

## **EXPLANATORY NOTES**

### **I. GENERAL**

#### **1. Objective and reason**

In the Caribbean part of the Kingdom, there are limited financing opportunities for small and medium-sized enterprises (SMEs), resulting in fewer companies in Aruba, Curaçao, and St. Maarten that can expand by investing. This puts a brake on the growth of the economy and limits the degree of diversification of the economy. The corporate landscape in Aruba, Curaçao, and St. Maarten consists overwhelmingly of SMEs. This makes SMEs essential for the employment, competitiveness, and further economic growth. The Subsidy Scheme Credit Guarantee SME Aruba, Curaçao, St. Maarten (hereinafter referred to as: BMKB ACS) is intended to remove (as much as possible) the market failure and enable credit providers in Aruba, Curaçao, and St. Maarten to use the same facility as financiers in the Netherlands and on Bonaire, St. Eustatius, and Saba. The scheme can remove a financing barrier at local banks if there is a lack of collateral when providing credit to SMEs. The opening up of this scheme contributes to better access to capital for SMEs in Aruba, Curaçao, and St. Maarten.

The present scheme relates to the Credit Guarantee SMEs (hereinafter referred to as: the BMKB), the subsidy module (guarantee scheme) regulated for the Netherlands in Title 3.11 of the National EZK and LNV Subsidies Scheme. Because the Framework Act EZK and LNV Subsidies, under which this subsidy module was adopted, does not provide a basis for an expansion of the scope of that subsidy module to the countries of Aruba, Curaçao, and St. Maarten, it was decided to draw up a separate subsidy scheme under (Section 2 under d of) the Framework Act Other BZK Subsidies. For the present scheme, the content is, as far as possible, in line with the (Dutch) BMKB, which also applies to Bonaire, St. Eustatius, and Saba.

The Minister of the Interior and Kingdom Relations is responsible for the implementation of the scheme. A reserve is also maintained in the budget of the Ministry of Interior and Kingdom Relations. The funds originate from the budget of the Ministry of Economic Affairs and are transferred to the budget of the Ministry of the Interior and Kingdom Relations (see section 4 in this regard). Like the BMKB, the BMKB ACS is implemented by the RVO. See section 3 for this.

The BMKB ACS aims to allow credit providers in Aruba, Curaçao, and St. Maarten to use the same facility as credit providers in the Netherlands and the Caribbean Netherlands. The opening up of this scheme contributes to better access to capital in Aruba, Curaçao, and St. Maarten and promotes the economic growth in these three countries.

#### **2. Outline of the scheme**

##### **2.1 Subsidy award and beneficiary**

Under the BMKB ACS, the Minister provides a subsidy in the form of a guarantee to the credit provider. The guarantee to the credit provider is related to the loan provided by the credit provider to the SME entrepreneur. For the purpose of this scheme, an SME entrepreneur is an entrepreneur who maintains a small or a medium-sized enterprise. Small and medium-sized enterprises are those employing fewer than 250 people and with an annual turnover not exceeding €50 million and/or an annual balance sheet total not exceeding €43 million. This is in line with the definitions applicable in the Netherlands. In practice, this will result in almost all entrepreneurs in Aruba, Curaçao, and St. Maarten being SME entrepreneurs within the meaning of this scheme. Hence, this makes this scheme broadly accessible. In addition, there are no administrative burdens for the entrepreneur. It is up to the credit provider to place the loan (whether or not at the request of the SME entrepreneur) under the guarantee. Ultimately, it is not the credit provider who is qualified as the beneficiary of the subsidy, but the SME entrepreneur to whom the credit provider provides credit. The State provides a 90% guarantee on credits issued by credit providers of up to €1.5 million per credit. The BMKB ACS exclusively focuses on debt financing. Of the financing to be raised, 50% can be covered by the guarantee. This guarantee amounts to 90%. This means that net 45% of the borrowed amount is covered.

Start-ups can also avail of the BMKB ACS under the regular conditions. In addition, the scheme offers additional opportunities for start-ups and small credit (both up to €250,000) where the

credit placed under the guarantee can amount to a maximum of 75% of the financing to be raised. Also, the start of the repayment period may start later than under the regular BMKB ACS and the loan may be suspended more often in consultation with the credit provider.

In the event that the credit is claimed by the credit provider from the SME entrepreneur, the credit provider reports directly to the RVO to claim the guarantee. For a more detailed explanation, see section 2.3.

## 2.2 Safeguards BMKB ACS

The BMKB ACS is set up to increase the opportunities for credit providers to provide credit to SMEs with insufficient collateral. An essential element of the scheme is that SMEs must have sufficient profitability and continuity prospects before a credit provider can place a credit under the BMKB ACS. Credit providers can use the subsidy scheme to reduce the credit coverage gap. To this end, the credit provider enters into an agreement with the State. This mainly regulates the requirements imposed on the guarantee agreement and the SME entrepreneur.

As an additional safeguard, through inclusion in the corporate guarantee model agreement to be signed with new participants, it is anticipated that all proposed corporate guarantee credits must be submitted to the Minister for prior approval. Only after the approval of the Minister has been granted, and some other requirements have been met, is the guarantee established. If the RVO, on behalf of the Minister, concludes that the financings placed under the BMKB ACS are stable and compliant, the RVO may decide to suffice with prior notification instead of approval of the credit agreements.

The credit provider is liable to pay a one-time commission to the State after providing credit to an SME entrepreneur under this scheme.

In Aruba, Curaçao, and St. Maarten, the Central Bank of Aruba and the Central Bank of Curaçao and St. Maarten supervise the banking and credit industry, respectively. Only credit providers that fall under the operation of the National Ordinance Supervision Credit Institutions in Aruba, the National Ordinance Supervision Banking and Credit Institutions 1994 Curaçao or the National Ordinance Banking and Credit Institutions St. Maarten are considered credit providers within the meaning of the scheme and are eligible for subsidy. This does not distinguish between banks and other credit providers.

## 2.3. Loss declaration and audit

In case of a loss on credit due to insolvency or credit toppling, the credit provider submits a loss declaration to the RVO. This loss declaration contains an explanation of the credit provided and the credit management pursued, as well as a statement of outstanding amounts and recovery proceeds. On the basis of the submitted loss declaration, the RVO then audits whether the provision of credit, credit management, and claim amount comply with the provisions included in the guarantee agreement.

## 3. Implementation

The RVO will be mandated to provide the subsidies on behalf of the Minister of the Interior and Kingdom Relations. In addition, the mandated official is authorised to enter into the guarantee agreement on behalf of the State. The RVO was involved in the creation of the scheme, issued a positive opinion on the deployment of this scheme to support companies in Aruba, Curaçao, and St. Maarten, and considers it feasible.

In view of the implementation of the BMKB in the Netherlands and on Bonaire, St. Eustatius, and Saba, an average time commitment of 1 hour and 32 minutes per BMKB ACS application and an hourly rate of €57 is assumed for the BMKB ACS. This brings the estimated administrative burden for credit providers to around €3,762.

## 4. Financial consequences

Having regard to the Risk Framework National Government in respect of the BMKB ACS and the experiences with the BMKB in the Netherlands and on Bonaire, St. Eustatius, and Saba, the BMKB ACS is based on 50 grants per year with an average amount of €135,000.

A risk provision of €800,000 is set up and transferred from EZ in order for a possible very unfavourable scenario is covered by this. Furthermore, a €361,000 cash sequence for the BMKB ACS was set up until 2027, which is covered by the BMKB. These funds remain in Chapter IV Kingdom Relations of the National Budget throughout. The premium receipts are also accounted for in Chapter IV Kingdom Relations and paid into the risk provision.

Furthermore, annually for a period of five years, EZ makes a commitment budget available from the BMKB of €6.1 million for the BMKB ACS. This is also transferred to Chapter IV Kingdom Relations. This amount is earmarked as the annual guarantee ceiling for this scheme. In case of a negative evaluation, the remaining funds are returned to EZ.

The scheme is cost-covering. In the event that there is a lower loss than €361,000 in any year, the remaining positive cash balance is added to the risk provision.

## **5. Internet consultation**

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## **6. State aid**

Aruba, Curaçao, and St. Maarten have the status within the European Union of Overseas Countries and Territories (hereinafter referred to as: OCT). They are not part of the single market. The consequence of the OCT status is that EU legislation is only applicable to a limited extent. The rules on state aid, laid down in article 107 of the Treaty on the Functioning of the European Union, are not applicable to territories with OCT status like Aruba, Curaçao, and St. Maarten, nor to companies operating economically there. What is important in this regard is that the subsidy actually benefits enterprises located in the countries with OCT status and/or activities in these countries. This is safeguarded in the scheme by including that the subsidy can only be used for enterprises established in Aruba, Curaçao, or St. Maarten and that the credit is only used for activities in Aruba, Curaçao, or St. Maarten.

## **7. Entry into force**

Entry into force of this scheme will take place by decree of the Minister of the Interior and Kingdom Relations. The governments of Aruba, Curaçao, and St. Maarten must agree to it in order for it to enter into force and then be implemented. This is because this subsidy scheme deals with an autonomous matter of the countries. Hence, the Netherlands cannot proceed with the implementation of the scheme without agreeing to open the scheme. This will require a mutual arrangement with each of the countries of Aruba, Curaçao, and St. Maarten. The mutual arrangement to be concluded is free of form. The objective is to have an explicit agreement from the relevant country on paper before proceeding with the enactment decision. This therefore means that the time of entry into force may vary from country to country.

## **II. SECTION BY SECTION**

### **Section 2**

Pursuant to Section 2 Subsection 2, the subsidy is provided in the form of a guarantee for the repayment of a credit provided by the credit provider under a credit agreement to an SME entrepreneur for the term of the credit agreement. In other words, the subsidy is granted in the form of a guarantee agreement under private law. This implies that everything concerning the scope of the guarantee and the rights and obligations of the guarantor and the credit institution will be regulated in that agreement. The model for this agreement is attached as a schedule to Section 6 of the scheme.

### **Section 3**

In addition to the grounds for rejection referred to in Sections 12 and 13 of the Framework Decree BZK Subsidies, it follows from Section 3 that a subsidy application is rejected if a credit provider wants to provide the credit to an SME entrepreneur who maintains an enterprise that is not established in Aruba, Curaçao or St. Maarten or does not use the credit for activities in Aruba, Curaçao or St. Maarten. This kind of credit does not contribute to the purposes for which this scheme is set up. In addition, this stems from EU state aid rules. For more information on this, reference is made to the general section of these explanatory notes. In addition, this ensures that

the access to financing actually reaches the intended target group, SMEs in Aruba, Curaçao, and St. Maarten, and that the objective of the scheme, the promotion of economic growth of these countries by improving access to capital for SMEs, is achieved.

#### **Section 4**

This section sets the subsidy ceiling. The guarantee cap is €6,100,000 a year. The distribution of this subsidy ceiling takes place in the order in which applications are received.

#### **Section 5**

This section determines that the government guarantee amounts to 90% of the guarantee credit.

#### **Section 6**

This section regulates the model corporate guarantee agreement between the State and the designated credit provider, which is attached to this scheme as an annexe. For the broad outline of the scheme, reference is made to the general section of these explanatory notes.

#### **Section 7**

When subsidy is provided in the form of a guarantee, the ultimate beneficiary of the subsidy will not be the credit provider, but the SME entrepreneurs to whom the credit provider provides credit. To get this triangular relationship right, a subsidy to a credit provider will always be followed by an implementation agreement. This section stipulates that the decision to grant a subsidy to a credit provider is always followed by an implementation agreement. Section 6 refers to this implementation agreement.

#### **Section 8**

This section covers the information obligations for the applicant of a subsidy. It concerns the information that the credit provider must provide when applying for the agreement with the State. In order to establish that there is a credit provider within the meaning of this scheme, a statement from the Central Bank of Aruba or the Central Bank of Curaçao and St. Maarten must be provided for that purpose pursuant to part c of this section.

#### **Section 9**

This section regulates the entry into force, evaluation, and expiry of the scheme. The general section discusses the background to the choice made here for entry into force by Decree of the Minister of the Interior and Kingdom Relations. Furthermore, a first evaluation should be published in 2027 given the desirability of keeping the evaluation period in line with the evaluation of the (Dutch) BMKB.

The State Secretary for the Interior and Kingdom Relations,