

ANGUILLA FINANCIAL SERVICES COMMISSION Annual Report and Accounts 2011



Anguilla's licensing and regulatory body for the financial services industry



OUR MISSION

To enhance the safety, stability and integrity of Anguilla's financial system and contribute to Anguilla being a premier financial centre, through appropriate regulation and legislation, judicious licensing, comprehensive monitoring and good governance.

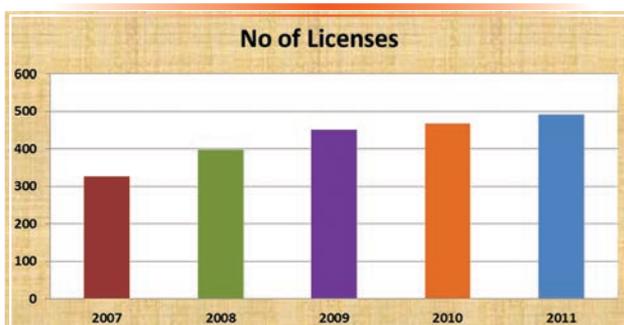
DIRECTOR'S REPORT

This will be my first and only report as Director of the Anguilla Financial Services Commission. I took up the post in October 2011 following the departure of my predecessor, Eleanor Astaphan, pending the appointment of her permanent successor. It therefore falls to me to review a year for which I have personal knowledge of only the last three months. I am indebted to colleagues who have taken up the challenge to fill in the many gaps in my understanding.

The year 2011 saw a continuation of the global economic uncertainty which has succeeded the financial crisis of 2007-8, characterized by the ongoing problems of the Euro and some of its member countries but also marked by relative stagnation elsewhere. Anguilla remained challenged by the continuing low levels of inward investment and visitor numbers.

Number of Licensees

Despite the inauspicious economic environment, there was a modest increase in the number of the Commission's licensees, primarily in the captive insurance and mutual funds sectors. Total number of licensees stood at 490 at the end of December 2011 representing a marginal increase of 4.7% over the previous year and compared to 3% growth during 2010. However, the Commission is aware that licencees continue to assess the economic viability of their businesses and it is expected that there will continue to be a number of requests for the surrender/revocation of licences. It is likely that industry practitioners will have to work hard to maintain the current trend of relative stability. A graphic representation can be found below.

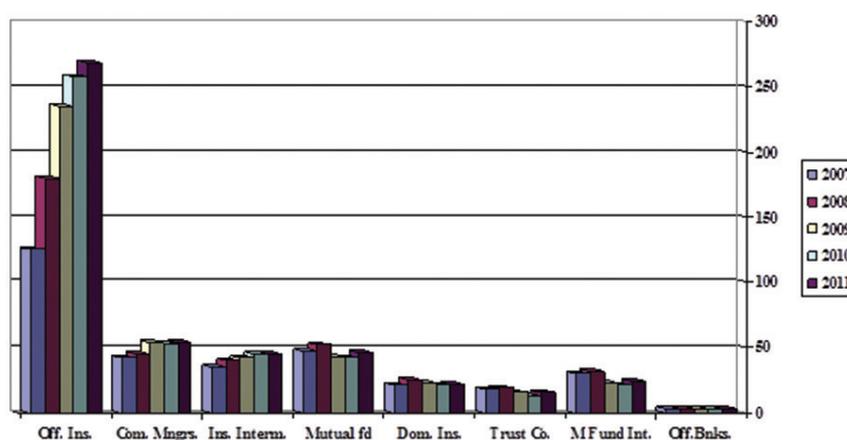


RICHARD HANDS

“The Commission remains committed to providing effective supervision to international standards.”

DIRECTOR'S REPORT (continued)

The following chart provides an industry sector breakdown of licensees, excluding a small number of foreign insurance companies. It also excludes the money services business sector which came under the purview of the Commission by virtue of the Money Services Business Act, 2009. To date, two licences have been confirmed. The dominance of the offshore, captive insurance sector remains clear and demonstrates Anguilla's position as the fifth largest jurisdiction by number of companies in the captive insurance market.



Internal Governance and Regulatory Capacity

Eleanor Astaphan took over as Director of the Commission at the end of 2009 and the search for a Deputy Director took longer than expected. The Commission operated without a Deputy Director for all of 2010 and a substantial part of 2011. In July 2011, the Commission was fortunate to be able to welcome Robert Hudson as the new Deputy Director. He brought with him considerable experience in securities regulation in Canada and Southeast Asia. The absence of a Deputy Director and the constraints imposed by the Commission's offices posed real challenges in ensuring that the Commission continued to meet its statutory obligations for the effective supervision and regulation of the financial services sector.

In September 2011, Mrs Astaphan resigned from the Commission. Despite this, the Commission was able to proceed with efforts to improve regulatory capacity and formulate plans for further development. At the same time, the commitment of all staff enabled the routine business of supervision to continue. As Interim Director, I would like to thank all staff who ensured that I was able to continue Mrs Astaphan's work with the minimum of disruption.

The Commission remains committed to upgrading the skills of regulatory staff. The insurance sector remains the most significant area of the Commission's activities where technical regulatory knowledge is

required. In consequence, the Commission engaged in active negotiation with the Commonwealth Secretariat for the provision of a long-term insurance advisor to provide capacity building.

Regional Developments

On October 18-19, 2011, a workshop on insurance regulation and supervision was held in Saint Kitts and Nevis, with the participation of the Eastern Caribbean Currency Union (ECCU) insurance regulators, ECCU financial secretaries, the Eastern Caribbean Central Bank, representatives from the ECCU insurance industry, and representatives from the Caribbean Development Bank and the World Bank.

The purpose of the workshop was to discuss the shape of insurance regulation and supervision going forward, drawing the lessons of the CLICO/BAICO failures, and considering new opportunities (single financial space) as well as emerging risks (large and potentially interconnected financial institutions).

In order to be fully consistent with a single financial space, it was proposed that a uniform domestic insurance law should be adopted.

The Commission decided to take a "listen and learn" approach at this time.



DIRECTOR'S REPORT (continued)

Anti-Money Laundering and Combating the Financing of Terrorism (“AML/CFT”)

The AML/CFT Unit, in collaboration with the Financial Intelligence Unit (FIU), engaged in outreach sessions with the two indigenous banks. The outreach sessions were held with senior management and the directors.

An outreach session was also held with personnel from the Money Services Businesses which was very well attended.

The AML/CFT Unit also conducted a number of AML/CFT onsite examinations covering corporate governance and related issues across the financial services sector between July to October 2011. The purpose of each examination was to evaluate the service providers' compliance with the Anti-Money Laundering and Terrorist Financing Regulations, 2009 and AML/CFT Code, 2009. The examinations identified a number of key areas in which financial service providers required improvement. The main conclusions of the themed examination programme and some additional guidance on AML/CFT matters were published on the Commission's website and circulated individually to industry practitioners. The Commission has determined that AML/CFT risk represents one of the major threats to the reputation of the jurisdiction and that the results of the 2011 examinations were of sufficient concern that the AML/CFT examination will be extended into 2012 and beyond.

One of the items emanating from the onsite examinations was a need for training and thus the Commission intends to hold an AML/CFT seminar with the financial service providers in the 2nd quarter of 2012.

International Assessment

Anguilla's CFATF follow up report was presented and reviewed in November 2011 at the XXXIV CFATF Plenary. Anguilla continues to make improvement in its AML/CFT regulatory framework and will report back to the XXXVI CFATF Plenary in November 2012.

The first phase of the OECD/Global Forum Peer Review was held in July 2011 in Cayman Islands where the report was approved by the Peer Review Group. In a press release dated 19 September 2011, the Ministry of Finance indicated that the Peer Review Group reported that Anguilla had a strong anti-money laundering regime.

Legislative Update

The legislative review continues to be guided by the results of the CFATF mutual evaluation report in which amendments to the legislation have been pursued to ensure compliance with international standards.

Final revisions to the drafting of legislation have been made to the Financial Services Commission (Amendment) Bill, Proceeds of Crime (Amendment) Bill, AML/CFT Regulations and Code (referred to earlier) as well as the Externally and Non-Regulated Service Providers Regulations.

The Financial Services Commission is a member of the Joint Legislative Committee. Two pieces of legislation have been discussed at the latter, namely the Mutual Funds (Amendment) Bill and the International Insurance Bill.

The Way Forward

The Commission remains committed to providing effective supervision to international standards and during 2011, set in place a number of plans that will have come to fruition before this report is published. Decisions made in 2011 will result in a move to more modern and more suitable premises with room for expansion, the recruitment of three further regulatory staff and additional administrative resources.

These developments will mean that, for the first time, the Commission will be running a deficit budget and committing some part of the reserves it has built up over the years to ensuring that it can meet its supervisory commitment. Inevitably, if the demand for additional resources continues, this may mean that the fees paid by practitioners will have to increase or the Commission might have to rely on the provisions of section 18 of the Financial Services



DIRECTOR'S REPORT (continued)

Commission Act to seek reimbursement of any deficit from Government by way of a charge against Company Registry fees.

Finally, the process of recruiting a permanent Director was well under way by the end of 2011 and the Commission has committed to ensuring a smoother handover to the new Director, with greater transparency for industry practitioners. Mr Keith Bell will be taking up his appointment in July 2012 and I wish him well. I am confident that he will be welcomed to the island and be fully supported in his stewardship by the board and staff of the Commission, as I have been.