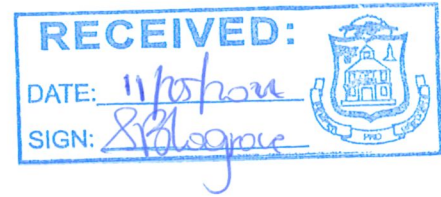




Sociaal Economische Raad  
Social Economic Council

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## **LETTER OF ADVICE**

The Honorable Minister of Minister of Public Health, Social Development and Labor, Mr. Omar Ottley  
Government Administration Building  
Soualiga Road no. 1

Philipsburg, November 25<sup>th</sup>, 2022

Our reference: SER/22/ SA/026

Re: Letter of advice concerning the draft national decree on the Indexation of General Old Age Insurance for the year 2022 and the draft national decree on the Indexation of Widow and Orphan Insurance for the year 2022.

Honorable Minister Ottley,

On May 6<sup>th</sup>, 2022<sup>1</sup>, the SER received the solicited advice request via DIV from the Ministries of General Affairs and the Public Health, Social Development, and Labor concerning the draft national decree regarding the indexation of general old age insurance for the year 2022 (hereafter: the draft AOV decrees) and the draft national decree regarding the indexation of widow and orphan insurance (hereafter: the draft AWW decree). As the draft AOV decree and the draft AWW decrees were received by the Council together and both concern indexation, this advice will address both. The draft AOV and draft AWW decrees were discussed in the board meeting of Thursday, October 27<sup>th</sup> and November 10<sup>th</sup>, November 24<sup>th</sup>, 2022. The SER has evaluated the social, economic, and legal consequences of the advice request and came to the following conclusions:

In general, the SER is in favor of the establishment of a legal basis for the increases in pension amounts and premium income limits in accordance with the National Ordinance on General Old Age Pension and the National Ordinance on Widow and Orphan Insurance. However, the SER still has certain general concerns outlined below:

### **SER's general concerns on the draft AOV and AWW decrees**

1. The CPI
2. Retroactive implementation
3. Intent of legislative change
4. Amendments to legislation
5. Omissions
6. Financial paragraph.

We kindly refer to attached Elucidation (page 8) for further elaboration on the abovementioned points.

<sup>1</sup> The advice request is dated April 25<sup>th</sup>, 2022.



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**Advice:**

Given the information provided, the SER **unanimously** advises the Government of Sint Maarten the following:

1. In general, the SER is in agreement with the proposed draft national decrees, containing general measures, indexing the AOV and AWW. However, the SER is not in favor of the retroactive implementation of indexation due to the administrative and the income tax burden on the pensioners this will cause. As an alternative, the SER advises to apply the indexation as per January 2023. This ensures that the pensioners still receive the indexation for the year 2022.
2. To update the financial paragraph of the draft decrees AOV and AWW with the information of the annual report 2021 of the SZV.
3. To adjust the omissions mentioned in point 5.
4. To immediately amend all relevant legislation in accordance with the new methodology of calculating the CPI by the Department of Statistics which no longer uses August as a time of measurement. Considering the legislative trajectory, the SER advises to use quarter two (Q2) CPI for indexation structurally across all ministries and legislation, requiring the use of the CPI.
5. To immediately amend all relevant legislation and to ensure that amendments made to the legislation regarding the change of the CPI prevents the retroactive implementation of legislation, and to consider the availability of SZV's audited financial reports including the new method of CPI calculation using quarter two (Q2) instead of quarter three (Q3).
6. As part of the preparation for the legislative changes, to execute in-depth research into the viability and sustainability of the social funds, more specifically the AOV and AWW funds. The research must consider ageing and (new) economic shocks. The research must also specify the necessary action essential to keep the SZV managed funds sustainable and healthy.

We trust to have informed you sufficiently herewith. Should you require any additional information after reading the above, please feel free to contact us at your earliest convenience.

Respectfully,

Ir. Damien D.E. Richardson  
Chairman

Gerard M.C. Richardson  
Secretary-General



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### **Background AOV and AWW:**

The National Ordinance regulating General Old Age Insurance [In Dutch: Landsverordening regelende een algemene, de gehele bevolking omvattende, verplichte verzekering tegen geldelijke gevolgen van ouderdom] (hereafter: AOV) contains regulations regarding old age pension for residents of St. Maarten.<sup>2</sup> The AOV includes defines the insured group, the right of individuals to old age pension including the amount, the maximum pension payment for an old-age pensioner who is married, and the premium income limits of the general contribution made to the AOV fund by the employed.

The National Ordinance regulating General Widow and Orphan Insurance [In Dutch: Landsverordening regelende een algemene, de gehele bevolking omvattende, verplichte weduwen- en wezenverzekering] (hereafter: AWW) contains regulations regarding widow and orphan pension. The AWW legislation defines the insured group, the rights of widows and orphans to a pension including the amount, and the premium income limit of the general contribution made by the employed. Both the AOV and AWW outline the executing body as the 'bank'<sup>3</sup>, which, as outlined by the National Ordinance Social and Health Insurance [In Dutch: Landsverordening Uitvoeringsorgaan Sociale en Ziektekosten Verzekeringen], is the Social and Health Insurances<sup>4</sup> (hereafter the Dutch abbreviation: SZV).

Under both ordinances, the general old age pension amount and the widow's pension amount are to be increased yearly by national decree based on the Consumer Price Index (CPI) of August of the preceding year with August of the year before that.<sup>5</sup> In addition, the premium income limits are to be adjusted along with the adjustment of the pension amounts as a result of the change in CPI.<sup>6</sup> The premium income limits refer to both the minimum and maximum premium income amounts which the rate of AOV and AWW premiums may be applied to. Furthermore, for individuals who are unemployed yet receive a taxable income, the ordinances regulate the income limits that may be levied for AOV and AWW contributions.

The intention of government is to implement the draft decrees retroactively to the 1<sup>st</sup> of January 2022, thereby creating the necessary legislation for the pension amounts and premium limits allowing pensioners to have a stronger legal basis in claiming their pensions.

In the explanatory memorandum, it is stated that the delay is caused by the delay in the establishment of the CPI in the month of August. This causes structural obstacles not only for the Department of Statistics (responsible for determining the CPI), but also for the government entities charged with legally

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<sup>2</sup> For specific regulations regarding the requirements to claim general old age pension refer to: Landsverordening regelende een algemene, de gehele bevolking omvattende, verplichte verzekering tegen geldelijke gevolgen van ouderdom AB 2018, GT no. 522, article 5.

<sup>3</sup> AB 2013, GT no. 520, article 3, paragraph 1. AB 2018, GT no. 522, article 4, paragraph 1.

<sup>4</sup> Landsverordening Uitvoeringsorgaan Sociale en Ziektekosten Verzekering AB 2013, GT no. 69, article 1.

<sup>5</sup> AB 2018, GT no. 522, article 7, paragraphs 2 and 3, article 7a, paragraph 9, and Landsverordening regelende een algemene, de gehele bevolking omvattende, verplichte weduwen- en wezenverzekering AB 2013, GT no. 522, article 11, paragraphs 7 and 8.

<sup>6</sup> AB 2018, GT no. 522, Article 26, paragraph 6. AB 2013, GT no. 522 article 29, paragraph 6.



amending the decrees. Consequently, the legal trajectory cannot be finalized timely, prior to the execution of the changes in the month of January.

The SER acknowledges that government has created the necessary legislation for the pension amounts and premium income limits allowing pensioners to have a stronger legal basis in claiming their pensions, however the SER has general concerns outlined below.

#### Changes to the methodology of the CPI

According to information provided by the Department of Statistics (hereafter: STATS), in 2018 the STATS changed the method via the re-basement of the CPI from the Household Budget Survey to the Classification of Individual Consumption according to Purpose. The SER learned that the changed methodology for generating the CPI by STATS does not allow for the availability of data for the month of August as was previously done<sup>7</sup>, as the CPI is now determined per quarter of the previous year. With the changed methodology, the STATS department could not produce a timely CPI index for the third quarter of 2021. The increase of the CPI is determined by comparing the CPI of the third quarter of 2021 to CPI of the third quarter of 2020. In other words, the indexation per January 1<sup>st</sup>, 2022, is determined by the CPI of the third quarter of 2021, however this was delayed. Because of the delay in CPI calculation, the draft decrees AOV and AWW will be implemented retroactively to January 1<sup>st</sup>, 2022.

#### *Overview CPI changes 2010-2021*

year	CPI
2010	3.6%
2011	3.2%
2012	4.7%
2013	2.8%
2014	2.2%
2015	0.9%
2016	0.5%
2017	2.0%
2018	2.71%
2019	0.09%
2020	0%
2021	2.28%

During the period of July 2020 and December 2021, the amount for the AOV was established in the National Ordinance increasing the Pension age<sup>8</sup>. At that time no CPI was used, for this reason the CPI for the year 2020 has been recorded as 0%. As the draft decrees concern the year 2022, the following section will address the increase in pension amounts and premium limits based on the CPI for both national decrees.

<sup>7</sup> Information department of STATS.

<sup>8</sup> Landsverordening regelende een algemene, de gehele bevolking omvattende, verplichte verzekering tegen geldelijke gevolgen van ouderdom. See: <https://lokaleregelgeving.overheid.nl/CVDR657898/1>



### AOV Indexation:

The following section explains the historical changes in pension amounts and premium income limits in detail. An overview of the changes from 2014 up to and including 2019 is shown below in table 1. The change for the year 2022 is highlighted in bold as this is the recent change.

### **2022:**

The CPI increased by 2.82% in the third quarter of 2021 compared to the third quarter of 2020. Consequently, the draft AOV decree<sup>9</sup> changes the maximum monthly pension payment for 2022 to NAF 1.275,-. Persons entitled to an old age pension married to an individual younger than 60 are entitled to a maximum monthly pension payment of Naf 874,-. The maximum premium income amount that the AOV premium can be applied to is increased to NAF 120.393,-. Any additional income above this amount will not be levied. The minimum annual income to which the premium can be levied from is increased to NAF 9.905,28. The premium is levied in part to individuals who are unemployed for an entire year or part of a year if their income falls between the amounts of NAF 9.905,28 and NAF 80.406,32.

*Table 1: Overview of increases in the AOV pension and premium income limits*

Year	CPI	Max. old age pension	Max. old age pension with partner	Max. premium income limit	Min. premium income limit	Unemployed with taxable income
2014	2.8%	NAf 1.028,00	NAf 704,00	NAf 92.446,00	NAf 7.605,90	NAf 7.605,90 – NAf 61.741,09
2015	2.2%	NAf 1.051,00	NAf 719,00	NAf 94.480,00	NAf 7.773,23	NAf 7.773,23- NAf 63.099,39
2016	0.9%	NAf 1.060,00	NAf 725,00	NAf 100.000,00	NAf 8.227,42	NAf 8.227,42- NAf 66.786,22
2017	0.5%	NAf 1.065,00	NAf 729,00	NAf 100.500,00	NAf 8.268,56	NAf 8.268,56- NAf 67.120,15
2018	2.0%	NAf 1.086,00	NAf 744,00	NAf 102.510,00	NAf 8.433,93	NAf 8.433,93- NAf 68.462,55
2019	2.71%	NAf 1.115,00	NAf 764,00	NAf 105.288,02	NAf 8.662,49	NAf 8.662,49- NAf 70.317,89
2020	0%					
2020- 2021 <sup>10</sup>		NAf 1.240,00	NAf 850,00	NAf 117.091,61	NAf 9.633,62	NAf 9.633,62- NAf 78.201,06
<b>2022</b>	<b>2.82%</b>	<b>NAf 1.275,00</b>	<b>NAf 874,00</b>	<b>NAf 120.393,59</b>	<b>NAf 9.905,28</b>	<b>NAf 9.905,28- NAf 80.406,32</b>

<sup>9</sup> 'Landsbesluit, houdende algemene maatregelen, van de tot wijziging van de artikelen 7, eerste lid, 7a, eerste lid, en 26, derde tot en met vijfde lid, van de Landsverordening Algemene Ouderdomsverzekering (Landsbesluit Indexering Algemene Ouderdomsverzekering 2022').

<sup>10</sup> Via: In Dutch: 'Landsverordening verhoging AOV-pensioen en pensioenleeftijd tot 65 jaar' (AB 2020, no. 44), which regulates changes to the 'Landsverordening regelende een algemene, de gehele bevolking omvattende, verplichte verzekering tegen geldelijke gevolgen van ouderdom'. See: <https://lokaleregelgeving.overheid.nl/CVDR657898/1>



### AWW Indexation:

The widow's pension amount is subject to differences based on the age of the widow. In 2015, a new national ordinance went into effect, the National Ordinance Increasing Old Age Pension and Pension Age, changing the age brackets to: younger than 42 years, from 42 to 50 years, 51 to 59 years, and 60 to 61 years<sup>11</sup>. Per July 1<sup>st</sup>, 2020, the adjusted age brackets, are: younger than 45 years, from 45 to 50 years, 51 to 59 years, 60 to 65 years<sup>12</sup>. Additionally widows with a disability or who have one or more orphans are entitled to a specified pension amount.<sup>13</sup> The following section explains the changes in pension amount and premium income limits for the year 2022 in detail. An overview of the historical changes from 2014 up to and including 2021 is shown below in tables 2-5. The year 2022 is highlighted in bold as this is most recent change.

### **2022:**

The CPI increased by 2.82% in the third quarter of 2021 compared to the third quarter of 2020. As a result, the widows monthly pension payment for 2022 is increased to maximum NAf 1.275,-.

For persons younger than 45 years old; NAf 588,-, for persons from 45 to 50 years old; NAf 752,-, for persons from 51 to 59 years old; NAf 967,-, for persons from 60 to 65 years old. Widows who are either disabled or have one or more dependents who are entitled to orphan's pension can receive a monthly pension amount of NAf 1275,-. The maximum premium income amount that the AWW premium can be applied to is increased to NAf 120.393,59. Any additional income above this amount will not be levied. The minimum annual income to which the premium can be levied from is increased to NAf 9.9905,28. The premium is levied in part to individuals who are unemployed for an entire year or part of a year if their income falls between the amounts of NAf 9.905,28 and NAf 80.406,32.

*Table 2: Overview widow pension increases 2014-2015*

Year	CPI	<40 years	40-48 years	49-57 years	58-59 years	Disabled or with one or more orphans
2014	2.8%	NAf 474,00	NAf 622,00	NAf 779,00	NAf 1028,00	NAf 1028,00
2015	2.2%	NAf 484,00	NAf 636,00	NAf 796,00	NAf 1051,00	NAf 1051,00

<sup>11</sup> In Dutch: Landsverordening regelende een algemene, de gehele bevolking omvattende, verplichte weduwen- en wezenverzekering (AB 2015, no. 31).

<sup>12</sup> See in Dutch: Landsverordening verhoging AOV-pensioen en pensioenleeftijd tot 65 jaar AB 2020, no. 44.

<sup>13</sup> Ibid. See article II paragraph C sub 2, which regulates article 11, paragraph 3 of the National ordinance regulating General Widow and Orphan Insurance.



Table 3: Overview widow pension increases and age bracket changes 2016-2019

Year	CPI	<42 years	42-50 years	51-59 years	60-61 years	Disabled or with one or more orphans
2016	0.9%	NAf 488,00	NAf 642,00	NAf 803,00	NAf 1.060,00	NAf 1.060,00
2017	0.5%	NAf 490,00	NAf 645,00	NAf 807,00	NAf 1.065,00	NAf 1.065,00
2018	2.0%	NAf 500,00	NAf 658,00	NAf 823,00	NAf 1.086,00	NAf 1.086,00
2019	2.71%	NAf 514,00	NAf 676,00	NAf 845,00	NAf 1.115,00	NAf 1.115,00

Table 4: Overview widow pension increases and changes 2020-2022

Year	CPI	<45 years	45-50 years	51-59 years	60-65 years	Disabled or with one or more orphans
2020	0%					
2020-2021 <sup>14</sup>		NAf 572,00	NAf 752,00	NAf 940,00	NAf 1.240,00	NAf 1.240,00
<b>2022</b>	<b>2.82%</b>	<b>NAf 588,00</b>	<b>NAf 773,00</b>	<b>NAf 967,00</b>	<b>NAf 1.275,00</b>	<b>NAf 1.275,00</b>

Table 5: Overview premium income limits increases 2014-2022

Year	CPI	Max. premium income limit	Min. premium income limit	Unemployed with taxable income
2014	2.8%	NAf 92.446,00	NAf 7.605,90	NAf 7.605,90- NAf 61.741,09
2015	2.2%	NAf 94.480,00	NAf 7.773,23	NAf 7.773,23- NAf 63.099,39
2016	0.9%	NAf 100.000,00	NAf 8.227,42	NAf 8.227,42- NAf 66.786,22
2017	0.5%	NAf 100.500,00	NAf 8.268,56	NAf 8.268,56- NAf 67.120,15
2018	2.0%	NAf 102.510,00	NAf 8.433,93	NAf 8.433,93- NAf 68.462,55
2019	2.71%	NAf 105.288,02	NAf 8.662,49	NAf 8.662,49- NAf 70.317,89
2020	0%			
2020-2021 <sup>15</sup>		NAf 117.091,61	NAf 9.633,62	NAf 9.633,62 NAf 78.201,06
<b>2022</b>	<b>2.82%</b>	<b>NAf 120.393,59</b>	<b>NAf 9.905,28</b>	<b>NAf 9.905,28 NAf 80.406,32</b>

<sup>14</sup> See in Dutch: Landsverordening verhoging AOV-pensioen en pensioenleeftijd tot 65 jaar (AB 2020, no. 44).

<sup>15</sup> Ibid.



## Elucidation

### General concerns of the SER concerning the draft decrees:

1. **The CPI.** The SER learned that the CPI calculation by the STATS department for the third quarter of 2021 was delayed. This posed problems for the increasing of the AOV and the AWW in a timely manner. While the calculation of the CPI occurred later than planned, the SER is concerned that these delays cause legal uncertainty to the recipients of the AOV and AWW. The SER recommends using a CPI of the second quarter (Q2) to avoid unnecessary delays while taking the length of legislative trajectory into account<sup>16</sup> (see also point 2).
2. **Retroactive implementation.** With the draft national decrees, the government has created the necessary legislation for the pension amounts and premium income limits allowing pensioners to have a stronger legal basis in claiming their pensions, in particular for cases of dispute. However, the SER remains concerned about the retroactive implementation of the AOV and AWW pension amounts and premium income limits.

The SER urges government to start legislative procedures timely and to have the CPI calculated by the department of STATS in a timely manner to avoid retroactive aspects in the law, unless they clearly fit the legal grounds for retroactivity. The SER is also concerned about the effects the retroactive indexation will have from a practical perspective, as premium income limits (wage limits)- and income tables will have to be adjusted retroactively among others, just prior to year-end while a new indexation for the year 2023 is also due. This causes major accounting and payroll system problems and ultimately negatively affects the AOV and AWW recipients. The SER is not in favor of this administrative burden. Moreover, the retroactive application will have a negative (tax) effect on the pensioners.

At the same time the SER acknowledges the fact that the recipients of the AOV and AWW pensions (pensioners) should not be negatively affected by the delay in CPI calculation while the yearly indexation keeps their purchasing power in line with inflation. The SER is concerned about the wellbeing of persons mainly dependent on the AOV- and AWW pensions, not receiving the indexation in a timely manner. Moreover, the SER is aware that many recipients of the 'old age' pension receive this pension as their sole means of income, while simultaneously, many do not receive the full pension amount (e.g. only NAF 200,- 400,- or 500,-). This is combined with the fact that there is no overall mandatory pension system implemented on the island. The SER finds it important that the social and economic position of this group of persons do not worsen, while the SER is also concerned that the pensioners maintain a level of independence and quality of life. As it

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<sup>16</sup> Meeting with the department of Statistics confirms that a choice can be made to use quarter two (Q2) CPI, but must be structural across all relevant legislation and all ministries.





stands, any new economic shock will have a great social impact and major impact on their overall survival.

3. **Intent of legislative change.** The SER observes that the explanatory note of the draft AOV decree for 2022 highlights the intention of Government to change the month basis of the CPI from August to another period to avoid a retroactive implementation of the national decrees. However, there is no clear indication of *when* this change will take effect. While the change in CPI methodology did not affect the establishment of AOV and AWW pension amounts and premiums in 2020<sup>17</sup>, it did have a negative effect for 2022 due to delays. Moreover, other legislation which is dependent on CPI calculations remains unaddressed.
4. **Amendments to legislation.** The SER acknowledges that the STATS' new CPI measure is done on a quarterly basis, eliminating August as a time of measurement.<sup>18</sup> However, this poses problems to *all* legislation with the legal basis of a CPI using the month of August compared to the month of August of the previous year. The SER strongly advises that existing legislation that relies on the CPI using the month of August must be amended in a timely manner to reflect the new CPI quarterly measurements. If adjustments to the relevant legislation are not made, executing the use of a CPI with a different timeframe will consequently not be in accordance with (existing) legislation and create unnecessary delays. Furthermore, as the legislation relies on the CPI as the method of indexation, the SER deems it imperative that the department of STAT's produces the CPI timely, as the government and other stakeholders are very dependent on this calculation.
5. **Omissions.** The SER observes that the draft AOV decree for 2022 includes a typographical error in the title: de landsbesluit, houdende algemene maatregelen, van de tot wijziging van de artikelen 7, eerste lid, 7a, eerste lid, en 26, derde tot n met vijfde lid van de Landsverordening Algemene Ouderdomsverzekering "(Landsbesluit Indexering Algemene Ouderdomsverzekering 2020)" should read "(Landsbesluit Indexering Algemene Ouderdomsverzekering **2022**)."

Additionally, in the explanatory memorandum on page 4, third paragraph, "De AOV uitkering.....zestig jarige leeftijd word uitgekeerd" should read " De AOV uitkering....vijfenzestigjarige leeftijd"<sup>19</sup>.

On page 6 of the draft AOV decree, mention is made of a national decree adjusting the premium income limit for the first 6 months of 2020. The SER established that this decree has not (yet) been published. The SER advises the government to publish the national decree. The SER finds it

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<sup>17</sup> See: The National Ordinance increase of the pension and pension age to 65 (AB 2020, no.44).

<sup>18</sup> Correspondence with STATS.

<sup>19</sup> See in Dutch: Landsverordening verhoging AOV-pensioen en pensioenleeftijd tot 65 jaar (AB 2020, no. 44).



important that legislation accurately reflects the accurate changes for future consultations of the law.

The SER observed that the draft AWW decree only considers the indexation of the widows' pension (article 11) but not the orphan's pension (article 12). The SER is of the opinion that article 12 should be adjusted accordingly.

6. **Financial paragraph.** The financial consequences within the explanatory notes of the draft AOV and AWW decrees for 2022, based on the published annual report of 2020, reflects that the AOV and AOW funds are healthy as the reserves has increased over the years. In 2020<sup>20</sup>, the AOV fund had a reserve of NAF 462.3M, premium income was NAF 90.5M, 8500 beneficiaries and paid benefits amounted to NAF 82.3M. The AWW fund had a reserve of NAF 143.1M, premium income was NAF 7.0M, 561 beneficiaries and paid benefits amounted to NAF 5.1M. The anticipation was that the implementation of the increased pension age in 2020 to 65 years, would positively benefit the AOV and AWW funds. However, in 2020 the pension amount was also increased causing the potential benefit for the fund to be less than anticipated.

Findings of the SER, recorded in the (audited) 2021 annual report of the SZV<sup>21</sup>, shows that the AOV fund had a reserve of NAF 480.3M, premium income was NAF 96.6M, 8800 beneficiaries and paid benefits amounted to NAF 94.4M. The AWW fund had a reserve of NAF 152M, 437 beneficiaries and paid benefits amounted to NAF 5.6M.

Table 6: Financial overview AOV, AWW and ZV/OV funds

AOV	2021 <sup>22</sup>	2020	AWW 2021	AWW 2020	ZV	2021	2020	OV 2021	OV 2020
premium	96.6M	90.5M	7.4M	7.0M	Premium	60.8M	57.1M	7.6M	7.7M
benefits	94.4M	82.3M	5.6M	5.1M	Benefits	89.7M	84.4M	12.3M	12.8M
pensioners	8.8K	8.5K	437	561	clients	29.7K	28.1M	18.5K/122	17.9K/122
average benefit pensioner	10.7K	9.7K	12.8K	9.2K	Average per client	3.0K	3.0K	663	714
Reserves (in guilders)	480.3	462.3	152M	143M		(251.1M)	(210.0M)	(47.5M)	(42.0)

While the AOV/AWW funds show positive reserves, the SER highlights the fact that the sickness and accident funds (hereafter: ZV/OV) are in structural deficits and these deficits have increased over the years. The SER acknowledges that the COVID-19 pandemic has negatively impacted premium income, compared to 2019 for example, while the expenses for the funds remained the same. Currently, the combined deficit of the ZV/OV funds are near NAF -/-300M<sup>23</sup>, an unprecedented amount. At the same time, the government owes the SZV NAF 73.4M<sup>24</sup>.

<sup>20</sup> Via: <https://www.szv.sx/info/wage-limits-premiums/>

<sup>21</sup> Audited in October 2022.

<sup>22</sup> Premium income less than anticipated because of the effects of the COVID-19 pandemic.

<sup>23</sup> Precisely: (-/-298.6 M) in deficit. ZV fund: -/- 251.1M; OV- fund: -/- 47.5M.

<sup>24</sup> Audited annual report 2021 SZV.



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Furthermore, the SER learned that the AOV/AWW funds are used to (cross) finance the ZV/OV which results into the AOV/AWW funds being less 'healthy' than reflected in the explanatory notes of the draft AOV/AWW decrees.

The SER learned that the increase in the wage limit for the ZV/OV as one measure to curb the depletion of the funds, has been implemented recently in August 2022<sup>25</sup>. The full impact of this measure cannot be measured at this time. Meanwhile, the SER urges the government for measures that must be taken to avoid the further depletion of the ZV/ OV funds.

Overall, the SER is concerned about the sustainability of the AOV and AWW funds and the projected longevity of the funds given the current situation.

The SER highlights the fact that the government has a history of non- payment of its legislated financial obligations to the various social insurance funds. As of December 2021, the government still owed the SZV an amount of NAF 73.4 M which consists mainly of the division of assets after 10-10-10; the legal obligation of the government to contribute to specific funds; services provided to the government and pre-financing of medical expenses of civil servants (OZR)<sup>26</sup>. Government itself is a major contributor to the depleted funds. According to the audited annual report of 2021, the SZV have made multiple attempts to settle the arrears. Moreover, the government has the legal obligation to guarantee the solvability of the SZV<sup>27</sup> and for the execution of (payments from) the various funds<sup>28</sup>. The SER is extremely concerned about the social and economic impact potentially caused by depleted social funds and insolvency of the SZV in the future. Consequently, the SER implores the government to take its responsibility and commitment to come to a payment settlement with the SZV to halt the growth of arrears, while ensuring that the ZV/OV funds are healthy. The SER is of the opinion that the prefinancing of government projects as a way of settling arrears is not a sustainable route to ensure healthy funds.

The SER is of the opinion that the financial consequences in the explanatory note should reflect the most updated financial information of the funds<sup>29</sup>. The SER advises to update the draft decrees with the financial information from the audited annual report of 2021.

Moreover, as much of the legislation is reliant on financial information from SZV, the SER finds it imperative that annual reports are published by SZV in a timely manner. Consequently, when considering the change of the CPI month basis discussed in point 4, the SER advises the Government to consider the effects of the closing of financial years by SZV when drafting legislation. In general, the financial consequences listed within the explanatory note allows to understand whether a fund is healthy or not in a previous financial year, and how increases in the pension amounts and

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<sup>25</sup> Information SZV.

<sup>26</sup> Ibid.

<sup>27</sup> In Dutch: artikel 24, Landsverordening uitvoeringsorgaansociale en ziektekostenverzekering (AB 2013, GT no. 69)

<sup>28</sup> In Dutch: bijv. artikel 23, Landsverordening regelende een algemene, de gehele bevolking omvattende, verplichte weduwen- en wezenverzekering (AB 2015, no. 31).

<sup>29</sup> Also by using the interim financial reports of the SZV.



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premium limits will affect the fund as it stands in the previous year. The SER notes that if the financial year ends as of December 31<sup>st</sup> of any given year, considering the past year's financials will continue to require the retroactive passing of legislation. Nevertheless, as stated in points 2 and 3, the SER recommends the government to consider these aspects in the future in order to avoid the retroactive implementation of any legislation. Moreover, the SER emphasizes to keep in mind that the audited financial reports of SZV will only be available after the end of the financial year. Consequently, the SER recommends referring to the audited report of the past year's financials to be able to implement legislation in a timely manner.