



Anguilla Financial  
Services Commission

**ANNUAL REPORT**

**2015**



# DIRECTOR'S REPORT



The Anguilla Financial Services Commission is responsible under the provisions of the Anguilla Financial Services Commission Act, R.S.A. c. F28 for administering the financial services enactments listed on the back page of this Annual Report,

including licensing and prudential supervision of licensees under those enactments and taking enforcement action where necessary in cases of non-compliance with requirements under those enactments.

The Commission also is responsible for registering externally regulated service providers, non-regulated service providers and non-profit organisations under AML/CFT legislation and for monitoring and enforcing compliance by those registrants, as well as by licensees, with their AML/CFT obligations.

## Number of Licensees

The global economy in 2015, continuing to struggle

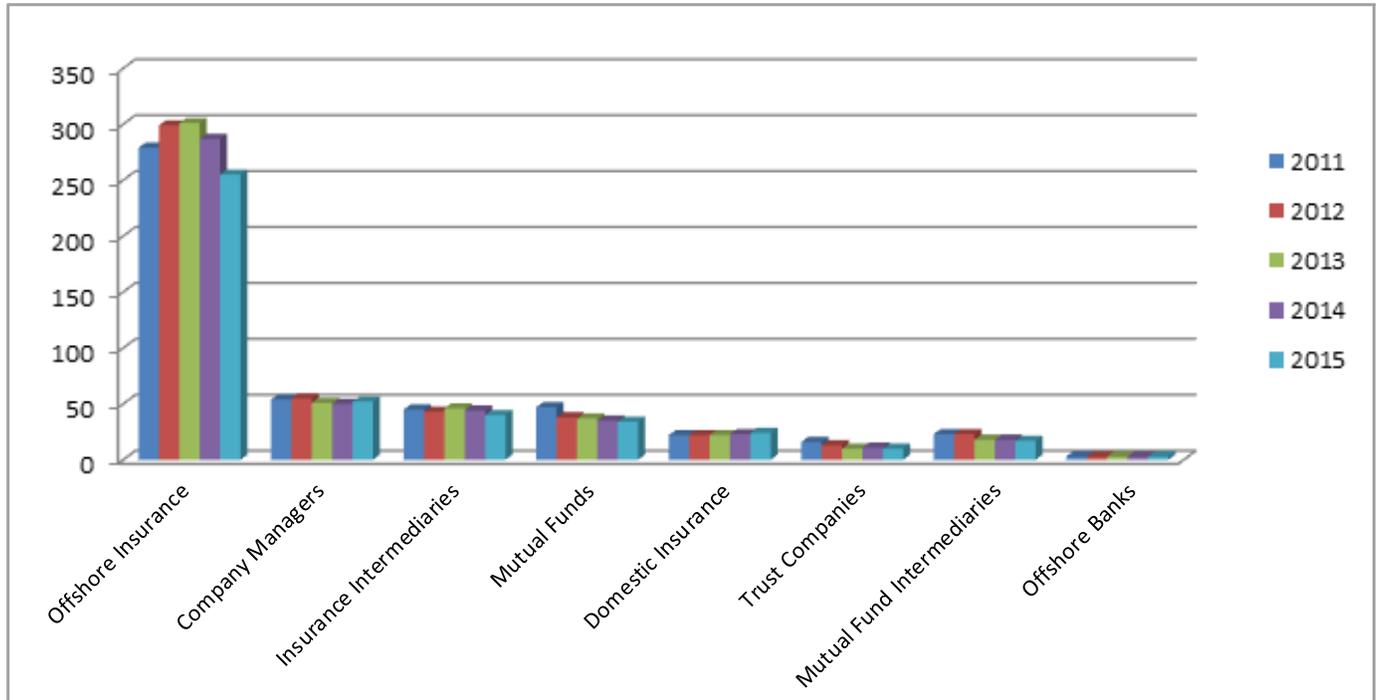
and dominated by uncertainty, impacted Anguilla's financial services industry as reflected in the chart below. The Commission now has experienced three consecutive years of decline in the total number of its licensees. The total number of licensees was 437 as at 31 December 2015, a decline of 8.4% from the previous year as compared to a 3.4% reduction during 2014. The captive insurance sector in particular, comprising more than 50% of the Commission's licensees, continued its decline in numbers falling from 279 licensees as at 31 December 2014 to 249 as at 31 December 2015, a decline of 10.8%. Most of the Commission's captive insurance licensees are owned by U.S. residents and provide insurance to related companies located in the United States. Increased competition from U.S. states to attract captive insurance company incorporations, combined with various actions by the U.S. Internal Revenue Service directed at small captive insurance companies, has led to many U.S. owned captives favoring a U.S. domicile and has resulted in this jurisdiction replacing fewer captive insurance licensees than it has lost over the past year from normal attrition.

The following chart provides an industry sector breakdown of licensees, excluding the money services business sector that comprises only 2 licensees. The dominance of the offshore captive



insurance sector continues and, even with the decrease in the number of licensed captive insurers, demonstrates Anguilla's continued position as one of the world's leading jurisdictions

as rated by number of companies licensed in the captive insurance market.



## Sector Reports

### Insurance Sector

#### *Domestic insurers, agents and brokers*

As at 31 December 2015, there were 24 licensed domestic insurers and 18 licensed agents/brokers. One new domestic insurer was licensed in 2015.

#### *Single insurance market project*

In 2009, the Monetary Council of the Eastern Caribbean Currency Union ("ECCU") established a Ministerial Subcommittee on Insurance in response to the challenges created by the failure of the CL Financial Group. This subcommittee is responsible for, among other things, overseeing development of a single insurance market for the ECCU, including a regional regulatory body.

The Ministerial Subcommittee on Insurance is supported by a Technical Core Committee on Insurance, which has comprised government and

ECCB officials as well as international insurance and legal experts.

In October 2014, the Monetary Council appointed a Steering Committee to coordinate activities leading to the establishment of a single insurance market and regulator for the ECCU.

In November 2015, the Steering Committee came to Anguilla and held a public consultation with the insurance industry, updating industry members on the status of the project and soliciting comments and concerns. A draft Insurance Act for the ECCU region has been produced but has not yet been enacted by the ECCU member states. Specifics on the structure and location of the regional insurance regulatory body have yet to be determined.

#### *Captive Insurers*

As at 31 December 2015, there were 249 licensed captive insurers. During the year 18 new companies were licensed, 28 licensed captive insurers surrendered their licences and 20 licences were revoked.

## *Foreign Insurers*

As at 31 December 2015, there were 6 licensed foreign insurers. There were no new licences issued and 1 licence was revoked during 2015.

## *Insurance Managers*

As at 31 December 2015, there were 20 licensed insurance managers. One new license was issued, 1 was surrendered and 3 licenses were revoked during 2015.

During the year, Commission staff conducted onsite prudential examinations of two insurance managers, one located in Florida and the other located in the Cayman Islands. The insurance managers provide insurance management services to captive insurance companies licensed in Anguilla. The examinations were full scope in nature, including a review of the governance, operations, internal controls and financial soundness of, and compliance with the Insurance Act and Regulations by, both the insurance managers and the captive insurers under their management.

The onsite examination of the Cayman Islands based insurance manager was conducted over the course of four days by four of the Commission's insurance supervision staff. The onsite inspection of the Florida based insurance manager was conducted over the course of five days with the financial and technical assistance of the Caribbean Regional Technical Assistance Centre ("CARTAC"), a regional resource centre of the International Monetary Fund established to assist countries in the region to improve their standards of economic and financial governance. Three of the Commission's insurance supervision staff, with the onsite assistance of CARTAC's Financial Sector Supervision Advisor as well as a senior insurance supervisor providing assistance to CARTAC from another regulatory authority, conducted the onsite examination.

Key findings included identified improvements required to be made in relation to claims and reinsurance administration processes, capital management practices, governance policies and procedures, including for risk management, and regulatory compliance oversight.

## **Mutual Fund Sector**

### *Funds*

As at 31 December 2015, there were 22 licensed private funds. One new licence was granted during the year and 2 surrendered their licenses. There were 12 licensed professional funds as at 31st December 2015, with no new licenses issued or surrendered during the review period.

During the course of the year, the Commission suspended the license of 2 funds due to the funds carrying on business in a manner detrimental to the public interest and to the interests of their investors. The suspensions were extended indefinitely by way of directives issued later in the year.

### *Fund Managers and Administrators*

As at 31 December 2015, there were 17 licensed fund managers and administrators. One new licence was issued and 2 licenses surrendered during the year.

## **Company Management and Trust Company Management Sector**

As at 31 December 2015, there were 7 general trust companies, 3 restricted trust companies, and 52 company managers. The Commission has encouraged company managers to convince their larger overseas agents to become licensed as a means of addressing AML/CFT obligations more effectively. A number of the larger overseas agents have applied for and received licences. During the year, 4 new company management licenses were issued while 2 licenses were surrendered. One general trust surrendered its licence and no new trust company licenses were issued.

## **Money Services Business Sector**

There are 2 licensed money services businesses in Anguilla. During 2015 staff of the Commission completed an onsite review of one of the businesses for compliance with AML/CFT obligations. No breaches of the AML/CFT legislation were identified. A number of recommendations were made for approval at Board level of AML/CFT policies to reflect current practices.

## Offshore Bank Sector

As at 31 December 2015 there were 3 licensed offshore banks, each of two of which is a subsidiary of an indigenous domestic bank being managed under a conservatorship established for each parent bank by the Eastern Caribbean Central Bank (“ECCB”), the regulator for the two insolvent parent banks. The conservatorship was initiated on 12 August 2013 by the ECCB.

Over the course of the year, the Commission became increasingly concerned about the ability of the ECCB to develop and implement an effective resolution plan that would address fairly the position of the two offshore banks’ depositors. The Commission became increasingly concerned due to (1) the inordinate length of time that had passed since the onset of the conservatorship with no apparent action taken to bring the conservatorship to a close, (2) the failure to complete and publish audited financial statements for the parent banks, and (3) statements made in the latter part of the year by the ECCB that indicated that the ECCB was considering treating the offshore bank depositors differently from depositors in the parent banks, including possibly treating the offshore banks as creditors and not as depositors.

Considerable efforts were made by the Commission during the year to encourage the ECCB to move forward with an equitable resolution plan that included fair treatment of depositors in the offshore banks, including participation in discussions in the first quarter of 2015 with the International Monetary Fund which was providing advice to the ECCB to assist in the development of a resolution plan. The Commission also actively cooperated through much of 2015 with the government of the UK to develop a resolution plan for implementation on an urgent basis should the ECCB fail to develop an acceptable resolution plan of its own. These efforts included participating in the drafting of legislation that would enable, with considerable Commission involvement, the effective resolution of both parent and offshore subsidiary banks, including asset management and collection processes and procedures.

By the end of the year it was apparent that no imminent action by the ECCB was likely to be taken. It also remained unclear as to how the ECCB intended to treat the offshore bank subsidiaries under a resolution of the parent banks. As a

result, the Commission began preparations for a court application for the appointment of an administrator under section 37 of the FSC Act to manage the affairs of the two offshore banks in the interest of their depositors. The administrator was appointed by the Court in February 2016.

## Externally and Non-Regulated Service Providers

The Externally and Non-Regulated Service Providers Regulations (“ENRSP Regulations”) introduced in 2013 gave the Commission responsibility for the supervision of domestic banks and companies licensed under the Securities Act, R.S.A. c. S13 (together, “ERSPs”) and non-regulated financial service providers (“NRSPs”) for compliance with AML/CFT requirements under the Proceeds of Crime Act, R.S.A. c. P98 (“POCA”).

Service providers as defined under POCA are required to register under the ENRSP Regulations. During 2015, the Commission issued 30 Investor Alerts involving Anguilla incorporated companies in the business of dealing in forex and binary options trading that had failed to comply with the requirement to register under the ENRSP Regulations. Failure to register while continuing to engage in a business requiring registration is a violation of section 158 of POCA and can result, on summary conviction, to imprisonment for a term of up to 12 months or to a fine of up to \$50,000 or to both; or on conviction on indictment, to imprisonment for a term of up to 5 years or to a fine of up to \$100,000 or to both.

## Non-Profit Organizations

The Commission is responsible for the registration of non-profit organisations (“NPOs”) under the Non-Profit Organisations Regulations, R.R.A. P98-2 and for supervising their compliance with anti-terrorist financing requirements under POCA. In 2015, the Commission registered 12 NPOs and exempted 15 NPOs from registration. An NPO can be exempted from registration if its gross annual income does not exceed EC\$5,000 and its assets do not exceed EC\$10,000.

## **AML/CFT Supervision**

### **2015 Offsite and Onsite Inspections**

The Commission recognizes that its licensed company managers are faced with significant responsibilities under AML/CFT legislation to address money laundering and terrorist financing risks. Their failure to be vigilant in complying with AML/CFT legislation exposes licensees to enforcement action by the Commission and possible criminal prosecution and could create reputational damage to Anguilla. The Commission as a result has conducted a several year campaign to educate company managers on their responsibilities, in particular as stated in the Anti-Money Laundering and Terrorist Financing Code, R.R.A. P98-5 ("AML/CFT Code") and the Anti-Money Laundering and Terrorist Financing Regulations, R.R.A. P98-1 ("AML/CFT Regulations"). The education campaign included Industry Day presentations, numerous training sessions and one on one meetings as well as publications via its website.

Following on from its education efforts, the Commission in March 2015 commenced a comprehensive offsite examination program to review 51 licensees carrying on company management business to ascertain their level of compliance with customer due diligence provisions of the AML/CFT legislation, in particular with the following basic AML/CFT requirements:

- business risk assessment (section 16(f) of the AML/CFT Regulations)
- customer risk assessments (section 10 of the AML/CFT Regulations)
- identification and verification information for the customer, third party, and beneficial owner (section 10 of the AML/CFT Regulations)
- AML/CFT policies and procedures manual (section 16 of the AML/CFT Regulations)

The Commission intends to consider issuing administrative penalties against licensees who are found during the offsite examination program to have failed to comply with their obligations under the AML/CFT Code and AML/CFT Regulations and to publish the results of the examinations once determined.

As described previously, staff of the Commission also completed an onsite examination for compliance with AML/CFT obligations of one of its money services business licensees.

### **Enforcement Activity**

The Commission has been increasing its enforcement activities in order to provide, and to evidence both to the investing public and international overseers, a credible deterrence to legislative breaches. This approach corresponds with the regulatory trend internationally to strengthen enforcement programs. During 2015, the Commission issued 113 demands for the provision of information and production of documents (2014: 27). The significant increase in the number of demands issued in part reflects the scope of the offsite examination program for AML/CFT compliance launched in March, 2015. In addition, the Commission issued 10 notices of intent to suspend (2014: 8) and 7 suspensions (2014: 7), 24 notices of intent to revoke (2014: 24) and 22 revocations (2014: 19), 6 notices of intent to impose an administrative penalty (2014: 4) and 3 administrative penalties (2014: 3) totaling US\$7,589 (2014: US\$3,681).

### **Investor Alerts**

The Commission issued a total of 34 Investor Alerts during the year, mostly in relation to unregulated investment business involving forex or binary options trading. As previously stated in the Commission's 2014 Annual Report, the Commission is using its powers under the Proceeds of Crime Act, the Anti-Money Laundering and Terrorist Financing Regulations and the Externally and Non-Regulated Service Providers Regulations to address the risks of money laundering and terrorist financing posed by unregulated investment business. Specifically, the Commission will hold company managers, as well as trust companies carrying on company management business, accountable where their clients are carrying on unregulated investment business and the company manager or trust company has failed to conduct appropriate customer due diligence, including ongoing due diligence. The Commission will also enforce the requirement that unregulated investment businesses, as service providers, register as non-regulated service providers. Where effective supervision is not practical or possible, such businesses will not be registered and will be required to leave the jurisdiction.

## **Industry Development**

### **Guidelines and Policies**

During 2015 the Commission approved a number of new guidelines and policies:

*Fast Track Application Licensing Process for Captive Insurance Applicants* - The Commission has established a fast track application process for the licensing of captive insurers. The process is available for licensing applications submitted by insurance managers who meet certain eligibility requirements and have been approved by the Commission to use the fast track process. A fast-tracked licence application can be approved in one business day. The publication can be found on the Commission's webpage under "Publications" – "Policies and Procedures" – "Insurance".

*Guidelines on Acceptability of an Auditor* – These guidelines set out the criteria the Commission will use to assess the acceptability of an auditor to audit the financial accounts of licensed financial services businesses. The publication can be found on the Commission's webpage under "Guidelines".

*Guidelines on Approval of an Actuary* - These guidelines set out the criteria the Commission will use to determine whether to approve an actuary to perform an actuarial valuation of the assets and liabilities of a specified licensed insurer. The publication can be found on the Commission's webpage under "Guidelines".

*Revocation of Policy Guidance No. 5 of 2005* - The policy guidance, which applied to the appointment of an auditor for a public mutual fund, was revoked as it has been superseded by the Guidelines on Acceptability of an Auditor.

*Commission Policy on Decision Making* - The Policy was amended to clarify that, as a matter of best international practice, the Commission normally will issue a public statement when it has taken enforcement action against a licensee or former licensee, and that public statements also may be issued in relation to unlicensed activities. Moreover, the Commission will consider it fit to include in the public statement the names of current or former directors or officers or other persons with current or former responsibility for, or involvement

in, the conduct of the business of the licensee or former licensee, subject to following appropriate Maxwellisation steps in respect of that person. The publication can be found on the Commission's webpage under "Publications" – "Policies and Procedures" – "General".

### **Industry Events**

The Commission hosted a conference on 8 May 2015 for its licensed company managers entitled "Compliance vs Complacency". The over 50 attendees were given the opportunity to hear directly from, and question, CFATF representatives about CFATF's interpretation of AML/CFT requirements as applied to regulated and non-regulated intermediaries.

Commission staff also participated in the Company Management Summit hosted in Anguilla by Anguilla Finance and attended the STEP annual conference hosted by the Anguilla chapter of STEP and held in St. Maarten.

### **Staff Training**

Staff attended the World Captive Forum and the Captive Insurance Companies Association conference in February and March respectively in Florida. A week long Insurance Risk-Based Supervision Workshop was presented in-house in March by CARTAC's Financial Sector Supervision Advisor as well as a CARTAC sponsored expert from Canada. Staff also attended a number of regional and international training sessions including a credit union regional workshop held in August in St. Lucia; Reinsurance Training for Insurance Supervisors in October sponsored by The Insurance Commission of The Bahamas and Munich Re in Nassau, Bahamas; and a captive insurance supervision training seminar in October in the Cayman Islands sponsored by the Cayman Island Monetary Authority (CIMA), Group of International Insurance Centre Supervisors (GIICS) and International Association of Insurance Supervisors (IAIS).

### **Regulatory Meetings**

Staff attended the CARTAC sponsored annual meeting of the Caribbean Group of Securities Regulators in May in Jamaica as well as the

CARTAC sponsored conference for the Caribbean Association of Insurance Regulators in June in Trinidad at which two regulatory colleges were held to discuss any outstanding issues with two regional insurers.

Staff also attended the CFATF Plenaries in May and October in Trinidad. At the November Plenary, Commission staff represented Anguilla to acknowledge public confirmation at the Plenary that Anguilla was successful in exiting from the 3rd round of AML/CFT assessments, with preparations commencing for the 4th round.

**Financial Performance Analysis**

The Commission reported net income of US\$337,781 for the year ended 31 December 2015 [2014: (US\$206,513)], after three consecutive years of reported losses. Reserves increased by 19.3% to US\$2,084,185 as at 31 December 2015 after decreasing by a total of 18.7% over the three previous years to US\$1,746,404 as at 31 December 2014. The factors underlying the year’s performance

are reported below in the discussion of Revenue and Expenses.

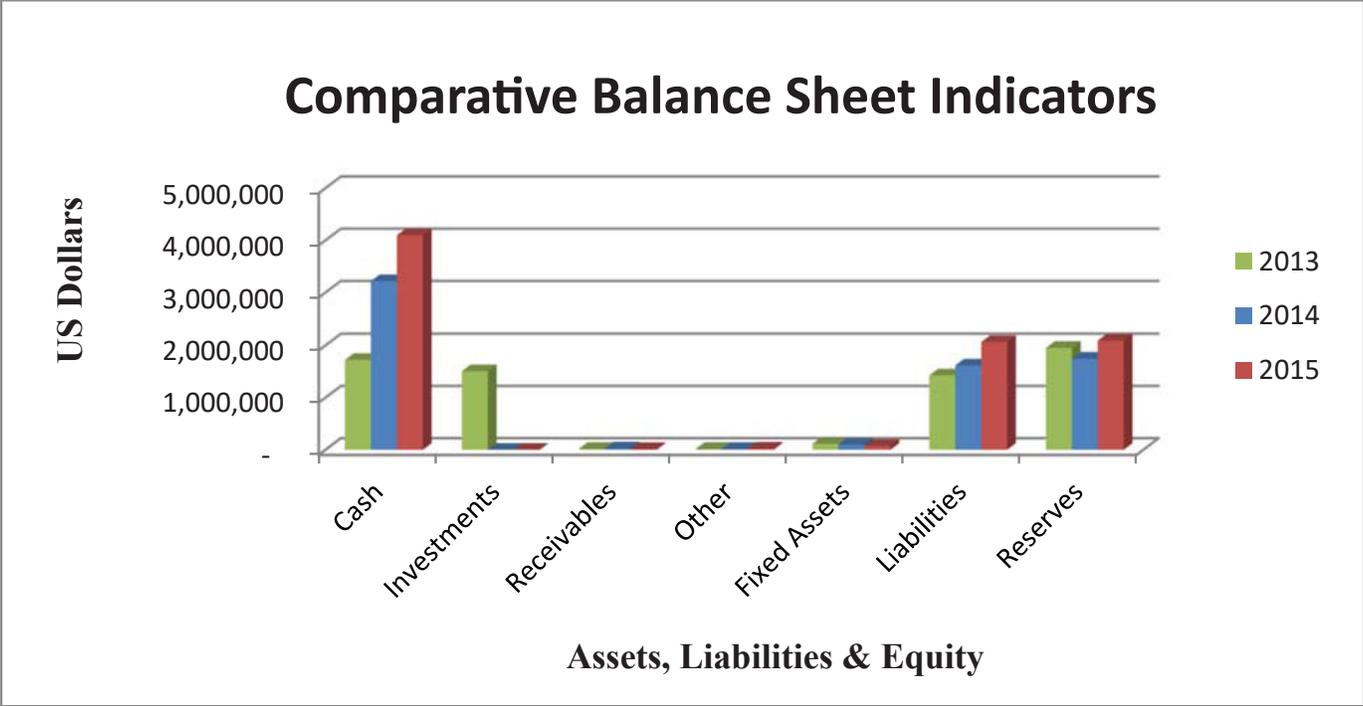
**Assets, Liabilities and Reserves**

As at 31 December 2015, the Commission’s total assets were US\$4,139,458 (2014: US\$3,363,805). Liquid assets, in 2015 being entirely cash, accounted for 97.3% of the Commission’s assets (2014: 95.7%).

**Comparative Balance Sheet Indicators**

Total liabilities were US\$2,055,273 (2014: US\$1,617,401) with the increase over the previous year-end primarily reflecting an increase in statutory deposits held by the Commission in connection with approved external insurers licensed in the jurisdiction. Accumulated reserves were US\$2,084,185 at year end (2014: US\$1,746,404), the increase resulting from the net income reported above.

Table 1: Comparative Balance Sheet Indicators

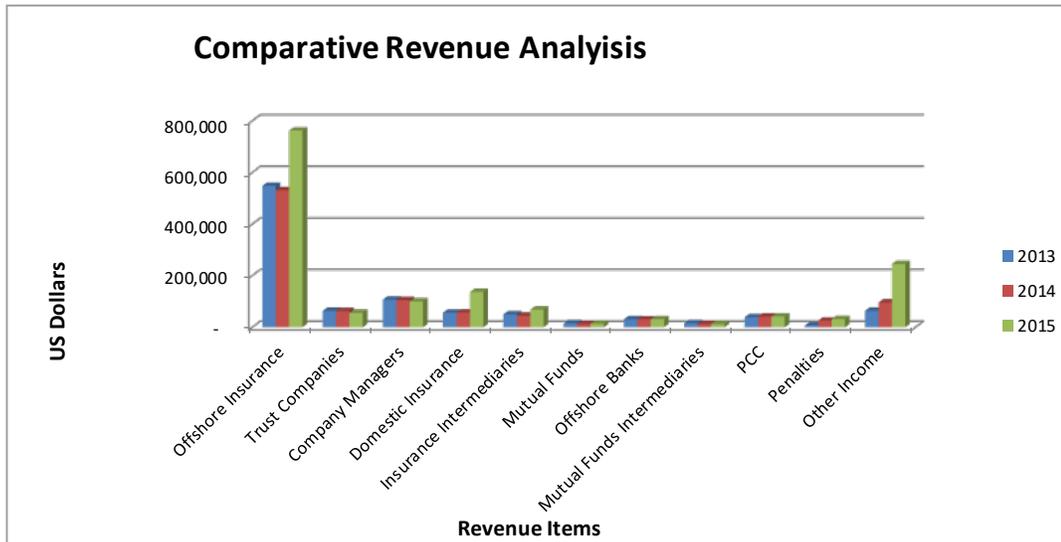


## Revenue

Total revenue increased by 47% or US\$479,793 to US\$1,495,949 (2014: US\$1,016,156). License fee revenue increased by 49% or US\$485,588 to US\$1,477,085 (2014: US\$991,497), including

domestic insurance license fees that increased from US\$56,750 in 2014 to US\$136,237 in 2015, captive insurance license fees that increased from US\$530,500 in 2014 to US\$762,970 in 2015

Table 2: Comparative Revenue Analysis



and insurance intermediary fees that increased from US\$44,500 in 2014 to US\$63,500 in 2015, due primarily to fee increases instituted as at January 2015. "Other income" as reflected in Table 2: Comparative Revenue Analysis also increased significantly, from US\$94,640 in 2014 to US\$244,828 in 2015, due as well to fee increases instituted as at January 2015. "Other income" includes income from audit waiver fees, other regulatory approval fees and externally regulated service provider annual fees.

## Expenses

Total expenditures decreased by 5.3% or US\$64,501 to US\$1,158,168 (2014: US\$1,222,669). The decrease was primarily due to professional service fees falling by US\$92,989 to US\$7,950 (2014: US\$100,939), largely due to the position of Director having been filled on a permanent basis in August 2014, eliminating the need to pay for interim professional services during 2015. Payroll costs increased by US\$53,987 to US\$820,509 (2014: US\$766,522), primarily due to a change in the manner in which accrued vacation expense was accounted for and payment of a small staff bonus.

Table 3: Comparative Expenditure Analysis

