



General Audit Chamber

Algemene Rekenkamer



# **Mini Audit: Responsible Gambling**

**September 2021**



This document is an English translation of the original Dutch language report entitled: "*Mini Audit: Verantwoord gokken*". In the event of textual contradictions or any other differences, the original Dutch text will prevail.

September 2021  
General Audit Chamber, Juancho Yrausquin Blvd #10, unit 4 & 5

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## 1. THE AUDIT

In Chapter 1, we explain our audit methodology. We describe the basis and purpose of our audit, as well as present the audit questions we seek to answer. In addition, we explain our research framework and describe the report's chapters.

### 1.1 The Basis

This Mini Audit is conducted based on article 39 of the [National Ordinance General Audit Chamber](#) which authorizes the General Audit Chamber to issue notices. Article 30, first paragraph includes the legal basis for investigating the effectiveness of public income and expenditure.

### 1.2 Audit objective

The purpose of the audit is to map out information regarding the revenue generated from the gambling industry to the government and the programs and funding that is available to promote responsible gambling.

### 1.3 Audit questions

The audit seeks to answer the following questions:

1. What is Government doing to promote responsible gambling?
2. How is article 4 of the Lottery ordinance applied in practice?
3. Has the Minister of Tourism, Economic Affairs, Traffic and Telecommunications (TEATT), since 2010, made use of the ability to determine a financial contribution in the benefit of the general social interest in keeping with article 4, third paragraph, of the [Lottery ordinance](#)?
4. How many casino licenses and lottery licenses have been issued and how many are currently operational?<sup>1</sup>

### 1.4 Reading guide

In chapter 2, we highlight the importance of reliable data. In chapter 3 we present our findings and seek to answer the audit questions. We identify the number of casinos and lotteries operating on St. Maarten and show the revenue to Government based on these licenses. In chapter 4 we discuss the programs currently in place that promote responsible gambling. The challenges we identified during the audit are mentioned in chapter 5.

In Chapter 6 we included the Minister of TEATT's reaction, supplemented by our epilogue.

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<sup>1</sup> Operational is defined as open and in use to the public.

## 2. THE IMPORTANCE OF RELIABLE DATA

The establishment of casinos was legislated with the specific intent to promote tourism.<sup>2</sup> However, casinos (and lotteries for that matter) are also accessible to the local population. To avoid social issues arising from gambling, the legislation restricts residents to 6 visits to the casino per month.<sup>3</sup> For lotteries, no resident restriction rules apply. In 1994, resident share in gambling constituted 25% and grew to 55% in 1995.<sup>4</sup> Due to the unavailability of data on resident gambling (including lotteries) we were unable to present up to date information.

### 2.1 Importance of data

The availability of reliable data on resident gambling, tourist gambling, responsible gambling, or even gambling addiction impacted the results of this audit. Although there are indirect indications (based on interviews held with various stakeholders)<sup>5</sup> that gambling addiction is an issue in St. Maarten, we were unable to verify this. The government recognizes the importance of statistics on gambling however to date, no structural policy or plan is in place to obtain these statistics.<sup>6</sup>

### 2.2 The social responsibilities of Government

The benefits derived by the government by allowing legal gambling include employment, tax revenue, and foreign direct investment to the country. It also enhances the tourism product as visitors often engage in leisure activities during their holiday, with gambling falling within this category. However, this form of revenue generation comes with Government responsibilities.

Based on article 21 of the [Constitution](#), Government is responsible for taking steps to promote the health of the population.

The [Casino Policy](#) highlights the growing concern about the social risks associated with gambling and the need for contingencies and measures to balance resident participation.<sup>7</sup> This concern stems from 1996 when a consultancy group, contracted by Government to study the gambling industry, presented results to the Executive Council which included concerns regarding resident play that extended far beyond the original intent.<sup>8</sup> The level of social risk associated with gambling today are unknown due to the missing availability of reliable data.

### 2.3 United States comparison

To provide some insight as to the potential for social issues related to gambling addiction (and a possible need to promote responsible gambling), we looked at the United States because of the readily available data. It is important to note that the reference to the US is solely intended as an example and it is not statistically representative. The purpose is to understand social risks associated with gambling and the hypothetical / theoretical situation that could exist on St. Maarten.



<sup>2</sup> [National ordinance for games of chance \(AB 2013, GT no. 115\)](#).

<sup>3</sup> Article 1, fourth paragraph of the National ordinance on games of chance ([Landsverordening hazardspelen](#)).

<sup>4</sup> [Casino Policy](#), Sint Maarten, dated June 2011.

<sup>5</sup> Interviews with Turning Point and within the Ministry of Public Health, Social Development and Labor.

<sup>6</sup> Idem.

<sup>7</sup> The Casino Policy fails to provide a definition of "balanced resident participation". Furthermore, the policy mentions that it has become evident that neither legislation nor the casino control function is effectively limiting resident play. The situation begs the question whether government should even attempt to legislate behavior or morals as this relates to gambling and residents.

<sup>8</sup> Idem.

In the United States, problem gambling affects approximately 5% of the population.<sup>9</sup> Problem gambling can be defined as non-addicted behavior; however, the habits are not entirely under control and the gambling behavior affects everyday life, i.e., work, and social life.<sup>10</sup>

Severe gambling, such as pathological gambling, is more likely to develop when the onset of gambling starts at a younger age.<sup>11</sup> This suggests that increased availability of gambling opportunities contributes to developing gambling disorders in the population including the youth.<sup>12</sup>

### 2.3.1 Availability and accessibility

A 2004 U.S study suggested the number of legal gambling venues is positively correlated to problem gambling.<sup>13</sup> They showed that persons living within a 10-mile radius of casino facilities were twice as likely to develop a problem and/or pathological gambling than persons who lived beyond this 10-mile radius.<sup>14</sup> They observed that the probability of developing gambling problems went up 39% for young adolescents (ages 18-21 years), versus persons who never gambled, with every form of gambling facility operating in a location.



The risk of abuse is also higher for certain types of games. People who bet on sports or play cards, get addicted on average in 3,5 years. But for slot players, on average it takes a little [over 1 year](#).<sup>15</sup> We requested statistics on gambling addiction on St. Maarten, however, none were received or available.

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<sup>9</sup> Alegria AA, Petry NM, Hasin DS, Liu SM, Grant BF, Blanco C. Disordered gambling among racial and ethnic groups in the US: results from the national epidemiologic survey on alcohol and related conditions.

<sup>10</sup> "Problem gambling is associated with elevated rates of gambling-related fantasy, lying, gambling to escape and preoccupation" Alegria, A A et al. "Disordered gambling among racial and ethnic groups in the US: results from the national epidemiologic survey on alcohol and related conditions."

<sup>11</sup> Idem.

<sup>12</sup> Shaffer HJ, Hall MN, Vander Bilt J. Estimating the prevalence of disordered gambling behavior in the United States and Canada: a research synthesis. *Am J Public Health*. 1999;89(9):1369-1376. doi:10.2105/ajph.89.9.1369.

<sup>13</sup> Welte, J.W., Wieczorek, W.F., Barnes, G.M. et al. The Relationship of Ecological and Geographic Factors to Gambling Behavior and Pathology. *J Gambling Study* (2004).

<sup>14</sup> Idem.

<sup>15</sup> Breen & Zimmerman 2002.

### 3. FINDINGS

#### 3.1 Legal framework

The [National ordinance on games of chance](#) and the [Lottery ordinance](#) are the two main ordinances that regulate gambling on Sint Maarten. There is no law requiring tax or licensing revenues generated from the gambling industry to be allocated towards developing policies or initiatives to promote responsible gambling programs. The lottery ordinance does have a provision that authorizes the Minister of TEATT to allocate funds generated to finance initiatives of social importance.

The Audit Chamber could not confirm if anything is being done in this regard by Government. However, the license holder can be required to financially contribute to a social purpose designated by the Minister.<sup>16</sup> This could include social programs to promote responsible gambling.

#### 3.2 Gambling facilities on St. Maarten

As of December 31<sup>st</sup>, 2020, fifteen (15) casino licenses were issued of which 13 were operational in 2020.<sup>17</sup> There have been 7 lottery licenses issued as of December 31<sup>st</sup>, 2020, of which all were fully operational in 2020.<sup>18</sup> In total, 20 gambling facilities are located on the 16 square miles that constitute Sint Maarten.

The [Casino Policy](#) limits the size of the industry to 5 stand-alone casinos in the Philipsburg area and 5 in the Simpson bay area. Currently, the maximum number of licenses has been issued for both areas. As noted in the Casino Policy, the “stand-alone” casinos have been allowed on the island, to serve the cruise ship market. However, a degree of resident play would be accepted.<sup>19</sup>

As compared to 2019, stay-over tourism decreased by 66.7% while cruise passengers fell by 77.3% due to the COVID-19 pandemic.<sup>20</sup> Revenue derived from licenses decreased from ANG 6.5 million in 2019<sup>21</sup> to ANG 4.7 million in 2020(-27.7%).<sup>22</sup> We note that the data provided by the Ministry of Finance do not correspond with the 4<sup>th</sup> quarterly report 2020 issued by Government. Based on the latter information, revenue in 2020 totaled ANG 1.7 million.<sup>23</sup> We are not aware of the reason for this discrepancy.

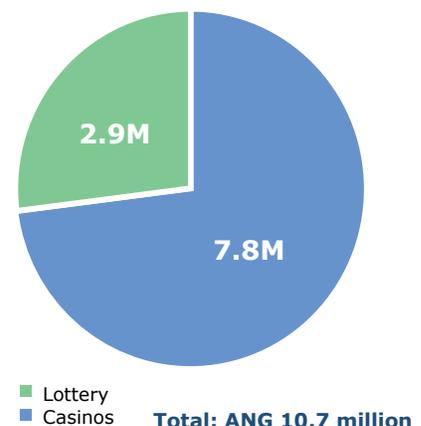
#### 3.3 Casino and Lottery fees

License fees to Government from casinos and lotteries are based on a fixed-fee scheme and are not determined by the revenue generated by a casino or lottery nor on a portion of payouts to winners. The fixed fee for casinos include:<sup>24</sup>

- Annual fee of ANG 600,000 for a full-fledged casino;
- Annual fee of ANG 120,000 for casinos that only operate slot machines or bingo games.

With 13 operational full-fledged casinos, the yearly revenue should amount to ANG 7.8 million.

Figure 1: Potential annual revenues



<sup>16</sup> Article 4 of the Lottery ordinance (AB 2013, GT no. 121).

<sup>17</sup> Responses received by letter from the Ministry of TEATT dated May 28, 2021.

<sup>18</sup> Idem.

<sup>19</sup> See Casino Policy, introduction. A clear definition of the term “degree of resident play” is lacking.

<sup>20</sup> [CBCS annual report 2020](#).

<sup>21</sup> 2019 Fourth quarter implementation report of Government, page 8.

<sup>22</sup> 2020 Fourth quarter implementation report of Government, page 8.

<sup>23</sup> Response received by email from the Ministry of Finance, dated June 8<sup>th</sup>, 2021.

<sup>24</sup> National decree containing general measures for implementation of article 3 of the National ordinance regarding assessment of fees on games of chance (AB 2013, GT no. 92).

The fixed fee for lottery licenses is as follows:<sup>25</sup>

- Monthly fee of ANG 30,000 for lottery
- Monthly fee of ANG 20,000 for sweepstakes
- Monthly fee of ANG 12,500 for number game
- Monthly fee of ANG 12,500 for scratch tickets

Based on the information provided by the Ministry of TEATT, the total annual fees should be ANG 2.9 million annually.<sup>26</sup>

The maximum annual revenue expected from license fees should amount to approximately ANG 10.7 million. Figure 1 depicts this in a graph, and figure 2 the actual realized revenue.

Figure 2: Realized revenue from the Gaming industry (in NAf)



### 3.3.1 Waivers

Realized government revenue in 2017 through 2020 from lotteries and casinos is below the maximum potential revenues.<sup>27</sup> Given that the Minister of TEATT is responsible for issuing casino and lottery licenses, the Minister is, in accordance with the relevant [legislation](#)<sup>28</sup> also authorized to suspend fees (*in Dutch: opschorten*), although the Minister uses the word “waiver” in all relevant decisions.<sup>29</sup>

In our audit on the [financial statement 2018 of Country St. Maarten](#), we noted the following:

*“The legislation states that suspension of payment is possible under certain circumstances. Furthermore, the Minister can determine that collection orders can be withdrawn. In our opinion, this does not unequivocally mean that the payment obligation ceases to exist. After all, suspension means postponement, not a cancellation. The logical consequence of a suspension is that the associating collection order is withdrawn. It is not clear to us what the Minister means by “waiver” in the relevant decrees”.*

Based on a Council of Ministers’ decision of June 7, 2018, the casino and controller license fees were “waived” for 2 casinos from September 2017 until the casinos reopened.<sup>30</sup> The controller fees are separate from the license fee revenue. We were not privy to information if requests were submitted by casino license holders in 2020.

<sup>25</sup> National decree containing general measures for implementation of articles 3bis, third and fifth paragraph, and article 4, second paragraph of the Lottery ordinance (AB 2013, GT no. 97).

<sup>26</sup> Responses received by letter from the Ministry of TEATT d.d. May 28, 2021

<sup>27</sup> In 2020, Government budgeted income from casino and lottery fees at ANG 6.2 million.

<sup>28</sup> article 1 sub 3 of the National decree containing general measures for implementation of article 3 of the National ordinance regarding assessment of fees on games of chance.

<sup>29</sup> To avoid any discrepancies in translation, we added the Dutch legal prevalent text between brackets. For this audit, we translated “opschorten” with the word “suspension”.

<sup>30</sup> Responses received by letter from the Ministry of TEATT d.d. May 28, 2021.

## 4. SUPPORTING ORGANIZATIONS

### 4.1 Current Infrastructure

Institutions such as [Turning Point](#), [The Mental Health Foundation](#), and the general health infrastructure exist to facilitate persons struggling with (among others) addiction. Persons can go to their General Practitioner to get a referral for specialized treatment at the Mental Health Foundation and/ or Turning Point.<sup>31</sup>

#### 4.1.1 Turning Point

Turning Point is a non-profit foundation that focuses on addiction and its underlying issues. One form of addiction such as alcohol generally goes hand in hand with other forms of addiction, such as gambling.<sup>32</sup> The institution currently runs an extensive one-year program that assists in combatting addiction that patients must follow. Clients go through the court system where the judge assigns them to Turning Point.<sup>33</sup>

Figure 3: Turning Point patient programs

Involuntary Program	Voluntary Program
	
Funded by the Ministry of Justice	Funding suspended by the Ministry of VSA
Patients mandated by the court system	Walk-in patients allowed
Extensive one-year program	Program suspended

Before 2016, Turning Point offered a voluntary program that was financed by the Ministry of VSA. This voluntary program would follow the same one-year extensive program that assists in healing and integration back into society. The Inspectorate for Public Health issued a report in 2013 that outlined certain standards in quality care. Recommendations were made for Turning Point to implement. Up until 2020, the Ministry of VSA budgeted ANG 230,000 for Turning Point,<sup>34</sup> however since 2016, these funds have not been released or disbursed to the institution.<sup>35</sup>

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*"Psychiatric disorders are so common among addicts that the Inspectorate believes that the Turning Point institution must meet the same conditions for responsible care as other institutions that provide mental healthcare".<sup>36</sup>*

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Follow-up on the recommendations requires further financial assistance. Discussions between Government and Turning Point have taken place and plans to reinstate the subsidy for voluntary care are on the table.

#### 4.1.2 Mental Health Foundation

The Mental Health Foundation (MHF) was founded in 2001 by the Government of Sint Maarten and is accountable to the Ministry of Public Health, Social Development and Labor. The institution provides psychiatric care and support for mental health disorders, while Turning Point focuses on addiction care. Presently there are a few in-house patients at Turning Point referred to and followed by the MHF.<sup>37</sup> MHF has care agreements in place with various stakeholders, including Turning Point. Patients seeking assistance at the MHF can consult with their general practitioner to get a referral letter to access care at the MHF. The MHF offers care at home (persons who are unable to come to MHF), clinic care, day learning center, crisis intervention, inpatient care

<sup>31</sup> Interview with the Ministry of Public Health, Social Development and Labor d.d. June 7, 2021.

<sup>32</sup> Interview with Turning Point d.d June 4, 2021

<sup>33</sup> Idem.

<sup>34</sup> National Ordinance on the 2020 budget of Country St. Maarten (AB 2020, no. 25).

<sup>35</sup> Interview with Turning Point d.d June 4, 2021, and verified with the Ministry of Public Health, Social Development and Labor d.d. June 7, 2021.

<sup>36</sup> Inspection study into the quality and patient safety of intramural mental health care on Sint Maarten (2013, public health inspectorate).

<sup>37</sup> Interview with Turning Point d.d June 4, 2021

and short and long stay living facility.<sup>38</sup> Social insurance (AVBZ contributions and USZV) and private insurance covers services at the MHF.

#### 4.1.3 Government initiatives

The government holds the position that there must be clear protocols in place to ensure the quality of care given by the various institutions are based on international standards.<sup>39</sup> Since September 2012, Sint Maarten



has been an Associate Member of the [Pan American Health Organization](#) (PAHO) and World Health Organization (WHO). The PAHO is the specialized international health agency for the Americas. It works with countries throughout the region to improve and protect people's health.<sup>40</sup> The PAHO provides technical support in strengthening the health care system on Sint Maarten based on

agreed upon priorities defined by Government.<sup>41</sup> The Ministry of VSA is working with the PAHO to design a blueprint for addiction and various programs. With the PAHO, the Ministry of VSA will be able to recognize gaps in the quality of care being given locally with international standards and determine whether they are able to fill those gaps based on substantiated research. Despite this positive effort, accurate data on gambling addiction on the island is still lacking. [The Country Cooperation Strategy 2015-2019](#), signed between Government of Sint Maarten and PAHO, highlight the need for and importance of data to justify decision-making in the health care system.

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<sup>38</sup> [MHF 2019 report.](#)

<sup>39</sup> Interview within Ministry of Public Health, Social Development and Labor d.d. June 7, 2021.

<sup>40</sup> <https://www.paho.org/en/who-we-are>.

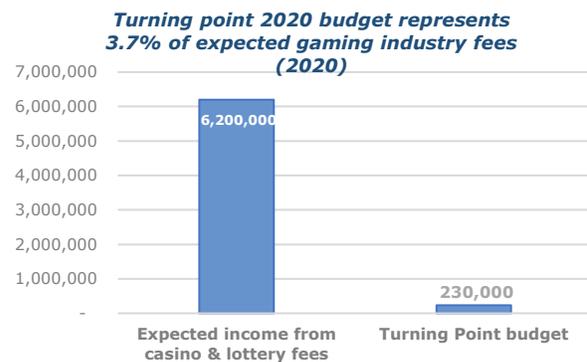
<sup>41</sup> [Country Cooperation Strategy 2015-2019.](#)

## 5. CHALLENGES

In this chapter we outline challenges that exist regarding responsible gambling:

1. **IMPORTANCE OF STATISTICS AND DATA:** The biggest challenge we found during the audit is the availability of statistics and data on responsible gambling. Government and Turning Point could not provide reliable data or statistics on resident gambling, tourist gambling, responsible gambling, or gambling addiction. With reliable data not being available, the scope of the problem cannot be identified and tackled in the most effective way. Despite this, stakeholders agree the problem exists.
2. **AGREEMENT ON HOW TO RE-INSTALL AND SUBSIDIZE THE VOLUNTARY PROGRAM AT TURNING POINT:** Continuing talks between the Ministry of VSA and Turning Point to be able to provide voluntary care and guidance. Currently, through their General Practitioner, a person can be referred to the Mental Health Foundation. There are many challenges with this approach, one being the stigma around addiction which could deter persons further from reaching out for help through avenues that do not specialize in addiction.

3. **STRUCTURAL ALLOCATION OF GAMBLING REVENUES TOWARDS PREVENTION PROGRAMS:** Tax and license revenues generated from the gambling industry are not (structurally) allocated towards specific prevention and other social programs that Government can utilize to strengthen the services and care on Sint Maarten. We were unable to determine if specific programs are in place, to promote responsible gambling.



4. **ENFORCEMENT OF EXISTING LEGISLATION:** The tasks of the Casino Controllers are to ensure that the stipulations of the Ordinance regulating Gambling are enforced.<sup>42</sup> One of the stipulations include limiting the number of times a resident visits a casino to 6 times per month. Without an interlinked monitoring system, a person is able to visit multiple casinos more than 6 times per month making it difficult to restrict residents.
5. **MODERNIZATION OF LEGISLATION AND POLICIES:** Alcohol addicted persons have shown to have an increased susceptibility to compulsive gambling.<sup>43</sup> In some countries, operators are required to limit alcoholic beverages on gaming floors and are authorized to turn away persons who are visibly intoxicated from entering gaming facilities. Other prevention policies and legislation include player protection features such as self-exclusion programs, which allow players to voluntarily exclude themselves from gambling facilities or set limits on how much money they can spend.<sup>44</sup> In some countries (f.e. the Netherlands), a person is required to provide identification to enter the casino. The casino stores this information to track and monitor gambling behavior. Technology-based solutions in gambling could be further assessed by Government as these could assist casinos in sharing data with one another and assist government in determining the most effective policies to implement for responsible gambling.

<sup>42</sup> <http://www.sintmaartengov.org/government/TEATT/Economic-Inspection-Department/Pages/Casino-Control-and-Security.aspx>.

<sup>43</sup> <https://www.casino.org/gambling-addiction/>.

<sup>44</sup> <https://www.americangaming.org/resources/responsible-gaming-regulations-statutes-2/>.

6. *MINISTRY AND STAKEHOLDER PARTICIPATION:* The process of issuing casino or lottery licenses by the Ministry of TEATT does not include consulting with the Ministry of VSA.<sup>45</sup> Turning Point also confirmed not having contact with casinos and lotteries, however expressed willingness to do so. With an increased stakeholder and Ministry participation, social risks may be identified more efficiently.
7. *PUBLIC INFORMATION ON GAMBLING ADDICTION:* The effects of problem gambling are not only noticeable through financial consequences, i.e. loss of money. It can also hinder a person's work life and relationships. The impacts can also be seen on children and young adults who can be indirectly influenced from close relatives who experience problems with gambling.<sup>46</sup> It is important that information highlighting facts and dispelling myths surrounding problem gambling are readily available to the public. This could assist casino controllers, casino managers, friends, and family in identifying trends surrounding problem gambling.
8. *PLAYER PROTECTION POLICIES FOR LOTTERY GAMES:* Data on participant play at lotteries are unknown on Sint Maarten. Based on studies in the U.S. and in the Netherlands, lottery playing is common amongst the youth due to accessibility, it is unknown if this is the case in Sint Maarten. With the provision of article 4 of the Lottery ordinance, an opportunity exists for Government to allocate funds towards research and collecting data on participant play at lotteries. This could be the first step in implementing effective policies and programs backed by data gearing towards protecting players. With the accurate data and research of the lottery industry, player protection policies consisting of best practices, training and access to information on responsible gaming can be implemented.

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<sup>45</sup> Interview within Ministry of Public Health, Social Development and Labor d.d. June 7, 2021.

<sup>46</sup> <https://www.casino.org/gambling-addiction/>.

