

# ANGUILLA FINANCIAL SERVICES COMMISSION

## ANNUAL REPORT 2022



# 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 aims to highlight the AFSC's 2022 activities across various sectors under the financial services enactments, other legislation and the ongoing preparation for upcoming international evaluations and collaborative outreach initiatives with industry partners.

The Financial Services Commission Act, R.S.A. c. F28 ("FSC Act") as the enabling legislation allows the AFSC to administer the financial services enactments and gives the AFSC responsibility for prudential supervision of licensees. In addition, the AFSC is the Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) supervisor for financial service providers pursuant to section 154 of the Proceeds of Crime Act, R.S.A. c. P98 ("POCA").

The AFSC continued its engagement with the industry by hosting the annual Fintech and Compliance Conference, which involved interaction with professionals from international institutions and regulatory entities. Leveraging its membership in the Global Financial Innovation Network (GFIN), the AFSC effectively collaborated with FinTech experts, ensuring the conference's success. Additionally, in partnership with the Anguilla Compliance Association, the AFSC organized two educational sessions addressing topics that demanded regulatory clarity.

This year allowed for a suite of legislation to be amended and enacted to allow for compliance with international standards in preparation for two international mutual evaluations. These legislations included amendments to the POCA and its subsidiary legislation as well as amendments to the FSC Act. Noteworthy is the introduction of the Business Companies legislation and the enabling legislation for the new Commercial Registry Electronic System termed Commercial Registry and Beneficial Ownership Registration System legislation.

As noted above, efforts continued in preparation for the fourth round of AML/CFT Mutual Evaluation in which the AFSC is a member of the ANAMLC as well as a member of its working group. The AFSC continued its cooperation with national regulatory authorities in meeting its remit; culminating in a Memorandum of Understanding with the Financial Intelligence Unit.

On examining the different sectors, a persistent decrease in licensees is evident; particularly notable in the captive insurance sector. This decline is attributed to external factors that influenced service providers to opt for onshore domiciles. This reduction in licensees had a direct impact on the year's revenue collection, leading to a negative net income for the AFSC. Despite these challenges, the AFSC's staff deserve recognition for their unwavering dedication and efforts.

## 2.0 Regulation Statistics

### Licensee Statistics

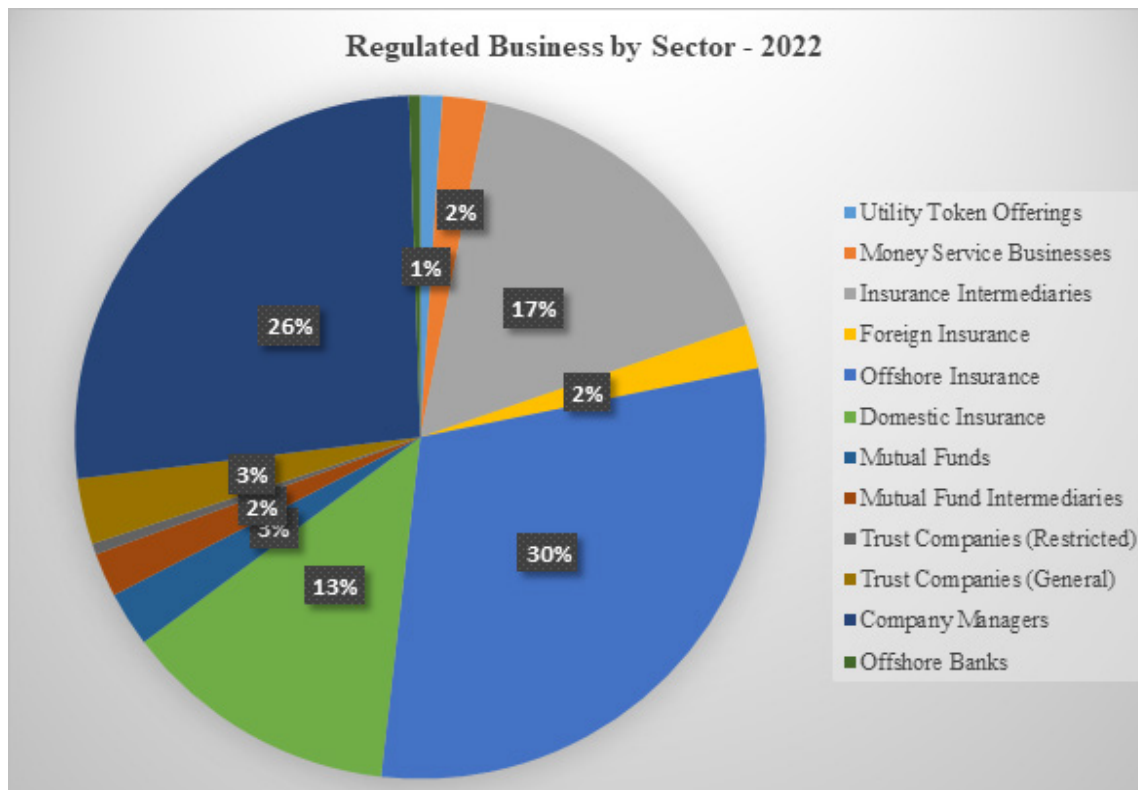


Figure 1: Percentage of Licensees in 2022

Key sectors include that of the offshore insurance, company management, as well as domestic insurance. The AFSC in response to the declining license portfolio has initiated a legislative review to enable the introduction of new products and services, along with an updated regulatory framework.

The total number of licensees was 193 as at 31 December 2022. This represents a decline of 11% from the previous year's total of 216 as at 31 December 2021, which itself represented a 7.3% reduction as compared to the total number of licensees as at 31 December 2020.

Specifically, the captive insurance sector, constituting about 30% of the AFSC's licensees, sustained a decrease in its count. The number declined from 74 licensees on December 31, 2021, to 58 on December 31, 2022, marking a decline of 22%. Heightened competition from

U.S. states vying for the incorporation of captive insurance companies, alongside efforts by the U.S. Internal Revenue Service aimed at smaller captive insurance companies, have prompted a preference for U.S. domiciles among many U.S.-owned captives. This has led to fewer captive insurance licensees being licensed in Anguilla.

The company management sector constitutes 24% of the overall licensees, showing minimal change over the last 5 years.

Domestic insurance accounts for 13% of the licensees, while insurance intermediaries make up 17% of the licensee total.

**Regulated Business Statistics**

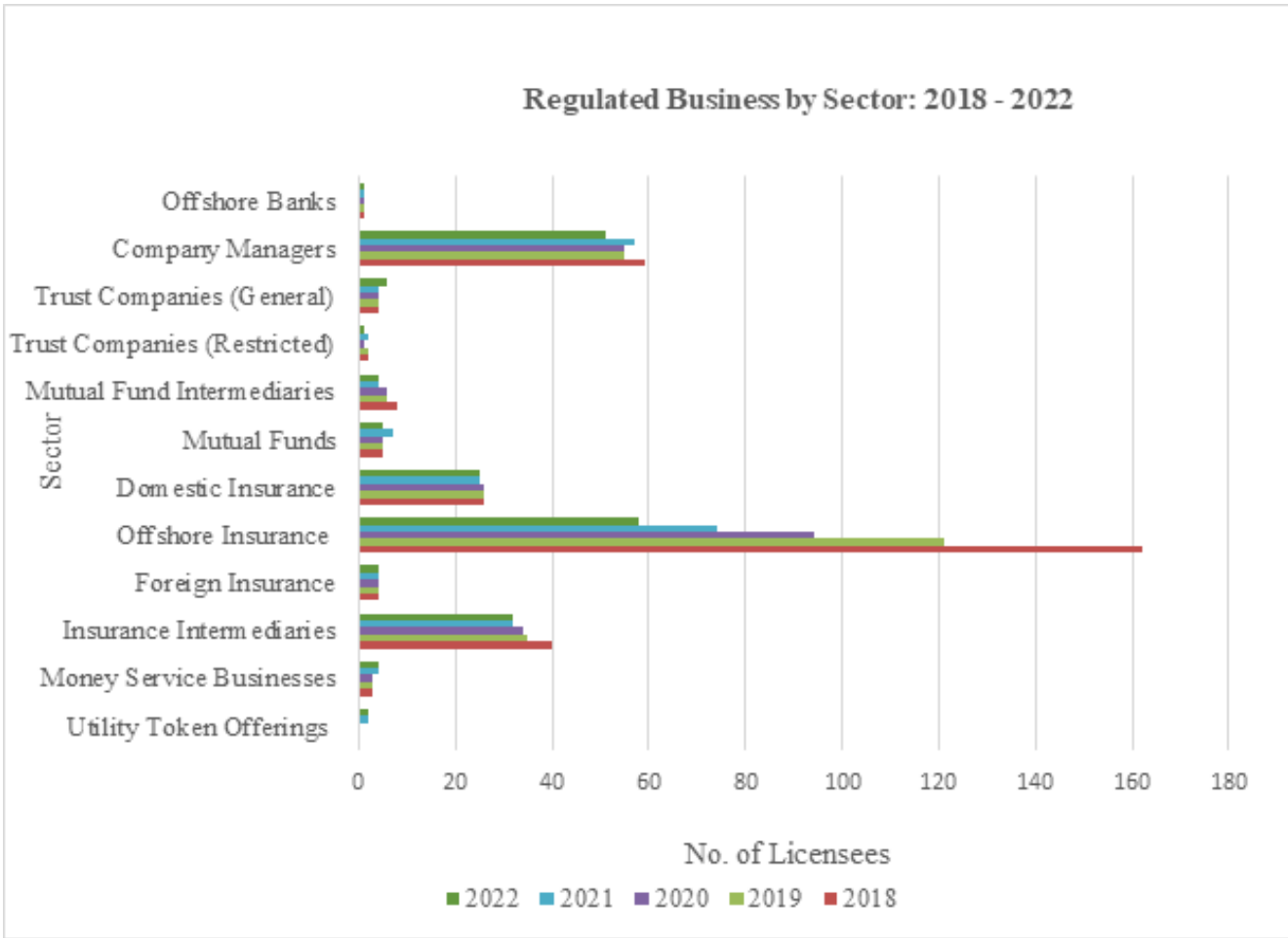


Figure 2: Regulated Business by Sector (2018 -2022)



### 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, utility token offerings, externally and non-regulated service providers and non-profit organisations will be discussed.

#### Insurance Sector

Domestic insurers, agents and brokers

##### *Domestic Insurers*

Insurers globally continued to face a hardening reinsurance market hastened by the occurrence of increasingly severe weather events. As a result, some price increases were introduced. Awareness of climate risk continued to increase as more resources were being directed towards incorporating into insurers' enterprise risk management frameworks in a more earnest and meaningful way. Simultaneously, supervisors continued to place increasing focus on building capacity internally and incorporating climate risk into financial sector supervision. Covid-19 pandemic effects began to taper off during the year, allowing businesses to gradually return to near normal operations.

Focus on the implementation of the IFRS 17.

Insurance contracts financial reporting standard requirements were heavily increased ahead of the 1 January 2023 effective date. To aid insurers in understanding the IFRS 17 standard, the AFSC, through collaboration with Deloitte Bermuda, held a webinar on IFRS 17 in March 2022. Throughout the year, the AFSC collaborated with regional regulators and capacity building organisations to prepare the requisite supervisory regime for financial and regulatory reporting under the new standard. IFRS 17 Quantitative Impact Study templates were circulated to insurers for completion during the year, to enable the AFSC to assess the potential impact of the standard on insurers' financial statements as well as their capital positions. However, the response rate was low. As at the end of 2022, review of statutory requirements including reporting forms, and impact on solvency, statutory deposit and statutory reserve requirements was ongoing, and IFRS 17-compliant reporting forms were being prepared for circulation.

On 1 July 2022, the Goods and Services Tax ("GST") became effective in Anguilla. Certain lines of insurance business became subject to an additional GST charge, increasing the cost of insurance for the populace. Prior to implementation, the AFSC worked together with the Government of Anguilla's Inland Revenue Department and its consultants to add clarity to aspects of the tax and its application that were unclear, and to also highlight certain potential socio-economic impacts. Some amendments to the tax structure were subsequently made, to the benefit of policyholders.

The year began and ended with all the same licensed Class 'A' insurers as no new licences were granted and none were cancelled.

Implementation of a risk-based supervisory framework for the insurance sector continued in 2022. One full-scope inspection of a domestic insurer was carried out during the year. Additionally, two desk-based reviews were conducted and reports issued.

Much supervisory attention was put toward monitoring high risk domestic insurers, in particular those for which the AFSC acts as home supervisor. Cross-border collaboration was even further amplified to ensure effective group-wide supervision. Risk assessments were placed more in focus in preparation for the 2023 AML/CFT Mutual Evaluation.

A review of the AFSC's insurance and fee structure was conducted with a view towards strengthening the supervisory regime through the introduction of certain amendments to legislation requiring regulatory approval and modification of certain fees for better alignment with regulatory resources.

Capacity building overall was placed in focus as the AFSC capitalized on several virtual training opportunities which were on the rise due to the pandemic.

#### *Agents and Brokers*

One new insurance sub-agent licence was granted in 2022 and one application for an insurance broker's licence was received, but not approved as at the year end.

#### *Non-Domestic Insurers*

##### *Captive Insurers*

The captive industry in Anguilla saw further expected decline. At the end of 2022, there were 58 captives, following 1 newly approved, and 17 licences cancelled. The downward trend is expected to continue due to attrition as captives reach the end of their life cycle. Small captives continue to face scrutiny by the Internal Revenue Service in the U.S., and onshore domiciles continue to attract more business.

##### *Foreign Insurers*

There were no changes in the number of licensed foreign insurers, which held steady at 4.

##### *Insurance Managers*

After one licence cancellation, 14 insurance managers were licensed as at 31 December 2022.

## Mutual Fund Sector

### Funds

As at 31 December 2022, there were 3 private funds and 2 professional fund licensed with 2 private trusts surrendering their licenses.

### Fund Managers and Administrators

As at 31 December 2022, there were 4 licensed fund managers and administrators.

## Company Management and Trust Services Sector

By the conclusion of December 31, 2022, the AFSC's licensed entities encompassed 6 general trust companies, 1 restricted trust company, and 51 company managers. Within the general trust sector, two new licensees were added. Overall, one restricted trust surrendered and moved to a general trust company. Six company managers surrendered their licenses with one restructuring and elevating its status to that of a general trust company.

## Money Services Business Sector

The AFSC continues to hold licenses for 4 money service businesses. Among these, one licensee is limited to operating solely through an automated teller machine or a software application on a desktop computer. This specific licensee facilitates the conversion between U.S. dollars and bitcoins.

## Utility Token Offering

The Anguilla Utility Token Offering (AUTO) sector is a fairly new sector with legislation enacted in 2018 and amendments in 2020. There are two licensees in the sector; 1 administrator and 1 issuer.

## Offshore Bank Sector

Throughout 2022, National Bank of Anguilla (Private Banking & Trust) Ltd. and Caribbean Commercial Investment Bank Ltd. remained under administration pursuant to the terms of the Order issued by the Eastern Caribbean Supreme Court on 22 February 2016 under section 37 of the FSC Act. During this period, the Administrator's focus remained on safeguarding the interests of these offshore banks and their depositors. The Administrator took proactive steps, which included 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 manage the outstanding loan portfolios of the two offshore banks. This involved pursuing the retrieval of non-performing loans and, when necessary, enforcing the security associated with these loans.

At the end of 2022, there was 1 active offshore bank.



### Externally and Non-Regulated Service Providers

The Externally and Non-Regulated Service Providers Regulations, R.R.A. P98-6 (“ENRSP Regulations”) gives the AFSC 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”)) along with non-regulated service providers (“NRSPs”), for compliance with AML/CFT requirements under POCA. Such NRSPs include real estate agents, micro-lenders and high value dealers.

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 AFSC registered 1 NRSP during 2022 with a total of 21 NRSPs. There continued to be 2 registered ERSPs.

### Non-Profit Organisations

The AFSC 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 2022, the AFSC registered 14 NPOs bringing the total registered NPOs to 180. Also, the AFSC exempted 6 NPOs from registration with a total of 170 NPOs exempted from registration. 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**

### **Inspections**

#### Thematic Inspections

In the first quarter of 2022, the AFSC commenced the third and final phase of its offsite thematic inspections project (“Phase 3”). During Phase 3, the AFSC sampled fifteen (15) of its service providers who provide company management services, for compliance with the AML/CFT legislation consisting of the 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”). The AFSC published a summary of findings report from phase 2 in April 2022 and phase 3 in July 2022. The report outlined how well the sampled fifteen (15) service providers performed during the first phase in the five (5) areas assessed namely: Customer Risk Assessment; Nature of Business and verification of nature of business; Corporate Directorship services; Nominee Shareholder services; and Accounting Records. The report highlighted that deficiencies were particularly salient in the areas of customer risk assessment, verifying the nature of business and the holding of accounting records.

#### *Other AML/CFT inspections*

The AFSC conducted one (1) follow up inspection and two (2) compliance visits during the 2022 period.

## CFATF Mutual Evaluation Preparations

The work on the National Risk Assessment (“NRA”) and preparation for the CFATF Mutual Evaluation Process continued with all governmental agencies. A summary version of the NRA outlined the key findings of the NRA in a condensed format was approved by Executive Council and published. The Financial Sanctions Guideline also was submitted for the approval of Executive Council and widely disseminated publicly thereafter.

## Enforcement Activity

In 2022, there were 4 notices of intent to suspend; 3 suspensions; 4 notices of intent to revoke, 4 revocations and 2 notices of intent to impose administrative penalties. Figure 3 below offers a visual representation of the enforcement actions spanning from 2018 to 2022.

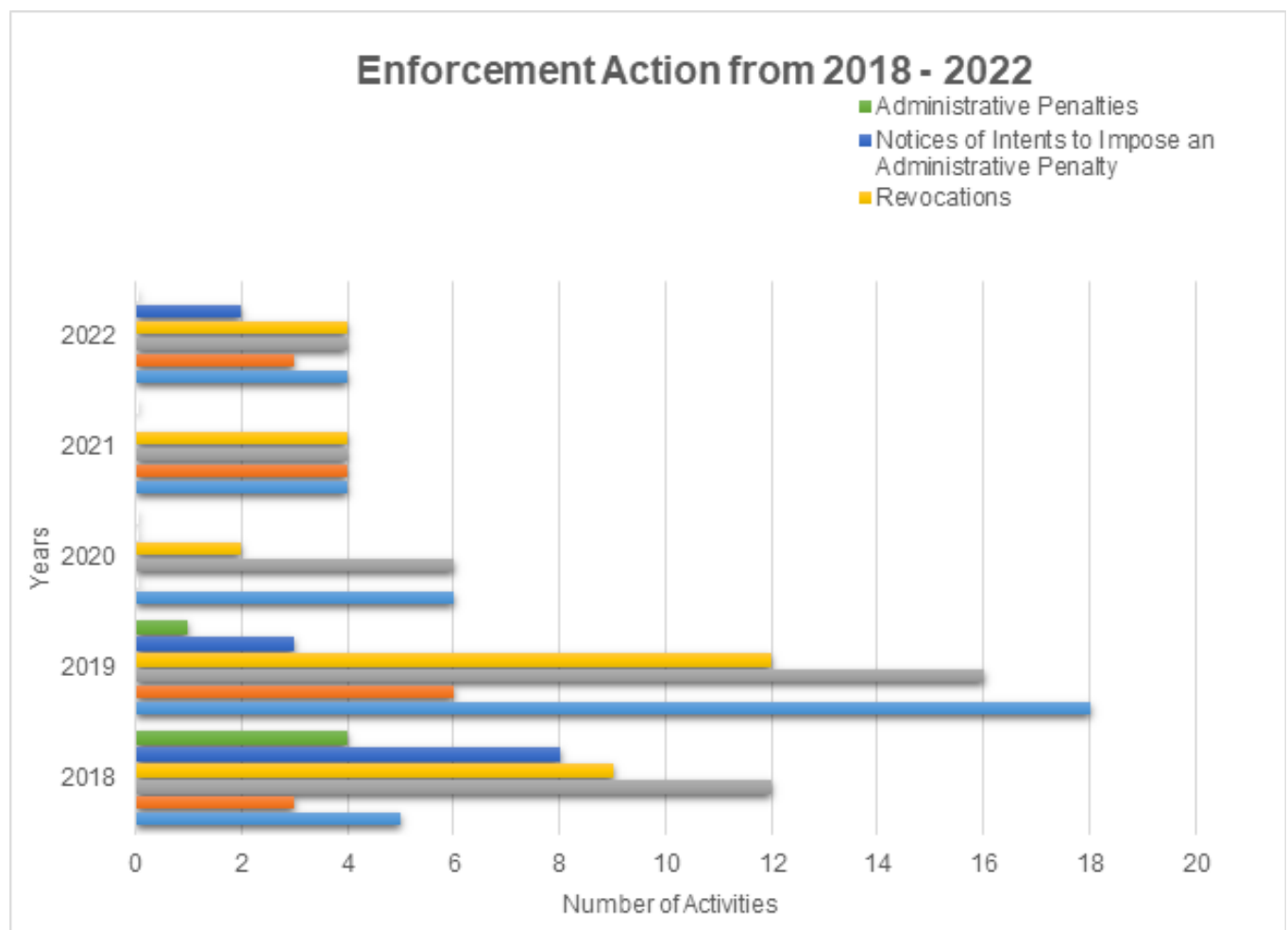


Figure 3: Enforcement Action from 2018 – 2022

## 5.0 Legislative Developments

In ensuring compliance with international standards as well as modernizing the legislation, the jurisdiction amended and enacted various pieces of legislation as follows:

- Proceeds of Crime (Amendment) Act 2022
- Anti-Money Laundering and Terrorist Financing (Amendment) Regulations, 2022
- Anti-Money Laundering and Terrorist Financing (Amendment) Code, 2022
- Externally and Non-Regulated Service Providers (Amendment) Regulations 2022
- Financial Services Commission (Amendment) Act, 2022
- Commercial Registry and Beneficial Ownership Registration System Act, 2022
- Commercial Registry and Beneficial Ownership Registration System Regulations, 2022
- Commercial Registry and Beneficial Ownership Registration System (Amendment) Act, 2022
- Business Companies Act, 2022
- Business Companies Regulations, 2022

The AFSC continues to review several draft pieces of financial services legislation pertaining to Trust and Corporate Service Providers, Special Trusts and Securities and Investments.

### Cooperation between National Regulatory Authorities

The AFSC continues to collaborate with domestic regulatory bodies to fulfill its regulatory responsibilities. A memorandum of understanding was established between the AFSC and the Financial Intelligence Unit to facilitate mutual cooperation, consultation, and the exchange of information.

## 6.0 Industry Engagement

In partnering with the Anguilla Compliance Association, the AFSC presented two educational sessions. The topics included “GST and the Financial Services Industry” and “IFRS 17 Implementation”.

The Fintech and Compliance Conference was held in December 2022 over a two-day period to include renowned speakers from CFATF; Global Impact FinTech (GIFT); Group of International Financial Centre Supervisors (GIFCS); Cayman Islands Monetary Authority; British Virgin Islands Financial Services Commission; Bahamas Financial Services Board; South East Asian Central Banks (SEACEN) Research and Training Centre and the GFIN.

On a local level, speakers included Her Excellency the Governor, Dileeni Daniel-Selvaratnam; the Honourable Premier, Dr. Ellis L. Webster; the Chairman of the AFSC, Mr. Ralph Hodge; Staff of the AFSC, Financial Intelligence Unit and Commercial Registry.

The theme for Day 1 was “Understanding the Assignment: Meeting International Standards to Elevate Anguilla’s Compliance”; whilst the theme for Day 2 was “Acclimating and Navigating Digitally through FinTech”.

## **7.0 Professional Development**

Continuous professional development is imperative for the AFSC staff with increasing international standards and the need to improve regulatory frameworks. Thus, staff participated in a number of conferences and workshops. Several of these workshops addressed topics on IFRS 17 Implementation; Climate Risk Management; Risk Based Supervision; AML/CFT Supervision to include targeted financial sanctions, illicit financial flows, proliferation financing, beneficial ownership and transparency of legal persons and financial sanctions; Crypto Fraud Scams; and Fintech and Regulatory innovation.

Noteworthy was the three-month course guided by a facilitator from the Insurance Institute of Barbados, which ensured that all staff members developed and build on essential insurance principles including familiarization with insurance terms, claims and reinsurance. Also two members of staff completed a Fintech and Regulatory Innovation course with the Cambridge Judge Business School.

Virtual conferences included sessions with international institutions and regulatory bodies such as Caribbean Regional Technical Assistance Centre (CARTAC); Financial Action Task Force (FATF), Association of Certified Anti-Money Laundering Specialists; Eastern Caribbean Central Bank (ECCB) and Inter-American Development Bank.

Three staff members pursued continuing education with the International Centre for Captive Insurance Education (ICClE) to maintain the certification of Association in Captive Insurance. One staff member continues to pursue tertiary educational courses with the University of the West Indies.

## **8.0 Regulatory Meetings**

AFSC staff engaged in regulatory meetings throughout the year, attending significant events like the Caribbean Association of Insurance Regulators (CAIR) conference in September; the Group of Financial Centre Supervisors (GIFCS) conferences in April and November; the Group of International Insurance Centre Supervisors (GIICS) conference in June and the UK Overseas Territories Regulatory Meeting in February.

## **9.0 Financial Performance Analysis**

The AFSC reported a deficit of US\$212,198 for the year ended 31 December 2022 (Deficit US\$286,552 for 2021), which is a 26.0% decrease from the previous year. Reserves decreased by 8.0% to US\$2,438,666 as at 31 December 2022 from US\$2,650,864 as at 31 December 2021. The underlying factors of the year's performance are reported below.

## 10.0 Assets, Liabilities and Reserves

As at 31 December 2022, the AFSC's total assets were US\$7,937,851 (2021: US\$8,074,601). Liquid assets, in 2022 being entirely cash, accounted for 93.4% of the AFSC's assets (2021: 92.9%).

Total liabilities were US\$5,499,185 (2021: US\$5,423,737). The increase from 2021 was mainly as a result of increase in Statutory Deposits held by the AFSC in connection with approved external insurers licensed in the jurisdiction.

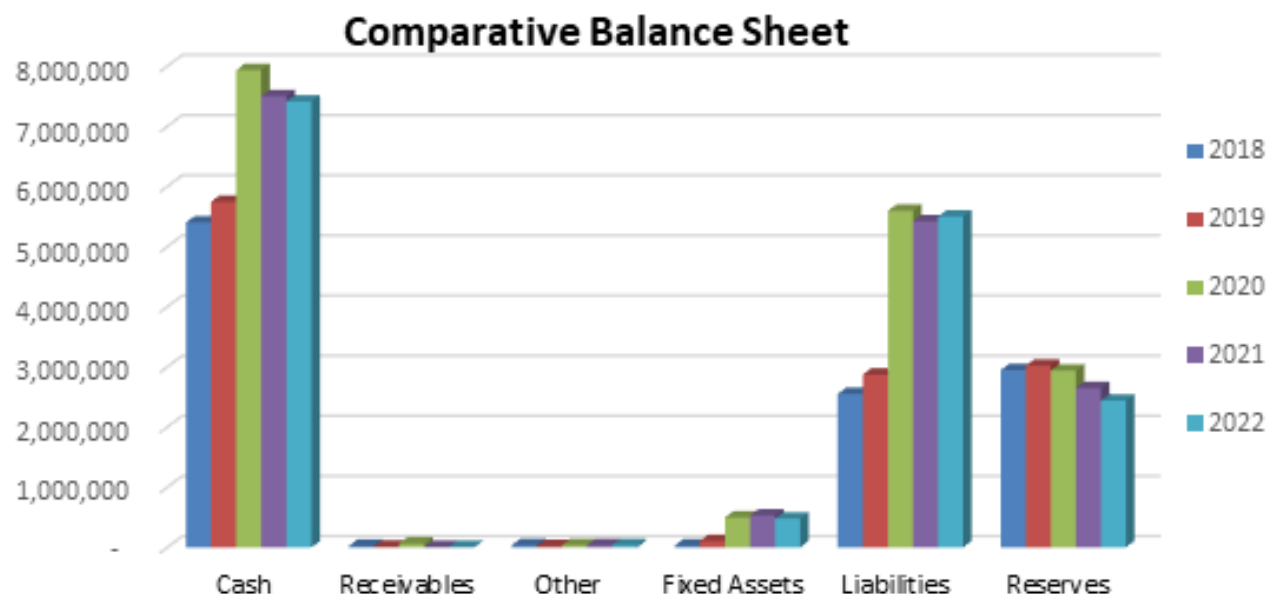


Figure 4: Comparative Balance Sheet Indicator

## 11.0 Revenue

Total revenue decreased by 6.8% or US\$55,834 to US\$766,395 (2021: US\$822,229). License fee revenue decreased by 4.4% or US\$32,882 to US\$715,620 (2021: US\$748,502). 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 as stipulated by the applicable legislation as well as penalties which include the assessed amount of fines for late payment of fees and administrative penalties imposed.

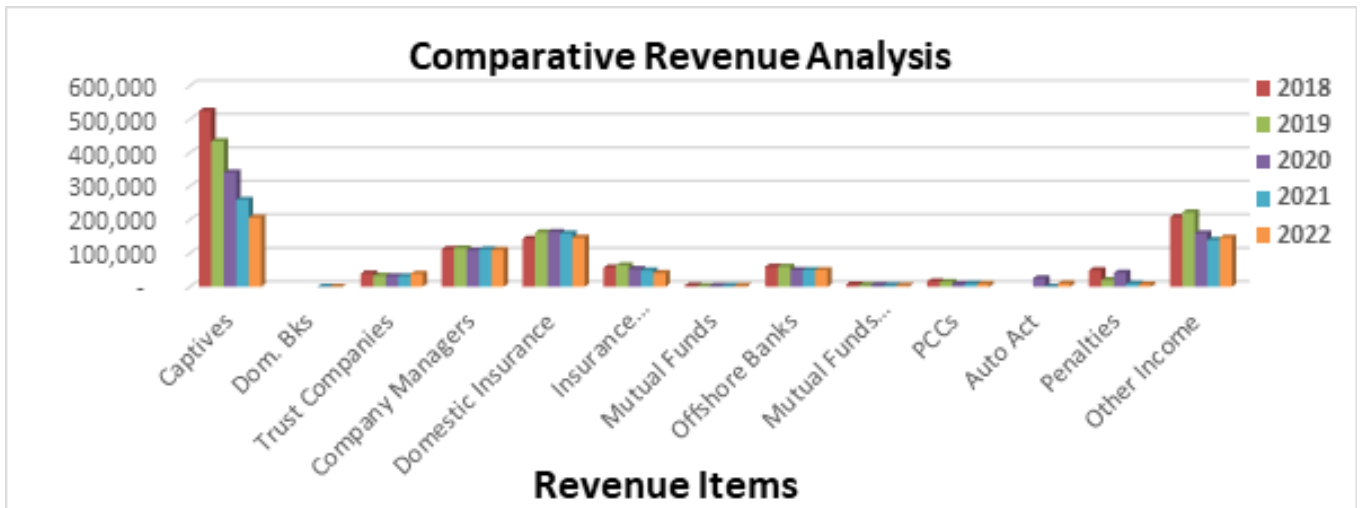


Figure 5: Comparative Revenue Analysis

## 12.0 Expenditure

Total expenses decreased by 11.7% or US\$127,564 to US\$ 965,468 (2021: US\$1,093,034). This was mainly attributable to the decreased in Salaries and Benefits and Impairment Loss of Accounts Receivables. The decrease in salaries resulted from the expiration of employee contracts in 2021. Additionally, there was not a requirement to allocate a significant provision for accounts receivables in 2022 resulting in a decrease in Impairment Loss of Receivables.

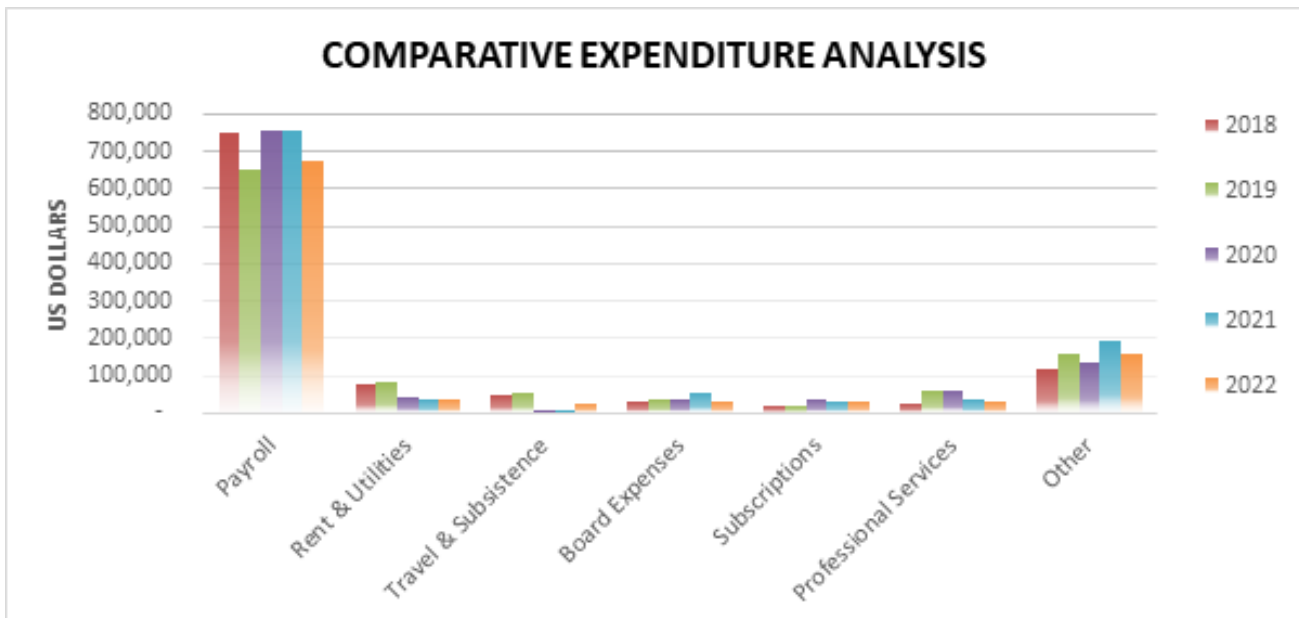


Figure 6: Comparative Expenditure Analysis