



General Audit Chamber  
Algemene Rekenkamer

# Compliance Audit: 2015 Financial Statements **THE GENERAL PENSION FUND**

Sint Maarten



**MARCH 2017**





This report is an English translation of the original document entitled: "*Rechtmatigheidsonderzoek: Jaarrekening 2015 van het Algemeen Pensioenfonds Sint Maarten*". In the event of textual contradictions or any differences, the original Dutch text will prevail.

## PREAMBLE

The General Audit Chamber presents the results of its audit of the 2015 Financial Statements of the General Pension Fund of Sint Maarten.

With a coverage ratio of 93,2%, the financial position of the General Pension Fund of Sint Maarten is more worrisome than last year's coverage ratio of 97,6%. For the past two years, the Fund has been unable to fully cover the future pension obligation with their existing assets.

Issues such as consistently invoicing of a lower premium than the one that is legally required, as well as the long-standing claims against the government of Sint Maarten and the General Pension Fund of Curaçao, have not contributed to a healthy financial position of the APS. The Minister of Finance plays an important role in this regard.

Recently, an agreement was reached to reform the pension system with the objective of achieving a healthy pension fund. Compared to the current pension system, the new system represents austerity.

We believe that the Minister of Finance should ensure that the Fund protects the interests of the participants. He is expected to take this responsibility.

The General Audit Chamber trusts that the Fund's participants will be informed in a proper and timely manner about the reasons and consequences for the proposed change to the pension system.

**Ronald C. Halman**

Chairman

**Joane Dovale-Meit**

Secretary-General

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## SUMMARY

In accordance with our legal task<sup>1</sup>, we audited the 2015 Financial Statements of the General Pension Fund Sint Maarten. We reviewed both the financial position as well as the legal compliance of the General Pension Fund. By means of our findings, opinions and recommendations derived from the audit, we inform Parliament and the Minister of Finance of the financial situation of the General Pension Fund.<sup>2</sup> In addition, with this report we seek to contribute to the improvement of the legal compliance and governance of the General Pension Fund. Our report is public, and as such, the participants of the General Pension Fund are also notified about the challenging situation in which the Fund finds itself.

### PENSION OBLIGATION PROVISION AND PARTICIPANT ADMINISTRATION

The participant administration is one of the basic elements necessary for calculating the level of the pension obligation provision. The General Pension Fund has been engaged in the clean-up of its participant administration since 2012. This clean-up along with the premium analysis, have ensured that the supporting documents of the basic data that are included in the participant administration, are more complete. Unlike previous years, these actions have produced an increased confidence in the basic data in 2015. We note, however, that for the past five years, the auditor of the country Sint Maarten has determined that the process surrounding the payroll administration of government is not in order. Because of this, there is a risk that the data provided by the Fund's largest participating organization is neither accurate nor complete. Consequently, there is a possibility that the pension obligation provision is not accurate, nor complete.

### UNCERTAIN CLAIM

Since its inception in 2012, the General Pension Fund maintains a claim against the General Pension Fund of Curaçao. This claim has grown to ANG 25,8 million as of December 31, 2015. The General Pension Fund Curaçao has not confirmed the claim in writing. Thus, there is uncertainty about the value of the claim.

### INADEQUATE COVERAGE RATIO

The General Pension Fund maintains a standard which requires that existing assets cover at least 105% of future pension obligations. The Fund's internal standard has not been met since its establishment. In addition, over the last two years, the Fund's coverage ratio (2015: 93,2% and 2014: 97,6%) has been below the minimum requirement of 100%, set by the Central Bank of Curaçao and Sint Maarten. This means that in 2015, the Fund, as in the year before, is not able to fully cover their future liabilities using existing assets.

<sup>1</sup> Article 26 of the National Ordinance General Pension Fund.

<sup>2</sup> Article 18, tenth paragraph, of the National Ordinance General Pension Fund.

### **Our opinion on the Financial Statements**

We are of the opinion that the 2015 Financial Statements of the General Pension Fund, except for the claim against the General Pension Fund Curaçao amounting to ANG 25,8 million, provide a true and fair representation of the financial position as of December 31, 2015, as well as the result for fiscal year 2015.

However, the reliability of the participant administration and, thus the pension obligation provision, remain points of concern.

### **LEGAL CONFORMITY, GOVERNANCE AND COMPLIANCE**

We determined that, as of December 31, 2015, one of three board members completed a security screening. In addition, in 2015, the General Pension Fund, once again, invoiced a pension premium of 22% instead of the legally required 25%. The Fund has stated that as of January 1, 2016, they have been invoicing based on a pension premium of 25%.

Furthermore, the General Pension Fund experienced a negative return on its international investments of -3,07% in 2015 (2014: 3,96%). The level of return achieved in the past two years fell below the Fund's internal requirement of between 7% and 11% on the international investments. In our reports regarding the 2012, 2013 and 2014 Financial Statements, we stated our reservations regarding the Fund's investment profile.<sup>3</sup> The General Pension Fund is currently (2017) finalizing the amendment of the investment policy.

Moreover, we noted, among others, that:

- the board was not complete in 2015;
- the personnel regulation had not yet entered into force due to the absence of a national decree;
- the annual report of the Fund was not publicly available within two months after adoption of the financial statements;

Although not required by the National Ordinance General Pension Fund, a regulation for the board was adopted in 2012. The regulation needs to be approved by national decree to enter into force. As far as we can ascertain, this has not yet occurred.

### **Our opinion on the legal conformity, governance and compliance**

We believe that the failure to adhere to the legal requirements, especially regarding security screenings for all board members, and ensuring that the personnel regulation enters into force, has been a too lengthy process. These requirements could have been completed in 2015.

The review of the Fund's investment policy to achieve alignment with its strategy, however, is a positive development.

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<sup>3</sup> We believe the investment approach is not consistent with the Fund's stated core values. Namely, minimizing financial risks.



We are encouraged to receive confirmation from the General Pension Fund that, as of January 1, 2016, it is invoicing the legally required pension premium of 25%.

## RECOMMENDATIONS

A participant in the General Pension Fund should trust that the Fund is responsible and represents the interests of all participants. The result is that the General Pension Fund is able to pay the future pension of the participants.

In previous years, we issued recommendations regarding the responsibilities of the General Pension Fund. Our objective was to contribute to a healthy position for the Fund, and in so doing, safeguard the interests of the participants. Although we have noted improvement in terms of compliance related to the responsibilities of the Fund, we feel that the following recommendations demand attention:

- draft and implement a well-defined and realistic plan to achieve a coverage ratio of at least 100%;
- secure assurance on the outstanding claim against the General Pension Fund Curaçao; and
- increase confidence of the accuracy and comprehensiveness of the participant administration.

We look forward to the implementation of all our recommendations, but specifically those listed above, upon issuance of the 2017 Financial Statements of the General Pension Fund.

Finally, we recommend that the government of Sint Maarten act to ensure that the payroll administration of government is put in order, given that this administration affects the reliability of the participant administration of the General Pension Fund.

## 1 OUR AUDIT

### 1.1 Background

In accordance with our legal task<sup>4</sup>, we reviewed the 2015 Financial Statements of the General Pension Fund Sint Maarten ("*Algemeen Pensioenfonds Sint Maarten*", hereafter: APS). By means of our findings, opinions and recommendations derived from this audit, we inform Parliament and the Minister of Finance about the financial situation of the APS, as well provide insight into the Fund's compliance with laws, regulations and other related rules and guidelines. Moreover, with these findings and recommendations, we hope to contribute to the improvement of the legal compliance and governance of the APS. Given that our report is public, the participants of the APS are also notified about the situation at the Fund.

### 1.2 Audit questions

We formulated the following audit questions:

1. Does APS's 2015 Financial Statements provide a true and fair representation of the Fund's financial position as of December 31, 2015, as well as the result for fiscal year 2015?
2. In 2015, does the APS operate in compliance with the following:
  - a. the National Ordinance General Pension Fund Sint Maarten and other related rules and regulations;
  - b. the requirement regarding a pension premium contribution of 25%;<sup>5</sup>
  - c. the required security screenings for all management and board members;<sup>6</sup>
  - d. the conditions of the internal investment policy?<sup>7</sup>

### 1.3 Audit methodology

For our audit on the 2015 Financial Statements, we reviewed the work of APS's external auditor to determine whether we can rely on it. In addition, we carried out an analysis of the financial statements, analyzed documents, interviewed the external auditor, the investment committee and the management of the APS. Finally, we engaged an external actuary who reviewed the actuarial assumptions that were used in determining the pension obligation provision.

### 1.4 Content

In chapter 2 we provide an answer to the first audit question, as we discuss the findings on the financial position and the results of the APS. In chapter 3 we present our findings regarding the APS's compliance with various (legal) regulations. In so doing, we answer the second audit question. The reaction of the board of the APS to the report and our epilogue are presented in chapter 4.

<sup>4</sup> Article 20, of the National Ordinance General Pension Fund.

<sup>5</sup> Article 58, second paragraph, of the National Ordinance Civil Service Pensions.

<sup>6</sup> Article 2, first paragraph, of the National Decree establishing of security functions and implementation security screening.

<sup>7</sup> Herein lies the framework in which investments are made. For example: the responsibilities of the parties involved, risks, investment and performance targets.

## 2 THE FINANCIAL STATEMENTS

The board of the APS is responsible for the preparation of the financial statements and the annual report in which the policy and the activities of the Fund of the past year are explained.<sup>8</sup> The financial statements of the APS must, among others, provide a complete presentation<sup>9</sup> of the financial situation of the Fund. The financial statements must also reflect whether the interests of (former) participants are adequately safeguarded.<sup>10</sup>

The 2015 Financial Statements of the APS were presented to us on October 31, 2016. In the following paragraphs, we present our findings on the 2015 Financial Statements. At the end of this chapter we answer the first audit question:

“Does APS’s 2015 Financial Statements provide a true and fair representation of the financial position as of December 31, 2015, as well as the result for fiscal year 2015?”

### 2.1 Statement of APS’s external auditor regarding the 2015 Financial Statements

On October 28, 2016, the external auditor of the APS issued a qualified opinion on the 2015 Financial Statements. According to the external auditor, the financial statements of the APS, with the exception of the claim against the General Pension Fund Curaçao (“*Algemeen Pensioenfonds Curaçao*”, hereafter: APC), provide a true and fair representation of the financial position as of December 31, 2015, and the results and cash flows (incoming and outgoing funds) of fiscal year 2015. The opinion is as follows<sup>11</sup>:

*“In our opinion, except for the possible effects of the matters described in the Basis for qualified opinion paragraph, the financial statements give a true and fair view of the financial position of Algemeen Pensioenfonds Sint Maarten as at [sic] December 31, 2015 and its financial performance and cash flows for the year then [sic] ended in accordance with International Financial Reporting Standards.”*

### 2.2 The pension obligation provision

We consider the pension obligation provision (“*voorziening pensioen verplichting*”, hereafter: VPV) as the main liability item in the financial statements of a pension fund. The VPV is the amount that a pension fund must have to ensure that it can meet all future liabilities (pension to be paid) to its participants, based on the pension system. The financial statements of the APS show that at the end of 2015, the VPV totaled ANG 602,2 million.

To calculate the correct level of the VPV, it is essential that:

- the actuarial assumptions<sup>12</sup> are prudent; and
- the participant administration is accurate and complete.

The APS engaged an actuary who, among other things, audited the adequacy of the VPV. For his audit the actuary performed an analysis. Besides the analysis, he used the financial data

<sup>8</sup> Article 18, second paragraph of the National Ordinance General Pension Fund.

<sup>9</sup> With “full presentation” we mean “true and fair view”.

<sup>10</sup> Article 18, fourth paragraph, of the National Ordinance General Pension Fund.

<sup>11</sup> Independent Auditor’s Report of PricewaterhouseCoopers St. Maarten dated October 28, 2016.

<sup>12</sup> Among others: actuarial rate, mortality rates and cost provision.

underlying the financial statements. In addition, he considered the auditor's opinion regarding the basic data and other principles that were of interest to come to an opinion about the adequacy of the VPV.

### 2.2.1 Prudence of the actuarial assumptions

The 2015 Financial Statements of the APS<sup>13</sup>, lists the actuarial assumptions used by the Fund for the calculation of the VPV. APS's actuary examined these assumptions and concluded that they are sufficiently prudent. We support the opinion of the actuary.

### 2.2.2 Statement of the external auditor regarding the overview of the basic data

APS's external auditor performed a review of the accuracy and comprehensiveness of the overview of the basic data<sup>14</sup> of the participants. These basic data are listed in the Funds' administration and are derived from the information submitted by the affiliated participating organizations of the APS.

As of 2012, the APS is engaged in the clean-up of its participants file. During our audit, we ascertained that, in comparison to previous years, the supporting documents for the basic data are more complete in 2015. Consequently, the certainty regarding the accuracy and comprehensiveness of the basic data in the participants' administration has increased.

The external auditor determines with his review of the basic data of the participants, whether the supporting documentation is accurate, complete and present in the respective participation files. In addition, the external auditor also reviews APS's premium analysis. The APS performed this analysis in 2015, by:

- checking, based on the received summary wage sheet<sup>15</sup> and/or other documents from the participating organizations, if the persons listed in the documents also appear as active participants<sup>16</sup> in the Fund's participant administration;
- checking if the active participants listed in the Fund's participant administration, appear on the received summary wage sheet and/or other documents from the participating organizations.

We have determined that, with respect to previous years, the premium analysis for 2015, contains fewer differences.

Based on his review, the external auditor issued a statement on the overview of the basic data on October 24, 2016. He determined that the basic data listed in the participation administration<sup>17</sup>, except for two shortcomings, is accurate and complete and corresponds with the underlying documents in the participants file. For an overview of the two

<sup>13</sup> Algemeen Pensioenfonds Sint Maarten, Financial Statements for the year ended December 2015, page 51 & 52.

<sup>14</sup> Date of birth participant, former participant, pensionable, pensionable partner, deferred orphans, the sex, date marriage/divorce, date of death, start date membership, retirement date, income data (a.w. salary, part-time percentage, disability rate, income limits). In consultation with the actuary, alternative documentation was also considered acceptable.

<sup>15</sup> A collected wage sheet is a statement on which the payroll data of the employees is stated.

<sup>16</sup> Active participants are participants who pay premiums during the year to the Fund.

<sup>17</sup> The external auditor stated that they view the participant administration the same as the participant database and the overview of the basic data.

shortcomings, we refer to appendix 1. In his statement, the external auditor expressed the following opinion<sup>18</sup>:

*"In our opinion the overview of the basic data of policyholders and other claimants applied by the actuary in certifying the actuarial calculation of the pension obligation provision as at [sic] December 31, 2015, except the possible effects of which is stated above, are in all material aspects accurate and complete and in accordance with the underlying pension administration."*

We have determined that the external auditor reviewed the accuracy and comprehensiveness of the basic data available at the Fund, in accordance with the regulations.<sup>19</sup> We agree with the approach and justification provided by the external auditor in his statement.

### 2.2.3 Statement of the actuary on the pension obligation provision

Despite the shortcomings listed in the external auditor's opinion statement, the actuary considered the overview of the basic data sufficient to form his opinion on the VPV. On October 21, 2016, the actuary issued an actuarial statement for APS for the year 2015. His opinion on the VPV states<sup>20</sup>:

*"Subject to the foregoing and the following I declare that to my opinion the provision for pension obligations, in accordance with the calculation rules and principles, are determined sufficiently."*

We note that despite the positive statement from the actuary and the efforts of the APS<sup>21</sup>, we cannot disregard the following findings regarding the largest participating organization of the APS (the government of Sint Maarten):

- the overview of the basic data is not provided with an auditor's report from their external auditor; and
- the payroll administration is still not in order.<sup>22</sup>

Although the participating organizations are not legally required to provide an auditor's report together with their submitted data, we believe that it is important that they do. Without a statement from an external auditor regarding the submitted overview of the participating organizations, uncertainty persists regarding the accuracy and comprehensiveness of the basic data provided.

In addition, in 2016, the auditor of the country Sint Maarten, issued a qualified opinion on the government's 2015 Financial Statements. In his qualified opinion, the auditor states that the setup and operation of the internal control procedure of the payroll administration is

<sup>18</sup> Assurance-rapport, PricewaterhouseCoopers St. Maarten dated October 24, 2016.

<sup>19</sup> Guideline 1120 "Using the work of the certified actuary for the audit of the financial statements and Statements of pension funds and insurance companies." This states that the auditor reviews the basic data that are available at the Fund.

<sup>20</sup> Actuarial statement from Willis Towers Watson dated October 21, 2016.

<sup>21</sup> Performing premium analyses, complete participant files, actively approaching the participating organizations relating to missing information.

<sup>22</sup> See General Audit Chamber reports "Compliance audits: Financial Statements 2012, 2013, 2014 and 2015 of Sint Maarten."

inadequate.<sup>23</sup> In other words, the auditor cannot affirm that the information listed in the payroll administration is accurate and complete. Because of this, there may be a risk that the data government provides to the APS, is inaccurate and incomplete. As such, there is a risk that the VPV is not accurate nor complete.

### **2.3 Claim against the General Pension Fund Curaçao and the former General Pension Fund of the Netherlands Antilles**

At the end of 2015, the APS maintained a claim against the APC of ANG 25,8 million. The claim concerns the redistribution of participants of the APS, APC and the Pension Fund of the Dutch Caribbean. At the time of the conduct of the audit on APS's 2015 Financial Statements, its external auditor did not receive a confirmation from the APC regarding the outstanding claim. Due to the absence of a confirmation, uncertainty remains regarding the value of the claim.

At the time of our review, the APS indicated that the APC had still not confirmed the claim in writing.<sup>24</sup> Due to the absence of a confirmation of the claim and the financial settlement thereof, the APS had fewer funds available with which it could potentially invest in the year 2015. We find it troubling that the claim has increased since the establishment of the APS in 2010, from ANG 5,1 million to ANG 25,8 million as of December 31, 2015, and that it remains uncollected.

Furthermore, at the end of 2015, the APS also maintained a claim against the successor of the former General Pension Fund of the Netherlands Antilles, namely the APC, in the amount of ANG 34,6 (2014: ANG 97,0 million). This claim is based on the division of assets and liabilities because of the dissolution of former Netherlands Antilles which occurred on October 10, 2010. A portion of the claim was settled in 2015. The APS has indicated that the APC has not yet fully confirmed the outstanding claim in the amount of ANG 34,6 million.

### **2.4 Claim against Government**

By signing the "Debt Payment Basic Agreement" on February 5, 2016, between the government and the APS, both the value of the claim and the way government intends to settle it, finally became clear. Although there was no further uncertainty about the valuation of the claim at the end of 2015, it is of utmost importance that the requirements of the "Debt Payment Basic Agreement" are met. The APS can then access the outstanding funds and use these for potential investments.

During our audit, we determined that the government only complied with the stipulation in the "Debt Payment Basic Agreement" regarding the transfer of two plots of land. The payment of ANG 19 million arising from the sale of the government building, and the payment of ANG 60 million based on the division of assets and liabilities between Sint Maarten and the Netherlands Antilles, had not been fulfilled.

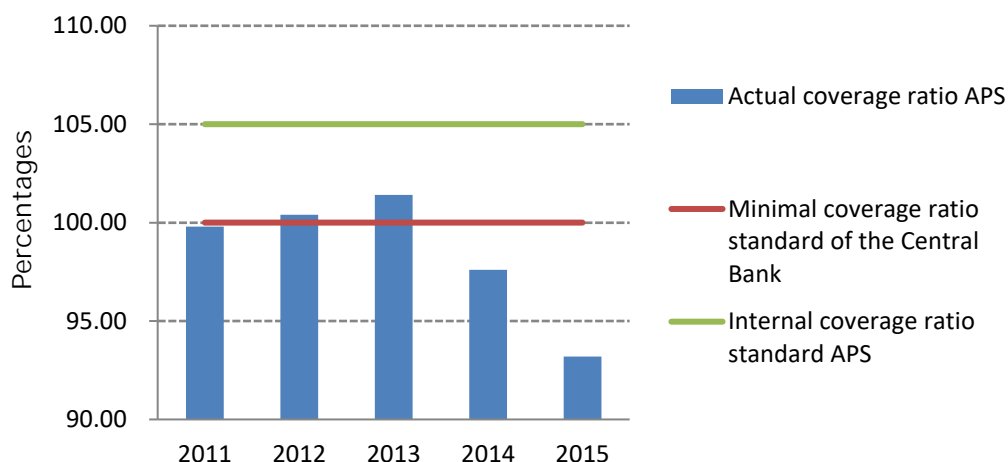
<sup>23</sup> See auditor's report of the independent auditor, statement on the 2015 Financial Statements, dated December 22, 2016.

<sup>24</sup> Based on the email from the assistant director of the General Pension Fund, dated January 18, 2017.

## 2.5 Coverage ratio

The coverage ratio is an important indicator used by a pension fund to determine whether it will be able to meet future pension obligations based on its assets.<sup>25</sup> A coverage ratio of 100% means that the assets of a pension fund are just enough to meet its future liabilities. At the end of 2015, APS's coverage ratio was 93,2% (2014: 97,6%). Based on this coverage ratio, the APS does not meet the minimum required coverage ratio standard of the Central Bank of Curaçao and Sint Maarten (hereafter: the Bank) which is 100%.<sup>26</sup> Moreover, APS fails to meet their internal coverage ratio standard of 105%. Chart 1 shows the development of the actual coverage ratio of the APS compared to the minimum coverage ratio of the Bank, as well the APS's internal coverage ratio standard for the period 2011 through 2015.

**Figure 1: Actual APS coverage ratio compared to the Bank's minimum coverage ratio standard and the internal APS coverage ratio standard for the year 2011 through 2015**



The actuary of the APS stated in his 2015 actuarial statement that the equity of the APS as of December 31, 2015, is insufficient to cover the VPV. Furthermore, he stated that the premium income does not cover the costs. He further stated that the financial position of the Fund is poor.

The APS is aware of the precarious situation of the Fund, and on January 21, 2017, the Fund, the government of Sint Maarten and labor representatives of civil servants, signed a pension reform agreement. The pension reform must ensure that the APS will be able to meet future pension obligations. The proposed new pension system<sup>27</sup> will, among others, include an increase of the retirement age to 65 years, an average-salary instead of a final-salary arrangement, and a minimum participation age of 18 years.<sup>28</sup>

<sup>25</sup> www.dnb.nl

<sup>26</sup> Report regarding article 24 of the National Ordinance General Pension Fund Sint Maarten, The Central Bank of Curaçao and Sint Maarten, dated 22 July 2016.

<sup>27</sup> The pension system is the system of regulations regarding retirement.

<sup>28</sup> Based on the pension reform agreement signed by the Minister of General Affairs, Minister of Finance, the labor representatives of the civil servants and the APS.



The new pension system will likely be sustainable for the Fund as compared to the current arrangement. However, compared to the current pension system, the new system represents austerity.

Due to the increase in the retirement age, participants must work longer. In addition, the current pension system is based on a pension payment equal to 70% of the final salary at the end of a career. The average-salary arrangement represents a pension payment equal to 70% of the average salary earned over an entire career.

We note that in recent years, in several of our reports, we addressed the issue of structurally invoicing a pension premium that is lower than what is legally required, as well as the long-term outstanding claim against the government and APC. In our opinion, these lingering issues have had a negative influence on achieving a healthy financial situation at the APS.

We believe that the APS should draft a plan with a high-level of certainty for achieving a minimal coverage ratio of 100% within a specific period.

## **2.6 Opinion on the financial statements**

We believe the 2015 Financial Statements of the APS, except for the claim against the APC of ANG 25,8 million, provides a true and fair representation of the financial position as at December 31, 2015, as well as the result of the fiscal year for 2015.

However, the reliability of the participant administration and, thus also the VPV, will remain a point of concern for us. We cannot disregard the fact that the auditor of the Country Sint Maarten has, over the past five years, determined that the process relating the payroll administration of government is not managed adequately. We concur with the auditor's opinion and have stated so in several of our reports.<sup>29</sup> Given the fact that the process is not up to par, there is a risk that data provided by the government to the APS, is not accurate nor complete. Ultimately, this could also influence the reliability of the VPV.

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<sup>29</sup> See General Audit Chamber reports "Compliance: 2012, 2013, 2014 and 2015 Financial Statements of Sint Maarten".

### 3 LEGAL CONFORMITY, GOVERNANCE AND COMPLIANCE

As a pension fund, the APS must ensure that it can pay pensions to its (former) participants, in accordance with the National Ordinance Civil Service Pensions. To ensure this, the Fund must not only comply with the laws<sup>30</sup> that are specifically applicable to it, but also to stipulations which are internally or externally created in support of "good governance".

It is within this context that we present our findings in the following paragraphs and answer the second audit question:

"In 2015, does the APS, operate in compliance with the following:

- a. the National Ordinance General Pension Fund Sint Maarten and other related rules and regulations;
- b. the provision regarding a pension premium contribution of 25%;
- c. the required security screenings for all management and board members;
- d. the conditions of the internal investment policy?"

#### 3.1 Legal conformity, governance and compliance stipulations

Our audit has shown that the APS did not operate in compliance with all applicable legal requirements. In terms of governance and compliance, we also reviewed the level of conformity with APS's internal investment policy. The table below shows the requirements that were not met by the APS in 2015.

**Table 1: Overview of requirements not met by the APS in 2015**

Requirement	Notes
<b>National Ordinance General Pension Fund and related rules and regulations</b>	
Does the board of the APS consist of an independent chairman (also a member), and four other members? Article 5, first paragraph	As of December 31, 2015, the board consisted of a chairman and two other members.
Is the personnel regulation adopted by national decree? Article 10, second paragraph	The personnel regulation, drafted in 2014, has not been adopted.
Has the board adopted an annual investment plan (for the year 2015), which includes the general guidelines of the investment policy? Article 15, first paragraph	There is no separate investment plan drafted for the year 2015.

<sup>30</sup> The National Ordinance General Pension Fund and related rules and regulations and the National Ordinance Civil Service Pensions.

Requirement	Notes
<p>Did the board make the annual report publicly available within two months after adoption of the financial statements?</p> <p>Article 18, eight paragraph</p>	<p>The annual report was not publicly available within two months.</p>
<b>National Ordinance Civil Service Pension</b>	
<p>Did the APS invoice a pension premium of 25%?</p> <p>Derived from article 58, second paragraph</p>	<p>APS invoiced a pension premium of 22% in 2015.</p> <p>Per the APS, as per January 1, 2016, they are invoicing based on a pension premium of 25%.</p>
<b>National Decree establishing security functions and implementation of security screening</b>	
<p>Did all members of the board and management undergo security screenings?</p> <p>Article 2, first paragraph</p>	<p>As of the end of 2015, not all board members underwent a security screening.</p>
<b>Internal investment policy</b>	
<p>Did the APS achieve a long-term<sup>31</sup> return of 5,5% on its entire investment portfolio?</p> <p>Investment Policy Statement Total Fund I, paragraph IV sub A</p>	<p>In 2015, the APS achieved a return of 0,39% on its entire investment portfolio.</p> <p>The negative return of minus 3,07% on the international investments, resulted in a total return on the investment portfolio of 0,39%.</p> <p>For the period 2011 through 2015, the APS achieved an average return of 4,29% on its entire investment portfolio.</p>
<p>Did the APS achieve a long-term return between 7-11% on its international investments?</p> <p>Master Investment Policy Statement External Investment Portfolio, paragraph I</p>	<p>In 2015, the APS achieved a negative return of -3,07% on its international investments.</p> <p>For the period 2011 through 2015, the APS achieved an average return of 6,38% on its international investments.</p>

Since 2012, all APS management and board members are required to undergo security screenings. As of December 31, 2015, one of three existing board members completed the required security screening. The security screening of the chairman, who took office in 2012, was not yet completed in 2015. The remaining board member had not undergone the security screening.

<sup>31</sup> According to the actuarial and technical business report of the APS, long-term refers to a period of five years.

The APS invests its funds locally and internationally. For its international investments, the Fund needs to secure investments that produce an average return between 7% and 11% over the long-term.<sup>32</sup> The APS invests to achieve returns. In our reports regarding the 2012, 2013 and 2014 Financial Statements, we stated our reservations regarding the Fund's investment profile.<sup>33</sup> In the last two years, the Fund failed to achieve a return between 7% and 11% on its international investments. The return in 2014 was 3,96%, and in 2015, the APS achieved a negative return of -3,07%.

The APS was aware that the investment policy, which was developed at the start of the Fund, is no longer in keeping with the Fund's new strategy. Consequently, the Fund is busy completing the adjustment of their investment policy.

According to article 6, sixth paragraph of the National Ordinance General Pension Fund, it is not mandatory for the APS to adopt a regulation for the board.<sup>34</sup> However, in the event a regulation for the board is adopted, it shall enter into force by means of an approval by national decree. In 2012, the APS adopted a regulation for the board. We determined that the regulation for the board has not yet entered into force because of the lack of approval by national decree. We believe approving the regulation of the board by national decree and subsequently acting in conformity with it, will contribute to good governance.

### **3.2 The external supervisors**

Based on the National Ordinance General Pension Fund, the Bank is designated to supervise the APS. In its role as supervisor, the Bank must, among other things, issue an annual report about their supervisory work.<sup>35</sup> In addition, they can issue solicited and unsolicited advice to the Minister of Finance and the board of the APS.<sup>36</sup> The Bank indicated that they carried out their supervisory tasks regarding the APS. This year, unlike previous years, we did not receive supporting documentation from the Bank in this regard. The supporting documents are important. We greatly value good cooperation and believe that in terms of APS, there is a common goal. Specifically, the Bank acts as supervisor of the APS and we fulfill the role of auditor, and we share the objective of ensuring that the APS is operating properly.

We have noted an improvement in terms of the submission of supporting documentation in respect to the stipulations of the National Ordinance General Pension Fund that are applicable to the Minister of Finance. In 2015, the Minister of Finance was unable to present us with the document proving that he submitted the approved APS 2015 budget to Parliament.

<sup>32</sup> Internal investment policy. Master Investment Policy Statement External Investment Portfolio, paragraph I.

<sup>33</sup> We believe the investment strategy is not consistent with the prudent approach stated in the core values of the Fund. Specifically, taking minimal financial risks.

<sup>34</sup> This regulation stipulates, among others, the implementation of the other activities of the board, the secretary, and the convening and conduct of board meetings.

<sup>35</sup> Article 24, first paragraph, of the National Ordinance APS.

<sup>36</sup> Article 20, first paragraph, of the National Ordinance APS.

### **3.3 Opinion on the legal conformity, governance and compliance**

We believe that the failure to adhere to the legal requirements, especially regarding security screenings for all board members, and ensuring that the personnel regulation enters into force, has been too lengthy a process. These requirements could have been completed in 2015.

The review of the Fund's investment policy towards alignment with its strategy, however, is a positive development.

We are encouraged to receive confirmation from the General Pension Fund that, as of January 1, 2016, it is invoicing the legally required pension premium of 25%.

## 4 REACTION OF THE BOARD OF APS AND OUR EPILOGUE

### 4.1 Reaction of the board of the APS

The board of the APS writes: (as translated from the original correspondence in Dutch)

Date: February 24, 2017

**Subject: Final draft report 2015 Financial Statements**  
**Our ref: 2017-02/APS-077**

Esteemed Mr. Halman, Mrs. Dovale-Meit,

APS received your writing dated February 17, 2017, concerning the presentation of the final draft report of the 2015 Financial Statements, in good order. We thank you for that.

On behalf of the board, the draft was reviewed by our management and they agree, in large part, with the contents. The recommendations issued will be followed as much as possible. However, the board has the following comment:

#### 1) Page 5, regarding legal conformity, governance and compliance

- Furthermore, the General Pension Fund achieved a negative return on its international investments of -3,96% in 2015 (2014: 3,07%).

This is inaccurate. In 2015 the return achieved on international investments is **-3,07%**, and in 2014, the return was **3,96%**. Please refer to page 17 of the 2015 Financial Statements. We request that you adjust this accordingly.

We trust we have informed you properly, and remain,

Yours sincerely,

George Willems  
Assistant director

### 4.2 Epilogue Audit Chamber

Based on the response of the board of APS in its correspondence dated February 24, 2017, reference 2017-02/APS-077, the General Audit Chamber has made the requested amendment to the report.

**APPENDIX 1 SHORTCOMINGS FROM THE STATEMENT ON THE BASIC DATA**

An overview of the two shortcomings included by the external auditor his statement on the basic data is provided below.

"Our sample of the participant files, determined that several participants were incorrectly provided with the status 19 '*active-premium analysis*' or status 20 '*Participant*', and that based on the information supplied, the status should be 40 '*Inactive*'. These participants were all included in the sample of 357 participants used in the premium analysis in 2015, that determined that no premium was received for these participants despite being recorded in Maia as active. These status changes were not processed due to the absence of a formal notification by the employer. Because of this status error, the provision for pension obligations for these participants may be overstated.

Based on the audit of the accrued pension period, it was determined that the accrued pension period for several participants within our sample is not correct due to the execution of retroactive transactions. The effect of the retroactive transactions on the accrued pension period is calculated incorrectly, resulting in an incorrect provision for pension obligation for these participants."









General Audit Chamber

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Algemene Rekenkamer