



# ANGUILLA FINANCIAL SERVICES COMMISSION

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

## THEMED INSPECTIONS

**AML/CFT SUMMARY OF FINDINGS**  
**PHASE 3: 1<sup>st</sup> QUARTER 2022**

ISSUED: JULY 2022

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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 annual Industry Day conferences; 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. During the period of 2015 – 2017, the Commission conducted a series of offsite reviews of its service providers who provide company management services and trust company services. Following this period, the Commission published the results of the offsite reviews on its website. See link provided ([Offsite Reviews 2015 - 2017](#)).
- 1.4 In the same vein, the Commission commenced its offsite thematic inspections project in the fourth quarter of 2020 with the first phase of thematic inspections (“Phase 1”). A summary of findings was published in June 2021 following this first phase. The second phase of the offsite thematic inspections project (“Phase 2”) started in the third quarter of 2021 with a summary of findings being published in April 2022. Both reports are available on the Commission’s website by the following links: ([Themed Inspections Phase 1](#); [Themed Inspections Phase 2](#)).
- 1.5 In the first quarter of 2022, the Commission commenced the third and final phase of its offsite thematic inspections project (“Phase 3”). During Phase 3, the Commission sampled fifteen (15) 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”).<sup>1</sup>
- 1.6 This report outlines the results of the areas assessed during Phase 3 and provides a comparison between Phase 1, Phase 2 and Phase 3.

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1 The IBC Act has since been repealed and replaced with the Business Companies Act, 2022.

## 2 Scope

2.1 The Commission sampled fifteen (15) 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 generally kept the required information and documentation on file, including all ratified agreements. However, notable deficiencies were identified in the areas of customer risk assessment, verification of nature of business and the holding of accounting information and records. In Figure 1, the statistics represent the total number of service providers sampled.

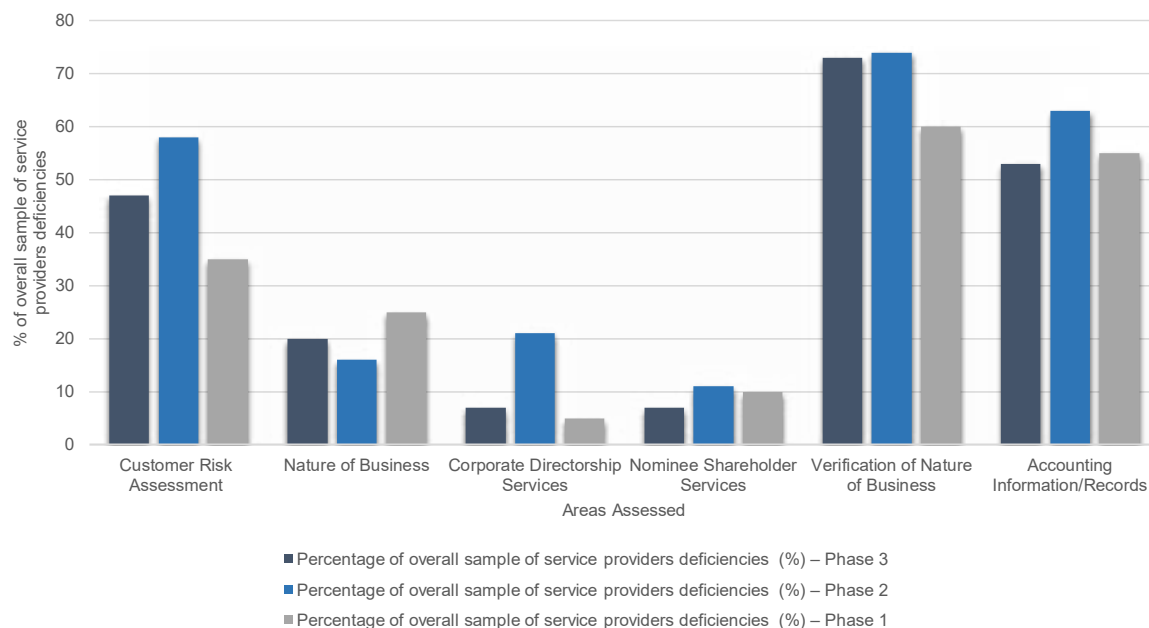


Figure 1: Findings

## 4 Observations

- 4.1 In this section, the Commission briefly discusses its observations for each of the areas assessed during the Phase 3 thematic review in the first quarter of 2022.

### 4.1 Customer Risk Assessment

- 4.1.1 During the thematic review, the Commission observed that 47% of service providers did not conduct a customer risk assessment on its companies or where a customer risk assessment was conducted, the analysis was not sufficient. While there has been a slight decrease in comparison to Phase 2, 47% still represented an increase in comparison to the 35% in Phase 1. In relation to four (4) of the sampled service providers, the Commission identified that all five (5) companies within the sample chosen from the service providers' portfolio were deficient in relation to their customer risk assessment. The Commission noted that in some cases, no evidence was provided that service providers conducted any updating of customer risk assessments after incorporation as many remained outdated. This remains a concern as a risk rating assigned to a company at incorporation may no longer reflect the true rating of the company at present due to new information, change in principals of the business, change in nature of business and scope/location of activities and adverse media.

### 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 thematic review revealed that 20% of service providers either did not have a statement that outlined the nature of business or where the statement concerning the nature of business was provided it was not clear or very vague. While 20% indicated a slight improvement from Phase 1, the findings from Phase 3 still highlights a notable deficiency in this area. A statement in relation to the nature of business of a company is the foundation of assessing the risk of a customer.
- 4.2.2 Further, the Commission noted that service providers remain deficient in the collection of evidence to verify the nature of business. 73% of the sampled services providers were unable to provide the Commission with evidence that verified the nature of business conducted by the company. Similar results were recorded in Phase 2. This was a notable increase following Phase 1.

## 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 service providers were less deficient in these areas than the other areas assessed. Phase 3 recorded the lowest result of 7% in comparison to Phase 1 and Phase 2. Overall, it was noted that service providers 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, 53% were unable to provide accounting records upon request. In some cases, where accounting information and records were provided, they were insufficient or unclear as to what they were representing. Where accounting information was available, the service provider provided balance sheets; income statements; invoices; bank statements; and audited accounts. While 53% highlights a notable decrease in comparison to Phase 2, this area remains one of the most deficient areas amongst service providers. It was noted that service providers generally do not request this information or in cases where they do, the information requested was not sufficient as accounting information and records. Please refer to section 88(2) of the Business Companies Act, 2022 (“Business Companies Act”) which requires companies that keep accounting records outside the jurisdiction to keep at the registered office on a bi-annual basis “accounts and returns adequate to ascertain the financial position of the company with reasonable accuracy”; also a written record of the place outside the jurisdiction where the accounting records are kept.

## 5 Conclusion

- 5.1 Following the completion of Phase 1 and Phase 2 of the Commission's thematic inspection project, this report has been released to highlight the areas in which its sampled service providers were deficient following the completion of its final phase, Phase 3, of its offsite reviews. Overall, the Commission noted that while there was some relative improvement by service providers in relation to the areas of customer risk assessment, corporate directorship services, nominee shareholder services and accounting records in comparison to Phase 2, overall, the deficiency levels were still notably high specifically in relation to customer risk assessment and accounting records. Verification of nature of business has remained an area where deficiencies have been the highest throughout all three phases.
- 5.2 The Commission urges service providers to read all guidance and reports such as these published by the Commission in addition to familiarising themselves with their duties and responsibilities under the AML/CFT Regulations, AML/CFT Code and the Business Companies Act. This would enable service providers to develop a robust framework for compliance within their organisation as well as a tool for training staff. In addition, service providers should ensure that their companies are adequately monitored and their files regularly updated in compliance with the customer due diligence measures as outlined in the AML/CFT Regulations and AML/CFT Code. It is the intension of the Commission to conduct a more focused review on the service providers that were identified as having major deficiencies in identified key areas.
- 5.3 The Commission wishes to further reiterate 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.