



**CENTRALE BANK VAN CURAÇAO EN  
SINT MAARTEN**

**(CENTRAL BANK)**

***TRUST SERVICE PROVIDERS'  
SUPERVISORY QUESTIONNAIRE  
for Legal Entities***

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## Trust Service Providers' Supervisory Questionnaire for Legal Entities

### Supervisory Questionnaire as of January 1, 20....

**For:** \_\_\_\_\_ (Name of trust service provider being a legal entity)

#### **Purpose**

The purpose of this Trust Service Providers' Supervisory Questionnaire (hereafter "questionnaire") is to:

- evaluate the adequacy of procedures and controls in place at trust service providers;
- assess a trust service provider's compliance with the stipulations in articles 11, 12 and 16 of the *National Ordinance on the Supervision of Trust Service Providers* (N.G. 2003, no. 114) (the 'NOST'); and
- evaluate the trust service provider's compliance with the directives and guidelines issued by the Bank and the various Anti-Money Laundering ("AML") and Combating of Financing of Terrorism ("CFT") rules and regulations in force.

The questions are formulated in such a manner that they may be answered "Yes", if the procedure or control is adequate and "No" if that is not the case. In the event that a particular question does not apply, this should be clearly indicated in the not applicable ("N/A") column. Where necessary, explanations should be given in the "Comments" column or included in a separate annex. Note that all questions answered with a "No" or "N/A" should be commented on in the last column. There are, however, some "Yes" responses that may need further clarification. In those instances the space provided in the column "Comments" should be used. If the space is not sufficient, a separate annex should be used.

The questionnaire is considered by the Bank to be an integral part of the annual reporting requirement as stipulated in article 16 of the NOST. The questionnaire must be completed by all trust service providers with a license or dispensation issued by the Bank and must subsequently be reviewed by the external auditor. No separate questionnaire must be completed by those persons that provide trust services under the responsibility of a licensee. In this particular case, the answers given in this questionnaire must encompass also the operation of those persons placed on either Exhibit A or B to the license of a trust service provider.

The completed questionnaire must be accompanied by a certified declaration of the external auditor. This declaration must certify the correctness and completeness of the answers given to the questions in this questionnaire. In addition, the auditor should also certify the completeness of the clients' files as required in the *Compliance Check Client Files for Trust Service Providers* issued by the Bank. These guidelines are attached to this questionnaire.

Experts accepted by the Bank to certify this questionnaire are:

- Registered Auditor (RA);
- Certified Public Accountant (CPA) / Chartered Accountant (CA); and
- Accountant Administration Consultant with certifying qualifications.

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## Trust Service Providers' Supervisory Questionnaire for Legal Entities

The management members representing the minimum number of directors that may bind the trust service providers are required to sign the questionnaire on pages 7, 12 and 16, and to initialize each individual page for identification purposes.

The set up of the questionnaire is as follows:

### A. General:

Provision of trust services

### B. Administrative Organization and Integrity (article 11 of the NOST):

1. General Policy/ Rule of Conduct
2. Procedures relative to Personnel
3. Procedures relative to Incidents
4. Procedures relative to Record Keeping and Client Acceptance
5. Procedures relative to the Sale of International Companies
6. International Company's Funds
7. International Company's Administration

### C. Anti-Money Laundering & Combating the Financing of Terrorism (article 12 of the NOST):

1. Policy Statement
2. Organization, Process and Control Design
3. KYC – New Customer
4. KYC – Data Access/Mining
5. Transaction Monitoring/Tracking
6. AML & CFT Reporting

For any questions you may have, please contact the Bank's Investment Institutions and Trust Supervision Department at: 434-5619. Please indicate below the name of your contact person in regards to this questionnaire.

Contact person: \_\_\_\_\_

Position: \_\_\_\_\_

Telephone number: \_\_\_\_\_

E-mail address: \_\_\_\_\_

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**Report of Factual Findings**

Our ref: ref number

The Board of Directors  
Client name  
Curaçao/ Sint Maarten

We have performed the procedures agreed with you and enumerated below with respect to the completed and signed *Trust Service Providers' Supervisory Questionnaire* of XXXXXXXXX (client name) ("the Company") dated December 31, 200x (hereafter referred to as "*Regulatory Filing*"). We have included this *Regulatory Filing*, initialed for identification purposes, as an attachment to this report. The completion of this *Regulatory Filing* is the responsibility of the management of XXXXXXXXX (client). The procedures were performed by us solely to assist you in assessing the Company's compliance with the relevant stipulations in the *National Ordinance on the Supervision of Trust Service Providers*, and are summarized as follows:

- 1 We obtained the *Regulatory Filing* from you and, with respect to the answers contained therein, made inquiries with management and reviewed supporting information on a limited basis to the extent considered necessary.
- 2 We obtained a list of locally established clients ("*buitengaatse ondernemingen*") of the Company from you. From the list provided to us, we selected and requested xx client files from you, and performed procedures to verify if the files contain the documentation as mentioned in the *Compliance Check Client Files for Trust Service Providers* issued by the Central Bank of Curaçao and Sint Maarten.

We report our findings below:

- a With respect to item 1, nothing came to our attention to make us believe that the answers provided in the *Regulatory Filing* are not consistent with the explanations and information provided to us by management, *except for the items mentioned below*:
  - xxxxxxxxxxxx
- b With respect to item 2 we found that the selected xx client files contain the documentation as mentioned in the *Compliance Check Client Files for Trust Service Providers* issued by the Central Bank of Curaçao and Sint Maarten, *with the following exceptions*:

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- XXXXXXXXXXXX

Because the above-mentioned procedures do not constitute neither an audit nor a review made in accordance with International Standards on Auditing or International Standards on Review Engagements, we do not express any assurance on the *Regulatory Filing*.

*Had we performed additional procedures or had we performed an audit or review of the Company's financial statements in accordance with International Standards on Auditing or International Standards on Review Engagements, other matters might have come to our attention that would have been reported to you (in case the external auditors of the financial statements are not the same as the external auditors of the Regulatory filing).*

Our report is intended solely for the information and use of management of xxxxx (client) and the Central Bank of Curaçao and Sint Maarten for the purpose set forth in the first paragraph of this report, and is not to be used for any other purpose or to be distributed to any other parties. This report relates only to the items specified above and does not extend to any financial statements of the Company, taken as a whole.

### ***External auditor***

Curaçao/ Sint Maarten

### ***Date of report***

Enclosure:   Regulatory Filing  
                  Findings from compliance check

Initial for identification purposes:

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## Trust Service Providers' Supervisory Questionnaire for Legal Entities

### A. GENERAL

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| Question  | Yes | No | N/A | Comments |
|---|-----|----|-----|----------|
| <b>Provision of trust services</b>  |     |    |     |          |
| A.1 Have there been any changes in your operation/ situation since the issuance of the license e.g. dispensation by the Bank or your last questionnaire if this one is not your first?                                  |     |    |     |          |
| A.2 If the answer to A.1 is "Yes", have these changes influenced your operations to such extent that the Bank should re-evaluate its decision with regard to the license, e.g. dispensation granted?<br>Please comment. |     |    |     |          |
| A.3 Are there authentic copies of the deeds of incorporation of your institution available?   |     |    |     |          |
| A.4 Are there authentic copies of the deeds of amendment to the articles of association of your institution available?  |     |    |     |          |
| A.5 Has your institution informed the Bank of any amendments to its existing articles of association?   |     |    |     |          |
| A.6 Are there copies of documentation proving the identity of the ultimate shareholders (UBO) of your institution, available?   |     |    |     |          |
| A.7 Are there copies of documentation proving the identity of the directors (managing directors and supervisory directors) of your institution, available?  |     |    |     |          |
| A.8 Has your institution informed the Bank of any intended amendments to be made to the composition of your shareholders, directors (managing directors and supervisory directors)?                                     |     |    |     |          |
| <b>Only applicable to trust service providers with a license:</b>   |     |    |     |          |

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**Trust Service Providers' Supervisory Questionnaire for Legal Entities**

| Question   | Yes | No | N/A | Comments |
|--|-----|----|-----|----------|
| A.9 Are all trust service providers that provide trust services under your responsibility mentioned on either Exhibit A or B to the license?   |     |    |     |          |
| <b>Only applicable to trust service providers with a license:</b><br>A.10 Are there copies of documentation proving the identity of the persons (including the directors and UBO's of Exhibit A persons) that provide services under your responsibility available? (see A.1.9)  |     |    |     |          |
| <b>Only applicable to trust service providers with legal persons listed on Exhibit A to their license:</b><br>A.11 Have you concluded a written agreement with the legal person(s) listed on Exhibit A to your license reflecting the fact that the legal person(s) provide(s) trust services under your responsibility? |     |    |     |          |
| <b>Only applicable to trust service providers with individuals listed on Exhibit B to their license:</b><br>A.12 Have you concluded a written agreement with the individual(s) listed on Exhibit B to your license reflecting the fact that the individual(s) provide(s) trust services under your responsibility?       |     |    |     |          |

Section A of the Trust Service Providers' Supervisory Questionnaire was completed by:

Name of trust service provider \_\_\_\_\_

Name of person signing: \_\_\_\_\_

Position: \_\_\_\_\_

Signature: \_\_\_\_\_ Date and place: \_\_\_\_\_

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**B. ADMINISTRATIVE ORGANIZATION, INTEGRITY**

It is important that trust service providers have adequate administrative organization (“ao”) and internal control (“ic”) procedures in place. It is also important that these procedures are properly documented in a Manual. The questions in section B of this questionnaire aim to provide the Bank with information on the administrative and internal control procedures within your organization.

**B. Administrative Organization and Integrity**

| Question   | Yes | No | N/A | Comments |
|--|-----|----|-----|----------|
| <b>B.1. General policy/rule of conduct</b>   |     |    |     |          |
| B.1.1 Integrity: Has the Supervisory Board/ Management taken measures to create an awareness of the need for a trustworthy behavior within the organization of the trust service provider itself and to promote and procure such behavior? |     |    |     |          |
| B.1.2 Have the measures as referred to in question B.1.1 been documented? Please describe these in an annex.   |     |    |     |          |
| B.1.3 Procedure client acceptance and file creation: Does the trust service provider observe the legal requirements as stipulated in the NOST, LID and MOT?  |     |    |     |          |
| B.1.4 Have the procedures relative to question B.1.3 been documented? Please describe these in an annex.   |     |    |     |          |
| B.1.5 Other relevant procedures: Are the responsibilities and authorities of management, Supervisory Board and employees properly documented?  |     |    |     |          |
| <b>B.2. Procedures relative to personnel</b>   |     |    |     |          |
| B.2.1 Hiring of personnel for integrity sensitive positions: Is there a procedure in place for hiring new staff members to ensure that the staff hired is trustworthy?   |     |    |     |          |

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## Trust Service Providers' Supervisory Questionnaire for Legal Entities

| Question  | Yes | No | N/A | Comments |
|---|-----|----|-----|----------|
| B.2.2 Have the procedures as referred to in question B.2.1 been documented? Please describe these in an annex.  |     |    |     |          |
| <b>B.3. Procedures relative to incidents</b>  |     |    |     |          |
| B.3.1 Do you have procedures in place in order to ensure that incidents are being handled by your employees in accordance with the Bank's Policy Rule on Integrity Testing? (description of task, responsibilities and authorities)   |     |    |     |          |
| <b>B.4. Procedures relative to record keeping and client acceptance</b>   |     |    |     |          |
| B.4.1 File Creation procedure: Are there procedures in place relative to file creation?   |     |    |     |          |
| B.4.2 Are the procedures referred to in question B.4.1 documented? Please describe in an annex.   |     |    |     |          |
| B.4.3 Are the responsibilities with regards to file creation clearly delineated?  |     |    |     |          |
| B.4.4 Do the client files contain the information as required in the Bank's ' <b>Compliance Check Client Files for Trust Service Providers</b> ' guidelines?  |     |    |     |          |
| B.4.5 Have you made it a documented policy not to accept a client or provide services if the subject international company is not willing to provide the information as required in the guidelines mentioned under B.4.4?   |     |    |     |          |
| B.4.6 Has someone within your organization been assigned to periodically verify that client files are maintained in accordance with the Bank's ' <b>Compliance Check Client Files for Trust Service Providers</b> ', e.g. that the information as indicated in these procedures is available within the files? Please indicate frequency thereof. |     |    |     |          |

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## Trust Service Providers' Supervisory Questionnaire for Legal Entities

| Question  | Yes | No | N/A | Comments |
|---|-----|----|-----|----------|
| B.4.7 Do you have procedures in place with respect to the storing e.g. keeping of client files?   |     |    |     |          |
| B.4.8 Do you have procedures in place with respect to the storing of client files with whom the service relation has been terminated? Please indicate term for storing former client files. |     |    |     |          |
| <b>B.5. Procedures relative to the sale of international companies</b>  |     |    |     |          |
| B.5.1 Are there procedures in place to verify the identity of the (prospective) buyer of client international companies?  |     |    |     |          |
| B.5.2 Are responsibilities and authorities in regards to question B.5.1 clearly delineated?   |     |    |     |          |
| B.5.3 Is information relative to a (prospective) buyer being filed, e.g. source of funds, integrity, trustworthiness of the buyer?  |     |    |     |          |
| B.5.4 Do you review the sales agreement with the (potential) buyer of the shares of the international company?  |     |    |     |          |
| B.5.5 Do you obtain a legal opinion on the sales transaction between your client international company and the buyer?   |     |    |     |          |
| <b>B.6 International Company's Funds</b>  |     |    |     |          |
| B.6.1. Authorized signatures procedure and payments procedures: Are there procedures in place to segregate/ safeguard the funds or interests of the international companies?                |     |    |     |          |
| B.6.2 Are the procedures as referred to in questions B.7.1. adequate?   |     |    |     |          |

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**Trust Service Providers' Supervisory Questionnaire for Legal Entities**

| Question   | Yes | No | N/A | Comments |
|--|-----|----|-----|----------|
| <b>B.7 International Company's Administration</b>  |     |    |     |          |
| B.7.1 Are there administrative organization and internal control measures in place to guarantee the preparation of reliable financial figures for the international companies?   |     |    |     |          |
| B.7.2 Are there administrative organization and internal control measures in place to guarantee prompt and accurate retrieval of the information on the trust service provider's clients required under article 12, paragraph 1 of the NOST? |     |    |     |          |
| B.7.3 Is the trust service provider empowered to conduct transactions on its client's bank account?  |     |    |     |          |
| B.7.4 If the answer to question B.7.3 is "Yes" please describe the procedures  |     |    |     |          |

Section B of the Trust Service Providers' Supervisory Questionnaire was completed by:

Name of trust service provider \_\_\_\_\_

Name of person signing: \_\_\_\_\_

Position: \_\_\_\_\_

Signature: \_\_\_\_\_ Date and place: \_\_\_\_\_

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## C. ANTI-MONEY LAUNDERING & COMBATING OF THE FINANCING OF TERRORISM

Another very important aspect of the supervision on trust service providers is their compliance with Anti-Money Laundering legislations and guidelines. Section C addresses issues relative to procedures in place within your organization that are focused on reducing the risk of money laundering.

### C. Anti-Money Laundering (“AML”) & Combating the Financing of Terrorism (“CFT”)

| Question   | Yes | No | NA | Comments |
|--|-----|----|----|----------|
| <b>C.1. Policy Statement</b>   |     |    |    |          |
| C.1.1 Is there an AML and CFT Policy Statement available?  |     |    |    |          |
| C.1.2 Are the relevant laws and regulatory requirements mentioned in the Policy Statement?   |     |    |    |          |
| C.1.3 Have the requirements been documented in a manual?   |     |    |    |          |
| <b>C.2. Organization, Process and Control Design</b>   |     |    |    |          |
| C.2.1 Has a compliance officer been appointed or a compliance function been introduced within your organization to handle AML & CFT matters?           |     |    |    |          |
| C.2.2 Are the responsibilities of the compliance officer/function for AML & CFT matters documented?  |     |    |    |          |
| C.2.3 Have the responsibilities as indicated in C.2.2 been accepted (signed) by the compliance officer/person responsible for the compliance function? |     |    |    |          |
| C.2.4 Are the AML & CFT manuals or procedures in place to combat money laundering in compliance with the Bank's AML & CFT guidelines?                  |     |    |    |          |

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## Trust Service Providers' Supervisory Questionnaire for Legal Entities

| Question   | Yes | No | NA | Comments |
|--|-----|----|----|----------|
| C.2.5 Are these manuals or procedures (C.2.4) updated according to all Netherlands Antillean Anti-Money Laundering legislation, e.g. LID, MOT?   |     |    |    |          |
| C.2.6 Does the AML & CFT manual or do the procedures (C.2.4) contain preventive measures such as guidelines regarding identification and KYC procedures when opening an account?                 |     |    |    |          |
| C.2.7 Does the AML & CFT manual or do the procedures (C.2.4) contain preventive measures such as guidelines regarding identification and internal/external reporting of suspicious transactions? |     |    |    |          |
| C.2.8 Does the manual or do the procedures (C.2.4) contain measures such as audit trail for suspicious funds or transactions?  |     |    |    |          |
| C.2.9 Did you provide for training for your employees in money laundering prevention and detection measures over the last year?  |     |    |    |          |
| C.2.10 Who provided these trainings and who were the ones for whom it was provided?  |     |    |    |          |
| C.2.11 Are these AML & CFT procedures periodically reviewed by for example the IAD, in order to determine whether you are still in compliance with the LID/MOT-requirements?                     |     |    |    |          |
| <b>C.3. KYC – New Customer</b>   |     |    |    |          |
| C.3.1 Are the KYC requirements described in the AML & CFT manual?  |     |    |    |          |

## Trust Service Providers' Supervisory Questionnaire for Legal Entities

| Question   | Yes | No | NA | Comments |
|--|-----|----|----|----------|
| C.3.2 Are adequate documents available proving the identity of a new or existing client as defined by the LID and the Bank's AML & CFT guidelines? (e.g. including additional information such as occupation, Chamber of Commerce Registration, Articles of Incorporation, or names of persons authorized to draw on the account)                      |     |    |    |          |
| C.3.3 Organization structure client: are the relevant parts of the structure of the group to which the subject international company belongs known to your institution? (aim: to understand the objective of the subject legal entity and reason for setting up the structure as it is)  |     |    |    |          |
| C.3.4 When the administration of the international company is not conducted by you, do you receive (audited) financial statements from these international companies?  |     |    |    |          |
| <b>C.4. KYC – Data Access/Mining</b>   |     |    |    |          |
| C.4.1 Do you have clients that are only identified by a number?  |     |    |    |          |
| C.4.2 Is it possible for your clients to have only numbered bank accounts?   |     |    |    |          |
| C.4.3 If the answer to question C.4.1 is "Yes", is the UBO of this account known to you?   |     |    |    |          |
| C.4.4 Are there internal controls available to guarantee the KYC data integrity?<br>Note: data is considered to be sound (non-corrupt) when there is assurance that the data available e.g. obtained is valid, reliable and complete. There must be sufficient competent and relevant evidence to prove that the data is valid, reliable and complete. |     |    |    |          |
| <b>C.5. Transaction Monitoring/Tracking</b>  |     |    |    |          |

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## Trust Service Providers' Supervisory Questionnaire for Legal Entities

| Question  | Yes | No | NA | Comments |
|---|-----|----|----|----------|
| C.5.1 Are there tools available to identify and monitor suspicious transactions in a timely manner?   |     |    |    |          |
| <b>C.6. AML &amp; CFT Reporting</b>   |     |    |    |          |
| C.6.1 Have you reported any unusual transactions to the MOT during the last 12 months?  |     |    |    |          |
| C.6.2 Are there approved internal guidelines with regards to the reporting of unusual transactions that comply with the subjective indicators of the MOT? |     |    |    |          |
| C.6.3 Did you report any transaction based on subjective criteria during the last 12 months?  |     |    |    |          |
| C.6.4 Are the reporting guidelines of the MOT known to the compliance officer and other employees of your institution?                                    |     |    |    |          |
| C.6.5 Are the unusual transactions reported to the MOT in accordance with the guidelines as defined by the MOT?   |     |    |    |          |
| C.6.6 Do you have written procedures in place with respect to the reporting guidelines of the MOT? Please describe these in an annex.                     |     |    |    |          |

Section C of the Trust Service Providers' Supervisory Questionnaire was completed by:

Name of trust service provider \_\_\_\_\_

Name of person signing: \_\_\_\_\_

Position: \_\_\_\_\_

Signature: \_\_\_\_\_ Date and place: \_\_\_\_\_

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