sufficiently guaranteed;
- e. the provision of the data or intelligence is reasonably speaking in conflict with or could come into conflict with the interests this Act seeks to protect;
- f. the data or intelligence being used for some purpose other than that for which it was provided is insufficiently guaranteed.

3. In as much as the data or intelligence referred to in the second paragraph is obtained from a foreign supervisory body, the supervisory board will not provide any other supervisory body or any foreign supervisory body with the data or intelligence unless the foreign supervisory body from which the data or intelligence has been received has specifically agreed with the provision of the data and intelligence and in such a case has agreed with it being used for a purpose other than that for which the data or intelligence was provided.

4. If a foreign supervisory body applies to the supervisory board that has provided the data or intelligence based on the second or third paragraph, to have the data or intelligence used for some other purpose than that for which it has been provided, the supervisory board will only agree to this:

- a. if the intended use is not in conflict with the second or third paragraph;
- or
- b. in as much as the supervisory body in some other way than this Act provides for can obtain from within the Netherlands with due regard for the current statutory procedures for said other purpose free use of said data or intelligence;
- and
- c. after consulting Our Minister of Security and Justice if the application referred to in the preamble concerns an investigation into criminal acts.

5. Should the supervisory authority discover facts that could be indicative of money laundering or terrorist financing during the performance of its duties then, in derogation of the provisions of the first paragraph and of any other applicable statutory confidentiality provisions, the supervisory authority notifies the reporting centre.

6. Our Minister may grant dispensation from the prohibition laid down in the first paragraph to officers who, pursuant to the Customs and Excise Duty (BES Islands) Act (*Douane- en Accijnswet BES*) or Section 5.4, second paragraph, are entrusted with supervision of compliance with the provisions of Chapter 4.

7. Our Minister of Security and Justice may grant dispensation from the prohibition laid down in the first paragraph to officers authorised to inspect passports.

Section 1.6

1. A service provider which is a financial enterprise other than a money transaction office or trust office and has a branch or subsidiary abroad ensures that the branch or the subsidiary carries out customer due diligence that is

equivalent to the due diligence regulated in Section 2.2 and keeps and retains records in a manner that is equivalent to the manner regulated pursuant to Section 2.13.

2. When the application of the provisions of the first paragraph is not permitted by the law of the relevant foreign country then the service provider notifies the supervisory authority and implements measures to prevent the risk of money laundering and terrorist financing.

Section 1.7

The legal validity of a private-law legal act carried out by a service provider in conflict with the provisions prescribed by or pursuant to this Act is not impaired by reason of that conflict.

Article 1.8

1. To prevent money laundering and the financing of terrorism a service provider will carry out customer due diligence and report unusual transactions that have been or are intended to be carried out in accordance with the regulations under or pursuant to chapters 2 and 3. In doing so service providers will pay particular attention to unusual transaction patterns and to transactions that by their nature imply a greater risk of money laundering or financing of terrorism.

2. Service providers will take adequate measures to prevent the risk of money laundering and the financing of terrorism that could come about because of the use of new technologies in economic dealings.

CHAPTER 2. CUSTOMER DUE DILIGENCE

§ 1. Customer due diligence

Section 2.1

This Chapter and the provisions based on the Chapter understand object company as a legal person or company that is provided services by a trust office.

Section 2.2

1. A service provider carries out customer due diligence to prevent money laundering and terrorist financing.

2. The customer due diligence enables the service provider to:
- a. establish and verify the identity of the customer;
 - b. where applicable, to establish the identity of the ultimate beneficial owner and implement adequate measures to verify the identity of the ultimate beneficial owner and, when a legal person or trust is concerned as referred to in the Convention on the Law Applicable to Trusts and their Recognition concluded at The Hague on 1 July 1985 (Treaty Series 1985, 141), to implement risk-based and adequate measures to obtain an insight into the customer's ownership and control structure;
 - c. establish the objective and intended nature of the business relationship;
 - d. carry out, to the maximum possible extent, continual control of the business relationship and the transactions to be carried out during the period of the relationship to provide assurances that these are in agreement with the service provider's knowledge of the customer and the customer's risk profile, as the occasion arises with an investigation of the source of the assets;
 - e. identify and verify the identity of the natural person the customer

represents;

f. take risk-based and adequate measures to verify that the customer is acting on his own behalf or on that of a third party.

3. An Order in Council may determine that categories of service providers designated by the Order can adjust the customer due diligence to the risk sensitivity of the type of customer, business relationship, product or transaction to money laundering or terrorist financing.

4. A ministerial regulation issued by Our Minister and Our Minister of Security and Justice can grant exemption from the provisions of the first and second paragraph.

5. The supervisory authority may, on request, grant full or partial dispensation for a definite or indefinite period of time from the provisions of the first and second paragraph.

6. Limits can be imposed on and regulations attached to an exemption and dispensation.

Section 2.3

1. A service provider performs customer diligence in the following instances:

a. when the service provider enters into a business relationship in or from a public body;

b. when the service provider carries out a one-off transaction for the customer in excess of an amount determined by a ministerial regulation issued by Our Minister and which may differ between the various categories of services that can be distinguished;

c. when there are indications that the customer is involved in money laundering or terrorist financing;

d. when the service provider has doubts about the reliability of the information received earlier from the customer; or

e. when the risk of an existing customer's involvement in money laundering or terrorist financing gives cause to do so.

2. The service provider shall ensure that the information about the customer's identity is correct. The service provider is under the obligation to amend the information about the customer's identity when it becomes clear that the information is no longer correct.

Section 2.4

1. A service provider complies with provisions of Section 2.2, second paragraph, under a and b, before entering into the business relationship or carrying out a one-off transaction as referred to in Section 2.3, first paragraph, under b.

2. A service provider is prohibited from entering into a business relationship with or carrying out a transaction for a customer when the service provider has not performed customer due diligence as referred to in Section 2.2 or when the customer due diligence has not yielded the result referred to in Section 2.2, preamble and under a, b c, e and f.

3. The service provider terminates an existing business relationship with the customer when the service provider cannot comply with the provisions of Section 2.2, first and second paragraph, preamble and under a, b, c, e and f.

Section 2.5

1. A service provider draws up a risk profile for each customer with whom it maintains a business relationship. The service provider carries out continual control of the business relationship and the transactions to be carried out during the period of the relationship to provide assurances that these are in agreement

with the service provider's knowledge of the customer and the customer's risk profile, as the occasion arises with an investigation of the source of the assets.

2. Further regulations governing the preparation of the risk profile and the performance of the control can be prescribed by or pursuant to an Order in Council.

Section 2.6

Section 2.4, second paragraph, is not applicable to a customer who is introduced to a service provider when:

a. the customer has been indentified and the identity has already been verified pursuant to Section 2.2 or in a manner equivalent to that Section by:

1°. a lawyer, civil-law notary or junior civil-law notary established in Bonaire, Sint Eustatius or Saba;

2°. a collective investment scheme, life insurer, broker in life insurance, credit institution or money transaction office that has been issued a licence pursuant to the Financial Markets (BES Islands) Act (*Wet financiële markten BES*);

3°. an enterprise or institution classified in a category to be designated by an Order in Council;

b. the service provider to whom the customer has been introduced has the identification and verification information and the other information and documents relating to the identity of the customer and, where relevant, the ultimate beneficial owner.

Section 2.7

1. In derogation from the provisions of Section 2.4, first and second paragraphs, a service provider is permitted to verify the identity of the customer and, where applicable, the identity of the ultimate beneficial owner while entering into the business relationship when this is necessary to avoid the disruption of the provision of service and the risk of money laundering and terrorist financing is low. The service provider shall then verify the identity as soon as possible after the first contact with the customer.

2. In derogation from the provisions of Section 2.4, first and second paragraphs, a life insurer is permitted to verify the identity of the beneficiary of a policy and to verify the identity after entering into the business relationship. The identification and verification of the identity then takes place at or before the time of the payment of the benefit or at or before the time at which the beneficiary wishes to exercise the rights arising from the policy.

3. In derogation from the provisions of Section 2.4, first and second paragraphs, a credit institution is permitted to open an account before the customer's identity has been verified when the credit institution ensures that the account cannot be used until the verification has taken place.

§ 2. Simplified customer due diligence

Section 2.8

1. Section 2.2, first paragraph, Section 2.3, first paragraph, preamble and under a, b and d, and second paragraph, and Section 2.4, first paragraph, are not applicable to business relationships or transactions relating to:

a. life insurance policies with an annual premium due of USD 1,400 or less or a single premium due of USD 2,800 or less;

b. products relating to a pension as referred to in Section 1 of the Pension (BES Islands) Act (*Pensioenwet BES*).

2. A service provider collects sufficient information to determine whether the

first paragraph is applicable to a product.

3. An Order in Council may designate products or transactions to which the first paragraph is applicable *mutatis mutandis*.

Section 2.9

1. Section 2.2, first paragraph, Section 2.3, first paragraph, preamble and under a, b and d, and second paragraph, and Section 2.4, first paragraph, are not applicable to the following customers:

a. collective investment schemes, life insurers, brokers in life insurance, credit institutions or money transaction offices that have been issued a licence pursuant to the Financial Markets (BES Islands) Act (*Wet financiële markten BES*);

b. enterprises and institutions as referred to under a that have not been issued a licence pursuant to the Financial Markets (BES Islands) Act (*Wet financiële markten BES*) which are established or have their registered offices in a country to be designated by a ministerial regulation issued by Our Minister.

c. government agencies in the public bodies or the European territory of the Netherlands;

d. legal persons who have issued securities admitted to trading on a securities exchange that is a member of the World Federation of Exchanges and have their registered offices in a country to be designated by a ministerial regulation issued by Our Minister.

2. A service provider collects sufficient information to determine whether the customer is a customer as referred to in the first paragraph.

3. An Order in Council may designate categories of enterprises or institutions to which the first paragraph is applicable *mutatis mutandis*.

§ 3. Enhanced customer due diligence

Section 2.10

1. To supplement customer due diligence as referred to in Article 2.2, first paragraph, service providers should carry out further investigations when and to the extent that a business relationship or transaction by its nature or in connection with the state where the customer is living or is domiciled or has his headquarters implies a greater risk of money laundering or financing of terrorism. A ministerial regulation may designate categories of business relationships and transactions that are of a nature such that they are accompanied by an increased risk of money laundering or terrorist financing.

2. Without prejudice to the provisions of the first paragraph, a service provider implements measures to compensate for the increased risk accompanying a customer who is not physically present for verification of his identification. The service provider can comply with the provisions of the preceding sentence by:

a. verifying the customer's identity on the basis of supplementary documents, data or information;

b. verifying the authenticity of the documents submitted; or

c. ensuring that the first payment made in connection with the business relationship or transaction is transferred to or from an account the customer has with a credit institution which has its registered offices in a state designated by a ministerial order issued by Our Minister and which has been issued a licence to conduct its business in that state.

3. A service provider ensures that it has implemented risk-based procedures to determine whether the customer is a prominent political person who is not a resident of a public body. Without prejudice to the provisions of the first paragraph, a service provider that enters into a business relationship with or carries out a transaction for a prominent political person who not is a resident of a

public body also ensures that:

- a. the decision to enter into the relationship or carry out the transaction is made or approved by persons the service provider has authorised for that purpose;
- b. the service provider has implemented adequate measures to establish the source of the assets used in the business relationship or transaction;
- c. the service provider exercises continual control over the business relationship.

Section 2.11

Without prejudice to the provisions of Section 2.10, first paragraph, a credit institution that enters or has entered into a correspondent bank relationship ensures that:

- a. it collects sufficient information about the relevant credit institution to obtain a full insight into the nature of the credit institution's operations and uses information available to the public to assess the reputation of the credit institution and the quality of the supervision of the credit institution;
- b. it assesses the procedures and measures the relevant credit institution has implemented to prevent money laundering and terrorist financing by the relevant credit institution;
- c. the decision to enter into a new correspondent bank relationship is made or approved by persons the credit institution has authorised for that purpose;
- d. the responsibilities of both credit institutions are laid down in writing;
- e. the relevant credit institution has identified the customer and verified the customer's identity, exercises continual control over the customers who have direct access to transit accounts and is able to issue the relevant customer information when it so requests.

§ 4. Documents for the verification of the identity and the retention of documentary proof

Section 2.12

1. The identity of a natural person, a legal person incorporated under the law of the public bodies or a foreign legal person established in the public bodies is verified on the basis of documents, data or information from a reliable and independent source.

2. The identity of a customer that is a foreign legal person which is not established in the public bodies is verified on the basis of reliable documents, data or information which are customary in international commerce and which have been recognised as valid means of identification by the state from which the customer originates.

3. A ministerial regulation issued by Our Minister may designate documents, data or information that provide for compliance with the provisions of the first or second paragraph. This ministerial regulation may also prescribe regulations governing the verification of the identity of customers or ultimate beneficial owners that do not fall within the scope of the first or second paragraph.

Section 2.13

1. A service provider that has performed the customer due diligence referred to in Section 2.2, first paragraph, keeps records of the information referred to in Annex B to this Act in an accessible manner.

2. A service provider retains the information referred to in the first paragraph in

an accessible manner for five years after the termination of the business relationship or after the completion of the relevant transaction.

3. The annex referred to in the first paragraph, under d, may be amended by an Order in Council. This Order in Council enters into force four weeks after the publication of the Bulletin of Acts, Orders and Decrees in which the Order is announced. The House Representatives and Senate of the States-General receive prompt notification of the announcement.

4. An Order in Council as referred to in the third paragraph is adopted on the nomination of Our Minister and Our Minister of Security and Justice.

§ 5. Provisions governing trust offices

Section 2.14

1. A trust office identifies the ultimate beneficial owner of an object company and implements adequate measures to verify the identity.

2. The trust office possesses information that was used to determine the identity of the party qualifying as the ultimate beneficial owner and to verify the identity of the ultimate beneficial owner. When an object company does not have an ultimate beneficial owner then the trust offices has information that was used to determine this.

3. The trust office does not provide any trust services until it has complied with the provisions of the first or second paragraph.

Section 2.15

1. A trust office providing a trust service to an object company has knowledge of the origin of the object company's assets and keeps records of the investigation of the origin of the assets.

2. A trust office has information used to determine the origin and destination of the object company's funds and assesses whether integrity risks are attached to these.

Section 2.16

A trust office has knowledge of the relevant parts of the organisation of the group of which the object company is a member and has information revealing these relevant parts and the objective of the organisation.

Section 2.17

A trust office:

a. has implemented a risk-based policy to determine whether the ultimate beneficial owner is a prominent political person who is not a resident in a public body;

b. entrusts making or approving the decision to enter into a relationship with a prominent political person to persons the trust office has authorised for that purpose;

c. implements adequate measures to establish the source of the assets used in the business relationship;

d. exercises continual control over the business relationship.

Section 2.18

1. A trust office that acts as the trustee of a trust knows the identity of the grantor of the trust and of the ultimate beneficial owner of the trust and has

information that was used to determine the names of the grantor and the natural person who qualifies as the ultimate beneficial owner of the trust. The trust office also has information that was used to determine the identity of the grantor and the ultimate beneficial owner of the trust.

2. When there is no ultimate beneficial owner then the trust offices has information that was used to determine this.

3. A trust office that provides the service referred to in the first paragraph has knowledge of the origin of the assets of the grantor of the trust and keeps records of the investigation of the origin of the assets.

Article 2.19

A trust office shall keep the data referred to in this paragraph accessible for a period of five years after the point at which the business relationship ended or till five years after the transaction concerned was completed.

CHAPTER 3. DISCLOSURE OF UNUSUAL TRANSACTIONS

§ 1. The reporting centre

Section 3.1

1. A reporting centre for the disclosure of unusual transactions committee has been established.

2. The general management, organisation and administration of the reporting centre is entrusted to Our Minister of Security and Justice.

3. The head of the reporting centre is appointed, suspended and dismissed by Royal Decree on the recommendation of Our Minister of Security and Justice in agreement with Our Minister.

4. Our Minister of Security and Justice, in agreement with Our Minister, sets the budget for the reporting centre.

Section 3.2

The reporting centre's duties in connection with the prevention and detection of money laundering and terrorist financing are to:

a. collect, record, process and analyse the information it receives to review whether the information can be of importance to the prevention or detection of indictable offences;

b. issue personal data and other information in accordance with this Act and the regulations prescribed by or pursuant to the Police Data Act (*Wet politiegegevens*);

c. inform the service provider that made a disclosure pursuant to Section 3.5 of the processing of the disclosure;

d. carry out studies of developments in money laundering or terrorist financing and of improvements of the methods to prevent and detect money laundering or terrorist financing;

e. issue recommendations to the business sectors for the introduction of suitable procedures for internal control and communication and the implementation of other measures to prevent the use of those business sectors for the purposes of money laundering or terrorist financing;

f. provide information about the prevention and detection of money laundering and terrorist financing to:

1°. the business sectors and professional groups;

2°. the supervisory authorities;

- 3°. the Public Prosecution Service and other officers entrusted with the investigation of offences;
- 4°. the public;
- g. provide information on the service providers' disclosure conduct to the supervisory authorities;
- h. maintain contacts with foreign government-appointed bodies with duties comparable to those of the reporting centre;
- i. publish an annual account on the performance of its duties, its activities in the preceding year and its intentions for the coming year. This report is submitted to Our Minister of Security and Justice and brought to the notice of Our Minister.

Section 3.3

1. The reporting centre may process personal data for the purposes of the duties referred to in Section 3.2.
2. Regulations governing the categories of persons whose data are to be processed by the reporting centre, the provision of information, the retention and destruction of information and the protocol requirements are prescribed by an Order in Council.
3. Articles 1, 2, 3, first and third paragraphs, 4, 5, 6, 7, 15, 17, 22 and 23, 25 to 30 inclusive, 33, 36d, first paragraph, 36e, third paragraph, and 36f of the Police Data Act (*Wet politiegegevens*) are applicable *mutatis mutandis* to the reporting centre's processing of personal data, subject to the understanding that our Minister of Justice deems the reporting centre to be the responsible organisation within the meaning of Section 1, under f.
4. A ministerial regulation issued by Our Minister of Security and Justice may prescribe further regulations governing the submission and processing of requests for the issue of information, whereby the ministerial regulation may also stipulate that the request shall be dealt with through the intervention of a person to be designated by the ministerial regulation.

§ 2. Obligation to disclose unusual transactions

Section 3.4

A ministerial regulation issued by Our Minister stipulates indicators, as required by category of transactions specified in the ministerial regulation, to be used to assess whether a transaction should be deemed to be an unusual transaction.

Section 3.5

1. A service provider discloses an unusual transaction that has been or is to be carried out to the reporting centre promptly once the unusual nature of the transaction becomes known.
2. When making a disclosure as referred to in the first paragraph the service provider submits the following information:
 - a. the identity of the customer and, when possible, the identity of the party for whom the transaction is being carried out;
 - b. the nature and number of the customer's proof of identity;
 - c. the nature, time and place of the transaction;
 - d. the amount, destination and origin of the funds, securities, precious metals or other valuables involved in the transactions;
 - e. the circumstances that gave cause to the transaction being deemed to be an unusual transaction;
 - f. a specification of goods of high value involved in the transaction;
 - g. supplementary information to be stipulated by an Order in Council.

3. A service provider retains the information referred to in the second paragraph for five years after the date of the disclosure and in an accessible manner.

4. The duty to report as referred to in the first paragraph applies equally where customer due diligence as referred to in Article 2.2, first paragraph, does not bring about the result referred to in Article 2.2, parts a, b, c, e and f, or a business relationship ends pursuant to Article 2.4, third paragraph, and there are simultaneous indications that the customer concerned is involved in money laundering or financing terrorism. Under the first paragraph, if any such transaction is reported, in addition to the data referred to in the second paragraph the service provider concerned should provide a description of the reasons why the customer due diligence did not lead to the result referred to in Article 2.4, second paragraph, or the reasons why the requirements referred to in Article 2.4, third paragraph, could not be met.

Section 3.6

1. The reporting centre may request further data or information from the service provider that made a disclosure and from the service provider involved in a transaction to assess whether the collected information needs to be issued pursuant to its duties as referred to in Section 3.2, under b.

2. The service provider requested to submit data or information pursuant to the first paragraph submits the data and information in writing or, in urgent situations, verbally to the reporting centre within a period stipulated by the reporting centre.

Section 3.7

The reporting centre determines the manner in which a disclosure is to be made and whether the data and information as referred to in Section 3.6, first paragraph, are to be submitted.

§ 3. Indemnification

Section 3.8

1. Data or information issued pursuant to sections 3.5 or 3.6 cannot serve as the basis of or for the purposes of a criminal investigation or prosecution on the suspicion of money laundering or terrorist financing by, or serve as evidence for the indictment of the service provider who submitted the data or information for that offence.

2. Data or information issued with the reasonable presumption that the obligations pursuant to sections 3.5 or 3.6, second paragraph, were fulfilled cannot serve as the basis of or for the purposes of a criminal investigation or prosecution on the suspicion of an offence under Section 285 of the Criminal Code (BES Islands) (*Wetboek van Strafrecht BES*), or serve as evidence for an indictment of the service provider who submitted the data or information for that offence.

3. The first and second paragraphs likewise apply to persons who are directors of or working for a service provider that has provided data or intelligence as described in the first or second paragraphs and who have cooperated in doing so.

Section 3.9

The service provider that makes a disclosure pursuant to Section 3:5 is not liable for the resultant loss incurred by a third party unless a plausible case is

made that in view of all the facts and circumstances the disclosure should not, in reasonableness, have been made.

§ 4. Confidentiality

Section 3.10

1. A service provider that has made a disclosure pursuant to Section 3.5 or submitted further information pursuant to Section 3.6 is under the obligation to maintain confidentiality about the disclosure or submission and to the fact that this disclosure or submission could give cause to further investigation other than to the extent that the need for notification arises from this Act.

2. The service provider that receives data or information pursuant to Article 3.2, under c, is under the obligation to treat the data or information as confidential.

Section 3.11

1. In derogation from the provisions of Section 3.10, a service provider may give notification to:

a. service providers that belong to the same group and have at least complied with the obligation to perform the simplified customer due diligence referred to in sections 2.8 and 2.9;

b. service providers established or with their registered offices in a public body or a state designated by a ministerial regulation issued by Our Minister, which carry out their work – whether or not as an employee – within the same legal person or network;

c. a lawyer, civil-law notary, junior civil-law notary, accountant or financial enterprise established or with registered offices in a public body, provided that the notification relates to the same customer and the same transaction and the notification is intended solely for the prevention of money laundering and terrorist financing;

d. a lawyer, civil-law notary, junior civil-law notary, accountant or financial enterprise established or with the registered offices abroad that imposes requirements equivalent to those imposed in this Act and is subjected to equivalent obligations for professional confidentiality and personal data protection, and belongs to the same professional category, provided that the notification relates to the same customer and the same transaction and the notification is intended solely for the prevention of money laundering and terrorist financing.

2. For the purpose of the application of this Section a network is understood as the larger structure to which the person belongs and jointly shares the ownership, management or supervision of compliance with the obligations.

§ 5. Training

Section 3.12

A service provider ensures that its employees are cognisant of the provisions of this Act to the extent necessary for the performance of their duties and have receive the periodic training required to enable them to recognise unusual transactions.

§ 6. Reporting obligation pursuant to the Sanctions Act

Section 3.13

1. A service provider that is a financial enterprise which establishes that the identity of a relationship corresponds to a natural person, legal person or entity as referred to in the Sanctions Act, 1977 (*Sanctiewet 1977*) and the regulations and decisions relating to financial transactions issues prompt notification of the situation to De Nederlandsche Bank. When making this notification the service provider also submits information about the identity of the relationship.

2. De Nederlandsche Bank determines the manner in which a notification as referred to in the first paragraph is to be issued.

3. The service provider retains the notifications referred to in the first paragraph and information about the accounts of and transactions by the relationships to which the notifications relate for a period of five years until the regulation stating the name of the relevant natural person, legal person or entity is no longer in force or has become inoperative.

4. A service provider as referred to in the first paragraph makes information about the implementation of this Section available to De Nederlandsche Bank when so requested.

5. For the application of this Section a relationship is understood as every person involved in a financial service or financial transaction.

CHAPTER 4. CROSS-BORDER CURRENCY MOVEMENTS

Section 4.1

This Chapter and the provisions based on the Chapter shall, unless otherwise stated, understand the following terms as:

disclosure: a disclosure as referred to in Section 4.2;

discloser: the person who makes or made the disclosure;

customs officer: an officer as referred to in Section 1:1, under f, of the Customs and Excise Duty (BES Islands) Act (*Douane- en Accijnswet BES*);

customs inspector: an inspector as referred to in Section 1:1, under h, of the Customs and Excise Duty (BES Islands) Act (*Douane- en Accijnswet BES*);

Section 4.2

1. Persons entering or leaving a public body are under the obligation to disclose money of a value of USD 10,000 or more that they are carrying with them to the customs officers. The provisions of the first sentence are also applicable to persons entering or leaving who are demonstrably travelling together and are jointly carrying money of a value of USD 10,000 or more.

2. The disclosure is made by submitting a fully completed and signed declaration in accordance with a model to be specified by Our Minister. In the case referred to in the first paragraph, second sentence, the obligations imposed by or pursuant to the Act rest on each of the individuals as referred to in the first paragraph, second sentence.

3. When a money transport is carried out by a professional carrier who is not placed in a position to make the disclosure as referred to in the first paragraph then the sender of the money shall make the disclosure to the customs inspector by no later than the time that the money actually enters or leaves.

4. Persons who are entering make the disclosure by no later than the time at which the customs officer can proceed to the inspection of the baggage brought by travellers. When the competent authority establishes an inspection zone for the inspection of baggage then the disclosure shall be made before entering the inspection zone. When no customs officer is present then the disclosure must be made to the nearest customs officer immediately after passing through the zone.

5. Persons who are leaving make the disclosure by no later than the time at which a competent officer proceeds to the inspection of the passport or, when no passport inspections take place, by no later than the time that the customs officer proceeds to the inspection of the baggage brought by the travellers. When no customs officer is present then the disclosure must be made to the nearest customs officer before passing through the zone.

6. When no customs officers are present in the relevant public body then the disclosure must be made to the officers entrusted with passport inspections.

7. A ministerial regulation issued by Our Minister may grant exemption from the provisions of the first to third paragraph inclusive to professional carriers, as required subject to supplementary regulations.

Section 4.3

The disclosure must be accompanied by the submission of correct information on:

- a. the identity and domicile of the discloser and the owner of the money;
- b. the amount, origin and destination of the money;
- c. the reason for the selected means of transport of the money.

Section 4.4

1. The registration centre administers the information received pursuant to Section 4.2.

2. The customs inspector submits the following promptly to the reporting centre:

- a. the disclosures referred to in Section 4.2;
- b. copies of the official reports of the seizure of money.

Section 4.5

Regulations governing the disclosure of currency movements carried by means other than provided for in this Act may be prescribed by or pursuant to an Order in Council.

CHAPTER 5. ENFORCEMENT

§ 1. Introductory provisions

Section 5.1

In this Chapter the following terms have the following meanings:

instruction: obligation imposed by the supervisory authority to following a certain line of conduct relating to the issues specified in an instruction notice within a period specified by the authority;

punitive sanction: an administrative sanction, to the extent that this is intended to add the punishment of the offender;

administrative penalty: a punitive sanction resulting in the unconditional obligation to pay a sum of money;

administrative sanction: an obligation other than an instruction imposed by the supervisory authority due to an offence;

restorative sanction: administrative sanction with the objective of the entire or partial undoing or termination of an offence, the prevention of a recurrence of the offence, or the elimination or limitation of the consequences of an offence;

order on pain of a penalty payment: a restorative sanction entailing:
1°. an order to rectify the offence either in whole or in part, and
2°. the obligation to pay a sum of money if the order is not complied with or not complied with in time;
offender: the person who perpetrates or co-perpetrates an offence;
offence: conduct contrary to the provisions prescribed by or pursuant to this Act.

Section 5.2

Offences can be perpetrated by both natural persons and legal persons. Section 53, second and third paragraph, of the Criminal Code (BES islands) (*Wetboek van Strafrecht BES*) is applicable *mutatis mutandis*.

Section 5.3

1. The supervisory authority does not impose an administrative sanction when there are grounds for the justification of the offence.
2. An administrative penalty can be imposed for each of two or more infringements of the regulations.

§ 2. Supervision of compliance

Section 5.4

1. The supervision of compliance with the provisions stipulated by or pursuant to this chapters 1 to 3 inclusive is entrusted to supervisors designated by a decision of the supervisory authority to that effect.
2. A ministerial regulation issued by Our Minister can designate persons, alongside the persons designated by or pursuant to the Customs and Excise Duty (BES Islands) Act (*Douane- en Accijnswet BES*), who are entrusted with the supervision of compliance with the regulations prescribed by or pursuant to Chapter 4.
3. A ministerial order as referred to in the first or second paragraph is announced by publication in the Netherlands Government Gazette.
4. A ministerial regulation prescribed by Our Minister can prescribe further regulations governing the manner in which supervisors perform their duties.

Section 5.5

1. A supervisor possesses the powers referred to in sections 7:7 to 7:10 inclusive of the Financial Markets (BES Islands) Act (*Wet financiële markten BES*).
2. The customs officers are also authorised to take money into custody in the event that the discloser does not immediately furnish the information referred to in Section 4.3 or in the event that they have reasonable doubts about the accuracy of the information submitted by the discloser.
3. Sections 7:5 and 7:6 of the Financial Markets (BES Islands) Act (*Wet financiële markten BES*) are applicable *mutatis mutandis*.

Section 5.6

1. The customs officers shall immediately draw up an official report of any such custodianship of money as referred to in Section 5.5, second paragraph. The custodianship can extend to a maximum of seven days. This period can be extended once by the officer's commanding officer for a maximum of seven days. On the lapse of this period the money shall be returned to the discloser

immediately, unless it is seized.

2. Regulations governing the official report and the storage, transfer and management of the money can be prescribed by an Order in Council.

Section 5.7

1. All persons are under the obligation to cooperate fully with a supervisor in providing the assistance the supervisor can reasonably request in exercising the supervisor's powers.

2. Persons with a privilege pursuant to their office, profession or the statutory regulations can refuse to cooperate to the extent that this arises from their obligation to maintain confidentiality.

Section 5.8

The supervisory authority can conduct the supervision relating to the services referred to in Annex A, part I, under k to o inclusive, in a risk-oriented manner.

§ 3. Instructions and administrative sanctions

Section 5.9

1. The supervisory authority can issue an instruction to a service provider that does not comply with the regulations prescribed by or pursuant to chapters 1 to 3 inclusive of this Act.

2. The decision to issue an instruction is accompanied by the reasons and is issued in writing to the party to whom the instruction is addressed.

Section 5.10

1. The supervisory authority can impose an order on pain of a penalty payment for violations of the provisions of sections 1.6, 2.2, first, second and sixth paragraphs, 2.3, first paragraph, 2.4, first and second paragraphs, 2.7, first paragraph, second sentence, 2.7, second paragraph, second sentence, 2.7, third paragraph, 2.8, second paragraph, 2.9, second paragraph, 2.10 to 2.19 inclusive, 3.5, 3.6, second paragraph, 3.10 and 3.13 of this Act, or for failure to comply in full with an instruction issued pursuant to Sections 5:9 or failure to comply with the instruction in time.

2. An order on pain of a penalty payment may be imposed once the threat of the violation becomes clear.

3. The supervisory authority does not impose an order on pain of a penalty payment for an offence while the imposition of another order on pain of a penalty payment for the same offence is still in effect.

4. Further regulations governing the exercising of the power referred to in the first paragraph may be prescribed by or pursuant to an Order in Council.

5. Sections 7:22 to 7:29 inclusive of the Financial Markets (BES Islands) Act (*Wet financiële markten BES*) are applicable *mutatis mutandis*.

Section 5.11

1. The supervisory authority can impose an administrative penalty for violations of the provisions of sections 1.6, 2.2, first, second and sixth paragraphs, 2.3, first paragraph, 2.4, first and second paragraphs, 2.7, first paragraph, second sentence, 2.7, second paragraph, second sentence, 2.7, third paragraph, 2.8, second paragraph, 2.9, second paragraph, 2.10 to 2.19 inclusive, 3.5, 3.6, second

paragraph, 3.10 and 3.13 of this Act, or for failure to comply in full with an instruction issued pursuant to Sections 5:9 or failure to comply with the instruction in time.

2. Regulations governing the exercising of the power referred to in the first paragraph may be prescribed by or pursuant to an Order in Council.

3. Sections 7:32 to 7:38 inclusive of the Financial Markets (BES Islands) Act (*Wet financiële markten BES*) are applicable *mutatis mutandis*.

Section 5.12

1. The amount of the administrative penalty is prescribed by an Order in Council. The administrative penalty for a separate offence is a maximum of USD 250,000 or, when an administrative penalty for the same offence has been imposed on the offender within the past five years, the administrative penalty for a separate offence is a maximum of a maximum of USD 500,000.

2. The Order in Council referred to in the first paragraph prescribes the amount of the administrative penalty to be imposed for each of the offences specified in the Order. The offences may be classified into categories by the seriousness of the offence and are accompanied by the associated base amounts, minimum amounts and maximum amounts.

3. In derogation from the provisions of the first paragraph, the supervisory authority may, when the gain from the offence accruing to the offender amounts more than half of the maximum administrative penalty that may be imposed for the offence pursuant to the Order in Council referred to in the first paragraph, set the amount of the administrative penalty at a maximum of double the gain accruing to the offender from the offence.

4. Section 1, second paragraph, of the Criminal Code (BES islands) (*Wetboek van Strafrecht BES*) is applicable *mutatis mutandis*.

Section 5.13

Sums of money to be paid pursuant to an obligation imposed by an administrative sanction accrue to the administrative body that imposed the sanction.

Section 5.14

1. Forfeited penalty payments or administrative penalties are paid at an office designated by the supervisory authority or by transfer to a bank account designated by the supervisory authority for that purpose.

2. Payments are made in the public bodies' legal tender unless the supervisory authority determined otherwise.

3. The payment is made at the time of the payment at the office or, in the event of a transfer, the time at which the supervisory authority's bank account is credited with the amount.

4. The debtor bears the costs incurred in making the payment.

5. Section 7:41 of the Criminal Code (BES islands) (*Wetboek van Strafrecht BES*) is applicable *mutatis mutandis*.

Section 5.15

1. The power to collect a forfeited penalty payment lapses one year after the date on which the penalty payment was forfeited.

2. The legal claim to the payment of a sum of money arising from an administrative payment lapses five years after the expiry of the prescribed period for payment.

3. Sections 7:43 to 07:45 inclusive of the Financial Markets (BES Islands) Act (*Wet financiële markten BES*) are applicable *mutatis mutandis*.

CHAPTER 6. PENAL PROVISIONS

Section 6.1

1. Violations of sections 1.6, 2.2, first paragraph, 2.4, first paragraph, 2.4, second paragraph, 2.10, 2.11, 2.13 to 2.19 inclusive, 3.5, 3.6, second paragraph, 3.5, third paragraph, 3.10, 3.13, 4.2, and 5.7, first paragraph, are, to the extent that they are committed with intent, punished with detention for a maximum of two years or a fine of the fourth category.

2. Violations of sections 1.6, 2.2, first paragraph, 2.4, first paragraph, 2.4, second paragraph, 2:10, 2.11, 2.13 to 2.19 inclusive, 3.5, 3.6, second paragraph, 3.5, third paragraph, 3.10, 3.13, 4.2, and 5.7, first paragraph, are, to the extent that they are not committed with intent, punished with detention for a maximum of six months or a fine of the fourth category.

3. The punishable offences referred to in the first paragraph are indictable offences. The punishable offences referred to in the second paragraph are summary offences.

Section 6.2

1. The investigation of offences punishable under Section 6.1 is entrusted, alongside the officers referred to in Article 184 of the Code of Criminal Procedure (BES Islands) (*Wetboek van Strafvordering BES*), to the officers designated by a order issued by Our Minister of Security and Justice in agreement with Our Minister.

2. An order as referred to in the first paragraph is announced by publication in the Netherlands Government Gazette.

CHAPTER 7. TRANSITIONAL AND FINAL PROVISIONS

§ 1. Transitional provisions

Section 7.1

Once this Act enters into force a dispensation granted pursuant to Section 2, fifth paragraph, of the Identification (Provision of Services) (BES Islands) Act (*Wet identificatie bij dienstverlening BES*) is founded on Section 2:2, fifth paragraph.

Section 7.2

1. Without prejudice to the provisions of Section 2.3, first paragraph, under e, Section 2.2, first paragraph, is not applicable to customers who have already been identified pursuant to the Identification (Provision of Services) (BES Islands) Act (*Wet identificatie bij dienstverlening BES*) or who were not governed by an obligation to furnish their identity pursuant to that Act.

2. Information about the persons referred to in the first paragraph that has already been recorded pursuant to the Identification (Provision of Services) (BES Islands) Act (*Wet identificatie bij dienstverlening BES*) is deemed to have been recorded pursuant to this Act.

Section 7.3

Once this Act enters into force an administrative penalty imposed for the violation of a regulation prescribed by or pursuant to the Identification (Provision of Services) (BES Islands) Act (*Wet identificatie bij dienstverlening BES*) or the Disclosure of Unusual Transactions (BES Islands) Act (*Wet melding ongebruikelijke transacties BES*) is deemed to be equivalent to an administrative penalty imposed pursuant to Section 5.11.

Section 7.4

1. Once this Act has entered into force the supervisory authority can impose an administrative penalty for the violation of a regulation prescribed by or pursuant to the Identification (Provision of Services) (BES Islands) Act (*Wet identificatie bij dienstverlening BES*) or the Disclosure of Unusual Transactions (BES Islands) Act (*Wet melding ongebruikelijke transacties BES*) during the period of up to three years after the violation.

2. The law applicable to the imposition of an administrative penalty as referred to in the first paragraph before this Act entered into force continues to be applicable.

Section 7.5

An objection or appeal lodged against a decision pursuant to the Identification (Provision of Services) (BES Islands) Act (*Wet identificatie bij dienstverlening BES*) or the Disclosure of Unusual Transactions (BES Islands) Act (*Wet melding ongebruikelijke transacties BES*) before this Act came into force continues to be governed by the law that was applicable before this Act came into force.

Section 7.6

Once this Act enters into force an instruction issued pursuant to Section 23 of the Disclosure of Unusual Transactions (BES Islands) Act (*Wet melding ongebruikelijke transacties BES*) is deemed to be an instruction as referred to in Section 5.9.

§ 2. Final provisions

Section 7.7

The Identification (Provision of Services) (BES Islands) Act (*Wet identificatie bij dienstverlening BES*), Disclosure of Unusual Transactions (BES Islands) Act (*Wet melding ongebruikelijke transacties BES*) and Cross-Border Currency Movement (BES Islands) Act (*Wet grensoverschrijdende geldtransporten BES*) are repealed.

Section 7.8

This Act enters into force at a time determined by Royal Decree.

Section 7.9

This Act may be cited as: the Money Laundering and Terrorism Financing (BES Islands) Act (*Wet ter voorkoming van witwassen en financieren van terrorisme BES*).

We hereby order and command that this Decree be published in the Bulletin of Acts, Orders and Decrees and that all ministerial departments, authorities, bodies and officials whom it may concern shall diligently implement it.

Given

THE MINISTER OF FINANCE,

THE MINISTER OF SECURITY AND JUSTICE,

Annex A, referred to in Section 1.1, under d, of the Money Laundering and Terrorism Financing (BES Islands) Act (*Wet ter voorkoming van witwassen en financieren van terrorisme BES*)

- l. A service as referred to in Section 1, under d, is deemed to be a service provided in or from Bonaire, Sint Eustatius or Saba entailing:
- a. taking securities, banknotes, paper currency, coins, currency notes, precious metals and other valuables into custody;
 - b. opening an account that can be used to maintain a balance of money, securities, precious metals or other valuables;
 - c. letting a safe deposit box;
 - d. effecting a payment in connection with cashing in coupons or similar documents of bonds or similar securities;
 - e. concluding or mediating in the conclusion of a life insurance contract for a premium as referred to in the Financial Markets (BES Islands) Act (*Wet financiële markten BES*);
 - f. paying a benefit pursuant to a life insurance contract as referred to under e;
 - g. crediting or debiting or arranging for the crediting or debiting of an account in which a balance of money, securities, precious metals or other negotiable instruments can be maintained;
 - h. entering into the obligation to make a payment on behalf of the holder of a credit card to the party that accepted the display of the credit card as a means of payment, the issue of credit cards or the administration of credit cards, including at least the performance of payment transactions via credit cards;
 - i. carrying out money transactions within the meaning of the Financial Markets (BES Islands) Act (*Wet financiële markten BES*);
 - j. offering an opportunity to compete in winning prizes and premiums within the context of the operation of games of chance such as casinos;
 - k. providing trust services as referred to in the Financial Markets (BES Islands) Act (*Wet financiële markten BES*);
 - l. acting as an intermediary in contracts relating to immovable property and the rights to which immovable property is subjected;
 - m. trading in vehicles, precious stones, precious metals, jewellery and jewels or in other goods designated by a ministerial regulation to be issued by Our Minister of a value in excess of an amount to be determined by Our Minister, which can vary for the various categories of goods that can be distinguished;
 - n. providing advice or assistance by a natural person, legal person or company carrying out independent work in the course of the profession of or business as lawyer, civil-law notary, junior civil-law notary, accountant, tax consultant or expert in a legal, tax or administrative field, or in connection with a similar legal profession or business relating to:
 - 1°. the purchase or sale of immovable property;

- 2°. the management of money, securities, coin, banknotes, precious metals, precious stones or other valuables;
 - 3°. the incorporation and management of companies, legal persons or similar bodies;
 - 4°. the purchase, sale or takeover of enterprises;
- o. acting in the name and for the account of a customer in any financial transaction or immovable property transaction by a natural person, legal person in the performance of the profession of a lawyer, civil-law notary, junior civil-law notary or any other similar legal profession;
 - p. extending loans;
 - q. extending loans in the form of financial lease;
 - r. providing guarantees and suretyship;
 - s. trading in:
 - 1°. money market instruments such as cheques, bills and certificates of deposit;
 - 2°. foreign exchanges;
 - 3°. financial futures and options;
 - 4°. swaps and similar financing instruments; or
 - 5°. securities.
 - t. participating in securities issues and providing related services;
 - u. acting as an investment company within the meaning of the Financial Markets (BES Islands) Act (*Wet financiële markten BES*);
 - v. providing an investment service, including:
 - 1°. receiving and transmitting customer orders for financial instruments;
 - 2°. carrying out customer orders for financial instruments for the customers' account;
 - 3°. managing an individual portfolio;
 - w. acting as an electronic money institution.

II. A service as referred to in Section 1.1, under d, is not deemed to be a service entailing:

- a. the receipt of funds or monetary values within the scope of the payment of a premium pursuant to an insurance contract for the purpose of making these funds or monetary values payable in the same form or in another form elsewhere or having them made payable to an institution that is permitted to conduct the business of insurance company in Bonaire, Sint Eustatius and Saba pursuant to the Financial Markets (BES Islands) Act (*Wet financiële markten BES*);
- b. making funds or monetary values payable or having them made payable within the scope of a benefit pursuant to an insurance contract once these funds or monetary values have been made available elsewhere in the same form or another form by an institution that is permitted to conduct the business of insurance company in Bonaire, Sint Eustatius and Saba pursuant to the Financial Markets (BES Islands) Act (*Wet financiële markten BES*).

III. A credit card as referred to in Part I is not understood to be a credit card that can be used solely by an enterprise or institution that is a member of the same economic entity in which legal persons and companies are affiliated within

the organisation as the issuing enterprise or institution.

Annex B, referred to in Section 2.13, first paragraph, of the Money Laundering and Terrorism Financing (BES Islands) Act (*Wet ter voorkoming van witwassen en financieren van terrorisme BES*)

The information to be recorded pursuant to Section 2.13 is designated as:

a. the name, address and domicile or the registered office of the customer and the ultimate beneficial owner, where relevant, and of those in whose name the deposit or account is registered, of those who will have access to the safe-deposit box or of those in whose name a payment or transaction will be carried out, as well as of their representatives;

b. the nature, number, date and place of issue of the document used to establish the identity;

c. the nature of the service;

d.

1°. in the event of the custodianship of the valuables as referred to in Annex A, in Part I, under a: the deposit number and the market value represented by the valuables at the time they were taken into custody, or in the absence of the market value the amount represented by the valuables calculated in accordance with generally-accepted principles of valuation or, when the value represented by the valuables cannot be determined in reasonableness, an accurate description of the valuables;

2°. in the event that an account is opened: an explicit specification of the type of account and the number assigned to the account;

3°. in the event that a safe-deposit box is let: the number or other distinguishing designation of the relevant safe-deposit box;

4°. in the event a payment related to cashing in coupons or similar documents of bonds or similar securities is made: the amount involved in the transaction and the relevant account number;

5°. in the event that a life insurance contract is concluded: the number of the account from which the payments of the premiums are debited;

6. in the event that a benefit pursuant to a life insurance contract is paid: the number of the account to which the payment of the benefit is credited;

7°. in the event of a service as referred to in Annex A, Part I, under h and i: the credit card or debit card number with the expiry date or the number of the cheque together with the corresponding bank account number;

8°. in the event of a service as referred to in Annex A, Part I, under l and n, under 1°: the nature and other unique characteristics of the relevant immovable property and the amount involved in the transaction;

9°. in the event of a service as referred to in Annex A, Part I, under j, m and n, under 2°: the nature, origin destination, amount and other unique characteristics of the valuables or goods involved;

10°. in the event of a service as referred to in Annex A, Part I, under k and n, under 2° and 3°: the identity of the companies, legal persons or similar bodies involved.