

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

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

Whereas We have considered that in order to protect the integrity of the financial system in the Netherlands and having regard to the prevention of money laundering and the financing of terrorist crimes and the implementation of the Identification (Financial Services) Act and the Disclosure of Unusual (Financial Services) Transactions Act, it is necessary to extend the current system of registration of and supervision of exchange offices to cover offices that effect related money transactions;

We, therefore, having heard the Council of State, and in consultation with the States General, have approved and decreed as We hereby approve and decree:

## CHAPTER I. INTRODUCTORY PROVISIONS

### Section 1

In this Act and the provisions based thereon, the following terms shall be defined as stated below:

- a) money transaction office: a natural person or legal entity or partnership engaging in money transactions in a professional capacity or on a commercial basis on behalf or at the request of a third party, or who is involved in a professional capacity or commercial basis in the effecting thereof;
- b) third party: a natural person or legal entity or partnership that does not form part of a group as referred to in section 1(1), under o, of the Act on the Supervision of the Credit System 1992 of which the money transaction office forms part;
- c) money transaction:
  1. the exchange of coins or banknotes;
  2. the payment of coins or banknotes upon presentation of a credit card, in exchange for one or more cheques, or on surrender of one or more parts of the coupon sheet of a bearer security, on surrender whereof the interest on this security can be collected;
  3. the receipt of cash or cash equivalent for the purposes of a money transfer in order to make this cash or cash equivalent payable or cause it to be payable to a third party elsewhere, whether or not in the same form, or the payment or making payable of cash or cash equivalent after this cash or this cash equivalent has been made available elsewhere, whether or not in the same form, this money transfer being a stand-alone service;
  4. a related activity designated by an order in council;
- d) bank guarantee: a guarantee in accordance with the model drawn up by Our Minister, issued by a credit institution registered pursuant to section 52(2) of the Act on the Supervision of the Credit System 1992, whereby this institution provides an irrevocable and unconditional guarantee for third parties in respect of cash or cash equivalent that has been made available by them and has not yet been paid out or made payable by those persons for the purposes of a money transaction as referred to in (c), under 3°;
- e) register: the public register of money transaction offices that is kept by Our Minister;
- f) Our Minister: Our Minister of Finance;
- g) qualifying holding: a direct or indirect interest of more than five per cent in the issued share capital of an enterprise or institution, or the ability, either directly or indirectly, to be able to exercise more than five per cent of the voting rights in respect of an enterprise or institution, or the ability, either directly or indirectly, to be able to exercise similar control in respect of a partnership or institution;

**Section 2**

1. Our Minister shall ensure that each money transaction office that makes an application to this effect is entered in the register, unless, on the grounds of the assessment of the integrity of one of the persons referred to in subsection (3), under *a*, *b*, *c* or *d*, or on the grounds of the management or the administrative organisation, Our Minister is of the opinion that:
  - a) this would impair, or may be assumed to impair, the integrity of the financial system. This shall be deemed to be the case if Our Minister has reasonable grounds for suspecting that the money transaction office or one or more of the persons referred to in subsection (3), under *a*, *b*, *c* or *d*, is or will be guilty of money laundering, handling or receiving unlawfully obtained money, or is or will be involved in financing crimes that are punishable under international conventions regarding the combating of terrorism; or
  - b) the management or the administrative organisation is not adequate to promote and ensure the proper conduct of the business or to comply with the other statutory obligations to which the money transaction office is subject.
2. A money transaction office that effects or intends to effect money transactions as referred to in section 1(1)(c), under 3°, must have a bank guarantee that may only be drawn upon with the consent of Our Minister. The amount of the cash or cash equivalent that has been made available and has not been paid out or made payable shall not exceed the amount of the bank guarantee. Our Minister shall draw up a model for the bank guarantee.
3. The application for registration shall contain the following information and records:
  - a) the identity and antecedents of the directors of the money transaction office;
  - b) the identity and antecedents of those persons who determine or help the day-to-day policy of the money transaction office;
  - c) the identity and antecedents of the persons who are directly or indirectly authorised to appoint or dismiss the persons referred to under *a* and *b*;
  - d) the identity of those persons who have a qualifying holding in the money transaction office, and the size of the qualifying holding concerned;
  - e) the name, address and place of business of the money transaction office and, if applicable, the addresses and place of business of its branches;
  - f) the envisaged management, including measures aimed at promoting and ensuring the proper conduct of business and the envisaged administrative organisation of the money transaction office;
  - g) the registration number at the Chamber of Commerce;
  - h) the money transactions referred to in section 1(1), under *c*, that the money transaction office effects or intends to effect;
  - i) if the money transaction office effects or intends to effect money transactions as referred to in section 1(1)(c), under 3°, the bank guarantee;
  - j) other information and records that Our Minister requires in order to assess the application.
4. The register shall include the name, address and place of business of the money transaction office, the address and place of business of the branches, the date of entry in the register of the money transaction office, its registration number at the Chamber of Commerce and the type of money transactions that the money transaction office effects or intends to effect.
5. A registered money transaction office shall notify Our Minister in advance of any proposed changes in the data referred to in subsection (3), under *a*, *b* or *c*, insofar as the change relates to the number or identity of the persons referred to therein, or of any proposed change in the data referred to in subsection (3), under *b*.
6. A change as referred to in subsection (5) shall not be made if Our Minister rejects the proposed change within six weeks of receiving the notification referred to in subsection (5) or if Our Minister has requested further data or information within six weeks of receipt of that data or information.

7. If a change occurs in the antecedents referred to in subsection (3), under *a, b* or *c*, or in the information referred to in subsection (3), under *d, e, f, g, i* or *j*, the money transaction office shall notify Our Minister in writing accordingly without delay.

### **Section 3**

1. Operating as a money transaction office is prohibited.
2. The prohibition under subsection (1) shall not apply to:
  - a) those persons that have been entered in the register referred to in this Act as a money transaction office;
  - b) De Nederlandsche Bank N.V.;
  - c) credit institutions registered pursuant to section 52(2), under *a* or *b*, of the Act on the Supervision of the Credit System 1992 ;
  - d) credit institutions registered pursuant to section 52(2), under *c* or *d*, of the Act on the Supervision of the Credit System 1992, insofar as they may operate as a money transaction office in the Netherlands pursuant to section 31(2) or 32(2), respectively, of said Act;
  - e) financial institutions registered pursuant to section 52(2), under *e, f* or *g*, of the Act on the Supervision of the Credit System 1992 insofar as they are permitted to operate as a money transaction office pursuant to section 45, 50 or 51, respectively, of that Act.

### **Section 4**

1. Our Minister may grant an exemption or, on request, a dispensation from the prohibition contained in section 3(1).
2. A dispensation from the prohibition from operating as a money transaction office shall be refused if on the grounds of the assessment of the integrity of one of the persons referred to in section 2(3), under *a, b, c* or *d*, or on the grounds of the management or the administrative organisation, Our Minister is of the opinion that:
  - a) this would impair the integrity of the financial system or that it is likely that this could impair the integrity of the financial system. This shall be deemed to be the case if Our Minister has reasonable grounds for suspecting that the money transaction office or one or more of the persons referred to in the opening lines of this subsection is or will be guilty of money laundering, handling or receiving unlawfully obtained money, or is or will be involved in financing crimes that are punishable under international conventions regarding the combating of terrorism; or
  - b) the management or the administrative organisation is not adequate to promote and ensure the proper conduct of the business or to comply with the other statutory obligations to which the money transaction office is subject.
3. The exemption and the dispensation may be made subject to instructions and limitations.

### **Section 5**

1. Our Minister shall cancel the registration:
  - a) at the request of the money transaction office;
  - b) in the event of the demise of the natural person operating as a money transaction office;
  - c) if the money transaction office is placed in involuntary liquidation or if the natural person who carries on the business of a money transaction office is declared to be bankrupt or if a debt rescheduling arrangement referred to in Part III of the Bankruptcy Act has been declared to be applicable to the money transaction office or the natural person who carries on the business of a money transaction office;
  - d) in the event that the legal entity or partnership operating as a money transaction office is wound up;
  - e) in the event of the termination of the activities of the money transaction office.

2. Our Minister may cancel the registration:
  - a) if the money transaction office is evidently no longer effecting money transactions or is no longer involved in the effecting thereof on a professional or commercial basis;
  - b) in the event that the money transaction office does not meet its statutory obligations;
  - c) if Our Minister, on the grounds of the assessment of the integrity of one of the persons referred to in section 2(3), under *a, b, c* or *d*, or on the grounds of the management or the administrative organisation, is of the opinion that:
    - 1°. this would impair the integrity of the financial system or that it is likely that this could impair the integrity of the financial system. This will be deemed to be the case if Our Minister has reasonable grounds for suspecting that the money transaction office or one or more of the persons referred to in section 2(3), under *a, b, c* or *d*, is or will be guilty of money laundering, handling or receiving unlawfully obtained money, or is or will be involved in financing crimes that are punishable under international conventions regarding the combating of terrorism; or
    - 2°. the management or the administrative organisation is not adequate to promote and ensure the proper conduct of the business or to comply with the other statutory obligations to which the money transaction office is subject.
  - d) if information becomes known to Our Minister that, if it had been known to him at the time of the application for registration, would have meant that the application would not have been granted:
  - e) if one of the directors, or one of the persons who determines or co-determines the day-to-day policy of the money transaction office, is declared bankrupt;
  - f) if, following the enforcement of the writ of execution referred to in section 7, Our Minister has not received the payment due pursuant to that section.
3. If Our Minister cancels the registration at a time when the money transaction office has received cash or cash equivalent for the purposes of a money transaction and has not yet paid this out or made it payable, Our Minister shall give instructions regarding the settlement of the money transaction. The money transaction office shall be bound to follow these instructions.

## Section 6

1. An entry in or the cancellation of an entry in the register shall be announced by Our Minister in the Staatscourant<sup>1</sup> within two weeks of the date on which the entry in or the cancellation of the entry in the register, respectively, was made.
2. Our Minister shall hold a copy of the register available for public inspection free of charge.

## Section 7

1. A money transaction office shall pay to Our Minister a fee in respect of an application for registration.
2. A registered money transaction office shall pay to Our Minister an amount to cover the costs relating to the supervision of registered money transaction offices on an annual basis.
3. The amounts referred to in this section shall be set so that the total of these two amounts does not exceed the costs incurred by Our Minister in respect of the registration of money transaction offices and the supervision that it exercises in respect of registered money transaction offices.
4. The amounts referred to in this section shall be determined by Our Minister.
5. An amount payable pursuant to this section shall be paid within four weeks of the date of the letter by which it was levied.
6. The amount payable shall be increased by statutory interest, calculated from the date of expiry of the period referred to in the previous subsection.
7. If an amount is not paid within the specified period, Our Minister shall send a written

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<sup>1</sup> Government Gazette.

demand stating that the amount plus the costs of the demand must be paid within ten days of the demand. The demand shall include notification that insofar as the amount is not paid within the specified period, it shall be collected in accordance with subsection (8).

8. In the absence of payment by the due date, Our Minister shall have the right to collect the amount, plus the costs of the demand and of collection by writ of execution.
9. The writ of execution shall be served at the expense of the money transaction office by bailiff's notification and shall enable execution to be levied within the meaning of Book Two of the Code of Civil Procedure.
10. During a period of six weeks from the date of service, an objection may be lodged to the writ of execution by serving a writ of summons on Our Minister. An objection shall not suspend enforcement, unless, if requested, the president of the court decides otherwise in interim injunction proceedings.

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## CHAPTER 3. MONITORING AND INFORMATION

### Section 8

1. Our Minister shall have the right to obtain or cause to be obtained all information that is reasonably required for the purpose of discharging the duties and exercising the powers that Our Minister has pursuant to this Act and in order to ascertain whether the provisions laid down by or pursuant to this Act are being complied with from:
  - a) a registered money transaction office;
  - b) a money transaction office to which a dispensation as referred to in section 4 has been granted;
  - c) a money transaction office to which an exemption as referred to in section 4 applies;
  - d) a natural person or legal entity or partnership, in respect of which there are reasonable grounds for suspecting that he or it is acting contrary to the rules laid down by or pursuant to this Act.
2. Our Minister may require any registered money transaction office and any credit institution or financial institution that pursuant to section 52(2) of the Act on the Supervision of the Credit System 1992 has been entered in the register referred to in subsection (1) of that section to provide information regarding transactions carried out by that office or institution with a money transaction office or with a credit institution or financial institution insofar as this is reasonably necessary in order to discharge the duty laid down by this Act.
3. Those persons from whom the information referred to in subsection (1) and (2) is requested shall provide this within a reasonable period to be stipulated by Our Minister.
4. Insofar as the information referred to in subsection (2) is information that an institution has already provided to De Nederlandsche Bank N.V. pursuant to the External Financial Relations Act 1994, the institution shall be deemed to comply with the obligation referred to in subsection (3) by regarding this information as having been provided pursuant to this Act. In such a case, De Nederlandsche Bank N.V. shall provide the information requested to Our Minister.
5. With regard to the persons who are charged by Our Minister with obtaining information or with discharging other duties and exercising other powers that Our Minister has in accordance with the provisions laid down by or pursuant to this Act, sections 5:12, 5:13, 5:15, 5:16, 5:17 and 5:20 of the General Administrative Law Act shall apply *mutatis mutandis*.

### Section 9

1. Our Minister may, insofar as is necessary in order to exercise the duty laid down by this Act, lay down rules regarding the management and/or the administrative organisation of money transaction offices, including the financial accounting system

and internal audit procedures. Rules regarding the management shall include rules aimed at ensuring the proper conduct of the business, which shall be deemed to include rules relating to:

- a) the prevention of conflicts of interest;
  - b) preventing a money transaction office and its employees from being involved in offences that undermine confidence in the money transaction office or in the financial markets in general;
  - c) preventing a money transaction office and its employees from being involved in acts that are otherwise so unacceptable in social and economic life that they undermine confidence in the money transaction office or in the financial markets in general;
  - d) establishing the identity, nature and background of clients of a money transaction office.
2. A money transaction office shall send a report concerning its management and administrative organisation to Our Minister within a reasonable period to be stipulated by Our Minister. Our Minister shall decide the manner in which the report is to be made and the periods to which it is to relate.

### **Section 10**

Our Minister may, if a circumstance as referred to in section 2(1), under *a* or *b*, or in section 5(2), under *b* to *f* inclusive, arises in respect of a money transaction office, impose an order on the money transaction office or the persons referred to in section 2(3), under *a*, *b* or *c*, that a particular policy should be followed regarding matters to be stipulated, in order to ensure that this circumstance does not recur. The money transaction office or the person on whom the order is imposed shall comply with this order within a period to be decided by Our Minister.

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## **CHAPTER 4. OTHER PROVISIONS REGARDING EXCHANGE OF DATA OR INFORMATION**

### **Section 11**

With the exception of an institution referred to in subsection (6), an institution referred to in section 1(1) under *a*, of the Identification (Financial Services) Act may not provide a service referred to in section 1(1), under *b*, of that Act, with the exception of the service referred to in subsection (8), to a money transaction office to which the institution knows or should reasonably be expected to know that the prohibition referred to in section 3(1) applies.

### **Section 12**

1. Any person who discharges any duty pursuant to this Act or pursuant to resolutions passed under this Act may not disclose further or otherwise data or information provided pursuant to this Act or obtained from an agency as referred to in section 15, or data or information obtained in the course of inspecting the books, records or other data carriers than as is necessary in order to discharge his duty or is required by this Act.
2. The provisions of subsection (1) shall not affect the applicability of the provisions of the Code of Criminal Procedure with regard to those persons to whom subsection (1) applies.

### **Section 13**

Notwithstanding section 12(1), Our Minister shall notify the disclosure office referred to in section 2 of the Disclosure of Unusual (Financial Services) Transactions Act if, in

discharging the duty laid down by this Act, Our Minister discovers facts that point to the carrying out of money laundering or handling or receiving unlawfully obtained money.

#### **Section 14**

1. Notwithstanding section 12(i), Our Minister may provide data or information obtained in the course of discharging the duty assigned to him pursuant to this Act to Dutch or foreign government agencies or to Dutch or foreign agencies designated by their respective governments that are charged with the supervision of the financial markets or of natural person or legal entity or partnership that operate in those markets, unless:
  - a) the purpose for which the data or information is to be used has not been sufficiently defined;
  - b) the intended use of the data or information does not come within the scope of supervision of the financial markets or of natural persons or legal entities or partnerships that operate in those markets;
  - c) the provision of data or information would be contrary to Dutch law or public order;
  - d) the confidentiality of the data or information is not sufficiently guaranteed;
  - e) the provision of the data or information is reasonably in conflict with or could be in conflict with the interests that this Act aims to protect, or
  - f) there are insufficient safeguards to ensure that the data or information will not be used for a purpose other than that for which it has been provided.
2. If a foreign agency as referred to in subsection (1) requests Our Minister for permission to use the data or information that has been provided pursuant to subsection (1) for a purpose other than that for which it has been provided, that request shall only be granted:
  - a) if the intended use is not contrary to subsection (1), or
  - b) if the foreign agency could obtain possession of that data or information from the Netherlands for that other purpose in accordance with the relevant procedures in a manner other than that provided for in this Act.
3. If the request referred to in subsection (2) relates to a criminal investigation, consent shall not be given therefor other than with the consent of Our Minister of Justice.

#### **Section 15**

1. Pursuant to conventions on the exchange data or information or pursuant to binding decisions of international organisations regarding the supervision of the financial markets or of natural persons, legal entities and partnerships that operate in these markets, Our Minister may, on behalf of an agency that operates in a State that with the Netherlands is a party to a convention or that is subject to the same binding decision of an international organisation as the Netherlands and that is charged in that State with implementing the statutory regulations regarding the supervision of the credit system or money transaction offices, request information from or institute an investigation or cause an investigation to be instituted with regard to any registered money transaction office that is subject to its supervision pursuant to this Act or with regard to any person in respect of whom there are reasonable grounds for suspecting that they are in possession of data or information that may be relevant to the implementation of the statutory regulations referred to above.
2. Those persons from whom data or information as referred to in subsection (1) is requested shall provide this data or information within a period to be stipulated by Our Minister.
3. Those persons in respect of whom an investigation as referred to in subsection (1) is instituted shall give the person who carries out the investigation every cooperation that is necessary in order to conduct that investigation properly, provided that those persons in respect of whom the investigation is conducted may only be obliged to allow books, commercial records and other data carriers to be inspected.

## **Section 16**

1. Our Minister shall provide the data or information that it has obtained in the course of discharging the duty with which he is charged pursuant to this Act and that relates to the integrity of the persons referred to in section 2(3), under *a, b, c* or *d*, to the authorities that are charged with supervising credit institutions, insurance companies, collective investment schemes, or securities brokers and portfolio managers pursuant to the Act on the Supervision of the Credit System 1992, the Act on the Supervision of the Insurance Industry 1993, the Prepaid Funeral Services Insurance Supervision Act, the Act on the Supervision of Collective Investment Schemes and the Act on the Supervision of the Securities Trade 1995, respectively, insofar as in the opinion of Our Minister it is or could be relevant to supervision that is carried out by that other authority.
2. The obligation referred to in subsection (1) shall not apply in the case of data or information that has been obtained from a foreign agency as referred to in section 14.

## **Section 17**

1. Our Minister may permit an officer of a foreign agency as referred to in section 15(1) to participate in the implementation of a request as referred to in that subsection.
2. The obligation referred to in section 15(3) shall also apply with regard to the officer referred to in subsection (1).
3. The officer referred to in subsection (1) shall follow the instructions of the person charged with carrying out the investigation.

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## CHAPTER 5. DELEGATION OF SUPERVISION

### **Section 18**

1. The duties and powers that Our Minister has pursuant to this Act, with the exception of the duties and powers referred to in sections 7(4), 14(3), 20(3), 21(3) and 31(2), and with the exception of the granting of an exemption as referred to in section 4(1), may be delegated to one or more legal entities by an order in council. The obligations with regard to Our Minister pursuant to this Act shall then apply as obligations with regard to the relevant legal entity or legal entities.
2. A delegation of duties and powers as referred to in subsection (1) shall only be made if the legal entity concerned satisfies the following requirements:
  - a) he must be able to discharge the duties and exercise the powers referred to in subsection (1) properly;
  - b) the conditions must exist to ensure that decision-making in the legal entity concerned is such that the duties and powers referred to in subsection (1) can be discharged and exercised, respectively, as far as possible on an independent basis;
3. Restrictions may be imposed on, and conditions attached to, a delegation of duties or powers as referred to in subsection (1).
4. For the purpose of granting, amending or withdrawing an exemption as referred to in section 4(1) or determining the amounts to be laid down by Our Minister as referred to in section 7(4), the recommendations of the legal entity or entities referred to in subsection (1) may be obtained. The legal entity whose recommendations are requested shall be obliged make these recommendations.
5. Once a year, by the first day of May, the legal entity or entities must report to Our Minister on the discharge of the duties and the exercise of the powers delegated in the previous calendar year. This report shall be published by Our Minister, provided that data relating to an individual money transaction office may not be published without the written consent of that money transaction office.



**Section 19**

Notwithstanding section 8:7 of the General Administrative Law Act, the court at Rotterdam shall be competent to hear appeals against decisions pursuant to this Act.

**Section 20**

1. Our Minister may impose a cease and desist order under penalty in respect of a breach of the provisions laid down by or pursuant to sections 2(5), (6) and (7), 3(1), 4(3), 5(3), 8(3) and (5), 9, 10, 11, 15(2) and (3).
2. Sections 5:32(2) to (5) inclusive and 5:33 to 5:35 inclusive of the General Administrative Law Act shall apply mutatis mutandis.
3. Our Minister may lay down rules regarding the exercise of the power referred to in subsection (1).

**Section 21**

1. Our Minister may impose an administrative fine in respect of a breach of the provisions laid down by or pursuant to sections 2(5), (6) and (7), 3(1), 4(3), 5(3), 8(3) and (5), 9, 10, 11, 15(2) and (3).
2. The administrative fine shall be paid to Our Minister.
3. Our Minister may lay down rules regarding the exercise of the power referred to in subsection (1).

**Section 22**

1. The amount of the administrative fine shall be determined in the manner set out in the Annex, provided that the administrative fine for each individual breach shall not exceed  $\square$  900,000.
2. The Annex sets out for each breach defined therein the administrative fine to be imposed in respect thereof.
3. The Annex may be amended by an order in council.
4. Our Minister may set an administrative fine at a lower level than laid down in the Annex if, in a particular case, on the grounds of special circumstances, the amount of the administrative fine is disproportionately high.

**Section 23**

A person with regard to whom an act is performed by Our Minister from which he can reasonably deduce that an administrative fine will be imposed on him on account of a breach shall not be obliged to make any statement regarding the matter. He shall be notified thereof before a verbal request for information is made to him.

**Section 24**

1. If Our Minister intends to impose an administrative fine, he shall notify the person concerned stating the grounds on which the intention is based.
2. Notwithstanding chapter 4.1.2 of the General Administrative Law Act, Our Minister shall give the person concerned the opportunity to express his views, either in writing

or verbally, as he shall choose, before an administrative fine is imposed, unless the breach is a breach designated in the annex referred to in section 22.

### **Section 25**

1. Our Minister shall impose an administrative fine by order.
2. The order must state:
  - a) the offence for which the administrative fine is being imposed and the provision that has been breached;
  - b) the amount of the administrative fine and the information used to determine this amount; and
  - c) the period referred to in section 27(1) within which the administrative fine must be paid.

### **Section 26**

1. The effect of an order imposing an administrative fine shall be suspended until the period for lodging an appeal has expired or, if an appeal has been lodged, until a decision has been given on the appeal.
2. Notwithstanding subsection (1), the effect of the order imposing an administrative fine for a breach that has been designated pursuant to section 24(2) shall be suspended until the period for lodging an objection has expired or, if an objection has been lodged, until a decision has been given on the objection.

### **Section 27**

1. An administrative fine shall be paid within six weeks of the entry into force of the order imposing it.
2. An administrative fine shall be increased by statutory interest, calculated from the date on which a period of six weeks has expired since the announcement of the order, unless the breach is a breach designated pursuant to section 24(2).
3. If an administrative fine is not paid by the due date, Our Minister shall send a written demand stating that the administrative fine plus the costs of the demand must be paid within two weeks. The demand shall include notification that insofar as the administrative fine is not paid within the specified period, it shall be collected in accordance with subsection (4).
4. In the absence of payment by the due date, Our Minister shall have the right to collect the administrative fine, plus the costs of the demand and of collection by writ of execution.
5. The writ of execution shall be served at the expense of the offender by bailiff's notification and shall enable execution to be levied within the meaning of Book Two of the Code of Civil Procedure.
6. During a period of six weeks from the date of service, an objection may be lodged to the writ of execution by serving a writ of summons on Our Minister.
7. An objection shall not suspend enforcement, unless, if required, the president of the court decides otherwise in interim injunction proceedings.
8. An objection may not be founded on the assertion that the administrative fine has been set wrongfully or at too high a level.

### **Section 28**

1. The power to impose an administrative fine shall lapse if criminal proceedings have been brought regarding the breach and the hearing has begun, or if the right to criminal proceedings has lapsed pursuant to article 74 of the Criminal Code.
2. The right to criminal proceedings in respect of a breach as referred to in section 21

shall lapse if Our Minister has already imposed an administrative fine in respect of that breach.

### **Section 29**

1. The power to impose an administrative fine shall lapse three years after the date on which the breach commenced.
2. The period referred to in subsection (i) shall be interrupted by notification of the order imposing the administrative fine.

### **Section 30**

The activities in respect of the imposition of a penalty or an administrative fine shall be carried out by persons who have not been involved in establishing that a breach has occurred or in the preceding investigation.

### **Section 31**

1. In order to protect the financial system, to prevent money laundering, the handling or receipt of unlawfully obtained money, and the financing of crimes that are punishable under international conventions regarding the combating of terrorism, Our Minister may, notwithstanding section 12, publish the offence for which an order to cease and desist under penalty or an administrative fine has been imposed, the provision that has been breached, and the name and address of the person on whom the order to cease and desist under penalty or the administrative fine has been imposed.
2. Our Minister may lay down rules regarding the exercise of the power referred to in subsection (i).

### **Section 32**

A person with regard to whom an act is performed by Our Minister from which he can reasonably deduce that Our Minister will publish his act or omission pursuant to section 31 shall not be obliged to make any statement regarding the matter. He shall be notified thereof before a verbal request for information is made to him.

### **Section 33**

1. If Our Minister intends to publish an offence pursuant to section 31, he shall notify the person concerned stating the grounds on which the intention is based.
2. Supplementary to section 4:8 of the General Administrative Law Act, Our Minister shall not be bound to give the person concerned the opportunity to express his views, if the address of the person concerned is not known and it is also not possible to obtain the address using reasonable endeavours.
3. The order to publish an offence pursuant to section 31 must state at least:
  - a) the offence that is to be published;
  - b) the way in which the offence is to be published; and
  - c) the period after which the offence will be published.
4. Unless deferment is not conducive to compliance with this Act, the effect of the order to publish an offence pursuant to section 31 shall be suspended until the period for lodging an appeal has expired or, if an appeal has been lodged, until a decision has been given on the appeal.
5. Notwithstanding section 3:40 of the General Administrative Law Act, the order shall come into effect on the day on which the offence is published, and the effect shall not be suspended for the period for lodging an appeal or, if an appeal has been

lodged, during the appeal if the address of the person concerned is not known and it is also not possible to obtain the address using reasonable endeavours.

#### **Section 34**

1. The power to publish an offence pursuant to section 31 shall lapse if criminal proceedings have been brought regarding the breach and the hearing has begun, or if the right to criminal proceedings has lapsed pursuant to article 74 of the Criminal Code.
2. The right to criminal proceedings in respect of a breach as referred to in section 31 shall lapse if Our Minister has already published the offence.

#### **Section 35**

1. The power to publish an offence pursuant to section 31 shall lapse three years after the date on which the offence was committed.
2. The period referred to in subsection (1) shall be interrupted by notification of the order publishing the offence.

#### **Section 36**

The activities in respect of the publication of an offence pursuant to section 31 shall be carried out by persons who have not been involved in establishing that an offence has been committed or in the preceding investigation.

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### CHAPTER 8. AMENDMENT OF OTHER ACTS

#### **Section 37**

In paragraph 11 of the Annex to the Act on Administrative Jurisdiction regarding Administrative Organisation, the words «Exchange Offices Act» shall be replaced by «Act on Money Transaction Offices».

#### **Section 38**

In section 27b(4) of the Act on the Supervision of Collective Investment Schemes, the words «Exchange Offices Act» shall be replaced by «Act on Money Transaction Offices».

#### **Section 39**

In section 34(4) of the Act on the Supervision of the Securities Trade 1995, the words «Exchange Offices Act» shall be replaced by «Act on Money Transaction Offices».

#### **Section 40**

In section 68(4) of the Act on the Supervision of the Credit System 1992, the words «Exchange Offices Act» shall be replaced by «Act on Money Transaction Offices».

#### **Section 41**

In section 6(4) of the Prepaid Funeral Services Insurance Supervision Act, the words «Exchange Offices Act» shall be replaced by «Act on Money Transaction Offices».

## **Section 42**

In section 11(4) of the Act on the Supervision of the Insurance Industry 1993, the words «Exchange Offices Act» shall be replaced by «Act on Money Transaction Offices».

## **Section 43**

In section 1, under 2°, of the Economic Offences Act, the words relating to the Exchange Offices Act shall be deleted and the following words shall be inserted in alphabetical order: «Act on Money Transaction Offices , sections 3(1), 4(3), 5(3), 8(3) and (5), 9(1), 10, 11, 15(2) and (3)».

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## CHAPTER 9. TRANSITIONAL AND FINAL PROVISIONS

### **Section 44**

1. An exchange office that at the time of the entry into force of this Act has been entered in the register referred to in section 3 of the Exchange Offices Act shall be entered in the register referred to in section 2 of this Act as a money transaction office that effects money transactions as referred to in section 1(1)(c), under 1° and 2°.
2. The exchange office referred to in subsection (1) shall specify which money transactions it effects as a money transaction office prior to the first day of the second calendar month following the date of the entry into force of this Act.

### **Section 45**

A dispensation as referred to in section 5 of the Exchange Offices Act shall be deemed to have been granted pursuant to section 4 of this Act.

### **Section 46**

1. An application for a dispensation from the prohibition referred to in section 82(1) of the Act on the Supervision of the Credit System 1992 in respect of the performance of acts referred to in section 1(1)(c), under 3°, of this Act, on which a decision has not yet been given by Our Minister at the time of the entry into force of this Act, shall be passed on to Our Minister for consideration as an application for registration pursuant to this Act.
2. An application for a dispensation or registration that has been submitted pursuant to the Exchange Offices Act and on which a decision has not yet been given by De Nederlandsche Bank N.V. at the time of the entry into force of this Act, shall be passed on to Our Minister for consideration as an application for dispensation or registration pursuant to this Act.

### **Section 47**

In the event that, prior to the entry into force of this Act, an appeal is lodged against a decision given pursuant to the Exchange Offices Act, or against a decision given pursuant to section 82 of the Act on the Supervision of the Credit System 1992, regarding an activity referred to in section 1(1)(c), under 3°, of this Act, the appeal shall be decided upon under the law that was applicable prior to that time.

## **Section 48**

1. The prohibition referred to in section 3(1) shall not apply until the first day of the third calendar month following the date of the entry into force of this Act with regard to money transaction offices that at the time of the entry into force of this Act had been granted a dispensation pursuant to section 82 of the Act on the Supervision of the Credit System 1992 to effect money transactions as referred to in section 1(1)(c), under 3°, of this Act.
2. With regard to a money transaction office that has submitted an application for registration to Our Minister during the period preceding the date referred to in subsection (1), the prohibition referred to in section 3(1) shall not apply until the second day following the date on which the decision on the application was given by Our Minister.

## **Section 49**

The Exchange Offices Act shall be repealed.

## **Section 50**

Subject to section 16 of the Interim Referendum Act, this Act shall enter into force with effect from the date following the date of issue of the Staatsblad<sup>2</sup> in which is published.

## **Section 51**

This Act shall be cited as the "Act on Money Transaction Offices".

We order and command that this Act be published in the Staatsblad and that all ministries, authorities, bodies and officials whom it may concern shall diligently implement it.

The Minister of Finance

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<sup>2</sup> Bulletin of Acts, Orders and Decrees.