ANNUAL REPORT AND FINANCIAL STATEMENTS

For the year ended 31 December 2009

Guernsey Financial Services Commission

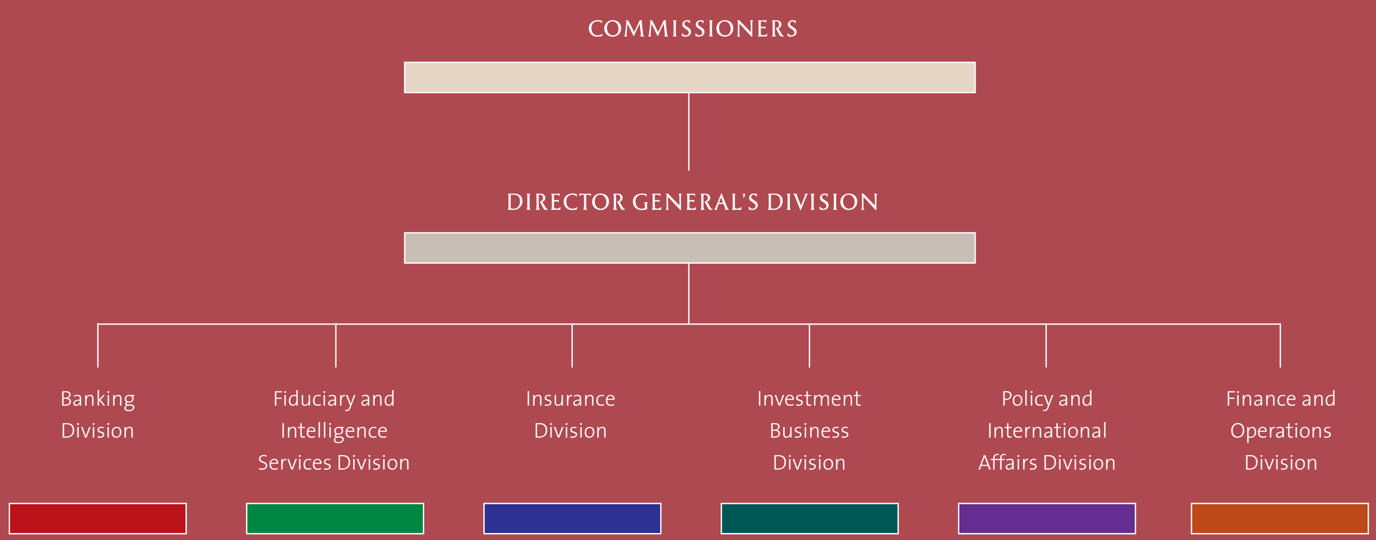
Appendices

Guernsey Financial Services Commission

This report, including the financial statements as required by section 18 of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987, as amended (the Commission Law), is made in pursuance of section 6 of the Commission Law to the States Policy Council and submitted by the Chief Minister for consideration by the States of Guernsey.

Note: Throughout this report the Guernsey Financial Services Commission is referred to as "the Commission". The Chairman and other members are referred to collectively as "the Commissioners".

STRUCTURE OF THE COMMISSION



COMMISSIONERS

1. Peter Harwood LL.B, Chairman of the Commission

Peter Harwood was appointed as a Commissioner in 2004 and Chairman in January 2006. He was admitted as a solicitor of the Supreme Court of England and Wales in 1972 and worked with Coward Chance and Hill Samuel Bank in London, before returning to Guernsey in 1981. He was admitted as an advocate of the Royal Court of Guernsey in 1982 and was a partner in Ozannes until his retirement at the end of 2009. He has served as Chairman of the Guernsey Bar Council. He served as Chairman and non-executive director of TSB Bank Channel Islands Limited and as a non-executive director of TSB Group plc. He serves as a director of a number of captive insurance companies and collective investment fund companies.

2. David Mallett BA, FCA, Vice-Chairman of the Commission

David Mallett was appointed as a Commissioner in 2003. He has over 30 years' experience in banking and banking supervision. He joined the Bank of England's Banking Supervision Division in 1975 and was closely involved in the rescue and orderly rundown of a number of failed banks, the development of regulatory practice and a number of national and international accounting and auditing standards. From 1988 to 2000 he was successively Group Head of Audit and Group Head of Finance at Standard Chartered Bank. He has been a member of the Council of the Institute of Chartered Accountants in England and Wales and is co-author of *Banking: A Regulatory Accounting and Auditing Guide*. In 2006 he completed 17 years as a member of the Financial Reporting Review Panel.

3. Susie Farnon FCA

Susie Farnon was appointed as a Commissioner in February 2006. She was a Banking and Finance Partner with KPMG Channel Islands from 1990 until 2001. She has served as President of the Guernsey Society of Chartered and Certified Accountants and as a member of the Guernsey Audit Commission and the Guernsey Public Accounts Committee. She is also director of a number of private and regulated companies.

4. Howard Flight MA (Cantab), MBA, FRSA

Howard Flight was appointed as a Commissioner in 2005. He was the Conservative Member of Parliament for Arundel and South Downs from 1997 to 2005, during which time he was Shadow Economic Secretary, Paymaster General and Chief Secretary to the Treasury. From 1999 to 2004 he had Shadow Treasury responsibilities for the Finance Acts, the financial services industry, financial regulations and pensions. He has worked for over 35 years in the financial services industry, starting his career at Rothschilds. In the second half of the 1970s he worked for HSBC's merchant bank in Hong Kong and India. In 1979 he joined Guinness Mahon and established what became Guinness Flight Global Asset Management, of which he was joint Managing Director until it was acquired by Investec. He formed, and is Chairman of, Flight & Partners, which is the manager of the Flight & Partners Recovery Fund, and is currently a director of Investec Asset Management Limited, Metrobank plc and a number of other companies and investment funds.

5. Alex Rodger MCIBS

Alex Rodger was appointed as a Commissioner in February 2008. He spent over 40 years with the Royal Bank of Scotland (RBS) Group. Prior to moving to Guernsey in 1989 as Island Director, he occupied senior posts in relationship management and credit control in London and New York. He was executive director of RBS International from its formation in 1996 and was appointed Managing Director of RBS International Securities Services Group in April 2002. Later that year his responsibilities were increased to that of Managing Director of RBS International Corporate Banking Division with responsibility for corporate banking operations in each of Jersey, Guernsey, the Isle of Man and Gibraltar. He was also Chairman of RBS International Employees Pension Trust. Alex Rodger is also non-executive Chairman of advocates Collas Day.

6. Dr Cees Schrauwers

Cees Schrauwers was appointed as a Commissioner in July 2008. He is a Dutch citizen and has spent most of his professional career in the insurance industry, including a period as a partner of Coopers & Lybrand. Cees has occupied a number of positions, including Managing Director of Commercial Union UK, Managing Director of CGU Insurance and Managing Director of Aviva International, gaining valuable experience in dealing with regulators across the globe, including North America. Cees is currently Chairman of DriveAssist Holdings Ltd, a claims management company, Senior Independent Director of Brit Insurance Holdings plc and Senior Independent Director of Record plc, one of the world's largest currency managers. He lives with his family near London.

DIRECTORS

1. Nik van Leuven QC, Director General

Nik van Leuven's professional career extended over 38 years, in both private practice and public service. An English barrister, he was admitted as an advocate of Guernsey's Royal Court in July 1971, and in October 2002 took up appointment as Her Majesty's Procureur – that is, Guernsey's Attorney-General – having been senior partner of Ozannes, one of the Channel Islands' principal law firms. In private practice he was primarily engaged in commercial, corporate and trust law, and appeared in a number of high-profile Royal Court cases, both civil and criminal. He served as a non-executive director on a number of regulated institutions, including banks and insurers. He was appointed as a Queen's Counsel in October 2002, and is a Fellow of the Chartered Institute of Arbitrators and a Member of the British Academy of Forensic Sciences.

2. Richard Walker BA, Director of Policy and International Affairs

After a period in stockbroking, Richard Walker joined the Commission's Investment Business Division in 1990. In 1997 he was appointed as Assistant to the Director General. The Policy and International Affairs Division evolved from this work and he was appointed Director in March 2006. His role has included involvement in committees on regulation, anti-money laundering and combating the financing of terrorism (AML/CFT), and company and trust law. He has undertaken work on behalf of the International Monetary Fund and the Financial Stability Institute on AML/CFT and countering fraud. He is a member of several working groups of the International Association of Insurance Supervisors.

3. Diane Colton FCII, Chartered Insurance Practitioner, Director of Insurance

Diane Colton joined the Commission in 1995. She was appointed Deputy Director of Insurance in 2001 and promoted to Director of Insurance in January 2007. She has undertaken work on behalf of the Financial Stability Institute and has worked as a member of the Financial Action Task Force Working Group on Insurance Typologies (which was set up to conduct an analysis into the money-laundering vulnerabilities in the insurance sector). She has also been involved with the Insurance Fraud Subcommittee of the International Association of Insurance Supervisors (IAIS) in drafting various papers and has been Chairperson of that subcommittee since November 2007. She was appointed Chair of the Captive Guidance Paper Drafting Group of the IAIS late 2007 and in 2008 the Group's guidance paper for captive insurance supervisors was approved by the IAIS. Diane Colton was also appointed Chair of the Market Conduct Subcommittee of the IAIS in October 2008.

4. Neville Roberts FCA, Director of Finance and Operations

Neville Roberts is a Fellow of the Institute of Chartered Accountants. He served articles with Thomson McLintock (now part of KPMG) in London where, following qualification, he worked in the field of receivership. In 1976 he moved to Ford Motor Co. before transferring to Schroder Life and Unit Trusts as Group Financial Accountant. He came to Guernsey as Director of Finance and Operations for the Schroder international group of companies. For 12 years prior to joining the Commission, he was Head of Finance and Operations for NRG Distribution, a global logistics subsidiary of Ricoh, where he gained valuable experience in information technology, business excellence and strategic planning. He was instrumental in obtaining ISO 9000 accreditation and the Investors in People standard. In August 2003 he was appointed as the Commission's first Head of Finance and Operations and in February 2007 became Director of Finance and Operations.

5. Stephen Trevor LL.B, Director of Fiduciary and Intelligence Services

Stephen Trevor read law at the University of Exeter before qualifying as a solicitor of the Supreme Court of England and Wales in 1991. He practised with Trump & Partners (subsequently TLT Solicitors) in Bristol in commercial litigation, acting for financial institutions in negligence claims against lawyers and other professionals and for insolvency practitioners in contentious insolvency matters. In 1997 he joined the Solicitors Indemnity Fund to settle and defend claims against solicitors' firms. In 1999 he joined the Commission as Assistant to the Director of Fiduciary Services and Enforcement, to work on the establishment of a regulatory system for fiduciaries. He was appointed Assistant Director in March 2001, Deputy Director in March 2002 and Director of Fiduciary and Intelligence Services in August 2004. He has served as a member of Guernsey's Trust Law Review and Company Law Reform Committees and their successors since 2000.

6. Philip Marr MSc (Econ), CFE, Director of Banking

After a postgraduate degree in Economics, Philip Marr joined the Bank of England in 1968. He was Economic Adviser to the government of Bermuda from 1974 to 1977 and entered Banking Supervision on his return to the Bank. He was appointed Adviser to the Bahrain Monetary Agency from 1982 to 1984. He was manager of several groups of banks in Supervision at the Bank of England. After a secondment to Hambros Bank in 1988–1989 he was appointed Manager, On-Site Review Teams. He was appointed Senior Manager, Enforcement in 1995 and joined the Commission in June 1997. He has been a member of the Offshore Group of Banking Supervisors (OGBS) since 1997 and was a member of the Joint OGBS/Basel Committee Working Group on Cross Border Banking from 2001 to 2007.

7. Peter Moffatt MA (Oxon), Chartered FCSI, Director of Investment Business

Peter Moffatt joined the Overseas Department of the Bank of England in 1968. International work involved liaison with European Community institutions and the Bank for International Settlements. He was a bank supervisor during the 1970s and later became Secretary of the City Capital Markets Committee. Leaving the Bank in 1987, he became a compliance officer in investment banking with PaineWebber and JP Morgan and then in investment management with John Govett and Framlington. He has served on legal and regulatory committees of the Association of Investment Trust Companies, the Association of Unit Trusts and Investment Funds and the Financial Services Authority. He joined the Commission in June 2000.

CHAIRMAN'S STATEMENT

The global financial crisis that threatened economic stability in 2008 finally appears to have been tamed, due in no small part to concerted government intervention. Whilst the immediate financial crisis was averted, there emerged during 2009 a world economic recession that has still to run its full course.

The aftermath of the financial crisis and emergence of a world economic recession impacted upon the activities of the Commission and its financial results during 2009. The renewed concentration upon assessment of sovereign risk as a result of the financial crisis led to a small reduction in the number of banking entities operating in Guernsey. To a certain extent, this helped to reduce the level of risk within the financial sector in Guernsey. The onset of the world recession and volatility in investment markets had an impact upon the flow of new investment business into the Island during 2009. The consequential reduction of fee income affected the Commission's revenues during 2009.

Additional expenses for the Commission continued to arise following the crisis. In the early part of 2009, the Commission responded to the UK Treasury Select Committee inquiry into the financial crisis and later in the year we also responded to Mr Michael Foot in relation to his report on the Crown Dependencies and Overseas Territories, commissioned by the UK government. The Commission also incurred significant expenditure in the pursuit of enforcement actions. Against such a background, the fact that the Commission was able to contain its operating loss to £326,283 is a not insignificant achievement.

At the end of May 2009, Nik van Leuven took over as Director General in place of Peter Neville, who took a well-deserved retirement from the rigours of the regulatory environment.

One of Nik's first tasks has been to undertake a review of costs incurred by the Commission, particularly in relation to enforcement actions where the Commission incurs significant fees to third parties. In an attempt to reduce reliance on third parties in the handling of enforcement actions and a consequential reduction of associated costs, the Commissioners have approved the appointment of an in-house legal counsel, who will assist the regulatory divisions in managing the enforcement process.

In 2009, the Commissioners finally approved the terms of the lease of new premises at Glategny Esplanade, St Peter Port. Those premises are in the course of being fitted out and it is anticipated the Commission will be able to move by the second half of September. We are confident that further operational efficiencies will be gained from having all the Commission staff housed in one building and on one floor.

The Commission is currently engaging with external consultants to undertake an extensive review of the operation of the Commission in a strategic context. Whilst that review will be in part a "value for money" review, nevertheless we will take the opportunity to request a review of the processes and structures within the Commission to ensure that we are still operating efficiently and effectively.

Further progress was made during 2009 in preparation for the reviews by the International Monetary Fund (IMF). There will in fact be two reviews, the first a review of regulatory standards and the second a review of the effectiveness of our anti-money laundering and counter terrorist financing procedures against the standards set by the Financial Action Task Force. Preparation for these reviews has involved a significant programme of legislative and regulatory initiatives. The Commission is grateful for the assistance and co-operation that it has received from both government and industry in the completion of that programme. At the time of writing this report, the IMF has completed its assessments against international regulatory standards, although the results of that assessment have yet to be published. The anti-money laundering and counter terrorist financing assessment will be undertaken during May. The approach adopted by both teams of assessors is expected to be coloured by the political attitudes assumed by the G20 group of jurisdictions in the aftermath of the financial crisis.

The Commission has worked closely with representatives of the Commerce & Employment Department in monitoring regulatory developments within the European Union in order to assess their potential impact upon Guernsey's finance industry. In particular, close attention has been focused on the evolution of the draft Alternative Investment Fund Management Directive and the development of the Solvency II Regime for insurers. The Commission is anxious to ensure that Guernsey would be in a position to achieve equivalence status in respect of either or both of these regulatory initiatives, if considered necessary or desirable to fulfil the Commission's functions. In this, a regular dialogue with the Departments and the relevant sectors is being maintained and proving beneficial.

One of the important regulatory lessons to be gained from the recent financial crisis is the importance of establishing effective regulation at a macro level and maintaining active cooperation and assistance amongst national regulators. This is a theme that the Commission has repeatedly drawn to the attention of the world regulatory bodies in the light of its own experiences in dealing with Northern Rock and Landsbanki. The Commission has continued and will continue to build up its own regulatory network. During 2009 the Commission was able to sign the International Organisation of Securities Commissions (IOSCO) Multilateral Memorandum of Understanding (MMoU) and is actively seeking to become a signatory to the International Association of Insurance Supervisors (IAIS) MMoU. The Commission has also continued to build on its relationships with other national regulators by establishing individual memoranda of understanding (MoUs), and is actively participating in colleges of regulators where supervision of one regulated entity spans several jurisdictions. It is to be hoped that these and other initiatives will contribute to the achievement of more effective cooperation between regulators.

One of the standards tested by the IMF assessors relates to the independence of the Commission and the ability of the Commission to demonstrate the absence of interference from government and industry in the discharge of the Commission's regulatory duties. In our meeting with the IMF assessors, the Commissioners were able to give assurance that we were satisfied that the Commission operated free from such interference. Such independence does not however detract from the fact that the Commission is eventually accountable to the States of Guernsey.

Accountability is achieved by the presentation of this annual report to members of the States, by the presentation of a further statutory report on risk management and corporate governance to the Policy Council, and by a regular series of meetings between the Commission and the Fiscal and Economic Policy Group. In 2008, the Commission entered into a protocol for communication and cooperation with the then Chief Minister and the Minister of the Commerce & Employment Department. That protocol sets out the basis on which the Commission will consult with the relevant departments of government.

In 2009, the Commission engaged in a very detailed process of consultation with industry and government over its budget and proposed fee changes for 2010. The Commission is anxious to ensure that the level of fees charged by each regulatory division should be sufficient to cover the costs associated with that division, in order to eliminate any element of "cross subsidisation" between the different regulatory divisions. The Commission took note of the feedback that it received from industry and government and, as a result, the Commission agreed to spread its proposed fee increases over 2 years.

The Commission is mindful of the need to consult with those it regulates and all regulatory divisions are encouraged to engage with the relevant sectors in industry as often as possible. The Commission continued throughout 2009 to consult with industry before implementing regulatory changes.

I appreciate that legislation has tended to emerge at a rapid pace. Full account was taken of the responses to the consultation and indeed with regard to our proposed new code on corporate governance we intend to have a second round of consultation. In future the Commission will endeavour to ensure that, where practicable, more flexibility is built into the timetabling allowed for consultation. This will be all important as we look to consolidate as much as possible of the existing regulatory legislation into one law.

Notwithstanding the return of global financial stability, 2009 was a challenging year for the Commission and its staff. On behalf of the Commissioners, I would like to take this opportunity to express our appreciation and gratitude to Peter Neville, his successor Nik van Leuven and the whole team of the Commission for their continued unstinting efforts.

I am also extremely grateful for the support of my fellow Commissioners during the past year. In addition to attendance at the regular meetings of the Commission, Commissioners are regularly called upon to give extra time to attend meetings of committees of the Commission. They all generously give of their time. In particular I acknowledge with thanks the commitment and contribution of those Commissioners who sat on the Audit and Risk Committee and to its chairman David Mallett.

Peter Harwood, Chairman

DIRECTOR GENERAL'S STATEMENT

"If our foresight were as good as our hindsight, we'd be better off a damn sight." This observation has struck me much during the period from 1 June 2009 that I have held office as Director General of the Commission, and it is with some such benefit that I present my first contribution to the Commission's Annual Report and Financial Statements for 2009. It is right that I immediately pay tribute to the unstinting efforts of my predecessor, Peter Neville, to defend and sustain the Commission during its most troubling times: indeed, the global financial crisis in general, and its particular consequential difficulties for Guernsey's financial services sector, continue to burden the Commission. Whatever may have been the causes of that crisis, and Guernsey's part in its envelopment, its full regulatory and supervisory consequences have yet to be felt. In these respects, by way of preface, I gratefully adopt the remarks above of the Chairman, Peter Harwood, and also of Peter Neville in his contribution to the Commission's 2008 Annual Report and Financial Statements.

Each of the Commission's Directors of the regulatory Divisions will refer to developments in supervision and regulation in and for their respective sectors, and any précis by me would be superfluous.

JK Galbraith in his instructive, yet entertaining, account of The Great Crash of 1929, observes, with respect to US financial services regulation beforehand, that "regulatory bodies, like those who comprise them, have a marked life cycle. In youth they are vigorous, aggressive, evangelistic, and even intolerant. Later they mellow and in old age ... they become, with some exceptions, either an arm of the industry they are regulating or senile". In consequence of 1929's events, the US erected a range of regulatory mechanisms and protections which remain substantially operative, although, of course, with significant development, amendment and, arguably, improvement. Those who read Hank Paulson's account of the recent crisis might, not unreasonably, conclude that Galbraith was partly right, but as, inter alios, Adair Turner has shown, other contributive factors, beside regulatory failure, combined to create the circumstances in which the recent catastrophe was all but inevitable. Thus, in 2007 when the first tremors of the quakes and eruptions of the crisis' cataclysms were felt, regulators worldwide, not just in the US, were compelled to recognise the need for extensive reform if not revolution. Galbraith's remarks appear – to me at least – to be a warning as apt now as before, and I have them much in mind as the Commission traverses the period of recovery and beyond. However, despite my short time as Director General, I can confidently assert that I have found the Commission to be of vigorous maturity, and certainly not appendant to the sector it regulates.

What is clearer now than when my predecessor wrote in 2009 is that the nature and extent of financial services regulation will inevitably change, and that external – by which I mean international – scrutiny of Guernsey's financial services sector and its regulation will become increasingly stringent. The preservation and enhancement of our international reputation is even more vital now than before, especially as those jurisdictions and institutions bent on criticism continue their assaults.

For the financial crisis has caused greater focus to be given by the international community on the financial services sectors of the smaller independent jurisdictions. A number of initiatives, including those to promote tax transparency and discourage unfair tax competition, to raise regulatory standards to prevent systemic contagion and to improve regulatory and supervisory cooperation, proceed with renewed vigour. Guernsey is no more immune from external influences than any other such jurisdiction, and the Commission stands firmly beside the States of Guernsey in determining to ensure that international standards and expectations are effectively and proportionately achieved and applied. Whilst these developments are global, undoubtedly the most significant influence so far as Guernsey is concerned is the European Union, to which the United Kingdom is, or appears to be, ceding powers and functions. However one views the European project, Guernsey simply cannot avoid or elide such an important political and economic regime, and as authority and influence shift to Brussels, Guernsey must recognise that it cannot survive, let alone thrive, without engaging constructively with its closest neighbours. I welcome the recognition by Guernsey's government of the need for greater dialogue with the EU and its constituents, exemplified by their decision to open a Brussels office. Work in addressing perceived threats from EU initiatives e.g. in the funds sector, the draft AIFM Directive, and in the insurance sector, the Solvency II Directive, being currently the two most prominent such issues, takes up much of the time of the Commission's executive, but there are others. Both the financial services sector in Guernsey, and the community more widely beside the body politic, must accept that if Guernsey is to have access to financial markets within the EU (including the UK) it will have to abide by its rules, not necessarily by adopting them wholesale but by achieving its regulatory and supervisory standards.

The Commission has long felt that the States should establish a financial services 'ombudsman', but the States, in that process, need to recognise that Guernsey's legal regime is inadequate to be protective or supportive of the retail consumer, not only in financial services. Anticipating this greater focus on retail services, I have constituted a working party within the Commission to consider the possibility of establishing a 'retail' financial services Division, to address the sector's particular circumstances, problems and requirements, and to ensure that those who deal with the public in the sale of financial services products do so to the highest standards of probity.

In the development of financial services regulation, there will inevitably be a greater focus on macro-prudential issues, and indeed the Commission, not newly but more emphatically, is actively continuing to address issues relevant to the safety, soundness and integrity of the Bailiwick's financial services sector, besides its statutory requirement to act to maintain confidence in that sector. In that regard, and together with the Chairman, I have commenced a review to ascertain how the Commission can best deploy its available resources to embrace these broader issues, and one consequence is necessarily more effective communication between Guernsey's government and the Commission, particularly on strategic economic and commercial issues. I should stress that Guernsey's government does not seek or attempt to interfere in the discharge by the Commission of its regulatory and supervisory activities, but the Commission should have a better understanding of the broader insular context in which it functions. Accordingly, the Commissioners are now meeting the Fiscal and Economic Policy Group of the Policy Council, in addition to the annual meetings between the Chairman and the Director General and the Policy Council. I have also encouraged greater dialogue between the Divisional Directors and representatives of the body politic, particularly (again) with the Fiscal and Economic Policy Group, and the Commerce and Employment Department, which is responsible for the governmental promotion of the interests of the financial services sector. Furthermore, the Commission's membership of the Finance Sector Group, as a forum for the exchange of information and opinion, involving representatives of the States – the Policy Council, and Commerce and Employment and Treasury and Resources Departments – and the Guernsey International Business Association, is increasingly valuable.

As financial services regulation intensifies, so there will inevitably be greater emphasis on the enforcement by the Commission of the regulatory regimes for which it is responsible. Whilst the UK's Financial Services Authority has warned its licensees, in the context of enforcement, to be 'afraid', I do not believe that approach is necessarily appropriate here, except to the extent that those who transgress will now find the Commission pursuing them more decisively and determinedly. In order to advise and assist the Commission in regulatory matters, particularly on enforcement, but also to provide a much needed internal resource, the Commission has recruited an in-house lawyer who comes with relevant financial services experience.

One area on which the regulation of financial services businesses in Guernsey will focus more intensively is corporate governance, the proper practice of which is an invaluable adjunct to effective regulation. Increasingly, external assessments of the Bailiwick's financial services sector will address compliance by its constituents of current notions of proper corporate governance and accountability, but of course these are not always readily adaptable to particular sectoral circumstances, nor are the precepts and practices of the business world necessarily consistent. A group of practitioners, reflecting an appropriate cross-section of Guernsey's financial services sectoral interests, is working with the Commission to produce a draft Code of Corporate Governance, applicable to all licensed entities, and available more widely as a best practice model to local industry and commerce. The draft Code has been the subject of extensive consultation, and work will shortly begin on the particular sectoral adaptations and modifications necessary or expedient to make it practically workable, bearing in mind also that it will eventually have to be acceptable externally. A further consultation will be undertaken in Autumn 2010.

Since the establishment of the Commission, those functions which in a commercial context would ordinarily devolve upon a company secretary have been variously distributed amongst senior Commission staff. As the Commission has grown, this has come to prove unsatisfactory. The Commissioners, conscious of the additional burdens thereby imposed, have established the office of Commission Secretary which has already come to prove beneficial to the Commission for the effective and efficient discharge of its operations.

The Commission has long been concerned with the provision of skills training for the finance sector, and was instrumental in establishing the Finance Training Agency in 1996 which was eventually transformed into the GTA University Centre (GTA), which now facilitates the provision of a wide range of courses for business and commerce beyond those more narrowly required for the finance sector. During 2009, for the first time the GTA predicted an operating loss, and requested further funding from the Commission and the Department. Fortunately, after some years of operating surpluses, the GTA had built up some reserves. The factors that led to this reversal of fortune included: the GTA having to lease its premises on commercial terms (as against the advantageous terms on which its premises had previously been made available by the States); the impact of competitive private sector suppliers of training; and the downturn in demand consequent upon pruning of costs in a harsher business environment.

The Commission, faced by this request for further funding, has considered the matter more broadly, and concluded that it should withdraw from funding the GTA by no later than 2013. Furthermore, the emergence of more intense financial services regulation inevitably requires the Commission to re-focus its endeavours and maximise deployment of its resources. It is also felt that the Commission's funding of an independent institution providing or facilitating education and training is no longer an appropriate function of a financial services regulator, especially because the GTA's courses and services extend beyond those requisite for the regulated sector, and there is no mechanism to 'ring-fence' the Commission's annual grant, for 2010 amounting to £440,000. The Department, conscious of the need for any new or increased public expenditure to be justified, commissioned a review of the provision of skills training in Guernsey, against the recommendations of which its funding of the GTA would eventually be considered. At the time of writing the review's proposals, having been out for public consultation, are being considered by the Department. Importantly, the Commission's decision to withdraw from funding the GTA should not be taken as reflecting any dissatisfaction with its delivery of skills training for the finance sector, and the Commission has assured the GTA that it wishes to continue to be engaged in assisting and advising the GTA.

Finally, the Commission in preparing its budget in 2009 concluded, almost inevitably, that each regulatory Division should be financially self-standing after a fair apportionment of the Commission's expenses. During the consultation on the Commission's fees proposed for 2010, a number of respondents suggested that a 'value for money' review should be undertaken of the Commission's activities. As the Commissioners had already decided in principle to carry out such a review, these suggestions from industry were timely. However, the Commissioners have subsequently determined that a more far-reaching review of the Commission and its functions should be undertaken, embracing not only quantitative 'value' issues but also strategic issues, including the structure and operation of the Commission and its practice of supervision and regulation. This review will be commenced following closure of the IMF assessment in May 2010.

Before closing I return to Galbraith. Writing in 1975 he observes: "But now, as throughout history, financial capacity and political perspicacity are inversely correlated. Long run salvation by men of business has never been highly regarded if it means disturbance of orderly life and convenience in the present. So inaction will be advocated in the present even though it means deep trouble in the future." That observation enjoins the Commission, in addressing emerging supervisory and regulatory issues, to ensure that the Bailiwick's financial services businesses are kept fully informed of developments, whilst remaining attentive to their consequences. In all this, the Commission will continue to consult, to listen, to assist, to guide and to warn.

I would, in conclusion, thank the Chairman, Peter Harwood and the Commissioners for their wise counsel and support, and all my colleagues for their skill and dedication to the practice of financial services regulation. The Bailiwick is indeed fortunate in having their services available to the Commission.

Nik van Leuven, Director General

BANKING DIVISION

The aftermath of the crisis

After the turmoil of the banking crisis of October 2008 and the unsettled markets at the end of that year which had produced a flight to quality in the banking sector, there was a fragile but gradual recovery in financial markets in 2009. However, market pressures remained on several institutions and regulators continued to take remedial actions. Deposit levels in Guernsey declined from £157 billion to £117 billion as the flight to quality and precautionary behaviour of the crisis period were gradually unwound. The period was characterised by a massive recapitalisation of major banks by governments in the UK, the USA, the Netherlands and Germany and huge injections of liquidity into the financial markets. There was a slow economic recovery through the year. However the significant injections of liquidity and measures taken to assist the economic recovery also led to a period of historically very low interest rates. That itself had consequences on depositor behaviour. In particular it impacted the attractiveness of Swiss fiduciary deposits and aggregate levels of these decreased steadily throughout 2009 from £72 billion to £42 billion, as it was no longer attractive for ultimate depositors in Switzerland to give instructions to place these deposits in Guernsey because the fee outweighed the interest benefit from the transaction. By the end of the year Swiss fiduciary deposits had declined from 46% of the deposit base to 36% of the deposit base at December 2009.

At the start of 2009 the Promontory Report produced by Mr Michael Foot on the Commission's handling of the events leading to the administration of Landsbanki (Guernsey) Limited (LGL) was put in the public domain. That report concluded that the Commission had acted appropriately, had measured up to good practice and that there had been no regulatory failure. The report also recognised that actions taken by the Commission in 2008 were directly beneficial to the interests of LGL's depositors. The Commission had required LGL to reduce its direct exposure to Iceland substantially and required the bank to replace assets upstreamed to the parent in Iceland with third-party bank placements, placements with Heritable Bank Ltd in London and a portfolio of third-party loan assets, which resulted in LGL acquiring a credit portfolio of property loans. As a result of those actions, the Joint Administrators of LGL were able to recover assets successfully and begin to repay depositors whose funds were temporarily frozen as a result of the administration process. During the course of 2009 the Joint Administrators made a series of stage payments to depositors following their recovery of assets and, at the end of 2009, they announced that they would make a further payment in early 2010 which would take the amount returned to depositors to 67.5p in the pound. The Joint Administrators also estimated that they expected, if the recovery of assets went as they had projected, to be able to recover up to 91p in the pound for LGL depositors.

Figure 1. **Total Tier 1 capital at the year end**

Year	£mns
1999	1,357
2000	1,715
2001	1,841
2002	1,686
2003	1,585
2004	1,479
2005	1,385
2006	1,491
2007	1,570
2008	1,981
2009	2,094

Table 1. **Licences and deposits at the year end**

End	Banks licensed	Deposits £mns	Annual % change in deposits
1999	79	57,059	7.8
2000	77	68,474	20.0
2001	72	77,211	12.8
2002	67	71,943	-6.8
2003	61	69,703	-3.1
2004	54	70,426	1.0
2005	50	80,728	14.6
2006	50	92,349	14.4
2007	47	119,170	29.0
2008	48	157,009	31.8
2009	44	117,415	-25.2

The aftermath of the crisis (continued)

The then Director General and the Chairman (together with the Chief Minister) attended the UK Treasury Select Committee hearings on the Icelandic Bank crisis in February in order actively to seek to protect the interests of Guernsey depositors. The presentations and discussion included the response of the Guernsey authorities, the actions taken leading up to the administration of LGL and the obstacles they had to face. The appearance before the Treasury Select Committee was accompanied by the publication of an exchange of correspondence between the Commission and the UK Financial Services Authority in the critical period leading up to LGL going into administration.

During the early part of the year the newly formed Board of the Guernsey Deposit Compensation scheme was established and it met to establish its immediate objectives and procedures. In April it issued a leaflet, which was widely distributed, to explain the features and limitations of the scheme. The Commission provided comments and feedback on that document but it is not part of the ongoing work of the Board.

The impact of the crisis-driven acquisitions and enforced government or partial government ownership of banks licensed in the Bailiwick became evident during the course of the year. This was accompanied by selective redundancies and redeployment of staff in several institutions but in general terms during the year there were no major reductions in staff levels in the banking sector. Those banks which were subject to government ownership undertook strategic reviews and in the main refocused on their core businesses. RBSI took the decision to exit over a reasonable period from a previously specialist business but remains committed to its other specialist business lines. Lloyds Banking Group surrendered the licence of Bank of Scotland plc and integrated that activity into the main Guernsey branch of the bank. Fortis Nederland, which had disengaged from Fortis Belgium in the wake of the crisis, focused on its core wealth management businesses and subsequently rebranded itself as MeesPierson (CI) Limited. Northern Rock Guernsey Limited participated in the parent bank's restructuring and late in the year NRG became part of the continuing bank Northern Rock PLC, which had been disengaged from Northern Rock Asset Management Ltd, the entity which contained the most critically impaired mortgage assets.

The first quarter of 2009 can now be seen as a continuation of the worst global financial crisis since the Second World War. This was a period of intense activity for the Commission. It involved the Commission undertaking heightened surveillance of several banks, and indeed on macro-economic conditions in general, including monitoring the UK property market. The Commission maintained close contact with key parental banks and key home supervisors, involving many face-to-face meetings.

Figure 2. **Source of bank deposits at December 2009**

Country	%
Switzerland	39%
Guernsey	28%
United States	11%
United Kingdom	6%
Jersey	6%
Caribbean	3%
Other European Union	1%
Ireland	1%
Other	5%

Figure 3. **Disposition of bank assets at December 2009**

Country	%
United Kingdom	39%
Other European Union	16%
United States	15%
Switzerland	10%
Guernsey	8%
Caribbean	5%
Jersey	4%
Ireland	1%
Other	2%

Figure 4. **Analysis of deposits with Guernsey banks by currency at end December 2009**

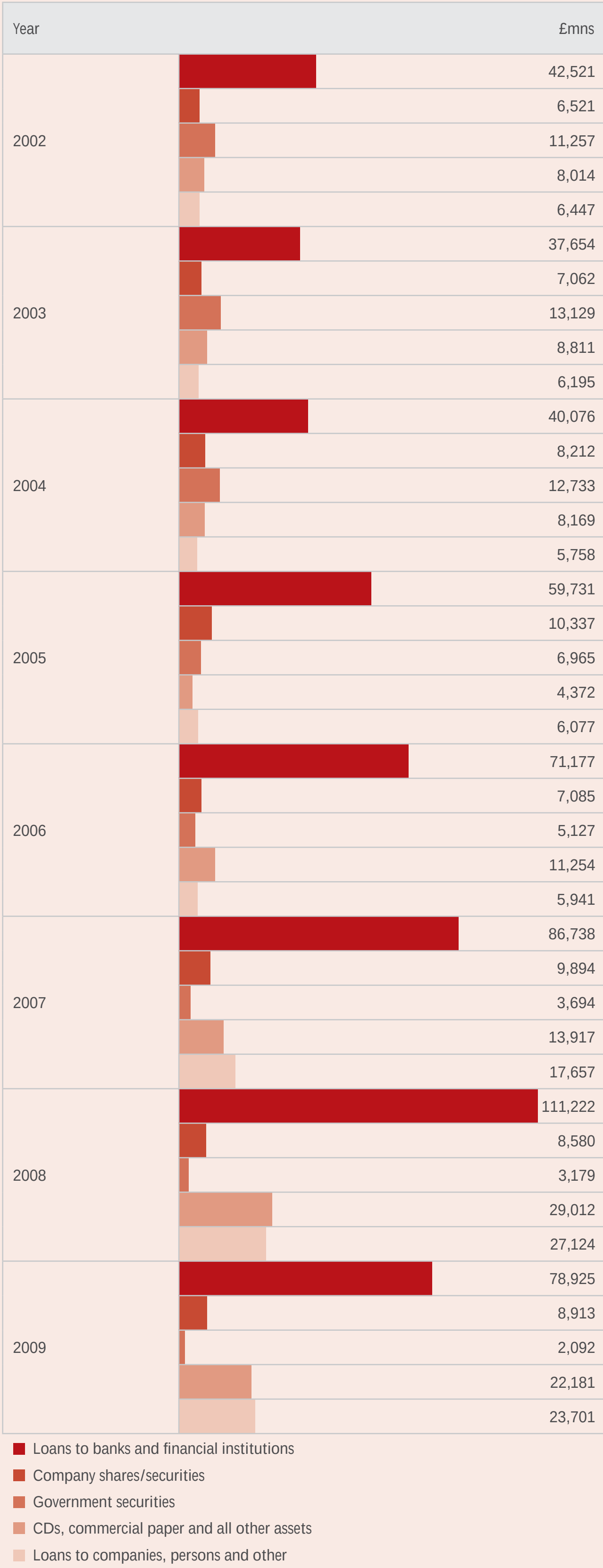
Currency	%
United States dollar (USD)	46.3%
United Kingdom sterling (GBP)	23.9%
Euro (EUR)	23.3%
Swiss franc (CHF)	3.8%
Australian dollar (AUD)	0.9%
Canadian dollar (CAD)	0.5%
Japanese yen (JPY)	0.2%
Hong Kong dollar (HKD)	0.1%
Other	1.0%

As a consequence, the Commission continued its policy from 2008 of requiring several Guernsey banks to have in place additional mitigation which served to protect the interests of Guernsey depositors. Apart from reducing the risks in 2009, this activity has resulted in a more long-lasting reduction in the exposure of the local banking sector to external risk, although the risk to the sector will always be exogenously driven. In particular, sovereign risk embedded in parent banks' ownership of Guernsey subsidiaries has been notably reduced.

The credit quality of loans to local individuals and businesses held up well, with a very low level of non-performing loans reflecting the fact that employment levels were maintained during the year. The Commission undertook a credit quality and provisioning survey to determine the extent to which there had been further impairment as a result of the recession and a further need for provisions. Whilst more credits had moved to watch list status, the level of non-performing loans across the whole loan portfolio remained modest and manageable. However, as a result of the crisis some banks had to make provisions for the impairment of severely damaged assets, in particular asset-backed securities and holdings of the most seriously weakened credits, such as Lehman Brothers and the Icelandic banks.

Not surprisingly, profitability remained challenging for Guernsey banks in 2009 because of compressed interest margins, which put pressure on their net interest income revenue streams. Three-quarters of Guernsey-licensed banks reported lower profit levels than in 2008. That said, a quarter had improved or maintained the same performance. During the course of the year several other banks surrendered their licences in addition to Bank of Scotland. Credit Europe (Suisse) S.A. – Guernsey Branch decided to close and the Bank of Ireland (I.O.M.) Limited – Guernsey Branch transferred its business back to its Isle of Man parent. As a result of a merger in the UK in which Scarborough Building Society merged with Skipton Building Society, there was a consequential effect in Guernsey which subsequently resulted in Scarborough Channel Islands Limited merging with Skipton Guernsey Limited. The combined entity was renamed Skipton International Limited. At the end of the year the National Bank of Greece decided to close its operations in Guernsey. We expect further selective surrenders of licences during 2010, reflecting further rationalisation and focus on core business by international banking groups.

Figure 5. **Assets at the year end**



External and international policy developments

In March 2009 Adair Turner, Chairman of the UK Financial Services Authority (FSA), published his comprehensive analysis of the causes of the 2008 global financial crisis in a document which became known as the Turner Review. That document subsequently became the basis for a discussion paper published by the FSA entitled "A regulatory response to the global banking crisis". The seeds were sown in the consultation document for robust proposals on liquidity management for UK banks, which were incorporated into a document "Strengthening liquidity standards" published in October 2009 and setting out for UK banks a new liquidity standard which was scheduled to come into force in 2010. The Commission is in discussion with the FSA and affected UK-owned subsidiary banks about the implications for their future business models.

Later in the year, in December, the Basel Committee on Banking Supervision published its consultation document on liquidity standards under the title "International framework for liquidity risk measurement, standards and monitoring". That was issued in the context of another consultation document issued in tandem and covering a wider spectrum of capital and liquidity adequacy issues, entitled "Strengthening the resilience of the banking sector". The latter covered proposals for tightening the definition of capital to give more emphasis to high-quality Tier 1 capital together with proposals on capital leverage (sometimes known as gearing), capital buffers and liquidity.

Just after the publication of the Turner Review, in April 2009 the UK House of Commons Treasury Select Committee published its report on the banking crisis: "The impact of the failure of the Icelandic banks". In general terms this recognised the need going forward for more effective cooperation and communication between home and host supervisors.

Separately, in October 2009 Mr Michael Foot, who was commissioned by HM Treasury, published his Final Report of the Independent Review of British Offshore Financial Centres. This covered developments in the three Crown Dependencies and the six British Overseas Territories. That report examined the sustainability of existing business models and financial sector crisis management and resolution arrangements. It also drew attention to the adequacy of transparency in depositors' compensation schemes and depositors' understanding of the limitations of the newly created schemes.

Table 2. **Assets and liabilities of licensed banks at the year end**

	2003 Total £mns	2004 Total £mns	2005 Total £mns	2006 Total £mns	2007 Total £mns	2008 Total £mns	2009 Total £mns
Liabilities							
Tier 1 capital*	1,585	1,479	1,385	1,491	1,570	1,981	2,094
Tier 2 capital**	21	23	28	51	49	228	179
Deposits by:							
British Isles banks and financial corporations	9,652	10,888	11,845	16,681	20,306	20,866	23,130
Other banks	28,240	28,219	35,265	42,757	59,582	87,490	53,827
British Isles public sector	44	34	36	48	43	49	39
Companies, persons, other	30,700	30,165	32,191	31,977	38,138	45,898	37,706
Other liabilities	2,607	4,140	6,732	7,579	12,212	22,605	18,837
Total liabilities	72,850	74,948	87,482	100,584	131,900	179,117	135,812
Assets							
Loans, advances and market loans with:							
Banks and financial institutions	37,654	40,077	59,731	71,177	86,738	111,222	78,924
British Isles public sector	5	5	10	10	10	13	28
Companies, persons, other	6,189	5,752	6,067	5,931	17,647	27,111	23,673
Government securities	13,129	12,733	6,965	5,127	3,694	3,179	2,092
Company shares/securities	7,062	8,212	10,337	7,085	9,894	8,580	8,913
CDs*** and all other assets	8,811	8,169	4,372	11,254	13,917	29,012	22,181
Total assets	72,850	74,948	87,482	100,584	131,900	179,117	135,812

* Paid-up share capital and disclosed reserves
** Undisclosed reserves, revaluation reserves, general provisions, debt/equity instruments and subordinated debts
*** CDs plus FRNs and commercial paper.

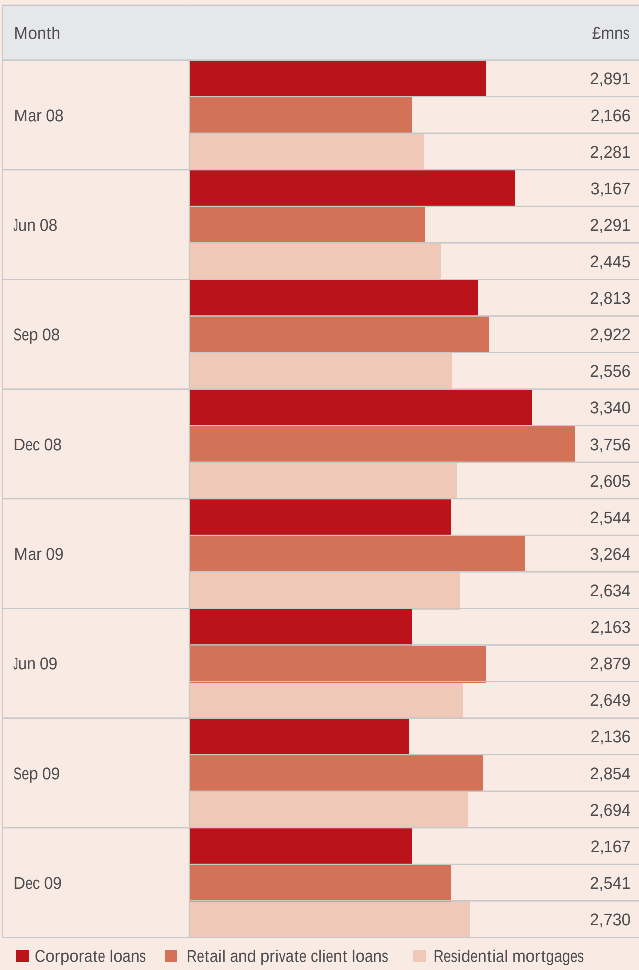
Local policy initiatives

In Guernsey in the wake of the 2008 banking crisis the Commerce and Employment Department commissioned Beachcroft, a consultancy firm, to review from a strategic point of view the future of the banking sector in Guernsey. In particular, it addressed the nature of banking in Guernsey and whether that was aligned with the need to maximise value added and its contribution to gross domestic product and to manage the risks in the sector, including the risks to the jurisdiction through potential reputational damage from the possible failure of a Guernsey bank. Clearly the Northern Rock experience and Landsbanki Guernsey Limited going into administration provided the backdrop to that exercise. Beachcroft produced its report in November entitled: "The Hunt Review: success and stability", with the subheading: "A strategic review of Guernsey's banking industry". Broadly, its conclusion was that there continue to be significant risks to Guernsey's reputation and the new Deposit Compensation Scheme from the activities of retail deposit-gathering banks. The review suggested that Guernsey should switch its emphasis away from straightforward deposit gathering to a more value-added offering, principally in the private banking and wealth management arenas. Lord Hunt's recommendations on retail banking were consistent with the Commission's own thinking, which reflects a change in our risk appetite that, henceforth, we would prefer retail banking customers to be in systemic banks which overseas governments are ready and willing to support. The Hunt Review was also cognisant of the then recent proposals from the UK regulator to adopt a more robust liquidity regime such that UK-owned subsidiary banks supplying liquidity to the home bank were penalised for the upstreaming elements in that funding. The review addressed a range of issues, including resourcing and the operation of administered banks, and was cautious about the establishment of indigenous banks in the island.

In the context of the Hunt Review's endorsement of private banking and wealth management as the way forward for Guernsey, the Commission has maintained an open mind in respect of requests for a change of controller from initially bank-owned subsidiaries. Post-crisis we have had to address a proposal for the ownership of a bank to transfer to private equity ownership. Given the need to recapitalise the whole global banking sector massively, the Commission is conscious that there is a need to accept that reputable private equity funds will be a valid source of bank capital in the years to come. That said, in looking at specific proposals involving the change in ownership from current bank ownership to private equity ownership, the Commission has insisted on the achievement of a very strict range of conditions and requirements in order to mitigate the risks from a changeover of ownership and any possible change in perception in the market place driven, for example, by the views of rating agencies.

During the course of the year the Commission had to maintain the momentum in its supervisory review and evaluation programme (SREP) in its review of the capital planning exercises undertaken by banks through their Individual Capital Adequacy Assessment Programmes (ICAAPs). The ICAAP is a fundamental part of the new Basel II Capital Adequacy regime. That exercise, which engages subsidiary banks only and not branches, nevertheless involves a considerable amount of resource commitment at the Commission and has involved an extended dialogue and feedback with Guernsey subsidiary banks. Clearly there were elements of a learning curve both for regulators and for banks, but we have learned from the feedback exercise undertaken that the banks found the exercise productive and invaluable in terms of their understanding of the risks in their business and how they manage those risks. The outcome of the first round of ICAAPs was that Basel II had in fact strengthened capital levels in Guernsey in 2009 as well as capturing a wider range of risks better. Overall, despite the crisis, capital levels at Guernsey banks have remained well in excess of regulatory minima. Tier 1 capital stood at £2,094 million at the end of 2009, as shown in figure 1.

Figure 6. **Selected loans and advances in 2008 and 2009**



Local policy initiatives (continued)

Against the background of an overall 25% decline in deposit levels at end 2009 there were some significant changes in the source of deposits (Table 1). Switzerland remained the largest single source but contracted from 48% to 39%. Guernsey increased in importance as a source of deposits, climbing from 18% to 28%, mainly reflecting deposits from corporate funds but also an increase in intragroup inter-bank deposits in the jurisdiction. Other movements in the source of deposits since 2008 were minor. The overall picture can be seen in figure 2. By contrast, the changes in the disposition of bank assets were less marked, albeit reflecting the same contraction in the total size of the book. Assets placed in the UK – largely intragroup placements – grew slightly in proportional terms, increasing from 37% to 39%. Assets placed within Guernsey were up from 4% to 8%, in part reflecting the financing of local businesses and Guernsey funds, but also reflecting the placement side of the intragroup inter-bank deposit mentioned above. Assets placed in Switzerland were down from 15% to 10% as Swiss banks based in Guernsey faced a reduced need to place assets following the contraction in Swiss fiduciary deposits. The overall picture of the disposition of bank assets at end 2009 is shown in figure 3.

Further information on the composition of the Guernsey banks' aggregated balance sheets as at end December 2009 is given in figure 4, which analyses deposits by currency, and figure 5, which analyses assets by broad asset type. Figure 6 analyses selected loans and advances – corporate, retail and private client loans and residential mortgages – on a quarterly basis over the last 2 years. A historic perspective of the composition of Guernsey banks' assets and liabilities over the last 7 years is given in Table 2. The geographic analysis of the country of origin of Guernsey-licensed banks at end 2009 is given in figures 7 and 8.

In July 2009 the Commission issued a paper on the management of liquidity risk in banks and developed a programme for identifying those banks which required enhanced liquidity management. Clearly this reflects developments in the international regulatory community requiring more robust regimes addressing the liquidity of banks. This again focuses on subsidiary banks which will be required to maintain very liquid positions, enabling them to cope with expected outflows within 8 days and within 1 month of a trigger event, and they will be expected to adopt stress testing to reflect prudent scenarios which might result in extended withdrawal of funds by depositors, e.g. in the event of a significant rating downgrade of the parent bank by one of the leading external rating agencies. The Commission is continuing a dialogue with Guernsey banks to agree appropriate behavioural adjustments to take account of any inherent stickiness of their deposit base as a result of their particular mix of business.

The crisis demonstrated clearly the current fissures in cross-border banking supervision, especially for host regulators. In response, the Commission was active in 2009 – and will continue this in 2010 – making a contribution to strengthen cross-border supervision both through the Offshore Group of Banking Supervisors (OGBS) and through a Basel working committee (the Cross Border Bank Resolution Group) on which Guernsey represents the OGBS.

Other work streams

The Banking Division continued its programme of onsite reviews to address compliance with, and the implementation of, the *Handbook for Countering Financial Crime and Terrorist Financing*, which was introduced at the end of 2007 and updated in June 2009. During the course of the year the Division maintained its bilateral contacts with other leading regulatory agencies and participated in several colleges of regulators. It is important for us to participate in those colleges at relatively quiet times in order to build up the contacts and channels of communication to enable cooperation and communication to take place without hindrance at times of stress. The division was also involved in a stress testing exercise ahead of the International Monetary Fund (IMF) visit in 2010 and in preparing a comprehensive self-assessment against the Basel Committee's 25 Core Principles. The IMF assessment against the Core Principles took place in Guernsey between 3 and 14 March 2010.

Figure 7. **Country of origin of Guernsey-licensed banks – subsidiaries at end 2009**

Country	%
United Kingdom	9
Switzerland	4
Cyprus	2
United States	2
Iceland	1
Bermuda	1
Netherlands	1
Canada	1
Hong Kong	1
South Africa	1

Figure 8. **Country of origin of Guernsey-licensed banks – branches at end 2009**

Country	Number of banks
United Kingdom	9
Switzerland	4
France	3
Germany	2
Bahrain	1
Qatar	1
Australia	1

FIDUCIARY AND INTELLIGENCE SERVICES DIVISION

Sector developments

At the year end there were 145 full and 52 personal fiduciary licensees (2008: 150 and 53 respectively). Fourteen full and 5 personal licences were surrendered during the year. Surrenders of full licences largely resulted from mergers or from plans laid some time earlier to close or relocate operations, particularly some very small managed trust companies. Personal licences were surrendered where the individual's activities no longer required licensing.

There was a very small number of staff redundancies within Guernsey fiduciaries, but also continuing interest by private equity and investment firms in acquiring such businesses. For example the acquisition of Intertrust Group Holding SA and its subsidiaries, including Intertrust Holding (Guernsey) Limited, by Waterland Private Equity Investments BV was announced in September, followed in October by that of the UK and Channel Islands operations of Kleinwort Benson by RHJ International.

During the year, new full fiduciary licensees included ARBB Channel Islands Limited, ARM Company Administration Limited, Fides Corporate Services Limited, Morgan Sharpe Administration Limited and Veyrier Trustees Limited. Overall, despite new business being slow for many firms, the sector remains healthy and there are areas of significant growth including Qualifying Recognised Overseas Pension Schemes (QROPS).

Supervision and policy

For the licensing team, the focus in 2009, as in the previous year, was the conduct of onsite inspections of full and personal fiduciary licensees, to review compliance with anti-money laundering/ combating the financing of terrorism (AML/CFT) requirements and wider fiduciary obligations, and following up issues arising from those visits.

Our findings in respect of both licence categories showed that a number of licensees had inadequate policies, procedures and controls to comply with the AML/CFT Regulations. The team identified breaches of the Regulations in relation to corporate governance, the requirements to undertake both business and relationship risk assessments, failures to update policies and procedures manuals, and inadequate customer due diligence and enhanced due diligence arrangements and monitoring. Where breaches were serious, conditions were imposed upon the licences held by 3 full fiduciary licensees and 2 personal fiduciary licensees during 2009. Whilst these findings were disappointing, in the majority of cases the licensees concerned have worked constructively to address these breaches and concerns.

During the year the licensing team undertook full-scope inspections of 19 full and 4 personal fiduciary licensees. In order to increase this number for future years, we have been revising the onsite inspection format and cycle so that licensees in which we assess that there are higher AML/CFT risks receive inspections which are more frequent but also more focussed.

The licensing team has held detailed discussions with some licensees about particular client structures affected by the financial crisis, with issues of insolvency and enforcement of security arising. From a regulatory perspective these issues reinforce the responsibilities carried by fiduciaries acting as directors of client companies, and generally we have seen those performed conscientiously, often in difficult circumstances.

In March the Commission introduced more stringent licensing requirements for managed trust companies (licensees whose staff, procedures and premises are provided by another licensed fiduciary). A requirement had been imposed since the inception of regulation in 2001 that a managed trust company's board must include a majority of directors provided by the managing licensee, in order to prevent direction at board level by the owner, but experience showed that this was not sufficient and some owners of managed trust companies, particularly individuals with close relationships with the client - base, had exercised levels of influence inconsistent with proper control by the managing licensee. Those individual cases have been worked through, with several no longer being licensed as a result, and the policy change was intended to preclude the formation of further managed trust companies of the type which had proved particularly problematic.

The Division has devoted large amounts of time during the year to enforcement action. Findings of unfitness and prohibition orders were made in April against Mr Peter Dawson-Ball and in October against Ms Pippa Harbour. In the latter case a public statement was also made, the first such statement under powers introduced in 2008. The Division is very grateful to the Jersey Financial Services Commission for its assistance with that case, which enabled parallel and complementary action to be taken in both islands. In July, the Royal Court of Guernsey struck out an appeal by Mr Joel Rubinovich, a former director of Claridges Trustees Limited, against the Commission's decision that he was not a fit and proper person.

The liquidation of Claridges Trustees Limited had been ordered by the Royal Court on the Commission's application in 2008 following the refusal of its fiduciary licence application and in order to prevent unauthorised fiduciary business being undertaken. The liquidation continued through 2009 and the Commission worked closely with the liquidators on various issues.

In September, the directors of Kingston Management (Guernsey) Limited applied to the Royal Court for an administration order following discussions with the Commission about the steps it required Kingston to take following an onsite inspection. An administration order was made and the Commission has been in very close liaison with the joint administrators about the transfer of files and matters arising in the administration in the meantime.

An Assistant Director has led the Division's involvement in the development of a Code of Corporate Governance for licensees. This is an important area for fiduciaries as many of the failings on which the Commission has taken action over the years have in fact been attributable to weaknesses in a licensee's corporate governance. Further details on this project appear in the report of the Policy and International Affairs Division.

During the year we had numerous discussions with, and very constructive input from, the committee of the Guernsey Association of Trustees (GAT) on matters including revisions to the Commission's *Handbook for Financial Services Businesses on Countering Financial Crime and Terrorist Financing* (the *Handbook*) and the managed trust company policy and Code on Corporate Governance mentioned above. There were also detailed discussions on the Commission's fee proposals for 2010, and GAT has provided a representative to the Retirement Annuity Trust Schemes (RATS) group referred to below.

The Director has led a working group on regulatory requirements for licensees across the sectors involved in RATS. The group includes Commission and external members and in July issued a consultation paper on a proposed set of regulatory principles in this area. Following the end of the consultation period in September, responses were considered and some proposed regulatory rules prepared with the Law Officers' assistance, and those are expected to be made in 2010. Because some of the problems with licensees' work on RATS in the past have been exacerbated by the absence of a single set of requirements applicable to insurance intermediaries, investment advisers and fiduciaries, two or more of which may be involved in a single case, the group's proposal is for a single set of rules applying to all those categories of firms.

On the related subject of QROPS, the Director has taken part in meetings of a sub-group of the Guernsey Association of Pensions Providers (GAPP) (formerly Guernsey Association of Pension Funds) to consider whether additional requirements should be imposed to protect Guernsey's reputation and its jurisdictional recognition by Her Majesty's Revenue and Customs. The trusteeship and administration of these schemes has been an important area of growth and diversity in Guernsey over recent years, and other jurisdictions have in effect lost the ability to continue with QROPS work due to inappropriate sales and administration practices. This work continues into 2010.

The Guernsey Society of Chartered and Certified Accountants (GSCCA) kindly agreed to update the guidance it had issued in 2001 on the audit of fiduciaries' financial statements, which has formed the basis of the Commission's approval of each licensee's auditor. We met representatives of the GSCCA in April and revised guidance was issued in July.

Members of the licensing team have taken part in numerous presentations and seminars during the year to explain the Division's work and priorities and to obtain feedback on those. In January, the Director took part in a GAT presentation to States members and senior civil servants about the fiduciary sector; Maxime Le Tocq, the Deputy Director, and Fiona Crocker, Assistant Director, spoke to Society of Trust and Estate Practitioners (STEP) members in January and the Director and Matt Hutchison, Assistant Director, presented to a different STEP audience in July on AML/CFT issues for trustees. In April the Assistant Directors made a presentation on the same subject to licensees in Alderney and in June the Director took part in a GAPP seminar on RATS. In September the Director and Deputy Director spoke at a seminar for trustees and in October the Director chaired a session arranged by a law firm on regulatory enforcement action.

The Director, and the Director of Policy and International Affairs, met Sark's General Purposes and Advisory Committee in September to discuss current and likely regulatory developments.

The Director continued regular liaison meetings with Guernsey Finance throughout the year and chaired meetings of the Fiduciary Sector Education Forum in March and September.

International

In July the Director and an Assistant Director hosted a meeting at Gatwick with counterparts from Gibraltar, the Isle of Man and Jersey. The agenda covered matters of policy and consistency as well as specific businesses with a presence in more than one of the jurisdictions.

Legislative developments

The licensing team worked very closely with the Policy and International Affairs Division on revisions to the AML/CFT Regulations and the *Handbook*, and there were frequent discussions with members of the GAT committee and individuals firms on such areas.

The Division proposed amendments to the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000 so that conduct of business rules may be made, as in other regulated areas. Such rules may be necessary in relation to RATS (see above) and licensees' financial resources, but it is not currently considered necessary to introduce a general rules-based framework for fiduciaries.

The Director is a member of the Insolvency Law Review Group established by the Commerce and Employment Department. The group met in February to initiate work on this long-term project.

Company law

Under The Companies (Guernsey) Law, 2008, the Commission's consent is required for the formation of a protected cell or an incorporated cell company, whether or not the company will require any regulatory authorisation. Consents had been given subject to standard conditions requiring not only the administration of the cell company by a licensed finance business, but also that beneficial ownership details and future changes of those be provided to the Commission. In March, in order to bring the requirements for cell companies closer to those for non-cell companies, the Division proposed and implemented a change of policy so that it no longer routinely obtains beneficial owners' details. However the requirement for each cell company to be administered by a licensed fiduciary still applies in order to ensure that AML/CFT requirements attach and are complied with.

Intelligence

The intelligence team has been fully - occupied throughout 2009 in providing support to the regulatory teams within the Commission and assistance to a range of local and international agencies in the fields of regulation and law enforcement.

The assistance to overseas regulators took the forms both of gathering information in response to requests, and of providing information proactively. In response to requests from the UK Financial Services Authority, the Isle of Man Financial Supervision Commission and the Australian Securities and Investments Commission, 5 notices were served under the Protection of Investors (Bailiwick of Guernsey) Law, 1987 and one under the Banking Supervision (Bailiwick of Guernsey) Law, 1994. The subject - matter of the investigations included suspected market abuse, unlicensed deposit-taking and the involvement of unfit persons in the finance sector.

As well as responding to formal requests for assistance, the Commission's gateways for exchanging information are used throughout the year to volunteer relevant material and to assist in standard regulatory checks. This year, examples of this proactive approach have included contact with the US Commodities and Futures Trading Commission, the UK Office of Fair Trading and various UK police forces.

The team has also continued in its assistance to members of the public where they have come across spurious offers through cold calling, emails and links to websites. The types of operation causing most problems have been bogus bank websites and "boiler room" investment frauds. A fresh warning through the local media resulted in calls from local residents who had been caught out by investment frauds operated from overseas. The team has been in regular contact with the City of London Police Operation Archway, which concentrates on these overseas investment frauds, but the reality is that the chances of victims recovering their money are negligible. The Commission's emphasis remains on warning potential investors of the hazards of making investments with unlicensed brokers based on cold calls and on exposing offending firms by naming them on its website.

INSURANCE DIVISION

Market performance

International insurance market

At the end of 2009, the international insurance market in Guernsey consisted of 678 licensed or approved insurance entities, including 281 international insurers, 63 protected cell companies (PCCs) with a total of 323 cells, 5 incorporated cell companies (ICCs) and 6 incorporated cells. The overall size of the market has slightly reduced during 2009, primarily due to a reduction in the number of PCC cells which had reached the end of their commercial lives. It was anticipated that an increase in market premium levels would occur in 2009 but this did not materialise. However, despite this, the number of new licences issued during 2009 was 25% higher than in 2008 at 46 and the level of applications continues to increase in early 2010.

At the end of 2009, there were 21 licensed insurance managers with 2 having surrendered their licences due to mergers or acquisitions.

The UK continues to produce approximately half of the companies choosing Guernsey as a domicile for their insurance entity and into 2010 the UK is still generating substantial enquiries. However, the appeal of Guernsey as a captive domicile continues to widen with new licensees having parents in diverse locations such as Australia, Taiwan and Cayman. Figure 9 shows the shareholder locations for new licensees during 2009. Interest continues to be shown in the reinsurance sector.

The global financial crisis continued to have its impact and a number of Guernsey insurers' parent companies were affected. The Insurance Division continues to work closely with insurance managers to monitor potential issues arising from the crisis and to resolve issues when they occur. Guernsey international insurers have not been significantly directly impacted by the financial crisis as, apart from the life insurance sector, the majority of their assets are invested in cash or fixed interest deposits.

Domestic market

The domestic market provides insurance services to the local community and consists of insurance intermediaries and domestic insurers.

At the end of 2009, there were 21 licensed domestic insurers, a decrease of 5 since the end of 2008.

There were 40 licensed insurance intermediaries at the end of 2009, a net decrease of 3 on 2008. There were 3 new intermediary licences issued during 2009, offset by the surrender of 6 licences.

A full list of currently licensed insurance entities can be found on the Commission's website at www.gfsc.gg.

During 2009 the Insurance Division took regulatory action against some insurance intermediaries.

Following the Guernsey Court of Appeal decision handed down on 19 May 2009, the Commission has revoked the licence held by Canivet Webber Financial Services Limited as an insurance intermediary with effect from 19 May 2009 in accordance with section 9 of The Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002 as amended. This resulted from action taken by the Division following an on-site inspection.

Education

The Insurance Division continues to support initiatives to improve standards within the sector. The Insurance Education Forum, which was set up by the Commission in conjunction with the GTA University Centre (GTA), and whose members are a cross section of industry, met regularly during the course of the year. The purpose of the Forum is to facilitate and exchange views on the education and training needs of the insurance sector within the Bailiwick of Guernsey.

Throughout the year there has been extensive cooperation between the Insurance Division and the representative bodies of the captive managers and intermediaries as well as actuaries, accountants and chartered secretaries. The Division continues a drive to improve compliance standards by holding regular seminars and meetings with insurance intermediaries and the insurance sector as a whole.

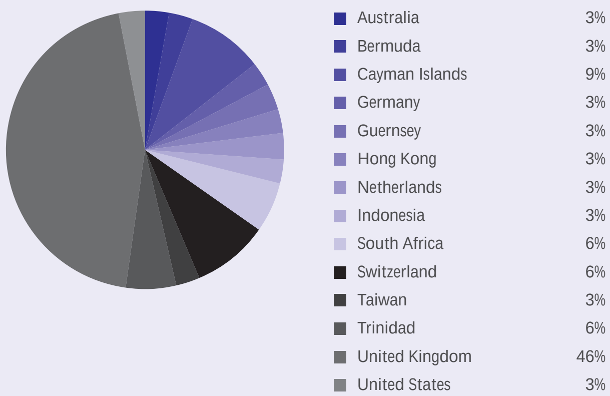
A masterclass was held during 2009 for members of Guernsey International Insurance Association (GIIA) covering a variety of subjects. Several presentations were made to the intermediary and domestic insurance sectors on subjects such as anti-money laundering/combating the financing of terrorism (AML/CFT), corporate governance and internal controls.

The Insurance Division continues to give active support to the GTA by providing trainers and examiners for the Guernsey Insurance Certificate, which is a mandatory minimum qualification for authorised insurance representatives.

The Division actively encourages insurance managers and those people working in the captive sector to complete the Certificate in Captive Management. This qualification was launched in Guernsey in 2002 and nearly 70 candidates, from various jurisdictions but mainly Guernsey, have been awarded the certificate.

The Certificate in Captive Management and the Guernsey Insurance Certificate have been granted accreditation by the Chartered Insurance Institute.

Figure 9. **Licensed in 2009 by location**



Supervision and policy

The Division continues to perform on-site inspection visits in accordance with a 3-year rolling programme. These inspection visits assist in improving the Insurance Division's understanding of licensees' business and their systems of risk management and internal controls. During 2009 the Division visited 14 insurance intermediaries, 11 insurance managers (including a large number of captives, PCCs and ICCs managed by the managers), 5 international life companies, 1 non-life company and 2 domestic insurers.

2010 will see the conclusion of the AML/CFT on-site visits following the introduction of the new *Handbook* in 2007. Throughout 2010, the Division will continue to carry out focused on-site inspections, concentrating on areas identified by AML/CFT and corporate governance requirements as well as specific areas identified through off-site monitoring of licensees.

The Division holds regular meetings with licensees and insurance managers to discuss new applications, changes in business plans and other issues such as capital requirements or parental loans. These meetings continue to be invaluable in helping to assess the impact of the global financial crisis on the Guernsey insurance sector. In addition, the Division held annual review meetings with 25 insurance intermediaries who were not subject to an on-site inspection during the year and 22 regular coordination meetings with insurance managers.

The Insurance Division adopts a risk-based approach to monitoring insurance licensees with a risk rating assigned to each company based on a set of standard criteria. This approach allows the Division to focus resources on those areas of greatest risk and to identify where regulatory action may be required. Each company's risk rating is reassessed upon receipt of their annual return or sooner if a material change to the company's business plan occurs.

In late 2008 and early 2010 stress testing exercises were undertaken involving approximately 150 entities and using a basis laid down by the International Monetary Fund (IMF) in advance of its planned assessment of Guernsey in 2010. These tests concluded that the Guernsey insurance market follows conservative investment policies and is not adversely impacted by significant changes in investment conditions. The life companies were shown not to be adversely impacted by mortality or morbidity risks.

In line with developing international standards the Insurance Division has developed a risk-based approach to assessing the solvency of insurers. Whilst the Minimum Solvency Capital Requirement (MSCR) set out in the insurance law still applies, each company is now required to undertake an Own Risk and Solvency Assessment (ORSA) in order to determine its Own Solvency Capital Assessment (OSCA). Licensees are required to submit an OSCA each year with their annual return and also upon any material change to the business plan of the company. The Insurance Division does not prescribe any specific format for the OSCA, although general guidance on the risks that should be considered is published.

The first year's OSCA reports were received in 2009 and the analysis showed encouraging results and a good level of understanding of the risks faced by licensees. Some mathematical models have been developed whilst others have submitted a narrative of the risks assessed and reasoning adopted by the licensee's Board. The approach taken varies depending upon which insurance manager is involved, the complexity of the insurance programme written by the licensee and also the requirements of the parent of the licensee. All the OSCAs show an existing commitment by the boards to understand the risks faced by the licensees. In many cases the directors of the licensees have said that the OSCA has proved a valuable tool in codifying and formalising procedures they were already undertaking to monitor the solvency of their company.

Throughout 2009 the Insurance Division continued to monitor parental loans made by licensees by setting expiry dates for all such loans and by monitoring the financial position of the insurer as well as its parent and the market conditions of the industry in which the parent operates.

International developments

The Commission is a member of the International Association of Insurance Supervisors (IAIS) and has maintained its high profile through the Director General's representation of the Offshore Region on the IAIS Executive Committee. The IAIS is the international insurance standard-setting body.

The insurance principles, standards and guidance developed by the IAIS are used by the IMF and other international bodies to assess the quality and operation of individual regulatory jurisdiction's and supervisory regimes. The Director General and Insurance Division staff are involved in active participation in the work of the IAIS in order to monitor and influence the development of these principles, standards and guidance. This work was particularly important during 2009 since, as part an initiative to rationalise the Insurance Core Principles (ICPs), a number of new standards and guidance have been developed, as well as major revisions to the existing ones.

The Director General, together with Insurance Division staff, attended the Executive and Technical Committee meetings held during the IAIS triannual meetings as well as the annual general meeting held in October. The Deputy Director International presented the IAIS Captive Guidance Paper to the Global Forum held immediately prior to the June triannual meeting.

During the year, the IAIS Market Conduct Subcommittee, which is chaired by the Director of Insurance, supported by other members of the Insurance Division, met to develop new standards and guidance in line with the revised structure of the ICPs. Commission staff also took part in meetings of the Insurance Fraud Working Party which reports to the Market Conduct Subcommittee.

Insurance Division staff are members of the IAIS Implementation Committee, the Accounting Subcommittee, the Insurance Contracts Subcommittee, the Insurance Groups Subcommittee, the Regional Coordination Subcommittee, the Reinsurance Subcommittee, the Governance and Compliance Subcommittee and the Solvency and Actuarial Issues Subcommittee. During 2009, the Insurance Contracts subcommittee worked on a number of issues in relation to the international accounting standards, including the development of the IASB's approach to the valuation of insurance contracts. The other subcommittees mainly worked on revising standards and guidance in line with planned changes to the ICPs whilst the Insurance Groups Subcommittee also looked at a number of issues related to group supervision in the light of the financial crisis, including the establishment of supervisory colleges and enhanced international cooperation amongst insurance supervisors.

The Commission is also a member of the Offshore Group of Insurance Supervisors (OGIS) and the Director of Insurance is a member of the OGIS Executive Committee. OGIS organises training courses for insurance supervisors in the offshore region of the IAIS. During 2009 support was provided by the Commission for separate training sessions on insurance solvency assessment and taking regulatory action.

During 2009, the Insurance Division took part in a meeting held in Brussels with Karel Van Hulle, the head of the insurance and pensions unit at the European Commission, to discuss the impact of the new European Union (EU) Solvency II Directive on captive insurers and the implications for third countries that may wish to apply to have their insurance regulatory regime considered as equivalent under the Directive. Subsequent meetings have been held with CEIOPS, the Committee of European Insurance and Pensions Supervisors that advises the European Commission, and with other interested parties such as AIRMIC, the UK Association of Insurance and Risk Managers, and with the Association of British Insurers as well as with GIIA, representing the Guernsey insurance industry. The purpose of the meetings was to establish the impact of Solvency II equivalence on the Guernsey insurance market, particularly on reinsurance companies and on captive insurers that use insurance companies based in the EU to "front" some or all of their insurance programme. The Division is continuing to investigate the position and is planning to hold further discussions in 2010.

INVESTMENT BUSINESS DIVISION

Regulatory developments

The themes identified in last year's report continued to be developed throughout 2009. The working parties involved in merging and clarifying the Designated Persons Rules and Licensees Rules continued throughout the year and the conduct of business elements of those rules, following consultation, came into force on 1 January 2010. The separate work stream on financial resources and solvency also continued and those rules, again following extensive consultation, were approved by the Commissioners on 9 April 2010. They came into force on 16 April 2010.

As foreshadowed in last year's report, the exercise to improve the scope and quality of our investment business statistics was brought to a conclusion, with revised investment funds statistics being published from June 2009, and additional data on non-fund asset managers' funds under management, and on stockbroker quarterly turnover, being available from September 2009. It is hoped that this fuller coverage will give a clearer indication of the range and value of investment business in Guernsey. Further refinements in the data we publish, extracted from existing information, are under consideration.

A review was also commenced with representatives from the Guernsey Investment Funds Association and the Guernsey Investment Managers and Stockbrokers Association to consider the scope and coverage of Guernsey's investor compensation arrangements. At present those arrangements cover only investors who may suffer loss as a result of the failure of a manager or custodian of a Guernsey Class A Collective Investment Scheme. Although compensation limits within the existing scheme are adequate, it is recognised that the annual cap on contributions – £5million – looks less convincing in 2009 than it did when the scheme was originally established in 1988. The existing scheme has never been called on, and it is equally expected, given the Commission's rules on segregation of client money and client assets, that any future call would be unlikely. Nonetheless the Commission's staff are working with industry representatives to consider whether a more broadly based scheme would be beneficial, not simply in broadening scope for clients of Guernsey investment businesses, but also in spreading the cost of any potential call across a much wider range of businesses, so reducing any potential impact on individual firms. At present the Commission and industry representatives are still gathering information; it is still intended that any scheme would be limited to claims from retail investors.

Table 3. **Open-ended funds at the year end**

	2008	2009	% change
Number of funds	295	276	-6.4%
Number of investment pools	1,895	1,903	+0.4%
Value of assets (£bns)	63.55	50.73	-20.2%
Net new investment over year (£mns)	-5,233	-7,866	+50.3%
Number of registered holders ('000s)	59.55	61.09	+2.5%
Stock exchange- listed	106	158	+49.0%

Guernsey open-ended funds are funds in which shares/units are offered for sale throughout their life and which investors are entitled to redeem on demand subject to any applicable notice period. At 31 December 2009 there were 272 open-ended funds authorised under the Protection of Investors (Bailiwick of Guernsey) Law 1987 and four open-ended funds registered under that Law.

Supervision

During the year the Investment Business Division teams conducted 37 on-site monitoring and inspection visits to licensees. In addition they conducted 14 themed visits specifically reviewing anti-money laundering procedures. Of the general inspection visits, 4 were conducted along with representatives of other Divisions.

In a number of cases, issues which arose from on-site monitoring, or were otherwise drawn to the Commission's attention, resulted in the imposition of licence conditions requiring licensees concerned to implement remedial programmes and to report regularly to the Commission on achievement of remedial action. It is open to licensees to contest Commission staff proposals to impose formal conditions, and the Commission's website sets out the procedures adopted where licensees can contest the appropriateness of Commission proposals. In none of the cases dealt with by the Division during 2009 was any objection raised to the conditions imposed. At the start of the year 3 firms had existing licence conditions in place; 1 was lifted during the course of the year. Also during the course of the year, conditions were imposed on a further 4 firms; conditions relating to 4 firms were still in place at the end of 2009.

We have been informed that the Channel Islands Splits Adjudication Scheme, which was set up to provide an equivalent dispute resolution process to that available to UK-domiciled investors in split capital investment trusts, resolved its final cases during the course of 2009 and the scheme has now been closed.

International

The International Organisation of Securities Commissions (IOSCO) is the global standard-setting body relevant to Guernsey investment standards, and the Investment Business Division has maintained its involvement in IOSCO activities. The Director attended the IOSCO Annual Conference and meetings of the European Regional Committee and, accompanied by senior staff of the division, also took part in other meetings of the European Regional Committee and the IOSCO Technical Committee. Senior members of the investment team attended the Enlarged Contact Group of Collective Investment Schemes Supervisors whilst the Deputy Director or other staff attended regulatory seminars and programmes organised by the US Securities and Exchange Commission and the Financial Services Authority (FSA).

One very significant development during the course of 2009 was the publication by the European Commission of the proposed Alternative Investment Fund Manager Directive. That initiative took place in May 2009 and the Director of Investment Business was invited to be a regulatory panellist for a discussion of the proposed Directive at the Annual Globalisation of Mutual Funds Conference. Close liaison was also maintained with European contacts, both through IOSCO and the Committee of European Securities Regulators (CESR), so as to keep ourselves well informed, and where appropriate make representations, as this complex project developed. In September the Director and representatives from the Commerce and Employment Department made contact with European Commission officials, parliamentary rapporteurs, and UK government officials involved in the negotiation. Those contacts have since been maintained, not least through CESR, the body which will have responsibility for much of the practical implementation of the Directive if and when it proceeds. In that context the Director and Deputy Director have also had discussions with the FSA and HM Treasury officials.

Liaison with overseas regulators continues as it has in previous years, although Guernsey's formal accession to the IOSCO Multilateral Memorandum of Understanding on 25 February 2009 has created a slightly different, and sometimes more formal, framework for that co-operation. The Division has been assisting, and continues to assist, a number of foreign regulators in specific enquiries; those enquiries, and their outcome, are not yet in the public domain.

Table 4. **Closed-ended funds at year end 2009**

	2008	2009	% change
Number of funds	624	608	-2.5%
Value of assets (£bns)	91.49	85.35	-6.7%
Number of registered holders ('000s)	68.95	73.41	+6.4%
Stock exchange- listed	227	247	+8.8%

Guernsey - closed-ended funds normally have a fixed capital issued once and for all and investors have no absolute entitlement to redeem their shares/units. At 31 December 2009 there were 520 closed ended funds authorised under the Protection of Investors (Bailiwick of Guernsey) Law 1987 and 88 closed ended funds registered under that Law.

Figure 10. **Nationality of sponsors/joint sponsors of Guernsey open-ended funds at year end 2009**

Country	
United Kingdom	91
Guernsey	86
Switzerland	52
South Africa	9
France	7
United States	7
British Virgin Islands	5
Canada	4
New Zealand	4
Australia	4
Luxembourg	4
Bahamas	3
Kuwait	2
Greece	2
Turkey	1
Jersey	1
Hong Kong	1
Cayman Islands	1
Belgium	1
Abu Dhabi	1

Note: Some funds may have more than one sponsor.

Investment markets

We noted in the opening section the introduction of more comprehensive statistics for the investment sector in Guernsey. Although that improved data has been collated since the middle of 2009, some of it is too new to be useful in identifying specific trends, although it is expected as the later series expand, that useful information will be available to the public. As far as investment funds are concerned, however, the data remains consistent, and it was no surprise to see the fall in overall fund values which had commenced after the second quarter of 2008 continuing through the first half of 2009. Thereafter, there has been a recovery in funds under management, although it is difficult to single out specific trends: different asset classes have performed in different ways, and some of the net asset value moves may have been obscured by currency exchange fluctuations. The net result of these changes was that Guernsey open-ended funds ended 2009 at £51 billion, a fall of 20% on the previous year end. By contrast closed-ended funds ended the year valued at £85 billion, reflecting a fall around 7% from the previous year end. Overall Guernsey-domiciled funds were valued at £136 billion at 31 December 2009, representing a fall of 12% from the previous year. However, the value of non-Guernsey schemes increased significantly, ending the year at £48 billion, an increase of 6% over the previous year end. Those changes reflect some of the complexities analysing the plain statistical data; the non-Guernsey scheme total was influenced by the introduction of a very large number of investment funds whose investment administration was transferred to Guernsey during the first half of the year. The value of those funds under management therefore shifted from the Guernsey schemes to the non-Guernsey schemes columns of the published statistics. Against the backdrop of the international market conditions, it can be said that the overall change in value was in line with expectations.

As far as new business is concerned, new fund activity remained less buoyant, although there were some surprising features within the data. Thirty-nine new licences were granted to investment firms during the course of the year, compared to 82 such licences granted during 2008. Equally a total of 18 new open-ended funds were established, compared with 33 in the previous year; however, 296 new cells of existing schemes came into existence, compared with 288 in 2008. Whereas 56 non-Guernsey schemes were given approval by the Commission during the course of 2008, the equivalent figure for 2009 was 100 schemes, hence the observations in the previous paragraph about statistical obscurities.

Following the amendment to the Protection of Investors Law implemented in 2008, investment funds had to elect to be treated either as authorised or as registered, and new applications were handled in those two categories. Of the 49 closed-ended funds authorised in 2009, 31 opted for registered fund status and 18 chose the authorised route. Within the open-ended framework 14 sought authorised fund status and four the registered fund status.

A list of institutions currently licensed under the Protection of Investors Law and funds authorised or registered under the law can be found on the Commission's website at www.gfsc.gg.

Figure 11. **Nationality of sponsors/joint sponsors of Guernsey closed-ended funds at year end 2009**

Note: Some funds may have more than one sponsor.

Table 5. **Non-Guernsey schemes at year end 2009**

	2008	2009	% change
Number of funds	297	324	+9.1%
Value of assets (£mns)	45.32	48.15	+6.2%
Stock exchange - listed	43	53	+23.2%

These open-ended schemes incorporated/established in other jurisdictions are not Guernsey - authorised/approved. However, Guernsey institutions licensed under the Protection of Investors (Bailiwick of Guernsey) Law, 1987 provide management/administration or custody services to such schemes with specific approval from the Commission.

Figure 12. **Total funds authorised and approved at the year end 2009**

Year	Number of funds
2002	529
2003	488
2004	516
2005	584
2006	724
2007	851
2008	919
2009	884

Figure 13. **Total funds under management at the year end 2009**

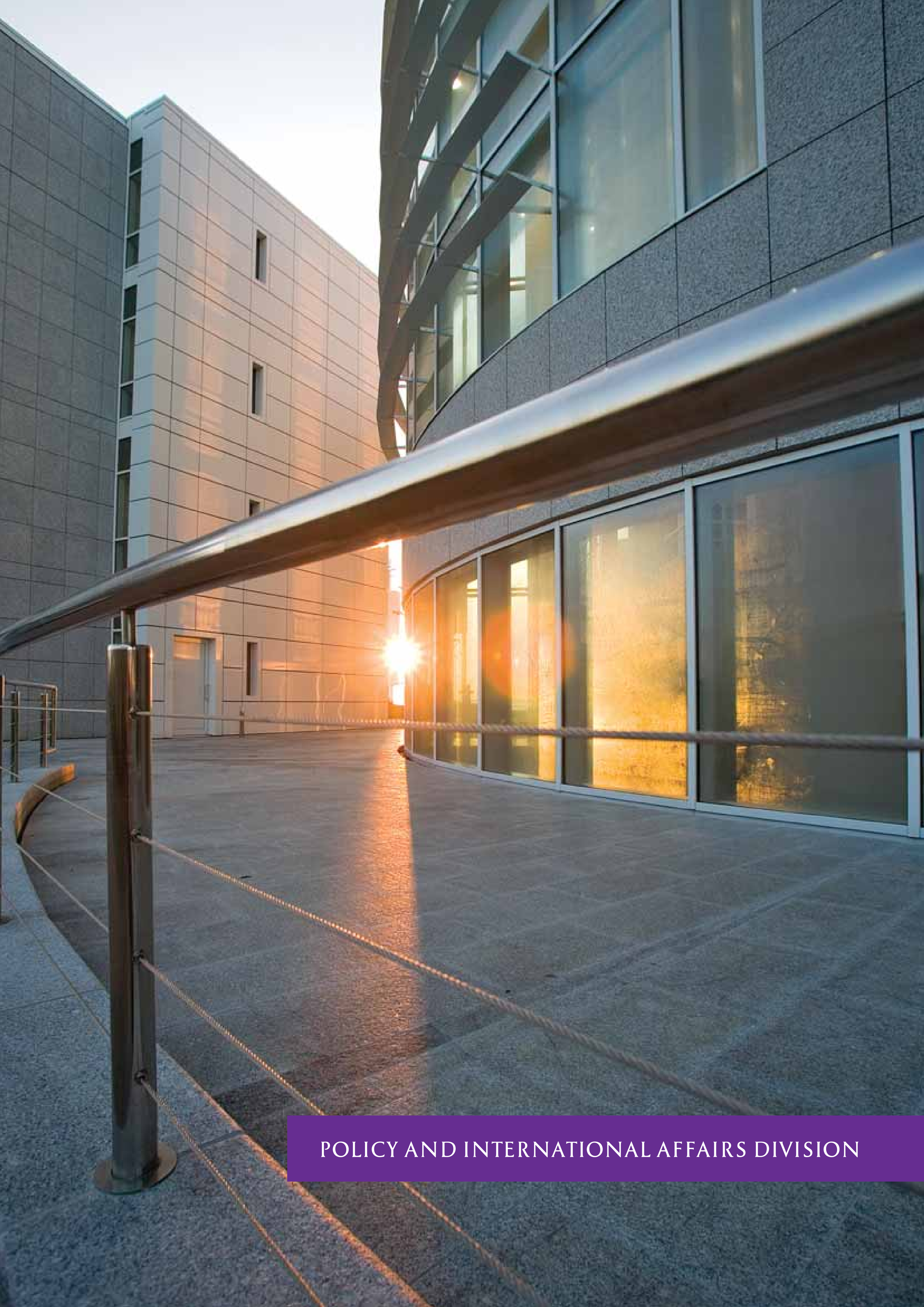
Year	Net asset value of funds £mns
2002	32,973
2003	41,754
2004	56,567
2005	79,334
2006	105,139
2007	145,616
2008	155,046
2009	136,079

Table 6. **New collective investment fund business at the year end 2009**

	2008	2009
Open-ended funds – authorised	33	18
Open-ended funds – new classes approved	288	297
Closed-ended funds – approved	92	49

Figure 14. **Number of institutions licensed under the Protection of Investors Law at year end 2009**

Year	Number of institutions
2002	428
2003	428
2004	446
2005	486
2006	554
2007	636
2008	680
2009	661



POLICY AND INTERNATIONAL AFFAIRS DIVISION

General

The Policy and International Affairs Division has responsibility for coordinating many of the local and international policy issues facing the Commission, including changes to legislation. The Division also has responsibility for the Commission's policies on the AML/CFT framework, including the *Handbooks for Financial Services Businesses and Prescribed Businesses on Countering Financial Crime and Terrorist Financing* (the *Handbooks*). Together with the Director General, it is the Commission's main link with the Attorney General's Office and certain international bodies, including the International Monetary Fund (IMF). In addition, the Division coordinates a number of crossdivisional matters such as legislation.

Cooperation, coordination and feedback

The Crown Dependencies Anti-Money Laundering Group met in London in December 2009. The meeting was attended by the Attorneys General and representatives from the regulatory agencies and financial intelligence units from the three Crown Dependencies. This Group coordinates the islands' anti-money laundering/anti-terrorist financing policies and discusses issues of common interest.

The Bailiwick Financial Crime Committee was replaced at the beginning of 2009 by the AML/CFT Advisory Committee. Unlike its predecessor, whose remit covered all economic crime and terrorist financing, the new committee focuses on AML/CFT. It met four times in 2009.

The Advisory Committee is a forum for closer coordination at a strategic level between the Attorney General's Office, the Commission (including the Director of Policy and International Affairs), Police, Customs (including the Financial Intelligence Service (FIS)), Income Tax and the Alderney Gambling Control Commission (AGCC) in the prevention, detection, investigation and prosecution of money laundering and terrorist financing. The committee has seven strategic objectives, namely:

- to build knowledge and understanding about the effects of financial crime on the economy of Guernsey;
- to increase the amount of criminal proceeds recovered and increase the proportion of cases in which they are pursued;
- to make innovative use of the criminal and Civil Forfeiture legislation;
- to collaborate with international partners to ensure together we effectively prosecute those responsible for financial crimes or recover the proceeds using criminal or civil law;
- to build upon the risk assessment culture which identifies the threats and vulnerabilities posed to the Financial Services Sector by financial crime;
- to maintain an appropriate overarching strategy to combat financial crime, involving all partners, that enables sustained confidence and growth in Guernsey's economic future;
- to support inter agency working and value the contribution of partners concerned with mitigating the impact of financial crime within the Bailiwick.

The Financial Crime Group was established by the Bailiwick Financial Crime Committee in 1999. The group now reports to the Advisory Committee and its objectives are primarily to discuss the implications for policy and practice of particular cases of interest and to provide practical assistance to interested parties. The group met 3 times in 2009. The Terrorist Finance Team, which was established by the group to coordinate action and responsibilities relating to terrorism matters, also met 3 times in 2009.

Table 7. **International Monetary Fund (IMF) Coordinated Portfolio Investment Survey 2008**

Cross-border securities* owned by institutions in the Bailiwick of Guernsey at end 2008 (US$ millions)

Sector	Equities	Short-term debt	Long-term debt	Total
Banks	495	25,672	20,745	46,912
Domestic insurers	–	1	44	45
Life insurers	2,747	13	1,584	4,344
Insurance managers and captives	1,182	2,100	812	4,094
Insurance intermediaries	–	–	–	–
Open- and closed-ended collective investment funds	77,557	5,073	31,568	114,198
Special-purpose vehicles	–	–	–	–
States of Guernsey	70	375	237	682
Total	82,051	33,234	54,990	170,275

* The IMF Coordinated Portfolio Investment Survey includes information on cross-border holdings of equities, short-term debt and long-term debt. It does not include other assets, such as cash, derivatives, Islamic investments or property.

Cooperation, coordination and feedback (continued)

During 2009 the Division maintained close links with the AGCC to discuss vulnerabilities to money laundering and the financing of terrorism. This dialogue included AML/CFT measures such as the issue of notices on business from sensitive sources.

In March the Division arranged for a representative from the Solicitors Regulatory Authority in the UK to make a presentation to the legal profession. The presentation concentrated on vulnerabilities of the legal profession to money laundering, suspicion of money laundering and the making of suspicious transaction reports. The speaker also made a presentation to the AML/CFT authorities in Guernsey. The Division will maintain a programme of presentations to businesses and the AML/CFT authorities during 2010.

AML/CFT developments and initiatives

In 2009 the Commission undertook 137 on-site inspections of institutions' AML/CFT frameworks. Sanctions were also issued by the Commission in respect of AML/CFT failings of some licensees.

The Commission maintained its programme of enhancements to the AML/CFT framework to seek to ensure the Bailiwick continues to meet the Financial Action Task Force (FATF) Recommendations and Special Recommendations. In November 2009 the Commission issued a set of instructions requiring specific action to be taken by both financial services businesses and prescribed businesses (firms of legal professionals, accountants and estate agents). These instructions required reviews of aspects of corporate governance, the reporting of suspicion, wire transfers, introduced business, screening of employees and customer due diligence for existing customers. In addition, the Commission issued two further instructions in respect of business from sensitive sources which required financial services businesses and prescribed businesses in Guernsey to undertake enhanced customer due diligence measures and to pay special attention to business or transactions from countries or territories specified in the instructions.

Some modifications were made to the AML/CFT regulations and the *Handbooks*. In June the Criminal Justice (Proceeds of Crime) (Financial Services Business) (Bailiwick of Guernsey) (Amendment) Regulations, 2009 and the Criminal Justice (Proceeds of Crime) (Prescribed Businesses) (Bailiwick of Guernsey) (Amendment) Regulations, 2009 came into force. The principal amendment created by the amendment regulations was a requirement that senior management sign-off be obtained for all new high-risk relationships and not only for new relationships with politically exposed persons.

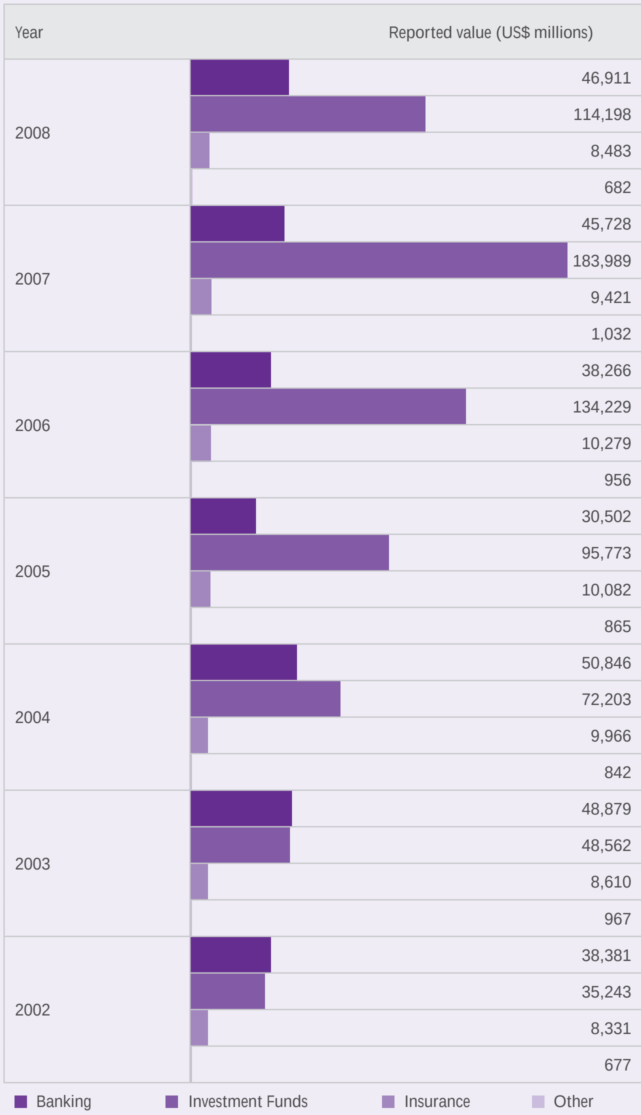
During 2009 the Policy and International Affairs Division continued to administer the AML/CFT frameworks for non-regulated financial services businesses (NRFSBs), such as non-bank lenders and non-bank bureaux de change, and prescribed businesses (PBs) who are required to register with the Commission for the supervision of their compliance with the AML/CFT framework. The Prescribed Businesses (Bailiwick of Guernsey) Law, 2008, which contains a wider range of sanctions for poor AML/CFT standards than those contained in the regulations, came into force in May. By the end of December, 43 firms were registered with the Commission to carry out non-regulated financial services business and 54 to carry out prescribed business.

The Division undertakes on-site inspections of these businesses and during 2009 carried out 15 inspections of NRFSBs and 18 of PBs.

At the end of 2009 a decision was taken to extend the AML/CFT framework in 2010 to include dealers and brokers in bullion and dealers in postage stamps as well as anyone carrying out the business of auditor, external accountant, insolvency practitioner or tax adviser (the previous requirement for accountants to register only having applied to certain types of business activities as listed by the FATF). The relevant regulations were made in February 2010.

Figure 15. **International Monetary Fund (IMF) Coordinated Portfolio Investment Survey**

Cross-border securities by business sector at the year end



International work

As indicated throughout this report, the Commission devotes significant resources to engaging with the international community.

The Policy and International Affairs Division monitors developments by the FATF by attending the 3 plenaries held each year. The Director and Assistant Director participated in the drafting of the FATF's guidance paper on the risk-based approach for insurers and insurance intermediaries.

During the year the FATF commenced a review of its Recommendations and Special Recommendations. The Director sits on the two main working groups taking forward this work.

During the year the Assistant Director participated in a MONEYVAL project on money laundering typologies in the insurance sector.

In February 2009 the Director became Chair of the International Association of Insurance Supervisors (IAIS) Multilateral Memorandum of Understanding Interim Signatories Working Group. This group meets by teleconference and in the margins of the IAIS triannual meetings.

The Director also sits on the Financial Stability Board Standing Committee on Standards Implementation – Experts Group. This group meets principally by teleconference.

IMF surveys

The Commission provides statistics from Guernsey financial institutions to the IMF for its Coordinated Portfolio Investment Survey (CPIS) on an annual basis. Each year, institutions are asked to provide cross-border statistics in respect of Guernsey banks, open- and closed-end collective investment funds, insurers, insurance intermediaries/brokers and special-purpose vehicles. The statistics for 2008 were obtained in respect of 126 institutions, representing 1,248 entities. Table 7 provides a summary of the results for 2008. The total value of assets reported for Guernsey financial institutions as at 31 December 2008 was US$170.3 billion, a decrease of US$69.9 billion over the assets reported in the 2007 survey. Figure 15 shows the results from Guernsey institutions over the last 6 years. There has been a significant decrease in the total value of assets held over this period, reflecting global economic conditions.

During 2009 the Commission participated for the fifth time in the IMF's information dissemination and monitoring framework initiative. The information provided helps to improve transparency in the activities of finance centres around the world and aids the IMF and policymakers in the major countries in formulating a view as to the size, type and global impact of individual finance centres. Participating jurisdictions provide the IMF with statistics relating to banks, insurers, collective investment funds and company and trust service providers, together with high-level data for the finance sector and the jurisdiction as a whole.

Other developments

The financial crisis demonstrated the need for improved corporate governance globally within financial institutions. In addition, the Commission considers the problems within local firms which have led to the imposition of sanctions have been the result of poor corporate governance. Accordingly, in October 2009 the Commission began work on a proposed code of corporate governance which will apply across the finance sector. A working group was established, comprising practitioners and representatives from each of the Commission's regulatory Divisions and the Policy and International Affairs Division. The latter Division coordinates this project. A consultation document was issued to industry in early 2010. There was significant feedback from the finance sector and a second consultation document will be issued later in 2010.

During the first half of the year, in the wake of the financial crisis, the Division was significantly involved in assisting the Banking and Insurance Divisions in their responses to the crisis. The Division coordinated the Commission's response to the UK House of Commons Treasury Select Committee Inquiry into the Banking Crisis. In August, the Division coordinated a response to the UK Foot Review on Regulation and AML/CFT.

The Division is responsible for coordinating the signing of Memoranda of Understanding (MoUs) between the Commission and overseas regulatory bodies. In 2009 the Commission signed five MoUs.

The Division is also the main link between the Commission and the IMF and preparations continued throughout the year for the IMF assessment of compliance with international regulatory standards. At the time of writing the IMF had carried out the first part of its assessment, which covered financial stability, and banking, insurance and investment supervision. The Commission looks forward to the second half of the assessment, which will focus on AML/CFT, in mid-May 2010.

FINANCE AND OPERATIONS DIVISION

General

The Division is responsible for key support services to the Commission, including financial and management information, communication and information systems, human resources, facilities management and general administration.

Financial information

The financial statements are shown on pages 48 to 59.

The overall deficit for the year is £326,283 compared to the deficit in 2008 of £479,438. The reduced deficit is a result of a slight increase in fee revenue which was partially offset by a reduction in bank interest received following the fall in interest rates. The total fee income for 2009, analysed by industry sector in table 8, was £9,854,609, a 5% increase compared to 2008.

The Commission continued to incur a high level of legal and professional costs in respect of investigative and enforcement activity, particularly as the events resulting from the global financial crisis continued. These costs, offset by robust cost control elsewhere, resulted in expenses for the year ended 31 December 2009 being £10,427,395, a decrease of 0.6% compared to 2008.

Salary and related costs for the year were £7,269,471 compared to £7,261,524 in 2008. An analysis of the number of staff in each salary band is shown in table 9.

The number of full time equivalent employees at 31 December 2009 was 91 (2008: 89).

Table 8. **Fee income by industry sector**

Sector	2009 £	2008 £
Banking	1,163,000	1,128,005
Fiduciary	1,699,907	1,489,473
Insurance	2,304,527	2,227,787
Investment business	4,614,086	4,520,812
Other	73,089	18,696
Total	9,854,609	9,384,773

The deficit in the pension scheme at December 2009 reported under Financial Reporting Standard 17 is £4,493,244, an increase of £930,794 compared to 2008, reflecting a narrowing of the discount rate and changes to other assumptions used to present-value the future liabilities of the scheme. As this valuation is a point-in-time calculation, it can be expected to vary greatly from year to year, without prejudicing the scheme's long-term ability to provide the required benefits. The scheme's actuary carried out a full actuarial valuation of the scheme as at 31 December 2007, for funding calculation purposes, which showed a funding shortfall of £225,000. We have also requested the actuary to prepare an estimated funding valuation as at 31 December 2009 which showed a shortfall of £2,998,000, a figure considerably lower than that disclosed by the FRS 17 valuation of £4,493,244. This defined benefit pension scheme is part of the States of Guernsey Superannuation Fund (the Fund).

The States have made changes to the Fund rules which, in their view, should, over time, help to reduce the deficit that the Commission is currently carrying on its balance sheet. However, the decision was made in 2007 that we could no longer accept the ongoing uncertainties associated with all defined benefit schemes which arise from the increasing levels of life expectancy and the varying investment performance of the funds. The Commission therefore adopted a new defined contribution scheme for staff joining from 1 January 2008 onwards. Those staff who were already members of the defined benefit scheme at that date continue to be eligible for membership of that scheme, although the terms of the scheme are currently under review. The States of Guernsey has confirmed that in the final resort the claims of the Commission's pensioners and employees would be met from the whole Fund and any shortfall in the Fund would then be met by the States of Guernsey from general revenue.

In 2008 the Commission's policy on reserves was amended to increase the target for retained reserves from a sum equivalent to a minimum of 6 months' expenditure to one of 12 months' expenditure. This change was made in light of the Commission's aim to be able to absorb unexpected or exceptional costs without putting its solvency at risk. The results for 2009, including the increased pension scheme deficit, mean that the Commission now has reduced reserves of £1,298,494. However, the circumstances encountered in 2008 and 2009, resulting from the financial crisis, are the type of conditions for which the reserves were being strengthened.

When setting fees for 2010, we had to take account of this lower reserves position, whilst still bearing in mind the increasingly challenging environment in which regulated firms operate. We took note of the responses received from industry during the fee consultation period and this led the Commission to spread its intended fee increases over a period of 2 years, rather than 1 year. It has been necessary to increase banking, fiduciary and insurance sector fees substantially in order to cover the higher level of costs experienced in regulating these sectors. The increases have also been necessary to rebalance the fees between sectors, to fund the increasing amount of more intensive and complex regulation that is now required, and to allow the Commission to rebuild its reserves over time.

Table 9. **Commission staff salaries by band**

Annual Salary	Number of Staff
£0 – £39,999	40
£40,000 – £79,999	42
£80,000 – £119,999	8
£120,000 and above	7

Financial information (continued)

Coincidentally, with comments received during the fee consultation process, the Commission has committed to undertake during 2010 a review of its operations, embracing not only quantitative 'value' issues but also strategic issues to ensure that the Commission is operating in the most efficient manner to meet those objectives.

The Commission has continued its relationship with the GTA University Centre (GTA). It contributed 50% of the GTA's budgeted net operating expenditure in 2009 (£435,000) and has committed to provide funding of £440,000, an increase of 1.1%, in 2010. However, the Commission believes that the provision of funding for an external training institution is no longer a core function of a financial services regulator, particularly as its funding of the GTA cannot be isolated for finance sector training. The Commission is therefore capping its funding at £440,000, and will have ceased to fund the GTA by the beginning of 2013.

The Commission has also appointed an in-house Legal Counsel to advise and assist in regulatory matters, particularly enforcement. This will reduce the spend on external legal advice. The appointment is effective from May 2010.

Fee legislation

The fees regulations for the banking, fiduciary, insurance, investment and the non-regulated financial services business sectors were revised with effect from 1 January 2010. At the same time annual fees were introduced into the prescribed business regulations.

A list of the current regulations prescribing fees payable to the Commission is included below:

- The Financial Services Commission (Fees) Regulations, 2009
- The Protected Cell Companies and Incorporated Cell Companies (Fees for Insurers) Regulations, 2009
- The Criminal Justice (Proceeds of Crime) (Legal Professionals, Accountants and Estate Agents) (Bailiwick of Guernsey) Regulations, 2008 as amended
- The Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) (Fees) Regulations, 2009
- The Amalgamation of Companies (Fees) Regulations, 2000
- The Migration of Companies (Fees) (Amendment) Regulations, 1999

Copies of the fees regulations and a summary of the fees payable are available on the Commission's website at www.gfsc.gg.

Communications and information systems

Information systems remain critical to the Commission's operation and during 2009 further enhancements were made to our central regulatory database, and its integration with other Commission systems continued.

Further work is scheduled for 2010, and future years, including the migration of further Commission data into the central database, the use of enhanced document and records management features, and electronic submissions by licensees and applicants.

We are currently in the process of reshaping the Commission's website so that it has an efficient, consistent and intuitive structure. This is scheduled for release by mid-2010. The new site will include more comprehensive search facilities, and will make use of up-to-date secure technologies in preparation for a project to implement electronic regulatory reporting by licensees and applicants in future years.

A revised Information Security Policy was introduced to enhance the management and security of data held by the Commission with training given to all staff on both the revised policy and a reminder of their responsibilities under the Data Protection Law in Guernsey. All portable equipment and devices used by the Commission to move data off-site are fully encrypted.

We have also implemented both a more resilient firewall infrastructure and enhanced email filtering software to protect the Commission's data, with an identical infrastructure in our dedicated business recovery suite.

A comprehensive test of the Commission's Communication and Information facilities at our off-site business recovery suite was carried out in support of a test of the Commission's overall Business Continuity Plan.

Human resources

The Commission is conscious of industry's concerns about any increase in the Commission's headcount and will only recruit additional staff where it is absolutely necessary. We also recognise the value to both the Commission and licensees in retaining good-quality members of staff and therefore are pleased to announce a reduction in staff turnover in 2009 to 11%.

The Commission remains committed to the development and training of staff, to maintain the quality of the Commission's work and to further each individual's career development.

Commissioners

In February 2009 Peter Harwood and David Mallett were re-elected as Chairman and Vice-Chairman respectively, each for a further 1-year term.

Facilities management

The premises at La Plaiderie Chambers (LPC) and Le Marchant House remain at full capacity and the Commission was pleased to enter into an Agreement for Lease with Glategny Holdings Limited (GHL) to acquire new premises at Glategny Esplanade, which are currently under construction. Importantly, we have agreed an assignment of the La Plaiderie Chambers lease once the Commission vacates the building, meaning there will be no further obligations in respect of that lease for the Commission. The new premises will provide larger and better accommodation in a single more efficient site, which is less costly to operate and provides a more modern working environment. The Commission expects to move into the new premises by quarter four 2010. The best use of existing furniture and equipment will be made to minimise the fit-out costs in the new building.

Once the Commission relocates, Le Marchant House will become its dedicated business recovery facility for the Commission until the lease expires in 2011.

INDEPENDENT AUDITOR'S REPORT TO THE COMMISSIONERS OF THE GUERNSEY FINANCIAL SERVICES COMMISSION

We have audited the financial statements of the Guernsey Financial Services Commission ("the Commission") for the year ended 31 December 2009 which comprise the Income and Expenditure Account, the Statement of Total Recognised Gains and Losses, the Balance Sheet, the Cash Flow Statement and the related notes. These financial statements have been prepared under the accounting policies set out therein.

This report is made solely to the Commissioners, as a body, in accordance with our Terms of Engagement as detailed in our letter dated 13 November 2009. Our audit work has been undertaken so that we might state to the Commissioners those matters we are required to state to them in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Commission and the Commissioners as a body, for our audit work, for this report, or for the opinions we have formed.

Statement of Commissioners' responsibilities

The Commissioners are required by the Financial Services Commission (Bailiwick of Guernsey) Law, 1987 as amended to prepare financial statements for each accounting period which give a true and fair view, in accordance with applicable Guernsey law and UK Accounting Standards, of the state of affairs of the Commission and of the surplus or deficit for that period. In preparing these financial statements, the Commissioners are required to:

- select suitable accounting policies and then apply them consistently;
- make judgements and estimates that are reasonable and prudent;
- state whether applicable accounting standards have been followed subject to any material departures disclosed and explained in the financial statements; and
- prepare the financial statements on the going concern basis unless it is inappropriate to presume that the Commission will continue to operate.

The Commissioners are responsible for keeping proper accounting records which disclose with reasonable accuracy at any time the financial position of the Commission and to enable them to ensure that the financial statements have been prepared in accordance with the Financial Services Commission (Bailiwick of Guernsey) Law, 1987 as amended. They are also responsible for safeguarding the assets of the Commission and hence for taking reasonable steps for the prevention and detection of fraud, error and other irregularities.

Respective responsibilities of Commissioners and auditors

The Commissioners are responsible for preparing the annual report and the financial statements in accordance with applicable Guernsey law and UK Accounting Standards.

Our responsibility is to audit the financial statements in accordance with relevant legal and regulatory requirements and International Standards on Auditing (UK and Ireland).

We report to you our opinion as to whether the financial statements give a true and fair view and are properly prepared in accordance with the Financial Services Commission (Bailiwick of Guernsey) Law, 1987 as amended. We also report to you if, in our opinion, the Commission has not kept proper accounting records, or if we have not received all the information and explanations we require for our audit.

We read the other information accompanying the financial statements and consider whether it is consistent with those statements. We consider the implications for our report if we become aware of any apparent misstatements or material inconsistencies with the financial statements.

Basis of audit opinion

We conducted our audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures in the financial statements. It also includes an assessment of the significant estimates and judgements made by the Commissioners in the preparation of the financial statements, and of whether the accounting policies are appropriate to the Commission's circumstances, consistently applied and adequately disclosed.

We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or other irregularity or error. In forming our opinion we also evaluated the overall adequacy of the presentation of information in the financial statements.

Opinion

In our opinion the financial statements:

- give a true and fair view, in accordance with UK Accounting Standards, of the state of the Commission's affairs as at 31 December 2009 and of its deficit for the year then ended; and
- have been properly prepared in accordance with the Financial Services Commission (Bailiwick of Guernsey) Law, 1987 as amended.

KPMG Channel Islands Limited
Chartered Accountants
Guernsey, Channel Islands
7 May 2010

It is and shall remain the responsibility of the Commission to ensure that any electronic publication or distribution of the financial statements properly presents the financial information and our report. The Commission shall ensure that financial information on the Commission's website distinguishes clearly between financial information that we have audited and other information and avoids any inappropriate association. The Commission shall retain responsibility for the controls over and the security of the Commission's website and our work shall not extend to any consideration or examination of such matters, which shall be beyond the scope of our audit of the financial statements.

INCOME AND EXPENDITURE ACCOUNT

For the year ended 31 December 2009

	Note	2009	2008
		£	£
Income	2		
Fees receivable		9,854,609	9,384,773
Interest on deposits with States Treasury and banks		246,503	585,893
Other finance income	1(g), 7(b)	–	42,224
		10,101,112	10,012,890
Expenses			
Salaries, pension costs, staff recruitment and training		7,269,471	7,261,524
Commissioners' fees		117,762	104,822
Legal and professional fees		841,813	1,267,901
Premises and equipment, including depreciation	1(e), 1(f), 4, 10	851,647	834,090
Other operating expenses		757,474	588,326
Other finance costs	1(g), 7(b)	143,228	–
Auditor's remuneration		11,000	10,165
		9,992,395	10,066,828
Commission's contribution to expenses of GTA University Centre	9	435,000	425,500
		10,427,395	10,492,328
Deficit of income less expenditure		£(326,283)	£(479,438)

There is no difference between the deficit for the financial year as stated above and its historical cost equivalent.

The notes on pages 52 to 59 form an integral part of these financial statements.

STATEMENT OF TOTAL RECOGNISED GAINS AND LOSSES

For the year ended 31 December 2009

	Note	2009	2008
		£	£
Deficit for the year		(326,283)	(479,438)
Actuarial loss	7(e), (k)	(1,852,814)	(1,573,865)
Total recognised losses for the year		£(2,179,097)	£(2,053,303)

The notes on pages 52 to 59 form an integral part of these financial statements.

BALANCE SHEET

As at 31 December 2009

	Note	2009	2008
		£	£
Fixed assets			
Tangible assets	4	1,360,447	835,371
Current assets			
Debtors	5	394,284	390,169
Deposits with States Treasury	15	20,416	20,048
Cash at bank and in hand	15	4,863,737	6,936,132
		5,278,437	7,346,349
Creditors – amounts falling due within 1 year	6	(847,146)	(1,141,679)
Net current assets		4,431,291	6,204,670
Net assets before post-retirement liability		5,791,738	7,040,041
Post-retirement liability	7(a), (k)	(4,493,244)	(3,562,450)
Net assets		£1,298,494	£3,477,591
Reserves	8	£1,298,494	£3,477,591

The financial statements on pages 48 to 59 were approved by the Commissioners and signed on their behalf on 7 May 2010 by:

P A Harwood
Chairman

D J Mallett
Vice-Chairman

JN van Leuven
Director General

The notes on pages 52 to 59 form an integral part of these financial statements.

CASH FLOW STATEMENT

For the year ended 31 December 2009

	Note	2009	2008
		£	£
Reconciliation of deficit of income less expenditure to net cash outflow from operating activities			
Deficit of income less expenditure		(326,283)	(479,438)
Other finance costs / (income)	7(b)	143,228	(42,224)
Current pension service cost	7(c)	568,560	897,616
Past pension service cost	7(c)	128,886	–
Contributions made to pension schemes	7(d)	(1,762,694)	(432,658)
Depreciation on tangible fixed assets	4	302,846	185,850
Interest receivable		(246,503)	(585,893)
Increase in debtors		(4,115)	(65,616)
(Decrease) / increase in creditors		(294,533)	232,959
Net cash outflow from operating activities		£(1,490,608)	£(289,404)
Cash flow statement			
Net cash outflow from operating activities		(1,490,608)	(289,404)
Returns on investments and servicing of finance	14	246,503	585,893
Capital expenditure	4, 14	(827,922)	(778,620)
Decrease in cash in the year		£(2,072,027)	£(482,131)
Reconciliation of net cash flow to movements in net cash			
Decrease in cash in the year	15	(2,072,027)	(482,131)
Net cash at 1 January	15	6,956,180	7,438,311
Net cash at 31 December	15	£4,884,153	£6,956,180

The notes on pages 52 to 59 form an integral part of these financial statements.

NOTES TO THE FINANCIAL STATEMENTS

For the year ended 31 December 2009

1. Accounting policies

(a) Convention

These financial statements have been prepared in accordance with the historical cost convention and under applicable accounting standards in the United Kingdom. The principal accounting policies which the Commissioners have adopted within that convention are set out below.

(b) Fees receivable

Fees receivable are accounted for on an accruals basis.

(c) Interest

Bank and States Treasury deposit interest is accounted for on an accruals basis.

(d) Investigation and litigation

Costs arising from investigation and litigation are accounted for as expenditure is incurred, whether or not it had been billed at the balance sheet date. Such costs recovered from third parties are accounted for in the year in which they are received. No provision is made for expenditure or recoveries which may arise in future years.

(e) Tangible fixed assets and depreciation

Depreciation on tangible fixed assets is calculated to write down their cost to their estimated residual values over the period of their estimated useful economic lives at the following annual rates:

Leasehold improvements	over the shorter of the term of the lease and the estimated useful economic life of the assets
Office equipment and fittings	25% straight-line
Computer equipment:	
Hardware	33⅓% straight-line
Software	over the shorter of 10 years and the estimated useful economic life of the assets

(f) Leases

Rental payments made in relation to office accommodation are treated as operating leases and are charged to the income and expenditure account on a straight-line basis over the lease term.

(g) Pensions

Employees of the Commission who generally joined before 1 January 2008 are eligible to be members of the States of Guernsey Superannuation Fund (the Fund) which is a defined benefit pension scheme funded by contributions from both the member and the employer.

A separate Actuarial Account comprising the assets and liabilities of the Fund attributable to the Commission's members (the scheme) was established with effect from 1 January 2004. Regular valuations are prepared by independent professionally qualified actuaries.

Following the full adoption of Financial Reporting Standard 17 – Retirement Benefits (FRS 17), the regular service costs of providing retirement benefits to employees during the year, together with any past service costs, are charged to the income and expenditure account in the year.

A debit is included within other finance costs, representing the interest cost on the scheme's liabilities, less the expected return on the scheme's assets, for the year. A credit is included within other finance income where the expected return on the scheme's assets exceeds the interest cost.

The difference between the market value of assets and the present value of accrued pension liabilities is shown as an asset or liability in the balance sheet.

Differences between the actual and expected returns on assets during the year are recognised in the statement of total recognised gains and losses in the year together with differences arising from changes in assumptions and experience gains and losses arising on the scheme liabilities.

Employees of the Commission joining since 1 January 2008 are generally eligible to be members of the Island Trust Pension Plan (the DC Plan) which is a defined contribution pension scheme funded by contributions from both the member and the employer. Employer contributions are charged to the income and expenditure account in the year in which they become payable to the DC Plan.

2. Income and deficit of income less expenditure

Income is derived wholly from continuing activities.

3. Taxation

The Commission is exempt from the provisions of the Income Tax (Guernsey) Law, 1975 as amended.

4. Tangible assets

	Leasehold improvements	Office equipment and fittings	Computer hardware	Computer software	Total
	£	£	£	£	£
Cost					
At 1 January 2009	108,129	669,435	709,501	896,911	2,383,976
Additions	321,054	14,501	69,817	422,550	827,922
Disposals	–	(620)	–	–	(620)
At 31 December 2009	429,183	683,316	779,318	1,319,461	3,211,278
Depreciation					
At 1 January 2009	78,717	621,171	484,462	364,255	1,548,605
Charge for the year	20,215	35,020	108,430	139,181	302,846
On disposals	–	(620)	–	–	(620)
At 31 December 2009	98,932	655,571	592,892	503,436	1,850,831
Net book value at 31 December 2008	£29,412	£48,264	£225,039	532,656	£835,371
Net book value at 31 December 2009	£330,251	£27,745	£186,426	816,025	£1,360,447

5. Debtors

	2009	2008
	£	£
Amount due from GTA University Centre	67,510	23,135
Other debtors	52,688	87,745
Prepayments	274,086	279,289
	£394,284	£390,169

6. Creditors - amounts falling due within 1 year

	2009	2008
	£	£
Expense creditors and accruals	695,436	1,093,518
Fees received in advance	151,710	48,161
	£847,146	£1,141,679

7. Superannuation

(i) FRS 17 Disclosure for the Guernsey Financial Services Commission Actuarial Account of the States of Guernsey Superannuation Fund

Employee benefit obligations

This is a defined benefit pension scheme funded by contributions from both the member and the employer which provides retirement benefits based on final pensionable salary. The employer contributions are determined on the basis of independent actuarial advice and are calculated to meet the cost of benefit accrual over the next year of pensionable service.

A separate Actuarial Account comprising the assets and liabilities of the Fund attributable to the Commission's members (the scheme) was established with effect from 1 January 2004 within the Fund following an instruction from the former States Advisory and Finance Committee. The Actuarial Account is used solely for the purpose of determining the contributions payable to the Fund by the Commission and to avoid the possibility of inappropriate subsidisation of one employer by another.

A full actuarial valuation of the scheme was carried out at 31 December 2007 by the scheme's actuary, which resulted in a funding shortfall of £225,000. The scheme's actuary also completed valuations as at 31 December 2005, 2006, 2007, 2008 and 2009 for the purposes of FRS 17.

The valuation used for FRS 17 disclosures has been based on a full assessment of the liabilities of the Fund. The present values of the defined benefit obligation, the related current service cost and any past service costs (if applicable) were measured using the projected unit method.

(a) The amounts recognised in the balance sheet are as follows:

	2009	2008
	£	£
Fair value of Fund assets	12,344,058	8,424,935
Present value of funded obligations	(16,837,302)	(11,987,385)
Net pension liability	£(4,493,244)	£(3,562,450)

The asset and liability values on the FRS 17 basis reflect market conditions at the Commission's year-end date and, as point-in-time calculations, can be expected to vary greatly from year to year, without prejudicing the scheme's long-term ability to provide the required benefits.

The actuarial valuation prepared as at the year-end date disclosed a lower funding shortfall of £2,998,000 (2008: £3,800,000).

7. Superannuation (continued)

(b) The amounts recognised in the income and expenditure account are as follows:

	2009	2008
	£	£
Interest on obligation	717,137	651,682
Expected return on Fund assets	(573,909)	(693,906)
Other finance costs / (income)	143,228	(42,224)
Current service cost	568,560	897,616
Past service cost	128,886	–
Expense recognised in income and expenditure account	£840,674	£855,392
Actual return on Fund assets	£1,514,212	£(1,966,736)

(c) Changes in the present value of the defined benefit obligation are as follows:

	2009	2008
	£	£
Opening defined benefit obligation	(11,987,385)	(11,267,735)
Current service cost	(568,560)	(897,616)
Past service cost	(128,886)	–
Interest on obligation	(717,137)	(651,682)
Contributions by members	(323,563)	(343,103)
Actuarial (losses)/gains on obligations	(2,793,117)	1,086,777
Net benefits paid including pensions, lump sums, refunds of member contributions and transfer values	(318,654)	85,974
Closing defined benefit obligation	£(16,837,302)	£(11,987,385)

(d) Changes in the fair value of Fund assets are as follows:

	2009	2008
	£	£
Opening fair value of Fund assets	8,424,935	9,701,884
Expected return on Fund assets	573,909	693,906
Actuarial gains/(losses) on Fund assets	940,303	(2,660,642)
Contributions by employer	1,762,694	432,658
Contributions by members	323,563	343,103
Net benefits paid including pensions, lump sums, refunds of member contributions and transfer values	318,654	(85,974)
Closing fair value of Fund assets	£12,344,058	£8,424,935

7. Superannuation (continued)

(e) Analysis of amount recognised in statement of total recognised gains and losses (STRGL)

		2009	2008
		£	£
Opening amount of losses recognised in STRGL		(2,651,533)	(1,077,668)
Actuarial (losses)/gains on obligations for the year	7(c)	(2,793,117)	1,086,777
Actuarial gains/(losses) on Fund assets for the year	7(d)	940,303	(2,660,642)
Total actuarial losses for the year		(1,852,814)	(1,573,865)
Cumulative amount of losses recognised in STRGL		£(4,504,347)	£(2,651,533)

(f) The Employer expects to contribute £759,067 to the Fund in the year ended 31 December 2010. Following the actuarial valuation of the Fund as at 31 December 2007, the actuary recommended that the Commission's contribution rate payable to the Fund be increased to 17.8% from 15.5% (the rate recommended by the actuary after the previous actuarial valuation on 31 December 2004). In common with the approach adopted by the States of Guernsey in respect of its own employees, as previously reported, the Commissioners decided not to increase the contribution rate payable to the Fund because the scheme remained under review at that time. The rate therefore remained at 10.4% until the end of 2008. The contribution rate was increased to 17.8% with effect from 1 January 2009. However the current service cost, calculated in accordance with FRS 17 and representing the cost to the Commission of the benefits accrued to active members of the scheme during the financial year ended 31 December 2009, has been reflected in the Commission's income and expenditure account. The employee contribution increased from 6% to 6.5% on 1 January 2008.

(g) The major categories of Fund assets as a percentage of the total Fund assets are as follows:

	2009	2008
	%	%
Equities	49	69
Gilts	12	6
Corporate bonds	15	5
Index-linked bonds	–	13
Property	4	–
Other assets	20	7

This allocation is at the discretion of the States of Guernsey.

7. Superannuation (continued)

(h) Long-term principal actuarial assumptions at the balance sheet date (expressed as weighted averages where applicable):

	2009	2008
	%	%
Discount rate as at 31 December	5.7	6.0
Expected return on Fund assets at 31 December	5.9	6.5
Rate of increase in pensionable salaries	5.1	4.3
Rate of increase in deferred pensions	3.8	2.8
Rate of increase in pensions in payment	3.8	2.8

The FRS 17 standard refers to a discount rate determined as the current rate of return on high-quality corporate bonds (normally taken to be rated as AA) of equivalent currency and term to the Actuarial Account's liabilities.

At 31 December 2007, the AA corporate bond yield curve was relatively flat over all durations. Due to the impact of the "credit crisis" during 2008, the AA corporate bond yield curve as at 31 December 2008 was no longer flat and the spread on yields had significantly widened. In addition, there are very few corporate bonds at the longer durations of suitable quality.

As a result, the discount rate has been determined based on a UK Corporate Hybrid AA swap yield curve at the duration of the Actuarial Account's liabilities as at 31 December 2009.

(i) Mortality assumptions

The mortality assumptions are based on standard mortality tables which allow for future mortality improvements. The assumptions are that members aged 60 will live on average until age 85 if they are male and until 88 if female. For members currently aged 45 the assumptions are that if they attain age 60 they will live on average until age 87 if they are male and until 89 if female.

(j) Description of the basis used to determine return on Fund assets

The States adopts a building block approach in determining the expected rate of return on the Fund's assets. The States retain full responsibility for the management of the Fund's assets. Historic markets are studied and assets with high volatility are assumed to generate higher returns consistent with widely accepted capital market principles.

Each different asset class is given a different expected rate of return. The overall rate of return is then derived by aggregating the expected return for each asset class over the actual asset allocation for the Fund at disclosure at year end.

(k) Amounts for the current and previous periods are as follows:

	2009	2008	2007	2006	2005
	£	£	£	£	£
Defined benefit obligation	16,837,302	11,987,385	11,267,735	9,743,190	8,378,153
Fair value of Fund assets	12,344,058	8,424,935	9,701,884	8,545,198	7,180,371
Deficit in the scheme	(4,493,244)	(3,562,450)	(1,565,851)	(1,197,992)	(1,197,782)
Experience gains / (losses) on Fund assets	940,303	(2,660,642)	(113,976)	111,851	660,170
Total experience (losses) / gains / on defined benefit obligation	(2,793,117)	1,086,777	45,858	367,143	(1,668,887)
Actuarial (losses) / gains recognised in STRGL	£(1,852,814)	£(1,573,865)	£(68,118)	£478,994	£(1,008,717)

The States of Guernsey has confirmed that in the final resort the claims of the Commission's pensioners and employees would be met from the whole Fund and any shortfall in the Fund would then be met by the States of Guernsey from General Revenue.

7. Superannuation (continued)

(ii) FRS 17 Disclosure for the Island Trust Pension Plan (the DC Plan)

The net cost of employer contributions to the DC Plan for the year ended 31 December 2009 was £81,074 (2008: £24,229). Contributions of £19,372 were outstanding as at 31 December 2009 (2008: nil). No contributions were prepaid as at 31 December 2009 or 2008. Employer contributions are calculated at 12% of pensionable salary and mandatory employee contributions are at a rate of 5% of pensionable salary.

8. Reconciliation of movements in reserves

		2009	2008
		£	£
Reserves brought forward		3,477,591	5,530,894
Deficit of income less expenditure for the year		(326,283)	(479,438)
Actuarial loss on post-retirement liability	7(e)	(1,852,814)	(1,573,865)
Reserves carried forward		£1,298,494	£3,477,591

Reserves are stated after deducting the accumulated pension liability of £4,493,244 (2008: £3,562,450) which equates to the post-retirement liability under FRS 17 (see note 7).

9. GTA University Centre

The GTA University Centre (GTA) arranges training for the finance industry and for other industry sectors. The company's staff, excluding its Chief Executive and staff joining since 2007, are employed by the Commission and permanently seconded to the company. The Commission provided a grant of £435,000 in 2009 (2008: £425,500) to the company in order to meet 50% of its budgeted net operating expenditure, the same amount being provided by the States of Guernsey via the Commerce and Employment Department.

10. Lease commitments

The Commission leases office accommodation at La Plaiderie Chambers and Le Marchant House. The lease for La Plaiderie Chambers expires on 25 March 2020 and the lease for the car park expires on 30 June 2010 and the underlease for Le Marchant House on 10 December 2011. The rentals payable in 2009 under the terms of the leases amount to £318,810 (2008: £317,700).

The Commission expects to enter into a lease for new premises at 21 Glategny Esplanade in autumn 2010. One of the terms of the agreement for lease states that upon the rent commencement date there will be an assignment of the Commission's lease on La Plaiderie Chambers to the named assignee in the agreement for lease. If such a lease is entered into, the commitments described below in respect of leases which expire more than 5 years after balance sheet date would cease from the date of signing the lease. Under the terms of the agreement for lease, the sum of £750,000 is payable at the option of the proposed landlord if the Commission does not enter into the lease.

Commitments to make payments during the next year in respect of an operating lease are as follows:

Land and buildings

	2009	2008
	£	£
Leases which expire up to 1 year after balance sheet date	£13,500	£11,400
Leases which expire between 1 and 5 years after balance sheet date	£50,291	£40,300
Leases which expire more than 5 years after balance sheet date	£266,000	£266,000

11. Investigation and litigation costs

As a consequence of fulfilling its regulatory responsibilities, from time to time the Commission undertakes investigations and is a party to legal actions, the costs of which may be significant. No provision has been made in the financial statements for any future costs in respect of current investigations or legal actions because the nature, complexity and duration of such actions remain uncertain.

In a few cases, some or all of the Commission's investigation and legal costs may be recoverable, although not necessarily in the same financial year as the expenditure is incurred. In such cases the recovery is recognised when received.

12. Related-party transactions

The States appointed Peter Harwood, who was a partner of Ozannes until 31 December 2009, as a Commissioner in August 2004. During the year the Commission engaged Ozannes to provide certain legal and professional services. These were contracted on an arm's-length basis and are not considered to be significant in the context of the business of the parties.

13. Controlling party

In the opinion of the Commissioners there is no controlling party of the Commission, as defined by Financial Reporting Standard No. 8 – Related Party Disclosures, as no party has the ability to direct the financial and operating policies of the Commission with a view to gaining economic benefits from their direction.

14. Notes to the cash flow statement

	2009	2008
	£	£
Returns on investments and servicing of finance		
Interest received	£246,503	£585,893
Capital expenditure		
Payments to acquire tangible fixed assets	£(827,922)	£(778,620)

15. Analysis of net cash

	At 1 January 2009	Cash flow	At 31 December 2009
	£	£	£
Deposits with States Treasury	20,048	368	20,416
Cash at bank and in hand	6,936,132	(2,072,395)	4,863,737
	£6,956,180	£(2,072,027)	£4,884,153

GTA UNIVERSITY CENTRE

General

During 2009 the GTA University Centre (GTA) has once again proved to be very successful in facilitating high-quality training and development initiatives for the Bailiwick workforce.

The long-term objective of the GTA is to engender a training and development culture within all organisations throughout the Bailiwick, and procure and facilitate high-quality advanced training and development programmes within all business sectors. This culture is expected to generate a highly qualified, knowledge-based workforce enabling all organisations to compete in a global marketplace and to broaden the Bailiwick's skills base whist adding value to all Bailiwick businesses.

An extensive education and training programme took place throughout the year and the GTA's study centres continued to act as focal points for education and training within St Peter Port. Staff at the GTA have worked closely with all the stakeholders in determining training priorities and meeting their requirements.

At the end of 2009, 190 students registered with the GTA and had made 4,498 study visits to the centre. A total of 508 training events attracted 5,381 delegates, which is a slight decrease over 2008 figures. This decrease is mainly down to the tightening of the economy, with training budgets being cut and increased competition in the market place. Additionally 159 examinations took place, during which 806 candidates were examined on a range of award-bearing programmes. Statistics for the year are listed in table 10.

In August 2009 Mr Peter Neville, following his retirement as Director General of the Commission resigned as a Director of the GTA. Mr Neville's replacement as Director General of the Commission, Mr Nik van Leuven, was proposed and unanimously endorsed as a new member of the GTA Board. In December Deputy McNulty Bauer replaced Mr Peter Morgan as Trustee, representing the Commerce and Employment Department. Overall the GTA is pleased to note the stability of the Board for the calendar year which sustains the continuity of governance. The GTA continues to be part-funded by the Commission and the Commerce and Employment Department.

The Commerce and Employment Department during the latter part of 2009 secured the services of Frontier Economics to carry out a strategic review to maximise its return on investment in up-skilling Guernsey's workforce. Part of the review will consider the role of the GTA.

During 2009 the GTA continued to work with local branches of finance associations and professional institutes, such as the Guernsey International Business Association and the Commission, to maintain the accuracy of the qualifications matrices for each of the four sectors of the finance industry. In parallel the GTA continues to work with on-island finance institutions and professional bodies utilising advisory and education forums focused upon each sector of the finance industry. These groups are important in providing strategic direction for the development of finance education and training within the Bailiwick.

The strategic relationship between the College of Further Education and the GTA continues to be maintained through the Senior Management Forum. The members of the Forum are the Principal and Vice Principal of the College of Further Education and the Chief Executive and the Deputy Chief Executive of the GTA.

Table 10. **Training event/delegate numbers at the year end**

Key statistics	2009	2008	2007	2006	2005	2004
Registered number of students	190	99[4]	92[2]	1,012	1,003	951
Recorded number of study sessions	4,498[5]	609[4]	1,719	1,676	2,572	2,731
Number of training events	508	634 (134[3])	440	400	386	321
Number of delegates attending	5,381	7,798 (1,270[3])	6,191	5,968	5,253	4,695
Number of examination days	85	67	78	71	114	113
Number of examinations	159	107	124	147	199	236
Number of examination candidates	806	558	575	636	757	841
Total hits on website	49,675	34,660	36,949	31,136	24,976	[1]

1 Not previously recorded
2 Registrations discontinued due to the closure of the Nelson Place Study Centre
3 Public sector delegates
4 Morningside House Study Centre opened 18 September 2008 (was unavailable March-Sept)
5 Data from Study Centre door records

Award-bearing programmes

Twenty students successfully completed the MSc in Corporate Governance, 2 with distinction. A seventh cohort commenced in September 2008 and all 16 successfully completed their first year.

In conjunction with the Policy Council and Bournemouth University, the GTA designed a Postgraduate Certificate in Professional Studies for graduate trainees within the Civil Service. This is the first time such a programme has been offered within the public sector and it received a positive take-up with the first cohort successfully completing their first year.

The GTA is very pleased that 9 students undertaking the Masters programme in Human Resource Management delivered by Bournemouth University graduated during 2009 and the 8 students on the current cohort of the programme successfully completed year 1.

Ten students successfully completed the Institute of Directors Company Direction Programme during 2009. Due to demand, two cohorts of this prestigious course were launched in October 2009; the delegates have all completed the certificate element of the programme and will go on to complete the Diploma element in April 2010.

The Society of Trust and Estate Practitioners (STEP) Foundation and Diploma Programmes in Offshore Trust Management were again delivered by Central Law Training. Fifty-four students completed the Foundation Programme with a further 36 students completing the Diploma Programme.

The International Compliance Association (ICA) continues to offer diplomas in anti-money laundering and compliance. Seventeen students undertook the International Diploma in Compliance and seven took the Diploma in Hedge Funds (now titled the Advanced Certificate and Diploma in Fund Administration). Further ICA courses include the Diploma in Financial Crime Prevention, which attracted 11 delegates; the Advanced Certificate in Financial Crime, which 3 people attended; and the Certificate in Compliance Awareness which 2 delegates sat.

A further 7 students sat the Guernsey Insurance Certificate during 2009, making a total of 153 students who have now successfully completed this qualification since its introduction. This locally designed programme is now awarded 16 points under the Chartered Insurance Qualifications framework.

Three students sat the Captive Insurance Certificate during 2009, making a total of 76 students who have now successfully completed this qualification since its introduction. This locally designed programme is awarded 20 points under the Chartered Insurance Qualifications framework. This qualification is particularly pertinent to the local insurance industry and the GTA is pleased to confirm the publication of a revised textbook to accompany the course. Concurrently Glasgow Caledonian University is currently reviewing the range of its professional programmes and the GTA expects to be advised of the outcome of this review early in 2010.

Short courses and conferences

The GTA continues to work closely with local branches of professional organisations, and assisted the STEP local branch with the organisation of its annual conference which was held in June at St James and attracted just over 120 delegates.

The GTA continues to support the Guernsey Bar in the lead-up to the Bar examinations with a series of lectures delivered by local advocates. These seminars are available to aspirants and the wider legal profession and in 2009 188 delegates attended the 12 lectures. A series of seminars was also offered in partnership with a local law firm, covering such topics as a history of Guernsey law, conveyancing and fraud in the work place. October saw the mock tribunal event in partnership with a local law firm which attracted 100 delegates.

In total over 1,400 delegates attended short courses pertaining to the finance sector during 2009.

Investors in People

The GTA continues to manage the Investors in People (IiP) project on behalf of Commerce and Employment, offering assistance with benchmarking exercises. Whilst this is purely in an advisory capacity, organisations have found the exercise extremely helpful in positioning themselves against the IiP standard and identifying what further action needs to be taken to achieve the status. The GTA is delighted that 4 organisations gained the award for the first time in 2009, 2 organisations were re-recognised and a further 4 are working towards achieving the standard.

Other initiatives

Increasingly the GTA is being asked to develop in-house training for local businesses. This involves staff working with individual businesses to develop tailor-made training.

The Chief Executive and Deputy Chief Executive continued to meet with senior staff from the finance and commerce sectors to hear firsthand the training needs of organisations. The meetings continue to prove most informative and valuable. They have also been involved in a number of consultancy projects with local businesses looking at change management.

The GTA held its Awards and Presentation Ceremony in November at St James. This event happens every 3 years to celebrate the success of students who have gained Masters, postgraduate and equivalent professional qualifications through the GTA. In the presence of the Lieutenant Governor 108 students had their achievements recognised in front of employers, States Members, family and friends.

In July the GTA launched its new website, with a facility to book and pay online. It also offers particular areas for students and human resources staff to access training records and other online facilities.

The GTA is continuing its initiative to explore the possibility of offering a small range of on-island vocational, work-based foundation degrees through Bournemouth University. Discussions with employers, professional institutions and potential students have been extremely encouraging and it is planned that, subject to validation, a Business and Finance foundation degree would commence October 2010.

The GTA continues to support the Guernsey Bar examinations and was privileged to facilitate the third of the Bailiff's Lectures. In addition the GTA is in on-going discussions with Bournemouth University, the Law Society and the Guernsey Bar to secure the delivery of the Graduate Diploma in Law in Guernsey.

e-Business and information technology

The IT and e-Commerce Advisory Group continued to provide useful feedback and information on training and development needs within the sector. In 2009 the GTA offered information technology and e-commerce-related seminars, short courses and professionally accredited courses. More than 30 delegates achieved Information Systems Examination Board accredited professional qualifications in the course of the year.

The GTA strengthened its links with the British Computer Society (BCS) in 2009, taking on the administration and marketing for the BCS's annual series of lunchtime seminars. It was also agreed that the GTA and BCS would jointly host a half-day information technology conference in 2010 on the theme of fraud and security.

APPENDIX 1

FUNCTIONS, STRUCTURE AND CORPORATE GOVERNANCE AND OTHER CONTROL SYSTEMS OF THE COMMISSION

Functions of the Commission

The Financial Services Commission (Bailiwick of Guernsey) Law, 1987 as amended (the Commission Law) established the Commission with both general and statutory functions. The general functions include the taking of "such steps as the Commission considers necessary or expedient for the effective supervision of finance business in the Bailiwick". The statutory functions include those under the following laws:

- the Banking Supervision (Bailiwick of Guernsey) Law, 1994 as amended;
- the Protection of Investors (Bailiwick of Guernsey) Law, 1987 as amended;
- the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000 as amended;
- the Insurance Business (Bailiwick of Guernsey) Law, 2002 as amended;
- the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002 as amended;
- section 3 of the Road Traffic (Compulsory Third Party Insurance) (Guernsey) Laws, 1936 to 1989;
- section 1 of the Surf-Riding Long Boards (Compulsory Third-Party Insurance) Law, 1969; and
- section 1 of the Vessels and Speed Boats (Compulsory Third-Party Insurance, Mooring Charges and Removal of Boats) (Guernsey) Law, 1972.

Relationship with the States of Guernsey

The States of Guernsey Policy Council is responsible for international financial matters and for establishing the policy framework for financial regulation, including the government's relationship with, and reporting lines for, the Commission. The Commission Law states that the Commission shall issue its audited financial statements and the two reports referred to later in this appendix annually to the Policy Council. The Policy Council is also responsible for the administration of the Control of Borrowing Ordinances. Individual officials of the Commission act for the Policy Council in matters requiring consent under the Ordinances.

The Commissioners

The activities of the Commission's executive are overseen by the members of the Commission (Commissioners). The Commission Law provides that the Commission shall consist of a minimum of 5 members and a maximum of 7 members elected by the States of Guernsey from persons nominated by the Policy Council and appearing to it to be persons having knowledge, qualifications or experience appropriate to the development and supervision of finance business in the Bailiwick. The Chairman is appointed for a period of 1 year from amongst the Commissioners and is elected by the States following nomination by the Policy Council. The Vice-Chairman is appointed for a period of 1 year by the Commissioners. Each member is appointed as a Commissioner for a period not exceeding 3 years. A member whose term of office has come to an end is eligible for re-election. The Chairman and Vice-Chairman are also eligible for re-election to their positions. A member of the Commission must retire on reaching the age of 72 years.

The Commission currently has 6 Commissioners: Peter Harwood, David Mallett, Susie Farnon, Howard Flight, Alex Rodger and Cees Schrauwers. A brief résumé for each Commissioner is provided on page 7 of this report. All of the Commissioners are non-executive – 3 reside in Guernsey, with the remainder living in the United Kingdom.

There were 13 meetings of the Commissioners in 2009. The attendance of the individual Commissioners at these meetings was as follows: Peter Harwood 13, David Mallett 13, Susie Farnon 11, Howard Flight 12, Alex Rodger 12, Cees Schrauwers 11. Prior to each meeting, Commissioners are provided with a full information pack to support the meeting's agenda.

An induction programme is in place for new Commissioners. The Commissioners periodically consider their roles, responsibilities and accountabilities.

The Commission Law also makes provision for the appointment of such officers and servants as are necessary for carrying out the Commission's functions and for the most senior officer to have the title of Director General.

Delegation of functions to executive staff

The Commissioners have delegated certain of their statutory functions to the executive staff of the Commission. These statutory functions are exercised by the executives both jointly and severally. All statutory functions of the Commission may be delegated to the executives except:

- the power of the Commissioners to delegate functions;
- the Commissioners' duty to make an annual report on the Commission's activities during the previous year to the Policy Council;
- any statutory functions which:
  - (i) require the Commissioners to consider representations concerning a decision which they propose to take; or
  - (ii) empower the Commission to cancel, revoke, suspend or withdraw a licence, consent, registration, permission or authorisation (except where the cancellation, revocation, suspension or withdrawal is done with the consent of the person who is, or who is acting on behalf of, the holder of the licence, consent, registration, permission or authorisation); or
  - (iii) empower the Commission to petition for the winding-up of a body corporate.

Annual report and financial statements

The Commission must, as soon as possible in each year, make a report to the Policy Council on its activities during the preceding year. The Chief Minister shall, as soon as possible, submit that report for consideration by the States.

The Commission Law also provides that the Commission shall:

(a) keep proper accounts and proper records in relation to those accounts; and

(b) prepare in respect of each year a statement of accounts giving a true and fair view of the state of affairs of the Commission;

and that the accounts of the Commission shall be:

(a) audited by auditors appointed by the States; and

(b) laid before the States.

The Commission includes a copy of its audited financial statements in the annual report to the Policy Council referred to above.

Report on internal control and corporate governance

Under the Commission Law, the Commission must also review in each year, by the appointment of appropriately qualified and independent professional persons or otherwise:

(a) the adequacy and application of the Commission's systems of internal control;

(b) the selection and application of the Commission's accounting policies and accounting procedures;

(c) the effective, efficient and economical management of the Commission's assets and resources; and

(d) the Commission's compliance with such generally accepted principles of good corporate governance as it is reasonable to regard as being applicable to the Commission.

The Commissioners are required to satisfy themselves in connection with the conclusions of each review and provide the Policy Council with a separate annual report on the matters covered by it.

The Commissioners are responsible for overseeing the Commission's corporate governance regime and for monitoring the effectiveness of management's systems of internal control. These systems are subject to regular review by management and address the risks to which the Commission is exposed. The Commission has an ongoing process for identifying, evaluating and managing operational risks (including regulatory and financial risks). In this connection, the Commission takes account of the guidance contained in the Combined Code on Corporate Governance.

In accordance with the Commission Law, the Commissioners have reviewed the Commission's approach to risk management policies and processes. The annual report required by the law on internal control and corporate governance has been provided by the Commission to the Policy Council.

Audit and Risk Committee

The Commission's Audit and Risk Committee, which comprises Alex Rodger and Susie Farnon and is chaired by David Mallett, covers oversight of the management of risk – it reviews corporate governance and the systems of internal control and makes reports routinely to meetings of the Commissioners as a whole. Meetings are usually attended by the Director General, the Head of Finance and Operations and the Director of Policy and International Affairs (who is the committee's secretary). The committee met five times in 2009. The attendance of the individual members at these meetings was as follows: David Mallett 5, Susie Farnon 5, Alex Rodger 4.

Review systems

Rather than appoint its own internal auditor to monitor the Commission's non-regulatory internal audit standards, the Commission has retained specialist external consultants to ensure that the Commission is up to date with current expectations. The corporate governance standards of the Commission have been reviewed by the Audit and Risk Committee and by the Commission's officers. The Commission is satisfied that it meets expectations in connection with internal audit and corporate governance. A programme of assessment against international regulatory standards is in place and is undertaken by the Commission's officers and reviewed by the Commissioners. An assessment of compliance with international regulatory standards was carried out by the International Monetary Fund (IMF) in 2002 – the Commission and the other authorities in Guernsey were found by the IMF to have a high level of compliance with these standards. The IMF is undertaking another assessment in 2010.

APPENDIX 2

COMMITTEES AND WORKING PARTIES

A number of advisory groups and committees have assisted the Commission in the various aspects of its work in 2009. The Director General of the Commission and his colleagues take this opportunity of acknowledging the contribution made by the members of the following groups and of thanking them for their support and assistance:

RATS Working Group

Class A Rules Working Party

Investment Business Statistics Working Party

Licensee Rules Working Party