





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.



CHAIRMAN'S REPORT



HELEN HATTON

“The future will rely, as it always has, on skills, price and positioning.”

The twelfth year of the millennium proved something of a challenge for Anguilla, as with much of the rest of the world. The events of the global financial crisis continued to be felt in terms of downturn, but sharpening the impact were the increases in regulatory grip driven by the international standard setters, law enforcement and international regulatory authorities.

One area where industry responded well to increased

Commission focus was that of external audit. Anguillian financial institutions are, for the most part, required to produce audited accounts. In the past these have not been delivered reliably and throughout 2011 and 2012 increased pressure was placed on industry participants who had failed to meet their regulatory obligations.

In the event, the majority of the industry's participants rose to the occasion and audited accounts were satisfactorily received. It would, of course, be idle for a regulator to press for the filing of audited accounts required by statutes governing the affairs of those participants in the financial services industry that it regulates and then simply file them away when received. That would certainly not be what Anguilla's legislators had in mind when enacting the applicable legislation. In keeping with its functional responsibility to “monitor financial services business carried on in or from Anguilla”, the Commission did commit resources to review of the audited accounts submitted and issues were raised for address, both immediately and for the future. In one instance, for example, a licensee's audited accounts revealed that it did not have the paid-up capital demanded by the governing statute. Primarily by review of the notes to the audited accounts, several other cases were identified where the bulk (and in one case, all) of the licensee's paid-up capital had been either invested in, or loaned to, affiliates (including the licensee's shareholders themselves) – a state of affairs entirely at variance with the Capital Adequacy Guidelines for Non-Insurance Licensees provided by the Commission in 2010. Moreover, in certain instances, albeit isolated, auditors of a licensee's accounts made pointed reference to co-mingling of the affairs of the licensee with those of its shareholder(s) and, indeed, to the state of the accounting records generally, thereby calling into question whether the licensee was in compliance with the requirements of Division 6 of the Companies Act.

Inter alia, increased availability of audited accounts and their subsequent review did enable an initial overall assessment of performance of on-island participants engaged in the company management segment of Anguilla's financial services industry. The segment - comprising twenty-two (22) licensees is stratified: there were eight (8) company managers

CHAIRMAN'S REPORT (*continued*)

who each reported gross revenues of less than US\$50,000; five (5) reported gross revenues of between US\$100,000 and \$250,000 (the operations of two (2) of the five (5) were unprofitable); another six (6) reported gross revenues of between US\$250,001 and US\$500,000 (the operations of two (2) of the six (6) were unprofitable, primarily as a result of heavy charges for “Directors’ and Management Fees”) and a final three (3) licensees reported gross revenues of between US\$500,001 and US\$650,000. Remarkable – and I make this observation as the owner/manager of a service provider – was the often “heavy” relationship of Accounts Receivable to reported Revenues from Fees and, as well, a significant Allowance for Doubtful Accounts in relation to those Accounts Receivable; indeed, for eight (8) of the licensees, the Allowance for Doubtful Accounts exceeded twenty-five (25) per cent of the reported Accounts Receivable. Management of receivables is critical for any business (except, of course, for those that deal strictly for cash) and I will be acutely interested to hear the report of the Commission’s Executive on the performance of this segment of the industry in 2013.

International Standards

Turning to a different theme, players on the global stage increased their attention to international financial centres and, together with the United Kingdom’s Prime Minister, David Cameron, taking up the Presidency of the G8, it can be expected that an increased focus on financial crime, money laundering, terrorist financing and corruption (not to mention tax evasion or “aggressive tax avoidance”) will follow. In these areas, although Anguilla has a good story to tell and a long track record of working responsibly to meet international standards, it is likely that the G8 will increase pressure on our own island and other similar centres.

Meantime, the Commission continues to work with the Government of Anguilla and the Attorney General’s Chambers to progress updates in the legislation to bring bureaux de change and money transmitters as well as non-financial businesses and professions within the Anti-Money Laundering regulatory net. Provisions are underway in respect of Money Services Businesses, Lawyers, Accountants, High Value Goods Dealers, Estate Agents and, finally, Not for Profit Organisations.

The Commission also continues to work with the Governor’s Office to progress Anguilla’s adoption of the recommendations within the FATF Review conducted in 2009, and progress in this regard is on track and satisfactory.

The Commission is also aware that the FATF has a number of working parties in progress, including a review of its 40+9 Recommendations and that the reviews are likely to generate further changes and increased sophistication in the AML/CFT provisions, probably including the mandatory inclusion of a predicate offence of tax crime and measures relating to the prevention of the proliferation of weapons of mass destruction.

Economic outlook

Whilst the complexity of the commercial and regulatory environment faced by international financial centres has seldom been more difficult, and the regional domestic banking and insurance sectors continue to experience considerable pressure and strain, there are also positives including the continuing resilience of the Anguillian captive insurance market. Anguilla is proving a sustainable jurisdiction of choice for “small-to-mid cap” captive structures and this is to be welcomed.

The future will rely, as it always has, on skills, price and positioning. The skills pool, although relatively shallow, shows some strength (and there have been commendable initiatives to “deepen” it); the price of doing business in Anguilla is considerably less than in many other international financial centres and its positioning is good, with relatively short travelling distance to many centres, a convenient time zone and it is reputationally well-positioned as a responsible and well regulated centre. These are the positives on which we must build.

As I indicated earlier, the work of a financial services regulator is not always easy and I’ve been fortunate throughout the year past (and, indeed, throughout my tenure to date as Chairman) to meet the many challenges with the benefit of the counsel of the Territory’s Governor and my fellow Commissioners and, of course, the dedication of each and every one of the Commission’s staff. These are truly my “positives” and I thank them all for their support.