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National Ordinance of (date) containing rules regarding the establishment of a Gambling Authority and the regulation of games of chance (Gambling Ordinance)

EXPLANATORY MEMORANDUM

General Section

Gambling options in Sint Maarten currently consist mainly of lotteries and casinos. In addition, people participate in betting and, on a limited scale, in small games of chance such as bingo. With the rise of the tourism industry over the past thirty to forty years and the accompanying establishment of luxury resorts, casinos became a key asset for attracting tourists. The first casinos on Sint Maarten were located in or adjacent to hotels and catered to hotel guests. Later, with the rise of the cruise industry, “stand-alone” (non-hotel-based) casinos were also built to cater to the gambling preferences of cruise tourists.

The current legal and institutional framework for games of chance is largely based on regulations that originated during the period of the former Netherlands Antilles and has not been fully modernized since the establishment of the Country of Sint Maarten. At the same time, the gambling market has continued to evolve. In addition to the traditional tourist function of casinos, there is a broad range of physical gambling options that are highly accessible to residents, including casinos and a large number of lottery retail outlets. Today, casinos attract more local customers than tourists.[1]

The 2024 National Risk Assessment[2] and the most recent CFATF evaluation (see below) emphasize the importance of effectively implementing oversight and integrity safeguards in practice. The 2025 Ipsos I&O / RE-Quest study[3] also shows that games of chance in Sint

[1] More than just a game: Study on the prevalence and consequences of gambling on Sint Maarten by IPSOS/RE-Quest, June 2025, p. 10.
[2] Sint Maarten, Anti-Money Laundering and Terrorist Financing National Risk Assessment (NRA), by the Financial Intelligence Unit, 2024. The use of large amounts of cash makes it possible to mix illicit funds with legitimate cash flows (p. 66 and following).
[3] See footnote 1.

Maarten are widely accessible and socially normalized, and that problematic gambling behavior can have consequences not only for the gambler themselves but also for their family and social circle.

With regard to the lottery sector, the government notes that the number of outlets selling lottery tickets has increased significantly in recent decades. The Inspection Service of the Ministry of Tourism, Economic Affairs, Traffic , and Telecommunications has repeatedly pointed out the uncontrolled growth in the number of sales outlets, and the Social and Economic Council drew attention to this development in its advisory report to the Prime Minister dated February 13, 2023,[4] .

These developments carry risks of problematic gambling behavior, which in the worst-case scenario can lead to gambling addiction. A recent study indicates that by 2024, at least one-third of the population will be engaging in gambling.[5] To prevent recreational gamblers from becoming at-risk or problem gamblers, this national ordinance includes measures to counter these risks, in addition to the establishment of an independent regulatory authority.

The government believes the time is right to update the existing national ordinances governing games of chance. The National Ordinance on Games of Chance and the Lottery Ordinance are severely outdated and will be replaced by this national ordinance, which will also strengthen oversight of the gambling sector. With the entry into force of this national ordinance, this oversight will be entrusted to the Gambling Authority, an independent regulatory body that will operate under the name Sint Maarten Gambling Authority.

In addition, it is proposed to cap the number of retail outlets and to no longer permit new retail outlets to operate without prior assessment and authorization. Authorization must be obtained from the director of the Gambling Authority for each retail outlet. This measure also makes it possible to regulate the total number of retail outlets and their distribution in a structured and verifiable manner.

For the purpose of this update, the gambling laws and regulations of the Netherlands, the United States (Nevada), Aruba, and Curaçao were consulted. Relevant provisions from the National Ordinance on Games of Chance and the Lottery Ordinance have been incorporated into this national ordinance—with or without amendments—following a thorough comparison with the gambling laws and regulations mentioned in the previous.

[4] SER/23/CB/30, see section 3, “Compliance and Enforcement.”
[5] See the report cited in footnote 1.

To carry out this comprehensive overhaul of the gambling sector, the government established a multidisciplinary working group. This working group drew up an action plan with four gambling objectives. These objectives are endorsed by the government and will be explained below.

This national ordinance strengthens the supervision of the gambling sector and brings it into line with the recommendations of the Caribbean Financial Action Task Force (CFATF) and the Financial Action Task Force (FATF)[6]. By implementing these recommendations, the government is thereby achieving the first of the four gambling objectives: establishing a legal basis and a framework for an independent regulatory authority, namely the Gambling Authority (the primary objective). The remaining three objectives follow directly from the achievement of the first. The government will be able to increase government revenue through the introduction of a regulatory levy. This will fund the independent regulator, thereby strengthening the integrity of the gambling sector (third objective). This regulator will ensure that gambling providers in Sint Maarten take effective measures to adequately protect consumers and their environment (family, children) and to combat gambling addiction (fourth objective).

The current, outdated legal framework is insufficient to achieve these gambling objectives. For example, it does not include the measures or provisions necessary to adequately protect consumers and their families and to regulate addiction prevention.

Gambling offered via the Internet is not yet regulated by this legislative proposal . Further policy development is necessary in this regard, in part based on an enforcement and implementation assessment, which will clarify what additional legal and implementation requirements are needed.

With a view to future regulation, this legislative proposal already sets aside a separate section for games of chance on internet. This allows the relevant provisions to be incorporated into the legal framework in a clear and organized manner at a later date.

Structure of this national ordinance

[6] Anti-Money Laundering and Counter-Terrorist Financing Measures, Sint Maarten, Mutual Evaluation Report, July 2025, Recommendation 28 "Regulation and Supervision of DNFBPs," Criterion 28.1(b), containing the following observation: [Casinos] *have not taken the necessary legal or regulatory measures to prevent criminals or their associates from holding (or being the beneficial owner of) a significant or controlling interest, or holding a management position, or operating a casino.*

This national ordinance is structured in layers, from general to specific. The most general provisions, such as definitions, are contained in Chapter 1, and Chapter 2 contains general provisions that apply to all licensees. For example, a gambling license is granted only to legal entities established in Sint Maarten, and a license may not be transferred, leased, or subcontracted. Chapter 3 contains specific provisions for particular gambling licenses, such as those for casinos and lotteries. Chapter 4 contains provisions for establishing a license registry administered by the Gambling Authority. Chapter 5 describes the organizational structure, duties, and powers of the Gambling Authority. Chapter 6 delves deeper into the special powers of the Gambling Authority. Chapter 7 makes certain acts in violation of the national ordinance punishable by law. Chapter 8 addresses the duty of confidentiality for employees involved in the implementation. Chapters 9 and 10 contain transitional and final provisions.

Implementation, Supervision, and Enforcement

With regard to the gambling sector, the following government tasks can be distinguished: implementation, supervision, and enforcement. The implementation task involves assessing, granting, amending, and revoking licenses for various forms of games of chance, as well as providing guidance and information to citizens, local governments, businesses, and civil society organizations. The supervisory task involves monitoring compliance with this national ordinance, the implementing regulations, and the licenses. To this end, this national ordinance introduces the following administrative enforcement instruments: an order subject to administrative coercion, an order subject to a penalty payment, and an administrative fine. The government considers it desirable that the Gambling Authority be able to utilize all of these enforcement instruments—depending on the violations identified at the time.

To strengthen the supervision of providers of casinos and lotteries—and, in the future, games of chance on internet as well—the government deems it necessary to establish a Gambling Authority that operates independently of the Ministry of Tourism, Economic Affairs, Traffic , and Telecommunications (TEATT) and is equipped with effective supervisory and enforcement tools. Preliminary research commissioned by the Minister of TEATT (hereinafter also referred to as “the Minister”) has repeatedly shown that oversight of the gambling sector is best entrusted to a newly established entity .[7]

[7] Integrity Inquiry into the Functioning of the Government of Sint Maarten (2014), p. 86 et seq.; Price Waterhouse Coopers; and also: Gaming Environment Sint Maarten, Situation Analysis (2013), p. 15 et seq.; HPS Consulting.

In April 2019, the Guidelines for the Regulations of Sint Maarten were amended to include provisions regarding independent administrative bodies and to correct several technical inaccuracies (AB 2019, No. 16). It follows that the establishment of a new administrative body is possible, but that restraint is the general rule, and that a political assessment must be made on a case-by-case basis when transforming a part of the government into an independent administrative body. It is further explained that an independent administrative body is established under public law and is thereby vested with public authority. Guideline 99a sets forth three grounds on which an independent administrative body may be established. An independent administrative body may only be established if:

a. there is a need for independent judgment based on specific expertise;

b. there is a need for strictly rule-based implementation in a large number of individual cases; or

c. the participation of civil society organizations is deemed particularly appropriate given the nature of the administrative task in question.

With regard to subparagraph a, this concerns a power that, by its very nature, is not suited to be exercised by a minister or a body operating under ministerial responsibility. Subparagraph b primarily concerns the power to issue decisions. The government believes that the situations described under a and b apply here and will explain this further below.

The Gambling Authority will be tasked with issuing, amending, and revoking licenses for various forms of games of chance; supervising compliance with this national ordinance, including its implementing regulations; promoting the prevention and reduction of gambling addiction; conducting research; and providing information in the field of games of chance. Because the activities are primarily of an executive nature and are therefore more distantly related to the minister's policy tasks, the government considers it necessary to establish a Gambling Authority with its own legal personality. The independence of the supervision to be exercised is guaranteed by positioning the Gambling Authority externally. The activities will lead to the continuous development of the staff's knowledge and expertise in the area of supervision, and this concentration of expertise will be further strengthened through training and cooperation with other professional regulators.

The second rationale for establishment (b) applies primarily to gambling facilities (such as slot machines and lottery equipment); these will be subject to technical inspections involving rule-based implementation in a large number of individual cases.

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A strong, independent supervisory authority will be well-equipped to safeguard the quality and integrity of the gambling sector and to take decisive action in this regard. The minister is and will remain, even after the establishment of the Gambling Authority, responsible for pursuing a balanced, coherent, and consistent gambling policy. When granting licenses and carrying out enforcement and supervisory tasks, the Gambling Authority will therefore have to act within the general frameworks provided by the minister.

The Gambling Authority

The Gambling Authority will operate under the name Sint Maarten Gambling Authority and will be granted legal personality so that it can participate in civil legal transactions in its own right. This will enable the director of the Gambling Authority to independently enter into contracts and hire staff, which is essential for the independent performance of public duties.

The public-law duties specified in Article 50, paragraph 4, are assigned to the director of the Gambling Authority. Consequently, the director, as the independent administrative body (forming part of the legal entity known as the Gambling Authority), is responsible for the implementation, supervision, and enforcement of regulations in the field of games of chance. For the actual performance of these duties, the director is assisted by employees of the Gambling Authority. The employees will be assigned to departments responsible for, among other things, public information, licensing, supervision, and enforcement. The legal relationship between the staff and the Gambling Authority is governed by civil law.

The Director

The director is obligated to reach clear agreements with the minister regarding the performance of his duties and the implementation of policy. For example, the director must enter into an annual performance contract with the minister that sets out the quantitative, qualitative, and financial standards and objectives the director will focus on in the coming year. The director is responsible for achieving these standards and objectives.

The annual budget is established by the director and submitted to the minister along with the advice of the supervisory board. The budget enables the director to fulfill the performance contract. The director publishes an annual report and financial statements each year, in which accountability is provided for the performance of duties and the policies implemented.

Supervision and Enforcement

The government believes that the Gambling Authority must have the powers necessary to ensure the most efficient administrative supervision and enforcement possible. The entry into force of the National Ordinance on Administrative Enforcement has addressed the need for administrative bodies to have adequate enforcement tools at their disposal in order to relieve the burden on the prosecutorial system.[8] This need is also reflected in the government's desire to strengthen oversight of the gambling sector. A broader use of criminal law instruments—and thus a greater reliance on the capacity and priorities of the police and the public prosecutor's office—is not desirable in cases where such reliance is not warranted, for example, due to a lack of connection to other criminal activities.

Under the current National Ordinance on Games of Chance and the Lottery Ordinance, it is only possible to revoke a license if a violation has been committed. However, revocation is disproportionate to minor violations and should only be applied as a last resort. Because it must be possible to impose an appropriate sanction (commensurate with the severity of the violation)—such as an order subject to administrative coercion, an order subject to a penalty payment, or an administrative finethis National Ordinance establishes a general set of administrative enforcement instruments that aligns with the National Ordinance on Administrative Enforcement.

A supervisor of the Gambling Authority is a supervisor within the meaning of the National Ordinance on Administrative Enforcement.[9] The National Ordinance on Administrative Enforcement therefore applies to the use of the aforementioned administrative enforcement measures [10] . Sections 6.1 and 6.2 of this National Ordinance focus on gambling-related supervision, which, among other things, creates the possibility of also examining electronic equipment (laptops, slot machines) (Article 69 of this National Ordinance). These sections apply in addition to the National Ordinance on Administrative Enforcement.

The government has opted to introduce both an administrative and a criminal sanctions system. The distinction between the supervision of licensed games of chance and the combating of illegal offerings is decisive for the use of administrative enforcement powers. Administrative enforcement of the legal provision of games of chance may be carried out by imposing an order subject to a penalty payment, an order subject to administrative coercion, or an administrative fine,

[8] See the general section of the Explanatory Memorandum to the National Ordinance on Administrative Enforcement.

[9] For the definition of "supervisory authority," see Article 1, paragraph 1, preamble under j, of the National Ordinance on Administrative Enforcement.

[10] Sections 3 and 4.

and will generally be used in addition to the existing enforcement tools (a warning, enhanced supervision). An order subject to a penalty payment can be an effective tool in situations where, for example, a licensee authorized to organize and operate a lottery exceeds the number of sales outlets permitted under the license. Ideally, the threat of a penalty payment will then lead to compliance with the license requirements. If a gambling provider repeatedly violates the rules, the Gambling Authority may, as a last resort, impose an administrative fine for punitive purposes.

Offering games of chance without a license is a criminal offense under Article 76 of this national ordinance, and violation of this prohibition may result in criminal prosecution by the Public Prosecutor's Office.

If there is a connection to other criminal activities, criminal enforcement (prosecution) is warranted. Further cooperation with the Public Prosecutor's Office can be formalized in an enforcement agreement. Article 73 of this national ordinance provides a legal basis for the exchange of information with the Public Prosecutor's Office.

Legal Protection

Legal protection in connection with enforcement decisions is guaranteed by the National Ordinance on Administrative Enforcement (AB 2018, 22). For example, Article 9 of that ordinance provides interested parties with the opportunity to submit comments on the enforcement decision proposed by the administrative body. Since a gambling license may also be suspended or revoked if the conditions for granting the license are (possibly) no longer met—and since such a decision cannot therefore be classified as an enforcement decision in all cases—it has been decided to also allow interested parties, pursuant to Article, to submit comments on a proposed suspension or revocation decision (Article 9, paragraph 8, of this National Ordinance).

Pursuant to Article 7, paragraph 1, of the National Ordinance on Administrative Justice (AB, 2016, 14), decisions by the director of the Gambling Authority may be appealed to the administrative court.

Financial section

The Gambling Ordinance introduces a supervisory levy for gambling license holders in Sint Maarten. This levy is an earmarked levy: the proceeds are specifically intended to finance the costs of supervision, enforcement, and regulation by the Gambling Authority. The basic principle is that the sector itself bears the costs of supervision (*the "benefit principle*"), since regulation is primarily carried out to ensure an orderly and ethical gambling market, which is also in the sector's interest.

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For casinos, the levy is based in part on the gross gambling revenue, and for lotteries, in part on the net proceeds of the lottery (see the article-by-article commentary on Article 10).

The amount of the supervisory levy is set so as to cover the costs of carrying out the tasks assigned to the Gambling Authority, including the assessment, granting, and revocation of licenses, supervision and enforcement, international cooperation, and the associated administrative and operational costs (see Article 50, paragraph 4).

The rate varies by category (casinos, lotteries) and depends on the intensity of supervision, the sector's risk profile, and the size of the market. The principles and method of calculation for the supervisory fee are prescribed by a national decree containing general measures. The director determines the amount for each license holder and is responsible for collection.

The reference to the tasks listed in Article 50, paragraph 4, establishes a direct link between the amount of the compensation and the actual performance of these operational tasks.

The Gambling Authority may maintain a limited reserve in the form of a designated reserve and a reserve fund. A designated reserve may, for example, be used for investment projects such as new IT infrastructure or for public outreach. Occasional spikes in supervision or enforcement costs can be covered by the reserve fund. See the article-by-article explanation of Article 62, paragraphs 3 and 4, for more examples.

This reserve is expressly not intended for structural capital accumulation. The minister must grant permission to maintain a reserve, and its size is capped.

If the proceeds from the supervisory levy exceed operating costs, the following system applies:

- Occasional surpluses: are added to the designated reserve or the reserve fund, up to the permitted maximum.
- Structural surpluses: result in an adjustment (reduction) of the levy rate.
- Surpluses exceeding the reserve limit: will be offset against future supervisory levies (see explanation of Article 11).

This ensures that the regulatory levy does not become an improper tax and retains its character as a designated-purpose levy.

Transitional Provisions

Article 78 allows current license holders to submit an application to obtain a license under the new regime within six months of the effective date of the first and second paragraphs of that article. The director shall decide on the application within six months of its receipt. If no application is submitted within six months, the “old” license shall lapse by operation of law.

Existing license holders are thus given time to organize their business operations in accordance with the provisions of this national ordinance.

Until a decision is made on an application, the law in effect prior to the entry into force of this national ordinance remains applicable.

Article-by-article section

Article 2

The activities of a gambling provider must be subject to effective oversight. The basic principle is that a license holder must be headquartered in Sint Maarten so that effective oversight can be exercised regarding obligations in areas such as record-keeping and information (e.g., Article 2, paragraphs 5 and 6, or information required for the assessment and collection of the regulatory fee, Article 11, under b), the mandatory inspection of the electronic equipment used to organize casino games (Article 18), consumer protection, including rules regarding marketing and advertising activities (Article 8, paragraph 2), addiction prevention (Article 7), and the prevention of money laundering and terrorist financing (Article 3, paragraph 1). Therefore, only legal entities established in Sint Maarten are eligible for a gambling license under this national ordinance, and these legal entities must conduct banking transactions for the licensed activities through a bank account held at a bank established in Sint Maarten (paragraph 4). This requirement is intended to enable banking supervision of the financial integrity of licensees, including AML/CFT and sanctions compliance.

The gambling license is granted exclusively to legal entities based on their reliability and suitability.

The licensee also has a duty of care with regard to preventing gambling addiction (Article 7). Outsourcing the license in any way whatsoever obscures the chain of responsibility and may expose participants to the risks of gambling addiction. The license holder therefore remains responsible at all times for compliance with the regulations attached to the license. This means that the operation of the license may not be outsourced to third parties “in any manner or form” (paragraph 7). This also encompasses the prohibition on the transfer or exploitation of the economic value of the license. Arrangements in which, for example, a license is leased through trust companies are not permitted.

A license holder may, however, outsource standard services such as accounting, marketing, or customer service.

The requirement to provide information via the license holder's website (paragraph 5) is not merely advisory. A player may derive rights from, for example, the rules of the game and participant regulations published on the website.

General licensing requirements, referred to in paragraph 9, relate to a responsible, reliable, and verifiable organization of the games of chance to be organized by the licensee. Licensing requirements may relate, among other things, to the design and security of systems, the manner in which data is recorded and stored, administrative procedures, audit and reporting obligations, and the manner in which compliance with the rules established by or pursuant to this national ordinance is demonstrated. They may thereby provide further details regarding the requirements for reliability, verifiability, and transparency that apply to the operation of games of chance.

The player derives from the licensing regulations the assurance that the licensee operates its gambling services in accordance with the regulations established for that licensee, which are aimed at protecting players. Furthermore, to the extent that such a regulation contains a specific standard that also serves to protect the player, compliance with it may be significant for the legal relationship between the licensee and the player. Depending on the content and scope of the relevant regulation and the applicable private law, non-compliance may, for example, give rise to a claim for specific performance, rectification of the situation, or compensation for damages. In addition, the player may bring non-compliance to the attention of the regulatory authority, which may then assess whether administrative enforcement is warranted.

For example, if a license holder is subject to regulations regarding how bets and game outcomes must be recorded and how player balances and game outcomes must be handled in the event of technical malfunctions, compliance with these regulations constitutes a concrete safeguard for the player. If a technical malfunction subsequently occurs, resulting in a bet being recorded but the game outcome not being recorded, the player may hold the licensee accountable for how it handles the malfunction and for the consequences the malfunction has had for the player.

Requirements regarding the qualifications of personnel employed by the licensee may also be imposed by regulation.

Articles 3, 4, 5, and 6

In connection with the prevention of money laundering and the financing of terrorism, the reliability and suitability of the license holder under this national ordinance and of its ultimate beneficial owner are beyond doubt. Compliance with anti-money laundering regulations by license holders requires continuous monitoring. The Gambling Authority will enter into working agreements with the Unusual Transactions Reporting Center (hereinafter: MOT) regarding this matter. Article 73 provides a legal basis for the exchange of information with the MOT.

The reliability assessment will also include legal entities in which the persons referred to in Article 3, paragraph 1, are or have been ultimate beneficial owners, persons with control, (co-)decision-makers, or executives. To this end, the Gambling Authority has access to the UBO register maintained by the Chamber of Commerce and Industry.

When assessing the reliability of, for example, a policy-maker, it is also important to consider what has happened previously at other companies where he is, or has been, a policy-maker. As part of the reliability assessment, this person may be held responsible for misconduct at those companies. Among other things, this means that (parent companies and directors of) illegal operators cannot evade the reliability assessment by establishing or putting forward a new legal entity.

The Gambling Authority, with the assistance of the MOT and, if necessary, the Public Prosecution Service, will verify whether the applicant is acting on their own behalf or on behalf of a third party—possibly a "front man"—for example, to launder money.

The existence of suspicions regarding prior offenses constitutes grounds for suspending or revoking the license. If such a situation arises, the license holder must, in accordance with Article 9, paragraph 8, be given the opportunity to present their views. This pertains to prior offenses committed by the license holder's directors and staff. Naturally, the circumstances of each case will always be taken into account. Factors considered include the severity and culpability of the violation, the time that has elapsed since the violation occurred, and the character of the violator.

Article 7

The research report on (problematic) gambling behavior in Sint Maarten, titled *"* : *More than just a game, Study into prevalence and consequences of gambling on Sint Maarten"* by IPSOS/RE-Ques , dated June 2025 (hereinafter: the Ipsos report), draws the following conclusions, among others:

1. *Gambling is a widespread and normalized phenomenon in Sint Maarten society. More than one-third (36% or approximately 9,900*

to 10,800 people) of the residents participated in gambling in the past year. The accessibility of lottery booths and casinos plays a key role in participation.

2. *Disordered gambling behaviour has broad and serious consequences for gamblers themselves, their social environment, and society.*[11]

The report contains a number of recommendations to reduce the risks of problem gambling, including providing more information about the risks of gambling, implementing targeted prevention measures for at-risk groups such as young people (especially men) between the ages of 18 and 34, limiting the visibility of and exposure to gambling, and investing in support services.

Recommendation 5[12] focuses on regulating the gambling industry, including, among other things, the establishment of an independent regulatory body. Ipsos/RE-Quest formulates this as follows:

Regulate the gambling industry. Establishing or strengthening independent regulatory bodies can help restore public trust by ensuring transparency and compliance with licensing, anti-addiction, and financial integrity standards. Monitoring and regulation of the gambling sector should reduce the risks of money laundering, corruption, and links to organized crime. Importantly, tighter regulation must be implemented carefully to avoid driving gambling into unregulated or underground markets.

Article 7 introduces a duty of care for providers of high-risk games of chance. Licensees must ensure a balanced policy regarding gambling addiction and take the necessary measures and provide the necessary facilities to prevent excessive participation in games of chance as much as possible. These may include early detection of gambling addiction by the license holder's staff, conducting gambling addiction counseling sessions, an adequate door policy for casinos, and other measures and provisions. In extreme cases, players who can reasonably be presumed to be addicted to gambling may be registered on a voluntary basis in the registry referred to in Article 13 of this national ordinance (see explanatory notes to Article 13). The Gambling Authority ensures that the licensee implements an adequate addiction prevention policy and acts in accordance with it.

In addition, sector-specific protective measures are being introduced for casinos (see explanatory notes to Articles 15 and 16) and lotteries

[11] For the remaining conclusions, see the Ipsos report, p. 10.
[12] Ibid.

(explanatory notes to Article 27). For lotteries, a licensing regime is also being introduced for sales outlets (see explanatory notes to Article 39).

Article 8

All marketing and advertising activities that are (partly) aimed at consumers in Sint Maarten must take into account the need to adequately protect and inform consumers about the risks of participating in games of chance and to prevent gambling addiction. Advertising must therefore not be misleading. Misleading advertising occurs when the marketing and advertising activities of licensees present an unrealistic or incorrect picture of a product or service. This may concern, for example, the odds of winning or the costs associated with participating in games of chance. Furthermore, deception occurs when licensees' promotional and advertising activities give the impression that the Gambling Authority has approved the promotional and advertising activities, the games of chance, or the licensee itself, other than a neutral statement that the provider holds a license under the law.

An example of aggressive gambling advertising is advertising aimed at pressuring the consumer to participate in a game of chance immediately or to increase their wager. This can occur, for example, by emphasizing the limited duration of an offer, linking a financial bonus to immediate participation, and repeatedly urging the consumer not to miss out on a chance to win. Such advertising may also occur when it capitalizes on feelings of social pressure, status, or the expectation that participation will easily result in financial gain.

Finally, solicitation and advertising activities must not target "vulnerable groups." See the definition in Article 1(j). This definition may be further elaborated in a ministerial regulation (paragraph 8). In any case, this includes minors, young adults up to age 24, players with an intellectual disability, and players with a gambling addiction. It is not always easy to identify these latter categories. The Gambling Authority will assess the extent to which the license holder knew, or reasonably should have known, about the disability or gambling addiction.

Paragraph 5 sets forth additional requirements for gambling advertising via digital media.
Subsection (a) concerns the content, design, and presentation of the advertisement. This is intended to prevent an advertisement from being particularly appealing or recognizable to minors through, for example, the use of specific images, language, or characters, including influencers or well-known athletes. Subsection (b) concerns the medium on which the advertisement is placed or distributed. The aim here is to prevent gambling advertisements from reaching minors through digital media that are primarily targeted at this group. Subsection (c) relates to

preventing “digital targeting” of players who are susceptible to addiction and players who have self-excluded from participating in gambling for that reason.

A license holder is at all times responsible for the marketing and advertising activities conducted for its product, service, or business, even if these marketing and advertising activities have been outsourced. This means that the licensee is also responsible for the marketing and advertising activities of parties or individuals it engages, to the extent that those activities are carried out on behalf of the licensee. Examples of outsourcing include engaging an external advertising agency, utilizing so-called internet marketers (influencers), or working with commission-based advertisers (affiliates).

Article 9

If an applicant cannot demonstrate that the reliability and suitability of the potential licensee, of the persons who determine or help determine its policy, and of its ultimate beneficial owners are beyond doubt, the application will be rejected. For an explanation of these requirements, see the article-by-article commentary on Article 3.

Changes to the legal form, ownership structure, or control structure of the licensed company, as referred to in the fourth paragraph, may affect the assessment of the licensee and whether the conditions for retaining the license are still met.

Paragraph 5 clarifies which changes in the ownership or control structure fall within the scope of paragraph 4 in any case.

The explicit reference in subsection (b) of the sixth paragraph to the National Ordinance on Combating Money Laundering and Terrorist Financing has been included to leave no doubt that facts or circumstances that come to light after the license has been granted—and that result in the requirements under that National Ordinance no longer being met—may give rise to the revocation of the license. Although compliance with these requirements must be demonstrated at the time of application, new facts or circumstances may arise after the license is granted that affect the licensee and its continued reliability to carry out the licensed activities.

AML/CFT supervision of non-financial service providers (casinos and lottery operators) is carried out by the MOT (Article 3, paragraph 2(a), of the National Ordinance on the Unusual Transactions Reporting Center). For example, a gambling license may be revoked based on a recommendation from the MOT. That recommendation serves as the basis for a suspension or revocation. Agreements regarding this will be made with the MOT.

The Regulation on Indicators of Unusual Transactions (Sint Maarten Indicators Regulation (AB 2013 GT No. 489)) is relevant here. This ministerial regulation further elaborates on the reporting obligation for unusual transactions (Articles 10 and 16). Any transaction by or on behalf of their customers with a value of Cg 5,000 or more, as well as the equivalent value in foreign currency, serves as an indicator for casinos and lotteries to report completed or intended transactions to the MOT.

Because compliance with the National Ordinance on Combating Money Laundering and Terrorist Financing (AB 2019 No. 25) requires continuous oversight, changes in the personnel of policy-making staff remain relevant even after a license has been granted. It is therefore the responsibility of the license holder to notify the Gambling Authority of such personnel changes. If a relevant personnel change is not reported or the reporting obligation for unusual transactions is not complied with, this may, in extreme cases, lead to the revocation of the gambling license.

A suspension (paragraph 7) allows for further investigation into possible irregularities before a decision is made regarding the revocation of a license. A suspension decision therefore does not in itself constitute a punitive measure. However, the suspension may be taken into account in the balancing of interests that forms the basis for any subsequent revocation.

For an explanation of paragraph 8, please refer to the general section of this explanatory memorandum (legal protection).

Article 10

For the background and structure of the supervisory levy, please refer to the financial section of the general part of this explanatory memorandum. This article specifies how the supervisory levy is calculated. A distinction is made between holders of a casino license and holders of a lottery license.

A fixed supervisory fee provides the Gambling Authority with a predictable and continuous revenue stream, thereby contributing to the financial sustainability of supervision.

The fee is calculated on a calendar-year basis, or pro rata if the license is valid for only part of the year. This ensures a proportionate and fair fee (fourth paragraph).

For each point of sale, a fee in the form of a fixed amount is imposed on the license holder (paragraph 3). For license holders authorized to organize lotteries, this supervisory fee for sales at points of sale is in addition to the supervisory fee for organizing and operating lotteries.

Pursuant to the seventh paragraph, the Gambling Authority may determine the fee ex officio based on an estimate. This prevents late or incorrect reporting from leading to a delay in payment. The estimate must be based on reasonable and verifiable criteria, such as data from the previous calendar year.

The system of the provisional supervisory levy set forth in the eighth paragraph allows for advance payments to be made during the calendar year toward the (final) assessment to be imposed at a later date. This provision also ensures a continuous cash flow for the Gambling Authority and thereby prevents liquidity problems in the performance of its statutory duties.

The payment obligation in paragraph 9 also applies to the provisional assessment.

Decisions imposing a supervisory levy are subject to objection and appeal under the National Ordinance on Administrative Justice.

Article 11

When determining the future supervisory levy, any surpluses from previous years are taken into account. These surpluses are offset against the estimated costs of supervision in future years, so that the revenue from the supervisory levy remains in reasonable proportion to the costs of the supervisory tasks for which the levy is intended. Subsection (e) of this article provides a basis for establishing further rules in this regard by means of a national decree containing general measures.

Article 12

The fee is intended to cover the costs associated with processing the application. Payment of the fee is a prerequisite for the application to be processed. If the fee is not paid, the application will not be processed. If the application is rejected, there is no entitlement to a refund of the fee paid, as the fee relates to the processing of the application and not to its outcome.

The amount of the fee is determined based on the nature and scope of the work involved in processing the various applications.

Article 13

Players who exhibit signs of high-risk gambling behavior maintain sufficient distance from games of chance through temporary exclusion from participation, thereby influencing their gambling behavior and keeping it under control. Temporary exclusion also creates opportunities for potential addiction treatment. By preventing gambling addiction, the

harm to the player's health and financial situation—and that of their social circle—that often accompanies it can also be prevented.

To record temporary exclusions from participation on a national level, a central gambling exclusion registry is being introduced. This registry will list players who voluntarily opt out of participating in certain games of chance for at least six months. For now, this applies exclusively to games of chance offered in casinos; the scope of the registry may be expanded in the future to include games of chance on internet.[13] A registered player may not participate in games of chance, which means that casino operators must conduct adequate identity checks.

The basic principle governing registration in the registry is that it must be initiated voluntarily by the player. The mechanism for involuntary registration is currently difficult to implement, primarily because such a far-reaching restriction on a person's freedom of movement requires a legal process with sufficient safeguards, including independent (medical) advice. In practical terms, this means that if the director, after obtaining advice from an external expert (trained in gambling addiction treatment), decides to proceed with involuntary registration, the player may submit their views on the matter so that they can also respond to the external expert's advice. If involuntary registration is ultimately carried out, referral to professional help is essential. Without adequate treatment, involuntary registration serves no purpose. Therefore, investment must first be made in establishing professional care and treatment options. The Ipsos report also shows that such options are currently lacking.[14]

Under the less intrusive measure of voluntary registration, a player may decide—for example, based on information provided by a license holder regarding his gambling behavior and the risks of gambling, or upon the advice of a license holder—that he no longer wishes to participate in casino gambling for at least six months. By making this decision, the player indicates that they need help in limiting their gambling behavior. The license holder supports them in this by informing them of the options available and the procedure for registration in the central registry.

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[13] According to a "Quick Scan: *The Online Market on Sint Maarten, July 2025"* published by Regulus Partners on behalf of Sint Maarten, there does not appear to be a need for this at this time, as the online offering on Sint Maarten is limited*; …In conclusion,* the online gambling *market in Sint Maarten is opaque but can be estimated at a domestic market likely to be at least US$1.2 million in annual revenue and could be significantly higher, supported by approximately 5% of the adult population…*(p. 5).

[14] Ipsos I&O/RE-Quest Report, June 2025, p. 9; *Insights from the field and interviews further underscore a widespread lack of awareness regarding the availability of professional support services for gambling problems.*

Prerequisites for an effective and efficient system are feasibility for licensees and enforceability by the regulator. The central registry is effective when the application, registration, and enforcement of exclusions are properly carried out by the parties involved. The player must provide the license holder with accurate identification information, which the license holder will verify. Care must be taken to prevent the identity of a player who is not registered in the registry from being confused with that of a player who is registered. Finally, it is important to train a number of the licensee's staff members to recognize the risks of gambling addiction. Experience gained with the implementation of the voluntary registration system may be useful in the future when designing a potential involuntary registration system.

The central registry is managed by the director.

The use of the exclusion registry naturally involves the processing of personal data. Paragraph 3 sets limits on the personal data to be processed.

The sixth paragraph mandates the pseudonymization[15] of the registry data. This data is used for policy and research purposes and is removed from the registry once the exclusion period has ended. The data may, for example, be used for analyses aimed at preventing addiction.

Article 14

In Sint Maarten, casino licenses are issued for casinos located in or adjacent to a hotel and for casinos that are not affiliated with a hotel—so-called "stand-alone" casinos. This distinction is further described in "Casino Policy: Rules of the Game 2011"[16] . Due to the differences in organizational and operational requirements, the government considers it desirable to further define the distinction between the two types of casinos by introducing a Casino License A and Casino License B. Specific provisions apply to both types of casinos; see the article-by-article commentary on Articles 22 and 23 for details.

"Non-casino-related activities" as referred to in the fourth paragraph are defined as activities or products that are not directly related to the operation of a casino or to the provision of related services. These may include, among other things, operating a nightclub, offering financial or

[15] Pseudonymization means that identifying data is replaced by, for example, a code. However, the person can still be identified using additional data, such as a lookup table or key.
[16] https://www.sintmaartengov.org/Documents/Policies/Ruless of the Game Revised 2011.pdf

investment services, engaging in retail trade, or providing other independent commercial services.

The nature and range of casino games are subject to constant evolution. New game formats may emerge, and existing ones may be adapted as a result of technological advancements, market trends, or changing perspectives. For this reason, the fifth paragraph delegates the authority to designate permitted casino games to the Minister. The list of permitted casino games is included in an appendix to the ministerial regulation. This appendix can, if warranted, be amended relatively easily without requiring an amendment to the national ordinance each time.

A financial security, as referred to in paragraph 7, may consist of a security deposit or a bank guarantee and is intended to provide financial assurance. The director determines the form and amount of the financial security to be provided. This may, for example, consist of a security deposit or a bank guarantee.

Article 15

The National Ordinance on Games of Chance excluded residents from accessing casino premises. In practice, however, most players are residents (see explanatory notes to the general section). The present provision does not contain the aforementioned prohibition, reflects the current situation, and is in line with current policy guidelines.[17]

Article 16

This article elaborates on the duty of care prescribed in Article 7, focusing specifically on casino licensees (see the explanatory notes on Article 7). The government considers it desirable that providers of high-risk games of chance, such as casino games, be assigned a legally enshrined, active role in identifying and addressing high-risk gambling behavior by recording such gambling behavior and discussing it with the player concerned.

The recording of warning signs includes: a) the time or period, b) the date, and c) the facts and circumstances that the appropriately trained staff (see below) consider to be warning signs.

Two elements are important here. A license holder must have sufficient qualified staff—that is, staff with appropriate expertise in responsible gambling—enabling them to recognize signs indicating excessive participation in games of chance (internal signs). If there is a reasonable suspicion of excessive participation, this staff will investigate a player's behavior during a personal interview. The conversation will focus on the

[17] Casino Policy: Rules of the Game, Government's Casino Policy, Philipsburg, 2011.

identified gambling behavior and the risks that participation in games of chance may entail. If necessary, the player may be advised to moderate their gambling, and information may be provided about available support services.

Sufficiently qualified staff possess knowledge of addiction, communication skills, risk assessment, and intervention skills. These skills can be acquired through training programs accredited by the Gambling Authority.

The warning signs described in the third paragraph initially manifest themselves out of sight of casino staff but may come to light during the personal interview.

The external signs may indicate the negative consequences of excessive gambling behavior, also known as “gambling-related harm.”

In cases of excessive participation in games of chance or gambling addiction, money is often wagered that the person cannot actually afford to lose: money intended to pay bills, fund the children’s education, or contribute to retirement. Sometimes, people gamble with borrowed money. A player can no longer bear the financial consequences of their gambling behavior if they are in financial distress. This may be evident from (reports of or a pattern of) late payments, collection procedures, forced collections, or signs indicating that a player may be eligible for a debt restructuring program. Poor performance at work or in school, neglecting personal hygiene, or deteriorating (mental) health are indications of gambling behavior leading to personal harm. Signs of harm to family life include neglecting parenting responsibilities, gambling away household funds, downplaying gambling behavior, or lying about it. If a gambler neglects or ignores his friends and acquaintances by isolating himself, he may end up socially isolated.

Articles 17 and 18

Article 17 sets forth the general requirements for gambling machines; it regulates the requirements for the model, any modifications thereto, and a registration requirement. The inspection provisions in Article 18 are formulated more broadly; for example, a gambling machine may be connected to a terminal or to other external hardware and software. In order to determine whether the equipment used in games of chance, the electronic gambling devices used in games of chance, and the software used in connection therewith (the electronic means) comply with the applicable standards, they must be subjected to an inspection by an independent inspection body designated by the director prior to being put into service and subsequently on a periodic basis. These inspections guarantee the integrity of the relevant (electronic) game of chance.

The overall purpose of inspections is to ensure a safe, fair, and reliable gambling environment. Inspections focus on technical components such as the Random Number Generator and must demonstrate that game outcomes cannot be manipulated.

Inspections must take place periodically due to software updates and any modifications to the (electronic) gambling facilities. Due to the increasing technical complexity of the games of chance offered, potential errors (bugs) can only be detected through inspection.

The registry (Article 17, paragraph 4) enables the Gambling Authority to effectively supervise the gambling machines operated by a license holder. By including both gambling machines in use and those in storage, the Gambling Authority has an up-to-date overview of the gambling machines present and can subject them to inspection where necessary. The detailed requirements for the registry may stipulate that relevant inspection data be included.

The inspection does not focus exclusively on the technical characteristics of a casino game, but also on the manner in which the game is organized (Article 18, paragraph 1). These aspects cannot always be separated from one another, because the reliability and integrity of a casino game may also depend on the manner in which the game is offered and conducted.

Article 20

Capping the number of casino licenses is an important tool for protecting consumers and preventing gambling addiction. Unrestricted growth in the number of casinos would lead to greater availability and visibility of games of chance, which could result in increased participation and, consequently, a heightened risk of problematic gambling behavior. By limiting the number of licenses, the physical accessibility of high-risk games of chance is controlled, and the supply remains in line with the objectives of gambling policy. The director advises the minister, drawing on his expertise, to ensure these objectives are met.

Article 22

The casino license contains as specific a description as possible of the space where games of chance may be organized. Any modification or expansion of the space must be requested by the license holder from the Gambling Authority. Hotel guests who are not interested in casino games should not be unnecessarily exposed to casino activities; therefore, hotel operations must be separated from those of the casino.

Article 23

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The 50-meter distance requirement from a school applies exclusively to casinos operated as independent establishments under a B license. With an A license, the casino is part of a hotel business, and casino operations are spatially integrated into a broader tourist facility. For this reason, there is no separate distance requirement from schools for this license category. This requirement is part of the current policy[18] and is enshrined in law by this provincial ordinance to strengthen legal certainty.

Article 25

In establishing laws and regulations for the organization and operation of lotteries, the government has a duty to protect citizens from potential gambling addiction. Official recognition of sales outlets (see the explanatory notes to Article 39) and the minister's authority to set a maximum number of lottery licenses to be issued provide the means to regulate supply and combat the illegal sale of lottery tickets.

Article 26

To support the Gambling Authority's oversight, certain requirements are imposed on the record-keeping to be maintained by the license holder. If a license holder provides other goods or services in addition to lotteries, separate records must be maintained so that it is clear which activities relate to the organization and operation of games of chance. For example, revenue from lotteries may serve as a basis for determining the supervisory fee to be imposed (see Article 10, paragraph 2, subparagraph b).

The licensee must have an incident management procedure in place. Incidents may include unexpected IT malfunctions, power outages, irregularities in the drawing, or incidents at or around points of sale.

Paragraph 3 specifies the minimum topics that the rules must cover. Pursuant to paragraph 4, the rules and any amendments thereto require prior approval from the director. Paragraph 5 requires the publication of the information referred to in paragraph 3 on the website.

Article 28

Preventing gambling addiction is the responsibility of the licensee. Information about the risks of addiction associated with games of chance in general and lotteries in particular must be provided by the licensee on its website and made available through the points of sale.

[18] Casino Policy: Rules of the Game, Government's Casino Policy, Philipsburg, 2011, p. 6

Article 29

Scratchlotteries are excluded from the provisions of Section 3.2.2, which contains general provisions regarding lottery drawings, because the prize structure for this type of lottery differs from that of the other two lotteries.

Article 30

The second paragraph allows the director, in consultation with the minister, to amend or supplement the days specified in the first paragraph on which no lottery drawings may be held. This enables a response to special circumstances or events of social significance that warrant prohibiting lottery drawings on other days as well. Consultation with the Minister ensures administrative coordination in the exercise of this authority.

Articles 31–38

The proposed amendment to the drawing procedure is intended to further strengthen the reliability, verifiability, and transparency of lottery drawings. Whereas previously draws were conducted by the licensees themselves in the presence of a supervisor, this national ordinance adopts a model in which the draw takes place under the direct supervision and at the premises of the Gambling Authority, using a draw machine managed and pre-approved by that authority.

This tightening of regulations is motivated by a number of interrelated considerations.

First and foremost, this further safeguards the integrity of the drawing process. The drawing is at the heart of trust in lotteries: participants must be able to trust that the results are determined in a completely random and non-manipulable manner. By centralizing the drawing process and placing the equipment used under the regulator's control, any (appearance of) influence by the license holder is minimized. This not only strengthens actual reliability but also the public's perception of it.

Second, the centralization of drawings enhances the effectiveness and efficiency of oversight. Because drawings take place at a single location using equipment under the regulator's control, the Gambling Authority can carry out its oversight duties more effectively and intervene immediately if irregularities occur.

Finally, the measure contributes to consumer confidence in the gambling system as a whole. Transparent and verifiable draw procedures are essential to the legitimacy of lotteries. By explicitly strengthening the

safeguards surrounding draws, this confidence is reinforced and aligns with the broader objective of gambling policy to ensure a safe and reliable range of games.

Based on these considerations, the government considers the proposed tightening of the drawing procedure to be necessary and proportionate.

The third paragraph of Article 36 allows the Minister to establish rules to ensure that unclaimed prizes benefit the public interest. These may include nonprofit organizations serving the public interest.

Articles 39–40

Official recognition of sales outlets by the director enables the Gambling Authority to regulate the supply and combat the illegal sale of lottery tickets. Effectively combating the current proliferation of sales outlets is expected to benefit the prevention of gambling addiction.

Lotto tickets, number lottery tickets, and scratch-off tickets are sold at the sales outlets listed in the license. The government considers it desirable to designate the locations where a license holder's lottery tickets are sold as sales outlets, as it is common knowledge that lottery tickets are sold not only in so-called "lottery booths" (kiosks) but also, for example, at gas stations and supermarkets.

The license holder is personally responsible for ensuring that sales comply with the provisions of this national ordinance and must therefore carefully select the sellers. Sellers must actively ensure that no lottery tickets are sold to minors or to individuals known to be at risk of gambling addiction or prone to risky gambling behavior.

Violation of these prohibitions, among others, may result in the director revoking authorization to sell lottery tickets at specific sales locations.

Article 42

Scratch-off tickets are characterized by the fact that the outcome is predetermined and physically embedded in the ticket. This specific characteristic entails particular risks, particularly regarding manipulation and predictability. Unlike in draw-based lotteries, there is no visible moment at which the outcome is determined. For this reason, it is necessary to impose strict requirements on the quality and registration of scratch-off tickets.

The license holder must provide clear and understandable information in the game instructions, the odds of winning, and the prize distribution. This enables consumers to make an informed choice and prevents misleading expectations regarding the chances of winning. These requirements contribute to the broader goal of addiction prevention and

consumer protection. Although scratch-off tickets are generally considered low-barrier games of chance, their immediate results and fast pace of play can encourage repeated play. Transparency regarding odds of winning and clear terms of play are therefore an essential part of a responsible offering.

The requirement to include the unique ticket and batch number on the ticket (third paragraph) limits the risk of embezzlement, substitution, or selective sale of winning tickets. This contributes to a level playing field for all participants.

Article 43

Organizing charity lotteries is not permitted to serve private, political, or commercial interests.

Article 47

The government considers it desirable to establish legal provisions allowing a government-supported foundation to participate in the organization and operation of a lottery or scratch lottery to promote the public interest. The “public interest” referred to in the first paragraph means the social interest that the government intends to serve. Examples include the promotion of sports and physical fitness and the support of social work, public health, or culture. The minister determines which interest will be served.

It is expressly prohibited to organize a lottery or scratch lottery to serve or finance private, political, or commercial purposes.

The articles of incorporation of the organizing foundation must clearly state which public interest is being promoted.

Article 48

In this context, “public interest” refers to the interest served by activities that provide social value to the community of Sint Maarten. These may include, among other things, activities in the areas of sports, culture, education, welfare, and social participation.

It is not required that the organizer be a government agency or an organization with public-law status. Associations may undertake activities that serve the public interest. In this regard, it is not the legal form or the private nature of the organizer that is decisive, but rather the purpose of the activities for which the proceeds from the small-scale game of chance are used.

The public interest must be distinguished from an exclusively private, political, or commercial interest. The mere fact that activities benefit the

members of an association or a specific group of people does not preclude them from also serving the public interest. It is important that the activities have a broader social significance and are not intended solely for the personal benefit of individuals.

The bylaws of the organizing association must clearly state which public interest is being promoted. To prevent abuse, the total value of prizes and awards is limited to Cg 5,000 per event.

§ 3.4 Games of Chance on internet

In this national ordinance, the government has chosen to dedicate a separate section to games of chance on internet.
This is because the regulation of games of chance on internet require further elaboration, including on the basis of an implementation assessment yet to be conducted. Given the complexity and technological developments within this market, it is not yet sufficiently clear how a regulatory framework can be designed that is both effective and feasible.

Although regulation can help mitigate risks such as money laundering, illegal gambling activities, and irresponsible gambling behavior, it is important that the necessary preconditions be thoroughly worked out first. This requires, among other things, an understanding of the legal, financial, economic, and social consequences of offering internet gambling and of how effective supervision and enforcement can be ensured.

The 2025 report by the Caribbean Financial Action Task Force (CFATF) on Sint Maarten, "[19] ," offers relevant insights in this regard.
The report highlights shortcomings in the system for combating money laundering and the financing of terrorism. This underscores the importance of a well-thought-out regulatory framework, sufficient supervisory capacity, and effective cooperation between supervisory authorities, law enforcement agencies, and the banking sector. The introduction of a licensing system for internet gambling must therefore be accompanied by appropriate safeguards to keep the risks of this market manageable.

Before internet gambling can be offered responsibly, further investigation is needed into what legal and organizational measures are required and what capacity must be available for supervision and enforcement. In particular, consideration must be given to how supervision can be structurally assigned to the Gambling Authority and what powers and resources are necessary for this purpose.

[19]Anti-Money Laundering and Counter-Terrorist Financing Measures, Sint Maarten, Mutual Evaluation Report, July 2025.

As long as there is insufficient clarity on these matters, there is a risk that regulation and enforcement will be inadequate to limit the potential negative consequences of internet gambling. This could not only hinder the protection of players and the fight against illegal activities but also affect the integrity and reputation of Sint Maarten and confidence in the financial sector.

For this reason, the government has decided to further develop the regulations governing games of chance on internet before proceeding with their actual implementation. This will allow for the development of a regulatory framework that is not only legally and practically feasible but also provides for effective oversight and sufficient safeguards for the protection of players and the integrity of the financial sector.

Article 49

A licensing registry promotes transparency in the gambling sector. By providing insight into which licenses have been granted and to which parties, the government's actions become verifiable for citizens, market participants, and regulators.
This contributes to confidence in the integrity of the licensing system and prevents uncertainty regarding which providers are operating legally.

In addition, the registry supports effective supervision and enforcement. Regulators can use the registry as a central and up-to-date reference point when verifying compliance with laws and regulations. For other public and private parties (such as payment institutions or media platforms), the registry also makes it easier to verify whether a provider holds a valid license, which helps combat illegal offerings.

Article 50

The Gambling Authority carries out its duties under the name Sint Maarten Gambling Authority (hereinafter: SMGA) and has its own legal personality.

The structure of the Gambling Authority is based on that of existing administrative bodies such as the Intellectual Property Office (BIE). The BIE is structured as an independent administrative body with a director and a supervisory board. At the BIE, the legal entity coincides with the administrative body (the legal entity is also the administrative body), whereas in the case of the Gambling Authority, public- authority[20] is exercised by the director, who is thereby regarded as an independent administrative body.

[20] Article 2, paragraph 1, of the National Ordinance on Administrative Justice.

This structure was chosen to prevent the private-law concept of "legal entity" from being confused with the administrative-law concept of "independent administrative body." By distinguishing between these two legal concepts, it is prevented that private-law powers are unintentionally assigned to the independent administrative body or, conversely, that public-law powers (such as revoking a license or imposing a penalty payment) are assigned to the legal entity.[21]

Parts c and d distinguish between supervision and enforcement. Supervision is exercised by employees designated for that purpose by the director (Article 68, paragraph 1). Enforcement decisions may, if necessary, be made by the deputy director or a department head acting on behalf of the director, so that in the event of a filed objection, the director can rule on it. The division of responsibilities in this regard may be laid down in the executive regulations (see Article 51, paragraph 9). By strengthening oversight of compliance with this national ordinance and by having the authority to issue enforcement decisions, including fines, the Gambling Authority contributes to combating crime and illegal activities, such as the unlicensed operation of games of chance and money laundering practices in the gambling sector.

Subsection (e) of paragraph 4 refers to conducting, for example, market research, whether or not on its own initiative. This will be useful for carrying out the other tasks mentioned in this article, including providing guidance and information (subsection (f)). An understanding of gambling risks enables the Gambling Authority to use its powers in a more targeted manner in order to better protect consumers and mitigate gambling risks.

Subsection (h) describes the Gambling Authority's cooperation duties. The Gambling Authority cooperates with the Public Prosecutor's Office and the Unusual Transactions Reporting Center to combat gambling-related crime, including money laundering and the offering of games of chance without a license, which is criminalized under Article 76 of this national ordinance.

Article 51

Paragraph 4 authorizes the director to establish technical and organizational regulations regarding how licensees must comply with the requirements for operation.

In the absence of both the director and the deputy director, the minister shall appoint, by national decree and on the advice of the supervisory board, a temporary acting director (paragraph 8).

[21] See the explanatory notes to Directive 99c of the Directives of the Regulations of Sint Maarten.

Article 52

In the recruitment and selection of a director and deputy director, an assessment will be made, among other things, of whether they have interests in companies with ties to the national or international gambling sector. The aim here is to prevent (even the appearance of) a conflict of interest.

Article 53

The phrase “reasons inherent in the person concerned” in the second paragraph refers to corruption or (suspicion of) the commission of criminal offenses.

Article 56

A rotation schedule described in the ninth paragraph allows terms to be structured in such a way that the continuity of the supervisory board remains ensured.

Article 57

The importance of using a profile when selecting members lies in the recruitment of experts. The gambling sector has many areas of overlap, including financial crime, technical requirements, probability calculations, and addiction prevention. This allows for the targeted recruitment of individuals with knowledge and experience in specific fields.

The profile can also be used to respond to societal developments; for example, if combating money laundering becomes a priority, the profile can be adjusted accordingly when recruiting a new member.

Article 58

The requirement to “be of good character,” as referred to in subsection (a) of the first paragraph, is assessed on the basis of criminal records obtained in accordance with the provisions of or pursuant to the National Ordinance on Criminal Records and Certificates of Good Conduct (AB 2015, No. 9).

“Financial interests,” as referred to in subsection (d) of the first paragraph, exist in the case of paid services provided to (commercial) parties related to the gambling industry. The aim here is to prevent (even the appearance of) a conflict of interest. Such a conflict may arise in situations where a member has private interests that are at odds with the performance of his or her duties and responsibilities and that could adversely affect them.

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Article 59

Paragraph 5 ensures that the supervisory board can continue to exercise its powers as long as a vacancy has not yet been filled.

Paragraph 6 provides for the possibility of appointing a temporary acting member for a maximum of six months in the event of the suspension of the entire supervisory board. This period will be aimed at restoring the board or appointing a new board in accordance with the provisions of Article 56, paragraphs 4 through 8.

Articles 62, 63, and 64

The compensation for other services rendered referred to in the first paragraph of Article 62 refers, for example, to advisory services provided at the request of another supervisory authority, whether domestic or foreign.

The third paragraph of Article 62 allows for the maintenance of a designated reserve intended to finance, for example, major maintenance, new information technology, or projects such as organizing public awareness campaigns about the dangers of gambling addiction.

The fourth paragraph of Article 62 allows for the maintenance of a reserve fund intended to cover losses. Building up a reserve fund ensures the continuity of the Gambling Authority's operations and prevents them from being dependent on or influenced by the economic situation.

Article 63 ensures that the supervisory levy is treated as a special-purpose levy rather than an improper tax, as surpluses from the supervisory levy are returned to the licensees through offsetting. See the explanatory notes on Article 11.

Articles 65 and 66

An expansion of duties during the current fiscal year (Article 65, paragraph 4) refers to duties that were not previously anticipated. An expansion of duties must, of course, remain within the scope of Article 50, paragraph 4.

Article 67

The Minister evaluates the functioning of the Gambling Authority every five years, based in part on the annual reports. The evaluation will assess whether the objectives set forth in this national ordinance (see the general section of the Explanatory Memorandum) have been achieved.

It is not inconceivable that the aforementioned documents contain commercially sensitive information whose disclosure could affect the

(financial) interests of licensees. In such cases, the Minister may, pursuant to paragraph 7, decide not to disclose certain information contained in documents in order to protect these interests.

Chapter 6

The provisions in this chapter (supervision and enforcement) supplement the provisions of the National Ordinance on Administrative Enforcement (AB 2018, No. 22) and focus on supervising compliance with this ordinance. This chapter governs the authority to impose administrative sanctions (remedial sanctions and punitive sanctions).

Article 68

Article 4 of the National Ordinance on Administrative Enforcement stipulates that the aforementioned powers exist only to the extent that they are granted by or pursuant to a national ordinance. The supervisory authority responsible for monitoring compliance with the provisions of and pursuant to this national ordinance is a supervisory authority within the meaning of Article 1, paragraph 1(j), of the National Ordinance on Administrative Enforcement.

Article 69

Article 16 of the National Ordinance on Administrative Enforcement grants the supervisory authority the power to investigate matters. Pursuant to this article, the supervisory authority is hereby authorized to conduct digital monitoring of electronic equipment, including the networks to which such equipment is connected.

Article 70

This article further expands the definition of “business records” as referred to in Article 15, paragraph 1, of the National Ordinance on Administrative Enforcement to include: the software used in connection with participation in, the drawing of, and the payout of a game of chance, as well as the software that determines the outcome of a game. Such software is frequently used in games of chance. Access to such software is necessary for adequate supervision of compliance with the provisions of this National Ordinance.

Article 71

Article 40 of the National Ordinance on Administrative Enforcement already provides for the authority to seal premises when applying administrative coercion. However, this authority does not apply during the preliminary phase of an investigation aimed at determining whether or not a violation has occurred. Even during the evidence-gathering phase, effective action by the Gambling Authority’s supervisors requires

that they be able to adequately prevent the alleged violator from destroying or moving evidence. Examples include potential pieces of evidence located in a physical or electronic archive. In such cases, business premises must be able to be sealed to allow the investigation to continue the following day. Items such as cabinets and computers—for example, a gambling terminal used to offer illegal games of chance or a laptop containing records of illegal games of chance—may also be sealed. In certain cases, sealing individual items may be less burdensome for those involved than sealing off an entire room or premises.

Article 72

Pursuant to Articles 41 and 42 of the National Ordinance on Administrative Enforcement, supervisory authorities are authorized to investigate matters involving the operation of illegal games of chance—for example, through unauthorized slot machines and roulette tables in illegally organized casinos—and, if necessary for the investigation, to seize such items. However, under these articles, the property must be returned after the investigation. It may be desirable to seize items without having to return them subsequently, particularly if there is a risk that they will be reused for unlawful participation in games of chance. To prevent this, paragraph 4 provides for the possibility of forfeiting the seized items to Country Sint Maarten , even if no criminal prosecution is pursued. An appeal may be filed against the application of administrative coercive measures, including the seizure of property, pursuant to Article 7 of the National Ordinance on Administrative Justice.

If it turns out that criminal offenses may have been committed using the seized property (for example, a gambling machine or a laptop) and a criminal investigation is opened for this purpose, the provisions of the Code of Criminal Procedure will apply to the seized property (see Article 141 et seq. of the Code of Criminal Procedure). The seized property will then be placed under the authority of the public prosecutor's office.

If a supervisor encounters potential criminal offenses while carrying out supervisory duties, coordination will be sought with the public prosecutor's office.

Article 73

Subsection (a) of the first paragraph provides a legal basis for the exchange of information with individuals and institutions active in the field of games of chance, including foreign gambling regulators and the Public Prosecutor's Office, insofar as the information is relevant to the supervision of the gambling sector.

Subsection (b) provides a legal basis for the exchange of information with the Public Prosecutor's Office;

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Subsection (c) pertains to the exchange of information with agencies (the MOT, the CBCS) responsible for preventing and combating money laundering and terrorist financing.

A national decree containing general measures further specifies the conditions under which information may be exchanged, as well as the parameters within which this is permitted. This includes a more detailed elaboration of the definition of purpose (for what purpose may information be exchanged) and provisions concerning, among other things, confidentiality, retention requirements, and the destruction of information. Of course, information exchange works both ways; the Gambling Authority may also request information from (foreign) regulatory authorities.

The national decree, containing general measures, may also provide for the possibility of concluding information-sharing agreements with other authorities.

Article 74

It follows from the applicability of Article 23, paragraph 1, of the National Ordinance on Administrative Enforcement—which stipulates that an administrative body authorized to impose an administrative order may instead impose an order subject to a penalty payment on the offender—it follows that in the event of a violation of the cases listed in Article 75, paragraph 1, of this National Ordinance, an order subject to a penalty payment may also be imposed.

Article 75

This article contains an exhaustive list of the provisions whose violation may result in the imposition of an administrative fine by the director. Article 18 of the National Ordinance on Administrative Enforcement stipulates that every person is obligated to cooperate with the requests of a supervisory authority in the performance of its duties.

Paragraph 3 sets the maximum administrative fines based on four categories of violations. This categorical structure ensures that the severity of the sanction is reasonably proportionate to the seriousness of the violation and the extent to which the relevant standard contributes to an ethical, transparent, and safe gambling sector.

The chosen scale features an increasing maximum per category, with the least severe category covering violations of an administrative or formal nature and the most severe category covering serious violations, such as offering games of chance without a license or a systematic failure to comply with core obligations. The maximum amounts have been set to ensure they have an effective and deterrent effect, taking into account

the economic value of the gambling market in Sint Maarten. The aim is also to prevent violations from being regarded as an acceptable business risk.

For the most serious category of violations (Category D), a higher maximum fine is provided for, whereby—in addition to a fixed maximum amount—the fine may also be calculated as a percentage of the violator's annual revenue. This approach aims to ensure that the administrative fine constitutes an effective, proportionate, and deterrent sanction in all cases, regardless of the size of the business in question.

A fixed maximum amount alone may, particularly in the case of larger (internationally operating) gambling providers, carry the risk that violations are factored into business operations. By basing the penalty on a percentage of annual revenue, the sanction scales with the offender's economic capacity and the scope of its activities.

The choice of a maximum percentage of 10% is in line with the upper limit applied internationally in comparable regulatory areas for severe administrative sanctions. This percentage provides sufficient leeway to impose an appropriate and deterrent fine in serious cases, such as offering games of chance without a license, systematically violating core obligations, or deliberately undermining supervision.

The director exercises this authority in accordance with the principle of proportionality. This means that, even if the revenue-based maximum exceeds the fixed maximum amount, a determination is always made as to whether the fine to be imposed is appropriate and warranted in the specific case.

Paragraph 4 provides for the further elaboration of the classification of violations into the various categories by or pursuant to a national decree containing general measures. This basis for delegation makes it possible to respond flexibly to developments in the gambling market and to shape enforcement in a targeted and consistent manner, without the need for legislative amendments each time.

Paragraph 5 lists the most important factors that the Gambling Authority takes into account when determining the specific amount of the administrative fine. These include, in any case, the severity and duration of the violation, the degree of culpability, and the circumstances of the case. This list is not exhaustive, so the director may also take other relevant factors into account, such as any history of repeat offenses, the extent of the benefit gained, and the degree to which the violator cooperated with the investigation.

Paragraph 6 allows, if the severity of the violation or the circumstances so warrant, for a fine to be set at a maximum of 10% of the company's

revenue in the preceding fiscal year, in deviation from the fixed maximum amounts.

This system strikes a balance between legal certainty—by applying clear maximum amounts and categories—and a tailored approach—by allowing the specific circumstances of the case to be taken into account within those frameworks.

Article 78

This article contains the transitional provisions. See the general explanatory notes under *"Transitional Provisions"* for more information.

Article 79

With the repeal of the National Ordinances referred to in this article, the delegated statutory regulations are automatically repealed.

Subsection (e) provides for the repeal of the National Ordinance on Offshore Hazard Games. In determining the effective date of this subsection, consideration will be given to any licensed operations that may still be in existence and the necessary transitional provisions.

Article 80

Article 1807 of Book 7a of the Civil Code deserves special attention, as it stipulates that the law does not permit legal action regarding a debt arising from gambling or betting. Article 5a of the National Ordinance on Games of Chance established an exception to this rule for legal actions arising from licensed games of chance. This primarily refers to prizes and winnings that were wrongfully withheld. This exception remains in effect following the repeal of the National Ordinance on Games of Chance.

Article 81

The implementation of the Games of Chance Regulation requires the necessary organizational and operational preparations. This applies in particular to the establishment and operationalization of the Gambling Authority, the recruitment and training of supervisors, and the preparation of the procedures and provisions necessary for the exercise of supervisory and enforcement powers. Further implementing measures may also be necessary to ensure the careful application of the new legal framework.

To ensure these preparations are completed with due care, provision has been made for the various articles and sections of the national ordinance to take effect at different times. This allows the implementation to be aligned with the progress of the organizational and practical implementation. The specific phasing will be further determined by

national decree, taking into account the intent of the national ordinance and the requirements for effective implementation and enforcement.

The Minister of Tourism, Economic Affairs, Traffic , and Telecommunications

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