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MINISTER-PRESIDENT VAN SINT MAARTEN

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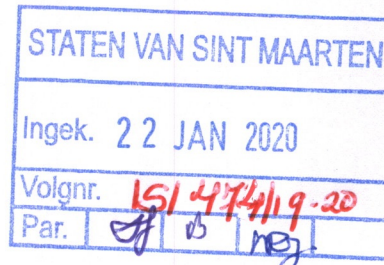
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Aan: De Staten van Sint Maarten
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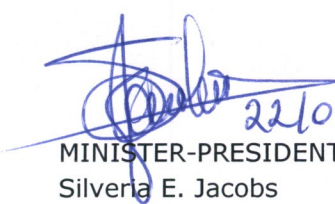


Datum: 22 januari 2020 ²
Kenmerk: -- 7434/18 K
Onderwerp: Nota n.a.v. het eindverslag van de Centrale Commissie
aangaande het ontwerp van de Landsverordening herziening
pensioen overheidsdienaren
Bijlage(n): 1

Geachte heer Marlin,

Bijgaande ontvang u de nota naar aanleiding van het eindverslag van de Centrale Commissie aangaande het ontwerp van de Landsverordening herziening pensioen overheidsdienaren. ing.

Hoogachtend,


22/01/2020
MINISTER-PRESIDENT VAN SINT MAARTEN
Silveria E. Jacobs





MINISTER OF GENERAL AFFAIRS

Minister van Algemene Zaken

Response on the final report of the central committee meeting on the draft National Ordinance amending the National Ordinance on Pension for civil servants, amending the National Ordinance age limit civil servants, and Reduces pay public servants, and repealing the Long-term Allowance regulation pensioners 1943 (National Ordinance revision pension civil servants)

Parliament in its meeting of the Central Committee has exchanged views with the Government on the draft National Ordinance amending the National Ordinance on Pension for civil servants, amending the National Ordinance age limit civil servants, and repealing the Long-term Allowance regulation pensioners 1943 (National Ordinance revision pension civil servants).

It is important to note that this report is the second report made in this legislative process as during the first Public meeting on the handling of this national ordinance the Parliament decided to send this national ordinance back to the Central Committee in order for it to be further deliberated upon. Parliament now considers the present draft to be adequately prepared when the questions below are answered in time for the public meeting so that the draft can be discussed in a public meeting.

A. The United Democrats-faction

1. The United Democrats-faction has once again taken note of the draft with interest. The faction mentions that the last time the Minister was here the idea was that they were going to go back to the unions and have a discussion and make sure they can come to an agreement. Was this the case? Was this done?

A meeting with the CCSU took place on July 5, 2019. Reason was a letter send by the Windward Islands Chamber of Labor Unions (WICLU) expressing two concerns:

- a. Several articles that were not discussed or agreed during workgroup meetings on Pension Reform upon were inserted into the current draft National Ordinance on Pensions, and*
- b. Civil Servants stand to lose their right to years that were built up on the fund and will have a lower pension income.*

During that meeting, it became clear that neither concern was valid. Accrued rights are respected and the unions were not able to point out which articles were not agreed upon.

However, the unions wanted to discuss new issues, or readdress issues that were decided upon previously. The delegation representing the minister made clear that this is not possible. New issues need to be addressed in future meetings of the CCSU with the minister. The present draft

Minister of General Affairs

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is already in Parliament and the four unions representing government workers and the CCSU already agreed on the present draft.

2. Is it true that an email was sent saying that the working committees no longer exist and so no discussions would be had with some unions?

Yes, on April 12th 2019, Mr. Luud Hakkens of the department of P&O, representing the minister in the CCSU send such email, see attachment 1 with the letter of November 1st 2019.

3. Is it so that you met with other unions? When you met with them, were you able to discuss any real case scenarios to analyze if indeed this formula would be beneficial to the members?

In the meeting mentioned under 1, it was made clear to unions representatives that it is a misconception to think that the pension reform is initiated to improve the benefits of the Government Workers. It is not an improvement! The workgroup however was able to mitigate the negative effects for the older participants who are close to their pension. They may actually receive a higher pension, as was shown by Mr. Keesen in his presentation (slide 13).

4. Based on your formula, it will only work if Government indeed indexes salaries. Does Government index salaries still or are we now at a place that they are giving increments based on evaluation per year? How does that fit within the formula?

In the new system indexing pensions does not depend on the indexation of the Government workers' salaries. It is dependent on the increase of the cost of living and the coverage ratio of the Fund.

5. The extra money given once you get to the pension age, duurtetoeslag, has this been taken away in this new presentation and was that okay as well with the members of the union?

As was explained in the meeting on October 22, 2019 the "Duurtetoeslag" legislation will be revoked. As a result, that what already is accrued in that system stays on the books and will be paid out when it becomes due. However, as of the date the new legislation takes effect, no additional "Duurtetoeslag" will be accrued.

The unions have agreed to all elements of the new plan by signing the covenant, which also mentions this.

6. Is the 70% from the AOV going to be on top of what is being paid now, based on this new system?

The present system of APS-pension as a top-up on the AOV as a basic pension, remains unchanged. This also was agreed upon with the unions.

7. The faction further mentions that this entire proposal for the reform of the pension system of Sint Maarten, a red thread throughout the entire proposal and the argumentation for the proposal, is the finances of Government. The faction understands the challenges that our pension fund is facing. It understands that like most other pension funds a discussion about reforming is the thing today. However the faction still believes that in the proposal a lot of attention is paid to Government's financing. In the different proposals for change to the pension system, not only are we looking at the sustainability of the pension fund itself and what we are proposing to be done with the pension fund to sustain it, but again a lot of attention is being placed on Government's finances saving Government's financial position, making sure that the premium to be paid by Government is as low as possible. With the entire reform of the system we are also seeking to make it more financially feasible for Government. If we were to step off of that particular part of this entire process, what would the picture be in terms of the sustainability, the reforms etc.? The faction would like to get a better impression if when less attention is paid to saving Government money, but looking at the sustainability of the fund, what would that picture be like? What would we then be asking our pensioners and those who would become pensioners to contribute if we take the light off of the Government's financing for a moment? Could we get a picture with less emphasis on saving Government the premiums?

Although all the elements also influence each other, the premium has to cover the long-term cost of the plan. It does not have an immediate impact on the cover ratio. If participants and or employers would be able and willing to pay a total premium of 30% the end pay calculation could be maintained for now (see presentation of Keesen). We would however still need to raise the pension age to improve the cover ratio. However since Government is not able to pay a higher premium and the unions are not willing to drastically increase the employee premiums, the workgroup settled for this compromise.

8. What other options are there, if any, within the current law to expand the base of the entities falling under this law? Is there any more room to bring in other entities to fall under this law?

Article 5 of the current law provides the possibility to expand the base of the entities that could participate in the Fund. The criteria are currently regulated in the "Landsbesluit criteria en voorwaarden aanwijzing rechtspersoon", P.B. 1997, no. 312).

9. The faction is of the opinion that in terms of numbers and in terms of active participants of course the larger the base can be the better it is, overall, for all participating. Has the APS/ Government considered any types of partnerships in terms of expanding the base of APS, expanding the participants in the APS and basically having a sort of a security for the pension fund? The APS, in the larger picture of things, is a small pension fund, but facing the same challenges in terms of reform and in terms of premiums like any big pension fund. Is there any possibilities for collaboration, partnerships, consolidation with other pension funds?

Consolidation of pension funds is not expected in the near future. In the Dutch Caribbean we have had the opposite occur as after 10-10-10 APNA was split up into three entities: Algemeen Pensioenfonds Curacao, Algemeen Pensioenfonds Sint Maarten and Pensioenfonds Caribisch Nederland. However, despite these developments, APS is part of the Caribbean Pension Funds Association (CaPAs). The director of APS is the vice-chairlady of this umbrella association for Dutch Caribbean pension funds. CaPAs represents the interests of the pension sector in the Dutch Caribbean and promotes cooperation between pension funds. The association organizes different educational activities such as “kennisessies” and a yearly seminar. The next CaPAs seminar will be organized on March 27, 2020 in Sint Maarten. APS will be hosting the event. An invitation will be sent to Parliament.

10. The faction further would like to know if it would not be prudent for the unions to hire another independent actuary who might look at giving other scenarios and where you can have a situation where the concerns and hesitations could be looked at from a different perspective, whereas it seems that from the three scenarios provided, to avoid the jamming, what we are hearing is how can the APS look at investing more in spite of what the market climate is so that you can get a higher yield on the investment so that the sustainability of the pension fund could be for a longer period, rather than by 2037 nothing is done.

Government had made Mr. Keesen available to the workgroup. The unions raised a similar question at that time. ABVO, one of the four unions represented in the workgroup, contacted their sister-union (ABVO-Curacao) to get a ‘second opinion’ on the analysis made by Mr. Keesen since Curacao had just gone through their pension reform. It was confirmed to the unions satisfaction that the analysis presented were correct.

APS also used other actuaries to look at the data and the plans presented. In the end, everyone agreed on the package deal as presented in the covenant.

B. The Sint Maarten Christian Party-faction

1. The Sint Maarten Christian Party-faction has taken note of the draft. The faction would like to know if the 97.6% Sint Maarten funding ratio is correct. The faction further mentions that it was indicated that having a 100% funding ratio for a pension fund is basically also a negative. So basically, we are presently below that and, you can correct me if I am wrong, but that basically means that technically we are not able to pay all of the pensioners we would have to pay technically in the long run. It is clear that pension funds also take much into account as to new members coming in and it is basically the younger members who pay for the older members. Also, it was mentioned, if nothing is done the sustainability of this fund is 2037, is that what it states? One of the leaks that was mentioned is the premium, the 25%. The faction would like to know if in the history of APS Government has ever paid 25% premiums to APS.

Since July 2018, the Government is paying 25% as required by the “Pensioenlandsverordening Overheidsdienaren”.

2. What presently, if any, amount of money is owed by Government to APS? You cannot expect a fund to be sustainable if the primary payee into the fund, which is Government, fall behind with its responsibility. What is the total amount of money owed by Government?

The total amount is ANG 26 million. This balance is preliminary and includes the amount owed by the schoolboards and the high council organizations.

3. The faction further would like to know when the last indexing was done by APS and Government.

APS is not allowed to decide when to index. The fund must follow the decision of the Government when it comes to indexing. Indexing is done in accordance with the law. The last index done by government was in 2012.

4. The faction mentions that in this new plan a lot is being discussed on civil servants having to work longer. One of the things that has been witnessed in Government owned companies, and even in Government, many times when people reach the age to retire they pretty much don't want to retire. Many people in the Caribbean unfortunately do not prepare for retirement. Many of these individuals are now suffering the consequences of being on retirement and not being able to meet their financial responsibilities. The faction would like to know what are the possibilities by APS, on the investment side, to possibly defer the increase of the age and all of those things. Are those things really feasible at this point with APS?

APS cannot comply with its obligation to pay out pensions solely based on its return on investments. The reality is that investments can fluctuate, and a pension fund cannot only rely on investments for sustainability. Because of the fact that the pension reform is based on also other elements (of a formula) such as premiums, longevity, costs, affordability and the pension scheme this scenario will have a short-term impact. The increase of age is the best option to improve the status of the Fund. The new pension scheme entails several elements that will improve the status of the Fund.

5. The faction mentions that it understood that a piece of land and a professional park was bought a few years back, this is in the area going to Point Blanche next to Sangs supermarket, and that this land not only comprises two buildings which are being rented by APS but also has about 43000 square meters of land. The faction would like to know what are APS's plans in the future with that land. Affordable housing is definitely something that is needed in Sint Maarten and we have gotten to a point where land is so scarce so we will have to look at the possibilities of going up instead of doing single family homes, so the faction looks forward to hearing what the proposals are in the future for that piece of land.

APS is looking into the possibility of commercial and residential developments on the property. Specific plans for the property are to be made in the near future.

6. The faction further mentions that it believes that the maximum price of 250 thousand, needs explaining because it was mentioned earlier that that is not the starting price. The faction would like to know what the person is getting for 250 thousand dollars.

There is one unit that has a sales price of USD 250K. This is a 3-bedroom, 2-bath apartment with a studio lockout option. Meaning that one bedroom and one bath can be converted to a standalone studio and can offer privacy to an older child or a live-in parent. The lockout could also serve as a source of additional (rental) income for the buyer /homeowner and supplement mortgage payments. The total number of sqm 112.

The other units are priced at or below appraised market value. We refer to the attached sales price listing. We also refer to the "lookbook" (attachement 3 with our letter dated November 1st 2019) which contains descriptions and images on the materials /finishes in the various unit types.

7. The faction would further like to know if in this plan civil servants are able to opt out at 62.

Yes, Civil Servants can opt out as of the age of 62. They will however receive a lower pension because on average they will receive pension more years.

8. Additionally the faction would like to know if APS can provide a chart of exactly the makeup of Oryx, the composition of the units and the prices attached to those units.

APS refers to the attached sales price listing, sales folder and the "lookbook" which contains the requested.

C. The National Alliance-faction

1. The National Alliance-faction has once again taken note of the draft with great interest. The faction is of the opinion that no attention, or not enough, is being spent on that higher rate of return. That it is underperforming, that the fund is underperforming and therefore is in trouble. What can be said about the return on investment from 2017 to now?

As was previously answered in the series of questions posted during the Parliament meeting of May 23, 2019, APS has received revenue from its investment in RFA, however due to the nature of the agreement between borrower and lender, APS cannot share the details of this agreement publicly. Moreover, APS has signed non-disclosure agreements with parties which makes it legally not possible to share private information with third parties.

The RFA corporate loan has a return on investment of 8% and is currently the second highest return on investment within the APS local portfolio. The loan will be fully repaid on June 30, 2030.

2. Finding sustainable affordable homes for civil servants, teachers and others is a great way for the fund to continue to make sustainable returns. How much exactly, once Oryx is sold, would the fund have made?

APS expects to receive approximately 5% as a return on investment. This percentage falls within the targeted return margin of 3 to 8% for local investments as stipulated in the MIPS of APS. Please note that the construction and sale of the residences has not been finalized yet. Therefore, the 5% is an estimated figure.

3. The faction mentions that the salaries on Sint Maarten are not comparable to the salaries in the Netherlands. If you are going to study and you have young children you are assisted to be able to raise yourself up. That does not exist here. We cannot afford that here. The faction doesn't understand how it is possible that we think that our civil servants can afford to continue like this. Also, not all work is the same work. The person that is working as a cleaner for Government or that is a public works worker, to tell them that they have to continue to work until their 65, is a little bit difficult to maintain. You have to decide what kind of work can actually go until this age and be sustainable.

Increase of the retirement age for physically demanding professions may not be desirable. Government intends to come to a comprehensive policy regarding all facets pertaining to professional health. This will include schooling to take up less demanding functions at a certain age. The unions already accepted the invitation to start work on this after this legislation is passed.

4. The faction is of the opinion that we are not looking hard enough at other ways to improve the fund that do not directly affect the persons in the fund. Even if you do have to make adjustments but can show that you are also making those adjustments on the income side in terms of investments, unions and workers would be more amendable to the changes, and if not all these 3 points are brought in at once.

Thorough research and advices have been given by APS's external actuaries and APS internally and by the independent actuary of the pension reform workgroup and all conclude that the only structural sustainable manner to improve the status of the Fund is to do a pension reform. This conclusion is in line with similar developments in the Dutch Caribbean, British Caribbean, Latin America and Europe. Besides the pension reform, APS also monitors its ongoing investments and looks out for new local and international investments to improve the status of the Fund. APS cannot solely rely on its return on investments to comply with its obligation to pay out pensions. The reality is that investments can fluctuate, and a pension fund may not only rely on investments for sustainability.

5. Do we have any statistics to prove that here on Sint Maarten that people are actually living longer?

Yes, this information is available at STAT.

6. And if they are living longer, in what state of health are they? What kind of statistics do we have in terms of sick leave? How early are people showing chronic signs of sick leave within our system? If that is happening you are ending up with an even bigger problem, because you have to hire persons to fill all those gaps as well. Is this also across the board where civil servants are concerned? It puts more funds in the pension fund for 3 more years, but some other funds, when the persons turns 60, gets extra off days because you are a little older or go to a job that is less stressful. Are any of those provisions being made for the workers within the civil service?

There are no statistics available on the sick leave within Government.

7. The faction mentions that the anti-poverty platform has been for years talking about our salaries on Sint Maarten. Can we look at the pension plan without looking at the actual salaries?

Pensions are based on the salaries earned, that has always been the case.

8. The faction is of the opinion that we have to start looking at solutions that are realistic. What is the cost of living on Sint Maarten? Anybody living below 4000 guilders is considered below the poverty line, with the cost of living what it is in Sint Maarten right now. Looking at that salary is a good idea, because everything below that is poverty. So you are saying that our pensioners will be living in poverty, whether they go to 62 or 65. We do not have the subsidies, special bus passes for seniors, special discounts at supermarkets or any of those things. The faction is of the opinion that we are making beggars of our seniors. What percentage of civil servants can we say is at that rate?

A recent analysis within 6 of the 7 ministries of Government (Justice was not included) showed that the salary scales 1 through 5 (max salary scale 5 is NAf 4177,-) make up about 25% of the total.

9. What percentage of the total work population are civil servants and also how many fall below that 4000 guilders, or will end around that 4000 to 5000 guilders as their highest salary? What are we setting these people up for?

Please see attachment 2, the 2019 Labour Force Survey 2019 with letter dated November 1st 2019.

10. Are we really and truly comparing ourselves to our kingdom partners in this respect and not all across the board? Are we being pushed around yet again? Is this the best option for Sint Maarten? And not because the Dutch kingdom says so because they are loaning us funds to be

able to make it in our day to day or to be able to borrow us some money so that we can rebuild what we need to rebuild. Is this the best option for Sint Maarten?

It is common to compare your own system with others, especially if the others have similar systems. This is not a comparison about the standard of living, or the availability of additional social security systems. The comparison is just about the income ratio of active workers and retired workers. For them the availability or lack of additional social security systems stays the same whether they are still working or are retired.

There is a “aanwijzing” from the Kingdom Government since 2015 to fix this problem. Regardless of how one wants to label it, it is clear we cannot afford this system anymore. Mr. Keesen pointed out in his presentation (slide 11) what the actuarial cost of our system is compared to others in the Kingdom as a percentage of the salary. That is 30 for St. Maarten compared to 18 (almost halve) for Curacao and Aruba. St. Maarten Government simply cannot meet that financial obligation.

11. The faction would like to know what steps APS is taking to improve the return on investment?

The General Audit Chamber concluded that the investment procedure of APS is generally in order. APS' biggest challenge is finding investment opportunities that fit the risk appetite of the Fund. An investment opportunity can be a good project for e.g. a private investor who is willing to take on more risk and at the same time be a bad fit for a financial institution such as a pension fund. The difference lies in the fact that a private investor in essence is investing his own funds and a pension fund is using pension monies that are meant to pay out pensions now and in the future. Losing pension monies on a bad investment has severe and far reaching implications. Therefore, the Fund keeps monitoring the market for investments that fit the Fund's risk appetite. Every investment that APS contemplates must go through a stringent financial and legal due diligence process, which includes a risk analysis.

12. The faction mentions someone working as an administrative worker or a fireman, these are two different jobs when it comes to labor intensity. The faction is of the opinion that you are going to have someone working until they are 65 and between the age of 61 and 65, they are home sick on sick leave. So they will retire on sick leave. Then you have to hire someone new to fill that gap, and they are collecting the same salary. How does that make sense? Was a study done to ascertain the health of our people? We know that we spend about a tenth of the budget on SZV referrals abroad. Were these issues addressed?

Studies have been done on this subject by the Ministry of VSA. They form the basis for draft legislation regarding the National Health Insurance.

13. Can we get a draft of this comprehensive policy plan?

This question was answered in the letter of October 22, 2019.

There is not a policy plan yet. During the discussions regarding the disability pension it became clear that none of the stakeholders were happy with the present set-up regarding sick-leave and disability. It was agreed then that the stakeholders would start a new round of talks on this subject. The objective is to come up with a broader approach to the subject, including the subjects of type of work, health, age, retraining, reassignment, readjusted work etc. These talks have not started yet. A new working group will be established to deal with other remaining elements pertaining to the Pension and this subject. This will be done after finalization of this legislation.

14. The faction mentions that a lot of times members of the Council of Ministers come to Parliament and compare Curaçao and Aruba and the Netherlands; they passed the law already over there so we have to do it here. The faction has a serious problem where that is concerned, because if you are trying to convince me something based on a different country, then I am going to scrutinize it even more. Our reality is not their reality, our cost of living is not their cost of living. The Oryx project in regards to the housing. When you make these comparisons, at the end of the day 250 thousand dollars is 450 thousand guilders, and this is a problem that we face here in Sint Maarten because we depend a lot on the tourist dollar so it is quick to say it in dollars. But when you transfer it to guilders it is a lot more. So what you can get here for 250 thousand dollars you can get double or triple in Curaçao or Aruba. The faction is of the opinion that these comparisons need to stop because at the end of the day you are creating an illusion that isn't there. The faction mentions that it spoke to 8 law enforcement officers and also someone that works at tax administration that went to see if they qualify to borrow money to get one of these homes and none of them qualified. Who qualifies for these houses? They are saying that they are for medium income, yet our civil servants who work jobs as protecting us can't qualify. It supposed to be affordable. So, if a police officer along with their spouse who is maybe a new teacher cannot afford it, then my question is, who is it for? Who is this project catering to if they cannot qualify? The faction would like to know if APS realizes that a lot of our locals don't qualify, will there be any adjustments. Is APS open to the idea of making any adjustments so that they can qualify?

The housing project is an investment for APS and as with all investments of the pension fund is intended to generate returns that flow back into the pension capital and allow APS to continue to make pension payments. Making pension payments is the Fund's primary objective (by law). Any changes to the pricing or the financing conditions will affect the projected returns on the investment and have consequences for the Fund (collective of the participants). There is no room for adjustments without the entire Fund "paying the price".

15. The faction mentions that it was said that the price for the houses are based on the price of land. This land was given to APS by Government. So you cannot tell me that it is based on the price of land if you got the land for free. If that is not the case the faction would like some

clarity on this. The faction states that if our people can't afford the houses, it doesn't know who the houses are for.

The Oryx Residences units are open to all persons who wish to purchase a home in the project and qualify for the mortgage financing being offered. As this is the Fund's way of having (even more) value for its participants while they are still working (as opposed to only when they become beneficiaries of pension), the (active) participants of the Fund have a first preference. This means that if a Fund participant and a non-participant qualify and are both interested in a home in the development, the participant will have the first option.

APS has contracted a local bank Banco di Caribe to handle the credit adjudication (mortgage qualification) and administration of the mortgages on our behalf. APS has asked that i.a. the following terms and conditions be applicable for the mortgage loan: a competitive interest rate (6%), 0% equity, participation in the homeowner's association, requirement that the owner live in the unit for a minimum of 2 years and that the mortgage be fully repaid before the buyer /homeowner reaches the pensionable age. The last condition is to avoid the situation that a buyer /homeowner still has to be burdened with repaying a loan while on pension. Other terms and conditions are in accordance with the lending practices on St. Maarten and the legislation /regulation of the Central Bank of Curaçao & Sint Maarten.

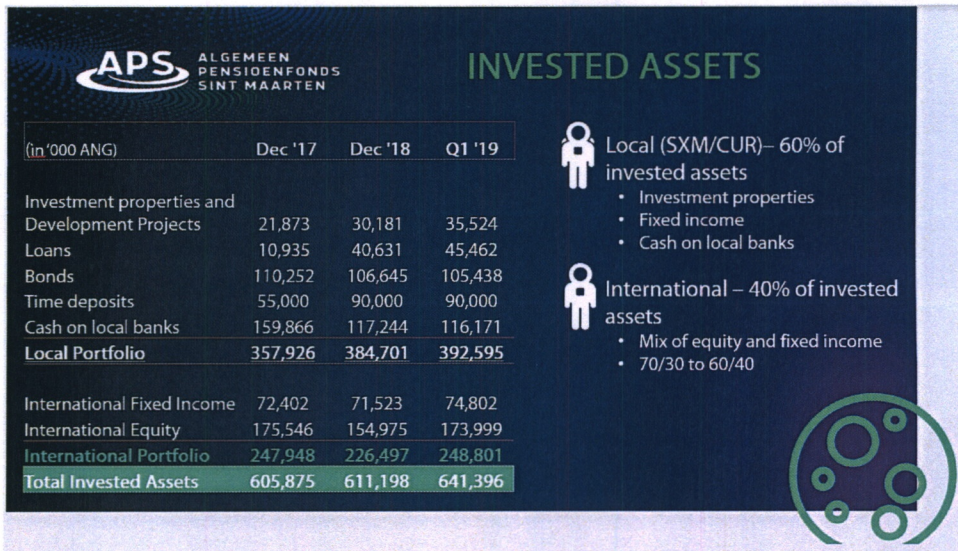
16. Additionally the faction would like to know when the study by the SER is expected to be finalized.

The SER, in their letter dated July 29, 2019, indicated that the socio economic study will take some time to execute.

17. The faction would also like to know if APS can provide the status of the investments that are ongoing, the time line on how you expect the return to pan out over the years, the couple investments you are contemplating and what you are currently looking at.

The projections for future local investments cannot be disclosed due to the fact that APS is still in negotiations with whom NDA's have been signed. Every investment that APS contemplates must go through a stringent financial and legal due diligence process, which includes a risk analysis.

Regarding the ongoing investments, please see below:



D. The Brison-faction

1. The Brison-faction has taken note of the draft ordinance with interest. The faction would like to know what is going on with the liquid being pumped into APS going out into investments and then coming back to say, sorry we only have a 97% coverage ratio. The faction is of the opinion that we are not given sufficient information as to what is really going on with the investments. The faction would like to know that market factor is the key factor before subjugating the people to three extra years of work, before considering taking away a benefit, which is final pay. It is a benefit to the pensioners that collect it. Is it unacceptable for a Member of Parliament to say hold before you do that I need to see what is going on with that money first? The faction is of the opinion that if you have millions of guilders coming in, the purpose is that it goes out so that you can make sufficient money to plug the hole that we have today. The faction would like to know what are the investment strategies. What is the investment policy?

The Master Investment Policy Statement (MIPS) stipulates the guidelines, which the Management Board of APS deems to be prudent considering the needs of, and the legal requirements applicable to APS's investment program.

The overall objective of the investment policy of the Fund is to provide participants benefits as regulated in the National Ordinance establishing APS. This is accomplished through a carefully planned and executed long-term investment program that efficiently and effectively allocates and manages the assets of the Fund.

The policy has been designed to allow the Fund to achieve a minimum rate of return of 5.5% over the long-term. The assets of APS are broadly diversified to minimize the effect of short-term losses within any investment program. All investment transactions are designed and executed solely in the interest of, and for the exclusive purposes of providing benefits to the participants of the Fund.

The investment policy is a dynamic document. The underlying assumptions related to the liabilities of the Fund and other relevant fundamentals are reviewed from time to time based on a periodic Asset Liability Management (ALM) study of the Fund. The next ALM is to be executed after the pension reform.

The Investment Program is underpinned by a holistic analysis of APS's current and expected financial condition including APS's projected liabilities. Such analysis will also encompass the expected long-term capital markets outlook, expected inflation, and APS's risk tolerance.

All investments are conducted in accordance with the approved Asset Allocation Strategy and APS's operational governance structure, including oversight by the Investment Committee and the Board to ensure proper monitoring.

2. What is this recovery plan?

In the case of under-financing of the Fund, the recovery plan offers the possibility to implement remedial measures to increase the coverage ratio of the pension fund to more than 100% within five years. If that fails within those five years, the pensions and (for employees) the pension rights must be legally reduced pro rata.

3. The faction mentions that it was made to understand that the Oryx properties is affordable housing. The faction finds this is a good project. The faction would like confirmation on how much APS got the Oryx land for? The faction mentions that if land is given for free and you are building a one bedroom apartment, and let us say you have astronomical quotes at 200 thousand dollars, and you are selling it for 250 thousand dollars, how is your return on investment still below 105%? And then on top of that you are saying that Rainforest is an 8% return, our second highest. So you are showing that we are making some great investments and that market forces don't have anything to do with it. If the market is so bad, why do I have here from the APS, Oryx residences, the first housing project of the General Pension Fund has seen an overwhelming number of pension fund members and others from the general community sign up for 62 units set to come available in the coming weeks. More than 500 persons have put their names down for consideration of a unit. The faction is of the opinion that that doesn't sound like a bad market. That sounds like an amazing great market. Let us sell, start building some more. If that is the direction we are going, why are we so focused on again, the final pay, the need to work longer? If you are getting these type of deals and after all of this you still cannot have a healthy fund, then the faction is of the opinion that it needs a closer look. We need to understand what is really happening on that part of the equation.

In accordance with the Resolution nr. 2015/2397A, ANG 1 as canon for the use of the land for the duration of 60 years.

As indicated during the Parliament meeting of October 22, 2019, it is important to note that a difference must be made between APS as a financial institution on the one hand and the legal

established entity that is responsible for the receipt of premiums and payment of pensions on the other hand. As such, the increase of the pension age should not be correlated with the (return on) investments of the Fund. APS as a prudent financial institution cannot sustainably generate the returns that would lead to the increase in pension age no longer being necessary. In theory, APS would have to substantially raise the risk appetite of its portfolio and even so will not be able to cover the shortfall. This route is extremely risky (if things go wrong, APS could lose a lot of money). The General Audit chamber recently audited the investment process of APS and concluded that it is generally in order.

APS expects to receive approximately 5% as a return on investment on the Oryx Hill project. This percentage falls within the targeted return margin of 3 to 8% for local investments as stipulated in the MIPS of APS. Please note that the construction and sale of the residences has not been finalized yet. Therefore, the 5% is an estimated figure. The return on investments for the RFA project is indeed 8%. However, please bear in mind that the return on investments is not the only factor that should be taken into consideration when increasing the pension age. See above for a more thorough explanation.

4. The faction mentions the final pay and the average pay. The faction further mentions that one of the problems it has noticed is that legislation is treated by the previous Government in terms of extremes. It always seems to be that you go to the extreme measure. Look at the FATF laws, where FATF for example just says that you have to have certain provisions at the Chamber of Commerce. What does the Minister of Justice do: Anybody who is suspected of a financial transaction is going to be removed. The faction is of the opinion that all of that is not necessary. Similarly with this situation with the final pay. If you have to make changes to the final pay, why does it have to be that it is completely moving to an average pay system? The faction mentions that the Canadian Government's system is a hybrid average pay. In other words, the first few years you take the average of that, you take the median of the persons, you take an average of that and then you take an average of the final years. Thirty years from now, if I am just a scale 4 civil servant and you are taking an average of that from the first 10 years of my salary, what does that really do for me back then? By the time I have hopefully evolved within the civil service, I've been promoted, I've worked to get where I have to go but you are treating the first four, five, ten years, the same you are treating the last years of the highest level of service that I have given to my country as a civil servant. The faction is of the opinion that that doesn't make any sense. Why was a weighted system of averages not used instead? This more adequately handles the issue that you have with final pay, but then more fairly reflects the evolution of a person's career. A person should not have to be punished for having stuck loyalty within an organization, worked their way up and then finally at the end be told: well actually you took too long to reach here, so sorry we are going to look at your first and earliest salary just as much as we look at your last salary. The faction is of the opinion that that isn't the right approach to take and it does understand the unsustainability of the final pay, but no discussion about a weighted average as oppose to an extreme average is a bit irresponsible in the faction's opinion.

A weighted system is simply a method to move more towards the end pay depending on the weights chosen for different periods in the career span. In other words, it increases the amount of pension of the participants, which comes with a price. Using weighted averages, it will require higher premiums to cover the extra cost.

5. The faction mentions that it understands the need to look at other countries, but when you look at the Netherlands, let us understand that you are talking about a different society in terms of what is being offered. I too would take less a pension if my hospital was up to par where it should be, if my healthcare system was where it should be, if the benefits I get for disability or for anything are also in tack. But what we do here is that you actually don't have all these things at the same level of the Netherlands, but the one thing we want to take from the Netherlands is their pension system. Are we also going to take their housing system? Are we going to offer huurtoeslag? Are we going to offer someone that no longer can walk at the age of 70 the disability insurance that the Netherlands have? That is the unfair comparison that we make when we are talking about APS and pensions, where you are saying yes Holland raised the age, what happened to Sint Maarten. We consistently do that, we look at everything compared to Holland, but we don't look at the rest that Holland provides to their people. So when we start to provide to the people of Sint Maarten all of those things, then you can look more stringently and make a fair comparison but right now it is apples and oranges. Our healthcare and social systems are nowhere near the Netherlands, unfortunately. The faction is of the opinion that this is because the same Netherlands have not allowed us, through the CFT, to invest properly in these things.
6. The faction predicts that this system will serve as a model for the rest of pensions in Sint Maarten as well. The faction believes that the AOV is absurd. What are we going to do now with the AOV? Are we also going to find ways to increase that because it is unsustainable? This law, sure it affects civil servants, but what will come from it is going to serve as a model for now saying, look the pension age has gone up there let us do it here too.

Legislation is being prepared by the ministry of VSA to increase the AOV age to 65 as well. That draft has been send to the SER for their advice.

7. With regards to the Emilio Wilson investment. The faction would like to know based on how much we are receiving as a return on investment, how does that compare to what we are paying on interest on an annual basis?

As was previously answered in the series of questions posted during the parliament meeting of May 23, 2019, APS has received revenue from its investment in RFA, however due to the nature of the agreement between borrower and lenders, APS cannot share the details of this agreement publicly. Moreover, APS has signed non-disclosure agreements with parties, which makes it legally not possible to share private information with third parties. The RFA corporate loan has a

return on investment of 8% and is currently the second highest return on investment within the APS local portfolio. The loan will be fully repaid on June 30, 2030.

The loan of the Government must be considered separately from the investment that APS made in the RFA project, which has a return of investment of 8%.

8. What is APS's position on the most recent document from the Audit Chamber? Did APS together with the Minister's team review this and can the faction get some feedback on what that document had?

Please find attached APS' response on the document of the General Audit Chamber.

9. The faction mentions that in the responses it was mentioned that the potential of a hybrid system does exist, but that it cost less than the final system but gives more than the average system. The faction would like to know if it is possible to see what that scenario would look like and what it would do for the fund if we were to use such an approach. What would a hybrid system look like and what would that do for the coverage ratio? The faction would really like to look at every option before we simply abolish the final pay system all together. What is the split between international and local investments, the ratio for that? Can we also get the investment policy?

We stated before that a weighted system simply is a method to move more towards the end pay depending on the weights chosen for different periods in the career span. In other words, it increases the amount of pension of the participants, which comes with a price. Using weighted averages will require higher premiums to cover the extra cost. It is like slide bar, with the present set-up we would need about 30% premiums. In our proposed system, 18% would be sufficient. The more you move toward the end-pay the closer you'll come to 30%.

E. The Marcelina-faction

1. The Marcelina-faction has taken note of the draft national ordinance with interest. We saw that in the oude regeling, when we went from the oude regeling to the middelloop regeling we had a problem with the switch. The faction would like to know what we are going to do with the AOV. In the oude regeling it used to be added to your pension and when we went to the middelloon regeling all of a sudden it was included in the uitkering. Going now from the middelloop regeling to the new system that we are working on, what is going to happen with the AOV? Is it going to be added? The AOV actually is a sociale uitkering. And the other side, if you look at the pension, it is a bedrijfspensioen. What are you going to do with the AOV sec, when you are paying this out to those that have the right to get it?

The present system in which the APS pension is a 'top-up' on the AOV, will be maintained as is. Next, legislation to also raise the pension age for AOV to 65 is being prepared.

2. The faction mentions that we are talking about pension being a eigendomsrecht. When we approve the new pension regeling, is it only that we are going to start as of day one with the new comers falling in the new system or all those that are now in the middelloop regeling, are they going to loose their rights and just jump over to the new approved law for the pension? The faction would like an explanation on what is going to happen with the eigendomsrecht of the ambtenaren that are now in service looking forward to get their pension in the deal that they had as of the beginning when they made the deal for their pension. What is happening with their eigendomsrecht?

“Eigendomsrecht” only applies to pension that is already accrued, not future rights. As professor Lutjens pointed out in his advice, the changes to the pension system does not constitute an infringement on the property rights of active workers.

Participants who now fall under the “eindloonregeling” will maintain their rights after the new pension law enters into force. Once the new pension law is applicable, the same participants will also fall under the “middelloopregeling”. As such, the pension of these participants will be calculated based on the “eind- and middelloopregeling”. Reference is also made to the document “Wijziging Pensioenlandsverordening overheidsdienaren Sint Maarten en eigendomsrecht - Prof. Erik Lutjens -5 augustus 2019” This was provided as attachment 6 with our letter of October 19th 2019.

3. The faction is of the opinion that we are making a fundamental mistake that we are comparing western worlds, being for example Holland with developing countries, being for example Sint Maarten. The faction mentions that it is very unfair to talk about a pensioenregeling for the same formula but it is not applicable to the same type of community. We are talking about rich countries like Holland, and we are going to use the same concept to try to convince us that we need their system to survive our pension plan for our country. The faction is of the opinion that it is very unrealistic and unfair to put that with a developing small country as Sint Maarten. The faction mentions that our budget expense to the civil servant in Sint Maarten is 51%. That means that 51 cents of each guilder is going to the civil servant, while in a rich country like Holland it is between 34 and 37%. That is a big difference. But that is not because we have a different system, it is because we do not have a social system with a lot of social benefits as Holland is offering their citizens. That means that in my Government apparatus I am going to admit more people to work for me, because if I don't give them a job in country Sint Maarten they are going to be unemployed. So to control the unemployment a little my amount of civil servants is going to be more than in Holland, because if I don't take him as a civil servant he is going to be unemployed. While in Holland they will not take them but will tell them they have a sociale uitkering for them. So in that way we are going to do some damage control for those. But in Sint Maarten we do not have a sociale uitkeringsstelsel, that we can say we are going to reduce our ambtelijk apparaat because it is taking 51 cent of each Antillian guilder that we spend in this community. The faction thinks it is the reality that because we do not have a social stelsel, means that we have to do something with those people living in this country and then

we give them a job for us to control a little the poverty in this country. The faction does not think we should use that example because it is much higher in Sint Maarten than in Holland if you look at the amount of money that we spend on civil servants. The faction mentions that it has to have a good reason to convince its people for them to work 30 years and then to tell them they have to go an extra 3 years for us to give you 138 dollars more.

4. The faction would like APS to explain their vision for investment of the new hospital. The faction would like an explanation on, without having a reform plan in effect, that APS already approved the financing for the construction of the new hospital. The faction would like to know on what basis APS decided to think that it is very lucrative to finance a public national hospital that is not a private hospital and how they think, without that reform in place, they are going to make money with a public hospital with a high percentage of illegals and uninsured in the community that are going to fall from the roofs in construction and will be brought to the hospital for treatment. The faction doesn't understand the vision for approval of a mega project like that with money from the APS without realizing how you approved this as a great investment for your investment plan for your company. The faction does not understand on what it is based that APS is going to make money with this hospital.

For clarification purposes and in accordance with the SMMC agreement and the articles of association, the Sint Maarten Medical Center (SMMC) is to be referred to as a "general hospital" instead of a "public national hospital".

Every investment that APS contemplates must go through a stringent financial and legal due diligence process, which includes a risk analysis. APS' analysis of the investment in the New General Hospital was done based on the post hurricane Irma situation and the Facility Agreement was signed in February 2018. APS has continued to monitor the developments and believes that the New General Hospital is a viable investment and does not see any reason to discontinue the investment at this point. The investment in the New General Hospital falls within the targeted return margin of 3 to 8 percent for local investments as stipulated in the Master Investment Policy Strategy of APS. The return of investment in the SMMC project is 5.9%.

Respectfully,

MINISTER OF GENERAL AFFAIRS

Silveria Jabobs

