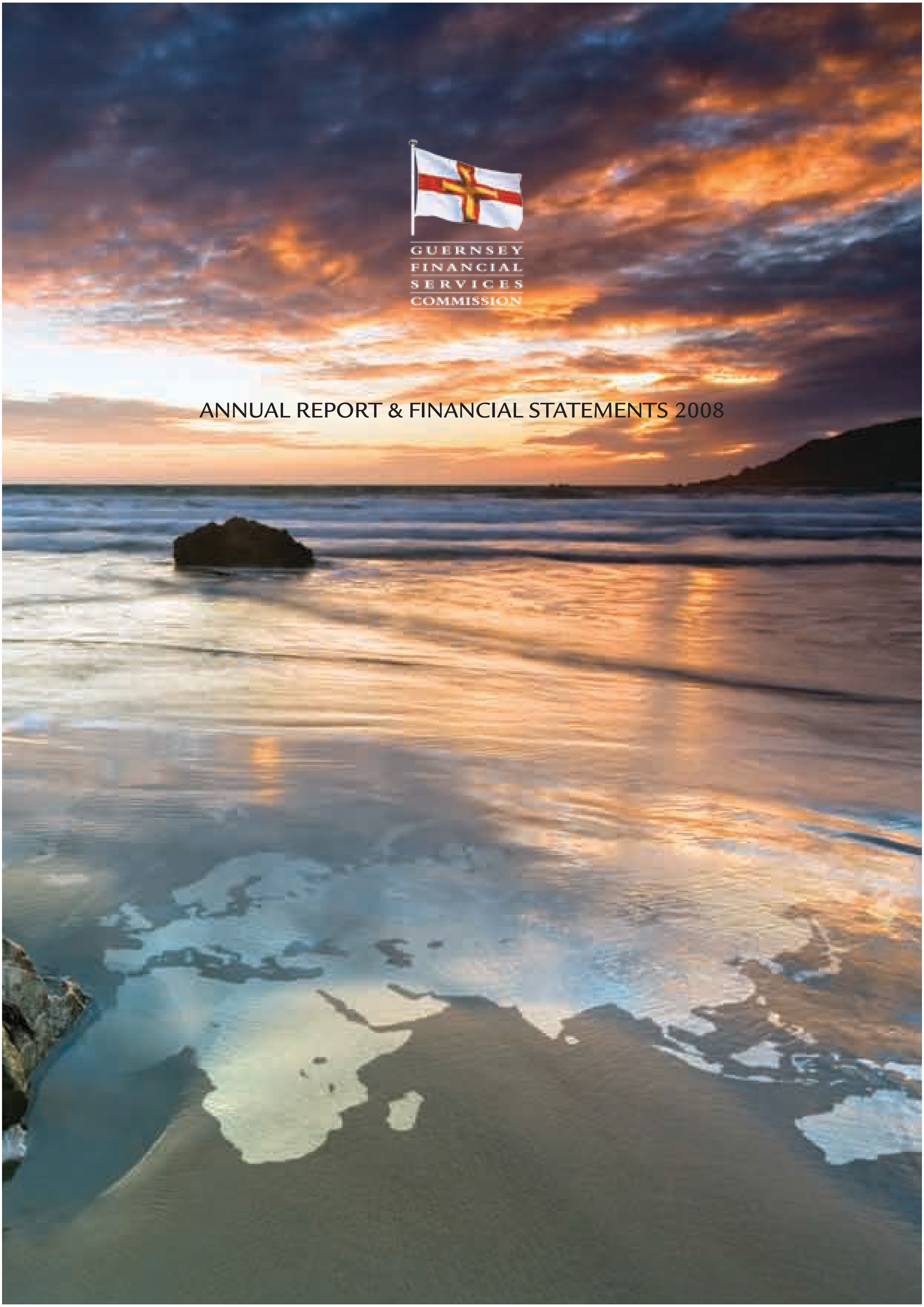
GUERNSEY
FINANCIAL
SERVICES
COMMISSION

# ANNUAL REPORT & FINANCIAL STATEMENTS 2008



GUERNSEY FINANCIAL SERVICES COMMISSION

# ANNUAL REPORT & FINANCIAL STATEMENTS 2008

For the year ended 31 December 2008

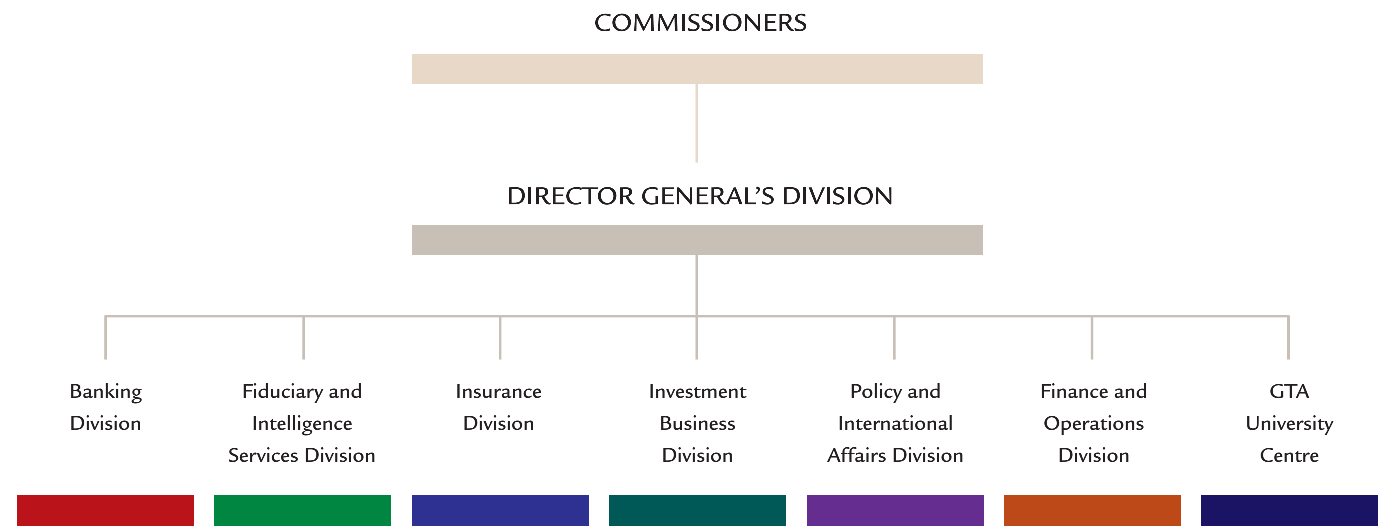
This report, including the financial statements as required by section 18 of the Financial Service Commission (Bailiwick of Guernsey) Law, 1987, as amended ("the Commission Law"), is made in pursuance of section 6 of the Commission Law to the States Policy Council and submitted by the Chief Minister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





**Appendices**


COMMISSIONERS
DIRECTOR GENERAL'S DIVISION
Banking Division
Fiduciary and Intelligence Services Division
Insurance Division
Investment Business Division
Policy and International Affairs Division
Finance and Operations Division
GTA University Centre

# COMMISSIONERS

**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 has been a partner of Ozannes since 1983. 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.

**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.

**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.

**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 and a number of other companies and investment funds.

**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 led the sale of RBS International's Securities Services business to BNP Paribas in June 2007. He was also Chairman of RBS International Employees Pension Trust. Alex Rodger is a non-executive director of Cable & Wireless (Guernsey) Limited and non-executive Chairman of advocates Collas Day.

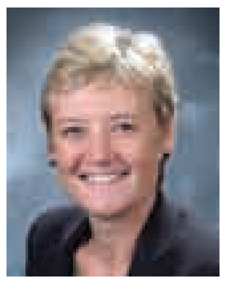
**Dr Cees Schrauwers**

Cees Schrauwers was appointed as a Commissioner in July 2008. He is a Dutch citizen and has spent most of his career in London with Commercial Union. Mergers with General Accident and Norwich Union resulted in the creation of Aviva plc. Cees has occupied a number of positions in the Insurance Industry, including Managing Director of CU UK and Managing Director of CGU Insurance. Following the mergers he was appointed 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 on of the world's largest currency managers. He lives with his family near London.

# DIRECTORS

**Peter Neville MA (Oxon), FCA Director General.**

Peter Neville read law at Oxford University and is a Fellow of the Institute of Chartered Accountants in England and Wales. Following a period working in the field of insolvency, he spent 12 years as a banker and merchant banker in the United Kingdom and the Far East. He joined the Investment Management Regulatory Organisation in 1987, holding a number of senior positions over a period of seven years. In 1994 he established the investment services regulatory regime for Malta and provided advice on financial services regulation to the government. In 1997 he joined the Regulatory Division of Lloyd's of London as general manager responsible for authorisation, individual registration and conduct of business permissions. He took up the position of Director General of the Commission in April 2001. He is a member of the Executive Committee of the International Association of Insurance Supervisors and the Financial Stability Forum Offshore Financial Centres Review Group.



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

Diane Colton started her career with Guardian Royal Exchange and 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 November 2008.

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

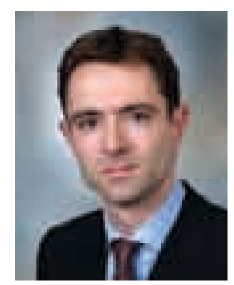
After a postgraduate degree in Economics, Philip Marr joined the Bank of England in 1968. He was Economic Adviser to the government of Bermuda from 1974 to 1977 and entered Banking Supervision on his return to the Bank. He was appointed Adviser to the Bahrain Monetary Agency from 1982 to 1984. He was 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.

**Peter Moffatt MA (Oxon), FSI 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.

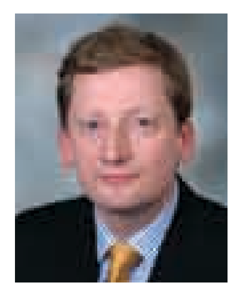
**Neville Roberts FCA Director of Finance and Operations.**

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 IT, 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.



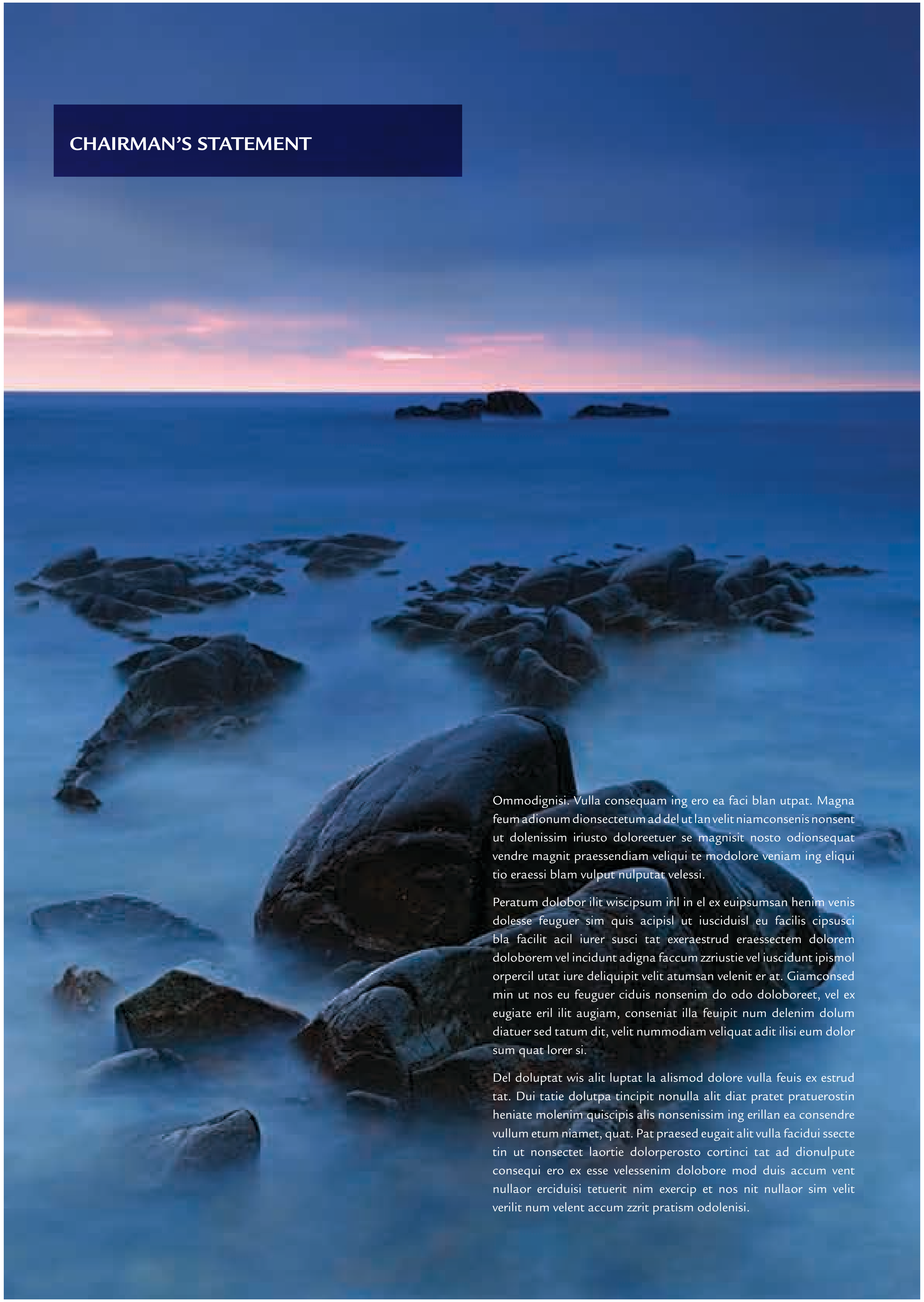
**Stephen Trevor LL.B Director of Fiduciary and Intelligence Services.**

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. 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.



**Richard Walker BA, CFE 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 also works with the International Association of Insurance Supervisors and the Offshore Group of Banking Supervisors, and is a member of the Financial Action Task Force Money Laundering and Financing Terrorism Trends Working Group.



# CHAIRMAN'S STATEMENT

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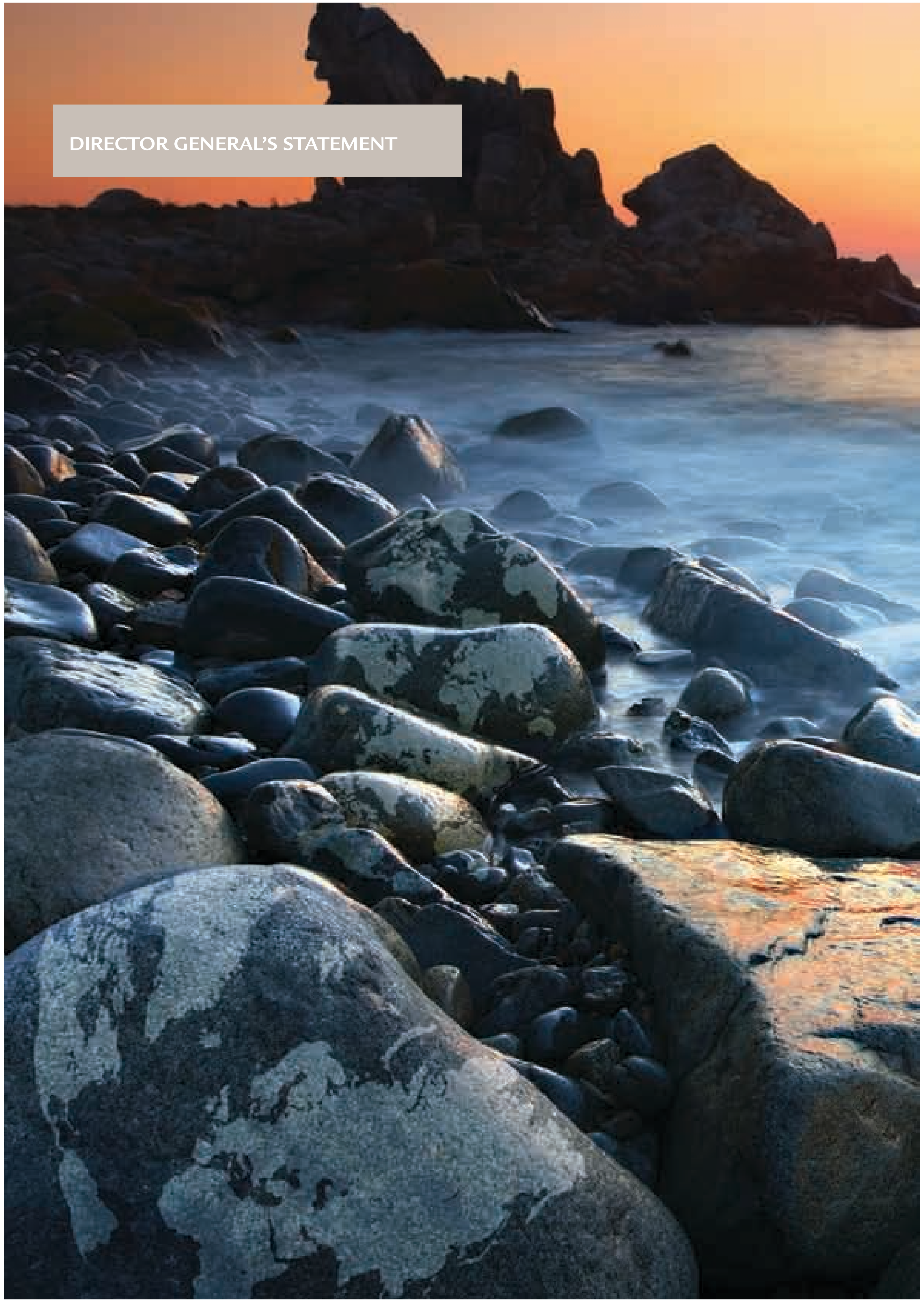
Peter Harwood
Chairman



# DIRECTOR GENERAL'S STATEMENT



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Peter Neville
Director General

# BANKING

## Northern Rock and its implications

The year started with continuing uncertainty over the position of Northern Rock plc and, therefore, its subsidiary Northern Rock (Guernsey) Limited. That uncertainty was resolved with the announcement of the taking into temporary public ownership of the bank by HM Treasury acting for the UK Government. That decision gave some stability to the credit markets in the early part of the year.

In the first half of the year the Banking Division worked on a consultation paper to set out the issues which the Northern Rock episode had raised, and which needed to be addressed further in order to assess the banking sector in Guernsey. Several pre-consultation meetings were held in Guernsey in May with representatives of the Guernsey banking sector to gauge their initial response to the issues. The paper, entitled "Consultation on Parental Upstreaming and the Introduction of Depositor Protection and Ombudsman Schemes", was issued in August 2008. The consultation paper included proposals for an 85% limit on upstreaming of total assets to parent banks by Guernsey subsidiary banks, with more restrictive limits for particular cases. The background and proposals for funding of a deposit protection scheme were also set out, with an explanation of the likely funding mechanics of a scheme and a worked example from which the estimated cost could be gauged. The paper also covered the transparency of subsidiaries in placing funds with their parent, the ongoing strength of parent banks, contingency planning in the event that there was a liquidity crisis and a consideration of the benefits of the participation of independent non executive directors in the corporate governance of Guernsey subsidiary banks. Finally, the paper outlined a possible way forward for an ombudsman scheme for the Bailiwick, albeit it was concluded that further consultation was needed with other parts of the finance sector not just the banking segment.

## The development of the global crisis

The continuing events of 2008 were unprecedented.

The relative calm surrounding credit and other markets was broken in September. Vulnerabilities to the US subprime mortgage market were revisited by the markets, and there was a rescue of the US institutional lenders Fannie Mae and Freddie Mac and a recapitalisation of those quasi-governmental entities. In the UK the share price of mortgage specialist HBOS collapsed, the Government supported a rescue of the bank by Lloyds TSB plc and signalled it would set aside the competition issues that might have been presented. In the US the major insurance company AIG was rescued by the US Government.

Whilst some investment banks were supported by other financial institutions, as was the case in Bank of America's acquisition of Merrill Lynch, there was no support given for Lehman Brothers, which was allowed to proceed to bankruptcy under US Chapter 11 provisions. In Europe doubts emerged about the adequacy of the capital base of the Belgian-Dutch Fortis Group following its partial acquisition of the Dutch international bank ABN Amro. In the UK the Royal Bank of Scotland share price came under severe pressure and indications were made that it would be supported by a capital injection from the UK Government. That bank's vulnerability to its significant stake in ABN Amro was also a factor in its need for recapitalisation along with its dependency on wholesale funding for its loan book. HM Treasury in the UK announced a recapitalisation programme on 8 October. The UK Government effectively subscribed for equity and preference shares amounting to 43% of the capital of the combined Lloyds TSB/HBOS entity and some 59% of the Royal Bank of Scotland Group. The latter was extended to 70% in January 2009 when the extent of its asset impairment was revisited. The market took a tough view of perceived risks, and sovereign exposures in particular and focussed on the vulnerabilities of the country of Iceland.

## Landsbanki Guernsey Limited

Locally, in the first days of October depositors with the subsidiary of an Icelandic bank, Landsbanki Guernsey Limited ("LGL"), withdrew funds within their account terms and conditions. LGL's liquidity became severely strained on 6 October when it was unable to obtain liquid funds from its fellow Icelandic subsidiary in the UK, Heritable Bank Limited. When it became clear that LGL was unable to withdraw funds placed with its parent Landsbanki Islands HF, after discussions with the Commission the directors decided to ask the court

Figure 1. Country of origin of Guernsey licensed banks - subsidiaries at end 2008

| Country | Number of banks |
|---|---|
| United Kingdom | 10 |
| Switzerland | 4 |
| Cyprus | 2 |
| United States | 2 |
| Iceland | 1 |
| Bermuda | 1 |
| Netherlands | 1 |
| Canada | 1 |
| Hong Kong | 1 |
| South Africa | 1 |

Figure 2. Country of origin of Guernsey licensed banks - branches at end 2008

| Country | Number of banks |
|---|---|
| United Kingdom | 9 |
| Switzerland | 5 |
| France | 3 |
| Germany | 2 |
| Bahrain | 1 |
| Ireland | 1 |
| Greece | 1 |
| Qatar | 1 |
| Australia | 1 |

# BANKING (continued)

## Landsbanki Guernsey Limited (continued)

to put the bank into administration in order to make sure all depositors were on an equal footing and to avoid giving a preference to any individual depositors. LGL went into administration in the early hours of 7 October 2008 and Mr Rick Garrard of Deloitte & Touche was appointed as administrator by the Royal Court. A joint administrator was appointed a few days later. The events leading up to the administration of LGL are detailed on the Commission's website at www.gfsc.gg.

The joint administrators of LGL announced that they were able to make an initial payment of 30p in the £1 to eligible depositors with LGL on 16 October. A steering committee was set up under the chairmanship of the Guernsey's Treasury and Resources Minister, Deputy Charles Parkinson, to fast track the introduction of a deposit compensation scheme in Guernsey. This was effected by legislation in November, which was passed unanimously. Details of that scheme can be found on the States of Guernsey website (www.gov.gg).

Following a recommendation by the Director General the members of the Commission appointed Mr Michael Foot, a former managing director of the UK Financial Services Authority and now of Promontory Financial Group, to undertake a review and assess the conduct of the Commission in its handling of the Northern Rock and the Landsbanki Guernsey cases, including the events leading to the administration of LGL. Mr Foot concluded that the Commission had acted appropriately, had measured up to good practice, and that there had been no regulatory failure. The findings of that report were put into the public domain in early January 2009.

## The Guernsey banking sector

Forty-eight banks were licensed at the end of 2008. Historic information on the number of licensed banks can be seen in table 1. Two licences were issued during the course of 2008 and there was one surrender just before the year end. The country of origin of Guernsey licensed banks is set out in figures 1 and 2.

The deposit figures held up well during this period of acute market turmoil and deposits at the end of the year reached £157 billion, which was a record figure in sterling terms. However, the sterling exchange rate against the major trading currencies had collapsed significantly from October onwards and this was a significant factor in propelling the Guernsey deposit figures to record levels. Those figures represented a 15% increase during the final quarter and a 32% increase over the course of the year. The analysis of deposits with Guernsey banks by currency is given in figure 3. The analysis of the source of bank deposits as at end December 2008 is given in figure 4. Deposits from Switzerland were slightly higher than at the end of 2007 at 48% but deposits from Guernsey were steady at 18%.

The analysis of the disposition of bank assets by country at December 2008is given in figure 5. Once again the highest proportion (at 37%) of assets were placed in the UK, reflecting placements with group treasury operations. The next highest destination was Switzerland with 15% of assets. The largest class of assets was loans to banks and financial institutions which reached £111.2 billion (see figure 6). Lending by banks increased to corporates, retail and private clients and also on residential mortgages (see figure 7). It would appear that, as credit conditions tightened, corporates drew on facilities already available to them. Banks incorporated in Guernsey increased their Tier 1 capital from £1.6 billion to £1.9 billion (see figure 8) in response to our requirement for them to strengthen their balance sheets and position themselves for the more difficult market conditions. The distribution of locally incorporated banks by risk asset ratio is shown in figure 9.

Figure 3. **Analysis of deposits with Guernsey banks by currency at end Dec 2008**

| Currency | % |
|---|---|
| United States Dollar | 44.7% |
| Euro | 27.2% |
| United Kingdom Sterling | 22.0% |
| Swiss franc | 3.6% |
| Canadian dollar | 0.6% |
| Australian dollar | 0.6% |
| Japanese yen | 0.3% |
| Hong Kong dollar | 0.1% |
| Other | 0.9% |

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

| End | Banks licensed | Deposits £mns | Annual % change in deposits |
|---|---|---|---|
| 1990 | 72 | 15,476 | 19.1 |
| 1991 | 72 | 16,250 | 5.0 |
| 1992 | 76 | 27,442 | 68.9 |
| 1993 | 75 | 37,482 | 36.6 |
| 1994 | 73 | 42,191 | 12.6 |
| 1995 | 73 | 46,855 | 11.1 |
| 1996 | 72 | 43,324 | -7.5 |
| 1997 | 78 | 49,357 | 13.9 |
| 1998 | 78 | 52,922 | 7.2 |
| 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 |

Overall, aggregate profits were up in 2008 although this was strongly influenced by strong results at a few large banks. Nevertheless, a greater number of banks had lower levels of profits compared with 2007, largely reflecting the much more difficult trading conditions in the second half of 2008.

Towards the end of the year it became evident that there were other effects of the credit crunch in Guernsey. There were selective redundancy announcements at several banks. Initially, none of the figures was large but the redundancies reaffirmed that Guernsey banks are not immune to cost cutting and headcount saving exercises being undertaken by international banks, and that local banks must bear some share of the cost cutting exercises being undertaken by those banks. Subsequently, in the early months of 2009, announcements of redundancies became more material, including the closure of the Guernsey branch of Bank of Ireland (IOM) Ltd.

Figure 4. **Source of bank deposits at December 2008**

| Country | % |
|---|---|
| Switzerland | 48% |
| Guernsey | 18% |
| United States | 9% |
| United Kingdom | 6% |
| Jersey | 5% |
| Other European Union | 3% |
| Caribbean | 2% |
| Ireland | 1% |
| Other | 6% |

Figure 5. **Disposition of bank assets at December 2008**

| Country | % |
|---|---|
| United Kingdom | 37% |
| Other European Union | 16% |
| Switzerland | 15% |
| United States | 14% |
| Caribbean | 7% |
| Guernsey | 4% |
| Jersey | 4% |
| Ireland | 2% |
| Other | 2% |

Figure 6. **Assets at the year end**

| Year | Loans to banks and financial institutions | Company shares/securities | Government securities | CD's, Commercial Paper and all other assets | Loans to companies, persons and other |
|---|---|---|---|---|---|
| | £000's | £000's | £000's | £000's | £000's |
| 2002 | 42,521 | 6,521 | 11,257 | 8,014 | 6,447 |
| 2003 | 37,654 | 7,062 | 13,129 | 8,811 | 6,195 |
| 2004 | 40,076 | 8,212 | 12,733 | 8,169 | 5,758 |
| 2005 | 59,731 | 10,337 | 6,965 | 4,372 | 6,077 |
| 2006 | 71,177 | 7,085 | 5,127 | 11,254 | 5,941 |
| 2007 | 86,738 | 9,894 | 3,694 | 13,917 | 17,657 |
| 2008 | 111,222 | 8,580 | 3,179 | 29,012 | 27,124 |

- Loans to banks and financial institutions
- Company shares/securities
- Government securities
- CD's, Commercial Paper and all other assets
- Loans to companies, persons and other

# BANKING (continued)

## Other policy matters

As regards policy development, banks began completing new Basel II returns from the end of March 2008. However, because of the need to deal with other urgent regulatory issues arising from the market turmoil, it was not possible for the Banking Division to undertake a full range of anticipated individual capital adequacy assessment process (ICAAP) reviews during 2008 and the implementation of the supervisory review evaluation process (SREP) was put on hold until 2009. It is planned to move supervision of Guernsey subsidiary banks to a Basel II basis during the course of 2009. Separately, a revised liquidity policy paper was put out to the banking sector for consultation based on the revised Basel Committee paper "Principles for Sound Liquidity Risk Management and Supervision" which was confirmed in November 2008. Consultation responses on that were received by the end of January 2009 with a view to introducing a two tier liquidity monitoring regime - a standard liquidity approach involving a continuation of the current arrangements whereby banks may engage in modest maturity mismatch of minus 20% at 1 month in the maturity ladder, and an enhanced liquidity approach for subsidiary banks with a more rigorous regime requiring zero mismatch at 8 days and minus 5% at the 1 month point on the maturity ladder.

In light of the market turbulence of the last year and a half, the Division has engaged in a more systematic assessment of institutional and country risks facing the jurisdiction's licensee population. This has involved intensive monitoring of vulnerable banks - necessarily looking at parent banks and consolidated banking groups - and a more critical review of sovereign risk exposures.

Figure 7. **Selected loans and advances during 2008**

| Month | | £mns |
|---|---|---|
| Mar 08 | Corporate loans | 2,891 |
| | Retail and private client loan | 2,166 |
| | Residential mortgages | 2,281 |
| Jun 08 | Corporate loans | 3,167 |
| | Retail and private client loan | 2,291 |
| | Residential mortgages | 2,445 |
| Sep 08 | Corporate loans | 2,813 |
| | Retail and private client loan | 2,922 |
| | Residential mortgages | 2,556 |
| Dec 08 | Corporate loans | 3,340 |
| | Retail and private client loan | 3,756 |
| | Residential mortgages | 2,605 |

Corporate loans · Retail and private client loan · Residential mortgages

Figure 8. **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 | 1,895 |

Figure 9. **Distribution of locally incorporated banks by risk asset ratio at December 2008**

| Risk asset ratio | Number of banks |
|---|---|
| 10-13.99% | 5 |
| 14-17.99% | 5 |
| 18% and over | 14 |

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

| | 2004 Total £mns | 2005 Total £mns | 2006 Total £mns | 2007 Total £mns | 2008 Total £mns |
|---|---|---|---|---|---|
| Liabilities | | | | | |
| Tier 1 Capital* | 1,479 | 1,385 | 1,490 | 1,570 | 1,895 |
| Tier 2 Capital** | 23 | 28 | 51 | 49 | 228 |
| | | | | | |
| Deposits by: | | | | | |
| British Isles banks and financial corporations | 10,888 | 11,845 | 16,681 | 20,306 | 20,866 |
| Other banks | 28,219 | 35,265 | 42,757 | 59,582 | 87,490 |
| British Isles public sector | 34 | 36 | 48 | 43 | 49 |
| Companies, persons, other | 30,165 | 32,191 | 31,977 | 38,138 | 45,898 |
| Other Liabilities | 4,140 | 6,732 | 7,579 | 12,212 | 22,691 |
| Total Liabilities | 74,948 | 87,482 | 100,584 | 131,900 | 179,117 |
| | | | | | |
| Assets | | | | | |
| Loans, advances and market loans with: | | | | | |
| Banks and financial institutions | 40,077 | 59,731 | 71,177 | 86,738 | 111,222 |
| British Isles public sector | 5 | 10 | 10 | 10 | 13 |
| Companies, persons, other | 5,752 | 6,067 | 5,931 | 17,647 | 27,111 |
| | | | | | |
| Government securities | 12,733 | 6,965 | 5,127 | 3,694 | 3,179 |
| Company shares/securities | 8,212 | 10,337 | 7,085 | 9,894 | 8,580 |
| CD's*** and all Other Assets | 8,169 | 4,372 | 11,254 | 13,917 | 29,012 |
| Total assets | 74,948 | 87,482 | 100,584 | 131,900 | 179,117 |

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



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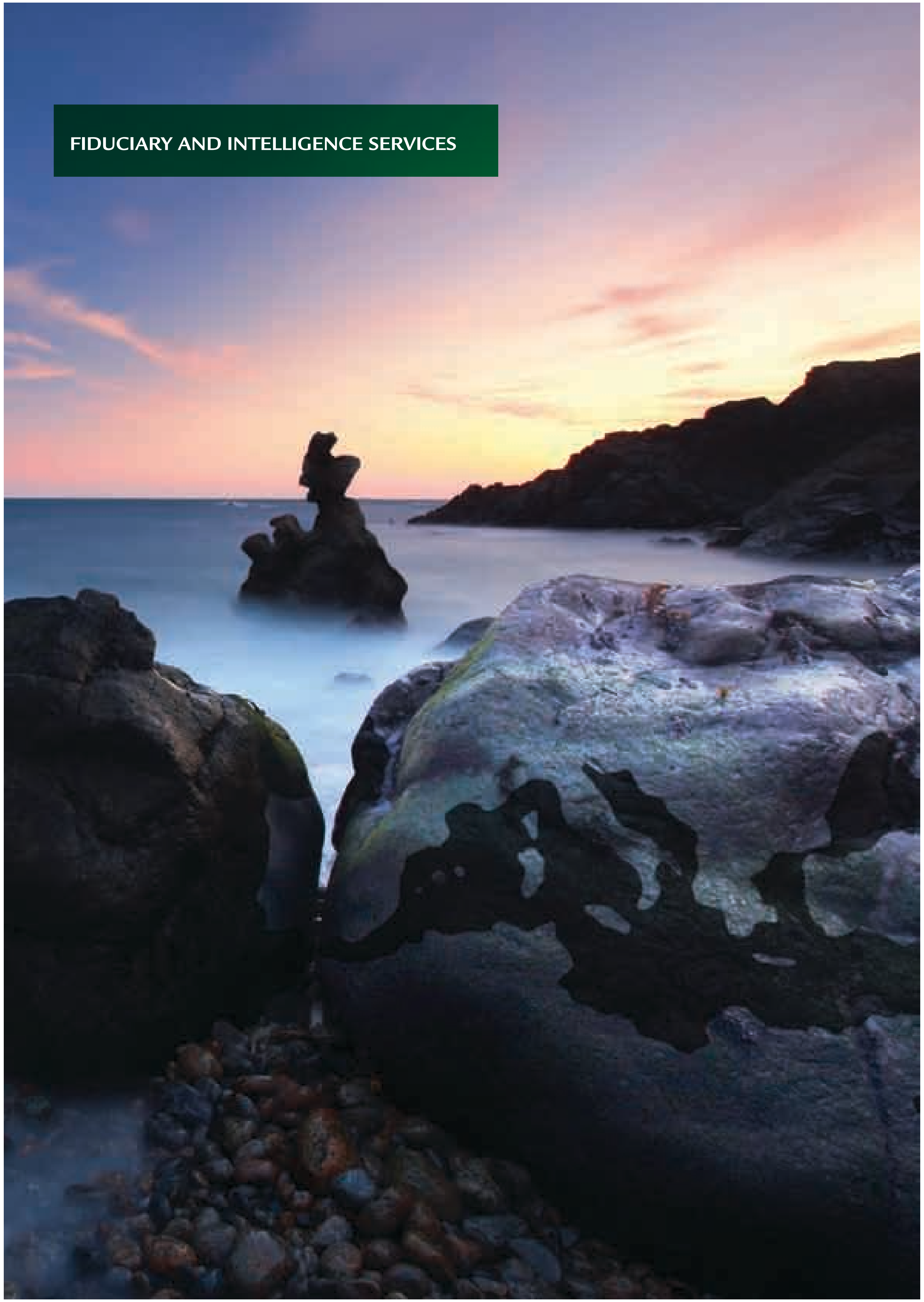


# FIDUCIARY AND INTELLIGENCE SERVICES

## Sector developments

At the year end there were 150 full and 53 personal fiduciary licensees (2007: 149 and 54 respectively). During 2008, full licences were issued to 11 new businesses. The list of current licensees is available on the Commission's website at www.gfsc.gg.

The effects of the financial crisis on fiduciary business were generally felt at the client structure level rather than the licensee level. However, the Division has spent considerable amounts of time discussing individual issues with licensees and has appreciated the proactive way in which licensees have kept the Commission informed.

## Supervision and policy

The Division has continued with the second cycle of visits to licensees which started in January 2007. These focus on client take-on, investment management and corporate governance as well as the detailed review of anti-money laundering and countering the financing of terrorism ("AML/CFT") procedures and practice which has been undertaken in all onsite inspections. Those during 2008 reviewed the implementation of the Criminal Justice (Proceeds of Crime) (Financial Services Businesses) (Bailiwick of Guernsey) Regulations, 2007 and the Handbook for Financial Services Business on Countering Financial Crime and Terrorist Financing following their coming into force in December 2007.

Our experience of implementation during the year was mixed. Many licensees had devoted large amounts of time and effort to revising their policies, procedures and controls to implement the Regulations and the Handbook. On the other hand, particularly during the first half of the year, the Division was disappointed by the level of implementation by some licensees. Problems have tended to relate to the risk-based approach, with some licensees unable to demonstrate enhanced customer due diligence and ongoing monitoring in high risk cases, and to corporate governance where some boards' reviews of implementation have been sketchy. We have provided detailed feedback on the issues as part of each onsite inspection, and during the year one full licensee relocated its business as a result of our review. In other cases, where necessary licensees have worked constructively with us to address the issues.

The Division presented feedback on the AML/CFT aspects of onsite inspections during the year at sessions organised by the FIS in December.

The start of the year saw an unprecedented application by the Commission to the Royal Court of Guernsey for an order restraining a former authorised fiduciary, Claridges Trustees Limited, from carrying on fiduciary business. Claridges Trustees had benefited from the transitional provisions, most recently under management by another licensee, until its application was refused by the Commission in December 2007 on AML/CFT and other grounds. Following the restraining order and despite the company's opposition, the Royal Court subsequently ordered that the company be compulsorily wound up for the protection of the public and the reputation of the Bailiwick.

The licensing team's resources were affected by staff vacancies during the first half of the year, and by staff involvement at all levels in financial crisis issues and problem cases outside the Division during the second half, but work progressed on several policy areas. The Director has taken part in a group established by the Commission to develop regulatory requirements relating to Retirement Annuity Trust Schemes. Work has also been undertaken with the Policy Council and Income Tax Department on Qualifying Recognised Overseas Pension Schemes, over which developments and adverse publicity in other jurisdictions made it essential for Guernsey to review and tighten up its requirements. The Director joined the International Pensions Working Group which covered these issues, and took part in the steering group for the introduction of the AML/CFT regime for prescribed businesses.

As a result of serious problems with several managed trust companies over the last few years, of which the Claridges Trustees case above is but one example, the Division has been reviewing the causes of those problems and some possible solutions, and policy changes are likely in that area.

The licensing team met the new Committee of the Guernsey Association of Trustees in May and liaison has taken place throughout the year on a range of regulatory and financial crisis issues. The Director, and the Director of Policy and International Affairs, met Sark's General Purposes and Advisory Committee in November for a routine review of regulatory matters between the islands.

## International

The Director attended the meeting of the Offshore Group of Banking Supervisors in London in March, for discussion of developing international standards on the supervision of trust and corporate service providers. In July the Deputy Director and an Assistant Director met counterparts from the Gibraltar, Isle of Man and Jersey Commissions in the UK, and a bilateral meeting on pan-Channel Islands licensees was held in Jersey in September. Also in September, trust and corporate service supervisors from Singapore visited Guernsey to familiarise themselves with its regulatory framework.

In October the Director formed part of a visit to Shanghai led by the Chief Minister, and met government and financial services supervisors there.

## Legislative developments

2008 also saw amendments to regulatory legislation (in particular the broadening of statutory rights of appeal against regulatory decisions) which brought to a close the life of the shadow Guernsey Financial Services Tribunal. The Tribunal was established on a non-statutory basis in 2002 to provide an independent review of transitional fiduciary licence applications and, during its existence, considered three such applications as well as a case relating to an insurance intermediary. The Commission is very grateful for the services of the Tribunal's President, Michael Blair QC, of the lay members Ms Carol Goodwin and Messrs Bruce Riley, David Farrimond and Stephen Jones (now Jurat), and of Advocate Simon Howitt of Babbé who has acted as Secretary.

## FIDUCIARY AND INTELLIGENCE SERVICES (continued)

### Legislative developments (continued)

In tandem with the legislation which allowed the Tribunal's functions to come to an end, the Director co-ordinated changes to simplify the Commission's internal decision-making procedure. The more streamlined process should result in faster regulatory decisions whilst preserving the rights of persons affected by them to make representations to the decision-making body.

The Director is a member of the Commerce and Employment Department's Trust Law Review Group, and undertook further work on the proposal for Guernsey foundations. The Trusts (Guernsey) Law, 2008, which had its origins in the Group's work, came into force on 17 March 2008. However, the main legislative development has been the company law change referred to below.

### Company law

On 1 July 2008 the Companies (Guernsey) Law, 2008 came into force and brought about the most wide-ranging changes to Guernsey company law for many years. The Commission's "pre-vetting" of proposed Guernsey companies, which had taken place under Control of Borrowing legislation, was replaced by a system under which only corporate services providers (full fiduciary licensees) may apply to incorporate Guernsey companies. This ensures that Guernsey companies are only formed where a Guernsey licensed fiduciary has undertaken customer due diligence, and thus that Guernsey AML/CFT standards are met. After formation, Guernsey companies are now required to have a resident agent in the Bailiwick, being either a full fiduciary licensee or a Guernsey-resident director. In either case the resident agent is under statutory obligations in relation to details and records on the company's beneficial ownership.

As a result of the Commission's COBO functions falling away, the team which formerly combined those functions with intelligence work has reduced from three to two regulatory staff, and has refocused its activities on intelligence matters. However, Alderney's company law has not changed, and the team continues to pre-vet Alderney companies and to handle applications for consent under some of the remaining Control of Borrowing provisions.

### Intelligence

Throughout 2008 the intelligence team provided assistance to overseas regulators and local law enforcement in connection with a wide variety of matters, as well as supporting the other regulatory Divisions within the Commission through media monitoring and carrying out enhanced research.

During the year the team served notices under the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000 to assist the Swiss Federal Banking Commission and the Jersey Financial Services Commission with their investigations. Assistance was also provided to the Malta Financial Services Authority and the Isle of Man Financial Supervision Commission in connection with suspected unlicensed businesses.

As well as working with law enforcement and other regulatory bodies, the team was involved in liaising with local financial institutions. This included an approach to a bank which helped lead to the closure of an account suspected to form part of a money laundering structure for the proceeds of a fraud.

The team continued to publish warnings about websites falsely claiming to represent businesses connected to Guernsey. These were identified though a combination of proactive investigation by the team, warnings from overseas regulators and reports from concerned members of the public. Publicising the bogus sites has had a positive effect in preventing potential future victims, worldwide, from falling for the underlying frauds associated with the operation of such websites, and also reducing the risks of such frauds being associated with Guernsey. However, on a practical level, it has occasionally been difficult to persuade those who have already parted with money to accept that they have been the victim of fraud.

Members of the public were also given guidance in a number of share fraud cases. There was some resurgence in the "follow up" style of attempted fraud, where the shareholder had previously been conned into purchasing a worthless stock, often a number a years previously, and the same fraudsters make an apparently good offer to buy those shares. The fraud arises because the fraudster "requires" advance fees to be paid to obtain spurious clearances before the transaction proceeds. Fortunately, in the cases which came to the team's attention, it was possible to prevent the victims being defrauded a second time in relation to the same shares.

# INSURANCE

## Market performance

*International Insurance Market*

At the end of 2008, the international insurance market in Guernsey consisted of 714 licensed or approved insurance entities, including 291 international insurers, 69 protected cell companies ("PCCs") with a total of 344 cells, 3 incorporated cell companies ("ICCs") and 7 incorporated cells. The size of the market has remained relatively stable during 2008 with 37 new licences issued and 28 licences surrendered. With the hardening of the insurance market, insurance managers are predicting growth in 2009. At the end of 2008, there were 23 licensed insurance managers with 3 having surrendered their licences due to merger or acquisition.

The traditional captive insurance market remains stable with the number of PCC cells continuing to grow, offsetting the number of surrenders. Figure 10 shows the growth in PCC cells since the legislation was first introduced in 1997. The UK continues to produce approximately half of the companies choosing Guernsey as a domicile for their insurance subsidiary, which indicates that there are still opportunities to generate captive business from UK companies. Figure 11 shows the shareholder locations for new licensees during 2008. The Insurance Division continues to see interest in the reinsurance sector and in innovative capital market structures.

During the latter half of 2008, the Division issued a licence to Members of the Society of Lloyd's. The licence permits insurance or reinsurance business, including domestic business, to be written in or from within the Bailiwick. An insurance manager's licence was also issued to Barbican Reinsurance Company Limited, trading as Barbican Channel Islands, to act as an insurance manager for the Barbican Syndicate, this syndicate is now writes domestic Guernsey risks.

The Guernsey insurance sector has not been immune to the world financial crisis. A number of insurer's parent companies were affected and a very small number of captive insurers had exposure to Icelandic banks or Icelandic parents. The Division has worked closely with the insurance managers to resolve issues arising from the crisis and to confirm that there has been no unrelated party exposure.

*Domestic Market*

The domestic market, which provides insurance services to the local community and consists of insurance intermediaries and domestic insurers, has seen some changes during the year. At the end of 2008, there were 43 licensed intermediaries, a net decrease of four since the end of 2007. This decrease was mainly due to merger and acquisition activity as this sector continues to consolidate.

At the end of 2008, there were 26 licensed domestic insurers, an increase of one since the end of 2007. A new captive insurance company, DCS Insurance LBG, was established by the States of Guernsey to provide cover for some of the exposure of The Guernsey Banking Deposit Compensation Scheme. This is the first insurer in Guernsey to be set up as a company limited by guarantee.

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

## Education

The Division continues to support initiatives to improve standards within the insurance sector. The Insurance Education Forum, which was set up by the Commission in conjunction with the Guernsey Training Agency, now the GTA University Centre, and whose members are from a cross-section of industry, met 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. In addition, the Division held a number of seminars for insurance intermediaries during 2008 to improve compliance and corporate governance standards. This will continue during 2009.

For insurance intermediaries, the Commission introduced mandatory minimum qualifications for authorised insurance representatives providing advice on long-term insurance products in June 2006. These minimum qualifications include the requirement to hold the Guernsey Insurance Certificate. Since its introduction, nearly 150 authorised insurance representatives have achieved this qualification. The Division actively continues to provide support to the GTA University Centre, appointed trainers and examiners in respect of this qualification.

Figure 10. **Number of cells by year**

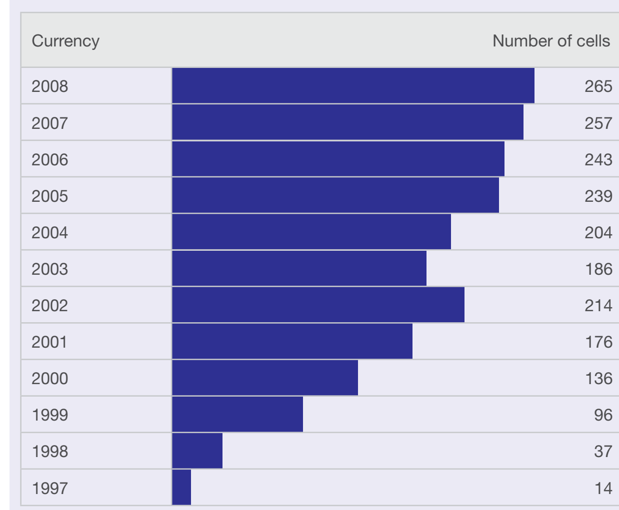
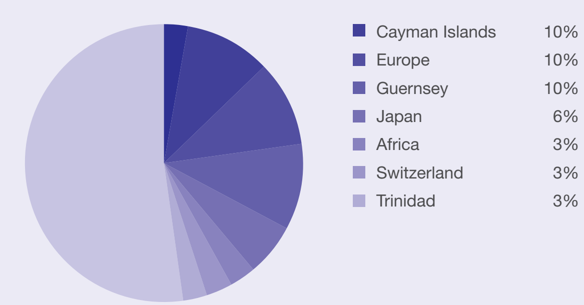



Figure 11. **Number of cells by year**



# INSURANCE (continued)

## Education (continued)

For insurance managers and individuals working within the captive insurance sector, the Division encourages the completion of the Certificate in Captive Management. Nearly 60 candidates from a variety of jurisdictions have been awarded the Certificate since its introduction in Guernsey in 2002.

Both the Guernsey Insurance Certificate and the Certificate in Captive Management have been granted accreditation by the Chartered Insurance Institute ("CII") and count towards CII qualifications.

## Supervision and policy

The Division continued to perform on-site inspections in accordance with its three-year rolling programme. These visits are designed to enable the Division to enhance its understanding of licensees and their systems of control. During 2008, the Division visited 13 insurance intermediaries, 6 insurance managers, 3 international life companies, 3 non-life companies and one domestic insurer. During 2009, the Division will be carrying out focussed on-site inspections, concentrating on specific areas identified through off-site monitoring of licensees.

The Division continued to hold regular meetings with insurance managers to discuss new applications, changes in business plans and other issues, such as capital requirements. These meetings have proved particularly useful in assessing the impact of the financial crisis on the Guernsey insurance market. In addition, the Division held annual review meetings with 22 insurance intermediaries who were not subject to an on-site inspection during the year.

During 2008, the Division oversaw the introduction of the "Own Solvency Capital Assessment" (OSCA) for insurance company licensees. This requirement ensures that the directors of insurance companies give full consideration to the level of capital that should be retained to protect their companies against adverse deviations, including levels and frequency of claims and investment performance. The introduction of the OSCA requirement, which applies to both existing companies and for applications for new licences, was accompanied by guidance issued by the Division on the risk factors that should be considered. This initiative follows the growing international recognition that capital requirements should be derived using a risk based approach.

The Division adopts a risk-based approach to monitoring insurance companies, with a risk rating assigned to each company based on a set of standard criteria. This approach allows the Division to focus its resources on the areas of greatest risk and to identify where regulatory action may be required.

During 2008, the Division took regulatory action against a small number of insurance intermediaries, predominantly as a result of adverse findings from on-site inspections. The Division also imposed licence conditions on a number of insurance companies due to their ownership by Icelandic parent companies.

The Division continues to monitor and publicise significant developments concerning the Equitable Life Assurance Society which might affect the interests of policyholders of Equitable Life's Guernsey branch. The Report of the UK Parliamentary Ombudsman following the investigation into Equitable Life was presented to the UK Parliament in July 2008. The report identified a number of instances of maladministration by the prudential regulators and recommended that the UK Government establish and fund a compensation scheme, the aim of which would be to put those people who have suffered a relative loss back into the position they would have been in had the maladministration not occurred. However, the UK Government's initial response to the report indicates that it only partially accepts the findings, leaving much uncertainty about the basis upon which the UK Government will ultimately respond on the issue of payments to policyholders.

The majority of the revisions to the Insurance Business (Bailiwick of Guernsey) Law, 2002 and the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002 and their associated rules, regulations and codes took effect on 12 March 2008, with some solvency provisions becoming effective in March 2009. The amendments ensure that the Bailiwick's insurance laws meet international requirements and enable the insurance sector to continue to be regulated in an effective and efficient manner. There have been no major issues raised by industry in implementing new legislation and codes.

As a result of the global economic crisis, the Division felt it necessary to review all of those companies where a parental loan had been approved by the Commission as an asset for solvency purposes. It is now the policy for all such approvals to carry an expiry date or some other trigger for review of the loan approval. When considering approval for a parental loan, the Division has regard to the financial position of the insurer and its parent, as well as the market conditions of the industry in which the parent operates.

The Director of Insurance continued to chair the Insurance Advisory Group (formerly the Forum for Insurance Development). This body provides an opportunity for representatives of the industry and the Commission to discuss and explore solutions to technical and regulatory challenges facing the Bailiwick's insurance sector with a view to improving the insurance supervisory framework.

The Division continues to support GuernseyFinance with statistical and technical input and assistance at conferences such as British Insurance Brokers Association ("BIBA") and the Association of Insurance and Risk Managers ("AIRMIC"). The Director of Insurance gave an update on regulatory developments at the Guernsey Insurance Forum in November and was also asked to address AIRMIC members on issues surrounding Solvency II and its impact on captives.

During the year the Division held update sessions for the Guernsey Insurance Companies Management Association ("GICMA") and the intermediary sector which covered regulatory and international developments and which were well attended.

## International developments

The Commission has continued to ensure that Guernsey maintains its high profile within the international insurance standard setting body, the International Association of Insurance Supervisors ("IAIS"). Guernsey is also a member of the Offshore Group of Insurance Supervisors ("OGIS") and the Director General represents that body as a member of the IAIS Executive Committee.

The insurance core principles, standards and guidance developed by the IAIS are used by the IMF and other international bodies to assess the quality of individual jurisdictions' regulatory and supervisory regimes. In order to monitor, and where necessary influence, the development of these principles, standards and guidance, the Director General and Insurance Division staff play a very active role in the work of the IAIS. The Director General represented the IAIS on the Financial Stability Forum Offshore Financial Centres Review Group and, together with the Director of Insurance and other Insurance Division staff, attended the IAIS Triannual Working Party Meetings and Executive and Technical Committee Meetings.

The Director of Insurance chaired the IAIS Captive Guidance Paper Drafting Group, which was formed at the start of 2007 to issue a guidance paper on the supervision of captives; the Division's actuary also assisted with the work of the group. The group was established as part of the IAIS Reinsurance Subcommittee. The guidance paper, which was adopted at the IAIS Annual General Meeting in October 2008, provides a valuable source of reference on issues specific to captives for insurance supervisors worldwide and has received significant coverage in the insurance press.

During 2008, the Insurance Fraud Subcommittee of the IAIS which is chaired by the Director of Insurance, worked on the preparation and analysis of a self assessment survey on the IAIS standard on fit and proper requirements and assessment for insurers. In late 2008, the Director of Insurance was appointed as Chair of the newly formed IAIS Market Conduct Subcommittee, and the Insurance Fraud Subcommittee became a working party reporting into the Subcommittee.

Guernsey is also a member of the Implementation Committee, the Insurance Groups and Cross Sectoral Issues Subcommittee, the Insurance Laws Subcommittee, the Regional Coordination Subcommittee, the Reinsurance and Other Forms of Risk Transfer Subcommittee, the Governance and Compliance Subcommittee and the Solvency and Actuarial Issues Subcommittee of the IAIS. In addition, Guernsey is a member of a taskforce that has been established to review the IAIS Core Principles and has taken an active role in the working group established to administer the Multilateral Memorandum of Understanding between IAIS members.

During 2008, the Governance and Compliance Subcommittee worked on an issues paper on corporate governance for which Guernsey actively provided input during the drafting process. The Solvency and Actuarial Issues Subcommittee continues to work on the development of solvency-related standards and guidance papers in a number of areas, including capital resources and investment and asset-liability management. The Commission hosted a meeting of this subcommittee in September which was attended by 34 subcommittee members and observers.

In September, the Division assisted with a training course for captive insurance supervisors organised by OGIS and supported by the IAIS.

# INVESTMENT BUSINESS



## Market conditions

Despite the market uncertainties which had become apparent in the latter part of 2007, the Guernsey investment fund market remained positive throughout the first half of 2008, notwithstanding individual setbacks. As confidence weakened in the second half of the year, however, asset values were seen to decline in the open-ended sector, resulting from a combination of both market movements and investor redemptions. As a result the overall value of Guernsey domiciled open-ended funds ended the year at £63.6 billion, some 8.2% down from the end of 2007 (table 4 and figures 12-14 refer). The closed-ended sector, by contrast, continued to progress, ending the year valued at £91.5 billion, nearly 20% above the value recorded at the end of 2007 (table 5 and figures 15-16 refer). The value of non-Guernsey schemes for which some aspect of administration or custody is carried out in the Bailiwick increased very substantially in the first quarter, but thereafter tended to decline (table 6). Nonetheless the value at the end of 2008 (£45.3 billion) was still some 39% greater than the value at the end of 2007. It should be remembered that all of these values are reported in pounds sterling. Since many of the funds domiciled in Guernsey are valued in US dollars, euro or other currencies, these values will have been influenced by the exchange rate volatility seen in particular during the second half of 2008, when, for example, sterling fell against both the US dollar and the euro, and subsequently recovered first against the US dollar and since the turn of this year against the euro.

In overall terms, the value of Guernsey domiciled funds increased by nearly £10 billion (6.5%) to end the year at £155 billion, a little down from the peak of £158 billion recorded in mid-year. With the inclusion of non-Guernsey open-ended funds, the end of year value was £200 billion (+12.4%). The peak, in mid-year was £207 billion.

Against this background it is not entirely surprising that new fund business has shown some decline compared with the very high totals achieved in 2007. In the open-ended sector, a total of 321 new investment pools were authorised (2007: 367) comprising 33 new funds and 288 new classes of existing funds (2007: 27 new funds and 340 new classes). In the closed-end sector a total of 92 new funds were established (2007: 154) (table 3).

The Qualifying Investor Fund regime continues in use, with 14 open-ended and 15 closed-ended funds receiving consent or authorisation during 2008 under that regime. The Registered Fund regime introduced for closed-end funds during 2007 also continued to receive extensive use, with 45 closed-end funds receiving consent under that regime.

During the course of 2008, a number of amendments were introduced to the Protection of Investors Law. Some of those amendments are discussed in more detail later. In the fund sector, significant amendments came into force in October, to complete the work initiated by the Harwood Committee in 2005. Those amendments brought closed-ended funds within the scope of the Protection of Investors Law, with consequential repeals to the Control of Borrowing ("COBO") regime. The legal framework for Guernsey funds now has a much greater degree of symmetry,

Table 3. **New collective investment fund business at the year end**

| | 2007 | 2008 |
|---|---|---|
| Open-ended funds - authorised | 27 | 33 |
| Open-ended funds - new classes approved | 340 | 288 |
| Closed-ended funds - approved | 154 | 92 |

Table 4. **Open-ended funds at the year end**

| | 2007 | 2008 | % change |
|---|---|---|---|
| Number of funds | 277 | 295 | +6.4% |
| Number of investment pools | 1804 | 1895 | +5.0% |
| Value of assets (£bns) | 69.25 | 63.55 | -8.2% |
| Net new investment over year (£mns) | 5,201 | -5,233 | -200.6% |
| Number of registered holders ('000s) | 75.5 | 51.8 | -31.3% |
| Stock exchange Listed | 96 | 106 | +10.4% |

Guernsey authorised 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.

Figure 12. **Open-ended funds: geographical distribution of investments at year end 2008**

| Country | % |
|---|---|
| Global | 81% |
| Europe | 5% |
| North America | 4% |
| United Kingdom | 3% |
| Asia | 3% |
| Other | 3% |
| Eastern Europe | 1% |

Figure 13. **Open-ended funds: analysis by type of investment pool at year end 2008**

| | Number of pools |
|---|---|
| Fund of funds | 580 |
| Other | 419 |
| Equity | 346 |
| Feeder Fund | 260 |
| Derivatives | 131 |
| Debt | 90 |
| Money Fund | 69 |

# INVESTMENT BUSINESS (continued)

## Market conditions (continued)

with both open and closed-ended funds having the capacity to be either fully authorised by the Commission, or registered with it. As a consequence of that change, Authorised Fund rules were brought in for closed-ended funds, and Registered Fund rules for both open and closed-ended funds were implemented. At the same time, and consequent upon the COBO repeal, Prospectus Rules, codifying the Commission's policy approach to the content of prospectuses, were also introduced.

Consents for the administration in Guernsey of funds domiciled in other jurisdictions reached 56 (2007: 75, 2006:40). Of those approvals 11 were for qualifying investor funds (2007: 38). The trend over time in the number and total value of Guernsey open and closed-ended funds is shown in figures 17 & 18.

Eightythree new investment licences were granted during 2008 compared with 102 in 2007 and 94 in 2006. Eleven new promoters sought to establish themselves in the Bailiwick. The net number of institutions licensed under the Protection of Investors (Bailiwick of Guernsey) Law 1987 (the PoI Law) increased to 680 during the year (figure 19). A list of institutions currently licensed under the PoI Law and funds authorised or approved under the Law can be found on the Commission's website at www.gfsc.gg.

## Policy

We noted last year the intention to amend the Protection of Investors Law and to create the symmetrical legal framework for investment funds already referred to. Other aspects of the legal changes flagged last year and implemented this year, were designed to enhance the Commission's information gathering and information sharing powers, along with wider enforcement powers (including the power to make public statements and to impose discretionary fines). These now allow the Commission's regulatory staff to adopt a more nuanced approach to their enforcement activities. In parallel with the Authorised and Registered fund developments reported on earlier, work was completed on updating the existing Guernsey Class A open-ended fund rules to bring them in line with more liberal developments in the European Union and the United Kingdom. The rules were implemented in Guernsey on 24 November 2008 and discussions continue on UK designation, including our wish to see the UK remove the existing restrictive text in the Statutory Instrument designating Class A funds which prevents a protected cell company from achieving designation.

Work continued on merging the Designated Persons and Licensees Rules. The conduct of business aspect of that work is substantially complete and it is expected that those proposals will go to public consultation shortly. The decision has been taken to treat that conduct of business stream separately from the stream on solvency and capital adequacy, particularly in the light of recent market developments.

During the year as discussions continued with a working party representing both the investment fund and the asset management sectors on improved statistics designed to capture more comprehensively the scale of investment business conducted in the Bailiwick. Those revised information requirements were put out to public consultation and, in a parallel exercise, were trialled by a small group of firms representing both the fund and non-fund asset management sectors. It is hoped that the expanded data will be available with effect from the March quarter of 2009.

Figure 14. **Nationality of sponsors/joint sponsors of Guernsey open-ended funds at year end 2008**

| Country | |
|---|---|
| United Kingdom | 95 |
| Guernsey | 89 |
| Switzerland | 57 |
| South Africa | 9 |
| France | 7 |
| United States | 6 |
| Canada | 6 |
| Australia | 5 |
| New Zealand | 5 |
| British Virgin Islands | 5 |
| Luxembourg | 4 |
| Kuwait | 4 |
| Bahamas | 4 |
| Greece | 2 |
| Hong Kong | 1 |
| Abu Dhabi | 1 |
| Belgium | 1 |
| Bermuda | 1 |
| India | 1 |
| Saudi Arabia | 1 |
| Turkey | 1 |
| Cayman Islands | 1 |
| Jersey | 1 |

Note: Some funds may have more than one sponsor.

Figure 15. **Closed-ended funds: geographical distribution of investments at year end 2008**

| Country | % |
|---|---|
| Europe | 32% |
| Global | 20% |
| United Kindom | 17% |
| North America | 9% |
| Other | 9% |
| Asia | 8% |
| Eastern Europe | 5% |

## Supervision

During 2008, the team conducted 32 on-site monitoring and inspection visits to licensees. Of those visits 12 were to designated managers of open-ended collective investment schemes, 5 to designated custodians, 4 to closed-end fund administrators, 7 to independent financial advisers/intermediaries and 4 to asset managers. These visits covered 713 funds and 250 administered licensees. One of those visits was conducted jointly with the Commission's Insurance Division. In addition, themed desktop reviews were undertaken of adoption of and adherence to the new Handbook for financial services on countering financial crime and terrorist financing. That review covered 20 firms.

Arising out of the on-site monitoring and inspection programme, remedial action was found to be necessary in the case of three firms. In each case, the firm concerned voluntarily accepted the imposition of formal conditions on their licence requiring both the implementation of a remedial programme, and regular reporting to the Commission on progress in correcting defects identified. All of those conditions were imposed in the latter half of 2008; all remain in force for the time being.

Fund Distribution Limited ("FDL"), the company set up to pay compensation to certain classes of investors in split capital investment trusts was finally liquidated and removed from the UK Companies Register in April 2008. FDL was a company limited by guarantee, the Commission's initial commitment to contribute to its capital being £1 in the event of there being any shortfall on liquidation. Once the compensation fund had been fully distributed, the Commission, along with other participants made a further commitment to contribute up to £10,000 in the event of a shortfall on liquidation (referred to in note [ ] to the accounts) in order to facilitate an orderly winding up of the fund. In the event, neither the £1 capital contribution nor the £10,000 supporting commitment were required, and those contingent liabilities have ceased. 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 [has completed its work and has now closed down/is dealing with one remaining case and is expected to close shortly].

## International developments

The Division maintained its continuing dialogue with the International Organization of Securities Commissions, the Director representing the Commission at the annual meeting, and accompanied by one of the senior management team, at meetings of the European Regional Committee. The Director also represented the Commission at the annual conference on Globalisation of Mutual Funds. The Deputy Director and one of the Assistant Directors attended the Enlarged Contact Group of Collective Investment Schemes Supervisors, and senior staff also attended seminars organised by the US Securities and Exchange Commission and the UK Financial Services Authority. The Division was also represented at a number of industry conferences, on the investment sector generally, and more specifically on hedge funds and alternative investments.

Figure 16. **Nationality of sponsors/joint sponsors of Guernsey closed-ended funds at year end 2008**

| Country | |
|---|---|
| United Kingdom | 313 |
| Guernsey | 83 |
| United States | 53 |
| Switzerland | 49 |
| Germany | 15 |
| Netherlands | 14 |
| British Virgin Islands | 13 |
| France | 10 |
| Finland | 10 |
| Cayman Islands | 10 |
| Sweden | 7 |
| Norway | 7 |
| Spain | 6 |
| China | 5 |
| Italy | 4 |
| Greece | 4 |
| Estonia | 4 |
| South Africa | 3 |
| Japan | 3 |
| India | 3 |
| Australia | 2 |
| Austria | 2 |
| Hungary | 2 |
| Israel | 2 |
| Luxembourg | 2 |
| Singapore | 2 |
| Portugal | 2 |
| Republic of Ireland | 2 |
| Turkey | 2 |
| Isle of Man | 2 |
| Canada | 1 |
| Denmark | 1 |
| Dubai | 1 |
| Kuwait | 1 |
| Belgium | 1 |
| Bermuda | 1 |
| Columbia | 1 |
| Curacao | 1 |
| Cyprus | 1 |
| Gibraltar | 1 |
| Kzakhstan | 1 |
| Iceland | 1 |
| Lebanon | 1 |
| United Arab Emirate | 1 |
| Hong Kong | 1 |
| Czec Republic | 1 |
| Bahamas | 1 |

Note: Some funds may have more than one sponsor.

# INVESTMENT BUSINESS (continued)

## International developments (continued)

As in previous years, liaison with overseas regulators on exchange of information and surveillance continued and is a significant part of the Division's workload. This contact embraces normal exchange of information on markets and surveillance, as well as specific assistance in cases which appear to involve insider dealing or other aspects of market abuse. During the year the Division assisted the US Securities and Exchange Commission in its own enquiries into the TXU insider dealing case, and information is being shared on aspects of the collapse of Bernard L Madoff Investment Securities Inc. Although the existence of formal agreements is not a pre-requisite for cooperation between the Commission and overseas regulators, the enhanced information-gathering and information-sharing powers referred to earlier permitted accession to the IOSCO Multilateral Memorandum of Understanding ("MMoU"), a formal framework for cooperation between securities regulators. The MMoU was signed on 25 February 2009.

Table 5. **Closed-ended funds at year end**

| | 2007 | 2008 | % change |
|---|---|---|---|
| Number of funds | 574 | 624 | +8.7% |
| Value of assets (£bns) | 76.36 | 91.49 | +19.8% |
| Number of registered holders ('000s) | 74.69 | 68.95 | -7.6% |
| Stock exchange Listed | 195 | 227 | -16.4% |

Guernsey approved closed-ended funds normally have a fixed capital issued once and for all and investors have no absolute entitlement to redeem their shares/units.

Table 6. **Non-Guernsey schemes at year end**

| | 2007 | 2008 | % change |
|---|---|---|---|
| Number of funds | 271 | 297 | +9.5% |
| Value of assets (£mns) | 32.61 | 45.32 | +38.9% |
| Stock exchange Listed | 42 | 43 | +2.3% |

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 17. **Total funds authorised and approved at the year end**

| Year | Number of funds |
|---|---|
| 2001 | 527 |
| 2002 | 529 |
| 2003 | 488 |
| 2004 | 516 |
| 2005 | 584 |
| 2006 | 724 |
| 2007 | 851 |
| 2008 | 919 |

Figure 18. **Total funds under management at the year end**

| Year | Net asset value of funds £mns |
|---|---|
| 2001 | 33,197 |
| 2002 | 32,973 |
| 2003 | 41,754 |
| 2004 | 56,567 |
| 2005 | 79,334 |
| 2006 | 105,139 |
| 2007 | 145,616 |
| 2008 | 155,046 |

Figure 19. **Number of institutions licensed under the Protection of Investors Law at year end**

| Year | Number of institutions |
|---|---|
| 2001 | 443 |
| 2002 | 428 |
| 2003 | 428 |
| 2004 | 446 |
| 2005 | 486 |
| 2006 | 554 |
| 2007 | 636 |
| 2008 | 680 |

# POLICY AND INTERNATIONAL AFFAIRS



## 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 anti-money laundering and countering the financing of terrorism ("AML/CFT") framework, including the *Handbooks for Financial Services Businesses and Prescribed Businesses on Countering Financial Crime and Terrorist Financing.* Together with the Director General, it is the Commission's main link with the Attorney General's Office, the States of Guernsey Policy Council and certain international bodies, including the International Monetary Fund ("IMF"). In addition, the Division coordinates a number of cross-divisional matters such as the preparation of the fees regulations and the production of this annual report, together with the annual report on internal control and corporate governance, referred to in Appendix 1.

## Cooperation, coordination and feedback

The Crown Dependencies Anti-Money Laundering Group met in London in August 2008. 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-terrorism policies, discuss issues of common interest and the meetings provide a forum for the exchange of ideas.

The Bailiwick Financial Crime Committee met four times in 2008. Since its inception in 1999 this committee was a forum for closer coordination at a strategic level between the Attorney General's Office, the Commission, Police, Customs and the Financial Intelligence Service ("FIS") in the prevention, detection, investigation and prosecution of economic crime and the countering of terrorist financing. Representatives of the Alderney Gambling Control Commission ("AGCC") and the States of Guernsey Income Tax joined the Committee in November 2008. At its November meeting the committee agreed that it would focus to a greater degree on risk, delegating some of its previous activities to another body, the Financial Crime Group. The Director of Policy and International Affairs was secretary to the committee.

The Financial Crime Group was established by the Baiiwick Financial Crime Committee in 1999. The group's 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 three times in 2008. The Terrorist Finance Team, which was established by the group to coordinate action and responsibilities relating to terrorism matters, also met three times in 2008.

During 2008 the Division maintained close links with the AGCC to discuss vulnerabilities to money laundering and the financing of terrorism, and AML/CFT measures such as the issue of notices on business from sensitive sources.

In December a series of joint workshops were held by the Commission and the FIS, to give feedback to the financial services sector on suspicion reports and how the AML/CFT regulations and handbook had been implemented since December 2007, when they came into force. As usual, the feedback sessions were well attended, with additional sessions being arranged due to the level of interest.

In January, the Division arranged for representatives from the Solicitors Regulation Authority in the UK and the Institute of Chartered Accountants in England and Wales to make presentations on AML/CFT to the legal and accountancy professions in the Bailiwick. The presentations concentrated on the money laundering and terrorist financing vulnerabilities of these sectors and how firms can address these vulnerabilities. Both speakers also made presentations to the authorities in Guernsey, which included representatives from the Attorney General's Office, the Commission, Police, Customs and the FIS. In October the Director and Assistant Director of Policy and International Affairs and representatives of the FIS met with firms of estate agents to discuss the implications of the new AML/CFT regulations and handbook for prescribed businesses. The Director and Assistant Director also met firms in November.

The Commission will maintain a programme of presentations to businesses and the AML/CFT authorities during 2009.

Table 7. **IMF Coordinated Portfolio Investment Survey 2007**
Cross-border securities* owned by institutions in the Bailiwick of Guernsey at end 2007

| Sector | Equities US$ mns | Short-term debt US$ mns | Long-term debt US$ mns | Total US$ mns |
|---|---|---|---|---|
| Banks | 49 | 19,669 | 26,010 | 45,728 |
| Domestic insurers | 1 | – | 55 | 56 |
| Life insurers | 3,488 | 104 | 1,476 | 5,068 |
| Insurance managers and captives | 466 | 2,365 | 1,466 | 4,297 |
| Insurance intermediaries | – | – | – | – |
| Open and closed-ended collective investment funds | 142,213 | 7,214 | 34,562 | 183,989 |
| Special purpose vehicles | – | – | – | – |
| States of Guernsey | 70 | 748 | 214 | 1,032 |
| Total | 146,287 | 30,100 | 63,783 | 240,170 |

* 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.

# POLICY AND INTERNATIONAL AFFAIRS (continued)

## AML/CFT developments and initiatives

In 2008 the Commission undertook 116 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 FATF Recommendations and Special Recommendations. In April the Commission issued the sixth business from sensitive sources notice to financial services businesses to emphasise the FATF's and the Commission's concerns about a range of jurisdictions and the requirements for such businesses. The first business from sensitive sources notice, emphasising the same concerns and actions, was issued to prescribed businesses in October.

Some modifications were also made to the Criminal Justice (Proceeds of Crime) (Financial Services Businesses) (Bailiwick of Guernsey) Regulations, 2007 and the Commission's Handbook for Financial Services Businesses on Countering Financial Crime and Terrorist Financing, both of which came into force in 2007.

During 2008 two sets of amendment regulations were introduced. First, in September the Criminal Justice (Proceeds of Crime) (Financial Services Business) (Bailiwick of Guernsey) (Amendment) Regulations, 2008 came into force. The principal amendment was the addition to the 2007 Regulations of a new Part IIIA requiring financial services businesses which are regulated under the main regulatory laws and which also provide money or value changing services or money or currency changing services to register with the Commission. This registration framework is administered by the Policy and International Affairs Division.

The second set of amendment regulations came into force in December and made minor amendments to the descriptions and definitions of financial services businesses and prescribed businesses contained within Schedules 1 and 2 to the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999.

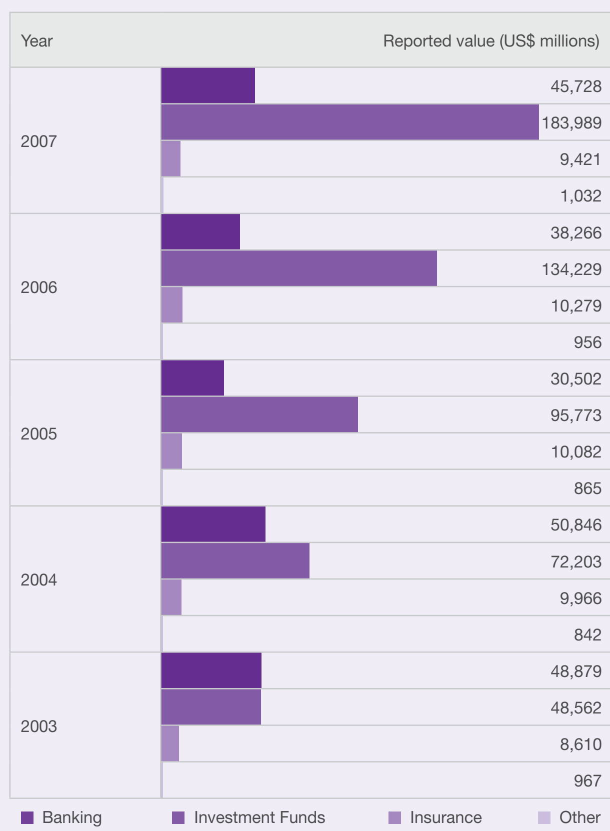
From 2002 until July 2008 there was a requirement for any firm undertaking non-regulated financial services business, such as non-bank lenders and non-bank bureaux de change, to notify the Commission of its intention to undertake such business, together with basic information about the firm. The Commission maintained an internal register of these firms. In July 2008 this system was repealed in favour of a formal, public registration framework. The Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008 came into force in that month. This law provides for a registration system and includes sanctions for poor AML/CFT standards, including breaches of the rules in the Commission's handbook for financial services businesses. Applications for registration are administered by the Policy and International Affairs Division. The Division undertakes on-site inspections to these businesses - 8 had been carried out by the end of 2008.

In early 2008 the Division established an AML/CFT Steering Group for Legal Professionals, Accountants and Estate Agents in order to consider the Commission's proposals for establishing an AML/CFT framework for firms of lawyers (both advocates and solicitors), accountants and estate agents, known collectively as prescribed businesses, carrying out a range of prescribed activities. Prior to the group's first meeting, the Division issued documentation to prescribed businesses on the implications of the FATF's expectations and the existing suspicion reporting obligations. In April the Division issued guidance. This included examples of money laundering and terrorist financing to assist firms in meeting the reporting obligations. The Commission prepared a draft law, regulations and handbook containing rules and guidance, and issued drafts for consultation in May. The Criminal Justice (Proceeds of Crime) (Legal Professionals, Accountants and Estate Agents) (Bailiwick of Guernsey) Regulations, 2008 and the Handbook for Legal Professionals, Accountants and Estate Agents on Countering Financial Crime and Terrorist Financing were issued in September. The regulations and handbook are based on those for financial services businesses but are tailored to prescribed businesses. The regulations include a registration system, which is administered by the Policy and International Affairs Division. The coming into force of the regulations and handbook was phased, with firms of lawyers and accountants having to meet the requirements in full in November, 2008, and with the equivalent requirement for firms of estate agents coming into force in December 2008. The law, 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, has been agreed by the parliaments in Guernsey, Alderney and Sark. It will come into force after it has been approved by the Privy Council.

Four on-site inspections were made to prescribed businesses by the end of the year.

Figure 20. **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 Director General sits on the Executive Committee of the International Association of Insurance Supervisors ("IAIS") and attended meetings of the committee in Brussels in January and in Basel in March.

In January the Director General attended the 5th IMF Roundtable in Basel and made a presentation on International Initiatives to Strengthen Transparency and Standards & Codes. In April he visited the IMF in Washington DC. In May the Director General gave a presentation on regulatory cooperation and information exchange, and the lessons to be learned internationally to the Committee of European Insurance and Occupational Pensions Supervisors in Rome, also on the problems of international regulatory cooperation. In July he met representatives of the European Commission in Brussels to discuss regulatory issues and developments.

The Director General spoke on financial crime and frauds against banks at the Cambridge International Symposium on Economic Crime in September.

The Policy and International Affairs Division remained busy on international matters.

The Director attended FATF working group meetings in London in June and in Ottawa in September. In addition, the Assistant Director attended the FATF plenaries in Paris in February, London in June and Rio de Janeiro in October. The Director was one of several IMF representatives at a meeting of the Eastern and Southern African Anti-Money Laundering Group in Dar es Salaam in March in order to finalise the IMF's AML/CFT assessment report on Mauritius. In addition, the Director participated in an AML/CFT technical assistance mission for the IMF in Moldova in November.

The Division was also active in other areas. The Director represented the IAIS at a workshop for insurance supervisors in El Salvador in November to discuss the IAIS multilateral memorandum of understanding. During 2008 the Director undertook validation work for the IAIS for the initial applicants to become signatories to the MMoU. In addition, he participated in a meeting of the Insurance Fraud Subcommittee in September in Guernsey (which became the Insurance Fraud Working Group in October at the IAIS annual general meeting in Budapest). He also gave a presentation in Guernsey to the Second Biennial Fraud Conference on Corporate Fraud.

## 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 2007 were obtained in respect of 126 institutions, representing 1,182 entities. Table 7 provides a summary of the results for 2007. The total value of assets reported for Guernsey financial institutions as at 31 December 2007 was US$240.2 billion, an increase of US$56.4 billion over the assets reported in the 2006 survey. Figure 20 shows the results from Guernsey institutions over the last five years. There has been a significant increase in the total value of assets held over this period which is predominantly due to the increase in assets held by the investment funds sector.

During the year the Commission participated for the fourth time in the IMF's information dissemination and monitoring framework initiative ("Information Framework"). The information provided will help improve transparency in the activities of finance centres around the world and aid the IMF and policymakers in the major countries in formulating a view as to the size, type and global impact of particular 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

In April and December the Director General and the Director of Policy and International Affairs met with the Council of the Guernsey International Business Association in order to discuss regulatory developments, including the changes to the AML/CFT framework referred to in this chapter, and the effects and implications of the global financial crisis.

The Division also contributed to the wider legislative changes which have been promoted by the Commission. The Protection of Investors (Bailiwick of Guernsey) (Amendment) Law, 2008 came into force in 2008. This law repealed outdated elements of COBO on the circulation of prospectuses, which were replaced by Prospectus Rules issued by the Investment Business Division. The amendment law also replaced the provisions on licensing requirements with more detailed minimum criteria for licensing modelled on those in the other regulatory laws administered by the Commission. In addition, the amendment law included provisions which enable the Commission to obtain information and documents from non-regulated persons relating to potential market abuse or insider dealing on behalf of another investment supervisor. The enactment of this key provision has enabled the Commission to become a signatory to the IOSCO multilateral

# POLICY AND INTERNATIONAL AFFAIRS (continued)

## Other developments (continued)

memorandum of understanding. IOSCO confirmed in February 2009 that the Commission had been accepted as a signatory to the MMoU.

Amendments to the Financial Services Commission Law in 2008 provided the Commission with the function of taking such steps as it considers necessary or expedient for the safety, soundness and integrity of that part of the Bailiwick's financial services sector for which it has supervisory responsibility, repealed the function of development, and provide the Commission with power to issue financial penalties and make public statements in relation to poor standards by firms and senior officers and directors of firms. The appeals provisions in the Banking Supervision, the Regulation of Fiduciaries and the Protection of Investors Laws were also strengthened during the year - the new provisions give wider powers of appeal to the Royal Court by firms and individuals who are subject to adverse decisions of the Commission, such as firms and individuals subject to sanctions.

In light of the global financial crisis, the Director of Policy and International Affairs worked closely with the Banking and Insurance Divisions on mitigating the effects of the crisis in the Bailiwick.

# FINANCE AND OPERATIONS



## General

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

## Finance

The financial statements are shown on pages 42 to 43.

The overall deficit for the year is [£], a significant decrease compared to the surplus in 2007 of £1,564,093. This is primarily a result of a drop in interest income due to lower base rates, the agreement by the Commission to forego a grant from the States of £100,000 and an increase in legal, professional and consultancy costs. The total fee income for 2008 was [£], a [x]% increase over 2007.

The Commission incurred a significantly higher level of legal and professional costs in respect of investigative and enforcement activity, particularly as a result of the global credit crisis. These costs, together with the decrease in non-fee income described above, offset by robust cost control elsewhere, resulted in expenses for the year ended 31 December 2008 being [£], an increase of [ ] % compared to 2007.

The deficit in the pension scheme at December 2008 reported under FRS 17 is [£], an increase of [£] compared to 2007, reflecting the severe downturn in global markets that resulted in reduced investment performance, together with an increase in longevity assumptions. 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 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.

Last year the Commission's policy on reserves was amended to increase the target for retained reserves from a sum equivalent to a minimum of six months' expenditure to one of twelve 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 2008 including the increased pension scheme deficit have reduced the level of retained reserves to [x.x] months worth of expenditure.

When setting fees for 2009, we bore in mind the increasingly challenging environment in which regulated firms operate. The majority of fees have either been held at the same level as in 2008 or have been increased at a rate to reflect inflation. However, it has been necessary to increase some banking and fiduciary sector fees in order to cover the higher level of costs experienced in regulating these sectors.

The Commission continues its close relationship with the GTA University Centre ("GTA"). It contributed 50% of the GTA's budgeted net operating expenditure in 2008 (£425,500) and has committed to provide funding of £449,000, an increase of 5.5%, in 2009.

## Fee legislation

During the year, registration frameworks were introduced for non-regulated financial services businesses and for legal professionals, accountants and estate agents, and registration and annual fees were introduced for these businesses. The fees regulations for the banking, fiduciary, insurance and investment business sectors were revised with effect from 1 January 2009 - at the same time fees for fiduciaries were incorporated into the Financial Services Commission (Fees) Regulations.

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

- The Financial Services Commission (Fees) Regulations, 2008
- The Protected Cell Companies and Incorporated Cell Companies (Fees for Insurers) Regulations, 2007 as amended by the Protected Cell Companies and Incorporated Cell Companies (Fees for Insurers (Amendment) Regulations, 2008
- 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, 2008
- 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.

## Information and communication systems

Information systems remain critical to the Commission's operation and during 2008 a new central regulatory database was developed and successfully launched at the beginning of December. Further phases are planned for 2009, and future years, including enhanced document management features.

In 2008, based on our increased reliance on information systems, we have also implemented an enhanced information technology hardware infrastructure, with an identical infrastructure in our dedicated business recovery suite for resilience purposes.

# FINANCE AND OPERATIONS (continued)

## Human resources

In October 2008, Neville Johnson was appointed as the Commission's first Deputy Director of Finance and Operations. Michael Graham left the Commission as Deputy Director of Insurance in October 2008. More recently, the Insurance Division has been restructured into two sections; the International Department is headed by Mike Poulding who has been promoted to the position of Deputy Director - International Insurance, and a new Deputy Director will join the Commission in the summer of 2009 to head the Supervision Department.

During 2008 three staff were appointed to Assistant Director level positions - Caroline Bradley in Insurance, Matt Hutchison in Fiduciary and Vanessa Harvey in Finance and Operations. In early 2009, David Richings was also promoted to Assistant Director in the Insurance Division and Kevin Bown to Deputy Director of Fiduciary and Intelligence Services.

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 January 2008 the States of Guernsey elected Alex Rodger as a Commissioner for a three-year period from 2 February 2008 and in May 2008 Cees Schrauwers was elected as a Commissioner to complete the unexpired portion of Rosemary Radcliffe's term of office until 1 February 2009. He was re-elected for a three-year period on 2 February 2009, while Peter Harwood, David Mallet and Howard Flight were each re-elected for further three-year periods. Peter Harwood was also re-elected as Chairman for a further one-year term from the same date.

## Facilities management

The premises at La Plaiderie Chambers and Le Marchant House remain at full capacity and it is a medium-term objective of the Commission to move to a more efficient, single location. The existing two premises have become overly restrictive and do not provide the Commission with much flexibility. During 2008 we signed Heads of Terms with Comprop (C.I.) Limited and Glategny Holdings Limited to take space in their proposed new building at Glategny Esplanade. In [ ] 2009 we entered into an agreement for lease with those companies to occupy approximately 15,000 square feet of office space on the ground floor of that building. It is expected to be ready for occupation in mid-2010. In the current economic climate the Commission is aware of a potential for a further downturn in office rentals and has negotiated with Comprop (C.I.) Limited to ensure that the rent the Commission will pay is in line with the market rate at the time of occupation. The best use of existing furniture and equipment will be made to minimise the fit-out costs in the new building.

The Commission continues to maintain dedicated business recovery facilities for use in the event that our primary premises should become unusable.

# INDEPENDENT AUDITOR'S REPORT TO THE COMISSIONERS 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 2008 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 26 March 2008. 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 2008 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
[ ] 2009

It is and shall remain the responsibility of the Commissioners to ensure that any electronic publication or distribution of the financial statements properly presents the financial information and our report. The Commissioners 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 2008

| | Note | 2008 | 2007 |
|---|---|---|---|
| | | £ | £ |
| Income | | | |
| Fees receivable | | | |
| Interest on deposits with States Treasury and banks | | | |
| Miscellaneous income, including bank interest | | | |
| Other finance income | | | |
| Contributions from the States of Guernsey for services provided on behalf of government | | | |
| Expenses | | | |
| Salaries, pension costs, staff recruitment and training | | | |
| Commissioners' fees | | | |
| Legal and professional fees | | | |
| Premises and equipment, including depreciation | | | |
| Other operating expenses | | | |
| Auditor's remuneration | | | |
| Commission's contribution to expenses of GTA University Centre | | | |
| (Deficit)/surplus of income less expenditure | | | |

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

*The notes on pages 58 to 65 form an integral part of these financial statements.*

## STATEMENT OF TOTAL RECOGNISED GAINS AND LOSSES

For the year ended 31 December 2008

| | Note | 2008 | 2007 |
|---|---|---|---|
| | | £ | £ |
| (Deficit)/surplus for the year | | | |
| Actuarial (loss) | | | |
| Total recognised (losses)/gains for the year | | | |

*The notes on pages 58 to 65 form an integral part of these financial statements.*

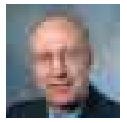
# BALANCE SHEET

As at 31 December 2008

| | Note | 2008 | 2007 |
|---|---|---|---|
| | | £ | £ |
| **Fixed assets** | | | |
| Tangible assets | | | |
| **Current assets** | | | |
| Debtors | | | |
| Deposits with States Treasury | | | |
| Bank deposits | | | |
| Cash at bank and in hand | | | |
| | | | |
| Creditors - amounts falling due within one year | | | |
| **Net current assets** | | | |
| **Net assets before post-retirement liability** | | | |
| Post-retirement liability | | | |
| Net assets | | | |
| Reserves | | | |

The financial statements on pages 54 to 65 were approved by the Commissioners and signed on their behalf on [ ] 2009 by:

P A Harwood
*Chairman*



D J Mallett
*Vice-Chairman*

P J Neville
*Director General*

*The notes on pages 58 to 65 form an integral part of these financial statements.*

# CASH FLOW STATEMENT

For the year ended 31 December 2008

| | Note | 2008 | 2007 |
|---|---|---|---|
| | | £ | £ |
| **Reconciliation of (deficit)/surplus of income less expenditure to net cash inflow from operating activities** | | | |
| (Deficit)/surplus of income less expenditure | | | |
| Other finance income | | | |
| Current and past pension service costs | | | |
| Contributions made to pension schemes | | | |
| Depreciation on tangible fixed assets | | | |
| Interest receivable | | | |
| (Increase)/decrease in debtors | | | |
| Increase in creditors | | | |
| **Net cash (outflow)/inflow from operating activities** | | | |
| **Cash flow statement** | | | |
| Net cash (outflow)/inflow from operating activities | | | |
| Returns on investments and servicing of finance | | | |
| Capital expenditure and financial investment | | | |
| **(Decrease)/increase in cash in the year** | | | |
| **Reconciliation of net cash flow to movements in net cash** | | | |
| (Decrease)/increase in cash in the year | | | |
| Net cash at 1 January | | | |
| **Net cash at 31 December** | | | |

*The notes on pages 58 to 65 form an integral part of these financial statements.*

# NOTES TO THE FINANCIAL STATEMENTS

For the year ended 31 December 2008

## 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 investigations and litigation are accounted for as expenditure is incurred, whether or not it had been billed at the balance sheet date. 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 | 331/3 % straight-line |

### (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 ("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 credit is included within other finance income, representing the expected return on the scheme's assets less the interest cost on the scheme's liabilities.

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 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 equipment | Total |
|---|---|---|---|---|
| | £ | £ | £ | £ |
| Cost | | | | |
| At 1 January 2008 | | | | |
| Additions | | | | |
| At 31 December 2008 | | | | |
| Depreciation | | | | |
| At 1 January 2008 | | | | |
| Charge for the year | | | | |
| At 31 December 2008 | | | | |
| Net book value at 31 December 2007 | | | | |
| Net book value at 31 December 2008 | | | | |

## 5. Debtors

| | 2008 | 2007 |
|---|---|---|
| | £ | £ |
| Other debtors | | |
| Amount due from GTA University Centre | | |
| Prepayments | | |
| | | |

## 6. Creditors – amounts falling due within one year

| | 2008 | 2007 |
|---|---|---|
| | £ | £ |
| Expense creditors and accruals | | |
| Fees received in advance | | |
| | | |

# NOTES TO THE FINANCIAL STATEMENTS (continued)

## 7. Superannuation

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

**Employee benefit obligations**

Employees of the Commission are eligible to be members of the States of Guernsey Superannuation Fund ("the Fund"). 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 set of members by another.

A full actuarial valuation of the scheme was carried out at 31 December 2007 by the scheme's actuary. The scheme's actuary also completed valuations as at 31 December 2005, 2006, 2007 and 2008 for the purposes of FRS 17.

The valuation used for FRS17 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:

| | 2008 | 2007 |
|---|---|---|
| | £ | £ |
| Fair value of Fund assets | | |
| Present value of funded obligations | | |
| Net pension liability | | |
| Amounts in the balance sheet | | |
| Assets | | |
| Liabilities | | |
| Net pension liability | | |

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

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

| | 2008 | 2007 |
|---|---|---|
| | £ | £ |
| Current service cost | | |
| Interest on obligation | | |
| Expected return on Fund assets | | |
| Expense recognised in income and expenditure account | | |
| Actual return on Fund assets | | |

## 7. Superannuation (continued)

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

| | 2008 | 2007 |
|---|---|---|
| | £ | £ |
| Opening defined benefit obligation | | |
| Service cost | | |
| Interest cost | | |
| Contributions by members | | |
| Actuarial losses | | |
| Benefits paid | | |
| Closing defined benefit obligation | | |

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

| | 2008 | 2007 |
|---|---|---|
| | £ | £ |
| Opening fair value of Fund assets | | |
| Expected return | | |
| Actuarial losses | | |
| Contributions by employer | | |
| Contributions by member | | |
| Benefits paid | | |
| Closing fair value of Fund assets | | |

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

| | 2008 | 2007 |
|---|---|---|
| | £ | £ |
| Total actuarial losses | | |
| Cumulative amount of losses recognised in STRGL | | |

(f) The Employer expects to contribute £748,338 to the Fund from 1 January 2009 to 31 December 2009.

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). As previously reported, the Commissioners decided not to increase the contribution rate payable to the Fund, which remained at 10.4% in 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 2008, has been reflected in the Commission's income and expenditure account. The employee contribution increased from 6% to 6.5% on 1 January 2008.

# NOTES TO THE FINANCIAL STATEMENTS (continued)

## 7. Superannuation (continued)

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

| | 2008 | 2007 |
|---|---|---|
| | % | % |
| Equities | | |
| Gilts | | |
| Corporate bonds | | |
| Index linked bonds | | |
| Other assets | | |

### (h) Principal actuarial assumptions at the balance sheet date (expressed as weighted averages (where applicable)):

| | 2008 | 2007 |
|---|---|---|
| | % | % |
| Discount rate as at 31 December | | |
| Expected return on Fund assets at 31 December | | |
| Rate of increase in pensionable salaries | | |
| Rate of increase in deferred pensions | | |
| Rate of increase in pensions in payment | | |

### (i) Mortality assumptions

The mortality assumptions are based on standard mortality tables which allow for future mortality improvements. The assumptions are that a member aged 60 will live on average until age 85 if they are male and until 87 if female. For a member 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

The Commission adopts a building block approach in determining the expected rate of return on 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:

| | 2008 | 2007 | 2006 | 2005 | 2004 |
|---|---|---|---|---|---|
| | £ | £ | £ | £ | £ |
| Defined benefit obligation | | | | | |
| Fund assets | | | | | |
| Deficit | | | | | |
| Experience (losses) / gains on Fund assets | | | | | |
| Experiencee gains on Fund liabilities | | | | | |

The claims of the Commission's pensioners and employees will be met from the Fund and in the final resort would be met by the States of Guernsey.

## 7. Superannuation (continued)

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

The cost of employer contributions to the DC Plan for the year ended 31 December 2008 was £24,229 (2007 - £ nil). No contributions were outstanding or prepaid as at 31 December 2008 or 2007. 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

| | 2008 | 2007 |
|---|---|---|
| | £ | £ |
| Reserves brought forward | | |
| (Deficit)/surplus of income less expenditure for the year | | |
| Actuarial loss on post-retirement liability | | |
| Reserves carried forward | | |

Included in the reserves is a pension liability of £3,618,824 (2007 £1,565,851) 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, were employed by the Commission and permanently seconded to the company. The Commission provided a grant of £425,500 in 2008 (2007: £411,000) 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. Financial 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 2008 under the terms of the leases amount to £317,700 (2007: £316,700).

**Operating lease commitments**

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

**Land and buildings**

| | 2008 | 2007 |
|---|---|---|
| | £ | £ |
| Leases which expire less than two years after balance sheet date | | |
| Leases which expire more than two years but less than five years after balance sheet date | | |
| Leases which expire more than five years after balance sheet date | | |

# NOTES TO THE FINANCIAL STATEMENTS (continued)

## 11. Investigation and litigation costs

As a consequence of fulfilling its regulatory responsibilities the Commission undertakes investigations and is a party to legal actions from time to time, 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 is a partner of Ozannes, 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

| | 2008 | 2007 |
|---|---|---|
| | £ | £ |
| Returns on investments and servicing of finance | | |
| Interest received | | |
| Capital expenditure and financial investment | | |
| Payments to acquire tangible fixed assets | | |

## 15. Analysis of net cash

| | At 1 January 2008 | Cash flow | At 31 December 2008 |
|---|---|---|---|
| | £ | £ | £ |
| Deposits with States Treasury | | | |
| Bank deposits | | | |
| Cash at bank and in hand | | | |
| | | | |

# GTA UNIVERSITY CENTRE

## General

The long-term objective of the GTA University Centre ("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, whilst adding value to all Bailiwick businesses.

An extensive education and training programme took place throughout 2008 and the GTA's Study Centres continued to act as focal points for education and training. Staff at the GTA have worked closely with all stakeholders in determining training priorities and meeting their requirements. In October the GTA opened Morningside House a bespoke library/study centre.

At the end of 2008, 99 students registered with the GTA and had made 609 study visits to the centre. This figure is down on the previous year as the GTA was unable to offer study facilities from March - September. 635 training events took place, attracting 7,798 delegates, a significant 25% increase on last year. Additionally, 107 examinations took place during which 558 candidates were examined on a range of award-bearing programmes. The annual reduction in the number of examinations held reflects the increasing number of online examinations which are held at specialist venues. Statistics for the year are listed in table 8.

In April 2008, Mr Keith Corbin resigned as Chairman of the GTA Board and as a director of the GTA. Mr Martyn Mann was appointed as Chairman. Mr Jon Buckland, the new Chief Officer of the Commerce and Employment Department was appointed to the Board in April 2008 to replace Mr Nigel Lewis, and States of Guernsey Deputies Carla McNulty Bauer and Mike Collins joined the Board in July, representing the Commerce and Employment and Education Departments respectively. Deputies Wendy Morgan and Duncan Staples resigned from the Board. In April 2008 and July 2008 respectively, the Director General of the Commission and Professor Richard Conder were also appointed to the Board. The GTA continues to be part funded by the Commission and the Commerce and Employment Department.

During 2008, the GTA continued to work with local branches of finance associations and professional institutes and other stakeholders, 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. These matrices are published on the GTA's website. In parallel, and in support of the furtherance of training and development, the GTA continues to cooperate with on-island finance associations, the Commission and the professional institutions 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. The forum meets monthly.

## Award-bearing programmes

The GTA is pleased that all 10 students from the second cohort of the MBA degree run by Southampton University graduated during 2008. The third cohort of 10 students which commenced in September 2007 has successfully completed its first year; these students are due to graduate in 2010.

Following the partnership agreement with Highlands College in Jersey signed in September 2008, the GTA was delighted to facilitate the first taught MBA in Jersey. The programme attracted a significant amount of interest and 10 delegates commenced the course in September 2008.

The GTA is very pleased that the 10 delegates taking the Masters programme in Human Resource Management delivered by Bournemouth University successfully passed their second year and are currently completing their dissertations with a view to graduating from the university in 2009.

The seventh cohort of the MSc Corporate Governance/Graduate ICSA programme was launched last summer and commenced in September 2008 with 14 students. The cohort is due to complete the programme in 2010.

The prestigious Institute of Directors 'Company Direction Programme' commenced in October with 11delegates; this is the ninth time the programme has been offered in Guernsey and continues to be popular.

Central Law Training once again delivered the Foundation and Diploma Programmes in Offshore Trust Management on behalf of the Society of Trust and Estate Practitioners (STEP). Twentythree students completed the Foundation Programme with a further 27 students completing the Diploma Programme.

The International Compliance Association ("ICA") was established during 2002 and offers diplomas in anti-money laundering and compliance. Twentythree students undertook the International Diploma in Compliance and 9 sat the International Diploma in Anti-Money Laundering examination. The ICA has recently expanded its portfolio of courses to include a Diploma in Hedge Fund Administration. The GTA expects this course to be well subscribed.

The Professional Certificate in Marketing was successfully launched again with 9 delegates. Eleven delegates signed up for the Professional Diploma in Marketing - another programme which the GTA successfully facilitated in Jersey. Both programmes are run by the Chartered Institute of Marketing and it is expected that they will be run again in 2009, together with the Postgraduate Diploma in Marketing.

# GTA UNIVERSITY CENTRE (continued)

## Award-bearing programmes (continued)

Eleven students sat the Captive Insurance Certificate during 2008, making a total of 73 students who have now successfully completed this qualification since its introduction. Following representations from the GTA, this locally designed programme is awarded 20 points under the Chartered Insurance Qualifications framework.

Ten students successfully completed the locally examined Guernsey Insurance Certificate during 2008, bringing the total number who have gained this qualification to 146 since its inception in 2003. This programme is awarded 16 points under the Chartered Insurance Qualifications framework.

## Short courses and conferences

One of the most important events organised by the GTA during 2008 was the Second Biennial Fraud Conference on Corporate Fraud, which was run in partnership with a firm of advocates. The GTA was pleased to secure Max Clifford as speaker for the dinner preceding the event. Two hundred and sixteen delegates attended the dinner, with 70 delegates attending the conference at St Pierre Park Hotel.

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 in June, which attracted 120 delegates.

Two other major events facilitated by the GTA were a company law masterclass, in partnership with a firm of Advocates, which attracted 130 delegates; and a talk by Donal Godfrey of the OECD about Harmful Tax Practices, which attracted 180 delegates.

The third major programme offered in Jersey was the SII Islamic Finance Qualification, which was run in association with Highlands College.

A cumulative total of 180 delegates attended a series of 13 law seminars run in conjunction with the Guernsey Bar, which continue to be administered by the GTA.

Three further personal development programmes commenced during 2008, with a total of 30 delegates, reflecting the continuing popularity of the subject. In addition, 3 more management development programmes were offered, attracting 28 delegates between them.

In association with the Financial Intelligence Service, the Commission and the Home Department, the GTA facilitated a series of seminars providing an update on local and international anti-money laundering and countering of terrorist financing cases, which attracted 260 delegates.

In total over 1600 delegates attended short courses relating to the finance sector during 2008.

## Investors in People

The GTA has continued to be approached for assistance with undertaking benchmarking interviews under the Investors in People Standard. Organisations have found the advice helpful in positioning themselves against the IiP Standard and identifying what further work still needs to be done. The GTA is delighted that two local businesses gained the award for the first time in 2008; two organisations were re-recognised, and three more are working towards recognition.

## Other initiatives

The Chief Executive and Deputy Chief Executive continued to meet with senior staff from the finance and commerce sectors to hear first hand the training needs of organisations. The meetings continue to prove informative and valuable.

The GTA is continuing to work with the Guernsey Bar in facilitating events for continuous professional development purposes for advocates. During 2008 a series of "update" lectures were held on English criminal, tort and contract law.

Following a review of the current website, the GTA set up a project group to lead the building of a new website and management information system to more effectively promote and manage the work of the Agency. This website is due to come online in May 2009.

## e-Business and information technology

The IT and E-Commerce Advisory Group continues to meet to discuss training and development needs within the sector. The group is comprised of representatives from the Commission, the Data Protection Office, the College of Further Education, and the finance, public and commercial sectors. The group has provided valuable information on the types of courses to facilitate and the GTA is particularly pleased with the continuing growth in IT training that it has facilitated over recent years.

Table 8. **Training event/delegate numbers at the year end**

| Key Statistics | 2008 | 2007 | 2006 | 2005 | 2004 | 2003 |
|---|---|---|---|---|---|---|
| Registered number of students | 99**** | 92** | 1,012 | 1,003 | 951 | 887 |
| Recorded number of study sessions | 609**** | 1,719 | 1,676 | 2,572 | 2,731 | 2,341 |
| Number of training events | 635 (134***) | 440 | 400 | 386 | 321 | 322 |
| Number of delegates attending | 7,798 (1,270***) | 6,191 | 5,968 | 5,253 | 4,695 | 4,463 |
| Number of examination days | 67 | 78 | 71 | 114 | 113 | 92 |
| Number of examinations | 107 | 124 | 147 | 19 | 236 | 194 |
| Number of examination candidates | 558 | 575 | 636 | 757 | 874 | 793 |
| Total hits on website | 34,660 | 36,949 | 31,136 | 24,976 | * | * |

* Not previously recorded
** Registrations discontinued due to the closure of the Nelson Place Study Centre
*** Public sector delegates
**** Morningside House Study Centre opened 18 September 2008 (was unavailable March-Sept)

# 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 development and effective supervision of finance business in the Bailiwick". The statutory functions include those under the following legislation:

- 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.
- the Registration of Non-Regulated Financial Services Businesses (Bailwick of Guernsey) Law, 2008.
- the Criminal Justice (Proceeds of Crime) (Financial Services Businesses) (Bailiwick of Guernsey) Regulations, 2007.
- the Criminal Justice (Proceeds of Crime) (Legal Professionals, Accountants and Estate Agents) (Bailwick of Guernsey) Regulations, 2008.

### 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 five members and a maximum of seven 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 one 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 one year by the Commissioners. Each member is appointed as a Commissioner for a period not exceeding three 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 six Commissioners: Peter Harwood, David Mallett, Susie Farnon, Howard Flight, Alex Rodger and Cees Schrauwers. A brief résumé for each Commissioner is provided on pages 6 and 7 of this report. All of the Commissioners are non-executive - three reside in the Guernsey, with the remainder living in the United Kingdom.

At the beginning of 2008 there were five Commissioners. At the end of 2007 Rosemary Radcliffe tendered her resignation on health grounds and in May 2008 Cees Schrauwers was elected as Commissioner to complete her term of office. There were 13 meetings of the Commissioners in 2008. The attendance of the individual Commissioners at these meetings was as follows: Peter Harwood - 13, David Mallett - 13, Susie Farnon - 13, Howard Flight - 11, Alex Rodgers (appointed February - 10, Cees Schrauwers (sworn in July) - 4. 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.

Any of the functions mentioned at subparagraphs (i) to (iii) above may be delegated to a committee of not less than three Commissioners.

### 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, 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. Following the retirement from office of Mel Carvill in February 2008, Alex Rodger was appointed to the committee, which also comprised David Mallett and Susie Farnon. 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 four times in 2008. The attendance of the individual members at these meetings was as follows: David Mallett - 4, Susie Farnon - 4, 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 has also been put 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 expected to undertake another assessment towards the end of 2009.

## APPENDIX 2
COMMITTEES AND WORKING PARTIES

A number of advisory groups and committees have assisted the Commission in the various aspects of its work. 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:

AML/CFT Steering Group for Legal Professionals, Accountants and Estate Agents

Class A Rules Working Party

Insurance Advisory Group, formerly the Forum for Insurance Development

Investment Business Statistics Working Party

Licensee Rules Working Party