



ANGUILLA FINANCIAL SERVICES COMMISSION

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

THEMED INSPECTIONS

AML/CFT SUMMARY OF FINDINGS
PHASE 2: 3rd QUARTER 2021

ISSUED: APRIL 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. In the third quarter of 2021, the Commission commenced the second phase of its offsite thematic inspections (“Phase 2”). This was following the completion of the first phase that began in 2020 (“Phase 1”) and ended with the publication of a summary findings report in June 2021. During Phase 2, the Commission sampled nineteen (19) 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 results of the areas assessed during Phase 2 and provides a comparison between Phase 1 and Phase 2.

2 Scope

2.1 The Commission sampled nineteen (19) 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, deficiencies were identified in the areas of customer risk assessment, verification of nature of business and the holding of accounting information and records.

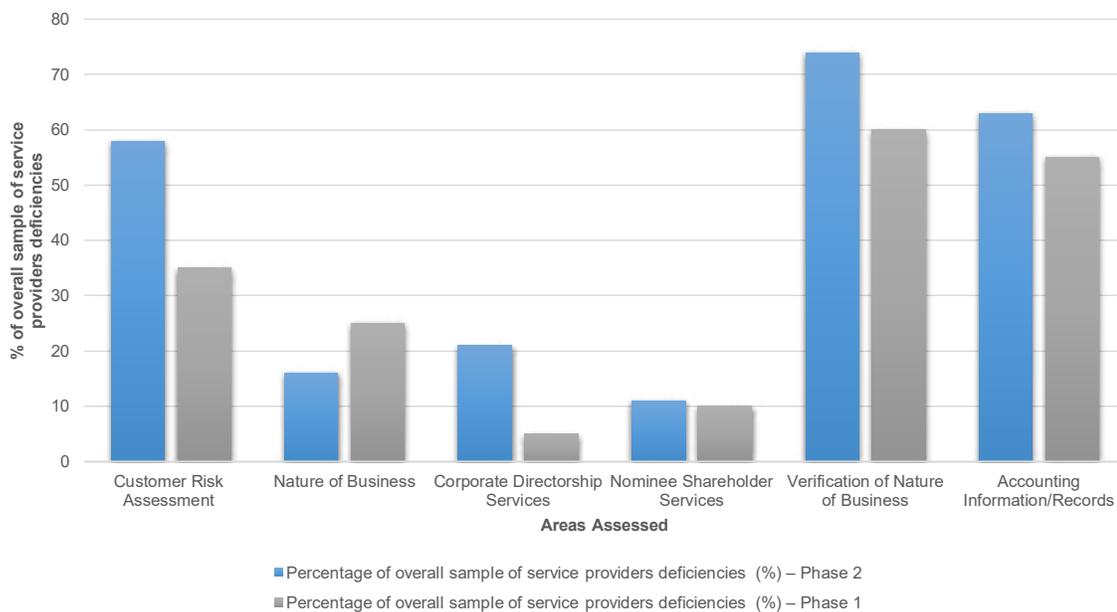


Figure 1: Findings

4 Observations

- 4.1 In this section, the Commission briefly discusses its observations for each of the areas assessed during the Phase 2 thematic review in the third quarter of 2021.

4.1 Customer Risk Assessment

- 4.1.1 During the thematic review, the Commission observed that 58% 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. 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. In comparison to Phase 1, there has been a drastic increase by 23% of service providers who were deficient in this area during Phase 2.

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 revealed that 16% of service providers either did not have a statement which outlined the nature of business or where the statement concerning the nature of business was given it was not clear or very vague. There has been a noted improvement in this area. However, the Commission noted that service providers remain deficient in the collection of evidence to verify the nature of business. 74% of the sampled services providers were unable to provide the Commission with evidence that verified the nature of business conducted by the company. This was an increase of 14% of sampled service providers in comparison to 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 while service providers were less deficient in these areas than the other areas assessed, there had been a notable increase in service providers being deficient in relation to corporate directorship services from 5% in Phase 1 to 21% in 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, 63% were unable to provide accounting records. 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. 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.

5 Conclusion

- 5.1 The Commission has released this report to highlight the areas in which its sampled service providers were deficient following Phase 2 of its offsite reviews. Overall, the Commission noted that while there was some improvement by service providers in relation to the area of nature of business, there were increases in the deficiency level of all other areas. Notably, service providers remain deficient in the areas of customer risk assessment; verification of nature of business; and accounting information and records.
- 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 IBC 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.
- 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.