



**ANGUILLA FINANCIAL SERVICES COMMISSION**  
**Annual Report and Accounts 2008**

Director's Report



## DIRECTOR'S REPORT

"It is anticipated that 2009 will be no less of a challenge; in fact, indications are that it will be even more of a challenge."

I am delighted to present the Anguilla Financial Services Commission's annual report for the period ended 31 December 2008. This is the main publication on the work of the Commission; I hope you find it an informative account of the Commission's activities.

The Commission's financial year-end was changed during 2007 from 31 August to 31 December to better align the Commission's reporting period with the licensing year for the institutions it regulates and supervises. The change in financial year-end was effected through an amendment to section 13 of the Financial Services Commission Act. This change has resulted in this report and the attached audited accounts being for 16 months rather than the usual 12 months; the reporting period will revert to 12 months for future reports.

### Performance Overview

The Commission remained true to its mission of enhancing the safety, stability and integrity of Anguilla's financial system through appropriate regulation and legislation, judicious licensing, comprehensive monitoring and the promotion of good governance. This was achieved while maintaining the Commission's financial independence and self-sufficiency, and augmenting the Commission's reserves.

At the commencement of the review period, the Commission set its strategy and arranged its priorities to achieve three main objectives, namely: i) enhance



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its regulatory capacity - human, technological and operational; ii) expand the suite of internationally compliant financial legislation, regulations and regulatory codes; and iii) further strengthen its partnership and working relationship with the financial services industry. The successes achieved in these areas were not without challenges and distractions, given the intense scrutiny, regionally and internationally, of financial sector practices and regulation/supervision, and their impact on economic performance. Anguilla was not spared this relentless review.

### Regulatory Capacity

The emphasis for the reporting period was on enhancing the Commission's regulatory capacity. The process commenced with the board's active involvement in the development of a five-year strategy document for the Commission; a dynamic document which continues to be refined.

The strategy document sought to establish broad operational and policy targets for the Commission. The targets include increased regulatory coverage of additional sectors, enhanced anti-money laundering (AML) and combating the financing of terrorism (CFT) practices, the supervision of vulnerable non-financial sectors, implementation of an organised programme of financial literacy and establishment of mechanisms to achieve and maintain internationally recognised financial regulatory standards.

### Staffing

The Commission continued to emphasise the enhancement of its human resources. This was reflected in the areas of recruitment, retention and training. During the review period the Commission developed and used standardised evaluation templates, with quantity score sheets, for the assessment of potential recruits. The evaluation templates, along with a streamlined interview process, resulted in a more rigorous review of candidates and the selection of more appropriate employees. The Commission was able to put these enhanced systems to active use during the review period for the replacement of two staff members and the addition of two new staff.

The Commission targeted staff retention by pursuing ways of improving job satisfaction; staff were provided with more responsibility and autonomy, and were encouraged to become more involved in the decision making process. Added to the drive to increase job satisfaction were the development and implementation of an enhanced performance appraisal form with quantitative and qualitative scores.

The Commission targeted training as both a retention tool and for operational efficiency. During the review period the Commission expanded its expenditure on training by 276.8%, while taking advantage of a number of training opportunities organised and funded by the Caribbean Technical Assistance Centre (CARTAC). The Commission is grateful to CARTAC for its technical support over the review period. The Commission also provided a partial scholarship in support of staff initiated training. The emphases of the Commission's training were on insurance supervision and AML/CFT compliance; this was based on the trend in licensees and the perceived areas of vulnerability.

### Technology

The Commission continued to develop an electronic database for collecting, storing, analysing and disseminating quantitative and qualitative data on the financial system in Anguilla. The database will form part of the Commission's array of tools for risk focused supervision of the financial sector. The data collected will facilitate enhanced risk profiling of licensees and sectors, which would guide the offsite monitoring and onsite examination process.

In addition to the work on the electronic database project, the Commission has been actively enhancing its use of technology to analyse periodic returns from licensees, manage the Commission's accounts and conduct due diligence searches on current and potential licensees. The Commission has already recognised significant efficiency gains from the enhanced use of technology in the regulatory process.

### Operational Efficiencies

A major part of the electronic database project is the establishment of efficient reporting forms for the collection of data on the licensees, particular sectors and the financial system in general. The Commission, in collaboration with CARTAC and the Eastern Caribbean Central Bank (ECCB), is partnering with a number of financial sector regulatory bodies in the Eastern Caribbean to develop standardised reporting forms for the various regulated sectors. These forms, which will provide the input for the electronic database, are in an advanced stage of development. The Commission has already received comments from a representative sample of licensees on the draft forms; these comments are now being incorporated into the forms.

As part of streamlining its operational processes and enhancing regulatory transparency, the Commission developed a licensing template/guide for use by service providers and potential licensees. The licensing guide discusses the Commission's licensing philosophy, the information to be submitted, the structure of the application, the application review process and the review timeline. This template has assisted in focusing the attention of service providers and applicants on the Commission's requirements and in standardising the review process for the Commission; both of which have redounded to the benefit of the industry.



## DIRECTOR'S REPORT (continued)

The relevant pieces of legislation were amended during the review period to standardise the payment of license fees. These amendments create a consistent payment schedule for licence fees and penalties. All licence fees are now due and payable by 15 January; a 5% penalty fee will be due if paid by the end of February, 25% if paid by the end of March, and 50% if paid by the end of June. Fees outstanding after the end of June would be grounds for the revocation of the applicable licence.

In an effort to further assist licensees and potential licensees the Commission has published a single document listing the fees for all charges levied by the Commission.

### **Internationally Compliant Legislation**

The Commission continued its drive during the review period to introduce appropriate internationally compliant legislation, regulations and guidelines. This project also included benchmarking previously existing legislation against international standards.

The foundation legislation referred to in the previous annual report was enacted on 13 June 2008. The Act provides for the establishment of a corporate vehicle, a foundation, which could be casually viewed as a cross between a trust and a company. The foundation has a separate legal personality as a company but has a settlor (founder) and beneficiaries similar to those of a trust.

A number of amendments were made to strengthen the Financial Services Commission Act during the review period and the Act is scheduled for a complete review during the next financial year.

The Commission is also collaborating with the ECCB and its other regional regulatory partners to develop harmonised legislation for the domestic insurance sector, money transfer services and credit unions. These pieces of legislation, which have already been drafted, are in an advanced stage of review.

### **Partnership with the Financial Services Industry**

The Commission continues to be mindful of the need to collaborate with the financial services industry. The following are the tenets which shape the Commission's philosophy on interacting with the industry: comprehensive and consistent regulatory coverage, consultation and coordination with the industry, and judicious flexibility in responding to industry demands.

The Commission's partnership with the industry was reflected in its active participation as a member of Anguilla Financial Services Association's (AFSA's) compliance committee. The Commission continues to be encouraged by the initiative shown by AFSA in the establishment of a compliance committee to promote regulatory compliance, provide training to compliance officers and to act as the point of contact for interacting with regional and international compliance committees.

The annual consultation meeting initiated by the Commission has grown from strength to strength, with the last meeting attracting regional and international speakers from the financial services industry and think-tanks. The presentations were not restricted to financial products and services, and industry and regulatory activities; they also reviewed trends in Anguilla's economic performance, relevant regional and international initiatives, and the possible impact of political changes in the United States of America and initiatives being advanced by international standards-setting bodies. The Commission continues to be encouraged by the positive feedback received on these annual meetings.

The Commission continues to provide targeted and general training to the financial services industry; during the review period the Commission conducted 14 such training sessions. This training was provided to particular sectors, institutions and designated officers within institutions. The emphasis of the Commission's training has generally been on AML/CFT compliance and on the completion of quarterly reporting forms. These training activities, some of which have targeted boards of directors and senior management, have proven to be useful tools in improving the Commission's working relationship with its licensees.

The Commission's outreach was not restricted to licensees, but was extended to other regulatory, operational and policymaking stakeholders. The success of this outreach was reflected in the strong working relationship the Commission enjoyed with stakeholders such as the Ministry of Finance, the Governor's Office, the Attorney General's Chambers, the Money Laundering Reporting Authority, the Anguilla Commercial Registry, AFSA, ECCB, CARTAC, the Foreign and Commonwealth Office, regional regulators and British overseas territories partners.



## DIRECTOR'S REPORT (continued)

The Commission continued to enjoy tremendous support from the Executive Council.

The Commission also produced articles and responded to interview questionnaires on regulation and financial sector development in Anguilla. The development of synergies with other sectors included the active participation of the Commission in a road show organised by the Board of Tourism; the Commission was able to present on financial regulation in Anguilla.

### Regulatory Challenges

Despite the relative stability mentioned above, the reporting period was not without its regulatory challenges. The Commission was forced to revoke the licences of 12 licensees for noncompliance with regulatory directives and/or the provisions of relevant legislation, the non-payment of licence fees, deficient operations liable to tarnish the reputation of the jurisdiction, and concerns about the fit and proper status of key stakeholders.

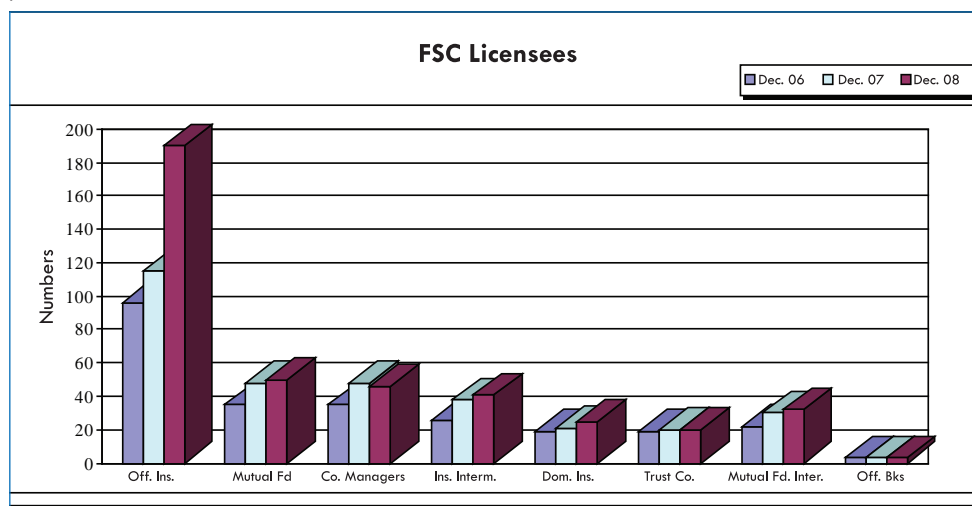
The Commission also continued to work with a number of stakeholders in Anguillian companies and Commission licensees who expressed concern with the probity of the companies with which they are associated. Although some of the concerns were outside of the Commission's regulatory jurisdiction and involved enforcing contracts, the Commission was able to provide a forum to resolve some of these issues and to take action against deficient licensees where the circumstances warranted and the legislation allowed.

Consistent with its practice of soliciting comments from regulatory authorities on previous licensees, the Commission continues to encourage licensing domiciles to request references and has provided statements of good standing on departing licensees. The Commission feels strongly that providing comprehensive responses to such requests is a useful and efficient way of reducing the movement of unsavoury licensees between jurisdictions.

### Growth in Licensees

International economic conditions, while having an impact on the rate of growth of Commission licensees, did not affect the Commission's growth trend; the Anguilla brand continued to grow during the review period. This growth trend continues to be influenced by brand recognition, the cost effectiveness and ease of operating in Anguilla, the international recognition of the jurisdiction, and a perception of financial stability and consistency.

The graph depicts the growth in the Commission's licensees over the review period; total licensees grew by 39.9% and 26.4% in 2007 and 2008 respectively, and amounted to 393 as at 31 December 2009. The growth rate for total licensees of 26.0% in 2008 was almost wholly attributable to the growth in offshore insurance, which expanded by 65.25%. The growth rate in the domestic insurance sector of 19.1% during 2008 was also noteworthy when compared to the growth rate of 10.5% for the comparable period in 2007.



It is anticipated that growth in licensees in 2009 will continue to be dominated by expansion in the offshore insurance subsector.

### Projections for 2009

Given the developing niche in the insurance sector, the Commission will concentrate its training efforts, legislative agenda and regulatory activities on the insurance sector. Legislative work will include further review and consultation with the industry on the draft Domestic Insurance Bill. The Commission will also target domestic insurance companies and insurance intermediaries for onsite examinations and prudential meetings.



## DIRECTOR'S REPORT (continued)

The draft insurance reporting forms will also be introduced during 2009.

In an effort to ensure adequate diversification, the Commission is actively reviewing strategies for developing the trust and mutual fund sectors. Part of this development strategy is to enhance the Commission's capacity to supervise and regulate trusts and mutual funds. Accordingly, during the next financial year the Commission will secure the services of a consultant to assist in enhancing its regulatory procedures, skills set and onsite examination techniques for regulating these services.

The legislative agenda for 2009 will include reviewing and strengthening the Financial Services Commission Act. This will be an opportunity to also streamline or reconcile the enforcement provisions of the Financial Services Commission Act with that of the other financial services enactments. The other legislative work planned for 2009 is the introduction of a Proceeds of Crime Act, Regulations and Code; these pieces of legislation will be benchmarked against the Financial Action Task Force's (FATF's) 40 + 9 recommendations on AML and CFT. The draft Money Services Bill will also be enacted during the year.

The Commission's Board is actively reviewing a proposal to expand the regulatory mandate of the Commission to include designated non-financial businesses and persons (DNFBPs), and not-for-profit organisations. DNFBPs are non-financial businesses and persons who are considered to be vulnerable to money laundering and terrorist financing risk, some of these institutions and persons are identified by the FATF. This increase in mandate, which will likely commence in 2009 and become operational in 2010, will result in the Commission assuming AML/CFT regulatory responsibility for designated lawyers, accountants, real estate agents, jewellers and not-for-profit organisations. This project will require a significant increase in the Commission's resources and organisational structure.

The CFATF mutual evaluation of Anguilla planned for 2008 has been rescheduled to July 2009. As in 2008, preparation for the assessment is expected to absorb a significant amount of the Commission's time and resources. The Commission continues to play a pivotal role in coordinating Anguilla's preparation for the mutual evaluation.

### Conclusion

The 16 months ended December 2008 was a challenging period for the Commission and the financial services industry in Anguilla. It is anticipated that 2009 will be no less of a challenge; in fact, indications are that it will be even more of a challenge, with some of the contributing factors being outside the control of the jurisdiction. As a significant financial centre, the jurisdiction has no option but to continue to maintain international standards and best practices, and to contribute to establishing best practices.

Despite the anticipated challenges in 2009, the Commission feels confident that it and the jurisdiction are up to the task of maintaining appropriate standards.