



ANGUILLA FINANCIAL SERVICES COMMISSION

Annual Report 2019



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



1.0 Executive Summary

This report highlights the work done by the Commission during 2019. It is inclusive of the review of financial services legislation, ongoing regulatory issues, engagements with domestic strategic partners and other regulatory developments.

During 2019, the Commission continued its ongoing engagement with the industry. This included participation in a forum with the Government of Anguilla on Economic Substance in April, as well as hosting a well-received Compliance Conference in December. The Compliance Conference agenda was comprehensive and relevant in light of the approaching Caribbean Financial Action Task Force ("CFATF") Mutual Evaluation Review. Topics covered included risk assessments, disarming terrorist financing threats; governance in compliance; global developments in financial services; sanctions, embargoes and other directives; and international cooperation.

The Commission, as part of its strategic planning process, looked at measures it considered appropriate to develop the financial services industry in Anguilla pursuant to section 3(1)(o) of the Financial Services Commission Act, R.S.A. c. F28 ("FSC Act"). Considering that the financial services enactments were not revised in over some ten (10) years, the Commission engaged in researching specific features and reviewing legislation of leading international financial centers in order to draft instructions for modernised and competitive financial services legislation. Further, the Commission assisted the industry where necessary in their drafting of the Utility Tokens Exchange legislation. The company formation legislation, specifically the Companies Act, R.S.A. c. C65 and the International Business Companies Act, R.S.A. c. I20, were also reviewed particularly in light of the need for reform following the various amendments regarding economic substance in January 2019.

Professional development for staff remained a key area of focus. Continued training was provided to Regulators both in-house and at regional training initiatives, which remains a critical requirement for a regulatory authority to ensure that staff are prepared to address evolving supervisory issues.

Engagement with licensees continued by way of onsite and offsite inspections towards assessing compliance with AML/CFT and other financial services legislation. Given the importance of these assessments, detailed findings were collated and produced in a separate report. Generally, licensees received reports that set out corrective actions to improve their policies, risk assessment framework and to enhance the knowledge of licensees' staff to achieve greater compliance.

The Commission continued its preparation for the National Risk Assessment (“NRA”) and the 4th Round of Mutual Evaluations by the CFATF. The Commission is a member of both the National Risk Assessment Steering Council and National Risk Assessment Working Group, both established in 2016.

In a review of aggregate business, 2019 continued to experience a contraction of business due to external drivers that impacted the decision of captive insurance companies to redomicile out of Anguilla. The contraction of business also had a direct correlation on the revenues collected by the Commission during that year.

2019 also saw new faces at the Commission with the addition of Board Member, Mark McKenzie; Deputy Director, Simone Martin on secondment from the British Virgin Islands Financial Services Commission; Senior Legal Counsel, Fiona Murphy and Regulators, Tesia Harrigan and Shaumelle Hodge.

The FSC Act is the enabling legislation for the Financial Services Commission and allows it to administer the financial services enactments. The Commission is responsible for the licensing and prudential supervision of licensees under those enactments and taking enforcement action where necessary in cases of non-compliance with requirements. The Commission also is responsible for registering externally regulated service providers, non-regulated service providers and non-profit organisations under the Proceeds of Crime Act, R.S.A. c. P98 (“POCA”) and its subsidiary legislation, and for monitoring and enforcing compliance by those registrants, as well as by licensees, with their AML/CFT obligations.

2.0 Regulation Statistics

2.1 Licensee Statistics

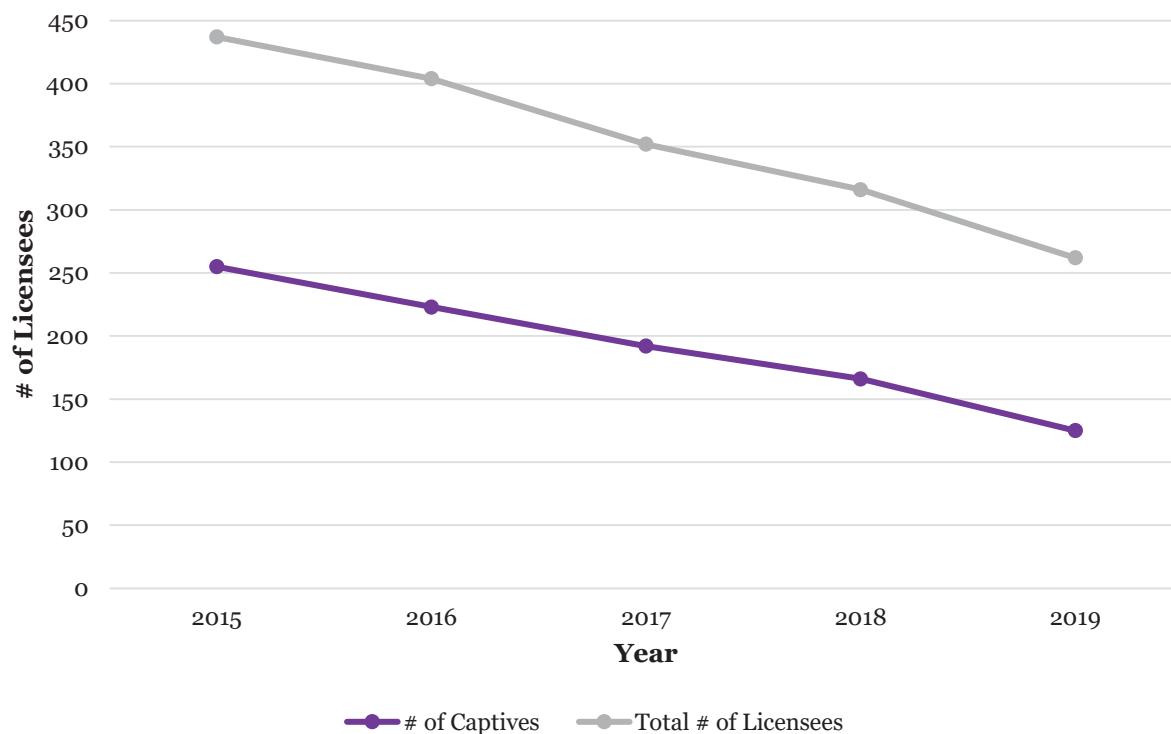


Figure 1: Number of Captives vs Total # of Licensees

As reflected in Figure 1 above, the Commission continued to experience a decline in the overall number of its licensees - marking the seventh consecutive year of decline. The total number of licensees was 262 as at 31 December 2019. This represents a decline of 17.1% from the previous year's total of 316 as at 31 December 2018, which itself represented a 10.7% reduction as compared to the total number of licensees as at 31 December 2017.

The captive insurance sector, in particular, comprising more than 50% of the Commission's licensees, continued its decline in numbers, falling from 162 licensees as at 31 December 2018 to 121 as at 31 December 2019 - a decline of 25.3%.

Most of the captive insurance licensees supervised by the Commission are owned by U.S. residents and provide insurance to related companies located in the United States. Various factors including increased competition from U.S. states to attract captive insurance company incorporations, combined with actions by the U.S. Internal Revenue Service directed at small captive insurance companies, have led to many U.S. owned captives favoring a U.S. domicile thus resulting in Anguilla licensing fewer captive insurance licensees.

2.2 Regulated Business Statistics

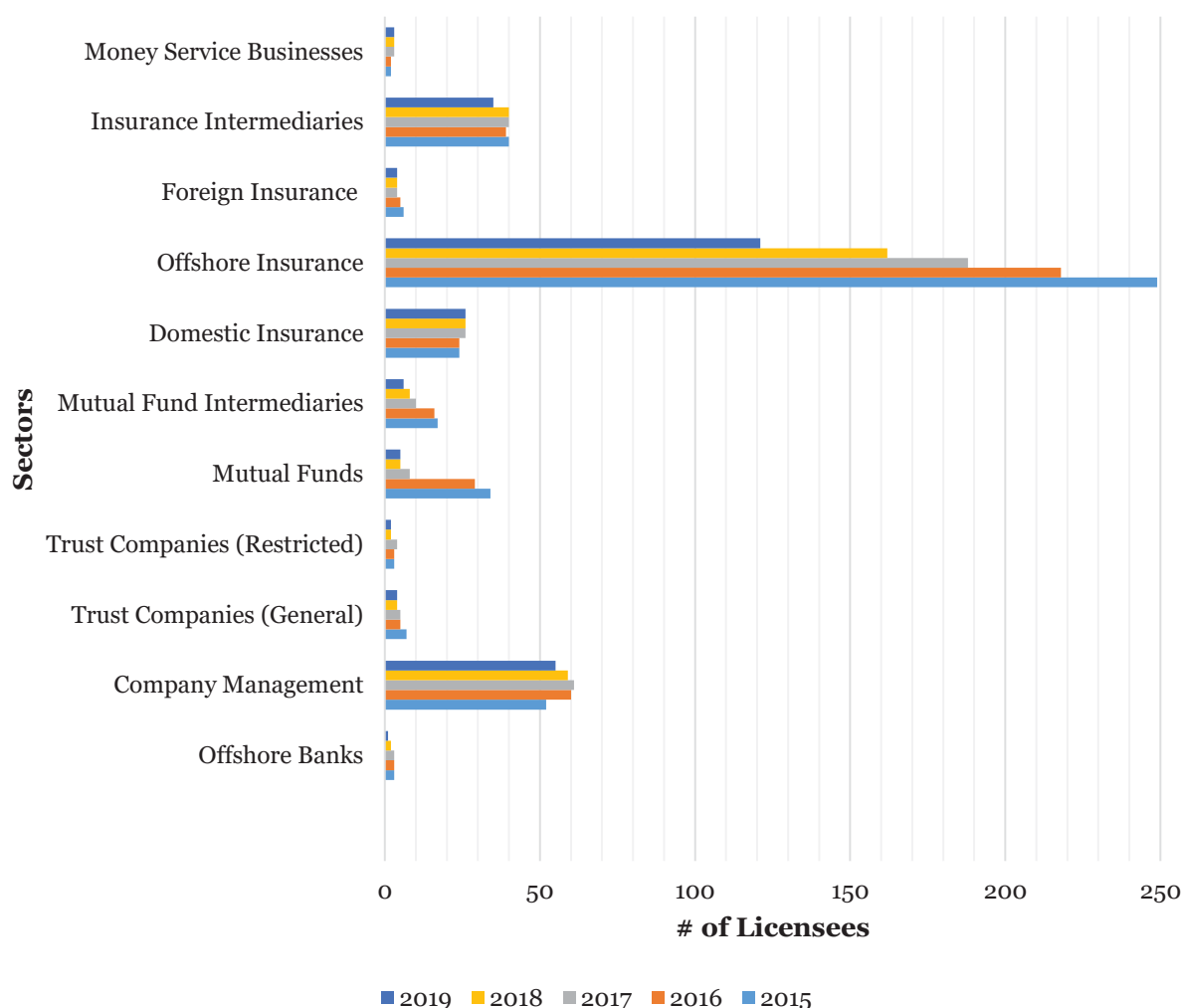


Figure 2: Regulated Business by Sector

Figure 2 provides an industry sector breakdown of licensees. The dominance of the offshore captive insurance sector continues even with the decrease in the number of licensed captive insurers.

3.0 Sector Reports

Below the various financial services sectors which include insurance, mutual funds, company management and trust services, money services business, offshore bank, externally and non-regulated service providers and non-profit organisations will be discussed.

3.1 Insurance Sector

3.1.1 Domestic insurers, agents and brokers

Following one new approval and one surrender, as at 31 December 2019, there were 26 licensed domestic insurers. In addition, at the end of the year there were 17 licensed insurance agents/brokers, a decline of 2 as compared to 2018.

During 2019, the Commission conducted onsite inspections of two domestic insurers. The first took place in Anguilla over the course of a week by a team of 4 regulators. The other was conducted overseas at the licensee's head office by a team of 3, also a week long. The inspections were full scope in nature, including a review of governance, operations, internal controls, financial soundness and compliance with the Insurance Act, R.S.A. c. 116 and the Regulations thereunder. A large portion of the findings centered around corporate governance matters, particularly in relation to the maintenance of documented policies and procedures; financial performance and controls; asset quality; claims processes and documentation; and compliance with anti-money laundering requirements, where applicable. The Commission also participated in a supervisory college focused on one of its licensed domestic insurers.

Single Insurance and Pensions 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. The Subcommittee is responsible for, among other things, overseeing development of a single insurance market for the ECCU, including a regional regulatory body.

A draft Insurance Act for the ECCU region, as well as a draft Agreement Establishing the Eastern Caribbean Financial Services Regulatory Commission, the proposed regional insurance regulatory body, have been produced but the legislation has not yet been enacted by the ECCU member states.

While some consultation on the Bill and Regulations have taken place during the year, as at the end of 2019, the ECCU Insurance and Pensions Bill remain in draft.

3.1.2 Non-Domestic Insurers

Captive Insurers

As at 31 December 2019, there were 121 licensed captive insurers. During the year, one new company was licensed, 32 licensed captive insurers surrendered their licences and 9 licences were revoked.

Foreign Insurers

The 2019 year began and ended with 4 licensed foreign insurers; there were no changes during the year.

Insurance Managers

As at 31 December 2019, there were 19 licensed insurance managers. One new licence was issued and 3 licences were surrendered during 2019.

3.2 Mutual Fund Sector

3.2.1 Funds

As at 31 December 2019, there were 4 private funds and 1 professional fund licensed. There were no new licences granted.

3.2.2 Fund Managers and Administrators

As at 31 December 2019, there were 6 licensed fund managers and administrators. There were no new licences issued with 1 licence revoked and 1 licence surrendered during the year.

3.3 Company Management and Trust Services Sector

As at 31 December 2019, the Commission's licensees included a total of 4 general trust companies, 2 restricted trust companies and 55 company managers. During the year, 3 company manager licences were surrendered.

3.4 Money Services Business Sector

The Commission currently has 3 money services business licensees. One of them is restricted to the operations of an automated teller machine and/or through a software application on a desktop computer, that converts U.S. dollars to bitcoins and bitcoins to U.S. dollars.

3.5 Offshore Bank Sector

National Bank of Anguilla (Private Banking & Trust) Ltd. and Caribbean Commercial Investment Bank Ltd. (together the "offshore banks") remained under administration throughout 2019 pursuant to the terms of the order of the Eastern Caribbean Supreme Court made on 22 February 2016 under section 37 of the FSC Act. The Administrator, during 2019, continued with his efforts to protect the interests of the offshore banks and their depositors, including pursuant to court actions initiated by the Administrator on behalf of the offshore banks in both the United States and Anguilla for the purpose of advocating for the legal rights of the offshore banks and their depositors to share in the assets distributed under the Eastern Caribbean Central Bank's resolution plan. The Administrator also continued to administer the outstanding loan books of the two banks and pursued the collection of non-performing loans and the enforcement of security held in relation to those loans as necessary. At the end of 2019, there was 1 licensed offshore bank.

3.6 Externally and Non-Regulated Service Providers

The Externally and Non-Regulated Service Providers Regulations, R.R.A. P98-6 (“ENRSP Regulations”) introduced in 2013 gave the Commission responsibility for the supervision of domestic banks licensed under the Banking Act, 2015 and companies licensed under the Securities Act, R.S.A. c. S13 (together, Externally Regulated Service Providers (“ERSPs”)) and non-regulated service providers (“NRSPs”), for compliance with AML/CFT requirements under POCA.

Service providers, as set out in Schedule 2 of the Anti-Money Laundering and Terrorist Financing Regulations, R.R.A. P98-1 (“AML/CFT Regulations”) and not captured under a financial services enactment, are required to register as NRSPs under the ENRSP Regulations. The Commission registered 3 NRSPs and deregistered 1 NRSP during 2019. There continued to be 2 registered ERSPs.

3.7 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 2019, the Commission registered 25 NPOs and deregistered 1 NPO. Also, the Commission exempted 71 NPOs from registration and changed the status of 2 NPOs. 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.

4.0 AML/CFT Supervision

4.1 Offsite and Onsite Inspections

In 2019, the Commission continued its themed inspections to assess service providers’ compliance with the AML/CFT obligations under POCA and its subsidiary legislation. Four offsite inspections were conducted from January to May. One onsite inspection was conducted in March. The inspectors reviewed, on a sample basis, the records, files and written policies and procedures maintained by the service providers and held discussions with management and staff involved in strategic, operational and compliance matters. Within the reports, where appropriate, specific areas for improvement were identified and deadlines set for remedial action by service providers. The Commission has been monitoring the service provider’s implementation of the corrective actions through follow ups.

From the preliminary findings of these inspections, there continues to be some licensees with material deficiencies in relation to the AML/CFT legislative requirements. Overall, the inspection teams have noted some deficiencies in the following areas:

- i. Business Risk Assessment;
- ii. Policies, Procedures, Systems and Controls specifically the AML/CFT Manual;
- iii. Customer Risk Assessments;
- iv. Customer Due Diligence Information and Evidence;
- v. Monitoring Customer Activity; and
- vi. Enhanced Due Diligence Measures.

While service providers were found to collect core customer due diligence such as identification information and evidence and proof of address documentation, it was noted that some service providers were not collecting sufficient information and evidence in relation to the nature of business of its companies. Where insufficient information was collected, companies may have been inaccurately risk rated. As a result, service providers may have been unable to apply the appropriate

customer due diligence measures, especially in cases where enhanced due diligence measures would be necessary.

4.2 National Risk Assessment

The work on the NRA, an initiative of the Government of Anguilla, continued with all governmental agencies involved. This is ahead of CFATF's 4th Round Mutual Evaluation of Anguilla which is scheduled to be conducted in the third quarter of 2022. Throughout 2019, all governmental agencies worked to update the money laundering threat profiles and sectoral vulnerability worksheets previously completed in December 2018 at a workshop with the NRA consultants. The money laundering threat profiles involved the identifying of money laundering and terrorist financing threats within the twenty-one predicate offences. The sectoral vulnerabilities involved the analysis of the financial sectors vulnerability to money laundering and terrorist financing.

Further, a first draft of the sectoral vulnerabilities section within the NRA was sent to the consultants for comment. This included the following:

- i. Geography;
- ii. Governance;
- iii. Legal System;
- iv. Economy;
- v. Demographics;
- vi. Legal Persons and Arrangements, including NPOs; and
- vii. the Financial System including Financial Institutions (FIs) and Designated Non-Financial Businesses and Professions (DNFBPs) within Anguilla.

The Consequences Profile which outlined the geographic, social and political structure of Anguilla was also drafted.

The Subcommittee of the National Risk Assessment Working Group continued to meet on a continuous basis in order to discuss the upcoming mutual evaluation and the NRA. Work continues on drafting a written NRA.

5.0 Enforcement Activity

During 2019, there were 6 suspensions, 12 revocations and 1 administrative penalty imposed. Figure 3 below provides an illustration of the enforcement activity between 2016-2019.

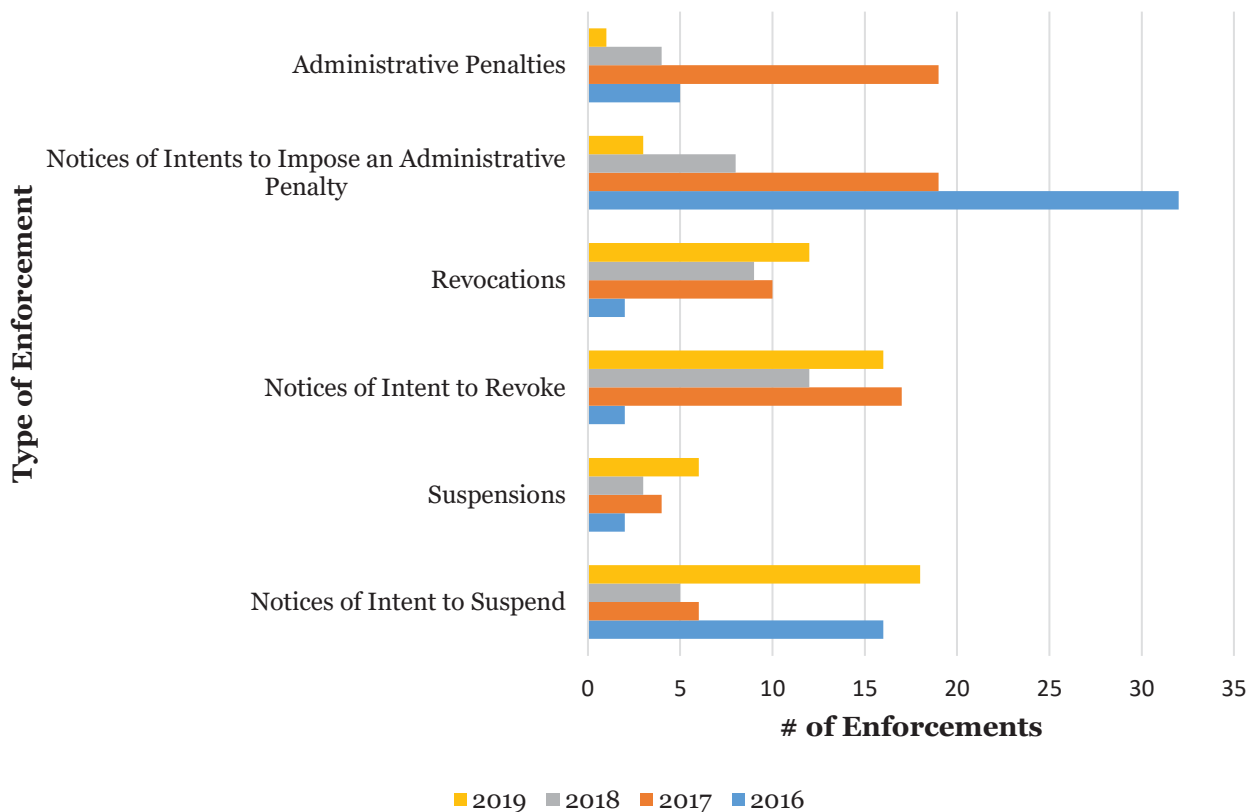


Figure 3: Enforcement Action from 2016-2019

6.0 Industry Development

6.1 Industry Engagement

In an effort to bring awareness to key compliance topics and to support the mandate of the NRA, a Strategic Outreach Programme was drafted to include sessions for the period 2019 to 2021. The objective of the Outreach, which will largely be comprised of training events, is to ensure that relevant parties become fully aware of the importance of meaningful implementation of a robust Anti-Money Laundering, Combatting the Financing of Terrorism and the Proliferation of Financing framework and the risks associated with failure in any area. Other critical objectives include:

- i. building capacity among all stakeholders inclusive of governmental bodies, financial services industry practitioners and competent authorities, and
- ii. improved preparedness in advance of the CFATF mutual evaluation.

The Strategic Outreach Programme is intended to be delivered in 4 phases as depicted in Figure 4 below.

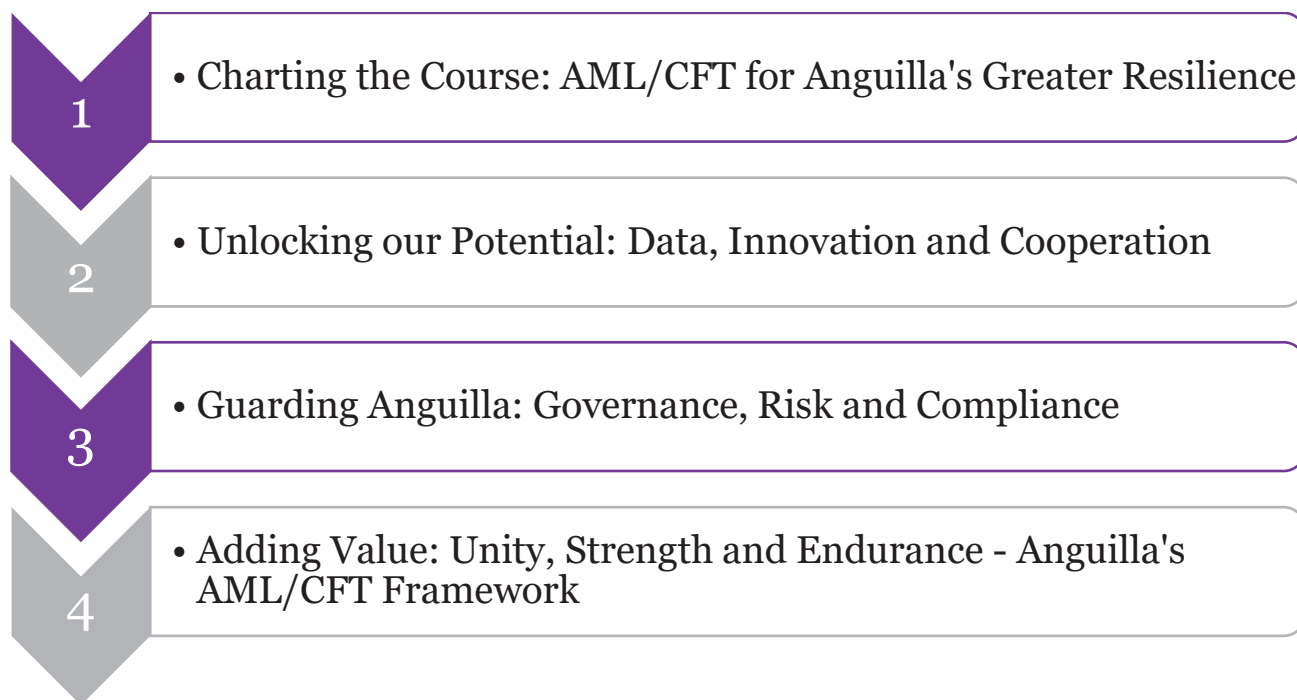


Figure 4: Phases of the Strategic Outreach Programme

In December 2019, the Commission at its Compliance Conference held Phase 1. At that Conference, relevant topics were discussed, such as:

- i. global developments in financial services;
- ii. compliance mechanics - how to keep the compliance engine at peak performance;
- iii. sanctions, embargoes and other directives; and
- iv. the importance of a strong AML/CFT compliance system and international cooperation.

7.0 Professional Development

Staff from the Commission engaged in a number of conferences and workshops throughout the year. The majority of the workshops undertaken were organized by Caribbean Regional Technical Assistance Centre (CARTAC) and covered topics such as:

- i. insurance stress testing and developing financial health and stability indicators for the insurance sector;
- ii. the implementation of risk based supervision;
- iii. capacity building for insurance supervisors – leveraging actuarial skills; and
- iv. consolidated risk based supervision of banking groups and financial conglomerates.

A technical assistance workshop with A2II on risk-based solvency was also conducted.

Staff continued with professional development courses with the International Centre for Captive Insurance Education (ICCIE). The Commission staff presented at a conference organized by the University of the West Indies Open Campus along with the Anguilla Compliance Association and the Ministry of Finance. The conference was titled 'Compliance & Tax Transparency Standards EU Substance: Requirements, Reporting, Reinventing'.

7.1 Staff Retreat

The Commission held a retreat for its staff in May 2019 in which it focused on and encouraged team building, clear and constructive communication and effectiveness and efficiency in the workplace.

8.0 Regulatory Meetings

Anguilla hosted and chaired the annual UK Overseas Territories Regulators Conference in April in Miami. Other regulatory annual conferences attended included the Group of Financial Centre Supervisors (GIFCS) conference held in April and November in London and the Cayman Islands respectively; the Group of International Insurance Centre Supervisors (GIICS) conference was held in July in London and the Caribbean Association of Insurance Regulators (CAIR) conference was held in June in Guyana.

9.0 Financial Performance Analysis

The Commission reported net income of US\$74,594 for the year ended 31 December 2019 (US\$156,657 for 2018), which is a 52% decrease over the previous year. Reserves increased by 2.5% to US\$3,020,695 as at 31 December 2019 from US\$2,946,101 as at 31 December 2018. The underlying factors of the year's performance are reported below in the discussion of Revenue and Expenses.

9.1 Assets, Liabilities and Reserves

As at 31 December 2019, the Commission's total assets were US\$5,893,060 (US\$5,499,618 for 2018). Liquid assets, in 2018 being entirely cash, accounted for 97.4% of the Commission's assets (98.2% for 2018).

Total liabilities were US\$2,872,365 (US\$2,553,517 for 2018) with the increase over the previous year-end reflecting an increase in statutory deposits held by the Commission in connection with approved external insurers licensed in the jurisdiction. Accumulated reserves were US\$3,020,695 at year end (US\$2,946,101 for 2018), the increase resulting from the net income reported in the section Financial Performance Analysis above.

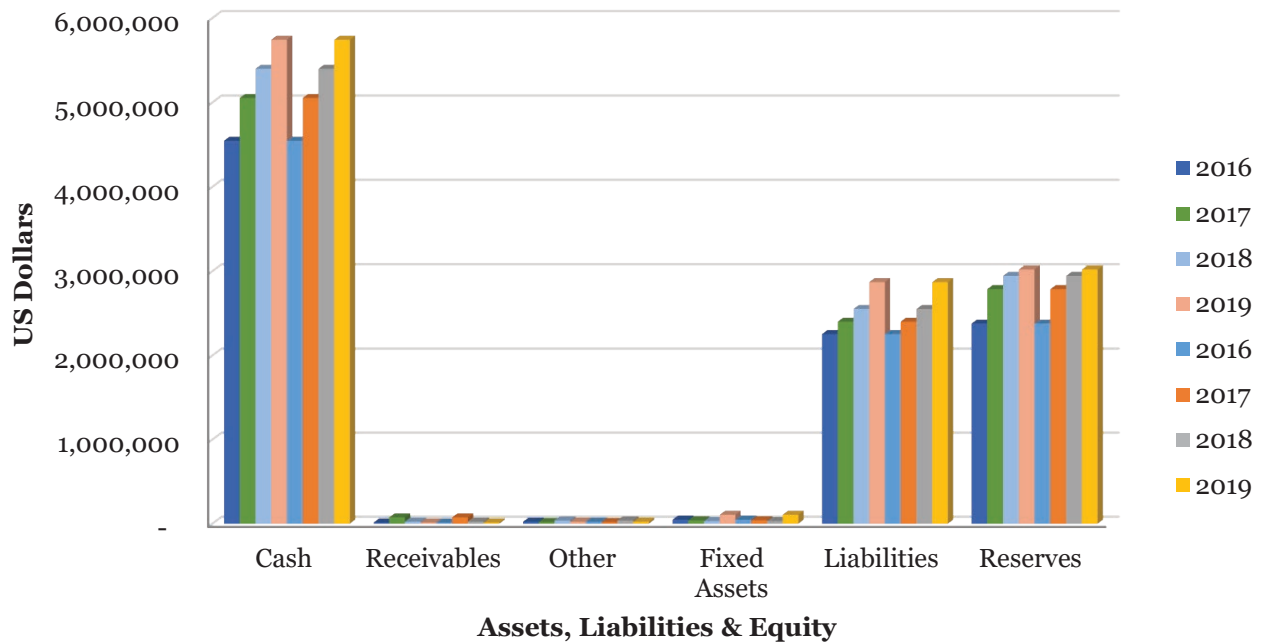


Figure 5: Comparative Balance Sheet Indicators

9.2 Revenue

Total revenue decreased by 7.5% or US\$91,282 to US\$1,132,177 (2018: US\$1,223,459). License fee revenue decreased by 6.1% or US\$62,682 to US\$963,518 (2018: US\$1,026,200). The decrease in license fee revenues was primarily due to a decrease in the number of licensees. Total revenue included fee income from other regulatory services performed under applicable legislation as well as penalties which include the assessed amount of fines for late payment of fees and administrative penalties imposed.

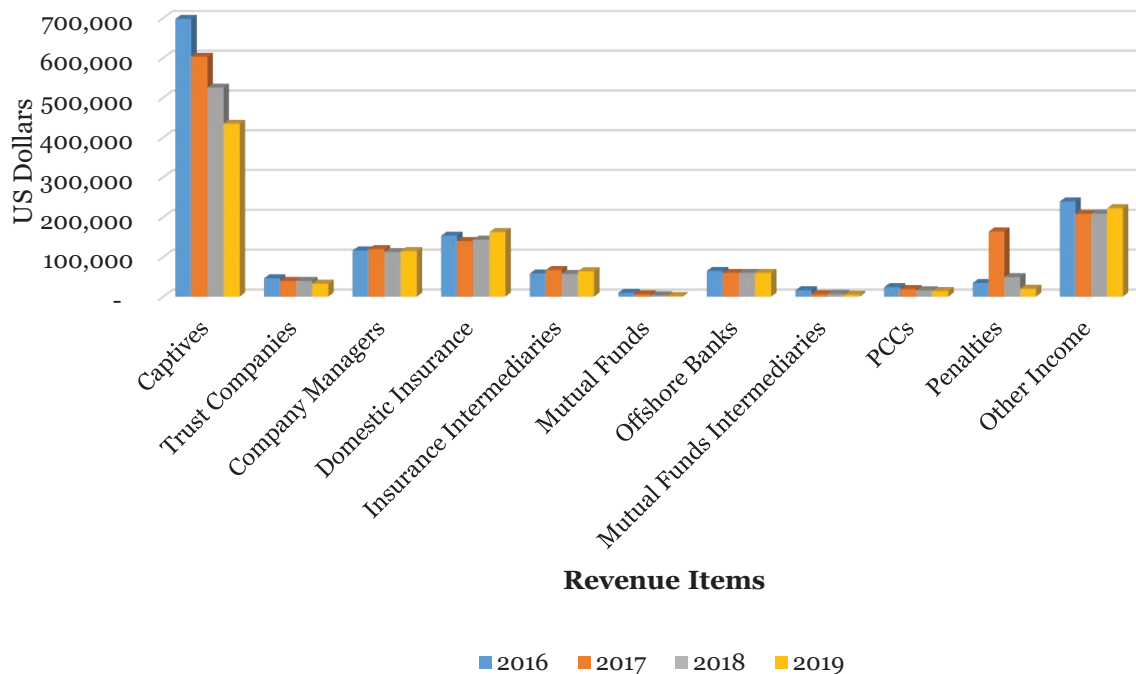


Figure 6: Comparative Revenue Analysis

9.3 Expenditure

Total expenses decreased by 0.86% or US\$9,219 to US\$1,057,583 (US\$1,066,802 for 2018). Professional services increased by US\$24,060 from US\$25,419 to US\$49,479 which is a 94.6% increase over the previous year, due to the hiring of a consultant to assist with matters concerning the Utility Token legislative framework. "Travel and subsistence" increased by US\$19,916 to US\$67,460 (US\$47,544 for 2018), primarily due to regulatory conferences attended during the year. There was a 13.2% decrease in payroll or US\$98,869 from US\$750,402 to US\$651,533. This was due mainly to the reorganization of the management team.

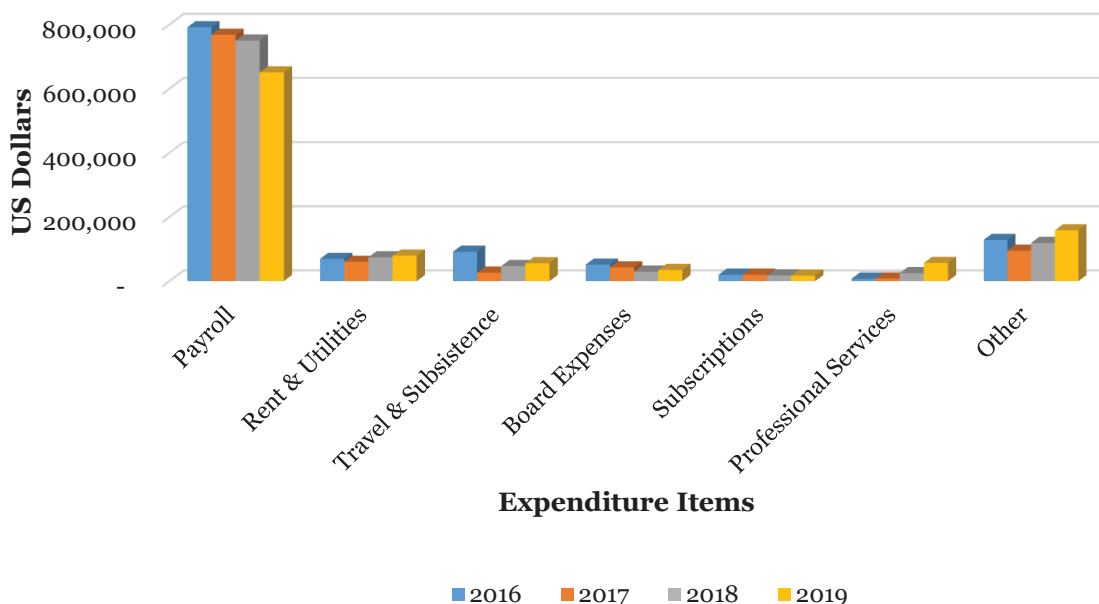


Figure 7: Comparative Expenditure Analysis