



Lignum Vitae - "Tree of life"

The Risk & Regulatory Forum (TRRF)

SOME IMPORTANT DEVELOPMENTS AND ASPECTS WITH RESPECT TO THE SUPERVISION OF MONEY TRANSFER COMPANIES IN ARUBA

R.J. Ridderstap

September 17, 2005

On the occasion of the first seminar held by Union Caribe N.V. for its personnel on the topic of combating money laundering and financing of terrorism.

Distinguished guests, ladies and gentlemen,

On behalf of the Centrale Bank van Aruba (the Bank) I thank the management of Union Caribe N.V. for the invitation to speak to you during this seminar. Today, I will discuss briefly with you the developments that have led to the introduction of a law regulating this sector. Subsequently, I will discuss with you some important aspects of the laws and regulations governing this sector. I will conclude my presentation with a brief overview on the Bank's supervisory activities.

Growth in the number of money transfer companies

Aruba has experienced an economic boom during the 1990's, particularly in the tourism sector. Many foreign workers, especially from Latin America and the Caribbean, immigrated to Aruba to work mainly in the construction and tourism sector. In general, these foreign workers make use of the services of the money transfer companies to send monies to their relatives in their country of origin. Consequently, the number of companies engaged in money transfer activities have increased progressively. This development raised concerns, especially since this sector is vulnerable for illicit activities.

FATF evaluation

In 1999, a Financial Action Task Force (FATF) mission evaluated Aruba's compliance with the forty recommendations. In the evaluation report prepared by this mission the view was expressed that money transfer companies should be brought under some form of regulation. In response to these concerns, money transfer companies were brought under the State Ordinance on the Obligation to Report Unusual Transactions (SOORUT). As of May 1999, the money transfer companies are required to report all unusual transactions to the Financial Intelligence Unit in Aruba, the so-called "Meldpunt Ongebruikelijke Transacties".



Lignum Vitae - "Tree of life"

The Risk & Regulatory Forum (TRRF)

Quick scan survey

The Bank conducted a quick scan survey during the latter part of 1999, to gather information on the volume and nature of the transactions performed by these companies. The survey concluded that only a relatively small part of the companies registered at the Chamber of Commerce as money transfer companies was actually involved in money transfer activities. The survey also concluded that only a few companies dominated this sector and that the volume of the monies transferred was significant. Subsequently, the Bank issued guidelines aimed at improving compliance with the foreign exchange regulations, fostering adequate bookkeeping and reporting practices, and the implementation of sound anti-money laundering policies and procedures. It was, however, clear that the introduction of a supervisory law to regulate the money transfer sector was urgently needed in order to be able to effectively supervise this sector.

Special recommendations VI and VII

The call for effective supervision of the money transfer sector clearly accelerated after the terrorist attack in the United States of America on September 11, 2001. In the aftermath of the terrorist attacks, the FATF issued additional special recommendations on combating the financing of terrorism. For the money transfer sector, special recommendations VI and VII are of particular interest. Special recommendation VI requires countries to take measures to ensure that persons or legal entities, including agents, that provide service for the transmission of money or value, including transmission through informal money or value systems or network, be licensed or registered. These companies should also be subject to all the FATF recommendations that apply to banks and non-bank financial institutions. Furthermore, each country should ensure that persons or legal entities that carry out this service illegally are subject to administrative, civil or criminal sanctions. Special recommendation VII requires countries to take measures so that financial institutions, including money transfer companies, include accurate and meaningful originator information on funds transfers and related messages that are sent, while this information should remain with the transfer or related message through the payment chain.

Introduction of a law regulating this sector

In order to comply with FATF special recommendation VI a law to regulate this sector was drafted. The State Ordinance on the Supervision Money Transfer Companies (SOSMTC) became effective on August 11, 2003. The Bank is entrusted with the execution of this ordinance. In accordance with section 2 of the SOSMTC, a money transfer company must be registered at the Bank before it can conduct money transfer activities. The criteria to qualify for registration are mentioned in section 3 of the SOSMTC. The main requirements are that the shareholders and management must be fit and proper, and the administrative organization and internal controls must meet the



Lignum Vitae - "Tree of life"

The Risk & Regulatory Forum (TRRF)

minimum standards set by the Bank, while the integrity of the money transfer activities conducted must be sufficiently safeguarded. Finally, it is important to note that the SOSMTC gives the Bank the authority to impose sanctions against a non-complying money transfer company.

Early 2004, six companies qualified for registration, while two internationally active money transfer companies, i.e. Western Union International and MoneyGram, were granted an exemption as meant in section 10 of the SOSMTC. At present, there are four registered money transfer companies in Aruba. Two companies, mainly as a result of the relatively high costs involved in complying with the laws and regulations governing this sector, decided last year to cease their money transfer activities.

Overview of directives and guidelines issued by the Bank

The SOSMTC gives the Bank the authority to issue directives and guidelines in the areas of administrative organization and internal controls and anti-money laundering/combating financing of terrorism. Next, I will elaborate somewhat on the directives and guidelines issued so far by the Bank.

Administrative Organization guidelines

The guidelines on the conduct of business by and the administrative organization of money transfer companies lay down compulsory rules for the conduct of business and the administrative organization of money transfer companies and their branches, including the financial accounts and the internal control system. The underlying principle is that money transfer companies are responsible for organizing and controlling their business processes so that their businesses are conducted in a reputable manner.

The managing board of a money transfer company is responsible for the day-to-day management of the institution. This responsibility extends to determining policy, translating policy into operating measures, and ensuring that these measures continue to work effectively. The policy principles for the control of integrity risk must be laid down in a policy plan and worked out in further detail in specific procedures, rules and standards. The managing board is responsible for the internal control system and must periodically evaluate its effectiveness and current relevance, and, if necessary, make adjustments hereto.

Anti-money laundering/combating financing of terrorism (AML/CFT) directive

Money laundering and financing of terrorism are serious forms of misuse of the financial sector. Money transfer companies are particularly vulnerable for these illicit activities. Therefore, the money transfer companies are required to take steps to prevent them from being misused for illicit activities. In accordance with our AML/CFT directive, effective



Lignum Vitae - "Tree of life"

The Risk & Regulatory Forum (TRRF)

know-your-customer practices must form an integral part of the risk management and internal control systems of a money transfer company.

Also, in accordance with the AML/CFT directive, all money transfer companies must have a compliance officer. This officer must oversee compliance with the internal procedures established by the money transfer company and the laws and regulations governing this sector. The compliance officer must lay down its findings in writing and report these to management. The compliance officer must preferably have some experience in the area of audit/compliance.

On-site examinations and off-site surveillance

The Bank conducts regular on-site examinations at the registered money transfer companies to monitor compliance with the laws and regulations governing this sector. These on-site examinations are an important tool for the Bank to monitor the money transfer activities and review compliance with the stipulations of the SOSMTC, as well as its directive and guidelines.

The money transfer companies are required to provide the Bank, on a quarterly basis, with detailed information on their activities in a standard reporting format. Furthermore, money transfer companies must submit their certified annual report to the Bank within six months after the end of each year and also provide it with a review report containing the findings of the external auditors in the know-your-customer area. The external auditor must also certify the quarterly report over the last quarter of each year.

Concluding remarks

Since the terrorist attacks in the United States of America in 2001, the international community has taken steps to regulate the money transfer sector. Aruba has taken decisive measures by bringing this sector under the scope of the SOORUT and regulating it through the SOSMTC.

Regular training of money transfer companies' personnel is of crucial importance to prevent this sector from being misused for illicit activities. Therefore, the management of Union Caribe N.V. is to be commended for taking the initiative to organize this seminar for its employees.

I thank you for your attention.

The opinions expressed in this article are those of the author and does not purport to the opinion of any organization or group to which he/she may be associated. Rudolf J. Ridderstap is a Senior Examiner of the Supervision Department of the Centrale Bank van Aruba. For comments on this article he may be contacted at – r.j.ridderstap@cbaruba.org



Lignum Vitae - "Tree of life"

The Risk & Regulatory Forum (TRRF)
