



# ANGUILLA FINANCIAL SERVICES COMMISSION Annual Report and Accounts 2009



*Eleanor Astaphan*

**“Charting the Course Ahead”**

This is my first opportunity to officially report as Director of the Financial Services Commission having taken over from the former Director, Niguel Streete. I present with pleasure, the following highlights of the Commission’s activities during 2009.

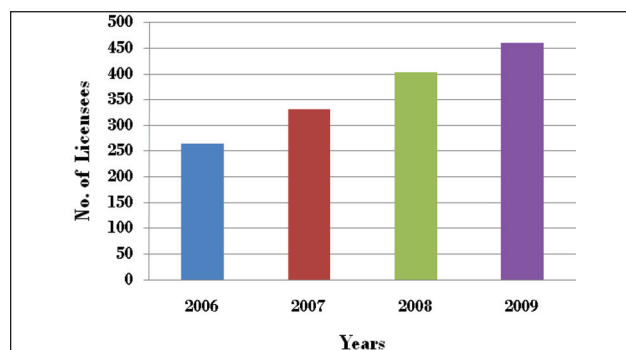
As indicated by the Chairman in his report, the Commission was faced with several unprecedented challenges most of which were not unique to Anguilla. Despite this the financial performance of the institution was steady, resulting in a strengthened reserve position. The continued effectiveness and increased robustness of our supervisory and regulatory regime however, will necessarily result in some erosion of that position as the Commission gears up for its expanded remit to include wider and

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more effective coverage of market participants in 2010.

**Growth in Licensees**

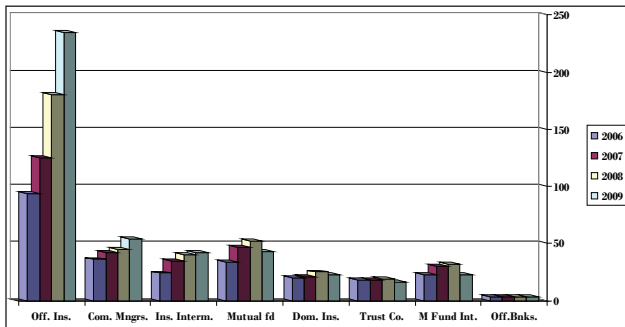
The global economic recession in 2008 and the combination of adverse events related to increased international scrutiny of offshore financial centers in 2009 impacted the overall rate of growth of Commission’s licensees compared to previous years. An analysis of the trend in 2009 shows a mostly steady performance and positive growth in some sectors as depicted in the graph below. The number of licensees increased by 14% compared to 21% in 2008 and 39% in 2007. Total licensees numbered 460 at 31 December 2009.





## DIRECTOR'S REPORT (continued)

As in the previous year, expansion was concentrated significantly in the offshore insurance sector which increased by 35% although significantly below the 65% growth rate achieved last year. Company management business also showed a 20% increase over 2008.



### Regulatory Capacity

The Commission continued to place a high priority on its organization and regulatory resources in order to meet its statutory obligations for the effective supervision and regulation of the financial services sector.

During the period the organizational structure of the Commission was reviewed by the Members of the Board and the decision was taken to introduce a new Unit with a focus on AML/CFT compliance and enforcement. This was in accordance with the increased supervisory scope of the Commission anticipated in 2010 to include AML/CFT supervision for the designated non-financial services businesses and professions (DNFBPs) and non-profit organizations (NPOs) which previously did not form part of the Commission's remit. One additional staff member was recruited in 2009 with plans for recruitment of staff for the new Unit to be undertaken during the first quarter of 2010.

There was emphasis on the upgrading of skills of regulatory staff and several staff members participated in various workshops and regulatory fora at regional and international levels. Two staff members successfully completed supplementary academic programmes partially funded by the Commission. The Caribbean Regional Technical Assistance Centre (CARTAC) also continued to

provide strong technical and financial support to the Commission in staff training during the year.

In the third quarter of 2009 the Commission benefited from a CARTAC funded technical review of mutual funds, fund intermediaries, trust and company service providers conducted by Mr Munro Sutherland. The project was designed to enhance the regulatory infrastructure for the sectors and included a review of the principal legislation governing each sector, development of procedures manuals for the sectors and development of statistical returns to facilitate periodic reporting and off-site monitoring and evaluation of licensees.

The reporting forms will be introduced in 2010 as part of larger ECCU project intended to provide a routine statistical and reporting framework to include all regulated sectors. The Commission is grateful to CARTAC and Mr Sutherland for their valuable contributions.

### New Legislation

In its role of facilitating the review, implementation and administration of legislation to ensure that internationally accepted standards are appropriately met, the Commission participated in the introduction of the new Proceeds of Crime Act (POCA) and the subsidiary Anti Money Laundering and Terrorist Financing Regulations and Code.

The legislation provided for consolidation of the existing anti-money laundering framework established by the Proceeds of Criminal Conduct Act c. P100 ("PCCA"), the Money Laundering Reporting Authority Act c. M100 ("MLRAA") and the Drug Trafficking Offences Act c. D50 ("DTOA") into a single statute and to update the framework to comply with the international standards promulgated by the Financial Action Task Force ("FATF") in the 40 Money Laundering Recommendations. The Act supplements the various UK Orders in Council that applied to Anguilla which allowed for compliance with the FATF Special Recommendations on Terrorist Financing.



The new AML/FT Regulations and Code were issued under the POCA and set out in detail the requirements of service providers regarding measures to be taken by them to prevent money laundering and terrorist financing.

A number of amendments were made to the Financial Services Commission Act in 2009 to allow for integration of the Act with the new POCA and subsidiary legislation. A further comprehensive review of the Act against international standards and international best practice to include review of enforcement, regulatory cooperation and information gathering powers was also undertaken and is to be finalized in 2010.

The Commission collaborated with the ECCB and regional regulatory partners in the introduction of harmonized legislation for money transfer services. The Money Services Act was passed in July 2009 and brought money transfer service providers under the supervisory and regulatory regime of the Commission. In addition, the Commission published an AML/CFT Issues Guide for Procedures Manuals as a guide to industry in developing AML/CFT procedures manuals.

The Commission's annual financial services consultation conference continues to provide a good forum for dissemination of information on its work programme and for feedback from the industry.

### Regional Developments

The Commission hosted a meeting of Eastern Caribbean Currency Union (ECCU) regional regulators in Anguilla in July 2009. The meeting provided a forum for networking and exchange among regulators and an opportunity for direct communication on technical regulatory issues. Much of the agenda of the regional meetings conducted in 2009 was dominated by events related to the collapse of the CL Financial group in Trinidad and Tobago and its direct impact on the ECCU through its affiliated British American Insurance Company.

The various sub-committee groupings among ECCU regulators and the wider college of regulators consultations proved invaluable in providing a platform for progress towards a regional solution. Undoubtedly, the formalization and deepening of the mechanisms for exchange and co-operation among regional supervisory groups will continue to play a critical role in the future architecture for regional financial stability.

### External Assessments

During 2009 Anguilla was subject to two external assessments - one conducted by the Caribbean Financial Action Task Force (CFATF) and the other being Sir Michael Foot's review of British offshore financial centres commissioned by the British Chancellor of the Exchequer.

The CFATF peer review was conducted in July and required significant input from the Commission's staff in preparation of the Mutual Evaluation Questionnaire. In addition a series of AML/CFT training and awareness workshops were conducted for industry participants in preparation for the evaluation. The final report of the CFATF will be presented at the XXXI Plenary in May 2010 and will require formulation of a strategic plan of action to address any identified areas with less than compliant ratings against the FATF 40 + 9 international standards.

The Foot Report encompassed a wide review of challenges and opportunities facing the British Crown Dependencies and overseas territories, including the financial services sector. The findings for Anguilla outlined a number of recommendations and areas for consideration by the Government, the Commission and the law enforcement authorities. It is anticipated that these recommendations will form part of the Commission's 2010 work programme.

### The Way Forward

Global events will continue to impact the international financial centres worldwide with increased emphasis on safeguards to financial stability, transparency, co-



## DIRECTOR'S REPORT (continued)

operation and information exchange.

The outcome and findings of the external assessments conducted in 2009 will inform the Commission's work programme in 2010 as it seeks to make Anguilla a centre of excellence. The augmentation of staff in the restructured organization will be a top priority in an effort to build capacity for a more effective supervisory regime in accordance with the needs of the market.

As we seek to update the regulatory infrastructure we will continue to provide opportunities for consultation and exchange with industry. Further industry outreach and sensitization workshops particularly targeted for the new service providers and sectors will also form part of the 2010 agenda.

I take the opportunity to thank the staff of the Commission for their dedication and support and the Member of the Board of the Commission for their continued sound stewardship.

*About the Director:*

*Eleanor was appointed to the post of Director in January 2010. She previously held the post of Deputy Director of the Commission.*

*She graduated Summa Cum Laude from Sacred Heart University, USA with a Masters Degree in Finance and Banking . Prior to joining the Anguilla Financial Services Commission she headed the Financial Services Supervision and Regulation Department in the Commonwealth of Dominica.*

*Her prior experience includes postings in the Ministry of Finance and Planning as Acting Budget Controller and Assistant Secretary with responsibility for Monetary and Banking Affairs. She has also served in the capacity of Director Finance and Administration for a private manufacturing operation*