

Memorandum on the implementation of the license fee

1. Legal background

The Foreign Exchange Regulation of Curaçao and Sint Maarten (“Regeling Deviezenverkeer Curaçao en Sint Maarten”) is based on article 9 of the Charter of the Centrale Bank van Curaçao en Sint Maarten (hereafter "the Bank").

Paragraph 2 of this article designates the Bank as the central foreign exchange bank, while paragraph 3 states that other banks can be authorized to operate as foreign exchange banks (hereafter "FEBs") if certain conditions are met. Paragraph 4 states that FEBs operating under such an authorization owe a monthly fee to the Bank.

This fee is calculated according to a national decree (P.B. 2000, no.88). International banks do not need an authorization for carrying out foreign exchange transactions and are therefore exempted from the fee.

This updated memorandum will be effective as of January 1, 2016.

2. Fee calculation

The license fee will be calculated as 1 percent of the gross outflow of money due to transfers from residents to non-residents and foreign currency cash transactions. The Foreign Exchange Regulation Curaçao and Sint Maarten defines the terms "residents" and "non-residents" in article 1. In short, the term "residents" refers to:

- Natural persons registered in Curaçao or Sint Maarten;
- Unregistered natural persons who have been living in Curaçao or Sint Maarten for more than a year;
- Companies (including branches and agencies) established in Curaçao or Sint Maarten;
- Governments and government entities;
- Other natural persons, companies and other entities determined by the Bank.

The term "non-residents" refers to:

- Natural persons and companies (including branches and agencies) not considered residents;
- Diplomatic and consular representations of foreign authorities and international organizations;
- Employees working for the aforementioned representations, including their families.

International (“offshore”) companies represent a special case. Officially, they are resident companies established in Curaçao or Sint Maarten. Article 23 of the Foreign Exchange Regulation Curaçao and Sint Maarten, however, states that the Bank may consider them non-residents concerning foreign exchange transactions if they are granted a foreign exchange exemption.

The term "transfers and foreign currency cash transactions" includes, among other things:

- a) Transfers from residents' accounts held at FEBs to:
 - Non-residents' accounts held at FEBs;
 - Non-residents' accounts held at foreign banks;
 - Residents' accounts held at foreign banks.
- b) Transfers from FEBs to international ("offshore") banks or units (note: these transactions are only allowed after authorization by the Bank);
- c) Travelers' and bankers' cheques sold;
- d) Foreign currency cash sold to residents or non-residents;
- e) Foreign currency cash withdrawn by residents from accounts held at FEBs.

3. Reporting procedure

FEBs must report information about foreign exchange transactions to the Bank through the A & B transactions report and the C and D statements on a monthly basis according to the General Administrative Regulations (part 1), Foreign Exchange Banks & Money Transfer Offices, of the Foreign Exchange Regulation (Chapter 4).

The A & B transactions are the registration of transfer payments (money orders, bank cheques, traveler's cheques, etc.) between residents and non-residents. The C-statement is a monthly statement of currency transactions over the counter of FEBs and by money transfer offices authorized by the Bank. The D-statement is meant for the verification of all foreign exchange transactions performed in a certain month and is only used by the FEBs.

The reports need to be sent by the FEBs in a standard format via the AFT system of the Bank or via another system indicated by the Bank, accompanied by a cover letter signed by an authorized person, and on official letter paper of the FEB.

The A & B transaction report and the C-statement must be submitted on or before the 21st, while the D-statement must be submitted on or before the 28th of the month following the reporting month.

4. Payment of license fee

The Bank will determine the amount of the license fee payable based on the reported A-transactions and cash currency sold in the C-statement. The amount will be collected by debiting the FEB's account with the Bank.

When the D-reports are received, the Bank will verify whether the foreign exchange transactions reported are correct and complete. If not, the FEB will be given a

reasonable time to resolve the issues found by the Bank. This could mean that the FEB needs to submit additional transactions. If it turns out that the license fee charged was too low, the Bank will debit the FEB's account for the additional fee. If the license fee charged was too high, the difference will be credited to the FEB's account.

The Bank retains the right to investigate the accuracy and completeness of the reported information. An onsite inspection team may be deployed for this purpose.

5. Foreign exchange buying and selling rates

The FEBs are allowed to recover the cost of license fee by applying the official selling rate of currency, which includes the license fee.

Foreign currency accounts represent a special case. When a resident transfers money from his foreign currency account to a non-resident or a foreign bank account, the 1% license fee is due to the Bank. The same applies when a resident withdraws foreign currency from his foreign currency account. Because no conversion takes place, the FEB is unable to recover the costs of these transactions through the official selling rate. To overcome this problem, FEBs are allowed to charge their client the 1% license fee separately.

The aforementioned official rates are applicable only to transactions up to NAf. 25,000. For higher amounts, FEBs are free to determine more attractive rates for their clients.