

Advisory

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***Integrity  
Inquiry of the  
Government of  
Sint Maarten  
Interim Progress  
Report***

May 21, 2014



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# ***Table of Contents***

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I.	Executive Summary	1
II.	Background	2
III.	Scope and Approach	3
IV.	Interim Progress Report	4
V.	Next Steps	8

## ***Introduction***

Dear Governor,

Our Services were performed and this Interim Progress Report was developed in accordance with the Contract Documents dated February 21, 2014 and are subject to the terms and conditions included therein.

Pursuant to our risk management policies, we are required to note that our Integrity Inquiry was performed in accordance with the Standards for Consulting Services established by the American Institute of Certified Public Accountants ("AICPA"). Accordingly, while we will render findings and recommendations in subsequent reports, we are not providing in this report, nor in future reports, "audit services", nor are we providing an "opinion" pursuant to the AICPA's Standards for Audit and Attest Services as we would, for example, if we were asked to perform an audit of the financial statements of a publically traded company. Accordingly, we did not "verify" or "audit" any information provided to us pursuant to AICPA audit standards since this was a consulting report – rather we accepted the material that we were provided by the various Government Ministries and officials as authentic. We will however, note in our report and subsequent reports if we believe the information provided was provided not in accordance with our requests or not responsive to our requests. Finally, we are obliged to note pursuant to consulting standards that our work is limited to the specific procedures and analysis described herein and that we did not conduct procedures that are not specified in this report. This Interim Report is based only on the information made available through May 2, 2014. Accordingly, changes in circumstances after this date could affect the findings outlined in this report.

In the course of the Inquiry, PwC has received documents and conducted field research. The Services were carried out on the basis that such information is accurate and complete. PwC makes no representations with respect to the accuracy or completeness of information provided to us and cannot assume any responsibility for incomplete or inaccurate information. We will however, note in subsequent reports if we believe the information was not provided in accordance with our requests for such information or if there was a reluctance to produce such information. The sufficiency of the material contained in the submissions will be closely analyzed and referenced against witness statements and other material when making our findings and recommendations pursuant to our AICPA consulting standards.

This information has been prepared for the use and benefit of, and pursuant to a client relationship with the Governor of Sint Maarten ("Client"). We disclaim any contractual or other responsibility to others based on its use and, accordingly, this information may not be relied upon by anyone other than the Governor of Sint Maarten.

Our services do not include the provision of legal advice, and PwC makes no representations regarding questions of legal interpretation. Nothing contained herein should be taken to imply, infer, or, in any other way, represent legal conclusions.

Very truly yours,

PricewaterhouseCoopers (US) International LLC

Glenn T. Ware

Principal

Authorized Signatory through PricewaterhouseCoopers LLP

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## ***I. Executive Summary***

On February 21, 2014, PwC was commissioned by the Governor of Sint Maarten to perform an independent Integrity Inquiry (“Inquiry”) into the Government of Sint Maarten (“GoSM” or “Government”). The scope of the Inquiry extends to the programs and activities of the public administration sector including the Government, Government Agencies, and State-owned Enterprises (“SoEs”). The PwC team will focus on vulnerable sectors and activities including prostitution, gambling, and immigration as well as permitting for and the execution of infrastructural /construction works and other large tenders. The period of the Inquiry is 24 weeks from the Commencement Date of February 26, 2014.

On February 25, 2014, PwC met in person with the Steering Committee and the Governor to discuss the goals and objectives of the Inquiry. PwC also met the Steering Committee by video conference on March 26, 2014, and there is a planned in person meeting scheduled for May 26, 2014.

PwC has previously provided five bi-monthly status reports and held at least six telephone calls to discuss issues and progress related to the Inquiry. At this point, and as further set forth in this Interim Progress Report, PwC has substantially completed the desk research and analysis of relevant documents; led interviews with over 80 Government officials, interested parties and key stakeholders; conducted transactional analysis and has begun to identify and frame the core issues and recommendations for consideration.

Future steps will include completion of the desk and field research to include identification and clarification of integrity issues so that PwC can complete its assessment against leading practices and standards and ultimately provide recommendations aimed to enhance the GoSM’s integrity architecture and practices. PwC is on track to deliver the Final Report as scheduled.



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## *II. Background*

### *A. Integrity Inquiry*

On September 30, 2013, the Council of Ministers of the Kingdom of the Netherlands (“Kingdom”) by Kingdom Decree charged the Governor of Sint Maarten with the responsibility to conduct an Integrity Inquiry to identify shortcomings and provide recommendations into the proper functioning of the GoSM as required in a democratic state governed by the rule of law. The Kingdom Decree resulted from concerns of the Council of Ministers of the Kingdom based upon media reports, public questions, perceptions about integrity and reputation, and perceptions from reported integrity breaches by politicians in Sint Maarten.

The Governor of Sint Maarten (“Governor”), thereafter by Governor’s decision dated December 4, 2013, established a three-person Steering Committee supported by a professional secretariat to allow for an independent, impartial and effective process. The Steering Committee, Dr. Marten Oosting, Chairman, and members Mr. Jaime Saleh and Mr. Miguel Alexander, have extensive backgrounds and careers in law, public policy and good governance assessments across the Kingdom and former Netherlands Antilles. On December 20, 2013, the Governor issued an Invitation to Tender to engage an international accounting firm with experience and expertise in conducting forensic integrity inquiries to execute the assessment. On February 21, 2014, PwC was commissioned by the Governor of Sint Maarten to perform an independent inquiry.

The GoSM recognizes the challenges that corruption, malfeasance and improper public administration create for not only the public sector, but also for stakeholders in the private sector and society. To this end, the Governor on advice of the Steering Committee of the Inquiry decided to procure this independent Inquiry to improve the integrity architecture and the proper functioning of the public administration in Sint Maarten. Through this Inquiry, PwC will provide objective, measurable, and observable recommendations for the GoSM to consider to address issues of integrity on-the-ground and to add value to the functioning of the public administration.

### *B. Government Background*

Sint Maarten, home to approximately 50,000 people, is currently governed by a Constitution, the Governor as the Head of the GoSM, Parliament, and a Council of Ministers. Sint Maarten became a country within the Kingdom of the Netherlands on October 10, 2010. The people of Sint Maarten are represented by Parliament which is the highest legislative body and consists of 15 members. The Council of Ministers, which reports to Parliament, is led by the Prime Minister (“PM”).<sup>1</sup>

Each Minister leads one of the seven Ministries which comprise the GoSM.<sup>2</sup> The Government also has High Councils of State outside of the seven Ministries including the Council of Advice, the General Audit Chamber and Ombudsman. Finally, there are also various SoEs within Sint Maarten.

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<sup>1</sup> <http://www.sxmparliament.org/about-parliament/government-structure.html>

<sup>2</sup> Ibid.

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### **III. Scope and Approach**

#### **A. Scope of the Inquiry**

The scope of the Integrity Inquiry covers the time period after October 10, 2010 and includes the following:

- Ministry of General Affairs
- Ministry of Finance
- Ministry of Justice
- Ministry of Education, Culture, Youth and Sports
- Ministry of Public Health, Social Development and Labor (“VSA”)
- Ministry of Tourism, Economic Affairs, Traffic and Telecommunication (“TEATT”)
- Ministry of Public Housing, Spatial Planning, Environment and Infrastructure (“VROMI”)
- Princess Juliana International Airport Group of Companies
- Harbour Group of Companies
- Telecommunications Group of Companies (“Telem”)
- Gemeenschappelijk Electriciteitsbedrijf Bovenwindse Eilanden (“GEBE”) N.V.
- Bureau Telecommunication & Post (“BTP”)

The scope of the Inquiry also calls for a focus on vulnerable sectors and activities including prostitution, gambling, and immigration as well as permitting for and the execution of infrastructure /construction works and other large tenders.

The scope does not include the integrity and proper functioning of Parliament, the Judiciary (the joint Court of Justice), and the High Councils of State (Council of Advice, Audit Chamber, and the Ombudsman). Finally, it should be noted also that this Inquiry is separate from penal investigations carried out by the Office of the Public Prosecutor.

#### **B. Approach**

The overall objective of this project is to (1) collect data and information for assessment based on integrity requirements in accordance with the rule of law in a democratic society, (2) to report the findings from the assessment and finally (3) to make recommendations that add value to the functioning of the public administration of Sint Maarten.

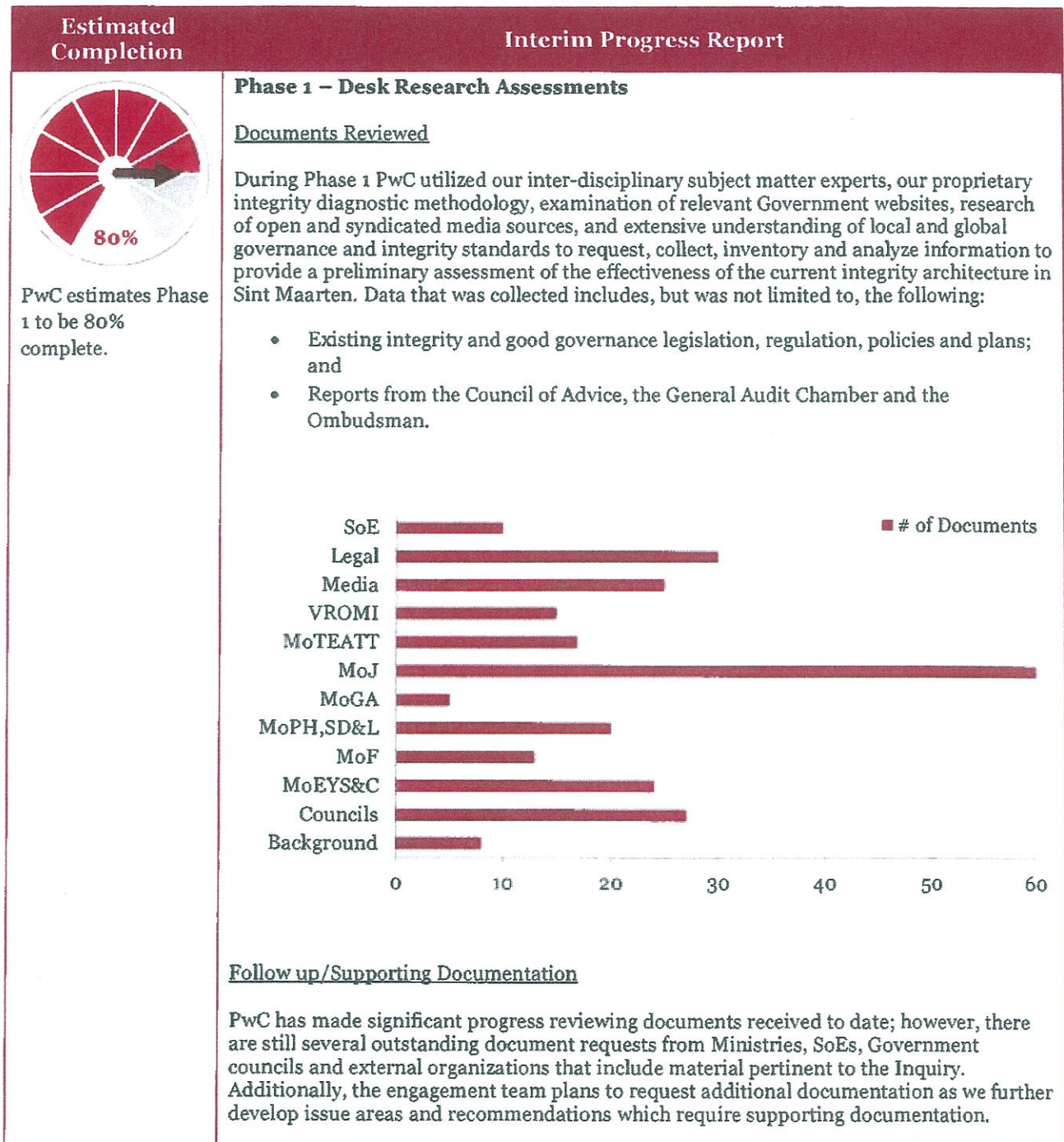
As part of our approach, in the Final Report, PwC will assess integrity issues against leading practices and global governance and integrity standards. Furthermore, recommendations in the Final Report will be aligned to these standards and practices. A sampling of the standards and practices that may be referred to include:

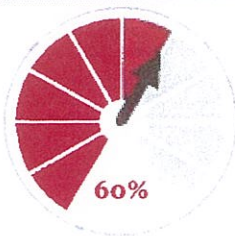
- United Nations Convention Against Corruption (“UNCAC”)
- OECD Convention on Combatting Bribery of Foreign Public Officials
- COSO Internal Control Integrated Framework
- Council of Europe Code of Conduct: Recommendations for National Codes of Conduct for Public Officials
- UN International Code of Conduct for Public Officials
- OECD Guidelines on Corporate Governance for State Owned Enterprises
- UN Commission on International Trade Law (“UNCITRAL”) Model Law on Procurement of Goods, Construction, and Services with Guide to Enactment
- OECD Principles for Integrity in Public Procurement
- World Customs Organization Revised Integrity Development Guide



## IV. Interim Progress Report

PwC initiated the following phased approach in February 2014 and has made significant progress to date.





PwC estimates Phase 2 to be 60% complete.

## Phase 2 – Field Research Assessment

### Interviews

During three deployments to Sint Maarten between February 26 and April 30 in 2014, PwC conducted over 80 on-the-ground informational and investigative interviews with current and former public officials, SoE representatives and knowledgeable individuals within industry, trade associations and the private sector.

Building on this progress, PwC plans to conduct additional interviews as issues need to be refined and further supported, and as the engagement team identifies additional subjects to interview through our discussions and document analysis.



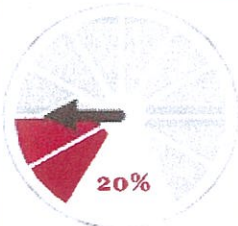
### Potential Integrity Issues

In addition to the vulnerable sectors/activities and SoEs, PwC has identified a number of other potential integrity issue areas through consultations with the Steering Committee, desk research, and field research conducted to date. During our May 26<sup>th</sup> meeting, PwC together with the Steering Committee plans to prioritize which issues outlined below require further exploration by the PwC team under the scope of the Inquiry. Please note that many of the issues below are interconnected and will be further clarified through additional research.

PwC has categorized potential issues below according to the seven key pillars of integrity in our proprietary integrity architecture assessment framework (tailored to the scope of this engagement and aligned with leading global integrity standards including standards outlined in the **Approach** section above):

1. Issues related to *Leadership, Commitment, & Devotion of Resources* such as discretion of Ministers and reporting mechanisms for integrity breaches and fraud, waste, and abuse.
2. Issues related to *Regulatory Framework* such as anti-corruption legislation and integrity policies/procedures such as a code of conduct, gift policy, and conflict of

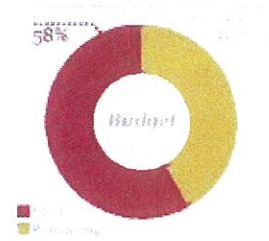


	<p>interest rules.</p> <ol style="list-style-type: none"> <li>3. Issues related to <i>Procurement, Financial Management, &amp; Internal Controls</i> such as payment processes, internal controls, budget allocation, and procurement policies and exception rules.</li> <li>4. Issues related to <i>Investigations, Inspections, &amp; Enforcement</i> such as prosecution of corruption cases, capacity/authority of inspection teams, disciplinary action related to integrity breaches, and customs.</li> <li>5. Issues related to <i>Transparency, Communications &amp; Stakeholder Outreach</i> such as financial disclosure policies, internal/external communication, and private sector/civil society engagement.</li> <li>6. Issues related to <i>Personnel</i> such as Government-wide employee policies, recruitment, hiring, promotion and termination policies and processes, and training.</li> <li>7. Issues related to <i>Systems &amp; Information Sharing</i> such as automation and integration of systems across Ministries.</li> </ol> <p>We also identified issues related to the vulnerable sectors/activities and SoEs including issues related to <i>vulnerable sectors/activities</i> such as immigration control, work permits, regulatory oversight over casinos, and transactions related to large construction works, and issues related to <i>SoEs</i> such as independence, governance, authority of Ministers, and conflict of interest rules.</p> <p><u>Transaction Analysis</u></p> <p>As part of Phase 2, PwC has started analyzing documentation for a judgmental sample of transactions including, but not limited to, the process of payments made by the Government, issuance of public transportation licenses, issuance of residence and work permits and the issuance of director and business licenses to assess compliance with ordinances, policies and procedures. PwC has also started to explore what vulnerabilities exist within these operational activities.</p> <p>Transaction analysis will continue through PwC's next deployment to Sint Maarten in May 2014.</p>
 <p>PwC estimates Phase 3 to be 20% complete.</p>	<p><b>Phase 3 – Recommendations</b></p> <p>PwC is analyzing data collected during Phase 1 and Phase 2 against leading standards and practices. We anticipate our analysis will identify recommendations to strengthen Sint Maarten's existing governance and practices, ethics, and integrity protocols.</p> <p>The development of applicable and meaningful recommendations to enhance Sint Maarten's integrity architecture will be a key focus for the engagement team during the remainder of the project.</p>

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### **Interim Budget**

PwC has utilized approximately 58% of the budget to date. The engagement team expected to use the majority of the budget during the first half of the Inquiry for time on-the-ground in Sint Maarten which included field research and interviews and we expect to complete the Inquiry within the agreed-upon maximum budget.



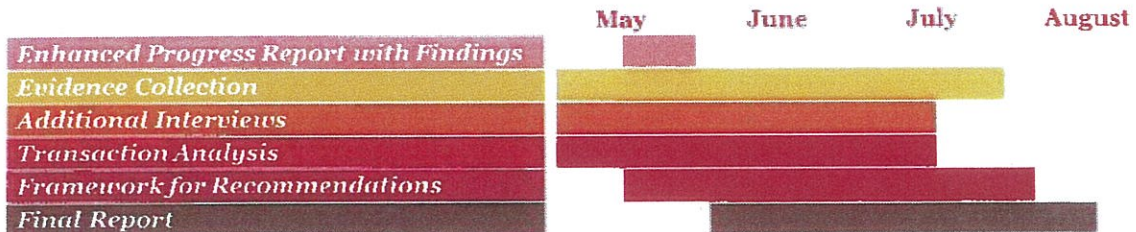
### **Cooperation**

Ministers and ministry representatives have been cooperative during interviews and with supplying documents requested by the PwC engagement team. We expect continued cooperation for the outstanding interviews and document requests in the coming months.

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## V. Next Steps

PwC has identified several next steps in support of the successful completion of the Integrity Inquiry.



### A. Enhanced Progress Report with Findings

PwC is currently drafting the Enhanced Status Report that will include an analysis of preliminary findings to date. The engagement team will discuss and prioritize issues with the Steering Committee during an in-person meeting on May 26, 2014.

### B. Evidence Collection

A focus of PwC going forward will be the collection of documentation which supports and corroborates the issue areas identified through desk and field research. Evidence collection will be a continuous process until the completion of the Final Report as we work to provide support for each issue and corresponding recommendation.

### C. Additional Interviews

PwC has targeted several stakeholder groups for both initial and follow-up interviews to satisfy the requirements set forth within the scope of the Inquiry. The interview process will be ongoing during the remainder of the project as the engagement team is constantly identifying new subjects to interview through our meetings and document reviews.

### D. Transaction Analysis

PwC will continue to analyze certain transactions to assess the effectiveness and compliance of several key Government processes and procedures related to many of the issues identified to date.

### E. Framework for Recommendations

Another area of focus will be to continue developing recommendations to enhance the GoSM's integrity architecture. These recommendations will be aimed at remediating the integrity framework gaps identified during Phase 1 and 2 of the engagement.

### F. Final Report

PwC will soon begin the drafting of the Final Report to allow for timely delivery of our recommendations. The engagement team is on track to deliver the report in August.