



# An Analysis of the National Lotteries Good Causes Fund



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## List of Abbreviations

AG	Auditor General
b/f	brought forward
CBM	Central Bank of Malta
FIFA	<i>Fédération Internationale de Football Association</i>
LGA	Lotteries and Gaming Authority
MAS	Malta Aviation Society
MFA	Malta Football Association
MFEI	Ministry of Finance, the Economy and Investment
MFIN	Ministry of Finance
MIA	Malta International Airport
MoU	Memorandum of Understanding
NAO	National Audit Office
NLGCF	National Lotteries Good Causes Fund
PPS	Principal Permanent Secretary
Q	Quarter
VAT	Value Added Tax



## Executive Summary

1. The National Lotteries Good Causes Fund (NLGCF) was set up under Section 50(7) of the Lotteries and Other Games Act (2008, Cap 438) and is intended to support and partially fund projects and initiatives of a philanthropic, cultural, sports, educational, social, religious or civic nature, or other deserving causes, proposed by individuals and non-governmental organisations. An Advisory Board is appointed to administer and operate the Fund and is generally composed of a Chairperson, two members and a Secretary. Members are usually public officers selected because of their affiliation, either through their employment or personal interests, to the different spheres targeted by the Fund. Applications for funding are reviewed by the Advisory Board and are recommended for the approval or refusal of the Minister for Finance.
2. The Fund generates its income through a percentage contributed from tax payable on gaming activity, unclaimed prizes and interest earned on its account. For the past three years, the annual income directed towards the Fund averaged €1.7 million.
3. Applications for funds fall within either of two streams of NLGCF funding: Tier 1 initiatives which exceed €5,000 in funding requirement and which are submitted after a call for applications is issued; and Tier 2 projects that do not exceed €5,000 in their funding requirement and for which application remains open all year round. An annual allocation threshold of €200,000 has been set for Tier 2 projects.
4. Commission based on a percentage of lotto sales to a number of band clubs and other organisations that house or host a lotto booth is also paid bi-annually out of NLGCF. Agreements were also entered into whereby a number of organisations receive grants that are not strictly regulated by the parameters of NLGCF funding.
5. In May 2013, the Minister for Finance requested the National Audit Office (NAO) to investigate the current activities of the NLGCF to establish whether funds were being appropriately collected and distributed to entities and individuals. The major areas of concern raised were the manner in which the NLGCF was administered and the alleged fact that it was significantly over-committed, negatively affecting future disbursements that could be made out of the Fund.
6. To address the concerns raised, NAO adopted the following terms of reference for its investigation:
  - a. review of the procedure utilised in the application for and commitment of funds, including pertinent legislation and periodic guidelines issued;

- b. ascertain the total funds available for 2011, 2012 and up to end March 2013;
  - c. determine the nature of grant requests received, and the commitments made during 2011, 2012 and up to end March 2013;
  - d. analyse a sample of requests for grants to determine their eligibility and compliance to statutory requirements; and
  - e. examine a sample of commitments and disbursements of funds to determine whether these were made in accordance to statutory requirements.
7. Following the review of documentation submitted and several meetings with officers associated with NLGCF, NAO concluded that:
- a. Commitments were made out of NLGCF that bound funds well into the future, to the possible detriment of other potentially deserving causes. Considerable commitments were made particularly in Q4 2011, as well as from Q2 2012 onwards, which have resultantly restricted the Fund up to end 2014.
  - b. Although NAO is fully aware of the fact that the Guidelines are not legally binding, and that these do include a clause which allows the Minister to make exceptions and waive part or all conditions of the said Guidelines, this Office is of the opinion that good governance would dictate further efforts at adhering to such provisions.
  - c. Notwithstanding the above, the funding parameters were not always respected with instances where the thresholds for grants out of NLGCF were surpassed. In a few cases, the actual allocation was more than that recommended by the Advisory Board or, in cases of greater concern to NAO, more than that actually requested by the respective beneficiaries. Reasons for approval of funding outside of the parameters established by the Fund's Guidelines were not always clearly indicated in the Advisory Board's report.
  - d. Once the letter of commitment was issued, the grant remained valid for an indefinite period, with no restrictions on completion dates or eligibility to grant.
  - e. Data relating to the NLGCF, although maintained, was fragmented, with no one comprehensive source that included all the relevant information for each application.
  - f. Since the NLGCF is accounted for on a cash basis, it rendered the task of keeping track of all commitments that had previously been made when approving new applications even more onerous.
  - g. For some months during the period under review, the Advisory Board was composed solely of an Acting Chair, one member and the secretary. This, in NAO's view, seriously undermined the relevance of the Board, and hindered its performance.
8. To address the above shortcomings, NAO recommends that:
- a. A more detailed database of applications than that currently available is maintained. The database is to document the whole process of each application. The reasons for the recommendation must be clearly indicated and kept on record, especially for funding that does not strictly fall within the parameters established by NLGCF legislation and guidelines.

- b. Currently, once a commitment letter has been issued, funds allocated remain committed for an indefinite period. NAO recommends that a time limit on commitments be introduced, whereby a date from the issue of the commitment letter is stipulated as the deadline for the completion of the project and consequent entitlement to funding. As things stand, commitments never effectively become time barred.
  - c. The NLGCF account is to be held on an accruals basis, as this would better illustrate what funds have been allocated and the balance that is actually available for disbursement.
  - d. The total of commitments not yet settled should not exceed a certain amount above or a percentage of the actual balance held in the NLGCF account at any given time. Although according to the Ministerial Direction, the total amount of funding allocated to each quarter should not exceed amounts that would be available in the Fund for that quarter, or in case of Tier 2 the annual threshold, this has obviously not been the case since the NLGCF is currently committed up to 2014. Although there is no financial malpractice by over-committing, NAO feels that this is a matter of prudence and good sense.
  - e. The Guidelines for the approval of projects and initiatives must be clear on the parameters of financing to remove any ambiguity. Furthermore, considerable grants allocated towards similar objectives, albeit to different organisations, may not essentially adhere to the element of 'sharing' ensconced in the NLGCF to the detriment of other areas of activity that the Fund is intended to assist.
  - f. The provisions of the Guidelines should be adhered to with regard to thresholds and parameters of funding out of the NLGCF, including the requisite co-financing by promoters and the presentation of evidence of the completed project. Furthermore, it is imperative that fiscal receipts presented by beneficiaries should correspond to total project or initiative costs, and not be limited to the amount granted. Such a measure would ensure that NLGCF thresholds are being appropriately adhered to.
  - g. The composition of the committee should be strengthened to possibly include members from the Ministry for Finance's Accounts Section and officers knowledgeable in all areas related to NLGCF.
9. The possibility that the responsibility for the Fund may be transferred from the Ministry of Finance to the Office of the Prime Minister had surfaced when the issue of over-commitments was first brought up. Of course, changes to the current set-up will necessitate analogous amendments to existing legislation. Nonetheless, whether this transpires or not, the shortcomings identified need to be addressed.





# Chapter 1 - Introduction

The National Lotteries Good Causes Fund (NLGCF) was set up under Section 50(7) of the Lotteries and Other Games Act (2008, Cap 438). The Fund is intended to support projects and initiatives of a religious, philanthropic, cultural, sports, educational, social or civic nature, or other deserving causes, as may be determined by the Minister for Finance in consultation with an Advisory Board appointed to administer and operate the Fund. The Fund generates its income through a percentage contributed from tax payable on gaming activity, unclaimed prizes and interest accrued on its account.

## 1.1 Terms of Reference

1.1.1 In a letter dated 21 May 2013, the Minister for Finance requested the National Audit Office (NAO) to, “...investigate the current activities of the Good Causes Fund to establish whether such funds are being appropriately collected and distributed to entities and individuals.” Details and relative documentation were to be obtained through the Principal Permanent Secretary (PPS).

1.1.2 The Minister’s request was discussed in more detail in a meeting with the PPS on 28 May 2013. During the meeting it was established that the major areas of concern, as expressed by PPS, were the manner in which the NLGCF was being administered and the alleged fact that it was significantly over-committed, thereby negatively affecting future possible disbursements that could be made out of the Fund. According to PPS, commitments made during the run up to the 2013 general election totalled circa €3 million, which had effectively committed the Fund up to 2015. PPS further indicated that the Fund administered income of approximately €1.6 to €2 million annually, and it was in this context that the Fund’s over-committed status was to be understood.

1.1.3 To address the concerns raised, NAO adopted the following terms of reference for its investigation:

- a. review of the procedure utilised in the application for and commitment of funds, including pertinent legislation and periodic guidelines issued;
- b. ascertain the total funds available for 2011, 2012 and up to end March 2013;
- c. determine the nature of grant requests received, and the commitments made during 2011, 2012 and up to end March 2013;
- d. analyse a sample of requests for grants to determine their eligibility and compliance to statutory requirements; and
- e. examine a sample of commitments and disbursements of funds to determine whether these were made in accordance to statutory requirements.

1.1.4 The above terms of reference were deemed to accurately address the concerns raised, and agreement in this respect was confirmed by PPS on 6 June 2013.

## 1.2 Methodology

1.2.1 This investigation was conducted in terms of Para 9(a) of the First Schedule of the Auditor General and National Audit Office Act, 1997 (1999, Cap 396) and in accordance with generally accepted practices and guidelines applicable to NAO.

1.2.2 During the course of this investigation, meetings were held with former Chairpersons, the Secretary to the Advisory Board incumbent during the period under review, as well as senior officials of the Ministry of Finance (MFIN). Enquiries were made with the Department of Public Lotto, the Department of Lands and the Lotteries and Gaming Authority (LGA). Relevant documentation and information required were made available to this Office.

1.2.3 The entire population of applications either submitted or approved as at end March 2013 totalled 593 for 2011, 2012 and first quarter (Q) 2013. Out of the 593 applications, 489 applications were approved, while 104 applications were either still pending (as at end March 2013), or were covered by separate agreements.

1.2.4 In order to determine the eligibility and compliance to statutory requirements of the disbursements made out of the Fund, NAO randomly selected a sample of applications approved during 2011, 2012 and Q1 2013. The chosen sample consisted of 70 applications out of a total of 489, representing 14 per cent of all approved applications. In order to test the selected allocations of funds paid to beneficiaries, all relevant documentation to the particular project/beneficiary was verified to determine correctness and completeness in terms of adherence to established procedures. Neither rejected applications, nor pending applications nor approvals covered by separate agreements were considered for the purpose of this exercise.

1.2.5 With respect to this latter category, that is, approvals covered by separate agreements, such cases were reviewed in further detail as presented in Chapter 2.

1.2.6 NAO also obtained copies of letters of commitment issued during 2011, 2012 and Q1 2013. Out of the 489 applications approved during 2011, 2012 and Q1 2013, copies of 15 letters of commitment were not forwarded to NAO.

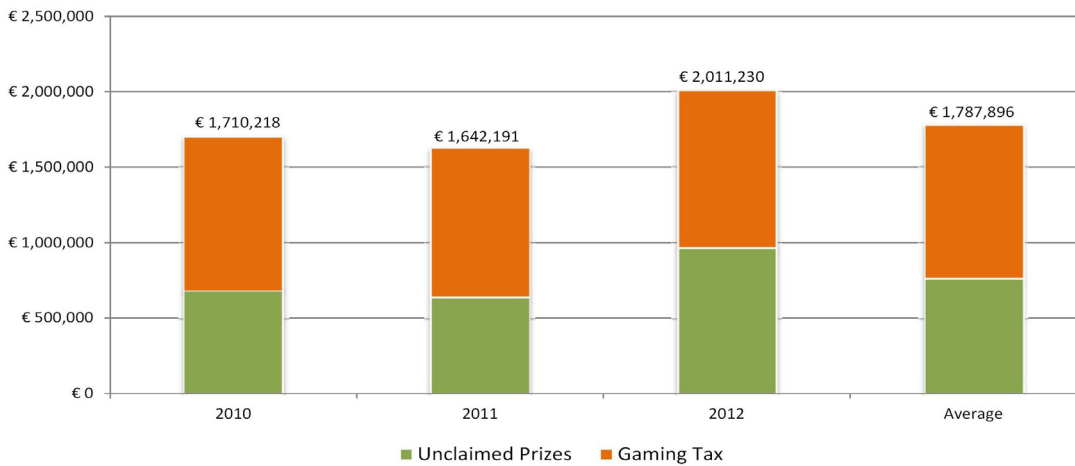
1.2.7 NAO findings and conclusions are based on the evaluation of the documentation and information indicated above.

## 1.3 Purpose and Funding of the NLGCF

1.3.1 According to Regulation 50(7) of the Lotteries and Other Games Act, *"...there shall be created and kept in the Treasury Department an account to be styled 'National Lottery Good Causes Fund' to which there shall be credited and paid the credit balance in the Gaming Authority National Lottery Reserve Fund paid by the Authority to the Treasury in terms of subarticle (6). The funds from time to time standing to the credit of the National Lottery Good Causes Fund shall be paid out by the Minister [of Finance], without any further appropriation other than this Act, to such persons, organisations, bodies and other entities pursuing objectives of a religious, philanthropic, cultural, sports, educational, social or civic nature or in support of other deserving causes, and in such amounts, in such manner and at such times, as may be determined by the Minister from time to time after consultation with an Advisory Board appointed by him for the purpose."*

- 1.3.2 The NLGCF was set up with the aim to support projects and initiatives proposed by individuals, non-government organisations registered as per the provisions of the Voluntary Organisations Act (2012, Cap 492), sports organisations registered with the *Kunsill Malti għall-iSport* as established by the Sports Act (2013, Cap 455), any body corporate set up by any other Act including clubs and limited liability companies, civic, cultural, educational and religious organisations and specific groups/boards set up for the purpose of organising the project or initiative in respect of which funding is requested.
- 1.3.3 Projects and initiatives benefiting from the Fund had to fall within four broad categories, namely philanthropy, education, social and sport. However, the Lotteries and Other Games Act (2008, Cap 438) also contemplated the possibility of, “...*other deserving causes*”, which broadly addressed other potentially relevant projects and initiatives that might be favourably considered for funding purposes.
- 1.3.4 In view of disbursements arising from the support of various projects and initiatives, the Fund proceeds to generate its income through:
- a. a percentage of the gross sums, fees, duties and/or taxes paid by the National Lottery licensee to the LGA in terms of Article 31(4) of the Lotteries and Other Games Act (2008, Cap 438), presently calculated at eight per cent on duty collected by the Authority;
  - b. unclaimed lottery prizes which are credited to a below-the-line account which, following Ministerial approval, are transferred to the respective Central Bank of Malta (CBM) account biannually; and
  - c. interest generated on the CBM account.
- 1.3.5 NAO’s review of income generated by the Fund established that this averaged out at an approximate €1.78 million annually. As rendered evident in Figure 1, the income generated in 2012 was markedly more than that of the preceding two years, with €1,710,218 and €1,642,191 followed up by €2,011,230. This increase is attributable to an additional unclaimed prizes payment of €275,262, which was received by the Fund in December 2012 instead of January 2013, which is the time of year when such a payment was ordinarily received in preceding years. Reallocating this payment to 2013, results in a revised approximate average income of €1.7 million annually.

Figure 1: Income Generated by NLGCF, 2010 - 2012



**Notes:**

Another source of income received by the NLGCF during 2010, 2011 and 2012 was interest accrued, however, this has not been presented in the figure given the negligibility of such amounts when contrasted with unclaimed prizes and gaming tax. To this end, interest received by the NLGCF during 2010, 2011 and 2012 was of €3,227, €7,633 and €3,225, respectively.

1.3.6 According to the Guidelines for the Approval of Projects and Initiatives, issued by the Ministry of Finance, the Economy and Investment (MFEI) in January 2009, due to the nature of the financing of the Fund, and in order to ensure that the available funding is shared by as many beneficiaries as possible, proposed projects and initiatives would only be considered for financing if:

- a. their financing needs were ‘one-off’ in nature and would not make any further claims on the fund to finance any recurrent commitments of whatever nature;
- b. total contribution towards the proposed project should not exceed €50,000; and
- c. promoters would commit themselves to co-finance their project by a minimum of 33 per cent of its total cost.

**1.4 The NLGCF Advisory Board**

1.4.1 An Advisory Board is appointed by the Minister for Finance to administer the Fund. The Board is generally composed of a Chairperson, two members and a secretary to the Board. Members are generally public officers selected because of their affiliation, either through their employment or personal interests, to the different spheres targeted by the Fund. This ensures that the Board is in a better position to assess applications received and, if required, make enquiries with other funding agencies to determine whether applicants are already benefiting from other Government funds.

1.4.2 In active support of the Advisory Board, the Secretary to the said Board maintains a database of all applications received and a copy of all relevant documentation submitted with respect to requests for funding. The Secretary also draws up the quarterly report of applications recommended for approval or refusal by the Board, for the endorsement of the Minister.

1.4.3 With the resignation of the Chairperson in August 2012, the Board, as at end 2012, was made up of an Acting Chairperson, one member and a secretary.

## 1.5 Procedure for the Approval of Projects and Initiatives

1.5.1 In January 2009, a Ministerial Direction document was issued outlining the procedure to be adopted for the approval of projects and initiatives. According to the Direction, the Advisory Board was tasked with ensuring that the available funds were reasonably shared in order to meet the different objectives of the Fund, again classified under four broad areas of activity, as established in the Lotteries and Other Games Act, namely:

- a. religious, philanthropic and social;
- b. educational and civic nature;
- c. sport; and
- d. cultural.

1.5.2 The above-referred Ministerial Direction further states that, *“The Act also contemplated the possibility of ‘other deserving causes’, as a fifth broad area of activity that might be considered for funding purposes. However, this should, at no time, be considered as a fifth objective.”*

1.5.3 The Ministerial Direction set out the parameters of financing as indicated in clause 1.3.6. Essentially, financing was limited to ‘one-off’ projects with grants not exceeding €50,000. According to the Direction, organisers had to co-finance their project by up to 25 per cent of its total cost. This was subsequently revised to 33 per cent of the total by virtue of the Guidelines for the Approval of Projects and Initiatives issued by MFEI on January 2009.

1.5.4 Nonetheless, according to the Direction, *“...these parameters should be considered as broad guidelines that are not laid out in the relevant legislation and that, therefore, the Minister responsible for Finance, after having considered the merits and circumstances of any project submission, may consider waiving all or part [of] the above-mentioned guidelines.”* It was further clarified that any project submission not falling within the above parameters, yet which was deemed worthy of further consideration, *“...should be brought to the Minister’s attention in the first instance prior to its further evaluation by the Board.”*

1.5.5 With regard to prospective beneficiaries, the Direction cited Section 50(7) of the Act, specifying that funds may be paid out, *“...to such persons, organisations, bodies or other entities pursuing the objectives of the fund. By the same definition, the Act does not preclude any person or body corporate from benefitting from the fund”*. The Direction however emphasised that the fund, *“...finances projects and initiatives that are being promoted by persons or body corporate and not any personal or appropriate activities of these same promoters. In this respect, the Board should ensure that any funds passed to any individual or organisation have been utilised for the sole purpose for which the funds would have been allocated.”*

1.5.6 According to the Ministerial Direction, the Fund was intended to direct financial support towards projects and initiatives proposed by various stakeholders, provided that the Fund’s principal objectives were thereby being met. The eligibility of these

stakeholders was determined by various acts of law as in fact already elaborated upon in clause 1.3.2.

1.5.7 Although not emanating from the Lotteries and Other Games Act (2008, Cap 438), other limitations and exclusions by way of the Ministerial Direction were imposed, namely:

1. *“In the case of limited liability companies, the Board should ensure that:*
  - a. *Its objectives, as outlined in its Memorandum and Articles of Association are consistent with the objectives of the Good Causes Fund. For example, a company seeking to finance a cultural event should have the organisation of such events outlined in its objectives clause;*
  - b. *The event being financed from the Good Causes Fund would not result in any profits to the company;*
  - c. *The beneficiaries of the proposed initiative or project are deemed to fall within the scope of the National Lotteries Good Causes Fund Act by the Advisory Board.*

*Projects and initiatives proposed by a limited liability company as part of their corporate social responsibility, to be jointly supported by the Good Causes Fund and falling within the parameters of Section 50(7) [of the] Act do not fall within the above exclusion. ...*

2. *Projects and initiatives submitted by political parties, political-party-affiliated organisations or by politically-oriented organisations.*
3. *Projects and initiatives submitted by non-mainstream religious organisations.*
4. *Projects and initiatives submitted by entities that are funded by central government (such as local councils, agencies, etc), unless their involvement is limited to a sponsorship of the cause that is being promoted by an individual or organisation that is not excluded by this Directive.”*

1.5.8 According to the Direction, the Advisory Board was to follow certain guidelines in the execution of its duties. The Board had to categorise applications into two streams, termed as Tier 1 and Tier 2, with the relevant classification carried out according to the value of the grant requested. The two tiers for the streaming of applications were determined as follows:

- a. *“Tier 1 - projects and initiatives that exceed €2,000 in value ... are to be submitted after a call has been issued. The call may either be issued say once every 3 months or in the beginning of each year establishing the periods when submissions could be made during the year.”* For the period under review, the threshold for Tier 1 projects was subsequently raised to over €5,000 following the issuance of the Guidelines for the Approval of Projects and Initiatives by MFEI in January 2009. By virtue of these same Guidelines, the three-month option was also applied.
- b. *“Tier 2 - projects and initiatives that do not exceed €2,000 in value, in respect of which applications should remain open all year round, should be considered on a first come first served basis, up to an annual allocation limit of €100,000.”* For the period under review, the limit for Tier 2 projects was set at €5,000 and the

annual allocation threshold increased to €200,000 following the issuance of the aforementioned Guidelines.

- 1.5.9 As per Ministerial Direction, the Advisory Board had to maintain a register of all applications received, identifying receipt date and details of the applicant. The register was to be regularly updated with the status and progress of each application, including the final decision and, where applicable, the amount awarded.
- 1.5.10 Requests for funds could be made by means of a letter, provided this gave sufficient information to the Advisory Board for evaluation purposes. Information submitted had to include details of the person or organisation making the request, detailed information on the proposed project, the total estimated cost of the project, the amount of funding being requested as well as details relating to the planned execution of the project, including timeframes.
- 1.5.11 Every quarter, the Board had to forward a report of projects reviewed by it during the period in question and its recommendations to the Minister of Finance for his consideration. Once the Minister indicated his approval, the Secretary to the Board would issue the letter of commitment, duly signed by the Minister, to the respective project applicant. The commitment letter had to indicate the amount of funding allocated to the project and any approved terms and conditions that might apply.
- 1.5.12 According to the Ministerial Direction, the total amount of funding allocated to each quarter should not exceed amounts that would be available in the Fund for that quarter, or in case of Tier 2 projects and initiatives, the annual threshold, taking into consideration commitments already made for projects yet unspent and payable in future quarters. The Advisory Board was to ensure that, in any particular year, it would not allocate funding that would exceed the forecasted revenue creditable to the Fund.
- 1.5.13 With regard to payments, the Direction stipulated that the Board should not disburse any funds unless evidence was provided that the project or initiative had been carried out. Evidence was to include fiscal receipts, certificates of works, photographic evidence, physical inspection or any other form the Board deemed appropriate. On receipt of funds, a declaration confirming payment had to be signed by the beneficiary. The Board was obligated to recover any advanced monies that were not utilised for their intended purpose. No advance payments could be made without the specific authorisation of the Minister for Finance.





## Chapter 2 - Agreements with Band Clubs and Associations

Several ad hoc agreements were made with various organisations for the receipt of grants and commissions out of the NLGCF. These agreements generally did not conform to the guidelines and criteria established for such funding. Although some of the agreements originated a substantial number of years preceding the audit period under review, they are still in force and payments are still being made out of the Fund on the basis of these contracts.

### 2.1 Commission to Band Clubs and Other Organisations

- 2.1.1 According to the minutes of the Cabinet meeting held on 11 October 2004, the decision to grant funds from the NLGCF to band clubs - in view of the, “...*positive contribution that band clubs provided to Maltese society*” - and a number of other “*eligible*” organisations that housed or hosted a lotto booth, was taken during the previous Cabinet meeting held prior to the indicated date. While most of the beneficiaries were in fact band clubs, a number of cultural, philanthropic and sports organisations as well as several trade unions were also deemed eligible to receive such grants in view of their constructive input to society. In continuation of the discussions started in the preceding Cabinet meeting, various funding options and issues in connection with the management of the Fund were also discussed.
- 2.1.2 Although a share of public funds generated through lotteries and gaming had long been allocated for philanthropic purposes under previous administrations (including grants to band clubs), disbursements specifically channelled through the NLGCF may be traced back to the enactment of the Lotteries and Other Games Act in 2001 (2008, Cap 438), as was in fact rendered evident in the preceding Chapter.
- 2.1.3 During the 11 October 2004 meeting, Cabinet *inter alia* agreed:
- a. “...*that the amount to be transferred to the Good Causes Fund to enable the approved arrangement should be equivalent to 8% of the projected income streams of the Lotteries and Gaming Authority;*
  - b. [that] *the proposal to appoint an Advisory Board in relation to the administration of the Good Causes Fund and in terms of the Lotteries and Other Games Act is approved;*
  - c. [on] *the proposal to bind recipient Band Clubs and Societies with the appropriate agreement...*”.

2.1.4 According to the agreements signed with eligible band clubs and organisations, the amount of commission paid out to the Fund was to be based on a percentage of lotto and Super 5 sales registered by the lotto booth affiliated to the particular band club or organisation<sup>1</sup>, as follows:

- a. Lotto – a commission based on 30 per cent of total sales, to which the following additional calculations apply:
  - i. a 20 per cent commission on the first €1,397.62 (Lm600) of apportioned sales;
  - ii. a 6.667 per cent commission on the remaining balance, which in this case corresponds to the 30 per cent of apportioned sales less the initial €1,397.62 (which are treated as per clause (i)); and
- b. Super 5 – five per cent commission based on 20 per cent of sales.

2.1.5 Payments in this respect were to be made bi-annually, after the second and fourth quarters of the year.

2.1.6 Between October 2004 and May 2005, agreements between MFIN, on behalf of Government, and 94 band clubs and organisations were signed. According to these agreements, the club/organisation was bound to “operate” the lotto booth housed/ hosted by it at its own expense and in no way hinder the running of the booth - *“...ma tagħmel xejn li jfixkel, jew tonqos li tagħmel xi ħaġa li permezz tagħha tista’ tfixkel l-operat ta’ l-imsemmija banka tal-lottu; ... ma tagħmel xejn, u ma tippermetti lil ħadd jagħmel xejn li jista’ jfixkel lill-bejjiegħ tal-banka tal-lottu milli jonora l-obligi tiegħu skond il-liġi u skond il-ftehim li għandu ma’ l-operatur tal-Lotterija Nazzjonali; ... tikkopera u tagħmel dak kollu li hu raġonevolment possibbli sabiex il-bejjiegħ tal-banka tal-lottu jkompli jopera mill-banka tal-lottu hawn fuq imsemmija u jbiegħ minnha il-logħob kollu tal-Lotterija Nazzjonali; ...”*<sup>2</sup>. On the other hand, Government was to pay a commission, based on sales (as indicated in clause 2.1.4) of the particular lotto booth, to the club/organisation that housed or hosted the booth. The club/organisation would not be eligible for commission if it failed to meet these obligations. The agreement was binding for the term of the Licence granted to Maltco Lotteries Ltd through a privatisation process finalised in 2004. The term of the Licence expired on 4 July 2012<sup>3</sup>. No conditions or restrictions were attached to these commissions as to how, and for what, these can or cannot be expended.

2.1.7 In 2011 and 2012, the band clubs and organisations benefiting from this scheme collectively received funds amounting to €355,707 and €338,477, respectively. Bi-annual payments to individual band clubs ranged from €47 to €6,229, with average annual payments of €3,997 and €3,803 for 2011 and 2012, respectively.

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<sup>1</sup> Prior to this agreement, a similar commission was paid to these clubs and organisations by the Public Lotto Department. This ceased with the privatisation of gaming and lotto in 2004.

<sup>2</sup> ... does anything to hinder, or fail to do something that can hinder the operation of the said lotto booth ... does not do anything, does not permit others to do anything that could hinder the lotto receiver from honouring his obligations under the law and according to the agreement with the National Lottery operator; ... cooperates and does everything that is reasonably possible so that the lotto receiver continues to operate from the lotto booth indicated above and sell all the games of the National Lottery; ...

<sup>3</sup> On the expiration of this License, Government - through the Ministry of Finance - signed a ten-year Concession Agreement for Intellectual Property Rights with Maltco Lotteries Ltd as the National Lottery Licensee. This (second) license award came in force on 5 July 2012.

- 2.1.8 As part of the audit process, NAO verified copies of actual agreements signed against a list of eligible band clubs/organisations drawn up in 2004 by the Ministry of Finance. Of the 94 organisations listed, agreements in respect of lotto booths 11, 143, 183 and 187 were missing. Another two agreements, corresponding to lotto booths 124 and 192, were unsigned.
- 2.1.9 NAO also verified the listed band clubs/organisations against a record of payments made in December 2012 to ascertain whether these organisations were still receiving commissions as per agreements signed. Five of the original organisations, housing/hosting lotto booths 46, 121, 133, 143, and 179, had ceased receiving funds. These lotto booths have since either ceased operating or are no longer affiliated to band clubs or eligible organisations. Although still appearing on the payments' list, commission for lotto booth 182 was indicated as €0.
- 2.1.10 According to the former Chair of the NLGCF, the Advisory Board did not routinely ensure that beneficiary band clubs and organisations were still the 'owners' of the lotto booths on which commission was paid. This commission was paid based on data supplied by Maltco Lotteries Ltd.
- 2.1.11 NAO examined a sample of 15 payments made to band clubs and other organisations, corresponding to amounts due with respect to 2012, to ensure that these were made in conformity with the conditions stipulated in the agreements. As stated above, a five per cent commission was to be paid on 20 per cent of sales of Super 5, while 20 per cent was to be paid on the first €1,397.62 followed by a flat-rate of 6.667 per cent commission on the balance of 30 per cent of lotto sales. Amounts to be disbursed are calculated by MFIN according to quarterly sales data sourced from Maltco Lotteries Ltd and are passed to the Advisory Board for inclusion in its report and the eventual approval of the Minister of Finance. Until November 2005, LGA was responsible for calculating such commissions. MFIN assumed this responsibility after this date.
- 2.1.12 NAO's sample was extracted from commissions calculated on sales made during 2012. Findings indicated that, while the commission on Super 5 was paid as agreed, no commission was paid on the first €1,397.62 of lotto sales made during Q2, Q3 and Q4 of 2012. This resulted in commission being underpaid at a rate of 6.667 per cent of €1,397.62 for Q2, Q3 and Q4, resulting in an underpayment of €279.54<sup>4</sup> to each band club and organisation for 2012. Commission for 2011 was also calculated on this basis.
- 2.1.13 MFIN confirmed this shortcoming, stating that, "*...the apparent difference lies in our erroneous calculation of the commission on lotto sales; when we deducted €1,397.62 (Lm600) from sales throughout the whole year and not just during the first quarter as previously done by LGA<sup>5</sup>; the formula used for the first quarter was erroneously used for the other quarters*". This error was rectified as from Q2 2013.
- 2.1.14 These commissions were paid in terms of an agreement, binding for the term of the Licence granted by Government to Maltco Lotteries Ltd in 2004, which expired on 4 July 2012. Although a second licence term was awarded to Malta Lotteries Ltd on 5 July 2012, and commissions for Q3 and Q4 2012 and Q1 and Q2 2013 were paid, no new agreements with eligible band clubs and organisations had been entered into at the time of writing of this report.

<sup>4</sup> It is assumed that lotto sales equalled or exceeded €1,397.62 in each quarter.

<sup>5</sup> This amount is deducted from Q1 as the rate of commission on this is different to that on the remaining balance of 30 per cent of lotto sales.

## 2.2 Grants to the *Fondazzjoni Wirt Artna*

- 2.2.1 In its report to the Minister for Q4 2011, the Advisory Board had recommended a grant of €100,000 to the *Fondazzjoni Wirt Artna* towards the restoration of the Rinella Museum in Kalkara. According to the report, payment was to be distributed over four quarters, as from Q4 2011. The Minister endorsed this recommendation; yet NAO noted that the corresponding letter of commitment was issued on 22 September 2011, therefore, the Minister's endorsement was granted prior to the review by the Advisory Board. Payments were made on 28 November 2011 and 13 February, 16 May and 18 September 2012. Moreover, in 2011, the Foundation had already benefited from a €60,000 grant for a heritage trail at the Malta Military Heritage Park situated at the Lascaris War Rooms in Valletta.
- 2.2.2 NAO questioned the grounds on which the Advisory Board had recommended this application, when in effect this did not meet the conditions for qualification to grants out of the Fund. According to the NLGCF Chair, the Advisory Board had considered the fact that the project itself was commendable, that it tied in with national policy on the preservation of heritage, and the Foundation's notable past performance. This Office was informed by the former Chair NLGCF that the Board had recommended the funding of this project on the basis of the above; however the Board's recommendation was secondary, as the claim had already been approved by the Minister.

## 2.3 Grants to the Malta Football Association and Football Clubs

- 2.3.1 A letter of commitment, signed on 11 February 2012 by the Minister of Finance, the Economy and Investment and the Parliamentary Secretary for Youth and Sports, indicated that MFEI and the Secretariat for Youth and Sport, in conjunction with the NLGCF, the *Kunsill Malti għall-iSport*, the Foundation for Tomorrow Schools and the Department for Project Design and Implementation, had agreed to co-finance, together with the Malta Football Association (MFA), a number of projects to help improve local football. The main aim of this undertaking was to ensure that, within the next two years, every football club in Malta had access to a turf-surfaced football ground where training could be carried out. To this end, Government was to allocate a sum of €5,689,243 to supplement the €9,000,000 that MFA was contributing towards these projects. Government allocations were to be paid to MFA in 2012 and 2013.
- 2.3.2 Contributions by the government entities involved in such an undertaking were to be assigned as follows:
- a. The Department for Project Design and Implementation was to allocate €1,000,000 for the building of a football ground at Birżebbuġa;
  - b. The *Kunsill Malti għall-iSport* was to allocate €2,441,176 for, *inter alia*, the building of a football ground at St. Vincent de Paule Residence, a subsidy on rent paid for the use of public land, a subsidy for the use of sports facilities in government schools, and salaries paid to public officers on loan to MFA;
  - c. MFEI was to allocate €1,448,067, of which €400,000 were to be paid out of the NLGCF, while the remaining €1,048,067 corresponded to the 15.25 per cent refund on capital expenditure; and
  - d. The Foundation for Tomorrow Schools was to allocate €800,000 for the building of a football ground at Santa Venera.

- 2.3.3 Although the total allocation from public funds to MFA exceeded €5.6 million, the sum to be paid out of the NLGCF amounted to €400,000. Of this sum, €150,000 were paid to MFA by end Q1 2013 in terms of this agreement. Instalments of €50,000 were paid on 29 May 2012, 30 August 2012 and 28 January 2013.
- 2.3.4 In addition to the above, other funds were allocated through the NLGCF directly to particular football clubs - mainly for improvements to the locality's football pitch and premises - during the period under review. In 2011, grants were made to the Kirkop FC (€30,000), Gudja FC (€30,000), Marsa FC (€20,000), Żurrieq FC (€30,000), the Birkirkara Youth Nursery (€10,000), Birżebbuġa FC (€3,000) and the Mqabba FC Youth Nursery (3,000). In 2012, in addition to the allocation to MFA, grants on a 'club' basis were made to Tarxien Rainbows FC (€45,000), Luxol FC (€40,000), Kerċem Ajax (€30,000), Hibernians FC (€45,000), Xagħra United FC (€30,000), Xewkija Tigers FC (€30,000), SK Wanderers Victoria (€30,000), Melita FC (€25,000), Żurrieq Wolves FC (€15,000) and Għajnsielem FC (€30,000) for the upgrading of football pitches and facilities. In 2013, funds were granted directly to the Naxxar Lions FC (€20,000), Lija Athletic FC (€15,000), Senglea Gunners FC (€10,000) and Balzan FC (€10,000). During the period under review, smaller grants were given to other football clubs for other reasons, including the hosting of sporting events and the upgrading of facilities at youth nurseries. All the grants to individual clubs were made in accordance with the Fund's guidelines. The grant to MFA exceeded permissible allocations.
- 2.3.5 NAO questioned the justification for the granting of considerable funds to MFA and individual football clubs - amounting to approximately €1 million during the period under review - which collectively represented a considerable share of overall funds available. According to the NLGCF Chair, the Advisory Board had considered the fact that the projects undertaken by MFA and the individual clubs would benefit a large segment of the population, and that these tied in with national policies for the promotion of sports. Moreover, these grants ensured that funds received from the *Fédération Internationale de Football Association* (FIFA) for the upgrading of facilities would not be forfeited. Based on these considerations, the Advisory Board had recommended the grants. These were approved by the Minister.

## 2.4 Memorandum of Understanding with the Malta Aviation Society

- 2.4.1 According to a(n) (undated) Memorandum of Association (MoU) signed by the Minister of Finance, the Economy and Investment and the President of the Malta Aviation Society (MAS), the Ministry - on behalf of government - agreed to support MAS in the hosting of the annual Malta International Air Show for the years 2013, 2014 and 2015. According to the MoU, the Ministry agreed to contribute €30,000 each year out of the NLGCF towards the organisation of the air shows. It was also agreed that the transfer of the grant was to be made by the end of May of each year, after MAS officially informed the Ministry of plans to organise the air show. The Ministry reserved the right to stop payments if the event was not organised during any of the three years, although cancellations beyond the capabilities of MAS would not affect the MoU. The MoU also stipulated that MAS would not seek direct financial assistance from other government ministries for the duration of this MoU.
- 2.4.2 The 2013 air show was in fact held on the 28 and 29 September, thereby activating the above-quoted MoU.



## 2.5 Agreement with the Malta International Airport plc

- 2.5.1 An agreement for the lease of space at the Malta International Airport (MIA) was signed between the Department of Public Lotto within the Ministry of Finance and MIA plc on 29 April 1999. According to the agreement, the Department would bear the cost of rent and services for a rental fee of Lm4,000 (€9,317) per annum for the use of floor area for a lotto booth and advertising space. This amount was payable quarterly in advance. In addition, the Department would also pay an annual fee of Lm500 (€1,165) for maintenance, cleaning and services as well as telephone charges per Maltacom plc tariffs, topped up by an additional 10 per cent. The agreement was for a period of five years from the date of signature. It could be automatically renewed for further periods of five years up to a maximum total period of twenty years unless either party gave written notice of termination at least six months prior to the date of expiry or at any period during the renewal terms of the agreement. The Department was entitled to operate the booth by any third party chosen by it as its representative.
- 2.5.2 Following privatisation, the Department of Public Lotto ceased to be responsible for lotto and gaming as from 1 November 2004. Maltco Lotteries Ltd, the new operator, informed MFIN that it had no interest in signing an agreement with MIA plc for the use of floor area by the lotto receiver. Maltco argued that this was an agreement entered into by MFIN and the company was unwilling to take over this contract as part of the privatisation process. In September 2006, authority by the Minister of Finance was granted for the signing of a tripartite agreement between MIA plc, MFIN, acting as grantor, and the lotto receiver operating the airport booth as the lessee. According to the Agreement, *“Pursuant to Article 14 of the National Lottery License, all those persons who were lotto receivers on 1 January 2003 were granted the right to be appointed to act as sellers by the National Lottery licensee and the lessee in question, although desirous of availing herself of such right, was deprived of her lotto booth as a direct result of the transfer of operation of the national lottery from the Department of Public Lotto to Maltco Ltd.”* The Agreement further stipulates that, *“The grantor, having considered the special circumstances of this case, is desirous to ensure that the lessee can in practice avail herself of the same right that was granted to all lotto receivers, is willing to grant to the lessee, out of the good causes fund, a sum of money per annum as stipulated in the lease agreement.”* As per agreement, the grantor agreed to pay annual rent of Lm2,500 (€5,823) payable for the lease of floor area at MIA for the purpose of carrying on the business of a lotto receiver. Rent was to be paid quarterly in advance. The period of lease was of four years with effect from 11 August 2006.
- 2.5.3 On the expiration of this contract, two agreements were entered into on 15 October 2010 for the lease of space for the lotto booth at MIA. One agreement was between MIA plc and the lotto receiver as lessee; in the second agreement, MFEI agreed to act as grantor. Annual rent, payable quarterly in advance, was €5,825. The lease term was for one year and expired on 31 July 2011.
- 2.5.4 In an annex to the NLGCF Report for Q3 of 2012, the Advisory Board recommended that, subject to the further approval of the Minister for Finance, it was in agreement with the Amendment Agreement between MIA plc, MFEI (the lessee) and the lotto receiver (the operator) for the lease of floor area at MIA. The proposed agreement amended two original agreements, both dated 15 October 2010, regarding the lease of floor area at MIA *“...for the purpose of carrying on the business of a lotto receiver.”*

The Amendment Agreement was for a period of 11 years commencing on 31 July 2011 and expiring on 30 July 2022. Government will act as a grantor and will pay a rental fee of €6,500 per annum, excluding Value Added Tax (VAT) and other taxes and subject to a 5 per cent cumulative increase per annum payable out of the NLGCF. The actual agreement was signed in November 2012.

## 2.6 Overall Opinion

- 2.6.1 NAO's review of the above-discussed agreements indicates that they have in fact breached the Fund's Guidelines for the Approval of Projects and Initiatives, which stipulate that in order to ensure that the available funding is shared by as many beneficiaries as possible, any proposed projects and initiatives can only be considered for financing if their financing needs are one-off in nature. Other departures from the aforementioned Guidelines relate to the provision stating that no claims on the Fund were to be made to finance any recurrent commitments of whatever nature, which was not adhered to in various cases. The guidelines also stipulate that the total contributions towards any one proposed project should not exceed €50,000 while promoters would commit themselves to co-finance their project by a minimum of 33 per cent of its total cost. Once again, such a provision was evidently waived with respect to a number of the above-discussed applications for funding.
- 2.6.2 On the other hand, and notwithstanding the above, NAO considers the funding of most of the aforementioned initiatives as a valid means of supporting deserving causes that are of benefit to many and which tie in with the broader national objectives.
- 2.6.3 NAO's only reservation in this respect relates to the lotto booth situated at MIA. More specifically, NAO does not question whether such a subvention should have been granted or not, as this effectively goes beyond the audit's objectives; however, NAO does question whether such a subvention should have been sourced from the NLGCF, or from a more appropriate and aptly identified account.





## Chapter 3 - Data Testing and Analysis

### 3.1 Addressing Concerns Raised

3.1.1 In order to address concerns raised in connection with the management of the NLGCF, NAO undertook an in-depth review of the process adopted - from the submission of applications to the eventual disbursement of funds - for a sample of applications approved between January 2011 and March 2013. These were reviewed in detail to determine (a) the appropriateness of the processing of applications in accordance with the periodic guidelines issued, and (b) that the relative commitments and disbursements in respect of the approved applications were made in accordance to statutory requirements. An analysis of the database of all commitments made between January 2011 and March 2013 was also carried out. Although this analysis was less detailed than that of the sample, it gave an overview of all commitments made during the period under review and highlighted those instances where commitments were not made in accordance to statutory requirements. Another concern raised involved the commitments made out of NLGCF in the run up to the March 2013 general election that, it was alleged, committed funds for a number of years. To address this issue, NAO reviewed all commitments made during the period under review and all projected income up to 2014 to arrive at an estimation of the Fund's balances.

3.1.2 Testing and analysis consisted of three distinct stages:

- a. testing the appropriateness of the processing of a sample of applications that have been approved in accordance with the established Guidelines;
- b. review of all commitments made between January 2011 and March 2013; and
- c. analysis of the management of the NLGCF.

### 3.2 Testing the Appropriateness of the Processing of Applications in Accordance with the Guidelines

3.2.1 The data of all applications received and commitments made between January 2011 and end March 2013 were made available by MFIN. The Ministry also submitted copies of commitment letters issued during this period, which included commitment letters for applications made prior to January 2011, yet approved thereafter. The obtained data were then compiled to form a population of 489 applications that were approved and had a commitment letter issued during this period. A sample of 70 applications was then randomly selected from the population.

### 3.2.2 From the sample selected:

- a. For 19 applications a commitment letter had been issued; however, the relative projects were still underway and no payments had as yet been effected. Nonetheless, these applications were analysed up to their stage of completion. Out of these 19 applications, six had not been submitted within the stipulated dates as required by the Guidelines for applicants requesting more than €5,000 in funding. In addition, in one of these 19 applications, the commitment letter was signed by the Minister prior to the recommendation for approval by the Advisory Board. The grant was of €1,650.
- b. The sample also included two 'special' cases where funds were paid out of NLGCF on humanitarian grounds. These were for €2,000 and €2,600.
- c. One application was for the granting of funds to the Malta Community Chest Fund for the 2012 Charity Fun Run. This commitment, amounting to €10,000, had been recommended by the Advisory Board.
- d. There were two applications that were granted funds out of the NLGCF for which only the commitment letter was forwarded to this Office. Consequently, no analysis of the processing of these applications could be carried out. Grants paid in respect of these applications stood at €30,000 for the improvement of a locality's existing football pitch and €1,876 with respect to a social case.

3.2.3 A thorough analysis of the process in its entirety was undertaken with respect to the remaining 46 applications. These had been submitted by various applicants, recommended by the Advisory Board and approved by the Minister. A commitment letter had been issued and payment effected on completion of the project in final settlement for the expenses incurred. NAO's analysis in this regard revealed that:

- a. Four of these 46 applications were granted more than the equivalent of 67 per cent of financing, which represented the maximum percentage stipulated in the Guidelines. This issue is dealt with in detail further on in this chapter.
- b. 14 applications were not submitted within the stipulated dates, as required by the Guidelines for applicants requesting more than €5,000 of funding.
- c. According to the Guidelines, "*...any proposed projects and initiatives can only be considered for financing if their financing needs are 'one-off' in nature and would not make any further claims on the fund to finance any recurrent commitments of whatever nature...*". From the sample selected, there were two instances where the financing was not strictly 'one-off' in nature, with the event being held for at least two consecutive years, with separate applications being submitted for each respective event. These funds were granted towards the organising of a youth football knockout competition and a music festival.
- d. The Guidelines stipulate that, "*...in the case of limited liability companies, the Board must ensure that its objectives, as outlined in its Memorandum and Articles of Association, are consistent with the objectives of the Good Causes Fund. For example, a company seeking to finance a cultural event should have the organisation of such events outlined in its objectives clause...*". From the sample selected there was an application submitted by a limited liability company where a copy of the Memorandum and Articles of Association was not enclosed with the application forwarded by MFIN. The grant was for €10,000 and corresponded to the organisation of a choral event.

- e. The Guidelines also state that, “...the Advisory Board will not disburse any funds unless it is first provided with evidence that the project or initiative would have been carried out. Such evidence may include fiscal receipts, certificates of works, photographic evidence, physical inspection or any other form the Board feels appropriate. Such evidence should be adequately submitted together with the original application...”. There were 25 applications from the sample selected for which not all the fiscal receipts were provided as evidence prior to the disbursement of funds. For 10 of these applications, neither fiscal receipts (corresponding to the overall project) nor evidence of completed projects were provided.
- f. The Guidelines require that, “...when a payment is presented to a beneficiary, a declaration confirming its receipt by the appropriate and authorised beneficiary is to be signed...”. In the sample reviewed, there were four instances in which there was no declaration confirming receipt of grant.
- g. In the Application to request funds, the applicant must fill a declaration and, “...state whether the organisation has ever benefited from the National Lotteries Good Causes Fund (if yes specify year/s / amount) or whether it is acquiring / has acquired funds from another source for this project...”. From the sample selected there were two applications for which the applicant did not make this declaration. One was for a grant of €2,500 for the organisation of a children’s festival and the other was for €25,000 for the upgrading and refurbishment of a football club.
- h. There was also one instance where an applicant, who was originally granted €10,000, sought the intervention of another Minister, with the grant subsequently being increased by a further €6,000.
- i. Another application had its estimate of expenses overstated by 33 per cent when compared to actual expenses incurred. It should be noted, however, that the funds granted from the NLGCF still did not exceed the 67 per cent funding as stipulated in the Guidelines when compared with the actual cost of project.

### 3.3 Testing of Commitments made between January 2011 and March 2013

3.3.1 In addition to the detailed review of the overall processing of a sample of applications (as addressed in the preceding section), NAO also analysed the database of all commitments entered into between January 2011 and March 2013. The database included, *inter alia*, (a) details corresponding to the relevant applicant, (b) the amount of funding requested, (c) the total cost of the project, (d) the amount recommended by the Advisory Board and (e) the actual amount granted.

3.3.2 The major findings were the following:

- a. In accordance with the Guidelines for the Approval of Projects and Initiatives, “...applications for projects and initiatives that do not exceed €5,000 in value, in respect of which applications should remain open all year round, should be considered on a first come first served basis up to an annual allocation limit of €200,000.” This threshold was exceeded by 14 per cent for the year ending 31 December 2012, where a total of €228,907 was committed.
- b. With regard to the parameters of financing, the Guidelines state that, “...promoters would commit themselves to co-finance their project by a minimum of 33 per cent

*of its total cost...".* There were a total of 27 applications in which the Guidelines were not adhered to, whereby promoters co-financed less than the established minimum requirement of 33 per cent. In 19 applications the funds granted from the NLGCF were 80 per cent or more of the stated total cost of the project. There were six applications where the funds granted amounted to between 70 and 80 per cent of the total cost of the project. Two applicants were granted more than 67 per cent of funding, but less than 70 per cent of the total cost of the project.

- c. There were two applications where applicants received more than what was recommended by the Advisory Board and even more than the amounts requested by the applicants themselves. One application was for the restoration of four statues and the other was for the installation of a floodlighting system at a tennis club.
- d. There was also an application where the applicant received more than what was recommended by the Advisory Board, although, in this case, the amount did not exceed the request made by the applicant. This application related to a theatrical production that was held in Gozo.
- e. With regard to thresholds the Guidelines state that, *"...total contribution towards the proposed project should not exceed €50,000..."*. There were two applications where this threshold was not adhered to and the contributions towards the projects exceeded this limit. Funds granted amounted to €100,000 and €60,000. Both projects were linked to the restoration of historical sites and entrusted to the same organisation.
- f. All the commitment letters issued in Q1 2013 were signed by the Minister prior to the date of the (unsigned) Advisory Board's report.

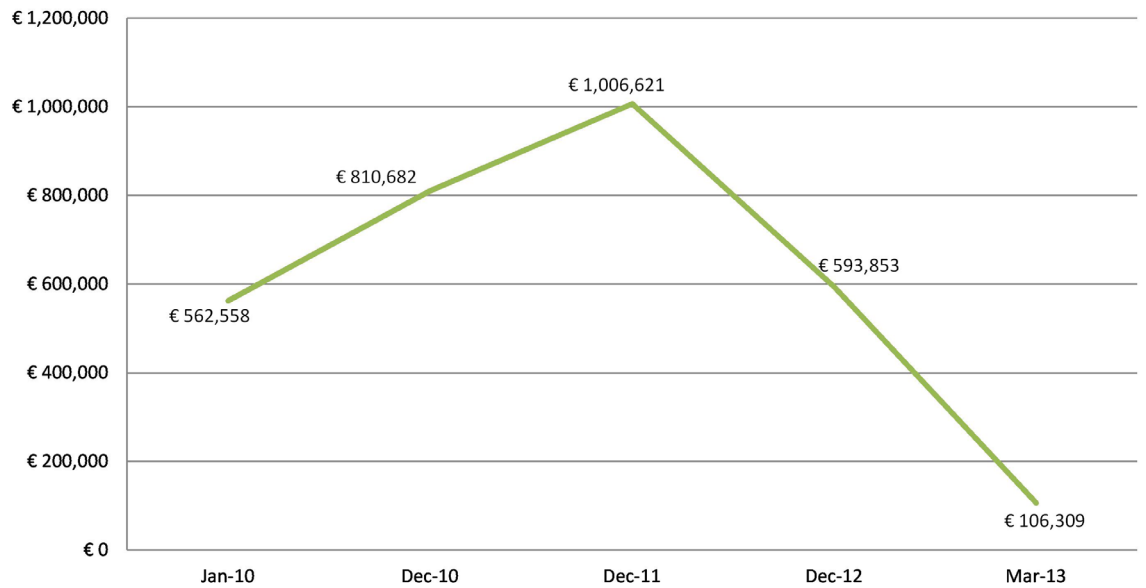
### 3.4 The Management of the NLGCF Account

3.4.1 From the Financial Reports prepared by the Advisory Board for the years ending 31 December 2010, 2011 and 2012, forwarded to the Minister at the end of each financial year, it appears that the average annual income of NLGCF amounted to approximately €1.7 million. This income consisted of approximately €1 million per annum from gaming tax and about €700,000 per annum received from unclaimed prizes. Interest accrued on the account for 2010, 2011 and 2012 amounted to €3,227, €7,633 and €3,225, respectively. Interest for Q1 2013 was €146.

3.4.2 From January 2010 to March 2013, the NLGCF balance fluctuated as follows (Figure 2 refers):

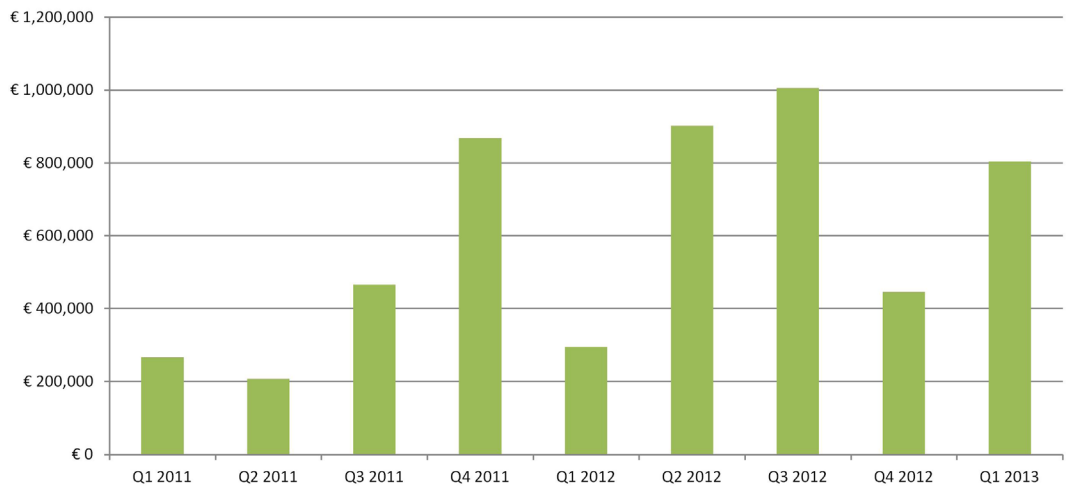
- a. The opening balance of the NLGCF account stood at €562,558.12 in January 2010. The closing balance as at year-end was €810,682.19.
- b. The closing balance as at end 2011 was €1,006,621.10.
- c. The closing balance as at end 2012 was €593,853.30.
- d. The closing balance as at end March 2013 was €106,308.76.

Figure 2: NLGCF Balance, January 2010 - March 2013



3.4.3 On the basis of reports submitted by the Advisory Board for the Minister’s endorsement, the following figure (Figure 3 refers) illustrates the amount (in Euro terms) of commitments approved on a quarterly basis from Q1 2011 to Q1 2013. Rendered immediately evident in Figure 3 is the substantial increase in commitments endorsed in Q4 2011, as well as from Q2 2012 onwards.

Figure 3: Commitments Approved, Q1 2011 - Q1 2013



3.4.4 Further to the above, NAO analysed the commitments made out of the Fund and which were still outstanding as at 31 March 2013. These were as follows:

- a. There is an annual obligatory expense of approximately €350,000 emanating from agreements signed between Government and band clubs as well as other organisations that house or host a lotto booth. This expense was generally paid bi-annually, in February and August of each year. However, no payments in this regard were made during Q1 2013. It is to be noted that the amount of €350,000 takes into consideration an adjustment made in the calculation of commission with effect from 2013, following corrective action instigated by NAO, in accordance with the agreements signed with these organisations in 2004.
- b. On 11 February 2012, an agreement was signed between Government and the MFA whereby it was agreed that Government would commit €400,000 out of the NLGCF to be paid to the MFA during the years 2012 and 2013. Of this amount, €100,000 were paid to the MFA by end December 2012. The remaining balance of €300,000 was to be paid during 2013, €50,000 of which were paid in January 2013. Therefore, the remaining outstanding commitment as at end March 2013 was of €250,000.
- c. On 1 November 2012, a lease agreement was signed between MIA plc and Government whereby it was agreed that the annual rent for the use of a lotto booth by a lotto receiver at the MIA will be provided through the NLGCF. The period of the lease was of 11 years, commencing on 31 July 2011 (that is, the lease agreement was backdated) and expiring on 30 July 2022. The rent for this lotto booth was set at €6,500 exclusive of VAT and any other taxes per annum, subject to an annual cumulative increase of five per cent which was to be paid quarterly in advance. As at end March 2013, the amount owed to MIA was €4,991.
- d. During 2013, a MoU was signed between Government and MAS, whereby it was agreed that Government would partially finance the organisation of the Malta International Air Show for three consecutive years commencing in 2013 by means of an annual contribution of €30,000 out of the NLGCF. No payments were made to MAS by end March 2013 in this regard, therefore resulting in an outstanding commitment of €90,000 due by 2015.
- e. From the applications submitted and committed for 2011, the amount of €120,500 was still to be settled.
- f. From the applications submitted and committed for 2012, the amount of €606,743 was still to be settled.
- g. From the applications submitted and committed for Q1 2013, the amount of €452,097 was still to be settled.
- h. There were other applications that were approved by the Minister with corresponding commitment letters specifically indicating when payment of the amount due was intended during 2013. Such commitments included €218,500 earmarked for Q2 2013, €242,000 for Q3 of 2013 and €171,900 for Q4 of 2013.

3.4.5 Therefore, the total amount of commitments entered into between January 2011 and end March 2013, which were deemed as still pending as at end Q1 2013, and which applicants could claim by end 2013 was €1,811,740.

3.4.6 Additionally there were other commitments made for the years 2014, 2015 and 2016. The total commitments for 2014 corresponded to nineteen beneficiaries and amounted to €294,150. Furthermore, two commitments entered into with respect to 2015 accounted for €65,000, while an additional commitment for 2016 accounted for €30,000.

3.4.7 In addition to the above, there might be other commitments that were entered into by the NLGCF prior to January 2011, and which, to date, have still not yet been settled. Since the information obtained goes back to January 2011, this does not include outstanding commitments brought forward from 2010 or before. Given the considerable time lapse, it is unlikely that such outstanding commitments would bear any significant impact on the overall situation of the Fund.

3.4.8 Table 1 illustrates the Fund's projected cash flow for the period January to December 2013.

Table 1: Projected Cash Flow for 2013

Projected Income: January – December 2013		
Balanced b/f from 2012	€593,853	
Income: January – March 2013	€241,124	
Projected Income April – December 2013 <sup>1</sup>	€1,458,876	
<b>Total Income</b>		<b>€2,293,853</b>
Payments and Commitments: January – December 2013		
Payments effected between January – March 2013	€728,669	
Projected Expenses: April – December 2013		
- 2011 Pending Commitments	€120,500	
- 2012 Pending Commitments	€606,743	
- 2013 Pending Commitments	€1,084,497	
- Projected Commission to Band Clubs <sup>2</sup>	€350,000	
- MFA Pending Payment	€250,000	
- MAS MoU	€30,000	
- MIA Lotto Booth Rent		
- Amount due up to March 2013	€4,991	
- Amount due for period April – December 2013	€6,208	
<b>Total Payments &amp; Commitments</b>		<b>€3,181,608</b>
<b>NLGCF Projected Net Position as at Year End 2013</b>		<b>(€887,755)</b>

Notes:

- 1 Projected income corresponding to the period April to December 2013 is calculated as €1,700,000, less the €241,124 actual income earned in the period January to March 2013. €1,700,000 is the average income for years 2010, 2011 and 2012.
- 2 Projected commission to band clubs is based on the actual commission paid for Q1 and Q2 2013, subsequently extrapolated over the whole year.
- 3 Pending commitments made prior to January 2011 are not included in this Table.

3.4.9 Table 1 indicates that, during 2013, the Fund's projected commitments are expected to exceed its projected income by approximately €888,000. Therefore, it will not be possible for the NLGCF to honour the equivalent of €888,000 of commitments due by year end 2013, which should therefore be notionally brought forward to 2014.

3.4.10 As stated above, for the period January to December 2014 there were additional commitments amounting to €294,150 that were entered into before end March 2013.



3.4.11 Table 2 illustrates the projected cash flow for the period January to December 2014, factoring in all of the above.

Table 2: Projected Cash Flow for 2014

Projected Income: January – December 2014		
Projected Income January – December 2014 <sup>1</sup>	€1,700,000	
Total Income		€1,700,000
Projected Expenses: January – December 2014		
Projected Pending Commitments b/f from 2013	€887,755	
Projected Commissions payable to Band Clubs <sup>2</sup>	€350,000	
MAS MoU	€30,000	
MIA Lotto Booth Rent	€8,632	
Pending Commitments due in 2014	€294,150	
Total Commitments		€1,570,537
NLGCF Projected Net Position as at Year End 2014		€129,463

Notes:

- 1 Projected income is based on the average income for years 2010, 2011 and 2012.
- 2 Projected commission to band clubs is based on the actual commission paid for Q1 and Q2 2013, subsequently extrapolated over the whole year.
- 3 Pending commitments made prior to January 2011 are not included in this Table.

3.4.12 Table 2 indicates that the projected income that is to be generated in 2014 is expected to meet the outstanding commitments made before March 2013 and due in 2014. After honouring all the commitments entered into before March 2013, the year 2014 is expected to end with a balance of approximately €129,000, which could then be used to pay any commitments made after March 2013.

3.4.13 It is, therefore, projected that the year 2015 will commence with an opening balance of €129,000. However, one must bear in mind that there are the aforementioned commitments of €65,000 made before March 2013, and which fall due in the year 2015, together with another €30,000 due in 2016. The final payment of €30,000 of the MoU signed between Government and MAS is also due in 2015.

3.4.14 From NAO's above analysis, it is reasonable to surmise that, honouring all commitments entered into by the Fund between January 2011 and March 2013 that are plausibly or actually due by 2013 and 2014, will entail utilisation of approximately all of the NLGCF's available funds up to end 2014. Furthermore, if additional commitments brought forward from 2010, which were still not settled during the audit period under review, were added to the other accumulated commitments brought forward from 2011, then the settlement of outstanding commitments entered into prior to March 2013 may possibly extend beyond end 2014.

3.4.15 The above highlights shortcomings that, unless rectified, would compromise the significance of the NLGCF as a valuable component that assists and supports deserving causes.





## Chapter 4 - Conclusions and Recommendations

4.1.1 NAO has identified concerns and areas for improvement in the management of the NLGCF. The main shortcomings identified were:

- a. Commitments were made out of NLGCF that bound funds well into the future, to the possible detriment of other potentially deserving causes. Considerable commitments were made particularly in Q4 2011, as well as from Q2 2012 onwards (Figure 3 refers), which have resultantly restricted the Fund up to end 2014.
- b. Although NAO is fully aware of the fact that the Guidelines are not legally binding, and that these do include a clause which allows the Minister to make exceptions and waive part or all conditions of the said Guidelines, this Office is of the opinion that good governance would dictate further efforts at adhering to such provisions.
- c. Notwithstanding the above, the funding parameters were not always respected with instances where the thresholds for grants out of NLGCF were surpassed. In a few cases, the actual allocation was more than that recommended by the Advisory Board or, in cases of greater concern to NAO, more than that actually requested by the respective beneficiaries. Reasons for approval of funding outside of the parameters established by the Fund's Guidelines were not always clearly indicated in the Advisory Board's report.
- d. Once the letter of commitment was issued, the grant remained valid for an indefinite period, with no restrictions on completion dates or eligibility to grant.
- e. Data relating to the NLGCF, although maintained, was fragmented with no one comprehensive source that included all the relevant information for each application.
- f. Since the NLGCF is accounted for on a cash basis, it rendered the task of keeping track of all commitments that had previously been made when approving new applications even more onerous.
- g. For some months during the period under review, the Advisory Board was composed solely of an Acting Chair, one member and the secretary. This, in NAO's view, seriously undermined the relevance of the Board, and hindered its performance.

4.1.2 NAO feels that these shortcomings should be addressed to ensure that NLGCF remains a valid tool that aids initiatives and projects for which funding may otherwise not be possible or may be difficult to obtain. NAO recommends that:

- a. A more detailed database of applications than that currently available is maintained. The database is to document the whole process of each application, which - apart from the obvious details such as the particulars of the applicant, the details of the project for which funding is sought, the amount requested and that approved - should also clearly indicate the reasons for recommendation/refusal by the Advisory Board, the approval of the Minister, the issue of the commitment letter and the actual disbursement made. The reasons for the recommendation must be clearly indicated and kept on record, especially for funding that does not strictly fall within the parameters established by relevant NLGCF legislation and guidelines. Likewise, reasons for refusals should be clearly stated and logged. A copy of all relevant documentation is to be retained. Moreover, a unique reference number is to be given to each application and should be invariably quoted when reference to the particular application is made, including the Board's quarterly report, the commitment letter and the 'movements in account' report. It has to be stated that delays in the submission of certain documentation and lacunae or incomplete details have caused considerable delays and extra work for NAO, especially in the compilation of a complete database of applications, approvals and payments.
- b. Currently, once a commitment letter has been issued, funds allocated remain committed for an indefinite period. NAO recommends that a time limit on commitments be introduced, whereby a date from the issue of the commitment letter is stipulated as the deadline for the completion of the project and consequent entitlement to funding. As things stand, commitments never effectively become time barred.
- c. The NLGCF account is to be held on an accruals basis, as this would better illustrate what funds have been allocated and the balance that is actually available for disbursement.
- d. The total of commitments not yet settled should not exceed a certain amount above or a percentage of the actual balance held in the NLGCF account at any given time. Although according to the Ministerial Direction, the total amount of funding allocated to each quarter should not exceed amounts that would be available in the Fund for that quarter, or in case of Tier 2 the annual threshold, this has obviously not been the case since the NLGCF is currently committed up to 2014. Although there is no financial malpractice by over-committing, NAO feels that this is a matter of prudence and good sense.
- e. The Guidelines for the approval of projects and initiatives must be clear on the parameters of financing to remove any ambiguity. Doubts on eligibility, for example, may arise on events that are held annually - such as youth sports tournaments and concerts - for which funding is then requested every year, which is in clear contrast with the one-off nature and non-recurring provisions established through such Guidelines. Similarly, considerable grants allocated towards similar objectives, albeit to different organisations, may not essentially adhere to the element of 'sharing' ensconced in the NLGCF to the detriment of other areas of activity that the Fund is intended to assist.

- f. Individuals and organisations applying for funds are currently requested to state whether other funding was sought, either from the NLGCF or other sources. With regard to funding from NLGCF the wording as is may be ambiguous in that it is not clear whether the declaration required is in respect of previous funding from NLGCF for this or other projects.
  - g. The provisions of the Guidelines should be adhered to with regard to thresholds and parameters of funding out of the NLGCF, including the requisite co-financing by promoters and the presentation of evidence of the completed project.
  - h. Furthermore, it is imperative that fiscal receipts presented by beneficiaries should correspond to total project or initiative costs, and not be limited to the amount granted. Such a measure would ensure that NLGCF thresholds are being appropriately adhered to.
  - i. The composition of the committee should be strengthened to possibly include members from MFIN's Accounts Section and officers knowledgeable in all areas related to NLGCF.
- 4.1.3 The possibility that the responsibility for the Fund may be transferred from MFIN to the Office of the Prime Minister had surfaced when the issue of over-commitments was first brought up. Of course, changes to the current set-up will necessitate analogous amendments to existing legislation. Nonetheless, whether this transpires or not, the shortcomings identified need to be addressed.



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