



ANGUILLA FINANCIAL SERVICES COMMISSION

"Enhancing the safety, stability and integrity of Anguilla's financial system"

THEMED INSPECTIONS

AML/CFT SUMMARY OF FINDINGS
PHASE 1: 4th QUARTER 2020

ISSUED: JUNE 2021

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1 Introduction

- 1.1 The Anguilla Financial Services Commission (the “Commission”) has acknowledged the continual changing of the global regulatory landscape in line with evolving international standards. Legislation has been enacted to ensure that Anguilla is in compliance with international standards and to effectively satisfy requests for information from regional and international bodies and supervisors. Non-compliance with international standards exposes the jurisdiction to reputational damage and economic contraction.
- 1.2 The Commission, in accordance with its supervisory framework and annual work programme, has been actively engaged in educating its service providers on their duties and responsibilities as outlined in legislation. The Commission’s educational initiatives included the Annual Compliance Conference; training sessions with the various sectors; one-on-one meetings with service providers; publication of guidance via the Commission’s website; publication of webinars; and, feedback provided to service providers during onsite and offsite inspections.
- 1.3 Following its educational and outreach initiatives, the Commission has undertaken to test its service providers’ level of understanding and degree of compliance with legislation. In doing so, the Commission has undertaken to conduct full and/or thematic reviews of its service providers on an ongoing basis. In the fourth quarter of 2020, the Commission commenced its first phase of its offsite thematic inspections. The Commission sampled twenty (20) of its service providers, who provide company management services, for compliance with the Anti-Money Laundering and Terrorist Financing (“AML/CFT”) legislation consisting of the AML/CFT Regulations, R.R.A, P98-1 (“AML/CFT Regulations”) and the AML/CFT Code, R.R.A. P98-3 (“AML/CFT Code”); and the International Business Act, R.S.A. c. I20 (“IBC Act”).
- 1.4 This report outlines the regulatory requirements for each area assessed, highlights areas where service providers were deficient and provides guidance and best practice recommendations. Please note that the best practice recommendations are not exhaustive and do not absolve a licensee of the need to read the AML/CFT Regulations, AML/CFT Code and the IBC Act and tailor their policies procedures to suit their operations.

2 Scope

2.1 The Commission sampled twenty (20) company managers and trust service providers (collectively, “service providers”). Pursuant to section 21 of the Financial Services Commission Act, R.S.A. c. F28 the Commission requested information and documentation in relation to five (5) sample companies under each service providers’ portfolio. The information and documentation requested covered the following five (5) areas:

- i. Customer Risk Assessment;
- ii. Nature of Business and verification of nature of business;
- iii. Corporate Directorship services;
- iv. Nominee Shareholder services; and
- v. Accounting Records.

3 Summary of Findings

3.1 In reviewing the requested information and documentation, the Commission noted that the majority of the service providers that provided directorship and nominee shareholder services kept the required information and documentation on file, including all ratified agreements. However, deficiencies were particularly salient in the areas of verifying the nature of business and the holding of accounting records.

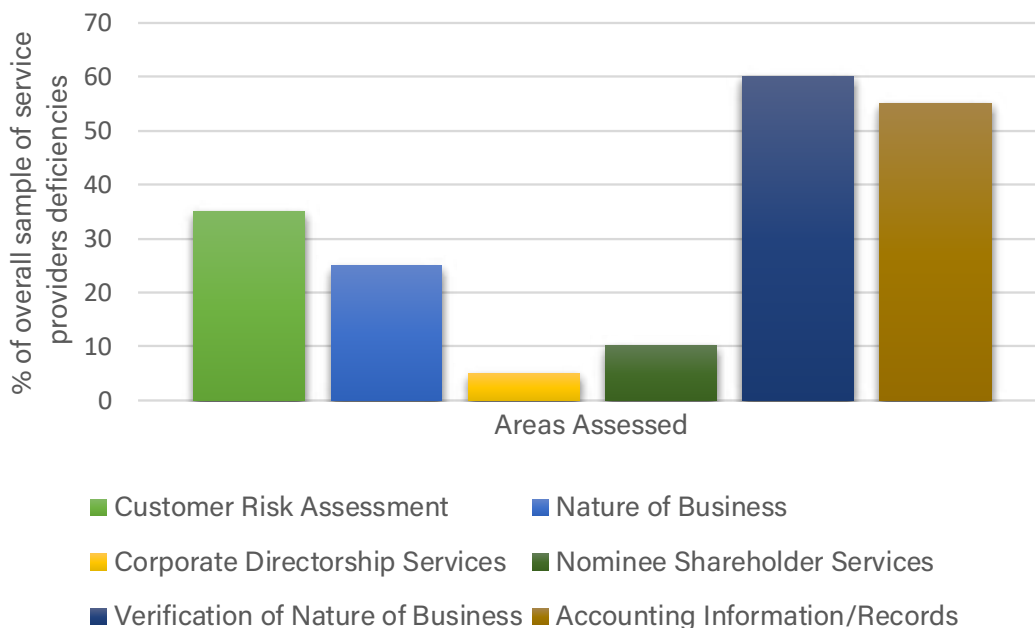


Figure 1: Findings

4 Observations

- 4.1 In this section, the Commission briefly discusses its observations for each of the areas assessed during the Phase 1 thematic review in the fourth quarter of 2020.

4.1 Customer Risk Assessment

- 4.1.1 During the thematic review, the Commission observed that service providers, in some cases, did not conduct a customer risk assessment on its companies or where a customer risk assessment was conducted, the analysis was not sufficient. In relation to 20% of the service providers, the Commission identified that all companies within the sample were deficient in relation to the customer risk assessment. In 25% of the service providers, where customer risk assessments were conducted, they were outdated. No evidence was provided that service providers in these cases conducted any updating of customer risk assessments after incorporation.

4.2 Nature of Business

- 4.2.1 While service providers generally require a statement as to the intended nature of business at the time of incorporation, the offsite review indicated that 5% of service providers, in this case, did not. Analysis of the documents provided indicated that, in some cases, the statement of the nature of business was not given and, in other cases, the statement concerning the nature of business was not clear or very vague.
- 4.2.2 The Commission notes that service providers remain deficient in the collection of evidence to verify the nature of business and the monitoring of companies' nature of business conducted. 60% of the sampled services providers were unable to provide the Commission with evidence that verified the nature of business conducted by the company.

4.3 Corporate Directorship and Nominee Shareholder Services

- 4.3.1 In relation to corporate directorship and nominee shareholder services offered by the service provider, the Commission generally found that the service provider did hold the required ratified agreements on file. The agreements signed between the service provider and the company varied however they generally outlined the nature of the relationships; the term of the directorship services; and where applicable the payment for services rendered.

4.4 Accounting Information and Records

- 4.4.1 From the sample of service providers tested, 55% were unable to provide accounting records. In some cases, where accounting information and information were provided, they were insufficient or unclear as to what they were representing. In 5% of cases, the service providers were unable to provide accounting information and records for all five (5) companies sampled under the licensee's portfolio. Where accounting information was available, the service provider provided balance sheets; income statements; invoices; bank statements; and audited accounts.

5 Conclusion

- 5.1 The Commission has released this report to highlight the areas in which its sampled service providers were deficient following phase 1 of its offsite reviews. The Commission intends to release guidance to ensure that service providers understand their obligations under AML/CFT legislation and the IBC Act. The Commission urges service providers to get more familiar with their duties and responsibilities under the AML/CFT Regulations, AML/CFT Code and the IBC Act. Service providers should use the provisions of the AML/CFT Regulations, AML/CFT Code and the IBC Act to develop a framework for compliance within their organisation as well as a tool for training staff.
- 5.2 The Commission wishes to emphasize that the degree of compliance by its service providers with legislation and international standards impacts whether they meet the Commission's fit and proper criteria to maintain a licence. Service providers are reminded that failure to comply with legislation exposes service providers to enforcement action by the Commission. Moreover, it has a direct bearing on the reputation, continued sustainability and growth of Anguilla's financial services industry.