

Anguilla: Financial Services News



February/March 2001

New Senior Management Appointment for Anguilla's Financial Services Department

At the beginning of December **Lanston Connor** took up the position of Registrar of Commercial Activities within the Government of Anguilla. He succeeded Alan Jones who returned to the United Kingdom that same month from a three-year secondment from Companies House to install and implement Anguilla's Commercial Online Registration Network (ACORN).

Connor has taken over the management of Anguilla's first-class registry and will oversee and develop standards that will not only attract new business but will strengthen the commitment of existing business in Anguilla. He is responsible for the marketing of ACORN and will incorporate technological advances into the



Lanston Connor

system particularly to ensure its user-friendly application. He is also responsible for other commercial activities including trademarks and patents within the Financial Services Department. Backed by a team of five, Connor reports to John Lawrence, the Director of Financial Services and regulator of Anguilla's world-standard financial services. He sits on the joint Anguilla Financial Services Association/Government of Anguilla (GOA) Marketing and Promotions Committee.

Priorities

Mr Connor said: "My main priorities are to ensure that both the company managers and the companies themselves are complying with Anguilla's newly-introduced legislation. This will be carried out while we look to increase substantially the volume of companies being incorporated in Anguilla."

Connor, an Anguillian, joined the FSD in November 1999 as Deputy Registrar of Commercial Activities and was made Registrar of Companies in 2000. He is set to follow his father, Franklin Connor JP, OBE, who enjoyed a distinguished career within the Government rising to the post of Acting Governor in the late 1980s.

Connor's previous experience has included two years within Government as part of a team within the United Nations Sponsored Small Enterprise Development Unit (SEDU). He then became a project officer for the Anguilla Development Board.

A graduate of the University of the Virgin Islands' Business School he has a degree in Business Administration (Honours) and a certificate from the Caribbean Development Bank.

Anguilla meets the requirements of the HMG/ KPMG Review

On Friday, October 27, 2000, HMG and the Foreign & Commonwealth Office announced the results of the long-awaited KPMG Review of Financial Regulation of the Caribbean Overseas Territories and Bermuda.

Representatives from the OTs and HMG formed a steering committee to: set the parameters; guide the conduct, and to appoint a firm – KPMG – to carry out the Review. Anguilla, Montserrat and the Turks & Caicos Islands were represented on the committee by John Lawrence, the Director of Financial Services, Anguilla.

Compliance

Anguilla complied with the first deadline set by the Review, of January 15 2001, to submit a detailed response and a timetable for implementation of the main recommendations.

The three areas of priority for action in improving and strengthening financial services regulation, as recommended by KPMG, are:

- legislation to establish an independent regulatory authority.
- Any necessary enhancements to the laws and systems to enhance good-regulatory and anti-money laundering practices.
- The review of legal powers for regulatory and law enforcement co-operation.

Mr John Lawrence said: "Anguilla is already meeting many of the requirements set out in the Review having recently enacted modern legislation and having draft legislation in place – or being prepared – which is on schedule to be passed by the 30 September 2001 deadline set by HMG."

He added: "Anguilla is mindful that good practices have been built up by the industry in the context of modern regulatory standards but regulators need to have the tools in order to ensure that these standards are not abused."

The full text of the KPMG Review of Financial Regulation in the Overseas Territories can be found at: www.official-documents.co.uk/document/cm48/4855/4855-1/4855-101.htm

Anguilla takes a STEP up

A branch of the prestigious Society of Trust and Estate Practitioners (STEP) has been inaugurated in Anguilla.

STEP is the international professional body for the trust and estate profession and has a worldwide network of around 52 branches and 7,000 members who comprise lawyers, accountants, corporate trustees, bankers, insurance brokers and related professionals. These senior-level players are involved with the planning, creation, management and accounting for trusts and estates.

Alex Richardson, Chairman of the new Anguilla branch of STEP, says that it is an essential development to ensure that the jurisdiction continues to be a reputable-financial centre.

Members of the new Anguillian branch include senior management from Anguilla's government and private sector.

ACORN: Anguilla's Commercial On-line Registration Network

ACORN is the modern way in which companies are formed. Companies can be incorporated instantly and in real time, 24 hours a day, every day from anywhere in the world by Anguillian company managers and trust companies, together with their approved overseas agents. Anguilla's robust corporate and partnership legislation (see below) provides users with a choice of Ordinary Companies, International Business Companies, Limited Liability Companies and Limited Partnerships.

No other company registration system can match ACORN in terms of speed and efficiency. It is at the cutting edge in terms of e-commerce and users are assured of a sound service covering every aspect of registry activity.

The recent KPMG Review of Financial Regulation in the Caribbean Overseas Territories and Bermuda stated:

"... Anguilla has many of the features necessary to be considered a well-regulated jurisdiction. Of particular note is the development of ACORN and the operation of the company registry in general which we consider, with some comparatively minor enhancements, to be an example of how on-line registration can be developed in a well-regulated manner."

Solid legislative programme in place in Anguilla

Since the election of March 2000 Anguilla has undergone a thorough programme of legal reform designed to ensure that the financial services legislative framework serves the people of Anguilla; the needs of international business and global regulatory authorities while facilitating the growth of Anguilla's financial services. In many cases the new legislation upgrades existing legislation and has positioned Anguilla as the jurisdiction of choice in the 21st Century.

The Attorney General, the Hon. Ronald Scipio, says Anguilla's reputation for being a proactive and well-regulated jurisdiction will be reinforced by the new legislation.

"The new legislation is part of the Government's determination to effectively match the growth of Anguilla's financial services with robust and progressive laws that meet international regulatory standards as well as strengthening the island's anti-money laundering efforts."

The legislation programme is in two parts:

Phase 1:

New Legislation enacted in Anguilla in October 2000.

- **The Proceeds of Criminal Conduct Act 2000** deprives criminals of the benefit of their criminal activity and enables the Court to confiscate assets

ACORN went live on the 16 November 1998 and is the lynchpin of Anguilla's high-quality financial services. Although the jurisdiction is a fairly new provider of international financial services ACORN has given Anguilla the added advantage over its competitors; hence its growth has been developed in a solid legislative and regulatory environment designed to meet worldwide standards.

The advantages of ACORN are:

- It is an interactive system, which is both user friendly and easy to understand.
- It provides checks and guidance for the user at crucial stages of the input process.
- It responds instantaneously allowing incorporation and submission of documents to be filed electronically from anywhere 24 hours a day.
- It allows the user to do electronically and in a fraction of the time all those activities, which ordinarily would be done in paper form.
- It provides a seamless way of incorporating companies offshore.
- It makes the administration of offshore companies fast, cost effective and simple.
- It provides an instantaneous company name search facility and immediate name reservation ability, which does away with maintaining the cost of shelf companies.
- It permits the incorporation of names and

originating from criminal conduct. It also establishes the circumstances under which suspicious transactions should be reported.

- **The Money Laundering Reporting Authority Act (MLRAA) 2000** establishes a Money Laundering Reporting Authority for Anguilla. Under the Act, persons involved in the provision of financial services are required to report to the Authority any suspicious transactions derived from drugs and criminal conduct. The Regulations issued under the MLRAA establish procedures for customer identification, the keeping of records, internal reporting and training procedures. Accompanying Guidance Notes (which are based on the UK's Joint Money Laundering Steering Group's model), provide a practical interpretation of the Regulations that will assist persons, subject to them, to affect compliance. They will assist all financial services businesses to develop policies, systems, controls and procedures that will minimise the risk of their becoming unwittingly involved in money laundering schemes.

New laws to replace existing legislation

- **The Company Management Act 2000** provides for licensing and regulation of company-management business by setting minimum criteria for the granting of a licence and the returns to be submitted. The Inspector has been granted the power to issue a Code of Practice to license holders. (The office of Inspector is a public office to which appointments are made by the Governor. The Director of Financial Services is the current appointee.)



Anguilla

filing of articles in languages and script other than English.

- It has the regulatory controls in place to ensure that intermediary users are fit and proper.

To ensure that international business has access to the system both the Anguilla Financial Services Association (AFSA) and the Government of Anguilla's (GOA) Marketing and Promotions Committee are encouraging reputable overseas agents to register with ACORN.

Overseas Agents

The procedure for registration as an overseas agent is as follows:

1. The potential overseas agent must establish a commercial agency agreement with an Anguillian-licensed practitioner, who will among other things, satisfy the requirement for a registered office in the territory. Please go to the bookmarks section (or browse our web site) for a directory of certified-licensed practitioners.
2. The Anguillian practitioner will then satisfy itself as to the fit and proper qualities of the potential overseas agent.
3. The potential overseas agent must then be approved by the Financial Services Department by means of a simple application form.

Payment

While there is no cost for the use of ACORN, payment is of course required for each company registration and subsequent filings. Payment is currently made by depositing with ACORN, through the Government of Anguilla, a sum of money appropriate to the volume of business to be undertaken over a given period of time. An overseas agent can do this either directly or in conjunction with its licensed practitioner in Anguilla. In either case, when a registry activity is undertaken, the system will show an on-screen record of the cost of the transaction together with the balance of the account available. The fees applicable to each activity can be checked directly under the Enquiries menu on the ACORN system.

Mr Christopher Oldfield, Director of OCRA (Overseas Company Registration Agents Ltd), said: "OCRA is delighted to have been one of the first companies to become an ACORN user. The ACORN system is simple to use and the Anguillian authorities have provided excellent support."

He added: "The ability to obtain name approval and incorporate companies within minutes is self evidently of value to both clients and our international network of offices. ACORN is a thoughtful and all embracing implementation of an idea that many have discussed and which was first introduced by Anguilla."

Anguilla offers Hong Kong Business what no other centre does

January heralded the Chinese Lunar New Year of the Snake which astrologers predict will be a prosperous one for those who are watchful of their resources. For some time now Anguilla – named from the French noun for eel – has been making in-roads into Hong Kong and is hopeful that its prudent targeting of the territory will yield rewards in the Year of the Snake.

On March 4 Lanston Connor of Anguilla's Financial Services Department will be accompanied by a small delegation who are returning to Hong Kong after six months. The objective of the visit is to participate in the Asia Pacific Offshore Institute's Asia E-Biz Tax 2001 event on the island's Ritz Carlton Hotel.

"Anguilla offers Hong Kong business people an established system now."

Lanston said: "Anguilla's unique ACORN offers Hong Kong operators what no other centre does, an instantaneous, internet-based



Minister Banks in Hong Kong

company registration system. Hong Kong recently announced that it also has plans to implement an electronic company registration system in several years time. Anguilla offers Hong Kong business people an established system now."

Mr Connor added: "An announcement is imminent regarding the availability of Chinese characters used in on-line company formation documents making the system even more user-friendly as well as attractive to Anguilla's registered overseas agents and end users in Hong Kong."

Last September a high-level Anguillian delegation led by the Hon. Victor Banks, Minister for Finance, Economic Development, Investment and Commerce, visited Hong Kong to give a series of business briefings and to launch ACORN to the wider community.

Minister Banks asserts that Hong Kong is a very important market for Anguilla. "We went to Hong Kong because we are there for the long-haul. We are making our presence known because we are there to change the way practitioners incorporate international business companies from the more traditional paper method, to the modern way using ACORN."

He added: "Because there is a 12-hour time difference between Anguilla and Hong Kong entrepreneurs can actually register a company today in Hong Kong and have the incorporation legally take effect in Anguilla yesterday."

Minister Banks concluded that Anguilla and Hong Kong have much to offer each other and toasted their future in the Year of the Snake.

OECD and Commonwealth Countries Meet

High-level representatives from Anguilla including the Minister for Finance and Economic Development, the Attorney General, and the Director of Financial Services, recently joined other leaders from some 40 Commonwealth Countries and OECD member states in a multi-lateral forum on "harmful tax practices". The two-day summit in Barbados on 8/9 January 2001 was a result of discussions on harmful tax competition by leaders who attended the Commonwealth Finance Ministers Meeting in Malta last September.

The meeting was chaired by the Rt. Hon Owen Arthur, Prime Minister of Barbados and co-chaired by Seiichi Kondo, Deputy-Secretary General of the Paris-based OECD Global Forum on Taxation and Dame Veronica Sutherland, Commonwealth Deputy-Secretary General for Economic and Social Affairs.

The result of the conference was the agreement to form the Working Group to

review the requirement for greater financial transparency, non-discrimination and effective exchange of information on tax matters and parallel issues. Disagreement was also voiced as the OECD was accused of being heavy handed and made demands on smaller countries that cannot be met.

Mr John Lawrence, Director of Anguilla's Financial Services Department, said: "I think the OECD was surprised by the depth of feeling that has come out in recent months and some pretty strong words were said by the smaller states. I think to all intents and purposes the OECD has admitted that their process and procedures from 1998 up to now have been a bit flawed, that's the word they used."

The Working Group comprises 13 member states and is being co-chaired by Australia and Barbados. The British Overseas Territories, including Anguilla, are represented by the BVI.



Letter from the Editor

Anguilla: Financial Services News is the window to the world for Anguilla's high-quality financial services and we thank you for taking the time to read this inaugural edition of what will be a quarterly newsletter. As we are well into the first quarter of 2001 we hope Anguilla: Financial Services News will inspire you to find out more about the services we offer. You can do so by browsing the web site: <http://www.anguillafsc.com> which has recently been relaunched.

Anguilla is the most northerly of the Leeward Islands in the Caribbean and is a UK Overseas Territory. Renowned for its beautiful beaches and its superior-quality service to visitors, the message is getting out about how good Anguilla is at doing business, which particularly applies to our financial services which are growing in the framework of solid regulation.

One of my major roles as President of the Anguilla Financial Services Association (AFSA) is to liaise with the Government of Anguilla in directing the marketing and development of Anguilla's financial services. These include company registration, trusts, banking, legal, accounting and stockbroking services and the development of the jurisdiction as a centre for e-commerce. Our members include the island's major providers of financial services.

We invite you to share Anguilla: Financial Services News with your colleagues and to fill in our response coupon to enable us to assist you to the best of our ability. We would also be delighted to receive your comments and questions and we will endeavour to respond to all correspondence received.

Best wishes

A handwritten signature in black ink, appearing to read 'J.A.R.' followed by a flourish.

Alex Richardson
AFSA President

• **The Trust Companies and Offshore Banking Act 2000** replaces the Offshore Banks and Trust Companies Ordinance 1991. It enables offshore banks and trust businesses to be licensed as well as the ongoing supervision of licensees by the Inspector (The Director of Financial Services is the current appointee). The Act sets out the duties of licensees under the Act and the minimum criteria for the granting of an offshore banking or trust license. Further, it enables the surrender, suspension and revocation of licenses and details the offences under the Act.

Amendments to existing legislation

• **International Business Companies Act 2000** has been further amended to provide for the optional registration of charges and mortgages with the Registrar of Companies, and a priority for the registration of such charges. All IBCs are now required to maintain a register of charges at the registered office of the company. In 1998 the Ordinance was amended to allow for the optional registration and de-registration of directors.

• **The Companies Act 2000** further modifies the original 1994 version and amended 1998 version. Given the fact that Anguilla is a zero-tax jurisdiction the Companies Act can also be used for incorporating IBCs.

• **The Limited Liability Company Act 2000** makes provision for the Governor to issue regulations under the Act. They also provide for certain provisions as breaches and the rationalisation of offence provisions.

• **The Limited Partnership Act 2000** abolishes the previous requirement for general partners to be residents in Anguilla or companies incorporated under the Companies Act. The amendments also provide for the dissolution of limited partnerships by the Court and the assignment of the interest of a limited partner.

Anguilla already has legislation covering the acceptance of electronic filing and digital signatures in its Companies Registry legislation.

Phase II Legislation:

Draft new legislation

• **An act to establish Anguilla's Regulatory Authority as an independent entity.** This new legislation will meet global regulatory standards as recommended in the KPMG Review. The act will enable the Financial Standards Regulatory Authority to become independent from Government. The legislation will cover the structure, funding, licensing and supervisory roles and powers of the proposed regulatory authority.
Due date: September 2001

• **Electronic Transactions Act 2001** will draw on the UNCITRAL Model Law on Electronic Commerce and the relevant EU Directive and will cover media neutrality, digital signatures, rules of evidence, and the liability of intermediaries. As facilitating legislation it is proposed that this Act be technologically neutral in its application.
Due date: June 2001

• **Insurance Act 2001** will bring regulatory and reporting standards for both domestic and captive insurance up to modern requirements.
Due date: June 2001

• **Mutual Funds Act 2001** is a priority for Anguilla. It will likely take the route whereby the legislation differentiates between public and private and professional funds. The Act will define both private and professional funds and will detail how fund managers and administrators will be licensed or registered.
Due date: June 2001

• **Securities Act 2001** is an initiative of The Eastern Caribbean Central Bank (ECCB) which has prepared draft legislation for implementation in all of the Organisation of Eastern Caribbean States (OECS) which includes Anguilla. The legislation will cover the activities of securities and investment businesses, the development of a regional stock exchange and the regulation and supervision of mutual funds invested within the region.
Due date: June 2001

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Please post your slip to:

Government of Anguilla, 1 Dean's Yard, London SW1P 3NP, UK

Or e-mail to: Carlyle_R@anguillafsd.com

Lanston_C@anguillafsd.com

Karen.bermingham@weststrat.co.uk

Rachel.lea@weststrat.co.uk

Bookmark these useful Web Sites

- Anguilla Financial Services Association (AFSA)**
<http://online.offshore.com.ai/afsa/>
- Anguilla Financial Services Department & ACORN**
<http://www.anguillafsc.com>
- Anguilla News**
<http://news.ai/>
- Anguilla Tourist Board**
<http://www.anguilla-vacation.com>
- The Government of Anguilla**
<http://www.gov.ai>

Trust Companies

- Codan Trust Company (Anguilla) Limited**
<http://www.cdp.bm>
- First Anguilla Trust Company Ltd**
<http://www.anguillalaw.com/fiatco>
- Hansa Bank & Trust Company Ltd**
<http://www.hansa.net>
- Harney Westwood & Riegels/HWR Services (Anguilla) Limited**
<http://www.harneys.com>
- Intertrust (Anguilla) Limited**
<http://www.intertrust-group.com>
- Sinel Trust Anguilla Limited**
<http://www.sineltrust-anguilla.com>

Company Managers

- Benjamine Company Services Ltd**
<http://www.benjamine.ai>
- CEG Limited**
<http://www.ceg.ai>
- Courtney Abel & Associates**
<http://www.caribbean-attorneys.com>
- Finsco Limited**
<http://www.websterdyrud.com>
- Icaza Gonzalez-Ruiz & Aleman (Anguilla) Ltd**
<http://www.icalaw.com>
- Keithley FT Lake & Associates**
<http://www.anguilla-attorney.com>
- KPMG Corporate Services Ltd**
<http://www.kpmg.com.ai>
- On-Island (Anguilla) Corporate Services Ltd**
<http://www.on-island.com>
- Professional Corporate Services (Anguilla) Ltd**
<http://www.profgroup.com>
- Stott & Company Limited**
<http://www.stottco.com>
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Contact Us

For further information about AFSA or Anguilla: Financial Services News, please contact:

Alex Richardson
AFSA President
C/o Harney Westwood & Riegels
Harlaw Chambers, PO Box 1026
The Valley, Anguilla, British West Indies
Tel: +1 (264) 498 5000
Fax: +1 (264) 498 5001
E-mail: hwr@anguillanet.com

John Lawrence
Director, Financial Services
Government of Anguilla
The Secretariat
The Valley, Anguilla, British West Indies
Tel: +1 (264) 497 5881/3881
Fax: +1 (264) 497 5872/8053
E-mail: anguillafsd@anguillafsd.com
Web site: www.anguillafsc.com