FIU CURAÇAO | FINANCIAL INTELLIGENCE UNIT CURAÇAO

# Provisions and Guidelines for Civil-Law Notaries, Lawyers, Accountants, Tax Advisers and Administrative Offices

**National Ordinance on Identification when Rendering Services (NOIS)**
(P.B. 2017, no. 92 (GT), as amended, inter alia, by P.B. 2024, no. 41)

**National Ordinance on the Reporting of Unusual Transactions (NORUT)**
(P.B. 2017, no. 99 (GT), as amended, inter alia, by P.B. 2024, no. 41)

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# Chapter 1 General Provisions

## 1.1 Introduction

These Provisions and Guidelines are issued by the Financial Intelligence Unit Curaçao (hereinafter: FIU Curaçao) in its capacity as the supervisory authority for civil-law notaries, candidate civil-law notaries, lawyers, accountants, tax advisers, legal advisers and administrative service providers, insofar as they professionally or commercially provide a service falling within Article 1 paragraph a under sub 15° of the National Ordinance on the Reporting of Unusual Transactions (NORUT) and Article 1 paragraph b under sub 15° of the National Ordinance on Identification when Rendering Services (NOIS).They are collectively referred to in this document as Legal and Administrative service providers.

## 1.2 Background

The FATF Recommendations and their Interpretive Notes form an important international standard and assessment framework. They do not, however, constitute an independent legal basis for enforcement in Curaçao. Enforceable obligations must be based on the applicable Curaçao legislation, including the NOIS, the NORUT, the regulations issued under those National Ordinances and the applicable sanctions legislation.

## 1.3 Purpose of these Provisions and Guidelines

The purpose of these Provisions and Guidelines is to explain how Legal and Administrative service providers must apply their obligations under the NOIS and the NORUT in their professional practice. They address the risk-based approach, customer due diligence, the identification and verification of clients, representatives and ultimate beneficial owners, ongoing monitoring, the reporting of unusual transactions, compliance with sanctions measures, internal organization and control and the way FIU Curaçao conducts supervision and enforcement.

## 1.4 Scope and applicability

SUB 15 covers the professional and commercial provision of the services designated by law. Subject to the precise statutory definition, these services include assisting with the purchase or sale of registered property or businesses; managing a client's funds, securities or other assets; opening or managing bank, savings or securities accounts; organizing contributions for the formation, operation or management of companies; and forming, operating or managing legal persons or legal arrangements.

The institution shall assess the nature and scope of the proposed activities before commencing each engagement. It shall determine whether the engagement, or any identifiable part of it, falls within the NOIS or the NORUT. The institution shall record the facts considered, the relevant designated service and the conclusion reached.

## 1.5 FIU Curaçao as supervisory authority

The Supervision Department of FIU Curaçao conducts risk-based supervision of compliance with the NOIS, the NORUT and the binding provisions issued under those National Ordinances. Its activities may include registration, information requests, management meetings, thematic reviews, file reviews, on-site inspections, follow-up reviews and enforcement action within the limits of the applicable statutory powers.

# Chapter 2 Legal Framework

## 2.1 Applicable legal framework

The NOIS requires Legal and Administrative service providers, among other things, to conduct customer due diligence, identify and verify the identity of the client and the ultimate beneficial owner, establish the purpose and intended nature of the business relationship and record and retain the information obtained.

The NORUT requires Legal and Administrative service providers to report completed and contemplated unusual transactions to FIU Curaçao without delay when an applicable objective or subjective indicator is met. It also contains requirements concerning registration, the provision of information, confidentiality, supervision and enforcement.

## 2.2 National risk assessment

The most recent publicly available national assessment of money-laundering risks is the National Risk Assessment (on) Money Laundering Curaçao 2020. The report was published in May 2023, and the risk-assessment process was conducted during the period 2018–2021.

Legal and Administrative service providers shall take relevant findings from the National Risk Assessment into account when preparing and updating their institutional risk assessments. This national information shall be considered together with current information concerning the institution's clients, ultimate beneficial owners, services, transactions, countries and geographical areas, delivery channels and methods of providing services.

## 2.3 Official sources and current information

Legal and Administrative service providers shall use current and authoritative sources when applying these Provisions and Guidelines. Commercial databases, screening systems, media reports and other external sources may support the institution's assessment but do not replace the official legal text, sanctions list, public statement or other formal publication.

| Subject matter | Official source | Principal use |
|---|---|---|
| NOIS, NORUT, National Decrees, Ministerial Regulations and Official Gazette publications | Government of Curaçao — https://gobiernu.cw/ | Verification of current official legislation, amendments, corrigenda, publication dates and entry into force |
| Supervision, registration, reporting procedures, goAML, sanctions information and sector guidance | FIU Curaçao — https://fiucuracao.cw/ | Current provisions and guidelines, registration material, reporting instructions, sanctions information and sector-specific guidance |
| FATF Recommendations and jurisdictions subject to increased monitoring or a call for action | FATF — https://www.fatf-gafi.org/ | International standards, Interpretive Notes, assessment methodology, guidance and current public statements |
| Regional mutual evaluations and follow-up reports | CFATF — https://cfatf-gafic.org/ | Mutual Evaluation Reports, Follow-Up Reports and regional AML/CFT/CPF information |

# Chapter 3 Risk-Based Approach

## 3.1 General principles

The institution shall apply the requirements of the NOIS and the NORUT on a risk-sensitive basis. The nature, scope and intensity of the measures applied shall correspond to the risks identified, while all applicable statutory minimum requirements must be fully implemented.

The institution shall be able to demonstrate how its risk assessment influenced the measures taken in a particular case. A risk classification without a supporting explanation is insufficient.

## 3.2 Identification and assessment of risks

The institution shall assess at least the risks associated with the client, ultimate beneficial owner, the service, engagement, transaction, country or geographical area and delivery channel. These factors shall not be assessed in isolation. The institution shall consider their combined effect and determine whether that combination increases or reduces the overall risk.

| Professional group | Examples of relevant services | Examples of principal risks |
|---|---|---|
| Civil-law notaries and candidate civil-law notaries | Formation and amendment of legal persons; transfers of shares, businesses and registered property; handling or transfer of funds connected with a notarial service | Complex ownership structures; third-party payments; unusual purchase prices; unexplained foreign financing; misuse of client accounts; concealment of ownership or control |
| Lawyers and legal advisers | Assistance with transactions; formation or management of legal persons or arrangements; management of client funds; purchase or sale of businesses | Concealment of ownership; use of nominees or intermediaries; complex cross-border structures; unexplained client funds; legal structures without a clear purpose |
| Accountants | Accounting, audit, review, compilation, forensic or related services insofar as they fall within a designated service | Entries without a supporting basis; cash flows inconsistent with business activities; unexplained related-party transactions; undisclosed assets; records that do not reflect economic reality |
| Tax advisers | Tax advice, restructuring and tax planning insofar as a designated service is provided | Structures without economic substance; unnecessary use of multiple jurisdictions; concealment of the UBO; unexplained source of funds or wealth; arrangements inconsistent with the client’s activities |
| Administrative service providers | Bookkeeping, payment administration, corporate administration and related activities falling within the statutory definition of SUB 15 | Invoices without an underlying supply or service; unexplained flows of funds; mixing of personal and business expenditure; third-party payments; dormant companies showing sudden activity |

The institution should not assess only the person formally providing the instructions. The UBO, representative, beneficiary, payer, recipient, financier, counterparty and other persons exercising ownership, control or effective influence may materially affect the risk profile.

A foreign connection does not automatically result in a higher-risk classification. The institution shall consider the nature of the connection, the purpose of the service, the quality and accessibility of reliable information, the relevant country risk and the measures available to manage that risk.

## 3.3 Application in practice

In accordance with FATF recommendation 1.9(b), 1.9(c) and 10.18, the outcome of the risk assessment shall determine the intensity of customer due diligence, the required level of approval, the nature of ongoing monitoring and the frequency with which client information is reviewed and updated. Simplified measures may be applied only when a documented assessment establishes a lower risk; they are not permitted where there is a suspicion of ML/TF or a specific higher-risk scenario.

The institution shall identify the natural persons who ultimately own or control the entities involved, establish the purpose and function of each entity, investigate the relationship between the parties and verify the source and legal basis of the financing. It shall assess whether the combination of circumstances requires enhanced customer due diligence and whether an objective or subjective indicator for reporting an unusual transaction is met.

### 3.4 Management and mitigation of ML/TF risks

The institution shall maintain written policies, internal controls and procedures for managing and mitigating money-laundering and terrorist-financing risks, hereinafter referred to as ML/TF risks.

In accordance with FATF recommendation 1.13, the risks identified by the institution or at national level shall be demonstrably reflected in its policies, controls and procedures. Senior-management approval shall be evidenced by a dated decision or another verifiable record.

In accordance with FATF Recommendation 1.14, the measures applied shall be proportionate to the identified risk. Higher risks require effective enhanced measures. Where a lower risk has been established and the conditions for simplification are met, appropriate simplified measures may be applied. The institution shall document the measure selected and explain why it is proportionate to the identified risk.

### 3.5 Assessment and mitigation of PF risks

The institution shall identify and assess its proliferation-financing risks, hereinafter referred to as PF risks.

The assessment shall take account of clients, ultimate beneficial owners, countries and geographical areas, payment routes, goods, technology, intermediaries and ownership or control structures that may relate to the development, acquisition, possession, transfer or use of nuclear, chemical or biological weapons and related materials or means of delivery.

The measures shall be capable of identifying possible breaches, non-implementation or evasion of targeted financial sanctions relating to proliferation financing under FATF Recommendation 7.

This section gives effect to FATF Recommendation 1.15 a up to e.

# Chapter 4 Customer Due Diligence

## 4.1 General obligation to conduct customer due diligence

The institution shall conduct customer due diligence before entering into a business relationship or providing a designated service. Customer due diligence must enable the institution to understand for whom it is acting, on whose behalf a person is acting, who ultimately owns or controls the client, the purpose and intended nature of the engagement and whether the proposed service is consistent with the client's profile.

The nature and extent of customer due diligence shall be proportionate to the identified risks. This does not mean that mandatory elements may be omitted. The institution must always obtain the information required by law and must apply additional measures where the circumstances present a higher risk.

## 4.2 Identification and verification

The institution shall identify the client and verify the client's identity using reliable and independent documents, data or information permitted under the NOIS. The measures required depend on whether the client is a natural person, legal person, partnership or other legal arrangement.

Identifying the legal person does not replace the requirement to identify the ultimate beneficial owner. The institution may not limit its assessment to the legal person, its directors or shareholders that are themselves legal persons. The ownership and control structure shall be examined until the relevant natural person or persons who ultimately own or control the client have been identified.

## 4.3 Identification and verification without physical contact

Where services are provided without the physical presence of the client or representative, the institution shall assess in advance the additional risks associated with the delivery channel and the identification method used.

Article 3 paragraph 1 of the NOIS continues to apply where identification and verification take place without physical contact. The institution shall therefore apply a method that enables it to verify reliably the identity document, the identity of the person presenting it, the validity of the information and, where applicable, the person's authority to represent the client.

Where the institution cannot verify the identity or authority of the person reliably, it shall request additional information or documents, apply another verification method or require physical presence. If the doubt cannot be resolved, the institution shall not commence or continue the service and shall assess whether the circumstances require an unusual transaction report.

## 4.4 Identification of the ultimate beneficial owner

The institution shall identify the natural person or persons who ultimately own or control the client or on whose behalf a transaction is conducted. It should take reasonable measures to verify the identity of each ultimate beneficial owner using reliable information.

The client file shall contain a clear overview of the complete ownership and control structure. It shall record the entities and natural persons involved, relevant ownership percentages, voting and control rights, the sources consulted and the reasoning used to identify the UBO.

If the institution cannot identify or verify the UBO after taking reasonable measures, or if doubts remain regarding the accuracy or completeness of the information, it shall act in accordance with the NOIS. It should document the measures taken, the information that could not be obtained and the reason why customer due diligence could not be completed. It should also assess whether the relationship or service must be refused or terminated and whether an unusual transaction report is required.

### 4.5 Purpose and intended nature of the relationship, sources of funds and of wealth

The institution shall establish the purpose and intended nature of the business relationship or engagement. The description should be sufficiently clear and specific to enable the institution to assess whether subsequent services, transactions and flows of funds are consistent with the stated purpose and the known client profile.

Where relevant or higher risks are present, the institution shall establish and verify the source of the funds used for the transaction. Where required by applicable legislation or justified by the risk, it shall also establish the source of the client's or UBO's overall wealth.

For a client or transaction presenting a higher risk, the institution shall assess whether the known income and wealth are reasonably consistent with the client's or UBO's occupation, business activities, financial position and background.

In the case of a PEP, the institution shall pay particular attention, in accordance with the applicable requirements, to both the source of wealth and the source of the funds used in the business relationship or transactions.

### 4.6 Ongoing customer due diligence

Customer due diligence does not end once the client, the representative and the ultimate beneficial owner have been identified and verified. Throughout the business relationship, the institution shall ensure that its knowledge of the client remains current, complete and reliable. It should also monitor whether the services provided, transactions, activities and flows of funds remain consistent with the institution's knowledge of the client and the ultimate beneficial owner, the purpose and intended nature of the business relationship and the established risk profile.

During each review, the institution shall determine whether the identification and verification information remains valid, whether the ultimate beneficial owner and ownership and control structure remain unchanged, whether the purpose and intended nature of the business relationship are still accurate and whether the risk classification remains appropriate. The institution shall also determine whether previous explanations and supporting documents remain consistent with the client's current activities and transactions.

The institution shall document the date and scope of each review, the information and documents examined, any changes or inconsistencies identified, the assessment performed and the decision taken. Where no changes are identified, this conclusion shall also be documented. A brief statement that the file was "reviewed" or "remains unchanged" is insufficient unless the file shows which elements were examined, which sources were consulted, who performed the review and why the information and risk classification were considered to remain current and appropriate.

### 4.7 Simplified measures in lower-risk situations

The institution may apply simplified customer due diligence measures only where it has established, based on an adequate, current and documented risk assessment, that the client, business relationship or transaction presents a lower risk of money laundering or terrorist financing and the NOIS permits such simplification.

Simplified measures do not constitute an exemption from customer due diligence. They involve adjusting nature, intensity or frequency of measures in proportion to the demonstrably lower risk. The institution must still identify and verify the client and any representative, identify and take reasonable measures to verify the ultimate beneficial owner, understand the purpose and intended nature of the business relationship and monitor whether the services and transactions remain consistent with the established client and risk profile.

Any simplification must be directly connected with the reason why the risk was assessed as lower. For example, where the lower risk arises from a straightforward service of limited scope, the institution may adjust the frequency of periodic file reviews or the intensity of ongoing monitoring, insofar as this remains proportionate. This does not permit the institution to omit identification, UBO determination, sanctions screening, record keeping or the reporting of unusual transactions.

A lower ML/TF risk does not reduce the obligation to implement applicable targeted financial sanctions fully and without delay. Sanctions screening, freezing requirements and prohibitions on making funds or economic resources available remain fully applicable.

| Level of measures | Conditions | Possible application | Not permitted or insufficient |
|---|---|---|---|
| Simplified measures | A lower risk has been adequately established and documented in advance, and the NOIS permits simplification | Less frequent updating of information or proportionately adjusted ongoing monitoring | Where ML/TF is suspected, a specific higher-risk scenario applies, or client or UBO information is insufficient |
| Standard measures | No demonstrably lower or higher risk has been identified | Full identification and verification, UBO determination, establishment of the purpose and intended nature of the relationship, ongoing monitoring, sanctions screening and record keeping | Standard measures cease to be sufficient when relevant higher-risk factors arise |
| Enhanced measures | A higher risk has been identified or enhanced measures are required by law | Additional information and independent sources, examination of sources of funds or of wealth, senior-management approval and more intensive monitoring | Merely collecting additional documents without assessing their reliability, consistency and significance |

### 4.8 Reliance on third parties within the same group

The institution shall determine whether the third party is genuinely part of the same group and whether customer due diligence, record-keeping requirements and AML/CFT programs are effectively applied at group level. In accordance with FATF Recommendation 17.3(b), the implementation of those group-wide measures must be supervised at group level by a competent authority. The institution shall document the competent authority involved, the group entities subject to that supervision and the basis on which it concluded that the relevant measures are effectively supervised.

Where a group entity is in a higher-risk country, the institution shall determine whether the increased country risk is adequately managed and mitigated through the group's AML/CFT policies, in accordance with FATF Recommendation 17.3(c). The assessment shall consider differences in legislation, the availability and reliability of client information, the quality of supervision, restrictions on information sharing and the practical operation of group controls.

A risk classification assigned by a foreign group entity does not bind the Curaçao institution. For example, a foreign office may classify a client as presenting a standard risk because the client is a well-known company in that jurisdiction. The Curaçao institution must nevertheless assess whether the proposed service, countries involved, ownership structure and source of funds create additional risks for the engagement in Curaçao.

### 4.9 Example: examination of the source of funds

A client asks a civil law notary or lawyer to assist with the acquisition of a company or a transfer of shares. The agreement states that the purchase price is Cg.2,000,000. Shortly before execution of the deed or completion of the transaction, the institution learns that Cg.1,500,000 will not be paid by the buyer but by a foreign company that is not named as a party to the agreement.

The client file shall provide a complete and traceable record of the investigation. It shall explain why additional enquiries were necessary, identify the parties involved and their relationship and record the stated legal and economic basis for the payment. It should identify the documents received and verified, the independent sources consulted and the manner in which the source of funds was established.

Finally, the file shall record whether the institution assessed the objective and subjective indicators and whether an unusual transaction report was submitted to FIU Curaçao. The reasons supporting that decision must be sufficiently clear to allow the assessment to be reconstructed afterwards.

# Chapter 5 Reporting of Unusual Transactions

## 5.1 Reporting obligation and applicable indicators

Pursuant to Article 11 of the National Ordinance on the Reporting of Unusual Transactions (NORUT), an institution shall report a completed or contemplated unusual transaction without delay to FIU Curaçao. The reporting obligation arises as soon as an applicable objective or subjective indicator is met.

### 5.1.1 Applicable regulation and indicators

The applicable indicators are set out in the Regulation on Indicators for Unusual Transactions, P.B. 2015, no. 73, as amended by P.B. 2024, no. 60. For services falling under Article 1 paragraph a under sub 15° of the NORUT and Article 1 paragraph b under sub 15° of the NOIS the indicators in Annex K are relevant. The institution shall always consult the current official text and determine which indicator applies to the completed or contemplated service or transaction.

### 5.1.2 Objective indicators

An objective indicator describes a specific situation defined in the applicable regulation. Once the relevant factual conditions are met, reporting is mandatory. The institution may not impose an additional suspicion threshold or refrain from reporting because it considers the client reliable, regards the transaction as explainable or has no suspicion of money laundering.

A client makes a cash payment of Cg.20,000 or more in connection with a transaction handled by a civil-law notary. Where the notary is directly or indirectly involved, the objective indicator is met and the transaction must be reported without delay. A plausible explanation concerning the source of the cash does not remove the reporting obligation.

### 5.1.3 Subjective indicator

The subjective indicator requires an assessment based on the institution’s knowledge of the client, the UBO, the engagement, the transaction, the parties involved and the flow of funds. Reporting is mandatory where the institution has reason to suppose that the transaction may related to money laundering, terrorist financing or proliferation financing.

Taken together, these circumstances may provide reason to suppose that the structure is intended to conceal ownership, control or flows of funds. The lawyer shall determine whether the services are designated services and whether the subjective indicator is met. Where it is met, the transaction shall be reported without delay.

### 5.1.4 Documentation and timing of the report

The institution shall document which objective or subjective indicator was assessed, which facts and documents were considered, when the indicator was identified, who performed the assessment and when the report was submitted.

A limited internal review may be conducted to establish the facts necessary for an accurate report. It shall not be used to delay reporting while the institution attempts to obtain certainty or complete an extensive investigation.

| Indicator | When reporting is required | Effect on the assessment |
|---|---|---|
| Objective indicator | As soon as the factual conditions specified in the applicable regulation are met | Reporting is mandatory regardless of the institution’s view of the client or the explanation provided |
| Subjective indicator | As soon as the known facts and circumstances provide reason to suppose that the transaction may relate to ML, TF or PF | The institution shall document the facts, warning signs and reasoning that led to its conclusion |

## 5.2 Internal procedures for identifying, assessing and reporting unusual transactions

The institution shall maintain a written and practically workable procedure for identifying, internally escalating, assessing and reporting unusual transactions. The procedure shall be proportionate to the nature, size and organization of the institution and shall be capable of operating without unnecessary delay.

The procedure shall identify the indicators applicable to the institution's services and explain how employees are expected to recognize and escalate relevant facts or warning signs. It shall state to whom a potentially unusual transaction must be reported internally, which information must accompany the internal report and who is responsible for determining whether an objective or subjective indicator is met.

The designated person responsible assesses an internal report promptly by reference to the applicable indicators, the available client and UBO information, the established risk profile, the nature and purpose of the service, the parties and countries involved, the transaction documents, the client's explanation and any other relevant facts or risk indicators.

## 5.3 Tipping-off prohibition

The institution shall not inform the client or any third party that an unusual transaction report is being considered, has been prepared or has been submitted. It shall not disclose the content of a report, the existence of an internal assessment directed towards possible reporting, a request for additional information from FIU Curaçao or information indicating that FIU Curaçao may be analyzing a transaction. The tipping-off prohibition is intended to prevent a client or other person from obstructing an investigation, destroying or concealing evidence, moving funds or economic resources or warning other persons involved. The prohibition applies to every director, professional and employee who becomes aware of internal assessment, report or related communication. Access to such information shall therefore be restricted to persons who require it to perform their duties.

## 5.4 Professional secrecy and the statutory reporting obligation

Lawyers and civil-law notaries are subject to statutory professional secrecy. This protection plays an important role in preserving confidential communications and the proper administration of justice. It does not, however, mean that every activity performed by a lawyer or civil-law notary falls outside the reporting obligation.

Where a lawyer or civil-law notary provides legal advice or represents a client in or in connection with legal proceedings, the institution shall determine whether a statutory exception applies. That assessment shall be made separately for each engagement and in accordance with the applicable statutory conditions.

The internal record of the assessment shall not contain more privileged substantive information than is necessary to demonstrate the basis of the decision. Where genuine doubt exists, the institution shall obtain appropriate legal or professional advice promptly and without allowing that process to delay a report that must be submitted without delay.

## 5.5 Practical examples

### 5.5.1 Civil-law notary – payment by a foreign third party

A client asks a civil-law notary to handle the transfer of registered property. A substantial part of the purchase price will be paid by a foreign company that is not named in the purchase agreement. The client cannot provide a credible and verifiable explanation of the relationship with that company and provides insufficient information concerning its UBO and the source of the funds.

The civil-law notary shall investigate the payment, update the client's risk profile and assess the subjective indicator. If a cash payment of Cg.20,000 or more is also involved and the relevant objective indicator applies, the transaction must also be reported under that indicator.

### 5.5.2 Lawyer – establishment of several legal persons

The combination of circumstances may meet the subjective indicator. The lawyer shall first determine whether the activities constitute a designated service and whether a statutory exception applies. Where the service is subject to the NORUT and the subjective indicator is met, the lawyer shall report without delay and shall not inform the client of the report.

### 5.5.3 Accountant – unexplained entries and invoices

The accountant shall request appropriate documentation and assess the relationship between the accounting entries, parties, agreements and flows of funds. Where a credible and verifiable basis remains absent, the subjective indicator may be met.

If the same transactions are reported to the police or judicial authorities, the accountant shall also determine whether the applicable objective indicator in Annex K requires a report to FIU Curaçao.

### 5.5.4 Administrative service provider – foreign flows of funds without a clear basis

The service provider should obtain an explanation and appropriate supporting documents, update the client and risk profile and assess the subjective indicator. The fact that it does not execute the payments itself does not remove the reporting obligation where it becomes aware of the transactions while providing a designated service.

### 5.5.5 Tax adviser – engagement withdrawn after questions

Withdrawal of the engagement does not remove a reporting obligation that has already arisen. The tax adviser shall document the relevant facts, assess whether the subjective indicator is met and submit a report where required. The client should not be informed that a report has been made or is being considered.

# Chapter 6 Sanctions Measures

## 6.1 General sanctions obligations

Legal and Administrative service providers shall comply fully and without delay with the sanction's legislation applicable in Curaçao. Sanctions measures are restrictive measures imposed in relation to designated countries, territories, natural persons, legal persons, groups and entities.

A report required under sanctions legislation must be distinguished from an unusual transaction report based on an objective or subjective indicator under the NORUT. Where both reporting obligations apply, the institution shall comply with each obligation separately and within the applicable period. In each report, it shall identify the relevant circumstances and legal basis.

The institution shall not warn the client or another person before implementing a required freezing measure or prohibition. It shall also comply with the tipping-off prohibition applicable to unusual transaction reports and avoid any communication from which the client or another person could infer that such a report has been submitted or is under consideration.

## 6.2 Sanctions screening

The institution should not limit sanctions screening to the formal client. The persons and entities to be screened shall be determined by the nature of the service, the transaction structure, the parties involved and the associated risks. Depending on the circumstances, screening shall cover the client, any representative or authorized person and the ultimate beneficial owner. It shall also extend, where relevant, to directors, partners, trustees, protectors, shareholders and other persons exercising ownership or control.

The institution shall not treat a name similarity as a confirmed sanctions match without further assessment. It shall compare all available identifying information, including the person's full name, aliases, date and place of birth, nationality and address. For legal persons and other entities, the institution shall compare registration details, registered and business addresses, directors, ownership, control and other relevant information. A possible match shall be escalated and resolved before the relevant service or transaction proceeds where continuation could result in a breach of sanctions legislation. The investigation shall distinguish between a false positive, an unresolved possible match and a confirmed match.

| Step | Required action | Information to be documented |
|---|---|---|
| 1. Initial alert | Suspending the relevant act or transaction insofar as continuation could breach a sanctions prohibition | Date and time of the alert, list and version used, search details and the person or entity producing the possible match |
| 2. Verification | Compare available identifying, ownership and control information with the sanctions-list entry | Sources consulted, information compared and relevant similarities or differences |
| 3. Assessment | Determine whether the result is a false positive, an unresolved possible match or a confirmed match | Reasoned conclusion, supporting information and the person authorized to make the decision |
| 4. Measures | For a confirmed match, implement the applicable freezing, prohibition, information and reporting requirements without delay | Measures taken, implementation time, assets affected, reports submitted and relevant communications |
| 5. Follow-up | Retain supporting records and repeat the assessment of when new information becomes available or the applicable list changes | Follow-up actions, updated information and the basis on which the case was closed or remained subject to measures |

## 6.3 Freezing of funds and economic resources

Where it has been sufficiently established that a person or entity is subject to an applicable freezing measure, the institution shall implement that measure without delay and without warning.

The institution shall not wait for the client's consent and shall not postpone implementation until an existing agreement has been terminated. Contractual obligations entered before the designation may be performed only where and to the extent permitted by the applicable sanctions legislation or a valid authorization issued by the

competent authority. The freezing obligation is not limited to money held in a bank account. Depending on the applicable sanction's regime, funds and economic resources may include cash, bank balances, securities, financial instruments, claims, shares and other ownership rights, registered property, vehicles, vessels, precious metals and other valuable goods.

A civil-law notary may, for example, be asked to execute a deed transferring registered property or shares, while a lawyer or legal adviser may be asked to establish or administer a legal structure. An accountant or administrative service provider may become aware of, record or facilitate payment. Where the proposed service could contribute to a prohibited transfer or the making available of funds or economic resources, the institution shall suspend its involvement and act in accordance with the applicable sanction's legislation.

### 6.4 Prohibition on the direct or indirect making available of funds or economic resources

It is prohibited to make funds or economic resources available, directly or indirectly, to or for the benefit of a designated person or entity.

The prohibition also applies where funds or economic resources are made available indirectly. The institution shall therefore examine not only the formal recipient but also the ownership and control of the receiving entity, its ultimate beneficial owner, any person exercising effective control, the involvement of intermediaries or authorized representatives, the ultimate destination of the funds or economic resources, the person who will ultimately derive the economic benefit and any arrangement under which the funds or economic resources may subsequently be transferred or made available to a designated person or entity.

When communicating with the client, the institution shall not disclose that a report has been made or is being considered under the NORUT, nor shall it disclose any information from which the existence of such a report or an FIU Curaçao analysis may be inferred. An authorization or exemption under the sanction's legislation does not remove any separate reporting obligation that may arise under the NORUT.

### 6.5 Internal procedures, governance and record keeping

The institution shall maintain a written sanctions compliance policy proportionate to the nature, size and complexity of its activities, the services provided, its client base and its geographical exposure.

The policy shall allocate clear responsibilities for screening, verification, escalation, decision-making, implementation of freezing measures and submission of required reports. It shall identify the persons authorized to determine whether a result is a false positive or a confirmed match and the level at which higher-risk or uncertain cases must be decided.

Each sanctions screening shall be documented in a complete and verifiable manner. The file shall identify the person or entity screened and that party's role in the engagement or transaction. It shall record the sanctions list, database and version used, together with the date and time of screening and the result obtained.

The record shall also identify any acts or transactions suspended, any funds or economic resources frozen, all reports or information submitted, and the follow-up measures taken. The documentation must enable the institution and FIU Curaçao to reconstruct the complete assessment and the timing of each action.

The review shall also consider errors, incidents, changes in services or client exposure, the performance of external screening providers and the implementation of previous corrective measures. Deficiencies shall be documented and remedied promptly, and the institution shall verify that the remediation operates effectively.

### 6.6 Practical application by profession

The way sanctions obligations arise may differ according to the services provided. Each institution shall determine which persons and entities must be screened, whether funds or economic resources are involved and whether the institution's involvement could result in prohibited transactions or in funds or economic resources being made available to or for the benefit of a designated person or entity.

### 6.6.1 Civil-law notaries

Shortly before the execution of a deed, a civil-law notary identifies a possible match between the ultimate beneficial owner of the acquiring company, and a person included on an applicable sanctions list. The civil-law notary shall suspend the execution of the deed and compare the available identifying information, including the person's full name, aliases, date and place of birth, nationality, address and ownership or control interests.

### 6.6.2 Accountants

Where the information indicates a confirmed sanctions match or prohibited indirect making available of funds, the accountant shall refrain from taking any further action that would facilitate the payment and shall follow the applicable escalation and reporting procedures. The accountant shall also assess whether the payments must be reported as unusual transactions under NORUT.

### 6.6.3 Lawyers, legal advisers and tax advisers

A lawyer, legal adviser or tax adviser is asked to prepare a corporate or tax structure involving a foreign holding company. During the screening process, a possible connection is identified between a person exercising control over the structure and a designated person.

The adviser shall suspend further preparation or implementation of the structure until the possible match has been investigated and resolved. The adviser shall examine the ultimate beneficial owners, ownership and control arrangements, financing, intermediaries, intended distributions and the persons who will ultimately derive an economic benefit from the structure.

### 6.6.4 Administrative service providers

An administrative service provider receives instructions to process or record payment to a foreign counterparty. The service provider identifies information indicating that the recipient may be owned or controlled by a designated person.

The administrative service provider shall also assess whether the circumstances meet an objective or subjective indicator for reporting an unusual transaction under NORUT. The fact that the service provider itself does not hold or transfer the funds does not remove its obligations where its services could facilitate prohibited transactions.

## 6.7 Example: possible sanctions match and indirect control

The civil-law notary may not limit the sanctions screening to determine whether the buyer's name appears on an applicable sanctions list. The notary shall examine the complete ownership and control structure, including the direct and indirect shareholders, the ultimate beneficial owners, voting and appointment rights, financing arrangements, contractual rights and any other means through which control may be exercised.

Where the match is confirmed, or where it is established that the buyer is owned or controlled by a designated person, the civil-law notary shall act without delay in accordance with the applicable sanction's legislation. Depending on the applicable legal requirements, this may include refraining from executing the deed, freezing funds or economic resources under the notary's control, preventing funds or economic resources from being made available and reporting the sanctions match, the frozen assets and the measures taken to FIU Curaçao or another competent authority in the prescribed manner and within the applicable period.

The civil-law notary shall separately assess whether the contemplated transaction also meets an objective or subjective indicator for reporting an unusual transaction under the NORUT. Compliance with the sanctions reporting requirements does not replace the obligation to submit an unusual transaction report, and an unusual transaction report does not replace the measures required under the applicable sanction's legislation.

# Chapter 7 Internal Organization and Control

## 7.1 Responsibility of the institution

The institution is responsible for ensuring sound, effective and demonstrable compliance with the NOIS, NORUT, the applicable sanctions legislation and these Provisions and Guidelines. Ultimate responsibility rests with the board, senior management or the persons who determine the institution's policies. In the case of a sole practitioner, this responsibility rests with the owner or person in effective control.

Senior management shall receive sufficient information to assess whether the compliance framework is operating effectively. This includes relevant information concerning higher-risk clients, PEP relationships, unusual transaction reports, possible and confirmed sanctions matches, compliance incidents, internal-control findings and the progress of remediation.

### 7.2 Policies and working procedures

The institution shall maintain written policies and current working procedures appropriate to its legal form, ownership and organizational structure and to the nature and extent of its services. The policies shall also reflect the size and composition of the client base, the countries connected with the institution and its clients, the channels through which services are provided and any use of client funds, external service providers or group entities.

The policies and procedures shall address the ML/TF and PF risks identified by the institution and explain how those risks are managed in practice. They shall cover, where relevant, client acceptance, customer due diligence, identification and verification, UBO determination, risk classification, ongoing monitoring, enhanced and simplified measures, PEPs, source of funds and source of wealth, sanctions compliance, unusual transaction reporting, record keeping, training, internal control and remediation.

### 7.3 Internal responsibilities

The institution shall define in writing the tasks, responsibilities, reporting lines and decision-making powers relating to AML/CFT/CPF compliance. The allocation of responsibilities must be sufficiently clear to prevent important activities from being omitted, duplicated or delayed.

The internal arrangements shall identify the persons responsible for client acceptance, customer due diligence, UBO determination and risk classification. They shall also allocate responsibility for approving higher-risk relationships and PEP relationships, examining the source of funds and source of wealth, conducting ongoing monitoring and assessing possible sanctions matches.

| Role | Principal responsibilities | Minimum documentation |
|---|---|---|
| Senior management | Approves the institutional risk assessment, policies and risk appetite; allocates resources; reviews material compliance issues and oversees remediation | Approval decisions, management reports and evidence of follow-up |
| Compliance function or compliance coordinator | Advises on requirements, monitors compliance, escalates material issues, coordinates unusual transaction reporting and follows legal and regulatory developments | Compliance reviews, advice, reporting decisions and periodic reports |
| Engagement or file owner | Performs and updates customer due diligence, identifies inconsistencies and applies the relevant risk-based measures | Client file, risk classification, assessment records and follow-up action |
| Independent control function | Assesses the design and effective operation of controls without reviewing its own work | Control programs, sample selection, findings, recommendations and verification of remediation |

### 7.4 Employee screening, training and awareness

The institution shall maintain appropriate procedures to promote the integrity, reliability and suitability of directors, persons who determine policy, compliance officers and employees whose duties may affect compliance with the NOIS, the NORUT or applicable sanctions legislation.

The depth of screening shall be proportionate to the responsibilities and associated risks of the position. A person responsible for client funds, client acceptance, sanctions match, unusual transaction reporting or compliance oversight requires a more extensive assessment than an employee whose work does not involve such access or authority.

Employees responsible for compliance and members of senior management shall have sufficient knowledge to assess higher-risk relationships, PEPs, source-of-funds and source-of-wealth information, possible sanctions matches and unusual transaction reporting decisions. They shall also be able to incorporate legal and regulatory developments into the institution's policies and follow up serious deficiencies.

### 7.5 Internal control and file management

The institution shall periodically assess whether its AML/CFT/CPF policies and procedures are not only formally documented but are also applied consistently and effectively in practice.

The program should also take account of the use of client or third-party funds, the number and nature of PEP relationships, internal escalations and external unusual transaction reports, possible and confirmed sanctions matches and the use of external service providers or group entities. Previous incidents, deficiencies and findings from internal, external or supervisory reviews shall influence the focus and frequency of subsequent controls.

Findings shall be documented and communicated to the responsible persons and senior management where appropriate. The institution shall establish remedial measures, responsibilities and implementation dates and shall subsequently verify whether the deficiencies have been corrected and whether the measures operate effectively.

### 7.6 Proportionality and smaller Legal and Administrative service providers

The institution must also maintain complete and accessible records, identify deficiencies and implement appropriate remediation. The absence of separate departments or dedicated compliance staff does not remove these responsibilities.

Where segregation of duties is not reasonably possible, the institution shall identify which functions are combined and assess the conflicts or control risks that may arise. It shall establish an alternative control proportionate to those risks and document who performs the control, how frequently it takes place and how findings are reported and remediated.

### 7.7 Outsourcing

Where an institution outsources activities to an external service provider, it remains fully responsible for compliance with the applicable statutory and regulatory obligations. Outsourcing does not transfer or reduce the institution's responsibility. This applies, among other things, to the outsourcing of compliance support, client and UBO screening, sanctions screening, electronic identification and verification, file management and internal control activities.

The agreement shall also ensure that the institution has timely and unrestricted access to all relevant data, files and underlying documents needed to comply with its obligations and to respond to a lawful request from FIU Curaçao. It shall include appropriate provisions on information security, confidentiality, data protection and the reporting of errors, operational incidents and data breaches. The service provider shall be required to notify the institution promptly of any circumstances that may affect the proper or timely performance of the outsourced activities.

Where deficiencies are identified, the institution shall require timely and demonstrable remediation. If the service provider fails to remedy the deficiencies adequately, or if the institution can no longer exercise effective oversight, the outsourcing arrangement shall be restricted or terminated as appropriate. All assessments, monitoring activities, findings, corrective measures and decisions shall be documented.

## 7.8 Group-wide programs

An institution that forms part of a group shall determine whether group-wide AML/CFT/CPF programs are required, considering the group's ownership and organizational structure, central management, shared systems and services, compliance arrangements and the nature and level of risk associated with the different group entities.

The programs should also provide for the timely sharing of information necessary for customer due diligence, risk management, sanctions screening and compliance oversight. Information shall only be shared for legitimate compliance purposes and in accordance with applicable rules on confidentiality, data protection, professional secrecy and the prohibition on tipping off. Access shall be limited to persons who require the information to perform their duties.

# Chapter 8 Supervision Department

## 8.1 Supervisory responsibilities

The Supervision Department of FIU Curaçao supervises compliance with the NOIS, the NORUT and the provisions and guidelines issued under those National Ordinances for Legal and Administrative service providers providing the services referred to in article 1 paragraph a under sub 15° of the NORUT and Article 1 paragraph b under sub 15° of the NOIS.

The purpose of supervision is to assess and promote effective, complete and demonstrable compliance with the applicable statutory and regulatory obligations. FIU Curaçao may assess both the design of an institution's policies, procedures and internal controls and their effective application in practice.

## 8.2 Registration with FIU Curaçao

Pursuant to Article 15a paragraph 1 of the NORUT, persons and Legal and Administrative service providers that provide, or intend to provide the designated services, mentioned in article 1 paragraph a under sub 15° of the NORUT and Article 1 paragraph b under sub 15° of the NOIS, must register with FIU Curaçao to enable them to submit unusual transaction reports through the reporting system designated by FIU Curaçao.

Pursuant to Article 15a paragraph 2 of the NORUT, persons and Legal and Administrative service providers that provide, or intend to provide, services falling under article 1 paragraph a under sub 15° of the NORUT and Article 1 paragraph b under sub 15° of the NOIS must also register with the supervisory authority responsible for them. Where FIU Curaçao is the competent supervisory authority, the institution must comply with both the registration requirement relating to the reporting system and the applicable supervisory registration requirement.

## 8.3 Powers of the supervisory authority

Pursuant to Article 22mm paragraph 3 of the NORUT and article 11 paragraph 3 of the NOIS, the competent supervisory authority may issue provisions and guidelines to promote compliance with the applicable obligations.

To the extent reasonably necessary for the performance of its supervisory responsibilities, FIU Curaçao may exercise the powers conferred on it by Article 22mm of the NORUT and article 11 of the NOIS. These powers include requesting information, requiring access to books, records, documents and other information carriers, inspecting electronic records, making copies of relevant information, temporarily removing information carriers for the purpose of making copies and examining information connected with reports submitted by the institution.

## 8.4 Methods of supervision

FIU Curaçao determines the supervisory method that is appropriate in view of the purpose of the review and the identified risks. Supervision may include written requests for information, questionnaires, periodic information requests, management meetings, awareness or compliance meetings, thematic reviews, file reviews, on-site inspections, remote inspections, targeted reviews of a specific obligation, follow-up reviews and re-inspections.

## 8.5 Duty to cooperate

Article 22mm paragraph 8 of the NORUT requires every person to provide the competent supervisory authority with all cooperation requested under its statutory supervisory powers.

Professional secrecy and other specific statutory protections shall be respected insofar as they apply to the information requested. Any reliance on such protection shall be sufficiently specific and substantiated by reference to the document, information or part of the file concerned and the applicable legal basis. A general refusal to provide an entire client file or all information concerning a particular client, based solely on a general reference to confidentiality or professional secrecy, is insufficient.

### 8.6 Identification of deficiencies and remediation

Where FIU Curaçao identifies a deficiency during supervision, it shall specify the statutory requirement, binding provision or relevant guideline to which the finding relates. It shall also identify the facts and documents supporting the findings, explain why the institution's policy, procedure or conduct is considered insufficient and indicate the remediation expected. Where a remediation period is granted, FIU Curaçao shall state the period within which the necessary measures must be implemented.

### 8.7 Re-inspection and follow-up

During a re-inspection or follow-up review, FIU Curaçao assesses whether the identified deficiencies were remediated within the specified period, whether the agreed measures were implemented fully and whether the remediation was extended to other affected files, clients or activities where necessary.

### 8.8 Integrity, reliability and relevant changes

Within the scope of its statutory supervisory responsibilities, FIU Curaçao may consider information relevant to determining whether an institution can manage and comply with its AML/CFT/CPF obligations.

Where a material change occurs, the institution shall assess its impact on institutional risk assessment, governance, internal controls and ability to comply with its obligations. The institution shall update its registration information and notify FIU Curaçao of the change insofar as required by the applicable registration requirements or pursuant to a lawful request.

# Chapter 9 Analysis Department and Reporting Procedure

## 9.1 Role of the Analysis Department

Where the Analysis Department does not disseminate a report to another competent authority, this does not mean that the institution submitted the report incorrectly or unnecessarily. The institution must report as soon as an applicable objective or subjective indicator is met, regardless of the subsequent analysis or the eventual outcome of the case.

## 9.2 Reference to the reporting obligation

The substantive reporting obligation, the applicable objective and subjective indicators, the point at which the reporting obligation arises and the tipping-off prohibition are addressed in Chapter 5.

## 9.3 Registration for access to the reporting system

Pursuant to Article 15a paragraph 1 of the NORUT, persons and Legal and Administrative service providers that provide, or intend to provide, the services referred to in article 1 paragraph a under sub 15° of the NORUT and Article 1 paragraph b under sub 15° of the NOIS must register with FIU Curaçao to submit unusual transaction reports through the designated reporting system.

An institution shall not postpone registration until it identifies an unusual transaction that must be reported. Registration and operational access to goAML must be arranged before the institution commences providing designated services. Pending or incomplete registration does not suspend or remove the statutory reporting obligation.

## 9.4 Reporting through goAML

Unusual transaction reports shall be submitted through goAML, the electronic reporting system designated by FIU Curaçao, in accordance with the current reporting instructions.

The institution shall select the correct report type and the applicable objective or subjective indicator. Where several transactions, parties, accounts or legal persons are connected, the institution shall clearly describe that relationship in the report. Transactions shall not be presented as unrelated to where the institution knows, or has reason to believe, that they form part of the same arrangement or pattern.

## 9.5 Requests for additional information

Pursuant to Article 12 paragraph 1 of the NORUT, FIU Curaçao may request additional data or information from the institution that submitted a report. FIU Curaçao may also request information from another service provider that, in its assessment, possesses or can reasonably be expected to possess information relevant to the examination of a completed or contemplated transaction or business relationship.

## 9.6 Suspension of a transaction

Article 13a of the NORUT authorizes FIU Curaçao, subject to the conditions set out in that Article, to order the suspension of a transaction in whole or in part.

FIU Curaçao may issue such an order on its own initiative or following a reasoned request from an authority referred to in Article 13a NORUT. The institution shall comply immediately with a valid suspension order and shall not carry out any act that would frustrate or circumvent the suspension.

Under Article 13a NORUT, the initial suspension period may not exceed five working days. The head of FIU Curaçao may extend that period up to a maximum of fifteen working days in accordance with the statutory conditions.

### 9.7 Confidentiality and protection of reporting information

Article 20 NORUT provides for the confidentiality of data and information submitted or received under the NORUT. The institution, its directors, professionals and employees shall therefore treat all reporting information as strictly confidential.

The information may be used or disclosed only insofar as this is necessary and permitted by law for the performance of a statutory duty. The institution shall ensure that communications with the client, requests for supporting documents and entries in the client file do not reveal or enable the client or a third party to infer that a report has been submitted or is being considered.

### 9.8 Retention of reporting information

Article 11a NORUT requires the institution to retain the reporting information referred to in Article 11 paragraph 2, together with other information relevant to the report, for five years.

Where a transaction has been designated as suspicious by the head of FIU Curaçao and an instruction is issued in accordance with Article 11a NORUT, the applicable retention period may be extended to ten years.

### 9.9 Consequences of non-registration, failure to report or insufficient reporting

The absence of registration or operational access to goAML does not remove or suspend the statutory reporting obligation. An institution may not rely on incomplete registration, expired user access, the absence of the regular reporting officer or an internal technical problem as justification for failing to report or for reporting late.

When assessing compliance, FIU Curaçao may consider whether transactions meeting an applicable indicator were identified and reported without delay, whether the correct indicator and report type were selected and whether the report contained sufficient and accurate information concerning the client, UBO, transaction, accounts, source and destination of funds, counterparties and other persons involved.

### 9.10 Cooperation between the Analysis Department and the Supervision Department

The Analysis Department and the Supervision Department perform distinct functions within FIU Curaçao.

Article 20 paragraph 4 sub a of the NORUT provides that FIU Curaçao may supply the competent supervisory authority with data and information concerning, among other matters, the reporting behavior of reporting Legal and Administrative service providers and the quality of their reports.

The assessment shall take account of the institution’s size, client base, services, transaction volume, risk exposure and the nature and quality of the reports submitted. Attention may be given to repeated incomplete reports, unexplained delays, the use of incorrect indicators, reports lacking a clear factual explanation or circumstances in which reports would reasonably have been expected but were not submitted.

# Chapter 10 Administrative Measures and Aggravating Circumstances

## 10.1 Legal basis and enforcement instruments

FIU Curaçao promotes compliance with the NOIS, the NORUT and the binding provisions issued under those National Ordinances. Where an institution fails to comply, or fails to comply adequately, with an applicable obligation, FIU Curaçao may take supervisory or enforcement action within the limits of its statutory powers.

Not every explanatory passage, recommendation or example in these Provisions and Guidelines constitutes an independently enforceable or finable obligation. Any enforcement decision shall identify the specific statutory obligation or binding provision that has been infringed, together with the facts and circumstances supporting that finding.

## 10.2 Restoration of compliance

Where FIU Curaçao identifies a deficiency, it may, where appropriate, first require the institution to restore compliance. The purpose of remediation is to end the infringement, bring client files, policies, procedures or systems into compliance, prevent further infringements and ensure that the relevant obligations are incorporated sustainably into the institution's operations.

FIU Curaçao may communicate its findings in writing and require the institution to submit a remediation plan. It may establish a period within which remediation must be completed, request supporting information and conduct a follow-up review or re-inspection to determine whether the required measures have been implemented effectively.

## 10.3 Order subject to a penalty payment

An order subject to a penalty payment is a remedial enforcement measure intended to end an infringement, prevent its recurrence or remedy its consequences. The order shall state the infringement that must be ended, the measures the institution must take and the period within which compliance must be achieved.

## 10.4 Administrative fine

An administrative fine is a punitive enforcement measure. FIU Curaçao may impose an administrative fine only for an infringement that is subject to an administrative fine under the applicable National Ordinance and the corresponding National Decree.

An administrative fine may also be available, within the limits of the applicable legislation, for failure to report an unusual transaction, late or materially incomplete reporting, failure to provide information requested by FIU Curaçao, failure to comply with a valid suspension order or registration requirement, breach of confidentiality or the tipping-off prohibition, failure to comply with a binding provision and failure to provide the cooperation required by law.

## 10.5 Serious, systemic and repeated infringements

Repeated failure to report unusual transactions, persistent late reporting, disregard of a confirmed sanctions match, conduct contrary to a freezing measure, breach of a valid suspension order and breach of the tipping-off prohibition may also be regarded as serious. The same applies to knowingly withholding, altering or destroying information relevant to supervision, providing false or misleading information or obstructing the lawful exercise of supervisory powers.

## 10.6 Aggravating and mitigating circumstances

When determining the appropriate measure and its severity, FIU Curaçao may take account of aggravating and mitigating circumstances insofar as permitted by the applicable legal framework.

Other aggravating circumstances may include obtaining a financial or other benefit from the infringement, attempting to transfer responsibility to employees or external service providers, the absence of effective internal controls, direct involvement of members of the board or senior management, pressuring employees not to submit an unusual transaction report and concealing, altering or destroying relevant information.

## 10.7 Proportionality and assessment

FIU Curaçao shall tailor an enforcement measure to the specific infringement and the circumstances of the case. In accordance with the applicable legal framework, the measure shall be effective, proportionate and sufficiently dissuasive.

Two infringements of the same statutory provision may result in different measures or amounts where their duration, scope, culpability, consequences or associated risks differ materially. FIU Curaçao shall explain the relevant considerations in its decision to the extent required by law.

### 10.8 Publication, registration and professional bodies

Where permitted by the applicable National Ordinance, FIU Curaçao may publish information concerning an order subject to a penalty payment, an administrative fine or the infringement to which the measure relates.

Article 22oo NORUT provides that a license, exemption or registration issued by the competent supervisory authority may be withdrawn or cancelled where it is established that the service provider has failed, or has insufficiently complied, with obligations imposed by or under the NORUT.

### 10.9 Concurrent administrative and criminal enforcement

Certain infringements of the NOIS or the NORUT may have both administrative and criminal consequences. The existence of administrative enforcement powers does not necessarily exclude criminal investigation or prosecution, and the possibility of criminal proceedings does not automatically bring FIU Curaçao's supervisory responsibilities to an end.

# Chapter 11 Final Provisions

## 11.1 Status and legal effect

These Provisions and Guidelines further specify the obligations applicable to service providers and services falling under article 1 paragraph a under sub 15° of the NORUT and Article 1 paragraph b under sub 15° of the NOIS. They provide guidance on the prevention and combating of money laundering, terrorist financing and proliferation financing and on compliance with the applicable sanction's legislation.

## 11.2 Scope

These Provisions and Guidelines apply to natural persons, legal persons, partnerships and other entities that professionally or commercially provide services falling under article 1 paragraph a under sub 15° of the NORUT and Article 1 paragraph b under sub 15° of the NOIS. Subject to the statutory description of the designated services, this includes civil-law notaries and candidate civil-law notaries, lawyers, accountants, tax advisers, legal advisers, administrative service providers and other persons or entities providing comparable designated legal, accounting, tax or administrative services.

## 11.3 Review and updating

FIU Curaçao shall periodically assess whether these Provisions and Guidelines require amendment or supplementation. A review may be undertaken following changes to the NOIS or the NORUT, the adoption or amendment of National Decrees or Ministerial Regulations, changes to Curaçao sanctions legislation or to international sanctions regimes, or the publication of a national or sectoral risk assessment.

## 11.4 Publication and version control

FIU Curaçao shall publish the current version of these Provisions and Guidelines in the manner it considers appropriate. The published document shall state at least its title, version number, date of adoption and date of entry into force. Where applicable, it shall also identify the version that it replaces.

## 11.5 Transition to the new version

The institution shall document the implementation process, including the amendments required, the persons responsible, the implementation dates and any transitional measures. Where FIU Curaçao has established a specific transitional period for a particular requirement, the institution shall complete implementation within that period.

## 11.6 Entry into force

These Provisions and Guidelines enter into force on the date of their publication. They shall apply to service providers providing a service described in Article 1 paragraph 1a under sub 15° of the NORUT and Article 1 paragraph 1b under sub 15° of the NOIS.

## 11.7 Short title

These Provisions and Guidelines may be cited as:

Provisions and Guidelines for Civil-Law Notaries, Lawyers, Accountants, Tax Advisers and Administrative Offices, as referred to in Article 1 paragraph 1a under sub 15° of the NORUT and Article 1 paragraph 1b under sub 15° of the NOIS.

## Annex I – Abbreviations

| Abbreviation | Meaning |
|---|---|
| AML | Anti-Money Laundering |
| AML/CFT/CPF | Anti-Money Laundering, Countering the Financing of Terrorism and Countering Proliferation Financing |
| CDD | Customer Due Diligence |
| CFATF | Caribbean Financial Action Task Force |
| CFT | Countering the Financing of Terrorism |
| CPF | Countering Proliferation Financing |
| DNFBP | Designated Non-Financial Businesses and Professions |
| FATF | Financial Action Task Force |
| FIU Curaçao | Financial Intelligence Unit Curaçao |
| goAML | Electronic system designated by FIU Curaçao for the registration and reporting of unusual transactions |
| ML | Money Laundering |
| ML/TF | Money Laundering and Terrorist Financing |
| NOIS | National Ordinance on Identification when Rendering Services |
| NORUT | National Ordinance on the Reporting of Unusual Transactions |
| NRA | National Risk Assessment |
| P&G | Provisions and Guidelines |
| PEP | Politically Exposed Person |
| PF | Proliferation Financing |
| R. | FATF Recommendation |
| TF | Terrorist Financing |
| TFS | Targeted Financial Sanctions |
| UBO | Ultimate Beneficial Owner |
| UN | United Nations |

# Annex II – Sources and Legal Bases

## 1. National legislation and regulations

The following national legislation and regulations are relevant to these Provisions and Guidelines. Legal and Administrative service providers should always consult the official consolidated text in force at the time the relevant service, transaction or activity is performed.

National Ordinance on Identification when Rendering Services (NOIS), P.B. 2017, no. 92 (GT). This National Ordinance shall be consulted together with the amendments relevant to services falling within subparagraph 15°, including P.B. 2024, no. 41.

National Ordinance on the Reporting of Unusual Transactions (NORUT), P.B. 2017, no. 99 (GT). This National Ordinance shall be consulted together with the amendments relevant to services under article 1 paragraph a under sub 15° of the NORUT and Article 1 paragraph b under sub 15° of the NOIS.

Regulation on Indicators for Unusual Transactions, P.B. 2015, no. 73, as amended by P.B. 2024, no. 60. The institution shall apply the objective and subjective indicators relevant to the specific service and shall always consult the official current version of the applicable annex.

National Decree on Penalty Payments and Administrative Fines for the Reporting of Unusual Transactions 2021, P.B. 2021, no. 69, as amended by P.B. 2026, no. 162. This National Decree specifies, within the statutory framework of the NORUT, the infringements and amounts relevant to orders subject to a penalty payment and administrative fines.

National Decree on Penalty Payments and Administrative Fines for Service Providers 2022, P.B. 2023, no. 6, as amended by P.B. 2026, no. 162. This National Decree specifies, within the statutory framework of the NOIS, the infringements and amounts relevant to orders subject to penalty payment and administrative fines.

National Sanctions Ordinance and Curaçao Omnibus Sanctions Decree, P.B. 2025, no. 52, as amended by P.B. 2026, no. 144. These instruments form part of the Curaçao legal framework for implementing applicable sanctions measures, including freezing obligations and prohibitions on making funds or economic resources available. The current sanctions measures and applicable lists must be consulted in each case.

Provisions for Identification and Verification without Physical Contact, CBCS, FIU Curaçao and CGA, July 2026. These provisions provide further guidance on the identification and verification measures applicable when services are provided without the physical presence of the client or representative.

References in this Annex are intended to identify the principal sources used in preparing these Provisions and Guidelines. They do not constitute an exhaustive list of all legislation that may apply to a particular institution, client, engagement or transaction.

## 2. International standards

The principal international standards relevant to the Legal and Administrative service providers falling under article 1 paragraph a under sub 15° of the NORUT and Article 1 paragraph b under sub 15° of the NOIS are the FATF Recommendations, in particular Recommendations 22 and 23 and their associated Interpretive Notes.

## 3. Relationship with the FATF Recommendations and criteria

Recommendations 22 and 23 and the relevant criteria of Recommendations 1, 10, 12, 17, 18, 20 and 35 have been considered in these Provisions and Guidelines as part of the international AML/CFT/CPF assessment framework.

An institution may be subject to enforcement only insofar as the relevant obligation is imposed by or under applicable Curaçao legislation or constitutes a binding provision validly issued under a statutory power. A FATF criterion does not independently create an administrative fine, an order subject to a penalty payment or another sanction.

## 4. National policy and risk-assessment documents

The principal national risk-assessment document used in preparing these Provisions and Guidelines is the National Risk Assessment (on) Money Laundering Curaçao 2020, published in May 2023 and covering the assessment period 2018–2021.

## 5. Cross-reference to relevant FATF criteria

| FATF criterion | Requirement addressed | Relevant provisions in these P&G |
|---|---|---|
| 1.9(b) and (c) | Permitting and encouraging proportionate simplified measures where a lower ML/TF risk has been identified, except where there is a suspicion of ML/TF, and providing guidance on circumstances in which simplified measures may be appropriate | §§ 3.3 and 4.7 |
| 1.13 | Adoption of policies, controls and procedures approved by senior management to manage and mitigate identified ML/TF risks, together with monitoring of their implementation | § 3.4 |
| 1.14(a) and (b) | Application of enhanced measures where higher risks are identified and proportionate simplified measures where lower risks are established, and the applicable conditions are met | §§ 3.3, 3.4 and 4.7 |
| 1.15(a)–(e) | Identification, assessment, documentation, updating and mitigation of PF risks, including proportionate measures and full implementation of targeted financial sanctions | § 3.5 |
| 10.18 | Application of proportionate simplified customer due diligence measures where a demonstrably lower risk has been identified, except where there is a suspicion of ML/TF or a specific higher-risk scenario applies | § 4.7 |
| 17.3(b) | Reliance on group-wide customer due diligence, record-keeping and AML/CFT programs where their effective implementation is supervised at group level by a competent authority | § 4.8 |
| 17.3(c) | Adequate mitigation, through the group's AML/CFT policies, of higher country risks associated with a group entity located in a higher-risk jurisdiction | § 4.8 |
| 35.1 | Availability of effective, proportionate and dissuasive sanctions for non-compliance, insofar as the applicable Curaçao legislation provides the necessary legal basis | § 10.1 and Annex III |

# Annex III – Administrative Fines and Orders Subject to a Penalty Payment

## 1. Legal framework

FIU Curaçao may take enforcement action against Legal and Administrative service providers providing services referred to under article 1 paragraph a under sub 15° of the NORUT and Article 1 paragraph b under sub 15° of the NOIS where they fail to comply with the statutory obligations applicable to them.

## 2. Order subject to a penalty payment

As explained in § 10.3, an order subject to a penalty payment is a remedial enforcement measure intended to end an infringement, prevent its recurrence or remedy its consequences. The order shall identify the infringement, the required action, the compliance period and the method and maximum amount of the penalty payment in accordance with the applicable legislation.

## 3. Administrative fine

As explained in § 10.4, an administrative fine is a punitive enforcement measure. FIU Curaçao may impose it only where the NOIS or the NORUT provides a legal basis and the infringed provision is designated as subject to an administrative fine in the applicable National Decree.

## 4. Maximum amounts under article 1 paragraph b under sub 15° of the NOIS.

The following maximum amounts apply to services falling within article 1 paragraph b under sub 15° of the NOIS, subject to the official text of the applicable National Decree.

| Infringed provision of the NOIS | Maximum amount applicable to Article 1 paragraph b under sub 15° of the NOIS |
|---|---|
| Article 2 paragraph 1 | Cg.80,000 |
| Article 2 paragraph 2 | Cg.80,000 |
| Article 2 paragraph 3 | Cg.80,000 |
| Article 2 paragraph 4 | Cg.80,000 |
| Article 2 paragraph 7 final sentence | Cg.80,000 |
| Article 2 paragraph 8 final sentence | Cg.80,000 |
| Article 2a | Cg.80,000 |
| Article 2b | Cg.80,000 |
| Article 2d | Cg.80,000 |
| Article 2e paragraph 2 | Cg.80,000 |
| Article 3 paragraph 1 | Cg.80,000 |
| Article 3 paragraph 2 | Cg.80,000 |
| Article 3 paragraph 3 | Cg.80,000 |
| Article 3 paragraph 4 | Cg.80,000 |
| Article 3 paragraph 5 | Cg.80,000 |
| Article 3 paragraph 6 | Cg.80,000 |
| Article 5 paragraph 1 | Cg.80,000 |
| Article 5 paragraph 2 | Cg.80,000 |
| Article 5 paragraph 3 | Cg.80,000 |
| Article 5 paragraph 4 | Cg.80,000 |
| Article 5a | Cg.50,000 |
| Article 5b | Cg.50,000 |
| Article 5c | Cg.50,000 |

| Infringed provision of the NOIS | Maximum amount applicable to Article 1 paragraph b under sub 15° of the NOIS |
|---|---|
| Article 5d | Cg.50,000 |
| Article 5e | Cg.50,000 |
| Article 5f | Cg.50,000 |
| Article 5g | Cg.50,000 |
| Article 5h | Cg.50,000 |
| Article 5i | Cg 80,000 |
| Article 6 | Cg 80,000 |
| Article 7 | Cg.120,000 |
| Article 8 paragraph 1 | Cg.80,000 |
| Article 8 paragraph 2 | Cg.120,000 |
| Article 8a paragraph 3 | Cg.80,000 |
| Article 8a paragraph 4 | Cg.120,000 |
| Article 9v paragraph 2 | Cg.120,000 |
| Article 11 paragraph 3 final sentence | Cg.80,000 |
| Article 11 paragraph 7 | Cg.80,000 |

## 5. Maximum amounts under the NORUT for SUB 15

The following maximum amounts apply to services falling within article 1 paragraph a under sub 15° of the NORUT, subject to the official text of the applicable National Decree.

| Infringed provision of the NORUT | Maximum amount applicable to article 1 paragraph a under sub 15° of the NORUT |
|---|---|
| Article 11 | Cg.80,000 |
| Article 11a paragraph 1 | Cg.80,000 |
| Article 12 paragraph (2) | Cg.80,000 |
| Article 13 | Cg.80,000 |
| Article 13a paragraph 5 | Cg.80,000 |
| Article 15a paragraph 1 | Cg.80,000 |
| Article 15a paragraph 2 | Cg.80,000 |
| Article 2 paragraph 1 | Cg.80,000 |
| Article 20 paragraph 2 | Cg.80,000 |
| Article 20a paragraph 3 | Cg.80,000 |
| Article 20a paragraph 4 | Cg.80,000 |
| Article 22v paragraph 2 | Cg.120,000 |
| Article 22mm paragraph 3 final sentence | Cg.80,000 |
| Article 22mm paragraph 8 | Cg.80,000 |

## 6. Transitional provisions

Article III of P.B. 2026, no. 162 provides that, in respect of infringements that occurred or commenced before that National Decree entered into force, the law applicable before its entry into force shall continue to apply.

In the case of a continuing infringement, it must be determined when the infringement legally commenced and which transitional rules apply. This assessment shall be made based on the nature of the obligation, the relevant facts and the applicable legal provisions. The date on which FIU Curaçao discovers the infringement is not necessarily the date on which the infringement commenced.

## 7. Currency and presentation of amounts

P.B. 2026, no. 162 expresses the amounts using the abbreviation “Cg”. The same abbreviation is therefore used in this Annex III. A formal enforcement decision shall state the currency in accordance with the legislation in force at the relevant time.

## 8. Official sources

The principal official sources for this Annex are:

- ✓ National Decree on Penalty Payments and Administrative Fines for Service Providers 2022, P.B. 2023, no. 6.
- ✓ National Decree on Penalty Payments and Administrative Fines for the Reporting of Unusual Transactions 2021, P.B. 2021, no. 69.
- ✓ National Decree contains general measures amending the National Decree on Penalty Payments and Administrative Fines for Service Providers 2022 and the National Decree on Penalty Payments and Administrative Fines for the Reporting of Unusual Transactions 2021, P.B. 2026, no. 162.
- ✓ Corrigendum to P.B. 2026, no. 162, dated 12 August 2026.

For the application of this Annex, the current official texts of the relevant National Ordinance, National Decree and accompanying annexes shall always be consulted. Any applicable corrigendum shall be read together with the publication to which it relates.