



Compliance Audit:
Financial Statement 2018
St. Maarten



General Audit Chamber

Algemene Rekenkamer



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*This document is an English translation of the original Dutch language report entitled:
"Rechtmatigheidsonderzoek: Jaarrekening 2018 Land". In the event of textual contradictions or any other
differences, the original Dutch text prevails.*

August 2021
General Audit Chamber, Juancho Yrausquin Blvd #10, Unit 4 & 5.

PREFACE

One objective of the financial statements is to facilitate the Parliament in its consideration of the budget for the next fiscal year. After all, the Financial Statements present - if properly done - reliable actual figures and provide insight into **Government's** financial management. According to the National Accountability Ordinance (NAO), the 2018 Financial Statements should have been prepared by September 1st, 2019. The 2017 and 2018 Financial Statements were not presented until 2020. In accordance with the NAO, we report to the Parliament within 6 weeks, after receiving SOAB's report on the Financial Statements. **We received SOAB's report on July 16th, 2021.** Our legal term started from that moment.

While **Government's actions for removing the backlog** are necessary, the quality of the 2018 (and 2017) Financial Statements still leaves much to be desired. Furthermore, under the NAO, the National Ordinance to adopt the Financial Statements should be presented to the Parliament within one month. For the 2017 Financial Statements, this should have occurred no later than July 30, 2021.

As a result, the financial cycle remains incomplete.

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SUMMARY

In accordance with the Constitution, we investigate the efficiency and legal compliance of public expenditure. The **government's** financial statements play an essential role as they provide accountability for the expenditures.

The 2018 Financial Statements contain irregularities and deficiencies. Expenditure took place without there being the requisite budget, revenues have not been realized or have fallen below budget projections. We conclude that the 2018 Financial Statements do not provide a true representation of the financial position as of December 31st, 2018, and of the 2018 income and expenses.

The 2018 Financial Statements should be prepared by September 1st, 2019. We received both the 2017 and 2018 Financial Statements on October 30th, 2020. We received the 2018 Financial Statements on October 30th, 2020, together with the 2017 Financial Statements. Pursuant to the law, we report to the Parliament within 6 weeks after receipt of SOAB's report. We received the report from SOAB on July 16th, 2021, after which our legal term started.

As far as financial legal compliance is concerned, SOAB correctly issued **an adverse auditors'** opinion. We note that both the 2018 National Budget and the 2018 Financial Statements, similar to previous years, do not contain the information required by the [NAO](#). If the budget is not prepared in accordance with the NAO, the budget cannot serve as a standard for the financial statements.

In August 2019, we received the plan of action entitled "Integral improvement of financial management". In our view, the plan is a good basis for achieving structural improvement of the financial management. In 2021, the reality has changed because of COVID-19. St. Maarten now receives financial support in the form of loans from the Netherlands, in exchange for reforms in financial management, as outlined in the so-called Country Packages. We believe that the Integral Improvement Plan (including implementation plans) remain relevant and can serve as a basis for an improvement of the financial management.

DISCHARGE

Instead of making recommendations (which were (mostly) not followed in the past), we seek to advise Parliament on whether to grant discharge. Discharge is the culmination of the budget cycle and means that Parliament decides whether to approve the financial management as pursued by ministers.

Considering the aftermath of Hurricane Irma and implementation plans for the structural improvement of financial management, we advise Parliament to issue discharge for fiscal year 2018, noting that the following points need to be taken into account:

1. Structurally facilitate Parliament by including policy information in the financial statements. Without clear information, it is impossible to verify whether public funds were legitimately and efficiently spent and whether policy intentions were achieved;
2. Fully comply with the rules laid down in the National Accountability Ordinance;
3. Prepare the National Ordinance for adopting the Financial Statements on time; and
4. Hold the respective minister responsible when accountability information is not forthcoming.

1.1 Basis and scope of the audit

One of our core tasks is the investigation **of the Government's** Financial Statements.¹ Our report will be presented to the Parliament after which it becomes public.² With this report, we seek to facilitate Parliament by providing them with information about the financial management conducted over a given fiscal year, in this case 2018.

1.2 The audit questions

In this report we answer the following audit questions:

1. **Do Government's** 2018 Financial Statements provide a true representation of the financial position as of December 31st, 2018, and of the income and expenditure for the period January 1st to December 31st, 2018³ of the [collective sector](#)?⁴
2. Are the 2018 Financial Statements 2018 prepared in accordance with the relevant regulations?
3. Did the income, expenses and balance sheet changes occur in accordance with the approved 2018 National Budget and other relevant regulations?⁵
4. Did the ministers provide an orderly and auditable financial management 2018?

1.3 Reading Guide

- Chapter 2: reliability and structure of the 2018 Financial Statements;
- Chapter 3: Are income and expenditure legally compliant?
- Chapter 4: Was there an orderly and auditable financial management?

¹ Article 23 of the National Ordinance Audit Chamber and Article 53, third paragraph of the NAO.

² Article 100(4) of the Constitution.

³ Article 2 of the NAO.

⁴ The government and institutions that implement social security: services that are paid collectively and which everyone is allowed to use.

⁵ Article 23, paragraph 2, of the National Ordinance General Audit Chamber Sint Maarten.

In the financial statements, ministers give account for the policies⁶ they have implemented and the public funds they have spent.⁷ The financial statements must be accurate, complete, and comprehensive (reliable) so that the **ministers'** financial management can be assessed.⁸

2.1 Were the financial statements completed on time?

On August 31st, the Minister of Finance is required to submit the financial statements (if necessary in draft) to the [Cft](#)⁹. According to our National Ordinance, the 2018 Financial Statements should have been prepared by September 1st, 2019.¹⁰ We received the 2018 Financial Statements October 30th, 2020.¹¹ As required by law, we report to the Parliament within 6 weeks after receiving SOAB's report. We received the report on July 16, 2021.

It is important to note that a timely presentation of financial statements has been a challenge for the Government since Sint Maarten attained country-status. Without timely and reliable information on the realization, it is difficult, if not impossible, to reliably prepare the budget.

2.2 What is the 2018 financial result?

The result for fiscal year 2018 is a deficit of ANG 121.2 million. The original budget projected a deficit of ANG 197.1 million. The significantly lower deficit of ANG 75.9 million is largely due to higher income.

The budget was amended once.¹² The amendment authorized the Minister of Finance to borrow up to ANG 166.8 million.

2.3 Deviation from the Kingdom Act Financial Supervision

The [Kingdom Financial Supervision Act](#) (hereinafter: Rft) describes a system for supervising the preparation and implementation of budgets.

For example, a budget should always be balanced. Exceptions may be made to that rule, such in the case of a natural disaster.¹³ This happened in 2018. On March 16th, 2018, the Kingdom Council of Ministers (hereafter: RMR), agreed to deviate from these standards for the budgets 2017 and 2018.

2.4 Do the 2018 Financial Statements provide a true representation?

The financial statements provide a true representation of the situation when the data in the financial statements are correct and comprehensive. In addition, the financial statements must be adequately explained. Without adequate explanation, a person would not be able to form an opinion **about the implementation of Government's financial policy**. Based on the NAO, the required insight is missing.¹⁴ This required insight applies to the budget, the multi-annual budget, and the financial statements.

The obligation for a cost-of-living adjustment of ANG 112 million to be paid in the future has not been recorded as a provision on the balance sheet, nor disclosed in the explanatory notes for the balance sheet. We consider this to be a substantive reliability error. In addition, we identify the following other errors of reliability in Table 1, up to an amount of ANG 33.0 million. Considering the total size of the errors (ANG 145.0 million), we are issuing an adverse opinion on the 2018 Financial Statements.

⁶ Article 32, second paragraph of the NAO.

⁷ Article 52, first and second paragraph of the NAO.

⁸ Article 2 of the NAO.

⁹ Article 18 of the Kingdom Financial Supervision Act.

¹⁰ Article 52, paragraph 1 of the NAO.

¹¹ Letter DIV#2958/A dated November 16th, 2018.

¹² AB 2018, no 39.

¹³ Article 25 Kingdom Financial Supervision Act

¹⁴ Article 2 of the NAO.

Table 1: other reliability errors

Item	Reason	In ANG x 1 million
Cash & cash equivalents	Difference between daily statements and reporting in the financial statements	6.1
Shareholding	Valuation in the Financial Statements overestimated	0.5
Other receivables	Receivable from GEBE is not recorded in the Financial Statements	2.5
Revenue Concessions, fees & other contributions from institutions	Proceeds from Central Bank of Curaçao and Sint Maarten dividend were overestimated	1.0
Interest expense	Incorrectly recorded as an expense (loan is non-existent)	0.3
Notes to miscellaneous items	Inadequate or missing disclosures Material computational errors	22.6
	Total	33.0

2.5 Uncertainties

There are insufficient internal checks and controls to ensure that the recording of the results of processes for the purchase of goods and services, granting of subsidies, payment of salaries, and the assessment and collection of taxes and fees are correct and complete. As a result, uncertainty exists as to whether the financial statements' accounting is correct and complete. [Appendix 1](#) lists all substantive uncertainties along with the financial impact thereof.

Regarding the settlement of outstanding claims because of casino and lottery license fees, we note the following:

License fees casinos

As required by the relevant legal stipulations, these fees were charged in full to the casinos. Casinos were temporarily closed because of the hurricane in 2017. It is unclear to what extent the receivables due from casinos will be collected.

The law states that suspension (*opschorting*) of payment is possible under certain circumstances. Furthermore, the Minister of Tourism, Economic Affairs, Transport and Telecommunications (TEZVT) may determine that collection orders can be withdrawn. In our opinion, this does not unequivocally indicate that the obligation to pay has ceased to exist. After all, suspension means deferral, not cancellation. The logical consequence of a suspension is that the collection order is withdrawn.

It is not clear to us what the Minister means by "waiver" in the relevant decisions that reference [article 1, paragraph 3 of the National Decree containing general measures for the implementation of article 3 of the National Ordinance on Games of Chance](#).

Considering the abovementioned, we recommend drafting a policy to further define article 1, paragraph 3 of the National Decree containing general measures for the implementation of Article 3 of the National Ordinance on Games of Chance. We advise the Minister of Finance to conduct further research into the scope of the uncertainty.

Lottery license fees

Article 6ter of the [Lottery Ordinance](#) specifies that if the license holder has a payment arrears of at least three months (or a minimum of three monthly installments), the Minister of TEATT may revoke the license. To ensure compliance, we advise that a policy is drafted covering the procedure to ultimately revoke a license.

2.6 Have the policy intentions been achieved?

Each minister is required to submit annual estimates to the Minister of Finance by no later than May 1st.¹⁵ These estimates should include explanations of the intended policy for the coming year. The budget addresses the three W-questions:



Ultimately, when giving account for the policy that was pursued, a report must be prepared and included as a separate memorandum as part of the financial statements. This report explains if, and to what extent, policy intentions were implemented.

Giving account is about the three H-questions:



We note that, similar to previous years, both the 2018 Budget and the 2018 Financial Statements, do not include the information required by the NAO. As such, we cannot assess if, and to what extent, the policy intentions were achieved. If the budget is not prepared in accordance with the NAO, the budget cannot serve as a standard for the financial statements.

2.7 Are the 2018 Financial Statements prepared in accordance with the NAO?

The Financial Statement is not prepared completely in line with the NAO. For example, the nature and extent of the account of income and expenditure is not reliably and systematically stated, nor is any investment adequately explained in the notes of the capital account.

The 2018 Financial Statements contain all legally required summary template statements. Of the total number of template statements, 61% were correctly completed. Table 2 presents a comparison of the percentage of (in)correctly completed summary template statements in the 2018 and 2017 Financial Statements.

Table 2: Percentage of correctly and not (correctly) completed summary templates

Summary Template Statements	2018	2017
Correctly completed (in %)	11 (61%)	10 (56%)
Incorrectly completed (in %)	7 (39%)	8 (44%)

2.8 Opinion

Our opinion

The Financial Statements contain material and significant errors and uncertainties. In our opinion, the 2018 Financial Statements and the explanatory notes fail to provide a true and fair view of the financial position and operational results, nor were they prepared in accordance with all NAO-provisions. In terms of the structure of the financial statements, we believe that improvement is still needed. The explanatory notes are, like in previous years, inadequate with respect to the realization of policy intentions.

¹⁵ Article 34 of the NAO.

In this chapter, we answer the question whether the income, expenditures and changes to the balance sheet were carried out in accordance with the 2018 National Budget and with other relevant regulations. We call this financial legal compliance.

3.1 Execution of the 2018 budget

The Minister of Finance is required to report on the execution and realization of the budget three times a year. These reports are called memoranda.¹⁶ We did not receive these memoranda for fiscal year 2018. We are not aware whether Parliament received information. As such, we, and possibly Parliament, were unable to monitor the implementation of the budget.

3.2 Legal compliance errors

Where income, expenses or balance sheet changes do not comply with the National Budget or any other legislation, [compliance](#) errors are the result. Table 3 presents total [budgetary overruns and underruns](#) of Parliament and the ministries.¹⁷

Table 3: total over- and underruns

Parliament and the ministries	Overruns (x ANG 1,000)	Underruns (x ANG 1,000)
Parliament	1,259	4,978
General Affairs	16,513	21,578
Finance	520	67,556
Justice	14,286	15,768
Education, Culture, Youth and Sport	798	10,495
Tourism, Economic Affairs, Traffic and Telecommunications	7,320	15,008
Public housing, Spatial Planning, Environment and Infrastructure	1,083	8,441
Public health, social development and Arbeid	9,692	14,812
Sub-Total	51,471	158,636
Corrections and write-offs	28,361	0
Total	79,832	158,636

Table 3 shows that the financial non-compliance exceeds ANG 80 million. In addition, there are underruns (underutilization). Settling these against one another results in, on balance, a deficit of ANG 79 million.

The Government can make changes by means of budget amendment.¹⁸ Impending overruns should, as much as possible, be avoided in a timely and appropriate manner.¹⁹

3.3 Opinion

Our opinion

Income, expenditures, and changes to the balance sheet have not been achieved in accordance with the 2018 National Budget and other relevant regulations. We have not established improvement as compared to previous years.

¹⁶ Article 44, paragraph 1 of the NAO.

¹⁷ 2018 Financial Statements Sint Maarten, Summary Template Statement 18.

¹⁸ Article 44 of the NAO requires memoranda which contain preliminary realization reports and possibility for submitting a budget amendment at three times a year: on May 15, August 15, and November 15.

¹⁹ Article 48, first paragraph of the NAO.

In chapter 4, we present our findings on financial management. We provide answers to the question whether there was [orderly and auditable financial management](#).

4.1 The shortcomings

Risks to the accuracy and comprehensiveness of the financial statements (deficiencies) have a negative impact on receiving an **unqualified auditors' opinion**. There is a lack of improvement despite previous good intentions and agreements. There are shortcomings in all ministries. Table 4 lists the top 5 serious (and long-term) [deficiencies](#).

Table 4: Overview of serious and long-term deficiencies

No.	Deficiencies (since October 10, 2010)	Description
1	Wages and Salaries	Inadequate structure and operation of internal procedures.
2	Goods and services, scholarships and subsidies and transfers	Inadequate structure and operation of internal procedures and lack of adequate verification information.
3	Tax revenue	End of suspense accounts not transparent and inadequate internal control over disbursement of refunds.
4	Social welfare costs	Inadequate structure and operation of internal procedures and lack of adequate verification information.

The 2018 Financial Statements show inadequate internal control procedures at all ministries. This has led to [material uncertainties that have a profound impact](#) on the financial statements.

4.2 Implementation of Country Packages to improve financial management

In August 2019 we received the plan of action entitled "Integral improvement of financial management". In our view, the plan provides a good basis to achieve structural improvement of the financial management. With the implementation of the Country Packages, there is the potential to make a positive step towards improvement.

4.3 Opinion

Our opinion

With the implementation plans and the Country Packages to Improve Financial Management, we hope that the first steps are being taken towards a systematic improvement in financial management. We will continue to monitor progress. With respect to the 2018 Financial Statements, we found no evidence of improvement.

ANNEX 1: OBSERVED UNCERTAINTIES IN FINANCIAL STATEMENT LINE ITEMS

Line item	Amount in ANG x 1 million	Uncertainties ANG x 1 million	As % of volume
BALANCE SHEET			
Tangible fixed assets	158	4	3
Financial assets	422	26	6
Current assets	212	144	68
Own Capital	-144	0	0
Provisions	7	0	0
Long-term debt	596	33	6
Short-term debt	334	139	42
Total Assets	1,585	346	22
REVENUES			
Taxes	284	284	100
Licenses	16	0	0
Concessions, fees and other contributions from institutions	50	50	100
Other income	23	23	100
Extraordinary income	3	0	0
Total income	376	307	82
EXPENDITURE			
Personnel	209	209	100
Goods and Services	103	103	100
Social Welfare	40	40	100
Subsidies and transfers	98	98	100
Scholarships	4	4	100
Asset write-downs	22	0	0
Depreciation	13	0	0
Special charges	0	0	0
Interest	12	0	0
Total expenditure	499	454	91
Total expenditure and revenue	875	761	87
Total assets, expenditure and revenue	2,460	1,107	45

