



# ANGUILLA FINANCIAL SERVICES COMMISSION

Annual Report 2020



## 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

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## 1.0 Executive Summary

The purpose of this report is to highlight the work done by the Commission in 2020 regarding the various portfolios of business under the financial services enactments, ongoing regulatory issues, legislative changes and developments and outreach initiatives with strategic partners.

The year saw various strides in terms of new legislation both drafted and enacted as well as amendments to existing legislation. The Utility Tokens Exchange legislation was enacted along with three financial services enactments presented for consultation namely the Trust Corporate Services Providers Bill, the Securities and Investment Funds Bill and the Anguilla Special Trust Bill. These newly drafted pieces of legislation present a clear regulatory framework and allow service providers additional services. Amendments to the Anguilla Utility Token Offering Regulations clarified the regulatory process for current and prospective licensees.

The Commission as part of its remit under the Financial Services Commission Act, R.S.A. c. F28 ("FSC Act") to develop the financial services industry in Anguilla contributed to the review of provisions and industry comments in the draft Anguilla Business Companies ("ABC") legislation by its membership on the Review Committee. The draft ABC legislation is expected to modernize the incorporation regime and to allow for a more competitive framework.

The Commission continued its outreach to industry through its Fintech and Compliance Webinar Series by engaging with various industry professionals and government officials. With the introduction of the Innovation Office, the Commission continues to pursue opportunities within the Fintech space. The Innovation Office assists in engaging with service providers with Fintech products and services not captured under the current legislation. The Commission continues to collaborate with other national regulatory authorities and is now a member of Global Financial Innovation Network (GFIN).

The Commission also continued its work as a member of both the National Risk

Assessment Steering Council and National Risk Assessment Working Group established in 2016 to ensure the jurisdiction's continued compliance with the Financial Action Task Force standards as it prepares for the Fourth Round Mutual Evaluation by the Caribbean Financial Action Task Force ("CFATF").

In review of the various portfolios, there continues to be a decline in the licensees particularly with captive insurance companies due to external drivers that impacted the decision of these licensees to re-domicile out of Anguilla. The reduction in licensees directly correlated to the collection of revenues during the year. Despite these challenges, the Commission's staff is to be commended for its dedication and commitment.

The 2020 financial year was marked by disruptions to the Commission's work programme in particular onsite inspections of licensees due to the COVID-19 pandemic. Following declaration of a pandemic on 11 March 2020 by the World Health Organization, the Commission was forced to consider different methods to ensure compliance of licensees with the various financial services enactments.

The FSC Act is the enabling legislation for the Financial Services Commission and allows it to administer the financial services enactments listed on the back page of this Annual Report. The Commission is responsible for the licensing and prudential supervision of licensees under those enactments and taking enforcement action where necessary in cases of non-compliance with requirements under those enactments.

The Commission also is responsible for registering externally regulated service providers, non-regulated service providers and non-profit organisations under the Proceeds of Crime Act, R.S.A. c. P98 ("POCA") and for monitoring and enforcing compliance by those registrants, as well as by licensees, with their AML/CFT obligations.



## 2.0 Regulation Statistics

### 2.1 Licensee Statistics

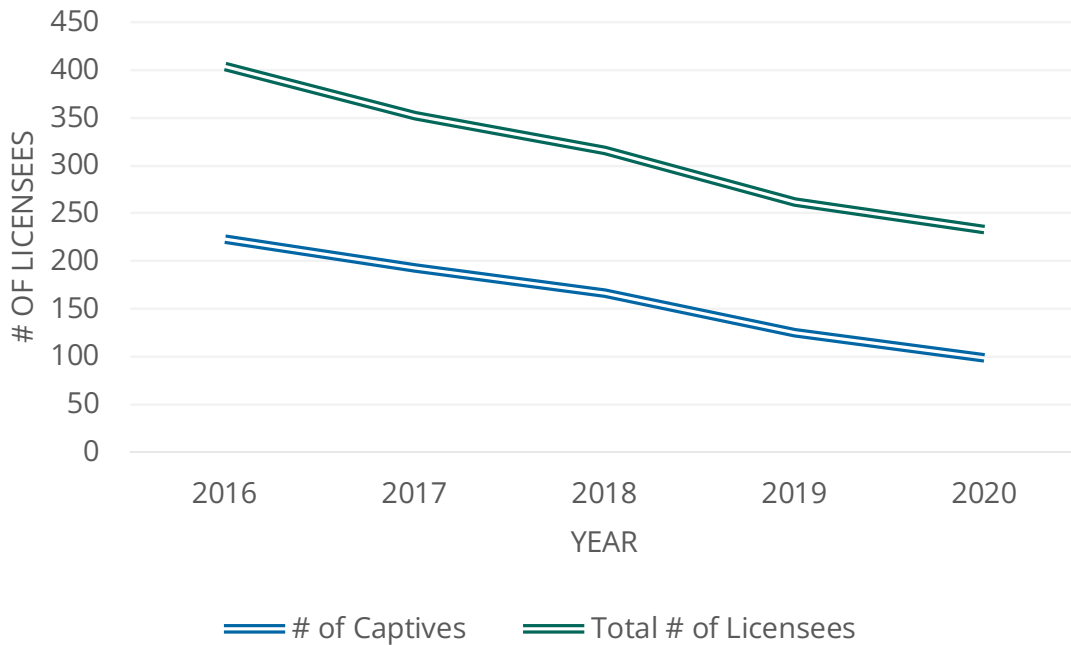


Figure 1: Number of Captives vs Total # of Licensees

As reflected in Figure 1 above, the Commission continued to experience a decline in the overall number of its licensees marking the eighth consecutive year of decline. The total number of licensees was 233 as at 31 December 2020. This represents a decline of 11.1% from the previous year's total of 262 as at 31 December 2019, which itself represented a 17.1% reduction as compared to the total number of licensees as at 31 December 2018.

The captive insurance sector, in particular, comprising some 42% of the Commission's licensees, continued its decline in numbers, falling from 125 licensees as at 31 December 2019 to 98 as at 31 December 2020, a decline of 21.6%.

Most of the captive insurance licensees supervised by the Commission are owned by U.S. residents and provide insurance to related companies located in the United States. Various factors including increased competition from U.S. states to attract captive insurance company incorporations, combined with actions by the U.S. Internal Revenue Service directed at small captive insurance companies, have led to many U.S. owned captives favouring a U.S. domicile thus resulting in Anguilla licensing fewer captive insurance licensees.

## 2.2 Regulated Business Statistics

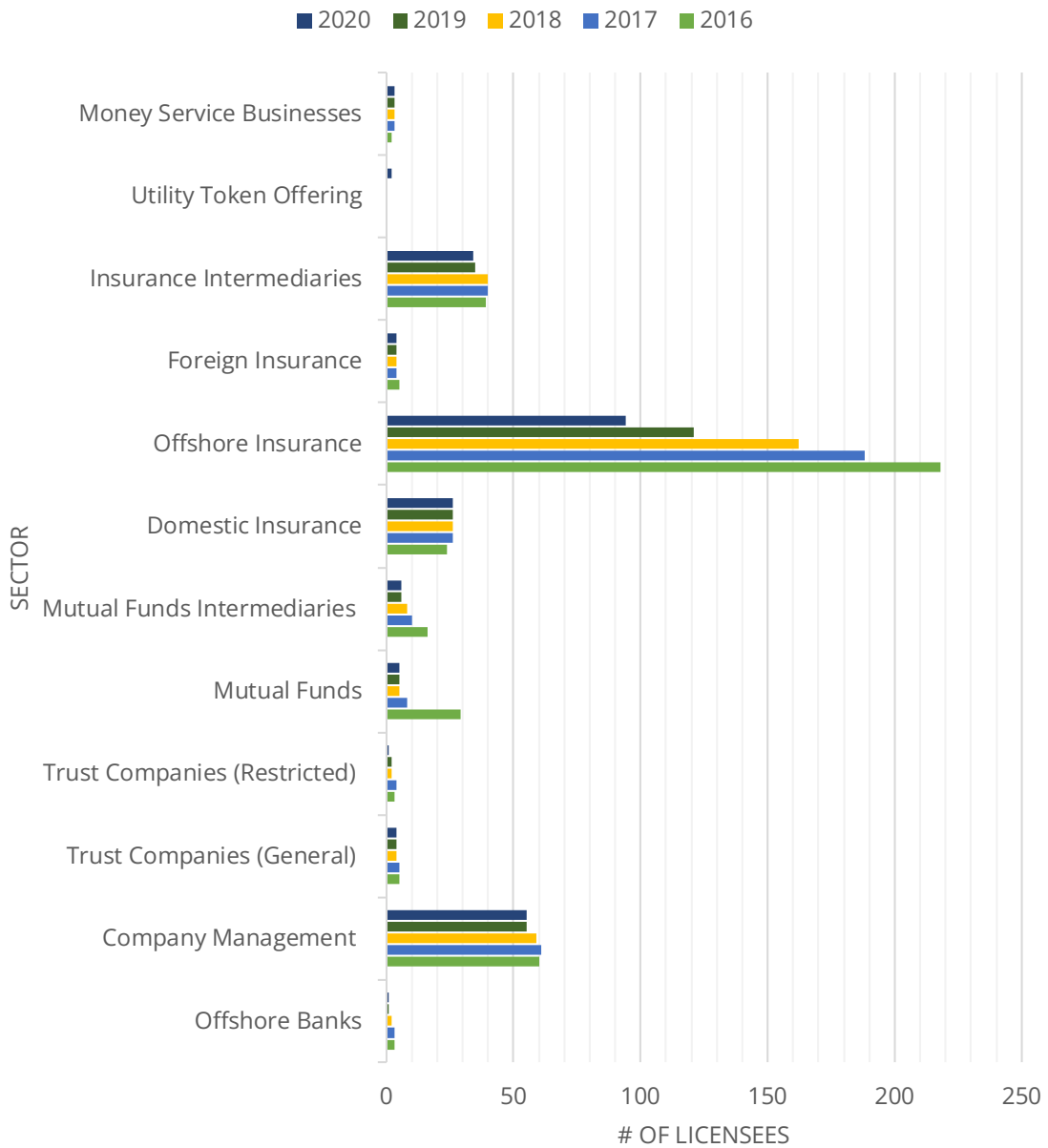


Figure 2: Regulated Business by Sector

Figure 2 provides an industry sector breakdown of licensees. The dominance of the offshore captive insurance sector continues even with the decrease in the number of licensed captive insurers.

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

### 3.1 Insurance Sector

#### 3.1.1 Domestic insurers, agents and brokers

The insurance industry, as well as insurance supervision, were both impacted by the COVID-19 pandemic. Following declaration of a pandemic in March 2020 by the World Health Organization, the Commission issued certain statements to the domestic insurance industry outlining expectations for operations and treatment of customers under the disrupted operations. At that time, the Commission issued its 'COVID-19: Statement on Expectations for Domestic Insurers' outlining its expectations relative to protection of policyholders, business continuity, and risk management. In the statement, the Commission also requested insurers to submit a report on the deployment of their business continuity plans, an action plan for assessing and mitigating several risks, and the results of the insurers' internal stress testing in which a further escalation of the pandemic is considered.

To fully comprehend the impacts of the pandemic on operations, the Commission created a survey that was issued to domestic insurers in May 2020. The aim of this survey was to determine the pandemic's impact on operations and the changes implemented to accommodate clients - given the restrictions on movement and physical closure of offices. Questions regarding projected impacts were also posed. The results were generally positive, in that insurers reported that they were expanding their methods of collecting information and documentation, collecting payments and issuing payments. Staff worked from home to various degrees, company to company. All except two of the insurers indicated that they did not anticipate that their liquidity and solvency would be threatened within a 6-month period.

The number of licensed domestic insurers remained steady at 26 throughout the 2020 year, with no new licences granted and no surrenders.

While preparations for inspections were well underway by the time the pandemic was declared, and having received requisite information for review from insurers, onsite examinations planned for the year were deferred to 2021 due to disruptions to operations both locally and in the jurisdictions where the target licensees are based.

#### Single Insurance and Pensions Market Project

In 2009, the Monetary Council of the Eastern Caribbean Currency Union ("ECCU") established a Ministerial Subcommittee on Insurance in response to the challenges created by the failure of the CL Financial Group. This subcommittee is responsible for, among other things, overseeing development of a single insurance market for the ECCU, including a regional regulatory body.

A draft Insurance Act for the ECCU region, has been produced but has not yet been enacted by the ECCU member states. The ECCU Insurance and Pensions Bill remained in draft as at the end of 2020.

### **3.1.2 Non-Domestic Insurers**

A survey to evaluate the impacts of COVID-19, actual and anticipated, was issued to insurance managers on 23 April 2020. The aim was to understand how the pandemic was impacting the insurance managers, but more importantly the captives under their management. Disruptions to normal business operations were reported to be minimal at the time of responding.

#### **Captive Insurers**

The steady decline in captive numbers continued for the year. As at 31 December 2020, there were 98 licensed captive insurers, a 21.6% decrease overall. Two new captive licences were granted during the year. There were 29 licences cancelled (surrendered and revoked), with reasons involving the United States Internal Revenue Services (IRS) being cited as the driving factor for surrender of licence in several cases.

#### **Foreign Insurers**

The number of licensed foreign insurers remained unchanged during the 2020 year; there were 4 as at 31 December 2020.

#### **Insurance Managers**

As at 31 December 2020, there were 17 licensed insurance managers after one licence was surrendered. No new licences were issued during the year.

## **3.2 Mutual Funds**

### **3.2.1 Funds**

As at 31 December 2020, there were 4 private funds and 1 professional fund licensed. There were no new licences granted.

### **3.2.2 Fund Managers and Administrators**

As at 31 December 2020, there were 6 licensed fund managers and administrators. There were no new licences issued.

## **3.3 Company Management and Trust Services Sector**

As at 31 December 2020, the Commission's licensees included a total of 4 general trust companies, 1 restricted trust companies and 55 company managers. During the year, there was 1 new licence granted to a company manager with 1 company manager surrendering its licence.

## **3.4 Money Services Business Sector**

The Commission currently has 3 money service business licensees. One of them is restricted to the operations of an automated teller machine and/or through a software application on a desktop computer, that converts U.S. dollars to bitcoins and bitcoins to U.S. dollars.

## **3.5 Utility Token Offering Sector**

The Anguilla Utility Token Offering (AUTO) sector is a new sector with recently enacted legislation in 2018 and amendments to the AUTO Regulations in 2020. To date there are two licensees in the sector.



### **3.6 Offshore Bank Sector**

National Bank of Anguilla (Private Banking & Trust) Ltd. and Caribbean Commercial Investment Bank Ltd. (together the “offshore banks”) remained under administration throughout 2019 pursuant to the terms of the order of the Eastern Caribbean Supreme Court made on 22 February 2016 under section 37 of the FSC Act. The Administrator, during 2019, continued with his efforts to protect the interests of the offshore banks and their depositors, including pursuant to 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 administer the outstanding loan books of the two banks and pursued the collection of non-performing loans and the enforcement of security held in relation to those loans as necessary. At the end of 2020, there was 1 licensed offshore bank.

### **3.7 Externally and Non-Regulated Service Providers**

The Externally and Non-Regulated Service Providers Regulations, R.R.A. P98-6 (“ENRSP Regulations”) introduced in 2013 gave the Commission 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 dealers, 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 Commission deregistered 1 NRSP during 2020 with a total of 19 NRSPs. There continued to be 2 registered ERSPs.

### **3.8 Non-Profit Organisations**

The Commission 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 2020, the Commission registered 11 NPOs. Also, the Commission exempted 21 NPOs 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

### 4.1 Offsite and Onsite Inspections

In the fourth quarter of 2020, the Commission commenced its first phase of its offsite thematic inspections. The Commission sampled twenty (20) 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. 120 (“IBC Act”).

Pursuant to section 21 of the FSC Act, 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: Customer Risk Assessment; Nature of Business and verification of nature of business; Corporate Directorship services; Nominee Shareholder services; and Accounting Records. In reviewing the requested information and documentation, the Commission noted that the majority of the service providers that provided directorship and nominee shareholder services kept the required information and documentation on file, including all ratified agreements. However, deficiencies were particularly salient in the areas of customer risk assessment, verifying the nature of business and the holding of accounting records.

It is the intention of the Commission to publish the results of the first phase in 2021 and issue guidance in relation to the areas assessed to ensure that service providers understand their obligations under the AML/CFT Regulations, AML/CFT Code and the IBC Act. The Commission will continue the thematic inspections throughout 2021.

### 4.2 National Risk Assessment

The work on the National Risk Assessment (“NRA”) and preparation for the Mutual Evaluation Process continued with all governmental agencies involved. In October 2020, the threat and vulnerability profiles were updated and the NRA risk rating exercise was repeated to update the risk ratings from 2018 in light of new information over the past two years and the COVID-19 pandemic. Involved in both risk rating exercises were members from the Customs Department; Immigration Department; Financial Intelligence Unit; Attorney General’s Chambers; Royal Anguilla Police Force; Commercial Registry; and the Financial Services Commission. The first draft of the NRA was completed in December 2020 for submission to the Consultants in the new year.

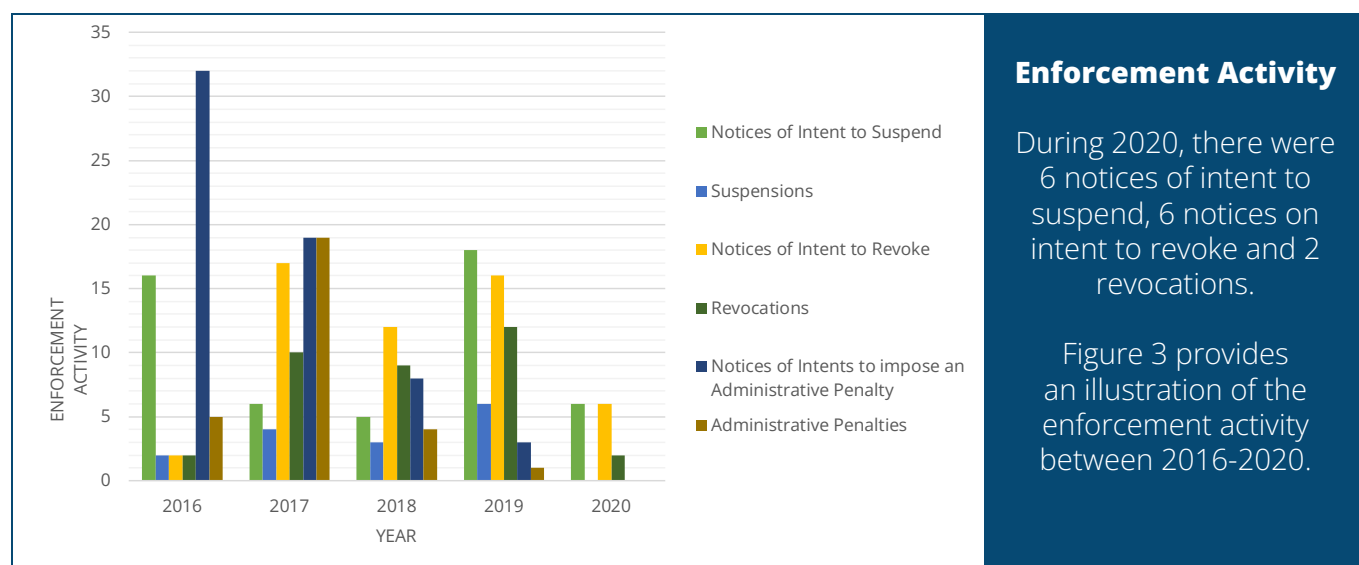


Figure 3: Enforcement Action from 2016-2020

## 5.0 Legislative Developments

The year saw various strides in terms of new legislation (drafted and enacted) and various amendments. The Utility Tokens Exchange legislation was enacted which allows for the establishment, governance and operation of utility token exchanges in or from within Anguilla under a regulatory regime that includes licensing and the oversight of exchanges by the Commission.

Amendments to the Anguilla Utility Token Offering Regulations clarified the regulatory process for the prospective and future licensees.

Further the Commission engaged in the drafting of three financial services enactments namely the Trust Corporate Services Providers Act, the Securities and Investment Funds Act and the Anguilla Special Trust Act which all went out for consultation.

## 6.0 Industry Development

### 6.1 Guidelines

The Record Retention Guidelines were introduced to ensure that service providers maintain their records in a manner that promotes accessibility, retention and appropriate security.

The Commission amended its AML/CFT Issues Guide for Policies and Procedures Manual to assist practitioners in compiling their AML/CFT Policies & Procedures Manuals reflective of the requirements within the AML/CFT legislation. The amendments to the Guidelines involving Maintaining Reserves and Statutory Deposits provide clarity to licensees as it relates to the process of increasing statutory deposits.

### 6.2 Industry Engagement

On 16 June 2020, the Commission held a consultation session with industry surrounding amendments to the Anguilla Utility Token Offering legislation and the Utility Tokens Exchange Legislation.

The Fintech and Compliance Webinar Series were held during the months of September and October 2020 in which a number of staff members held engaging sessions with industry professionals from recognised companies and institutions. These sessions were informative with relevant and timely topics are listed below. These sessions are hosted on the Commission's YouTube page.

Topics
Cryptocurrencies in the Caribbean – An ongoing evolution to integration and interoperability
FinTech and Alternative Finance Solutions
Disruption on the Horizon – Onchain Analysis: Safeguarding our Digital Future and Guarding against Financial Crimes.
VASPs and FATF – Key Developments and the Interoperability of the Crypto-industry and Regulators
Economic Substance – Anguilla's simple solutions to Compliance.
The Evolution of Data Analytics in Financial Services Regulation
By the letters – FATF, OECD and other standard setters
Microinsurance and InsurTech: Opportunities for securing economic growth.
Digital Innovations – Rapid Responses and Regulatory Synergies. Cryptocurrencies, tokens and exchanges and the future of financial services.

## 7.0 Professional Development

Staff from the Commission engaged in a number of conferences and workshops throughout the year with the majority held virtually. Several of these conferences explored topics in banking supervision in unprecedented times; the impacts of Fintech and climate change on financial services and Deposit Insurance. Three staff members participated in the Fintech and Regulatory Innovation Course with the Cambridge Judge Business School.

Other virtual conferences included sessions with international and regulatory bodies such as Caribbean Regional Technical Assistance Centre (CARTAC), Financial Action Task Force (FATF), Bank for International Settlements (BIS), National Association of Insurance Commissioners (NAIC) and Toronto Centre on topics involving Insurance Stress Testing COVID-19; Virtual Asset Service Providers; Bank and Insurance Supervision.

A staff member undertook a professional certificate in Fintech focusing on courses in Blockchain and Fintech Applications.

Staff continued with professional development courses with the International Centre for Captive Insurance Education (ICCIE). Internal training for staff included training in stress training for insurers, supervision of cooperative societies and application of the online regulatory platform.

## 8.0 Regulatory Meetings

Annual regulatory conferences attended included the Group of Financial Centre Supervisors (GIFCS) conference held in April and November; the Group of International Insurance Centre Supervisors (GIICS) conference was held in July and the Caribbean Association of Insurance Regulators (CAIR) conference was held in June. All conferences were held virtually due to restrictions on travel due to the Pandemic.

## 9.0 Financial Performance Analysis

The Commission reported a deficit of US\$83,279 for the year ended 31 December 2020 (surplus US\$74,594 for 2019), which is a 211.6% decrease over the previous year. Reserves decreased by 2.8% to US\$2,937,416 as at 31 December 2020 from US\$3,020,695 as at 31 December 2019. The underlying factors of the year's performance are reported below in the discussion of Revenue and Expenses.

### 9.1 Assets, Liabilities and Reserves

As at 31 December 2020, the Commission's total assets were US\$8,533,316 (US\$ US\$5,893,060 for 2019). Liquid assets, in 2020 being entirely cash, accounted for 93.0% of the Commission's assets (97.4% for 2019).

Total liabilities were US\$5,595,900 (US\$2,872,365 for 2019) with the increase over the previous year-end reflecting an increase in statutory deposits held by the Commission in connection with approved external insurers licensed in the jurisdiction. Accumulated reserves were US\$2,937,416 at year end (US\$3,020,695 for 2019), the decrease resulting from the net deficit reported in the section Financial Performance Analysis above.

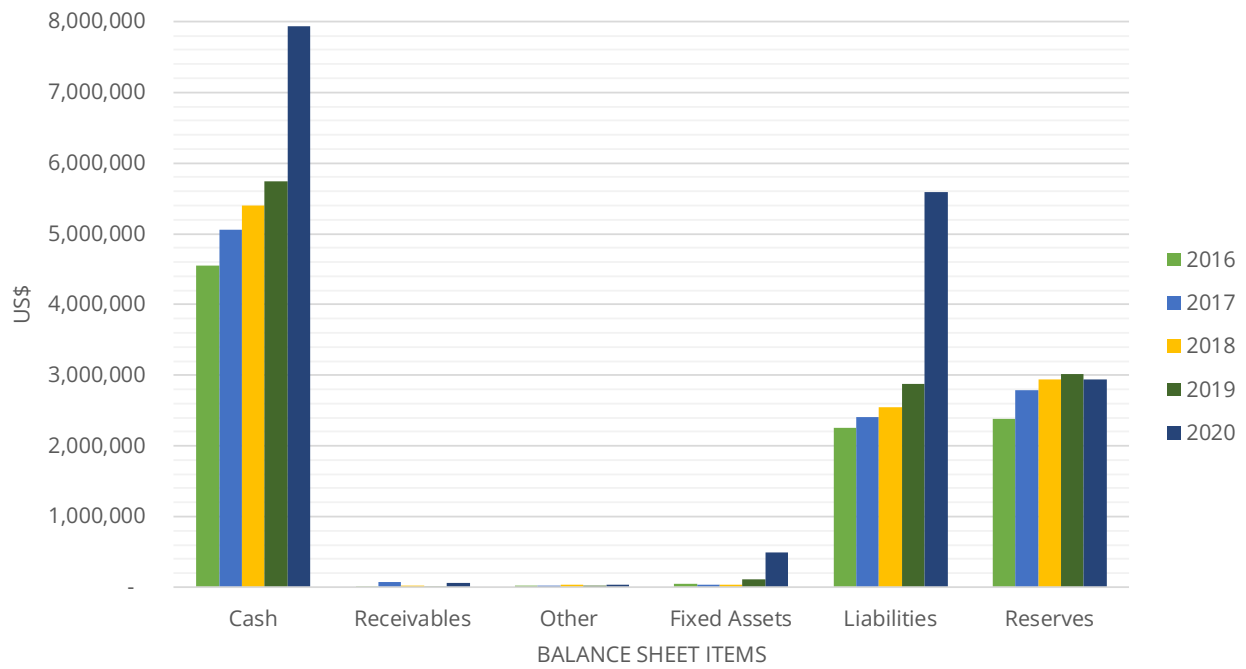


Figure 4: Comparative Balance Sheet Indicator

## 9.2 Revenue

Total revenue decreased by 14.6% or US\$165,136 to US\$967,041 (2019: US\$1,132,177). License fee revenue decreased by 10.7% or US\$102,953 to US\$860,565 (2019: US\$963,518). 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 performed under applicable legislation as well as penalties which include the assessed amount of fines for late payment of fees and administrative penalties imposed.

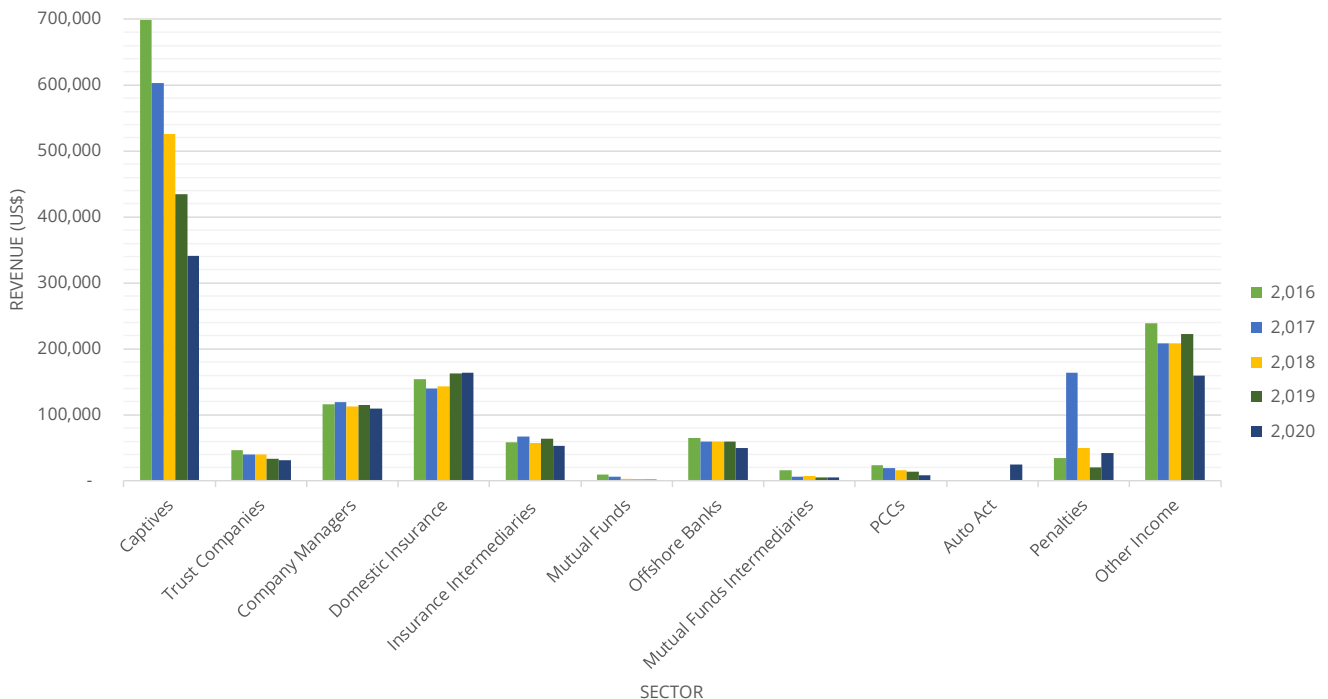


Figure 5: Comparative Revenue Analysis

### 9.3 Expenditure

Total expenses decreased by .70% or US\$7,263 to US\$ 1,050,320 (US\$1,057,583 for 2019). There was a 16.1% increase in payroll and related cost or US\$104,598 from US\$651,533 to US\$756,131. This was as a result of salaries expense for employees who were hire during the latter part of the previous year compared to the full year expense in 2020. Also contributing to this increase was the recognition of gratuity accruals for the employees who were employed in 2019.

Depreciation Expense reflected an increase of \$49,477 which was 397.8% over the previous year (\$12,439 for 2019). This was due to the new accounting standard, IFRS 16-Leases, which recognized the Right to Use the office space as a long-term asset, therefore the requirement to depreciate. The depreciated charge during the year was \$50,691 which is usually classified as Office rent, hence the zero balance in that category for the current year. In addition, as a result of subscribing to various critical technological platforms, Subscription expense increased by 97.6% from \$17,769 in 2019 to \$ 35,113 in 2020.

Conversely, as a result of the COVID-19 Pandemic significant decreases were within Training and Conference cost as well as Travel and subsistence. Training and Conference cost decreased from \$55,537 in 2019 to zero in 2020. Travel and subsistence decreased by \$54,028, from \$ 67,460 to \$13,432.

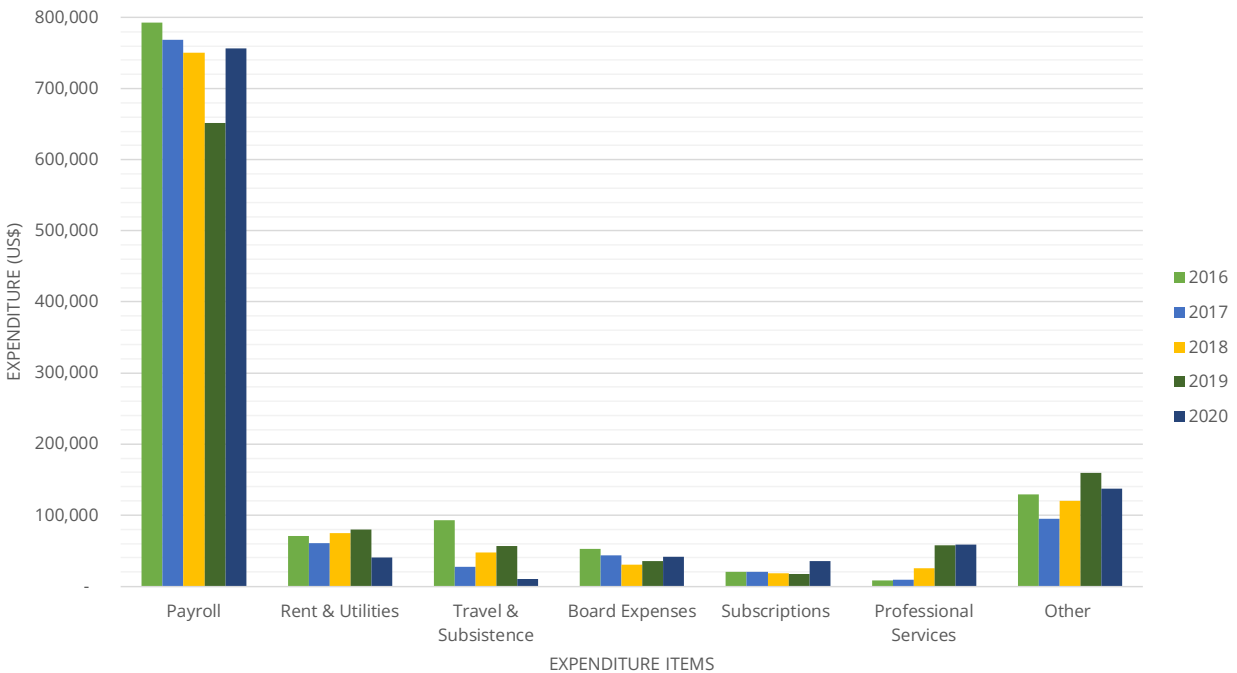


Figure 6: Comparative Expenditure Analysis