



General Audit Chamber

Algemene Rekenkamer

COMPLIANCE AUDIT:

APS' 2019 FINANCIAL STATEMENTS



AUGUST 2020



This document is an English translation of the original Dutch language report entitled: "*Rechtmatigheidsonderzoek: Jaarrekening 2019 van het Algemeen Pensioenfonds Sint Maarten*". In the event of textual contradictions or any other differences, the original Dutch text will prevail.

August 2020

General Audit Chamber, Juancho Yrausquin Bldv 10, Philipsburg, Sint Maarten

PREFACE

This is the report of the General Audit Chamber, which contains the results of the investigation into the 2019 Financial Statements of the General Pension Fund Sint Maarten (APS). APS submitted its financial statements to us on June 29th, even though according to law, submission is required no later than November 1st. We compliment the fund on its early presentation of the statements.

The coverage ratio at the end of 2019 was 103.8% (2018: 97.6%). The increase is mainly due to improved results on international investments. However, since inception APS has not been financially sound, as the coverage ratio of 103.8% is still lower than the required minimum of 105%. The capital available is still insufficient to cover general risks and investment risks. The risks on international investments should not be underestimated. We consider measures to mitigate these risks to be important, as indicated in our review of APS' 2018 Financial Statements, in which large losses were stated. The improvement in the current year's results does not diminish our opinion. As such, we provided examples of measures taken by pension funds in the region.

For this audit, we analyzed the development of the local investments. Noteworthy is the lack of progress. In addition, an ALM study was not conducted in 2019. An ALM-study is a prerequisite for following the steps in the [budget cycle](#), and is a part of the fund's internal policy.

Moreover, it is up to the fund to demonstrate that pension reform will lead to a fundamentally healthier coverage ratio and financial result. We believe in the event a recovery plan has to be prepared and serious measures must be taken to the detriment of the participant, a mandatory independent investigation should be carried out to determine the fund's performance. In our opinion, accountability is necessary to the process. An example of such an investigation is an administrative capacity review, which we will discuss in more detail in the report.

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SUMMARY

At the end of 2019, the coverage ratio of the APS was 103.8% (2018: 97.6%). Despite the increase, the capital remains insufficient to cover the general and investment risks.

We believe that the APS' 2019 Financial Statements provide a true and fair representation of both the financial position as at December 31st, 2019, and the 2019 financial result, with the following exceptions:

1. No agreement has been reached with the Pension Fund of Curaçao regarding the amount of the outstanding claim of up to ANG 5.37 million (2018: ANG 12.7 million). Analysis indicates that a correction of ANG 7.4 million was made in 2019. There is uncertainty about the existence and valuation of the receivable.
2. There is uncertainty about the valuation of outstanding claims against the Government of Sint Maarten and a number of other participating organizations up to an amount of ANG 23.7 million (2018: ANG 22.1 million);

We have established the importance of conducting an [ALM-study](#) in various reports. Instead, APS conducted a risk budgeting study in 2019. We remind APS that a risk budgeting study is not part of the [investment cycle](#). According to APS, the risk budgeting study is not yet complete and will be presented in August 2020. APS intends to conduct an ALM-study now that Parliament has approved the pension reform. The assignment will be initiated in the third quarter of 2020 and will be completed in the fourth quarter, according to APS.¹

Parliament approved pension reform legislation on June 3rd, 2020. APS' task is to manage the fund in a fundamentally sound manner. The amended law provides APS with additional options to do so. If the coverage ratio is not structurally healthy after the implementation of a recovery plan, or if substantial measures have to be taken at the expense of the participant, we believe that APS' functioning cannot be overlooked. In the context of "good governance", we believe it is appropriate for the fund to have its performance objectively evaluated. An example of such an investigation is the administrative capacity review.

¹ APS' reaction dated July 21st, 2020.

RECOMMENDATIONS

Based on our findings, we recommend the following:

- Make arrangements to settle outstanding claims with the Government of Sint Maarten and APC;
- Apply the applicable actuarial assumptions in the administrative system and set up the process of making changes in an orderly fashion to limit manual modifications;
- Urge employers to submit amendments in a timely manner so that the information for the 2020 year-end annual accounts is as up to date as possible;
- Continue to actively monitor the actuarial interest rate to determine whether it remains sufficiently prudent, especially given the 2020 developments due to the Corona crisis;
- Conduct an [ALM-study](#);
- Provide as up to date and comprehensive as possible reporting on (local) investments in future financial statements in order to fully inform participants;
- Objectively evaluate the fund's performance within the context of 'good governance'. APS should consider using the instrument of an [administrative capacity review](#) for this.

1 OUR AUDIT

1.1 Basis for the audit

We review APS on the basis of article 26 of the [National Ordinance General Pension Fund Sint Maarten](#) (hereinafter: Lv APS). On an annual basis, we present the audited financial statements along with our comments to Parliament and the Minister of Finance in keeping with article 18, tenth paragraph of the Lv APS. This report contains the results of our investigation into APS' 2019 Financial Statements.

1.2 The objectives and audit questions

The objective of this investigation is two-fold. On the one hand we want to inform both Parliament and the Minister of Finance about our opinion regarding the reliability of the financial statements as well as legal compliance.

On the other hand, we seek to advise Parliament and the Minister of Finance about the areas that need improvement.

The following audit questions were developed for this review:

1. Do APS' 2019 Financial Statements provide a true and fair representation of both the financial position as of December 31st, 2019, and the financial results for the fiscal year 2019?
2. Has APS complied with the National Ordinance General Pension Fund Sint Maarten?

1.3 Audit methodology

As a result of our activities, we concluded that we can make use of the findings from the work conducted by APS' external auditor who audited the 2019 Financial Statements.

1.4 Reading guide

The following topics are successively addressed in this report: our results regarding APS' financial position (chapter 2); The findings of our review regarding APS' compliance with rules and regulations in chapter 3. Chapter 4 describes the current situation in 2020, where we briefly address the changes to the pension system and accountability.

We conclude our report with our epilogue (chapter 5).

2 THE FINANCIAL STATEMENTS

This chapter presents our results and our opinion regarding the audit question:

"Do APS' 2019 Financial Statements provide a true and fair representation of both the financial position as of December 31st, 2019, and the financial results for the fiscal year 2019?"

2.1 Claims

The total outstanding claims (receivables) declined in 2019 by ANG 24 million, specifically from ANG 67.9 million to ANG 43.9 million.² There is uncertainty for a portion of the outstanding claims in terms of when and if they will be settled. These uncertainties are:

1. No agreement has yet been reached with the Pension Fund of Curaçao regarding a claim of ANG 5.4 million (2018: ANG 12.7 million). An analysis indicates that a correction totaling ANG 7.4 million was made in 2019.
2. There is no agreement to settle an amount of ANG 23.7 million (2018: ANG 22.1 million) in outstanding claims against Government and a number of other participating organizations.

Figure 1: Changes of outstanding claims

APS
outstanding claims (million ANG)



2.2 Pension obligation provision

APS' actuary issued an opinion on June 18th, 2020, for fiscal year 2019. The opinion regarding the pension obligation provision (hereinafter: [VPV](#)) states:³

"The pension obligation provision is, in accordance with the applied calculation rules and assumptions, in general, sufficient."

At the end of 2019, the VPV of the APS was ANG 719.7 million (2018: ANG 696.4 million). [Total pension assets](#) amount to ANG 747.2 million (2018: ANG 679.5 million). The coverage ratio can be calculated using the following formula:

$$\frac{\text{Pension assets (ANG 747,153,000)}}{\text{VPV (ANG 719,700,00)}} * 100 = \text{Coverage ratio (103.8\%)}$$

2.2.1 Accuracy and comprehensiveness of the participant administration

As in previous years, the auditor included an exception in his opinion regarding the basic data for 2019. The auditor used a [partial sample](#) to establish that a number of participants were issued an

² Balance sheet items: Other non-current assets, Accounts receivable, Other receivable and Accrued interest receivable.

³ Certification report Fiscal Year 2019, Actuarial Statement, opinion on page 12.

incorrect status.⁴ The actuary performed an additional review of this matter, and found that the provision was established in a prudent manner.

As a result of the audit of participant's basic data⁵, APS' external accountants' opinion is that the participant administration, with the exception of the above limitation, is accurate, complete and in accordance with the underlying documents in the participant files.⁶

2.2.2 Prudential actuarial assumptions

The actuarial assumptions used by APS for calculating the VPV are stated in the [2019 Financial Statements](#). For establishing the level of the [VPV](#), the [actuarial rate](#) and the [actuarial assumptions](#) are important.

Actuarial rate

In 2019, the actuarial interest rate is 3.75%. APS' actuary states the following about this: "We recommend that the fund actively monitor whether the actuarial interest rate remains sufficiently prudent for the future, particularly given the developments in 2020 due to the Corona crisis".⁷ We support the actuary's recommendation.

Mortality rates

In 2018, the mortality assumptions were adjusted in a new table. Last year, a recommendation was made to expand the study to include a quantitative research, using the mortality results from recent years. The study was planned for 2020.

Similar to 2018, the applicable mortality assumptions were not incorporated in APS' administrative system.⁸ We agree with the recommendation issued by APS' actuary to standardize the applicable assumption in the new administrative system.⁹

Transitioning to the new administrative system

We understand that APS will switch to a new administrative system in 2020. The actuary considers it necessary to integrate the applicable assumptions within the new administration system and to organize the processing of amendments in a well-ordered manner to limit manual adjustments. To this end, the fund drafted a premium analysis policy, which will be put in motion after the year-end annual account is completed. The actuary's recommendation is to (within legal frameworks) urge employers to submit amendments in a timely fashion to allow 2020's year-end annual account to remain as current as possible.

We support the actuary's comments and recommendations.

⁴ "These participants were part of the 354 participants from the 2019 premium analysis, for which no premium was received, but were included as active persons in the Maia system. The change of status was not done because of the lack of formal reporting by the employer". Source: Elucidation from the qualified opinion from the auditor's certification report. Assurance report. Grant Thornton dated August 28, 2019.

⁵ Date of birth participant, former participant, pensioner, partner of pensioner, dormant person; gender, date of marriage/divorce, date of death, starting date membership, date of retirement, income data (among which salary; part-time percentage, disability percentage, income limits).

⁶ Assurance report regarding basic participant data. Grant Thornton August 28, 2019.

⁷ Certification report fiscal year 2019, page 6, Summary, conclusion and recommendations and page 18, Financial position.

⁸ Certification report fiscal year 2019, page 9, Summary, conclusion and recommendations.

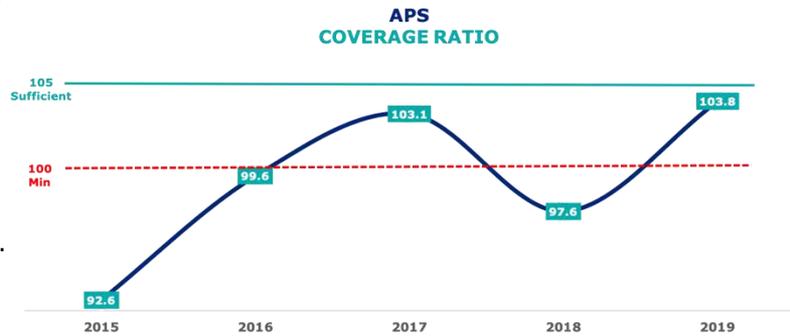
⁹ Summary, conclusion and recommendations WTW, Summary, conclusion and recommendations on page 8.

2.3 Coverage ratio

With a coverage ratio of 100%, the pension fund is not resistant to general or financial risks. Maintaining a minimum coverage ratio is way to deal with this. APS' policy assumes a minimum coverage ratio of 105%.

At the end of 2019, the coverage ratio of APS was 103.8% (2018: 97.6%).

Figure 2: Development of APS' coverage ratio



The increase in the coverage ratio by 6.2% is mainly due to an improved result from international investments as well as due to inflation. At the end of 2019, the fund's capital was insufficient to cover general and investment risks.¹⁰ Figure 2 shows the development of APS' coverage ratio.

2.4 2019 Financial results

The 2019 Financial Statements show a profit of ANG 44.3 million (2018: ANG -36.9 million).¹¹ The improvement was caused by external factors on the US market, such as:

- the unexpected interest rates reduction (three times) by the US Federal Reserve (Central Bank) together with additional fiscal measures in America that had a positive effect on both the US and global economies; and
- improvement of the global economic situation that led to higher earnings, higher profits and significantly higher equity valuations;

Reallocations within the international portfolio contributed to the positive result.¹² There was no investment plan established for the year 2019. APS reports that it acted in accordance with the 2018 investment plan, taking into account adjustments to the [MIPS](#). Figure 3 shows the return on investments from 2015.

Figure 3: Return on investment on local and international investments



¹⁰ Financial position, Actuarial report Fiscal year 2019, APS, WTW, June 18, 2020.

¹¹ Paragraph 3.2 of APS' 2019 Financial Statements.

¹² Response from APS of July 21, 2020.

2.5 Local development projects

While we paid attention to international investments, the negative result realized and the measures taken by pension funds in the region in 2018, our focus in 2019 was an analysis of the local development projects.

2.5.1 Mary's Fancy

This project's investment objective is the development of an eco-hotel. APS is looking for potential "operators" for this hotel project, before going forward with detailed construction planning. Construction is planned for the fourth quarter of 2020. The expected completion time for construction is 15 months with project delivery scheduled for the beginning of the second quarter of 2022.¹³ APS applied for a demolition permit.¹⁴ Figure 4 shows the development of Mary's Fancy through 2019.

Figure 4: development of Mary's Fancy based on APS' financial statements and current status

Start	2016	2017	2018	2019	July 2020
<p>Purchased in 2014 for ANG 4 million.</p> <p>The objective is a boutique hotel, art gallery, outdoor museum and botanical garden.</p>	<p>Contractor started construction.</p> <p>Phase 1 (infrastructure) not yet completed at the end of 2016.</p>	<p>Phase 1 completed.</p> <p>Renovation (phase 2) will be completed in Q1 2019, the project in 2020.</p>	<p>Not operational. Restoration of monuments.</p> <p>Phase 3 and 4 (museum and garden) will be completed in 2020.</p>	<p>Permit for demolition and construction.</p> <p>Will start in 2020.</p>	<p>Construction is scheduled to start in Q4 2020. Estimated project completion is 15 months.</p>

In their response, APS indicates that external factors are often the cause of scheduling changes. In the case of Mary's Fancy, these include lengthy permit application processes and a delay in the selection process for an architect caused by the 2017 hurricanes.¹⁵ However, this "new" information is not provided in the financial statements. Figure 4 shows the information derived from the respective financial statements over the period 2016 to 2019. With incomplete information in the financial statements, broad insight into investments is also absent. We advise APS to, in future, provide a more comprehensive and complete presentation of the status of the project. Realistic planning, taking into account possible setbacks, should be available.

Conclusion: Mary's Fancy

APS' 2017 Financial Statements report that the Mary's Fancy project would be completed in 2020. As of August 2020, we are of the opinion that little progress has been made.

¹³ Response from APS dated July 21, 2020.

¹⁴ In the response of July 21, 2020, APS indicates the demolition plan was presented to the Minister of VROMi by email on October 10, 2018. According to APS, the Minister of VROMi indicated that a demolition permit was not required.

¹⁵ Response from APS dated July 31, 2020.

2.5.2 Parking lot

To settle Government’s outstanding claims in 2016, the parking lot next to the Government Administration building was transferred to APS.

In their 2017 and 2018 Financial Statements, APS reported that development of the property was planned for the 3rd quarter of 2019. However, the 2019 Financial Statements state that the development is pending a decision from APS. APS notified us that the parking lot is likely to be included in discussions between Government and APS regarding the Debt Settlement Agreement.¹⁶ Figure 5 shows the development of the parking lot according to information derived from APS’ financial statements along with the current state of affairs.



Figure 5: Parking lot project based on APS’ financial statements and the current status

Start	2016	2017	2018	2019	July 2020
<p>Parking lot next to the government building</p> <p>Part of the debt settlement with the government.</p>	No information.	Expect to start development in Q3 2019.	Expect to start development in Q3 2019.	Development is pending further decision-making	<p>No (physical) change since the acquisition.</p> <p>According to APS, parking lot has a lower priority compared to other projects.</p>

Conclusion: Parking lot

After acquiring the land more than four and a half years ago, the parking lot project remains undeveloped as of August 2020, though it was scheduled to be completed in 2020. This is supposed to be a multi-level parking garage with commercial real estate on the ground floor. APS indicates that the project currently has a lower priority compared to other projects such as Oryx and Mary's Fancy.¹⁷

2.5.3 Professional Office Park

Since its purchase in 2016, the Philipsburg office park generates revenue from lease payments from tenants. The plot of undeveloped land is, among other things, intended for the construction of the new APS headquarters. That new office will be part of a larger building. This has been the plan since 2016. Also planned for the site is the construction of homes.¹⁸

In 2020, development of the land has not yet started. APS’ management intends to submit a “Request for Proposal” in August 2020 to APS’ board for approval.¹⁹ Figure 6 displays the development of the office park according to information derived from APS’ financial statements and includes the current state of affairs.

¹⁶ Response from APS’ management dated July 31, 2020.
¹⁷ Response from APS’ management dated July 21, 2020.
¹⁸ Response from APS’ management dated July 31, 2020.
¹⁹ Response from APS’ management dated July 21, 2020.

Figure 6: the office park based on APS' financial statements and including the current status

Start	2016	2017	2018	2019	July 2020
Purchased in December 2016 aangekocht for ANG 9.36 million.	Partially developed. Intended for future APS HQ	No change; APS collects rent.	Little damage from Irma; no information about the transition from APS to the new office.	Development of the land expected in 2021.	"Request for proposal" in August. Unclear when construction will start.

Conclusion: Professional Office Park

The planning for the construction of the new office building remains unclear. The fact that homes may be constructed is not described in the financial statements. We advise APS to report on this in future financial statements in order to fully inform participants about the investment. The submission of a "Request for Proposal" to the board is a positive disclosure, but fact remains that after 4 years, there has been no actual development of the land.

2.5.4 Oryx Hills

In June 2018, APS signed a contract for the construction of this 62-housing project, with an expected completion date scheduled for mid-2019. In [October 2019](#), construction was reported to have been completed. Sales have started. As of July 2020, 11 homes were sold. The total cost of the project at the end of June 2020 was reported as ANG 22.6 million.²⁰

According to APS, the sale of the homes is not proceeding as quickly as planned because it is, among other, dependent on the cooperation of third parties, such as the notary, the bank and Sint St. Maarten's government.²¹ A maximum of 9 applications are processed every week, based on the staff assigned to this project. The main factor is due to the Fund's participants who are unable to meet the conditions due to numerous and/or (high) current loans. APS has decided to offer a lease-purchase option in addition to the purchase of units.²²

Repairs will be carried out in 2020. These repairs are not further explained in the 2019 Financial Statements. When asked, APS reported that these repairs concern a number of "punch list items" and the repair of a drainage problem at the housing project. According APS, these activities will be solved within 3 to 4 weeks.²³ The work will cost approximately ANG 57,000 for the repair of the drainage problem; an invoice of ANG 157,000 from a contractor is currently under dispute. The first inhabitants are expected in early August 2020. We advise APS to inform buyers of all repairs carried out and to highlight the buyer's rights and obligations in this regard for the purchase of a home.

Cost covering sales are only possible if APS finances the mortgages.²⁴ Figure 7 shows the development of Oryx Hills according to the APS' financial statements annual accounts and includes the current state of affairs.

²⁰ Response from APS' management, "Oryx Hills Housing Development, dated July 21, 2020, page 1 -2.

²¹ Response from APS' Board dated August 18, 2020.

²² Response from APS' management, dated July 31, 2020, and from the Board dated August 18, 2020.

²³ Response from APS' management, "Oryx Hills Housing Development, dated July 21, 2020, page 1 -2.

²⁴ Response from APS' management, dated July 31, 2020.

Figure 7: Oryx Hi based on APS' financial statements and the current status

Start	2016	2017	2018	2019	July 2020
Acquired government long-lease in 2016.	Objective to construct 62 affordable homes.	Construction starts in Summer 2018 and lasts about 1 year. Sales start in 2019.	Expect to start development in Q3 2019. The price of homes is below \$ 250.000.	Construction almost complete. Sales start.	Sales are slow. Repair work is needed. First inhabitants expected in August 2020.

Conclusion: Oryx Hills

APS' goal for this project is to offer affordable housing. Qualifying for the purchase of a home is proving to be difficult. APS reports that bottlenecks include the bank and real-estate broker, along with the notary, Government and the fund's participants. The fact remains that sales have, thus far, been slow. However, APS' notification that the first inhabitants are expected early in August 2020, is a positive development.²⁵

2.6 Conclusion on the local investments

Most local investment projects were purchased/acquired by APS in 2014 or 2016. Our analysis shows little significant progress on local investments in (about) 5 years. Target dates shift, expectations are adjusted and there is no clear substantiation for new (updated) schedules. As examples: a parking facility originally scheduled for 2020 (now with a lower priority compared to other projects according to APS), an eco-hotel in Mary's Fancy for which construction has not yet started, development of the new APS headquarters that is still unknown and the slow sale of homes at Oryx Hills for which a variety of reasons are provided.

2.7 Opinion regarding the reliability of the 2019 Financial Statements

Based on our audit, we believe that APS' 2019 Financial Statements, with the exception of the possible effects of items described below, provides a true and fair representation of size and composition of the assets as well as the financial result as of December 31st, 2019.

The items and possible impacts are:

1. No agreement has yet been reached with the Pension Fund of Curaçao regarding the amount of claim amounting to ANG 5.4 million (2018: ANG 12.7 million). An analysis revealed a correction of ANG 7.4 million in 2019. There is uncertainty about the existence and valuation of these receivables.
2. No settlement has been reached for an amount of ANG 23.7 million (2018: ANG 22.1 million), relating to outstanding claims against the Government of Sint Maarten and various other participating organizations. There is uncertainty about the valuation of these receivables.

²⁵ Response from APS' management, "Oryx Hills Housing Development, dated July 21, 2020, page 1 -2.

3 COMPLIANCE

In this chapter, we answer the following audit question:

“Has APS complied with the National Ordinance General Pension Fund Sint Maarten in 2019?”

3.1 Legislation

With the exception of the following two provisions, the APS complied with all regulatory provisions of the Lvo APS in 2019:

- Article 5, first paragraph: the board does not consist of a chairman and four members; there are two vacancies;
- Article 15, first paragraph: an investment plan for 2019 was not established by the board.

In its response, the APS states that on several occasions in 2019, the fund informed the Minister of Finance and to the Organized Civil Service Consultation (GOA) about the existence of vacancies. Communication to these parties, according to APS, did not result in nominations of board members in 2019.

3.2 Opinion regarding compliance

Based on the aforementioned, and with exception with the items listed above, we believe that the APS complied with the legal provisions in 2019.

4 STATE OF AFFAIRS AS OF JULY 2020

4.1 Changes to the pension system

Pension reform was approved by Parliament on June 3rd, 2020.

APS' objective is to achieve a systemic coverage ratio of at least 105%. It is up to APS to manage a fundamentally healthy pension fund, using the additional mechanisms provided by the amended regulation. With 2018's negative result of ANG 36.9 million and the economic impact of the corona virus, we believe it is important that Government and participants are, as much as possible, kept informed about developments about and consequences for the pension. Recently held digital information sessions provided by APS are a good example.

4.2 Recovery Plan

In October 2019, APS drafted a(n) (updated) recovery plan to structurally improve the coverage ratio in the event it drops below 100%. APS indicates that it intends to update the recovery plan once again in the third and fourth quarters of 2020, in accordance with the fund's annual process. The effects of the current corona crisis will be taken into account and a comparison and check against the target funding ratio of 115% will be made.²⁶

The current recovery plan (of 2019) contains far-reaching measures (including reduction of the pension). We reiterate that, in our opinion, the measures taken to achieve a funding ratio of 105% should, in first instance, not be borne by Government, the participants and the general public.

In our [report](#) on APS's 2018 Financial Statements, we discussed the importance for APS to, in future and as much as possible, take measures to limit negative results (on investments). After 2018's negative result, specifically other pension funds in the region immediately acted with measures.

If the coverage ratio is systematically unhealthy after the implementation of a recovery plan, or if substantial measures must be taken at the expense of the participants, then we believe that APS' functioning cannot remain unexamined. In the context of "good governance", we believe it is appropriate for the fund to have its performance objectively evaluated.

4.3 Objective evaluation of internal functioning

One way to conduct an objective evaluation of one's own performance is through the measurement of administrative capacity. The [administrative capacity review](#) is an instrument that will allow APS to develop a good overview of the tasks it performs and to determine whether objectives are achieved. The instrument enhances transparency. The degree of reliability and validity improves as the guarantee of independence increases. We therefore recommend that such a review is conducted by an independent external party. For more information about the administrative capacity review, click [here](#).

²⁶ APS' response dated July 21, 2020.

5 OUR EPILOGUE

By law, APS is required to present its financial statements by no later than November 1st. APS presented their financial statements on June 29th, 2020. We extend our compliments to them for the early delivery, as this has allowed us to inform readers of our report (including the Fund's participants and Parliament) of our findings, opinions and conclusions regarding APS' 2019 fiscal year well before the end of the current year.

We thank APS for their cooperation during this review and look forward to similar support during the next project.



General Audit Chamber

Algemene Rekenkamer