



# ANGUILLA FINANCIAL SERVICES COMMISSION

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

**AML/CFT**

## **INSPECTIONS REPORT**

**SUMMARY OF FINDINGS:  
COMPANY MANAGERS**

**2018 & 2019**

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# 1 Introduction

- 1.1 In 2018 and 2019, the Anguilla Financial Services Commission (the “Commission”) continued its inspection schedule to assess service providers’ compliance with the Anti-Money Laundering and Terrorist Financing (“AML/CFT”) legislation consisting of the Proceeds of Crime Act, R.S.A. c. P98 (“POCA”), AML/CFT Regulations, R.R.A, P98-1 (“AML/CFT Regulations”), and the AML/CFT Code, R.R.A. P98-3 (“AML/CFT Code”). Findings from these inspections evidence that, in some areas, the assessed service providers require assistance to bolster their compliance with their AML/CFT legislative requirements.
- 1.2 This report presents the areas in which the assessed service providers’ performance was deficient and summarises common trends found within each area assessed. In this report, the terms, “licensee” and “service provider”, are used to refer to those inspected during the 2018 and 2019 Inspection Programme.
- 1.3 The Commission has released this report to assist participants in the financial services industry to understand their obligations under AML/CFT legislation and to emphasize the importance of service providers’ compliance with international standards. Such compliance not only impacts whether they meet the Commission’s fit and proper criteria to maintain a licence but also has a direct bearing on the reputation, continued sustainability and growth of Anguilla’s financial services industry.

## 2 Scope

- 2.1 The Commission's 2018 and 2019 AML/CFT inspection programme focused on company managers (the "Licensees") only. Nine (9) AML/CFT inspections were conducted between January and October 2018 and five (5) were conducted between January and May 2019. Of the fourteen (14) inspections during 2018 and 2019, thirteen (13) were offsite inspections and one (1) was an onsite inspection. All inspections were full scope inspections. Prior to the onsite and offsite inspections, the Inspection Team requested specific information and documentation. A sample of companies relative to the Licensee's portfolio size was also sampled.
- 2.2 The onsite inspection involved visiting the premises of the Licensee and reviewing their files at the premises. The offsite inspections were conducted via telephone or conference call portals such as Zoom or Webex. All documentation was sent via email, Dropbox or by mail. All inspections involved discussions with management and staff involved in strategic, operational and compliance matters. The discussions entailed the Inspection Team gathering further information and clarification, in some instances, in relation to the information previously submitted.
- 2.3 A report was furnished for each Licensee inspected based on the data and information contained in the records submitted to the Commission; the results of the sample companies; and the representations made by management and staff via the AML/CFT Questionnaire and the discussions. Where appropriate, specific areas for improvement were identified, recommendations were made and deadlines were set for remedial action within the inspection report.
- 2.4 The areas assessed included:
  1. Policies, Procedures, Systems and Controls
  2. Risk Assessment
  3. Complex and Unusual Transactions and Structures
  4. Customer Due Diligence
  5. Customer Risk Assessment
  6. Enhanced Due Diligence
  7. Intermediaries and/or Introducers
  8. Countries that do not comply with FATF standards/International standards
  9. Politically Exposed Persons
  10. Monitoring Customer Activity
  11. Reporting Suspicious Activity and Transactions
  12. Employee Training and Awareness
  13. Record Keeping

2.5 The Inspection Team rated each area assessed. An overall rating was also given at the end of the report. The following is an explanation of the ratings applied within each inspection report:

<i>Compliant</i>	The Licensee is considered compliant with respect to all legislation and good practice requirements without any significant deficiencies.
<i>Largely Compliant</i>	The Licensee is considered largely compliant where there are only minor shortcomings with the majority of the legislation and good practice requirements being fully met.
<i>Partially Compliant</i>	The Licensee is considered partially compliant where there are significant shortcomings with significant legislative and good practice requirements not being met.
<i>Non-Compliant</i>	The Licensee is considered non-compliant where there are severe shortcomings with most of the legislative and good practice requirements not being met.

## 3 Summary of Findings

- 3.1 Figure 1 shows the number of Licensees achieving a specific overall rating. The overall ratings of each Licensee were determined based on the distribution of individual ratings of each area assessed. From Figure 1, the Commission noted that overall in 2018, 78% of Licensees were rated Partially Compliant. The majority of licensees assessed were seen to have significant shortcomings with significant legislative and good practice requirements not being met. In 2019, the number of inspections decreased. However, 40% of Licensees achieved an overall rating of Partially Compliant and 40% achieved a rating of Non-Compliant. Together 80% of Licensees were performing below the standard expected by the Commission in relation to their AML/CFT responsibilities.

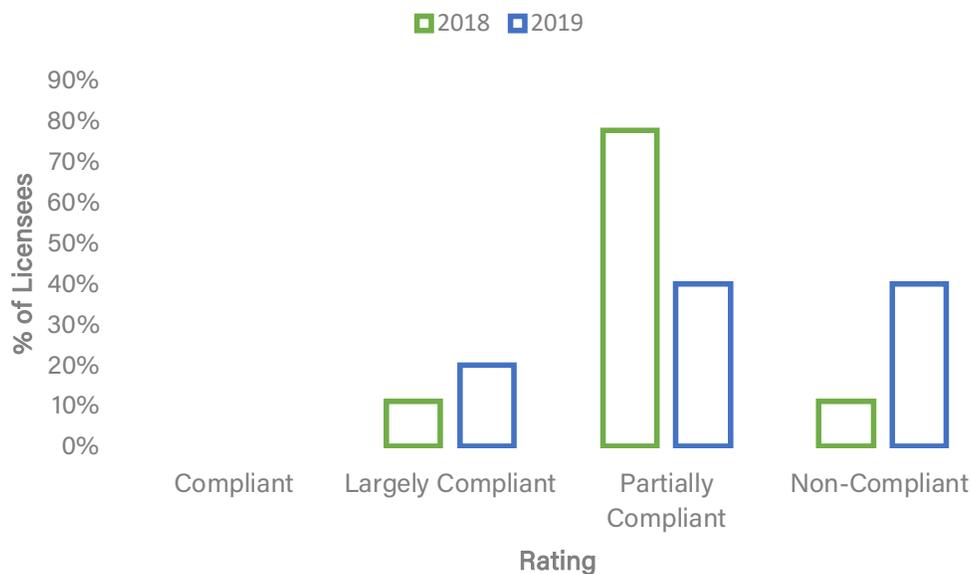


Figure 1: Distribution of Ratings for 2018 and 2019

- 3.2 Figures 2 and 3 show the percentage of Licensees scoring each rating for each area assessed. It should be noted that in relation to the assessed area of Intermediaries and/or Introducers, not all Licensees' businesses within the sample are structured using intermediaries or introducers. Overall, in both years, major deficiencies were found in the following areas: Policies and Procedures, Systems and Controls; Business Risk Assessment; Customer Due Diligence; Customer Risk Assessment; Enhanced Due Diligence; Monitoring Customer Activity; Reporting Suspicious Transactions; and Intermediaries. Further observations will be given in section 4 of this report.
- 3.3 In comparison to 2018, the compliance of the assessed licensees decreased in 2019 - as seen in Figures 2 and 3. Key findings for 2019 include a decrease in the Partially Compliant ratings and an increase in the Non-Compliant ratings for the assessed licensees.



Figure 2: Distribution of Ratings based on Area Assessed for 2018

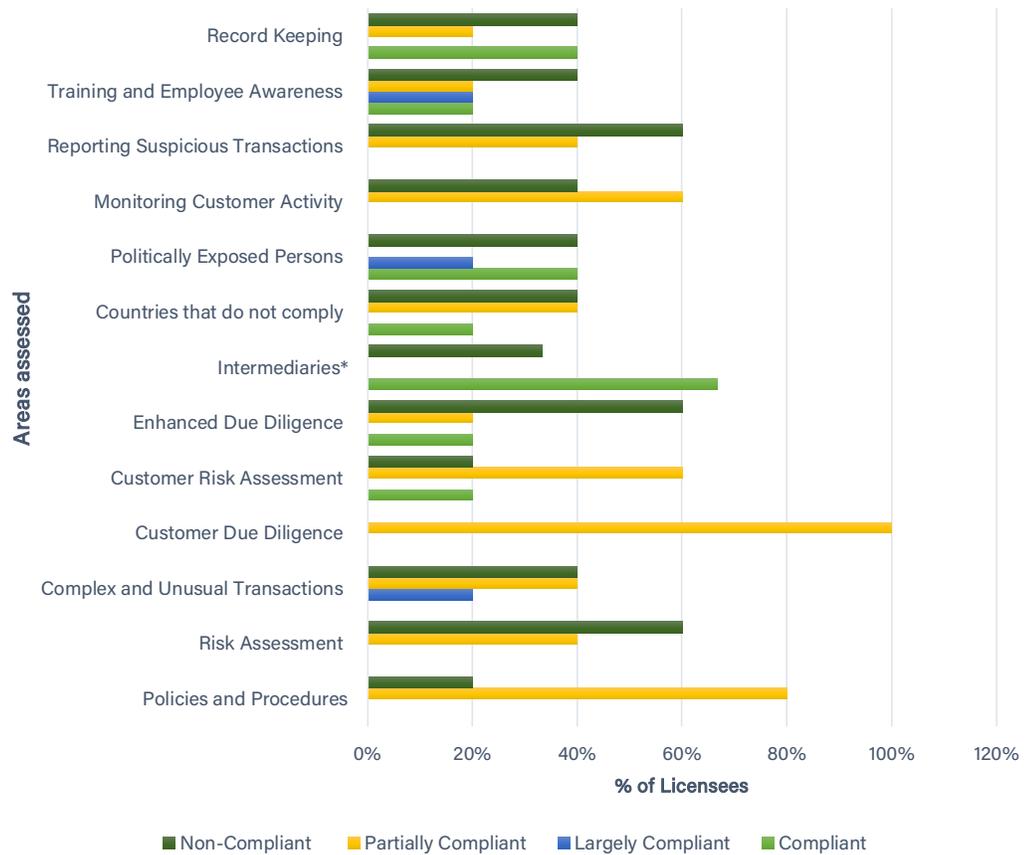


Figure 3: Distribution of Ratings based on Area Assessed for 2019

## 4 Observations

- 4.1 In this section, the Commission will briefly discuss its observations for each of the areas assessed during the 2018 and 2019 inspection programme. From the summary of findings outlined above, a preliminary observation can be made that a number of areas require increased vigilance and overall improvement of compliance with the AML/CFT legislation by the Licensees.

### 4.1 Policies, Procedures, Systems and Controls

- 4.1.1 The Inspection Team found that the majority of Licensees had some major deficiencies in relation to their AML/CFT manual. In 2018 and 2019, 89% and 80% respectively of Licensees were rated Partially Compliant. 11% and 20% of Licensees in 2018 and 2019 were rated Non-Compliant respectively.
- 4.1.2 Where Licensees were rated Non-Compliant, the Inspection Team noted that the Licensee did not provide an AML/CFT manual to them. Where Licensees were rated Partially Compliant, the overall observation was that the AML/CFT manuals did not include and analyse the topics outlined in section 16 of the AML/CFT Regulations; section 5 of the AML/CFT Code; and the Commission's guidance document "AML/CFT Issues Guide for Policies and Procedures Manuals"<sup>1</sup>. In some cases, where the topics were included in the AML/CFT manual, sufficient detail was not provided to adequately explain the policy or procedure. Some Licensees only repeated the requirements outlined in the AML/CFT Regulations and AML/CFT Code and did not modify them to their respective businesses. In other cases, Licensees referred to outdated AML/CFT legislation; and included policies and procedures that were not in compliance with current AML/CFT legislation.
- 4.1.3 Furthermore, the Inspection Team noted that the majority of Licensees had not conducted independent audits to test compliance with AML/CFT Legislation which was to include sample testing of the policies, procedures systems and controls as required by section 5(3) of the AML/CFT Code.

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1 See [AML/CFT Issues Guide for Policies and Procedures Manuals](#)

## 4.2 Risk Assessment

- 4.2.1 Conducting a business risk assessment remained an area of substandard performance by Licensees. The summary of findings highlighted that, respectively, 33% and 40% of Licensees in 2018 and 2019 were rated Partially Compliant and 56% and 60% of Licensees in 2018 and 2019 were rated Non-Compliant. There was an increase in both percentages in relation to Partially Compliant and Non-Compliant in 2019. While most AML/CFT manuals referred to the conducting of a risk assessment by the Licensee, during both years collectively, 57% of Licensees did not provide the Inspection Team with a business risk assessment, contrary to section 16(1) of the AML/CFT Regulations and section 3(1) of the AML/CFT Code.
- 4.2.2 Where a business risk assessment was provided, the Inspection Team noted that it did not demonstrate an effective and thorough assessment of the AML/CFT risks faced by the Licensee. In some cases, important factors such as the nature of business conducted by its companies; business conducted through an intermediary; and delivery of the service providers' products and services were not considered. An overall rating in some cases was also omitted.
- 4.2.3 The Inspection Team noted that Licensees having deficiencies in relation to customer due diligence, customer risk assessments and effective monitoring of its customers generally were unable to adequately assess its customer base in order to determine the risks faced by the Licensee. In other cases, Licensees did not include an assessment of internal controls and policies that have been implemented to counter its risks.

## 4.3 Complex and Unusual Transactions and Structures

- 4.3.1 86% of Licensees over the two-year inspection programme did not include a policy in relation to complex and unusual transactions and structures in their AML/CFT Manual. The Inspection Team noted that monitoring of customer files was limited to the review of company files for up to date customer due diligence information but generally did not include the requirement to monitor for complex and unusual transactions. However, Licensees in some cases did include in its AML/CFT manual a list of red flags that could indicate a potential risk of money laundering and terrorist financing.
- 4.3.2 Overall, the Inspection Team noted that Licensees did not carry out adequate monitoring of its customers' activities. This was evident from the level of customer due diligence that was collected; the lack of evidence to verify the nature of business; and, in some cases, outdated information in relation to the customer. Where Licensees used intermediaries, the Inspection Team found transaction monitoring was not conducted by the very nature in which the relationship between the Licensee and the intermediary was being carried out (see section [4.7](#)).

## 4.4 Customer Due Diligence

- 4.4.1 In relation to customer due diligence, 78% of Licensees in 2018 and 100% of Licensees in 2019 were rated Partially Compliant. 11% of Licensees in 2018 were rated Non-Compliant. In the cases where the Licensees were rated Non-Compliant, the Inspection Team found that Licensees did not conduct customer due diligence measures on all principals of the companies in their portfolio.
- 4.4.2 During the review of the sampled companies, the Inspection Team noted generally that some Licensees were not in compliance with section 10 of the AML/CFT Regulations and sections 10 and 11 of the AML/CFT Code. Some Licensees failed to conduct sufficient customer due diligence measures in particular the failure to collect identification information and verification of identification information; proof of address documentation; source of wealth/source of funds information and documentation; and evidence to verify the nature of business. In some instances, the documents that were provided were uncertified.
- 4.4.3 Specifically, in relation to the nature of business, the Inspection Team noted that while a general statement as to the nature of business was provided, some Licensees generally did not collect evidence to verify the nature of the business. This deficiency was also noted in cases where Licensees used an intermediary. The Licensees relied on the nature of business stated by the intermediary (see section [4.7](#)) without verification by the Licensee. This has led to erroneous customer risk assessments as the risk was unable to be accurately determined due to the nature of business being inaccurate.

## 4.5 Customer Risk Assessment

- 4.5.1 The Inspection Team noted that in relation to customer risk assessments, some Licensees remain only Partially Compliant with section 10(4)(a) of the AML/CFT Regulations and section 10(3) of the AML/CFT Code. Where Licensees were rated Non-Compliant, the Inspection Team noted that these were cases where intermediaries were used and the Licensees failed to conduct their own ratings of their customers.
- 4.5.2 Where Licensees were rated Partially Compliant, the customer risk assessments were found to be deficient in one (1) or a more of the following examples listed below. The customer risk assessment did not:
- a. include an analysis of the following factors: customer, product, geographical and delivery risk;
  - b. risk rate each factor and include a rationale for each rating;
  - c. include an overall rating and rationale;
  - d. verify that the nature of business the company initially stated was the nature of business being currently conducted; and/or
  - e. provide evidence that the Licensee reviewed and updated customer risk assessments according to its review policy in its AML/CFT manual.

## 4.6 Enhanced Due Diligence

- 4.6.1 From the summary of findings, 56% and 20% of Licensees in 2018 and 2019 respectively, were rated Partially Compliant in relation to enhanced due diligence. 33% and 60% of Licensees in 2018 and 2019 were rated Non-Compliant. The problems in relation to compliance with section 12 of the AML/CFT Regulations and section 11A of the AML/CFT Code were generally concluded to be as a result of inaccurate customer risk rating and the lack of ongoing monitoring. Enhanced due diligence measures were not carried out in instances where a customer was inaccurately risk rated as having a low or medium risk. Where enhanced due diligence measures were required, some Licensees failed to:
- i. collect further customer due diligence measures such as additional verification of identification and proof of address documents, request additional information in relation to certain high risk transactions;
  - ii. collect source of wealth information and documentation;
  - iii. conduct additional due diligence searches;
  - iv. additional verification and approval procedures; and
  - v. increase the frequency in which high risk customer files are monitored and updated.

*NB: The lists in sections 4.5 and 4.6 are not to be interpreted as exhaustive.*

## 4.7 Intermediaries and/or Introducers

- 4.7.1 Generally, business conducted through introducers/intermediaries is considered high risk. In addition to not having adequate policies and procedures documented in its manual in relation to business conducted through an introducer/intermediary, Licensees, in some cases, were unable to evidence that its intermediaries were regulated, supervised or monitored by a regulatory body for AML/CFT purposes. Some Licensees did provide evidence that the intermediary was regulated by a professional body. However, in most cases, the Licensee could not show that the professional body provided an AML/CFT type of oversight.
- 4.7.2 Contrary to section 13(1) of the AML/CFT Regulations and section 26 of the AML/CFT Code, there was evidence that some Licensees relied on these unregulated intermediaries to apply customer due diligence measures on its customers. While section 13 of the AML/CFT Regulations allow for reliance on a regulated intermediary, the Licensee is still required to request the customer due diligence information from the intermediary subject to section 13(3) of the AML/CFT Regulations. Where the intermediary was not regulated, the Inspection Team found Licensees should hold both customer due diligence information and evidence. Furthermore, some Licensees failed to test their regulated intermediaries on their awareness of the AML/CFT requirements in relation to customer due diligence and the responsiveness of their regulated intermediaries to respond to requests for customer due diligence. This resulted in some Licensees' inability to provide the Inspection Team with current and adequate customer due diligence.

## 4.8 Countries that do not comply with FATF standards/International standards

- 4.8.1 The Inspection Team noted that some Licensees did not outline policies and procedures in relation to the reviewing of lists and publications published by the FATF, CFATF and other international bodies. In addition, screening against sanction lists published by international bodies such as the United Nations, the European Union and other international bodies, while evidenced to be done in some cases, was generally not outlined in the AML/CFT manual.
- 4.8.2 Some Licensees did keep lists of sensitive and high-risk jurisdictions. However, there was no evidence, in some cases, that these lists were frequently updated. In many cases, the lists were deemed to be outdated given the volatile nature of such lists.

## 4.9 Politically Exposed Persons

- 4.9.1 While the majority of Licensees generally had a section of its AML/CFT manual dedicated to Politically Exposed Persons (PEP)s, most of these sections did not adequately outline policies and procedures in relation to the identification of PEPs and handling customer engagements with PEPs. Where PEP lists were held, the Inspection Team noted that the list of PEPs was not regularly reviewed and amended. Licensees that performed poorly in this area, generally had problems with conducting sufficient customer due diligence measures and ongoing monitoring.

## 4.10 Monitoring Customer Activity

- 4.10.1 The Inspection Team noted that missing customer due diligence information and evidence and expired IDs, were found during its sample file review. In addition, up-to-date contact information such as email addresses and/or telephone numbers for all principals of the company in order to gather the required information were not provided in all cases. Significant deficiencies were observed where Licensees relied intermediaries to conduct customer due diligence measures as discussed in section 4.7 above.
- 4.10.2 As noted above in section 4.4 in relation to customer due diligence, Licensees failed to sufficiently verify the nature of business and failed to undertake ongoing monitoring to determine whether the business activity was the same as previously stated. The Inspection Team found that as a result, in some cases, the nature or purpose of one or more of their customers' businesses, as represented by the customer, differed significantly from the actual business being conducted.

## 4.11 Reporting Suspicious Activity and Transactions

- 4.11.1 Regarding the reporting of suspicious activity and transactions, the Inspection Team noted that major deficiencies remain in this area. 67% and 40% of Licensees in 2018 and 2019 respectively were rated Partially Compliant, while 60% and 22% of Licensees in 2018 and 2019 respectively were rated Non-Compliant. While the percentages for Partially Compliant and Non-Compliant did decrease in 2019, the Inspection Team noted that no Licensees were found to be fully compliant. The major deficiencies in relation to reporting suspicious activity and transactions flowed from the deficiencies observed by the Inspection Team in relation to monitoring customer activity and unusual transactions and structures discussed in this report. Furthermore, the deficiencies outlined in relation to intermediaries and introducers in section [4.7](#) of this report contributed to the ineffectiveness of Licensees in reporting suspicious activity and transactions.
- 4.11.2 The Inspection Team found that Licensees generally did not compile lists of suspicious transactions or activities for its staff to help in the detection of suspicious activity and transactions. The Inspection Team also noted cases in which the AML/CFT manual erroneously indicated that suspicious activity reports should be reported to the reporting authority in the jurisdiction in which the Licensee was located and not to the Financial Intelligence Unit in Anguilla.

## 4.12 Employee Training and Awareness

- 4.12.1 The Commission noted that the majority of Licensees were either rated Partially Compliant or Non-Compliant in relation to employee training and awareness. The summary of findings outlined that 67% and 20% of Licensees in 2018 and 2019 respectively were rated Partially Compliant. In addition, in 2019, 40% were rated Non-Compliant. The Inspection Team found that in some cases, while the AML/CFT manual did include policies and procedures in relation to employee training, the training did not include training on the AML/CFT legislation within Anguilla. In some cases, the training was regarding legislation of the jurisdiction in which the Licensee was located only.
- 4.12.2 In other cases, evidence including records of AML/CFT training and training logs were not provided to the Inspection Team as requested. The Inspection Team was unable to assess whether AML/CFT training was conducted with its staff and if it was conducted, the level and adequacy of training conducted with staff. In 100% of the cases that were rated Non-Compliant in 2019, the Licensee did not include in its AML/CFT manual, policies and procedures in relation to employee training.

## 4.13 Record Keeping

- 4.13.1 The Inspection Team found that Licensees were generally Compliant with the record keeping provisions of the AML/CFT Regulations. 56% and 40% of Licensees in 2018 and 2019 respectively, were rated Compliant and 11% were rated Largely Compliant in 2018. Where Licensees were rated Largely Compliant, the Inspection Team found that their record keeping policies and procedures required minor amendments within their AML/CFT manual. Licensees rated Partially Compliant had policies and procedures that were documented but were insufficient.
- 4.13.2 11% of licensees in 2018 and 40% of licensees in 2019 were rated Non-Compliant. In 67% of these Non-Compliant cases, the Licensees had issues with receiving the customer due diligence evidence from its intermediaries. The Licensees did not hold the required customer due diligence information on file. In 33% of these Non-Compliant cases, the Licensees did not have policies and procedures for record keeping. In all Non-Compliant cases, the Inspection Team did not receive all of the required customer due diligence from the Licensees.

## 5 Conclusion

- 5.1 The Commission strongly advises that all service providers review the AML/CFT Regulations and AML/CFT Code. The AML/CFT Code is an excellent resource for AML/CFT compliance, easy to read with valuable guidance. The Code is a practical and useful document and can be used by practitioners for training of staff and in developing a framework for compliance with the AML/CFT legislation. Further, the Commission also suggests that all service providers regularly review the Commission's guidelines that are published on the website in relation to AML/CFT matters in order to gather a clear picture of their responsibilities. Further guidance can be sought from the FATF 40 Recommendations.
- 5.2 The Commission further encourages its service providers to engage with the Commission on areas where they seek clarification and to participate in the Commission's outreach programmes. The Commission hopes that the results of the 2018 and 2019 inspections can help to show service providers the areas in which they should pay close attention to and to help formulate an environment of compliance with all AML/CFT Legislation within Anguilla.



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