

The Securities Commission is New Zealand's main regulator of investments

OUR PURPOSE

To strengthen investor confidence and foster capital investment in New Zealand by promoting the efficiency, integrity and cost-effective regulation of our securities markets.

OUR WORK

To contribute to robust and vibrant capital markets in which investors, both domestic and overseas, can have confidence. This is important for New Zealand's sustainable economic development.

OUTCOMES WE CONTRIBUTE TO

High standards of conduct are expected in the markets and the law is complied with.

The regulatory environment is relevant and effective.

Securities law is tailored to the needs of the markets.

New Zealand's markets and regulatory environment are respected internationally, creating a climate for increased investment and good relationships with overseas regulators.

Public understanding of the law and practice of securities is increased.

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CHAIRMAN'S REPORT



The last 12 months have been tumultuous ones, at home and abroad. If we are inclined to forget during good times how tightly interconnected the world economy is, there is no escaping the fact during hard times like these.

The signs are that we are turning the corner. But the growth of capital markets is fundamental to expanding the economy, and investor confidence is vital to that growth. Much recent harm has stemmed from a shocking loss of faith in the markets and their intermediaries, making it clear that good market conduct is crucial to recovery.

Government reforms have aimed at strengthening investor protection in areas that were under-regulated. The Reserve Bank is now the prudential regulator of finance companies and other non-banking deposit takers, setting and enforcing minimum financial and governance standards; law was passed to regulate financial advisers; and, Government is looking at the supervision of trustees.

The year has been dominated by the aftermath of the finance company collapses. We had no power to prevent these, neither is it our job to make investment bullet-proof: risk is inherent in any investment and cannot be removed. Some collapses, though, raised serious questions about directors' behaviour. The Commission is committed to doing everything in its power to encourage good conduct.

Enforcement is a Commission priority, and, as well as carrying out our own investigations, we have been working with the Registrar of Companies, receivers and other agencies to determine whether legal action is called for. In December the Commission laid civil and criminal charges against nine directors of failed finance companies Bridgecorp and Nathans Finance, alleging that untrue statements in their companies' offer documents misled investors.

Surveillance is also important, and the Commission has published reports on two more cycles of its Financial Reporting and Surveillance Programme, covering a total of 84 financial reports. The programme, which now includes corporate governance disclosure, is designed to encourage high-quality reporting that will enhance the credibility of those providing information and, therefore, encourage investor confidence.

The Financial Advisers Act was passed in September, and its successful implementation will be another vital plank in rebuilding investor confidence. The Act makes the Commission the industry's main regulator, bringing New Zealand in line with international standards. It requires financial advisers to attain specified standards of competence, professional conduct and disclosure, and makes them accountable for the quality of their advice. We embarked in April on an intense 18-month programme, alongside other government agencies, financial advisers, industry bodies and financial and educational institutions, to put in place the systems and training needed for the Act to be fully operational by the end of 2010.

Our ongoing monitoring of NZX is another aspect of building and maintaining investor confidence. The Commission's fourth annual NZX review is well underway. It covers the 2008 calendar year and focuses on the effectiveness of NZX's risk-based approach to supervision of market participants.

The need to protect investors must, of course, be continually balanced against business needs. Companies have reported difficulties in raising and rolling over finance, and we have been working with the Government and the Capital Market Development Taskforce to make it easier and less costly for companies to raise capital. The Commission has exemption powers that may allow immediate implementation of some Taskforce recommendations, and companies have taken advantage of these to seek public money. In December we published a consultation document seeking feedback on a proposal to extend the existing class exemption for share purchase by increasing the amount that can be raised from existing shareholders. The Securities Disclosure and Financial Advisers Amendment Bill, introduced in February, is a direct result of that consultation. It removes unnecessary impediments to raising capital while ensuring prospective investors can access the information they need. NZX-listed businesses will be able to use a simplified disclosure prospectus when offering securities to the public, thus reducing duplication and expense.

The Securities Commission remains absolutely committed to enhancing global regulation and supervision. Financial stability is everyone's business: we cannot expect to once more enjoy global financial good health until consumer confidence is restored everywhere. New Zealand is a geographical island but does not exist in economic isolation. We are, of course, affected by the crisis, but also have an important role to play in re-establishing world-wide financial stability.

Along with 108 others, New Zealand is a member of the International Organisation of Securities Commissions (IOSCO). This body is the recognised global standards setter for securities regulation, and its international reach covers more than 95% of the world's securities markets. Through my chairmanship of IOSCO's executive committee, New Zealand has the opportunity to directly influence the setting of standards that will bring about world financial recovery.

As that committee's chairman, I am also a member of the Financial Crisis Advisory Group. The group reports to the International Accounting Standards Board and the US Financial Accounting Standards Board on implications of the financial crisis for standards setting, and on potential changes to global regulation. It also informs the G-20 group of finance ministers and central bank governors of its progress.

A cornerstone of IOSCO's 2005 strategic direction was securing the signatures of all member nations to the Multilateral Memorandum of Understanding (MMOU), which is founded on key regulatory and supervisory principles. This goal will almost certainly be achieved by 2010. In the meantime, IOSCO is laying foundations for the strategic plan that will take it through to the post-crisis world in 2015.

The growth of capital markets is fundamental to expanding the economy, and investor confidence is vital to that growth.

My IOSCO role has direct benefits for New Zealand. The Commission understands how important it is for our markets to attract offshore as well as domestic investors. I will continue to take the opportunity, when abroad, of speaking to key business and investor audiences, and working with the Ministry of Foreign Affairs and Trade and New Zealand Trade and Enterprise to promote New Zealand as a sound investment destination. As I emphasised to the Summit on Employment, ensuring potential offshore investors have confidence in our regulatory environment is vital to full employment.

An important part of the Commission's role is improving public understanding, and we continue to take seriously our obligation to educate and inform investors via the media and the internet. With better awareness many investors will eventually be in a position to benefit from the inevitable recovery. This in turn brings a wider benefit: the consolidation of investor confidence that will hasten the rebuilding of the economy that all New Zealanders depend on.

This last year has been a very demanding one for Commission Members and staff who have had to cope with an increased workload, particularly in the areas of enforcement and supervision, and implementing new law. I would therefore like to thank them all for their continuing individual commitment that expresses itself in enthusiasm, professionalism, cooperation and hard work, and that bears fruit in the Commission's ongoing achievements.



Jane Diplock AO
Chairman



MEMBERS OF THE COMMISSION

The Securities Commission consists of between 5 and 11 Members appointed by the Governor-General on the recommendation of the Minister of Commerce. The maximum number increased from 10 to 11 with the passing of the Financial Advisers Act in September 2008 creating the new role of Commissioner for Financial Advisers. Members are appointed for their knowledge or experience in industry, commerce, economics, law, accountancy, public administration or securities. At least one Member must be a barrister or solicitor of not less than seven years' practice. Members hold office for a term not exceeding five years and may be reappointed.

There was a full complement of Members for most of the 2008/09 year. Elizabeth Hickey was appointed a Member in July, having previously served on the Commission from 1992 to 2003. Mai Chen and Keitha Dunstan were re-appointed for terms of one and five years respectively. In May, existing Member Annabel Cotton was appointed Commissioner for Financial Advisers for a period of up to 12 months.

The Commission held 11 regular monthly meetings (11 in 2007/08) and 75 division meetings (64). It passed an additional 87 written resolutions (68). The Audit and Risk Review Committee met 5 times (6); its chair is Keitha Dunstan. Other members of the Audit and Risk Review Committee are Annabel Cotton, David Jackson and Cathy Quinn.

MEMBERS OF THE COMMISSION AS AT 30 JUNE 2009



Jane Diplock AO BA (Hons), LL B, DipEd (Sydney), Dip Int Law (ANU), FIPAA, FNZIM
Chairman of the Commission since September 2001.

Professional: Barrister and Solicitor of the ACT Supreme Court and High Court of Australia, Barrister of the New South Wales Supreme Court; Fellow of the Institute of Public Administration of Australia; Chevening Fellow at London School of Economics; Chairman of the Executive Committee of IOSCO; Member of the Financial Crisis Advisory Group; Fellow of the New Zealand Institute of Management.



Colin Beyer LL B, DistFInstD

Consultant to Simpson Grierson, Wellington.

Professional: Solicitor, Wellington.



Mai Chen LL B (Hons) (Otago), LL M (Harvard), FNZIM

Founding Partner of Chen Palmer, Wellington, Barristers and Solicitors, Public Law Specialists.

Professional: Specialist in government regulation of business, administrative and constitutional law, public policy and legislation. Associate Member of the New Zealand Trade and Industry Beachhead Advisory Board and Member of the Asia New Zealand Foundation. Formerly on the Advisory Board of AMP Life Limited (NZ) and Senior Law Lecturer at Victoria University of Wellington. Fellow of the New Zealand Institute of Management.



Annabel Cotton BMS (Accounting and Finance), ACA, CSAP

Business Consultant, Hamilton.

Professional: Consultant to companies listed in New Zealand and overseas. Commissioner for Financial Advisers.

Directorships: Genesis Power Limited, Kingfish Limited, Barramundi Limited, Marlin Global Limited and a number of private companies.



Keitha Dunstan PhD (QLD), M Bus (QUT), Grad Dip Mgt (UCQ), B Com (QLD), CA

Research Professor, School of Accounting and Commercial Law, Victoria University of Wellington.

Professional: Head of School, School of Accounting and Commercial Law, Victoria University of Wellington.



Elizabeth Hickey M Com(Hons), FCA, MInstD

Professional: Chartered Accountant, Auckland.

Directorships: New Zealand Institute of Chartered Accountants.



John Holland B Com, LL B

Solicitor, Christchurch.

Professional: Partner of Chapman Tripp specialising in securities and competition law and mergers and acquisitions.

Directorships: Board member of Chapman Tripp.



David Jackson M Com (Hons), FCA

Company Director, Auckland.

Professional: Chartered Accountant.

Directorships: Fonterra Co-operative Group Limited, Nuplex Industries Limited, Pumpkin Patch Limited, and The New Zealand Refining Company Limited.



Cathy Quinn LL B

Solicitor, Auckland.

Professional: Chair of Minter Ellison Rudd Watts and partner specialising in corporate and securities law. Member of the Capital Market Development Taskforce.



Neville Todd B Com

Company Director, Wellington.

Directorships: Kinloch Funds Management Limited and its subsidiaries. Formerly a director of Milford Asset Management and Salomon, Smith Barney New Zealand Limited, and a member of the New Zealand Stock Exchange.

HIGHLIGHTS

THE COMMISSION:

- ◆ took court proceedings against the directors of Bridgecorp and Nathans alleging they misled investors by making untrue statements in their companies' offer documents
- ◆ banned Propertyfinance Securities Limited advertisements for a proposed restructure of moratorium arrangements
- ◆ alerted investors about what to look for when considering moratorium proposals
- ◆ published reports on Cycles 7 and 8 of the Financial Reporting Surveillance Programme
- ◆ published consultation documents on financial adviser competence and regulation and began other work on implementing the Financial Advisers Act
- ◆ advised the Government on Capital Market Development Taskforce recommendations
- ◆ granted exemptions to allow listed companies to raise capital from shareholders to meet urgent funding needs
- ◆ advised on the financial adviser reforms and the Settlement Systems, Futures, and Emissions Units Bill
- ◆ consulted and granted two class exemptions on the New Zealand deposit guarantee schemes
- ◆ assisted overseas regulators with investigations on 10 occasions
- ◆ promoted New Zealand's securities markets to international business audiences
- ◆ concluded the three-year sponsorship agreement of Young Enterprise Trust's Financial Studies Course.

THE CHAIRMAN OF THE COMMISSION:

- ◆ led the work of the International Organisation of Securities Commissions (IOSCO) on addressing the global financial crisis
- ◆ was appointed to the Financial Crisis Advisory Group.

PERFORMANCE AGAINST OBJECTIVES

In June 2008, the Commission published its third Statement of Intent (SOI) under the Crown Entities Act. This outlined work for 2008-2011, and detailed plans for the 2008/09 financial year.

We report below against SOI objectives for the 2008/09 financial year. The Statement of Service Performance (page 44) details activities under each output for the same year.

As medium-term measures were included for the first time in the 2008-2011 SOI, we also report progress on the medium-term performance for each output.

SURVEILLANCE AND ENFORCEMENT

OBJECTIVES

- ◆ Surveillance work corrects identified deficiencies and communicates the Commission's expectations of standards of conduct in the market and the requirements of the law
- ◆ Surveillance and enforcement work is targeted at those issues most likely to deter bad practices in key areas
- ◆ Our enforcement actions achieve the desired regulatory results.

MEASURES

- ◆ In 90% of surveillance cases where deficiencies are identified the desired regulatory result is achieved
- ◆ Resources are applied in accordance with market surveillance and enforcement priorities
- ◆ One key area of market activity is identified, investigated and reported on (e.g. finance companies or adviser disclosure statements)
- ◆ The Commission achieves the desired regulatory result in at least 80% of enforcement actions.

The Commission monitors market activity to identify and investigate potential breaches of securities law. We encourage entities and directors to strive for international best practice in financial reporting and corporate conduct and governance.

Enforcement sends the market clear signals on complying with the law and on expected standards of behaviour.

We work with the Ministry of Economic Development's National Enforcement Unit and the Serious Fraud Office to ensure agencies deal appropriately with alleged breaches.

In July, our output agreement with the Minister of Commerce was amended to allow us to use our litigation budget to pursue criminal prosecutions.

Surveillance and enforcement resources were prioritised to target issues most likely to deter bad practice. In the last year, we completed 88 investigations into suspected breaches of the law.

The majority of enforcement issues dealt with are still under investigation or before the Courts. Two enforcement cases were completed and in both the desired regulatory result was achieved.

In 98% of surveillance cases a positive outcome was achieved.

Finance companies

Finance companies that failed or froze repayments were the focus of our enforcement work. Our investigations involved 35 finance companies.

In December, we filed civil and criminal proceedings against all five directors of Bridgecorp Limited (in receivership and in liquidation) and Bridgecorp Investments Limited (in liquidation); also against all four directors of Nathans Finance NZ Limited (in receivership). We allege that these directors misled investors by making untrue statements in their companies' offer documents.

Civil proceedings are a step towards compensating those who invested according to prospectuses these companies issued in December 2006.

In April, we banned Propertyfinance Securities Limited advertisements for a proposed restructure of moratorium arrangements. We believed these failed to comply with the law and were likely to mislead investors.

We reviewed nine moratorium proposal documents for compliance with securities law.

Real property proportionate ownership schemes

In the latter part of the year, we saw a significant rise in the number of real property proportionate ownership schemes. We reviewed the offer documents for 12 schemes. Some of these matters are ongoing, but as at 30 June seven issuers had voluntarily withdrawn their documents or corrected their information after we raised compliance issues with them.

Other issuers

In addition we reviewed offer documents for other types of securities and possible scams. Five issuers voluntarily withdrew securities offers or corrected information after we raised compliance issues. Four matters were referred to other agencies.

Market misconduct

We investigate and, if necessary, take action against breaches of insider trading, market manipulation and continuous disclosure laws.

Based on information from our market monitoring and from NZX referrals under the Securities Markets Act 1988, we investigated 27 cases of possible market misconduct.

Financial reporting

We published two reviews as part of our Financial Reporting and Surveillance Programme. This work encourages high-quality financial reporting so investors can be confident about the information issuers provide.

The programme focuses on issuer compliance with Financial Reporting Standards and other elements of Generally Accepted Accounting Practice (NZ GAAP).

The two reports – Cycles 7 and 8 – reviewed the financial reporting of 44 and 40 issuers respectively. We wrote to some issuers for more information or a commitment to revise or improve future financial statement disclosures.

Corporate governance review is now part of this programme. We believe that in the current financial climate, investors need more assurance that issuers have robust corporate governance arrangements.

MEDIUM-TERM PERFORMANCE

Measure: Follow-up assessments after targeted reviews and enforcement action show improved compliance with the law.

With the focus on initiating enforcement action during the year, we have yet to carry out any follow-up assessments on the impact of the two enforcement matters completed.

OVERSIGHT AND SUPERVISION

OBJECTIVES

- ◆ NZX properly fulfils its regulatory role in the market
- ◆ The Commission is ready to fulfil new statutory roles.

MEASURES

- ◆ NZX responds constructively to all recommendations in the Commission's annual review of NZX's performance of its regulatory role
- ◆ The Commission has in place the people, training, procedures and infrastructure to implement new law when it comes into force.

The Commission oversees NZX's performance of its regulatory role, advising the Minister of Commerce on NZX's rules.

Passed in September, the Financial Advisers Act makes us the main regulator of advisers. The Act will hold advisers accountable for the quality of advice they give clients. Once it comes into force, we will be responsible for authorising advisers and monitoring their conduct and competence.

NZX

We made significant progress on our fourth oversight review of NZX's regulatory performance as a registered exchange. The review covers the 2008 calendar year and focuses on the effectiveness of NZX's risk-based approach to supervision of market participants.

Financial advisers

We carried out initial planning and consulted with the industry and the education sector on implementing the financial adviser regime.

Following her May appointment, Commissioner for Financial Advisers Annabel Cotton sought expressions of interest for Code Committee membership. The committee will draft the Code of Professional Conduct for authorised financial advisers. We aim to have the new regime in place by the end of 2010.

MEDIUM-TERM PERFORMANCE

Measure: Few recommendations in significant areas need to be made to NZX and it takes action in response to the Commission's recommendations.

The last review of NZX, published in June 2008, found its performance as a registered exchange was good and it had taken on board the Commissions' recommendations. The review underway will provide an update on NZX's performance.

LAW REFORM

OBJECTIVES

- ◆ Provide robust advice to Government to give priority to reforms needed to address shortcomings in the law identified through the Commission's work
- ◆ High quality advice and assistance is given to the Government's financial services policy development.

MEASURES

- ◆ Advice given seeks priority for reforms to address identified shortcomings in regulation of financial advisers, disclosure about investment products, issues identified by FSAP, and auditor oversight
- ◆ The quality, quantity, and timeliness of advice and assistance to the Ministry of Economic Development's reform programmes satisfy the Commission and the MED.

The Commission recommends to the Minister of Commerce securities law improvements that will give New Zealand an internationally acceptable, cost-effective regulatory regime that suits our markets.

We advised and assisted the government on legislation, as well as advising and assisting with Capital Market Development Taskforce recommendations.

The Ministry of Economic Development is satisfied with our advice.

Securities Disclosure and Financial Advisers Amendment Bill

The Capital Market Development Taskforce recommended in November that the Government include measures to streamline fundraising under the Securities Act. The Securities Disclosure and Financial Advisers Amendment Bill was introduced in February.

The Commission helped Government develop policies, and advised the Commerce Committee when the Bill was in the House. We have also been working on the regulations. The Bill will streamline non-public offers and allow a “simplified disclosure prospectus” to let listed issuers raise capital efficiently and cost-effectively from existing investors, while still ensuring investors get enough information.

Securities Act review and trustee supervision

Government confirmed earlier this year it will thoroughly review the Securities Act, including issues arising from the Review of Financial Products and Providers which are yet to be addressed.

It indicated it would make it a priority to introduce supervision of trustees, possibly by the Securities Commission. We have been working with the Ministry of Economic Development to review the Act.

Securities regulations review

We expect the long-awaited securities regulations review to be completed early in 2009/10. Changes to the Securities Act, which came into force in March, shifted responsibility for its regulations from the Commission to the Ministry of Economic Development.

The Commission helped the Ministry review regulations and publish a discussion document in April. The document’s recommendations are based on our review of the Securities Regulations and on specific Capital Market Development Taskforce proposals.

Financial adviser reforms

The Financial Advisers Act is a major piece of legislation resulting from several years’ intensive work. It addresses shortcomings raised by the International Monetary Fund’s 2003 Financial Sector Assessment Programme evaluation, and brings New Zealand up to international standards of financial adviser regulation.

In the lead-up to the September passing of the Act, the Commission made submissions and spoke to the select committee on Finance and Expenditure.

The Financial Service Providers (Registration and Dispute Resolution) Act, also passed in September, requires providers to be on a national register and belong to independent dispute resolution services, to ensure low-cost consumer redress.

We have been working with the Ministry of Economic Development and other government agencies to develop a framework for this requirement.

Anti-money laundering

We have been working on the Ministry of Justice-led inter-agency project aimed at strengthening New Zealand’s anti-money laundering laws.

The Anti-Money Laundering and Countering the Financing of Terrorism Bill (AML/CFT), introduced into Parliament in June, makes the Commission responsible for supervising various financial institutions for anti-money laundering compliance.

In March, New Zealand was evaluated by the Financial Action Task Force to assess its compliance with AML/CFT principles.

Other law reform

The Commission also made submissions and spoke to the select committee on Commerce on the Settlement Systems, Futures, and Emissions Units Bill.

We advised the Minister on legal issues related to real estate and securities law, and on the treatment of carbon credits in securities law.

MEDIUM-TERM PERFORMANCE

Measure: Laws are enacted to address shortcomings identified by the Securities Commission.

The Financial Advisers Act reflects recommendations made by the Commission to address regulatory shortcomings.

EXEMPTIONS AND AUTHORISATIONS**OBJECTIVES**

- ◆ Decisions on exemptions and authorisations are clearly based on the policy of the law while meeting the needs of the market
- ◆ Applications are completed within the agreed time.

MEASURES

- ◆ Publish a statement of reasons as part of each exemption notice which explains the policy basis for the Commission's decision
- ◆ Deal with all applications for exemptions and authorisations within the time agreed with the applicants.

Exempting issuers from the law reduces their costs in bringing new and overseas investment products to New Zealand markets.

Our work this year focused on allowing companies to raise capital to meet urgent needs resulting from economic conditions. The increased number of urgent applications caused delays in dealing with some other applications.

The Commission received 50 applications for exemptions. We granted 42 exemptions including three new class exemptions and reviewed and/or amended six class exemptions. We authorised six futures dealers on Securities Markets Act-compliant terms and conditions.

Share purchase plans

We issued a consultation document on class exemptions, aiming to help listed companies reduce the cost of raising money through share purchase plans.

We granted individual exemptions to help listed companies extend share purchase plans so retail investors can participate in raising capital following institutional placements.

We also decided to extend class exemptions for share purchase plans, allowing issuers to raise up to \$15,000 per shareholder per year, instead of the previous \$5,000 maximum.

Deposit guarantee scheme

We granted two class exemptions for New Zealand deposit guarantee schemes, and issued a related note to ensure individuals get clear, consistent information about the scheme and how it affects their investment.

Collective investment schemes

In December, the Commission granted a temporary exemption to allow, under certain conditions, managed funds to keep offering securities for three months on existing prospectuses. Conditions include monthly registration of a directors' certificate containing warnings, updated financial information, and a statement that the prospectus is not false or misleading.

Venture capital schemes

We reviewed the class exemption for venture capital fund-raising, granted a new notice and approved a new Code of Practice.

Exempting overseas issuers from the Financial Reporting Act

We granted named US- and UK-incorporated issuers a class exemption from various financial reporting requirements so they could use their overseas GAAP-compliant financial statements.

Australian registered managed investment schemes

With the introduction of regulations for trans-Tasman mutual recognition of securities offerings, the Commission reviewed the longstanding class exemption for Australian Registered Managed Investment Schemes.

We revoked the notice, but kept the exemption for distribution reinvestment schemes not covered by the regulations.

Electronic transfer systems

The Commission makes recommendations for approval of electronic securities transfer systems under the Securities Transfer Act. We consulted and have been working with the Reserve Bank on Austraclear NZ's proposed electronic registry interface.

MEDIUM-TERM PERFORMANCE

Measure: Five-yearly reviews and consultation on class exemption notices indicate they are relevant and useful to market participants.

The next five-yearly review of class exemptions will be undertaken in 2012. Our consultation on class exemptions received strong support for continued and expanded operation of the notices.

INTERNATIONAL COOPERATION AND RECOGNITION

OBJECTIVES

- ◆ The Commission's high profile and good standing in IOSCO and its contribution to IOSCO's work are maintained and opportunities leveraged from these promote New Zealand as a well-regulated market internationally
- ◆ The Commission promotes use of international MOUs to facilitate effective cooperation and enforcement
- ◆ The Commission has a strong relationship with ASIC.

MEASURES

- ◆ Take part in all relevant IOSCO meetings and working groups
- ◆ Take all opportunities identified with MFAT and NZTE while on IOSCO engagements to promote New Zealand as a well-regulated market in which investors can have confidence
- ◆ Receive positive assessment from IOSCO of the Commission's work towards IOSCO's strategic goal for the MMOU
- ◆ Meet regularly with the Australian Securities and Investments Commission (ASIC) and cooperative work is completed to agreed standards and time frames.

The Commission cooperates with overseas regulators and works to position New Zealand internationally as a well-regulated market.

Trans-Tasman cooperation

Commission members met twice with the Australian Securities and Investments Commission to discuss the trans-Tasman regulatory environment and enforcement issues. Past work was reviewed and priorities set for the next three years.

These include the regulatory framework for mutual recognition of advisers, information-sharing on stock exchange surveillance, and joint initiatives to support investor education and financial literacy.

The trans-Tasman Mutual Recognition of Securities Offerings reduces costs and simplifies compliance for issuers making offers of securities. Forty issuers from New Zealand and Australia have made use of the new regime since its introduction in June 2008.

IOSCO

The Commission contributes significantly to strengthening the international investment environment through its participation in the International Organisation of Securities Commissions (IOSCO), the international standards setter for securities regulation.

IOSCO aims to have the world's securities regulators regulate their markets according to explicit principles and standards. To facilitate the enforcing of securities laws, it encourages cooperation and information exchange.

The Commission is a member of IOSCO's governing body, the Executive Committee, of which Jane Diplock is chair. The Commission is also vice-chair of the Asia Pacific Regional Committee. We participated in meetings of these committees and IOSCO's Presidents Committee.

Under Jane Diplock's leadership, IOSCO has worked to address the global financial crisis, setting up three task forces looking at short selling, unregulated products and unregulated entities. The G-20 has endorsed these efforts because it supports IOSCO's goal of enhancing transparency and accountability, and promoting integrity in financial markets.

Memoranda of Understanding

IOSCO's Multilateral Memorandum of Understanding (MMOU), to which New Zealand is a signatory, has gained six new signatories during the year. The organisation aims to have all members signed up by 2010.

With New Zealand Aid funding, the Commission helped Papua New Guinea apply, and identify requirements, to become an MMOU signatory.

The Commission sits on a screening panel that assesses MMOU member applications.

We made nine new requests for information under the IOSCO MMOU and/or bilateral MOUs and responded to 10 requests under the IOSCO MMOU.

Financial Crisis Advisory Group

As chair of IOSCO's Executive Committee, Jane Diplock was appointed to the Financial Crisis Advisory Group (FCAG) set up in December by the International Accounting Standards Board and the United States Financial Accounting Standards Board.

The group will advise the two boards about standards-setting implications of the crisis and potential changes to the global regulatory environment. It met five times during the year and was due to report its recommendations in July 2009.

New Zealand's international profile

The Commission's and chairman's IOSCO roles raise New Zealand's profile in the international financial community.

We work with the Ministry of Foreign Affairs and Trade and New Zealand Trade and Enterprise to create opportunities for the chairman to promote New Zealand as an attractive investment destination. While undertaking her IOSCO and FCAG commitments, the chairman promoted New Zealand's well-regulated securities market to overseas business audiences on 12 occasions.

In March, the Commission hosted a visit by the China Securities Regulatory Commission. The delegation was particularly interested in New Zealand's regulatory framework, stock exchange oversight and corporate governance.

MEDIUM-TERM PERFORMANCE

Measure: Cooperation is forthcoming from other regulators when needed for our enforcement work.

All our requests for information under the IOSCO MMOU and/or bilateral MOUs were met with good cooperation.

PUBLIC UNDERSTANDING

OBJECTIVE

- ◆ The Commission's education projects, websites, publications and presentations provide market participants, investors and potential investors with information to help them understand the law and practice of securities.

MEASURES

- ◆ Education projects are completed and meet the quantity, quality, timeliness and cost measures of success set for each project (90%)
- ◆ Public feedback on websites and publications is positive.

The Commission has a role in promoting public understanding of securities law and practice because well-informed investors are an essential ingredient of robust capital markets.

Communications

Our websites, publications, media releases and speeches informed people on securities markets and their regulation. Six topical articles by the chairman were published in major daily newspapers.

We added a new section to our website with up-to-date information on the financial adviser regulation and implementing the new regime.

Education

We completed our three-year sponsorship of Young Enterprise Trust's Financial Studies Course for senior secondary school students. The course was developed, piloted and marketed to schools, and included teacher resources, teacher training and student study guides. As the New Zealand Qualifications Authority has yet to register all the relevant unit standards, the project was unable to meet all pre-set measures of success.

Given prevailing market conditions, the Commission addressed investment risk issues by updating our *Look Learn Invest* website and commencing an online campaign to promote it.

MEDIUM-TERM PERFORMANCE

Measure: Our public education projects succeed in delivering information to their target audiences.

While uptake of the Financial Studies Course is outside our control, our sponsorship has delivered course information and materials to schools.



EFFECTIVENESS AND CAPABILITY

CAPABILITY AND RISK

The Commission has a risk management framework that identifies key areas of capability and associated risks. We have developed the following responses to main risks.

Recruiting and retaining staff

As at 30 June the Commission had 51 staff positions (49 in 2007/08) and 40.8 fulltime equivalent employees (42 in 2007/08). The risk of being unable to recruit suitably qualified staff was countered by graduate and overseas recruitment, and by effectively targeting New Zealand recruitment campaigns.

We minimise the risks of losing staff by committing the organisation to being a good employer. We participated in the small-employer category (up to 50 staff) of the *Unlimited/JRA Best Places to Work in New Zealand Survey* in 2008. The Commission continues its values-based culture, maintains high professional standards and responds to staff feedback.

Physical event/disaster

The Commission's offices are code-compliant under section 95 of the Building Act 2004. Our earthquake and disaster plan includes emergency food, water and first aid supplies, staff trained in first aid, and document and IT recovery systems. Key staff have access to our computer network, allowing them to work from home.

Reputation and integrity

Since we promote high ethical standards in securities markets, it is essential people have confidence in our organisation. The Commission's integrity, work quality and maintenance of confidentiality are managed through our Values and Code of Ethics.

Confidentiality of information

New Members and staff sign a confidentiality agreement when they join the Commission, and induction reinforces this. IT system and file security is robust and effective, and the Commission's office is physically secure.

Accessible knowledge

The Commission's document management and records systems make institutional knowledge available. Our virtual teamwork structure encourages effective knowledge sharing.

Future capability

The Ministry of Economic Development is proposing reforms that would significantly expand Commission responsibilities. We continue to advise the Ministry on the proposed reforms' future resource and funding implications.

Organisational health and capability building

The Commission continues to work with the following agencies on organisational capability and health initiatives:

- ◆ the State Services Commissioner – *Development Goals for the State Services*
- ◆ the Equal Employment Opportunities Unit (EEO Unit) of the Human Rights Commission – *Good Employer Guidance under the National Equal Opportunities Network*.

The Commission's good employer programme reflects our commitment to EEO, according to which staff are recruited and rewarded on the basis of merit and affordability. "This organisation is an equal opportunities employer" was ranked second out of 60 statements in the *Unlimited/JRA Best Places to Work Survey 2008*.

FINANCIAL OBJECTIVES

We achieved our main financial objective for 2008/09 by carrying out our strategic plan on time and within budget and resources. The Commission delivers the outputs listed in the Statement of Service Performance and detailed in our Output Agreement with the Minister of Commerce, within the funding appropriated by Parliament for the purpose.

We applied our policies for expenditure, financial delegations and acquisitions. The Commission follows the Auditor-General's detailed planning and management procedures for significant acquisitions, including planning and managing litigation costs.

WORKING WITH OTHERS

The Commission has a wide range of stakeholders and our stakeholder policy is published on our website.

We worked, according to our statutory functions and powers, with the Minister of Commerce and the Ministry of Economic Development on policy, regulatory matters, law reform and appropriations. We reported to the Minister under the Crown Entities Act.

As required by the Securities Markets Act 1988, we performed our co-regulatory role with the NZX, covering markets operated by the exchange.

The Commission is grateful for the good working relationship we have with the Parliamentary Counsel Office. We also worked with other government agencies, including the Commerce Commission, New Zealand Police, Registrar of Companies, Reserve Bank of New Zealand, Retirement Commission, Serious Fraud Office, State Services Commission and Takeovers Panel, as appropriate and according to our statutory functions and powers. We worked with overseas securities regulators and agencies, in line with the IOSCO MMOU, bilateral MOUs and applicable law, as well as with a range of industry organisations and professional bodies.

TAKEOVERS PANEL

The Commission provides the Takeovers Panel with administrative and support services, in accordance with the Securities Act and under the terms of an MOU. Our financial statements record income from the Panel along with the costs of providing it with these services. The Panel is expected to relocate to separate premises in September 2009.



CORPORATE GOVERNANCE

The Commission encourages all entities impacting economically on New Zealand or variously accountable to the public to report on their corporate governance. To this end, the Commission published *Corporate Governance in New Zealand – Principles and Guidelines* in 2004. We report on how the Commission itself applied each of these principles in the 2008/09 year.

Principle 1: Directors should observe and foster high ethical standards.

The Commission's Code of Ethics sets out our values and procedures for:

- ◆ conflicts of interest
- ◆ confidential information
- ◆ Commission property
- ◆ compliance with other ethical codes
- ◆ compliance with the law
- ◆ conduct
- ◆ compliance with the Code of Ethics
- ◆ reporting breaches of the Code of Ethics.

The code sets out measures to deal with breaches and how to report them. Every Commission Member and staff member has been given a copy of the code, which is also published on the website. No breaches were identified during the year. The Commission has a conflicts of interest policy to ensure compliance with the Crown Entities Act, and it also complies with the State Services Commission Code of Conduct.

Principle 2: There should be a balance of independence, skills, knowledge, experience and perspectives among directors so the board works effectively.

The Securities Act 1978 sets out the skills and attributes required of a Member of the Commission. Commission Members are appointed by the Governor-General on the recommendation of the Minister of Commerce. When seeking new Members, the Ministry of Economic Development advertises widely to attract people with the skills the Act requires. Commission Members disclose any securities market interests, and must comply with the Commission's conflicts of interest policy. The functions and powers of the Commission set out in the Securities Act establish Members' roles and responsibilities.

The Chairman has a full-time role equivalent to an executive chairman, in line with the governance of many overseas jurisdictions' securities regulators. The Chairman is responsible for fostering a constructive corporate governance culture among Members and staff. Much of the Commission's work is carried out by formal divisions of the Commission between regular monthly Commission meetings. Members are made aware before appointment of likely demands on their time, frequently at short notice. Commission Members' profiles appear on page 7.

Each year we formally evaluate our performance against our strategic plan. The Commission also periodically evaluates itself as a board. Staff performance monitoring is carried out each year. The Commission has decided to comprehensively review its own effectiveness. The review is being carried out by an independent peer review panel comprising Michel Prada and Neil Walter, with KPMG providing secretariat services. The panel is expected to complete its final report in late 2009.

Principle 3: The board should use committees where this would enhance its effectiveness in key areas while retaining its responsibility.

The Securities Act provides for the appointment of Commission divisions with full Commission powers to carry out day-to-day work. This enables the Commission to function effectively and apply our conflicts of interest policy. The Commission has an Audit and Risk Review Committee, chaired by a chartered accountant. Its mandate is to oversee all aspects of the Commission's relationship with external auditors. It is also responsible to the Commission for risk management and for preparing the Commission's quarterly reports to the Minister of Commerce. The Audit and Risk Review Committee convenes quarterly.

Principle 4: The board should demand integrity both in financial reporting and in the timeliness and balance of disclosures on entity affairs.

As a body corporate funded by Parliamentary appropriation, the Commission is required to meet all obligations under the Securities Act 1978 and the Crown Entities Act 2004, including tabling our annual report in Parliament. After tabling, the annual report is made publicly available in hard copy and on our website. The Commission's financial statements are signed by the Chairman of the Commission and the Chairman of the Audit and Risk Review Committee. The Commission also reports quarterly to the Minister of Commerce in accordance with our output agreement. The Crown Entities Act 2004 requires us to prepare a statement of intent (SOI). Our SOI for the three years from 2009 to 2012 was tabled in the House on 29 May 2009. The Commission will report against that document in our next annual report.

Principle 5: The remuneration of directors and executives should be transparent, fair and reasonable.

Commission Members' remuneration is set by the Remuneration Authority and disclosed in our annual report. Staff remuneration is set to attract and retain competent people, and is comparable with other public sector organisations. The financial statements disclose the number of staff in salary bands higher than \$100,000 per annum.

Principle 6: The board should regularly verify that the entity has appropriate processes that identify and manage potential and relevant risks.

The Audit and Risk Review Committee provides governance of potential and relevant risks. The committee's risk review objective is to assist the Commission in independently assessing compliance with risk management, internal control, internal audit and legislative compliance practices. It has examined, accepted and assumed its monitoring role of the Commission's organisational risks. Its audit task is to assist the Commission to ensure the soundness and integrity of the financial statements.

Principle 7: The board should ensure the quality and independence of the external audit process.

As a body corporate funded by Parliament, the Commission's financial statements and statement of service performance are audited by Audit New Zealand on behalf of the Auditor-General, which has a formal process for rotating audit staff. The Audit and Risk Review Committee and staff communicate with Audit New Zealand before and after the audit. Fees paid to Audit New Zealand are disclosed in the annual report. Audit New Zealand undertook no non-audit work for the Commission this year.

Principle 8: The board should foster constructive relationships with shareholders that encourage them to engage with the entity.

The Commission is a statutory body, and its assets form part of the Crown's assets. We are accountable to Parliament through the Minister of Commerce for this ownership interest. The Commission is funded by Parliamentary appropriation to carry out statutory functions and we have an annual output agreement with the Minister on the work we will do. Our SOI for the three years 2009 to 2012 is published on our website and will be reported against in next year's annual report. We report quarterly to the Minister, and formally report to Parliament annually on how we used public funds to deliver services agreed with the Minister of Commerce.

Principle 9: The board should respect the interests of stakeholders within the context of the entity's ownership type and its fundamental purpose.

The Commission has a stakeholders policy, published on the website, which identifies our stakeholders and describes how we relate to and communicate with them.

FUNCTIONS & POWERS AUTHORITY

The Commission is established under the Securities Act 1978, which determines its functions as:

- ◆ keeping under review the law relating to bodies corporate, securities and unincorporated issuers of securities and recommending changes to the Minister of Commerce
- ◆ keeping under review and commenting on practices relating to securities and financial advisers
- ◆ cooperating with overseas securities commissions
- ◆ keeping under review and commenting on securities markets activities
- ◆ advising the Minister of Commerce on conduct rules proposed by securities exchanges
- ◆ promoting public understanding of the law and practice relating to securities and financial advisers.

The Commission's powers to perform these functions include:

- ◆ receiving evidence on securities law and practice, with power to summons people and documents and carry out inspections
- ◆ banning misleading and illegal offer documents and advertisements
- ◆ enforcing securities law and the law relating to insider trading and market manipulation, and disclosure by substantial security holders and investment advisers
- ◆ enforcing continuous disclosure law and making orders requiring disclosure by issuers
- ◆ requiring an exchange to provide the Commission with information and assistance
- ◆ accepting enforceable undertakings
- ◆ publishing reports and comments
- ◆ making orders requiring disclosure by unregistered exchanges
- ◆ exempting persons from compliance with provisions of the Securities Act or Regulations under the Act
- ◆ authorising certain market participants
- ◆ recommending law reform
- ◆ hearing appeals against certain decisions of the Registrar of Companies.

The Commission is an independent Crown entity in terms of the Crown Entities Act 2004.

Other legislation the Commission works with includes the Securities Markets Act 1988, the Financial Reporting Act 1993, the Securities Regulations 1983, the Securities Act (Contributory Mortgage) Regulations 1988, and the Securities (Fees) Regulations 1998. The Commission may also consider certain matters arising under the Corporations (Investigation and Management) Act 1989 (in particular, directions to "at risk" corporations and recommendations about statutory management).

The Commission will be responsible for administering the Financial Advisers Act when this comes into force. It will authorise advisers and monitor their conduct and competency requirements. The Commission has been working on implementing the new regime with the aim of having it in place by the end of 2010.

AUTHORITY

This annual report was approved by the Securities Commission on 16 July 2009.



Jane Diplock AO
Chairman



Keitha Dunstan
Chairman, Audit & Risk Review Committee



FINANCIAL REPORT

SOURCES OF FUNDING

The Commission is funded by the appropriation of money by Parliament and the payment of fees by the users of its services. It is responsible for the allocation of the money. It sets priorities with care and reviews them constantly to ensure that the money is used to best advantage.

STATEMENT OF RESPONSIBILITY

We acknowledge responsibility for the preparation of these financial statements and statement of service performance and for the judgements used in them.

We acknowledge responsibility for establishing and maintaining a system of internal control designed to provide reasonable assurance as to the integrity and reliability of the Commission's financial reporting.

In our opinion these annual financial statements and statement of service performance fairly reflect the financial position and operations of the Securities Commission for the year ended 30 June 2009.



Jane Diplock AO
Chairman
16 July 2009



Keitha Dunstan
Chairman, Audit & Risk Review Committee
16 July 2009

STATEMENT OF FINANCIAL PERFORMANCE

FOR THE YEAR ENDED 30 JUNE 2009

2009 BUDGET \$000s		NOTE	2009 ACTUAL \$000s	2008 ACTUAL \$000s
REVENUE				
7,301	Government grant		7,301	6,501
633	Administrative services to the Takeovers Panel	3	503	1,027
250	Exemption and authorisation fees		267	234
180	Interest	9	155	214
-	Other income		35	7
430	Litigation fund income	5, 9	656	2,076
8,794	Total revenue		8,917	10,059
EXPENSE				
6,046	Personnel expenses	4	5,509	5,174
642	Occupancy expenses		642	642
355	Depreciation and amortisation	4	341	336
2,372	Other operating expenses	4	2,030	2,302
638	Litigation fund expenses	5	675	54
10,053	Total expense		9,197	8,508
(1,259)	SURPLUS (DEFICIT)		(280)	1,551
COMPRISING				
(1,051)	Operating (deficit)		(261)	(471)
(208)	Litigation fund (deficit) surplus		(19)	2,022
(1,259)			(280)	1,551

The accompanying Notes form part of these Financial Statements.

STATEMENT OF CHANGES IN EQUITY

FOR THE YEAR ENDED 30 JUNE 2009

BUDGET \$000s		NOTE	ACCUMULATED FUNDS \$000s	LITIGATION FUND \$000s	TOTAL EQUITY \$000s
4,011	AT 1 JULY 2007		3,167	844	4,011
1,584	Surplus (deficit) for year		(471)	2,022	1,551
1,584	Total recognised income (expense) for the year		(471)	2,022	1,551
5,595	AT 30 JUNE 2008		2,696	2,866	5,562
(1,259)	Surplus (deficit) for year		(261)	(19)	(280)
(1,259)	Total recognised income (expense) for the year		(261)	(19)	(280)
-	Capital repayment		-	(2,066)	(2,066)
4,336	AT 30 JUNE 2009	5, 6	2,435	781	3,216

STATEMENT OF FINANCIAL POSITION

AS AT 30 JUNE 2009

2009 BUDGET \$000s		NOTE	2009 ACTUAL \$000s	2008 ACTUAL \$000s
CURRENT ASSETS				
8	Cash and cash equivalents	7	332	48
700	Term deposits	7	1,400	1,632
44	Cash and cash equivalents – litigation fund	7	297	178
2,400	Term deposits – litigation fund	7	-	650
60	GST receivable		63	51
370	Trade and other receivables	10	646	2,223
3,582	Total current assets		2,738	4,782
NON-CURRENT ASSETS				
1,170	Property, plant and equipment	11	1,110	1,356
29	Computer software	12	14	25
1,199	Total non-current assets		1,124	1,381
4,781	Total assets		3,862	6,163
CURRENT LIABILITIES				
398	Trade and other payables	13	599	541
13	Rent holiday liability	14	13	13
411	Total current liabilities		612	554
NON-CURRENT LIABILITIES				
34	Rent holiday liability	14	34	47
445	Total liabilities		646	601
EQUITY				
1,675	Accumulated funds		2,435	2,696
2,661	Litigation fund	5	781	2,866
4,336	Total equity	6	3,216	5,562
4,781	Total equity and liabilities		3,862	6,163

The accompanying Notes form part of these Financial Statements.

STATEMENT OF CASH FLOWS

FOR THE YEAR ENDED 30 JUNE 2009

2009 BUDGET \$000s	NOTE	2009 ACTUAL \$000s	2008 ACTUAL \$000s
CASH FLOWS FROM OPERATING ACTIVITIES			
Cash was provided from:			
7,301		7,302	6,500
2,257		2,188	149
262		264	212
-		22	7
224		216	224
633		500	1,020
Cash was applied to:			
(3,891)		(3,579)	(3,015)
(5,851)		(5,230)	(5,018)
(15)		(12)	8
920	15	1,671	87
CASH FLOWS FROM INVESTING ACTIVITIES			
Cash was provided from:			
932		1,632	568
-		2,557	-
Cash was applied to:			
(250)		(81)	(366)
-		(3)	(16)
-		(1,400)	(250)
(1,750)		(1,907)	(75)
(1,068)		798	(139)
CASH FLOWS FROM FINANCING ACTIVITIES			
Cash was provided from:			
-		(2,066)	-
-		(2,066)	-
(148)		403	(52)
200		226	278
52		629	226
COMPRISING			
8		332	48
44		297	178
52		629	226

NOTES TO THE FINANCIAL STATEMENTS

FOR THE YEAR ENDED 30 JUNE 2009

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NOTES TO THE FINANCIAL STATEMENTS

FOR THE YEAR ENDED 30 JUNE 2009

NOTE 1: STATEMENT OF ACCOUNTING POLICIES

Reporting entity

The Securities Commission (the Commission) is a body corporate established by the Securities Act 1978. The financial statements of the Commission are prepared pursuant to section 154 of the Crown Entities Act 2004.

The Commission is an independent Crown entity for legislative purposes and a public benefit entity for the purposes of complying with Generally Accepted Accounting Practices in New Zealand (NZ GAAP).

The financial statements of the reporting entity, the Commission, for the year ended 30 June 2009 were authorised for issue by the Commission on 16 July 2009.

The Commission's primary function is the regulation of investments in New Zealand.

Basis of preparation

STATEMENT OF COMPLIANCE

These financial statements have been prepared in accordance with Generally Accepted Accounting Practice in New Zealand (NZ GAAP). They comply with New Zealand equivalents to International Financial Reporting Standards (NZ IFRS) and other applicable Financial Reporting Standards, as appropriate for public benefit entities.

BASIS OF MEASUREMENT

The accounting principles recognised as appropriate for the measurement and reporting of results and financial position on a historic cost basis have been applied.

FUNCTIONAL AND PRESENTATIONAL CURRENCY

These financial statements are presented in New Zealand dollars (\$) which is the entity's functional currency. All financial information presented in New Zealand dollars has been rounded to the nearest thousand dollars.

USE OF ESTIMATES AND JUDGEMENTS

The process of applying accounting policies requires the Commission to make judgements, estimates and assumptions that affect the reported amounts of assets, liabilities, income and expenses. The estimates and associated assumptions are based on past experience and various other factors that are believed to be reasonable under the circumstances. Actual results may differ from these estimates.

Estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognised in the period in which the estimates are revised and in any future periods affected.

The Commission has made the following critical accounting estimates and judgements when preparing these financial statements:

a) Impairment on library

The Commission estimates there are no significant impairment issues in respect of the carrying values of its library collection.

Standards amendments and interpretations issued that are not yet effective and have not been early adopted

NZ IAS 1 *Presentation of Financial Statements (revised 2007)* replaces NZ IAS 1 *Presentation of Financial Statements (issued 2004)* and is effective for reporting periods beginning on or after 1 January 2009.

The revised standard requires information in financial statements to be aggregated on the basis of shared characteristics and introduces a statement of comprehensive income. The statement of comprehensive income will enable readers to analyse changes in equity resulting from non-owner changes separately from transactions with the Crown in its capacity as "owner". The revised standard gives the Commission the option of presenting items of income and expense and components of other comprehensive income either in a

single statement of comprehensive income with subtotals, or in two separate statements (a separate statement of financial performance followed by a statement of comprehensive income). The Commission intends to adopt this standard for the year ending 30 June 2010, and is yet to decide whether it will prepare a single statement of comprehensive income or a separate statement of financial performance followed by a statement of comprehensive income.

Significant accounting policies

Significant accounting policies set out below have been applied consistently to all periods presented in these financial statements.

a) Property, plant and equipment

Property, plant and equipment are shown at cost or deemed cost less depreciation, and less any impairment losses (see note 1(o)).

Library collections that had been revalued to fair value immediately prior to 1 July 2004, the date of transition to IFRSs, are measured on the basis of deemed cost, being the revalued amount at the date of that revaluation.

The following classes of property, plant and equipment have been depreciated over their economic lives on the following bases:

- ◆ office furniture – 20 percent of diminishing value,
- ◆ office equipment – straight line over three years,
- ◆ leasehold improvements – straight line over remaining life of lease,
- ◆ library collections – straight line over ten years,
- ◆ motor vehicle – straight line over five years.

b) Intangible assets

Computer software that is not integral to the operation of the hardware is recorded as an intangible asset and amortised on a straight line basis over a period of three years.

c) Cash and cash equivalents

Cash and cash equivalents comprise cash balances on hand, held in bank accounts, and short term deposits that form part of the Commission's day-to-day cash management. They are short term, highly liquid investments that are readily convertible to known amounts of cash and subject to an insignificant risk of changes in values. They are held for the purpose of meeting short term cash commitments and have short maturities of three months or less.

d) Term deposits

This category includes only term deposits with maturities greater than three months. These deposits are loans and receivables under NZ IFRS. Loans and receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. Loans and receivables are recognised initially at fair value plus transaction costs and subsequently measured at amortised cost using the effective interest rate method.

e) Trade and other receivables

Trade and other receivables and GST receivables are stated at cost less impairment losses.

f) Short term employee benefits

Employee entitlements represent the Commission's liability for employee annual leave entitlements. This has been calculated on an accrued entitlement basis which involves recognising the undiscounted amount of short term employee benefits expected to be paid in exchange for service that an employee has already rendered. This is calculated at current remuneration rates.

g) Operating leases

Leases where the lessor retains substantially all the risks and benefits of ownership of the asset are classified as operating leases. Operating lease payments are recognised as an expense in the income statement on a straight line basis over the lease term after taking into account any lease inducements.

h) GST

All items in financial statements are exclusive of GST with the exception of trade and other receivables and trade and other payables which are stated with GST included.

The statement of cash flows has been prepared on a net GST basis. That is, cash receipts and payments are presented exclusive of GST. A net GST presentation has been chosen to be consistent with the presentation of the statement of financial performance and statement of financial position. The net GST component of operating activities reflects the net GST paid to and received from the Inland Revenue Department. The GST component has been presented on a net basis as the gross amounts would not provide meaningful information for financial statement purposes.

i) Trade and other payables

Trade and other payables and GST payable are stated at cost.

j) Financial instruments

A financial instrument is recognised when the Commission becomes party to a financial contract. All financial instruments are recognised in the statement of financial position and all revenues and expenses in relation to financial instruments are recognised in the statement of financial performance.

Financial instruments comprise trade and other receivables, cash and cash equivalents, term deposits and trade and other payables.

k) Income tax

The Commission is exempt from income tax under the Income Tax Act 2004.

l) Revenue recognition

Government grant is recognised as revenue in the year in which it is appropriated.

Revenue from application fees and recovery of related costs and revenue from administrative services provided to the Takeovers Panel is recognised when the relevant services are provided.

Interest income is recognised as it accrues, based on the effective interest rate inherent in the respective financial instrument. The effective interest rate exactly discounts estimated future cash receipts through the expected life of the financial asset to that asset's net carrying amount. The method applies this rate to the principal outstanding to determine interest income each period.

m) Cost allocation policy

For the purposes of the statement of service performance direct costs are charged directly to outputs. Indirect costs are allocated on the basis of direct labour hours spent on each output.

n) Litigation fund

Reimbursements from the Crown to top up the fund are shown as income in the period to which the Commission's claim for reimbursement relates.

The balance of the fund is disclosed as a component of equity in the statement of financial position. The fund is restricted for approved litigation purposes only.

o) Impairment

The Commission considers at each reporting date whether there is any indication that a non-financial asset may be impaired. If any such indication exists, the asset's recoverable amount is estimated.

Given that the future economic benefits of the Commission's assets are not directly related to the ability to generate net cash flows, the value in use of these assets is measured on the basis of depreciated replacement cost.

At each balance date financial assets such as receivables are assessed for impairment. Trade and other receivables are individually assessed for impairment. This assessment is also made with reference to previous experience with debtors. The recoverable amount is the present value of the estimated future cash flows.

An impairment loss is recognised in the statement of financial performance whenever the carrying amount of an asset exceeds its recoverable amount. Any reversal of impairment losses is also recognised in the statement of financial performance.

p) Contingent assets and contingent liabilities

Contingent liabilities are disclosed if the possibility that they will crystallise is not remote. Contingent assets are disclosed if it is probable that the benefits will be realised.

q) Changes in accounting policy

There have been no changes in accounting policies since the date of the last audited financial statements.

r) Superannuation schemes

Obligations for contributions to Kiwisaver and the State Sector Retirement Savings Scheme are accounted for as defined contribution superannuation scheme and are recognised as an expense in the statement of financial performance as incurred.

NOTE 2: BUDGET FIGURES

The budget figures are those approved by the Commission on 19 June 2008 and published in the Commission's Statement of Intent 2008-2011. The budget figures are prepared in accordance with generally accepted accounting practice and are consistent with the accounting policies adopted by the Commission for the preparation of the financial statements.

NOTE 3: ADMINISTRATIVE SERVICES TO THE TAKEOVERS PANEL

The Commission provides administrative services to the Takeovers Panel. For each financial year the Commission and the Panel agree on the level of services required and on the fees to be paid to the Commission for these services. The costs involved in providing these services are part of total expenditure.

NOTE 4: REVENUE AND EXPENSE

2009 BUDGET \$000s		NOTE	2009 ACTUAL \$000s	2008 ACTUAL \$000s
PERSONNEL EXPENSES				
5,711	Staff expenses		4,775	4,472
335	Members' fees		734	702
6,046			5,509	5,174
DEPRECIATION AND AMORTISATION				
338	Depreciation	11	327	317
17	Amortisation	12	14	19
355			341	336
OTHER OPERATING EXPENSES				
16	Auditors – audit fees		19	19
-	Provision for doubtful debts		1	-
65	Communication charges		62	55
385	Printing and stationery		335	318
787	Professional services		543	744
595	Services and supplies		568	602
524	Travel and accommodation		502	564
2,372			2,030	2,302

NOTE 5: LITIGATION FUND

The Government has appropriated a litigation fund to cover actual litigation costs up to a maximum of \$1,370,000 for the year ended 30 June 2009. The fund is to be used solely for approved litigation costs incurred by the Securities Commission in taking or defending eligible cases.

A summary of the movements in the fund during the year is as follows:

	2009 ACTUAL \$000s	2008 ACTUAL \$000s
Opening balance	2,866	844
Government grant revenue	505	16
Interest income	81	64
Settlements and cost recoveries	70	1,996
Total litigation fund income	656	2,076
Expenditure on eligible litigation	(675)	(54)
Capital repayment	(2,066)	-
Closing balance	781	2,866
COMPRISING		
Cash and cash equivalents		
– Current account	271	79
– Call account	26	99
– Short term deposits	-	-
Term deposits	-	650
	297	828
Trade and other receivables	505	2,038
	802	2,866
Trade and other payables	(21)	-
Balance	781	2,866

The Commission received settlements for costs for the Tranz Rail matter for \$2,065,417. This includes \$69,507 which arose from the contingent asset disclosure in the previous years accounts under note 18. Following a Government directive, the Commission has transferred the settlement monies by way of a capital repayment to the Government.

NOTE 6: MANAGEMENT OF EQUITY

The Commission seeks to maintain sufficient equity to enable it to be able to manage its on-going operations and obligations. Surplus funds are invested having regard to the cash flow profile of future commitments. There have been no material changes in the Commission's management of equity during the period compared with the previous period.

The Commission is not subject to any externally imposed equity requirements.

NOTE 7: FINANCIAL INSTRUMENTS

Credit risk

Credit risk represents the risk that a counterparty will default on its contractual obligations to the Commission. Financial instruments which subject the Commission to credit risk consist of bank balances, bank term deposits, trade and other receivables. The maximum exposure to credit risk at the reporting date is the carrying amount of those instruments as detailed in note 8.

There is limited credit risk for the Commission because most of the financial assets are the Commission's cash or investments. These are deposits with Westpac Banking Corporation which is a registered bank in New Zealand and is rated Moody's Aa2 and Standard & Poors AA for its long term credit rating.

The Commission does not require collateral or security to support financial instruments. There is concentration of credit risk for accounts receivable in relation to receivables from the Government but this risk is very low.

There is no significant concentration of credit risk pertaining to trade and interest receivable.

Liquidity risk

Liquidity risk represents the Commission's ability to meet its contractual obligations associated with financial liabilities. The Commission evaluates its liquidity requirements on an on-going basis by preparing quarterly budget analyses which are used to manage the timing of investment maturity with payments due. The Commission's creditors are mainly those reported as trade and other payables. The Commission aims to pay these within normal commercial terms, that is, by the 20th of the month, if not earlier.

Employee entitlements comprise obligations for employee accumulated leave. This obligation is extinguished when leave is taken. Staff are encouraged to take leave within the year in which it vests.

The Commission has cash and other short term deposits that it can use to meet its ongoing payment obligations.

Market risk

The only market risk that the Commission is subject to is interest rate risk. Interest rate risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market interest rates.

Fair value interest rate risk is the risk that the value of a financial instrument will fluctuate due to changes in market interest rates. The Commission's exposure to fair value interest rate risk is limited to its bank deposits which are held at fixed rates of interest.

Cash flow interest rate risk is the risk that the cash flows from a financial instrument will fluctuate because of changes in market interest rates. The Commission's exposure to cash flow interest rate risk is limited to its bank deposits which are held at fixed rates of interest.

Details are as follows:

	EFFECTIVE INTEREST RATE	TOTAL \$000s	MATURITIES 3 MONTHS OR LESS \$000s	MATURITIES GREATER THAN 3 MONTHS \$000s
2009				
Cash and cash equivalents				
- Current account	0.30%	166	166	-
- Call account	3.00%	166	166	-
Term deposits	5.86%	1,400	-	1,400
		1,732	332	1,400
Cash and cash equivalents – litigation fund				
- Current account	0.30%	271	271	-
- Call account	2.00%	26	26	-
Term deposits	-	-	-	-
		297	297	-
2008				
Cash and cash equivalents				
- Current account	3.50%	45	45	-
- Call account	7.45%	3	3	-
Term deposits	8.79%	1,632	-	1,632
		1,680	48	1,632
Cash and cash equivalents – litigation fund				
- Current account	3.50%	79	79	-
- Call account	7.45%	99	99	-
Term deposits	8.79%	650	-	650
		828	178	650

Term deposits are made for varying periods of up to, including, and greater than three months depending on the immediate cash requirements of the Commission, and earn interest at the respective short term deposit rates.

The Commission interest rate risk is limited to interest on term investments, the maturities of which are shown above.

SENSITIVITY ANALYSIS

As at 30 June 2009, if the floating interest rate on call deposits had been 100 basis points higher or lower, with all other variables held constant, the surplus/deficit for the year would have been \$1,920 (2008: \$1,020) higher or lower.

Fair values

All financial instruments are recognised in the statement of financial position and are stated at carrying amounts. Given their short term nature, the carrying amounts are considered a reasonable approximation of their fair values.

There has been no change from the previous period in the Commission's exposure to risks, how they arise, or in the Commission's objectives, policies and processes for managing the risk and the methods used to measure the risks.

NOTE 8: CATEGORIES OF FINANCIAL ASSETS AND FINANCIAL LIABILITIES

The carrying amounts of financial assets in the NZ IAS 39 categories are as follows:

	2009 \$000s	2008 \$000s
LOANS AND RECEIVABLES		
Cash and cash equivalents	332	48
Term deposits	1,400	1,632
Interest receivable – other	43	104
GST receivable	63	51
Trade and other receivables	603	2,077
Cash and cash equivalents – litigation fund	297	178
Term deposits – litigation fund	-	650
Interest receivable – litigation fund	-	42
Total loans and receivables	2,738	4,782

Financial liabilities at amortised cost:

	2009 \$000s	2008 \$000s
Trade payables	320	331
Employee entitlements	279	210
	599	541

NOTE 9: INCOME FROM FINANCIAL ASSETS

	2009 \$000s	2008 \$000s
LOANS AND RECEIVABLES		
Interest – other	155	214
Interest – litigation fund	81	64
Total interest income from loans and receivables	236	278

NOTE 10: TRADE AND OTHER RECEIVABLES

	2009 \$000s	2008 \$000s
Trade receivables	89	2,069
Less: provision for impairment	(1)	-
Receivables from the Crown	515	8
Interest receivable	43	146
	646	2,223

The status of trade and other receivables as at 30 June 2009 is as follows:

TRADE AND OTHER RECEIVABLES	TOTAL \$000s	NOT PAST DUE \$000s	UP TO 30 DAYS PAST DUE \$000s	OVER 30 DAYS PAST DUE \$000s
2009				
Gross receivables	647	546	17	84
Impairment	(1)	-	-	(1)
	646	546	17	83
2008				
Gross receivables	2,223	2,166	17	40
Impairment	-	-	-	-
	2,223	2,166	17	40

NOTE 11: PROPERTY, PLANT AND EQUIPMENT

	OFFICE EQUIPMENT \$000s	OFFICE FURNITURE \$000s	LEASEHOLD IMPROVEMENTS \$000s	LIBRARY \$000s	MOTOR VEHICLE \$000s	TOTAL \$000s
AT 1 JULY 2008						
Net of accumulated depreciation	224	188	692	196	56	1,356
Additions	46	3	-	32	-	81
Disposals	-	-	-	-	-	-
Depreciation charge for the year	(109)	(38)	(147)	(21)	(12)	(327)
At 30 June 2009, net of accumulated depreciation	161	153	545	207	44	1,110
AT 30 JUNE 2008						
Cost	997	489	1,312	270	64	3,132
Accumulated depreciation	(773)	(301)	(620)	(74)	(8)	(1,776)
Net book value	224	188	692	196	56	1,356
AT 30 JUNE 2009						
Cost	1,043	492	1,312	302	64	3,213
Accumulated depreciation	(882)	(339)	(767)	(95)	(20)	(2,103)
Net book value	161	153	545	207	44	1,110

	OFFICE EQUIPMENT \$000s	OFFICE FURNITURE \$000s	LEASEHOLD IMPROVEMENTS \$000s	LIBRARY \$000s	MOTOR VEHICLE \$000s	TOTAL \$000s
AT 1 JULY 2007						
Net of accumulated depreciation	120	185	790	183	29	1,307
Additions	203	46	44	33	64	390
Disposals	-	-	-	-	(24)	(24)
Depreciation charge for the year	(99)	(43)	(142)	(20)	(13)	(317)
At 30 June 2008, net of accumulated depreciation	224	188	692	196	56	1,356
AT 30 JUNE 2007						
Cost	793	443	1,268	237	64	2,805
Accumulated depreciation	(673)	(258)	(478)	(54)	(35)	(1,498)
Net book value	120	185	790	183	29	1,307
AT 30 JUNE 2008						
Cost	996	489	1,312	270	64	3,131
Accumulated depreciation	(772)	(301)	(620)	(74)	(8)	(1,775)
Net book value	224	188	692	196	56	1,356

NOTE 12: COMPUTER SOFTWARE

	2009 \$000s	2008 \$000s
Gross carrying amount	143	140
Accumulated amortisation	(129)	(115)
Net carrying amount	14	25

	2009 \$000s	2008 \$000s
Opening accumulated amortisation	(115)	(96)
Amortisation	(14)	(19)
Closing accumulated amortisation	(129)	(115)

	2009 \$000s	2008 \$000s
Opening net carrying amount	25	28
Additions	3	16
Amortisation	(14)	(19)
Closing net carrying amount	14	25

NOTE 13: TRADE AND OTHER PAYABLES

	2009 \$000s	2008 \$000s
Trade payables	320	331
Employee entitlements	279	210
	599	541

NOTE 14: RENT HOLIDAY LIABILITY

This represents amounts received from the landlord for a rent holiday. The accrual is being released having regard to the expected life of the lease of 9 years.

NOTE 15: RECONCILIATION OF THE NET SURPLUS FROM OPERATIONS WITH THE NET CASH FLOWS FROM OPERATING ACTIVITIES

	2009 \$000s	2008 \$000s
Reported Surplus (deficit)	(280)	1,551
Add (less) non-cash items:		
– Allocation of receipt of rent-free period	(13)	(13)
– Depreciation/amortisation	341	336
	328	323
Add (less) movement in working capital:		
– Increase in creditors	58	153
– Decrease (increase) in receivables	1,565	(1,940)
	1,623	(1,787)
Net cash flows from operating activities	1,671	87

NOTE 16: LEASE COMMITMENTS

The Commission has the following operating lease commitments. These amounts are the total of minimum future lease payments under the Commission's non-cancellable operating leases.

	2009 \$000s	2008 \$000s
- Not later than 1 year	655	655
- Later than 1 year and not later than 5 years	1,692	2,347

The Commission rents its premises under an operating lease that ends on 1 February 2013. This lease gives the Commission the right to renew the lease for 3 years subject to a mutually agreed re-determination of the lease rental. The lease specifies that the Commission is required to make good the premises to the original condition on termination of the lease. The make good amount is estimated at \$20,000.

NOTE 17: CAPITAL COMMITMENTS

Estimated capital expenditure contracted for at balance date but not provided for: NIL (2008 – NIL).

NOTE 18: CONTINGENT LIABILITIES AND CONTINGENT ASSETS

Contingent liabilities

A contingent liability exists of \$50,000 in relation to current litigation, concerning possible adverse cost orders. The Commission considers the likelihood of this liability to crystallise as being very low. (2008 – NIL).

Contingent assets

There are no contingent assets at balance date. (2008 - For the Tranz Rail insider trading matter, the Commission expects to receive approval for further costs, already incurred and likely to be incurred, pending the final distribution decision of the High Court. The final amount of any such distribution to the Commission under section 19 of the Securities Markets Act 1988 is contingent on a decision of the High Court). This settlement has been received. See Note 5.

NOTE 19: PROFESSIONAL INDEMNITY INSURANCE

The Commission has effected a professional indemnity insurance policy to provide cover for Members and employees of the Commission as the Commission performs its duties and statutory functions.

NOTE 20: SUBSEQUENT EVENTS

There were no material events subsequent to balance date that would affect the interpretation of the financial statements or the performance of the Commission. (2008 – nil)

NOTE 21: TRANSACTIONS WITH RELATED PARTIES

Transactions with other entities within the Crown

The Commission is an independent Crown entity under the Crown Entities Act 2004. The Commission is wholly owned by the Crown and the Government is its major source of revenue.

The Commission has entered into a number of transactions with other entities within the Crown on an arm's length basis. Where those parties are acting in the course of their normal dealings with the Commission, related party disclosures have not been made for transactions of this nature. NZ IFRS provides an exemption for public entities from having to make disclosures in respect of transactions between related parties subject to common control or significant influence by the Crown for transactions that would occur within a normal supplier or client/recipient relationship on terms and conditions no more or less favourable than those which it is reasonable to expect the entity would have adopted if dealing with that entity at arm's length in the same circumstances. Therefore, in accordance with NZ IFRS such transactions are not disclosed in these financial statements.

As indicated in the statement of financial performance income is received from a Government grant and from administrative services provided to the Takeovers Panel.

Transactions with suppliers

During the year the Commission incurred expenses of:

TRANSACTION		TRANSACTION VALUE YEAR ENDED 30 JUNE		BALANCE OUTSTANDING YEAR ENDED 30 JUNE	
		2009	2008	2009	2008
A.M. Cotton	Genesis Energy	52,739	57,612	-	6,044
E.H. Hickey	New Zealand Institute of Chartered Accountants	9,160	4,584	-	-
C.A. Quinn	Minter Ellison Rudd Watts	884	-	-	-
Phillip Meyer	Young Enterprise Trust	55,000	55,000	-	-

- ◆ Genesis Energy, a firm of which A.M. Cotton, Member of the Commission is a director. The expenses related to office electricity charges which were charged on normal commercial terms.
- ◆ New Zealand Institute of Chartered Accountants, of which E.H Hickey, Member of the Commission is a director. The expenses relating to membership fees, course fees and publications which were charged on normal commercial terms.
- ◆ Minter Ellison Rudd Watts, of which C.A. Quinn, Member of the Commission is a partner. The expenses relates to a meet the market function held by the Commission at her office.
- ◆ Young Enterprise Trust, formerly Enterprise New Zealand Trust, of which Phillip Meyer, the husband of the Chairman is a trustee on a voluntary basis. Expenses relate to sponsorships of investment education in schools.

These transactions are on normal commercial terms and there are no other material transactions between Members and the Commission in any capacity other than that to which they were appointed.

No related party debts have been written off or forgiven during the year.

Compensation of key personnel

Key personnel comprise the Chairman, Members of the Commission and the executive team.

	2009 \$000s	2008 \$000s
Short term employee benefits comprise:		
- Members' fees	342	318
- Chairman's salary	385	384
- Chairman's motor vehicle benefit	34	34
- Commissioner for Financial Advisers	7	-
- Executive team remuneration	1,320	1,070
	2,088	1,806

Composition of Members' fees

Members fees are paid on the basis of time spent on the work of the Commission and were:

	2009 \$000s	2008 \$000s
C.A.N. Beyer	60	43
M. Chen	17	21
A.M. Cotton	52	54
K.D. Dunstan	47	49
E.H. Hickey	39	-
J.L. Holland	20	29
D.A. Jackson	18	14
J.M.G. Perry	-	30
C.A. Quinn	32	46
N.O. Todd	57	32
	342	318

Employee remuneration

During the year, the number of employees of the Commission, not being Members, who received remuneration and other benefits in excess of \$100,000, were:

REMUNERATION \$	NUMBER OF EMPLOYEES 2009	NUMBER OF EMPLOYEES 2008
270,001 to 280,000	1	-
260,001 to 270,000	-	1
250,001 to 260,000	-	-
240,001 to 250,000	1	-
230,001 to 240,000	-	1
220,001 to 230,000	-	-
210,001 to 220,000	2	1
200,001 to 210,000	-	-
190,001 to 200,000	-	-
180,001 to 190,000	2	-
170,001 to 180,000	1	2
160,001 to 170,000	-	-
150,001 to 160,000	1	-
140,001 to 150,000	2	1
130,001 to 140,000	2	1
120,001 to 130,000	3	3
110,001 to 120,000	-	1
100,001 to 110,000	3	4

During the year \$5,000 was paid to one employee as compensation for cessation of employment.

NOTE 22: BUDGET VARIANCES

a) Operating income

Significant variances from budget were the reduced income from services to Takeovers Panel due to renegotiated arrangements where Panel is continuing to take direct responsibility for employing its own staff and acquiring its own administrative services.

b) Operating expense

Significant variances from budget were:

- i) Reduced personnel expenses due to lower than expected staff and remuneration costs
- ii) Reduced professional services expenditure due to greater than expected use of the litigation fund for finance company litigation, and reduced public understanding expenditure because the budgets education sub-projects were not progressed.

c) Litigation income and expenditure

Significant variances from budget were the increased litigation income due to the Commission requiring greater than budgeted litigation fund top-ups following the capital repayment of the settlement monies from the Tranz Rail matter.

STATEMENT OF OBJECTIVES

FOR THE YEAR ENDING 30 JUNE 2009

The Minister of Commerce and the Securities Commission have agreed that the Commission will deliver the following:

- ◆ Surveillance and enforcement – monitoring securities market activity, inquiring into suspected breaches of securities law and taking actions to enforce the law.
- ◆ Oversight and supervision – oversight of NZX's performance of its regulatory function and preparation for potential supervisory roles under Government reforms.
- ◆ Law and practice reform – reviewing securities law and practice and making recommendations for reform.
- ◆ Exemptions and authorisations – considering and deciding on applications for exemptions from the provisions of the Securities Act 1978, Securities Markets Act 1988 and the Securities Regulations 1983; considering and deciding on applications for authorisation of market participants, including futures exchanges and dealers, trustees and statutory supervisors; reviewing existing authorisations.
- ◆ International liaison – promoting New Zealand's markets as well regulated, keeping abreast of developments in global standard setting and contributing the Commission's views to this process.
- ◆ Public understanding – promoting public understanding of the law and practice of securities.

(Page 5 of the Output Agreement between the Minister of Commerce and the Securities Commission for the period 1 July 2008 and 30 June 2009)

STATEMENT OF SERVICE PERFORMANCE

PERFORMANCE STANDARDS AND MEASURES FOR THE OUTPUTS OF THE COMMISSION FOR THE YEAR ENDING 30 JUNE 2009

OUTPUT 1: SURVEILLANCE AND ENFORCEMENT

MONITORING SECURITIES MARKET ACTIVITY, INQUIRING INTO SUSPECTED BREACHES OF SECURITIES LAW AND TAKING ACTIONS TO ENFORCE THE LAW.

ACTIVITIES

Monitor securities market activity and take enforcement action in the following areas:

Primary market – offer documents, illegal offers, contributory mortgages.

Secondary market – insider trading, market manipulation, secondary market disclosures (substantial security holder disclosure, continuous disclosure, disclosure of trading by directors and officers).

Intermediaries – futures dealers, investment advisers.

This is done by:

- ◆ reviewing practices of market participants and issuers
- ◆ assessing referrals from NZX
- ◆ monitoring market disclosures
- ◆ reviewing offer documents and advertisements for securities
- ◆ responding to public complaints
- ◆ using compulsory information-gathering powers (inspections, summons)
- ◆ commenting publicly on market practice
- ◆ accepting enforceable undertakings
- ◆ reviewing financial reporting by issuers
- ◆ reviewing corporate governance reporting
- ◆ acting on behalf of overseas commissions
- ◆ prohibiting advertising
- ◆ removing offer documents from the market
- ◆ taking civil enforcement action in the Courts
- ◆ referring for prosecution
- ◆ making other compulsory orders.

PERFORMANCE MEASURES SURVEILLANCE AND ENFORCEMENT	PERFORMANCE STANDARDS	
	ACTUAL 2009	BUDGET 2009
QUANTITY		
Complete surveillance actions that meet the Commission's case criteria relating to the above matters.	88	132
Complete the enforcement actions that meet the Commission's case selection criteria, relating to the above matters.	2 actions completed	5
One key area (e.g. finance companies or adviser disclosure statements) is identified, investigated and reported on.	1 key area covered – investment adviser disclosure (is an ongoing programme of work)	1
Complete the financial reporting surveillance programme.	2 cycles completed	2 cycles in the year
QUALITY		
Surveillance and enforcement resources are applied in accordance with the Commission's market surveillance and enforcement priorities.	Full compliance	Full compliance
The desired regulatory result is achieved in surveillance cases where deficiencies are identified.	98%	90%
Enforcement actions achieve the desired regulatory result.	100% for actions completed Progress was made for finance company enforcement, and investment adviser disclosure	80%
There is no successful judicial review of the Commission's decisions or actions.	100%	100%
TIMELINESS		
Complete surveillance actions.	2.09 months	On average within 3 months
Progress civil enforcement actions from investigation to the filing of proceedings.	17 months	On average, within 24 months of commencement of investigation
Complete other enforcement actions.	2.5 months	On average, within 6 months of action commencing
Complete financial reporting surveillance reporting programme.	8.6 months	On average within 9 months of commencing each cycle
COST		
Expenditure allocated to surveillance and enforcement work.	37%	38%

OUTPUT 2: OVERSIGHT AND SUPERVISION

OVERSIGHT OF NZX'S PERFORMANCE OF ITS REGULATORY FUNCTION AND PREPARATION FOR POTENTIAL SUPERVISORY ROLES UNDER GOVERNMENT REFORMS.

ACTIVITIES

Maintain oversight of NZX's performance of its regulation function and prepare to undertake new roles under Government reforms.

This is done by:

- ◆ overseeing the operation of NZX
- ◆ analysing the resources that will be needed in order to undertake new roles.

PERFORMANCE MEASURES OVERSIGHT AND SUPERVISION	PERFORMANCE STANDARDS	
	ACTUAL 2009	BUDGET 2009
QUANTITY		
Complete NZX oversight review.	Progressing – expected publication by 30 September 2009	1 time in the year
Advise the Minister on proposed changes to Conduct Rules of the NZX.	2	2 times in the year
Consider and comment on continuous disclosure applications under the MOU with the NZX.	5	6
QUALITY		
NZX takes actions in response to recommendation in the Commission's oversight review reports.	The 2008 review was completed by 30 September 2008 (NZX's response was published on the Commission's website in September 2008)	NZX responds constructively to recommendations 100%
Appropriate resources needed to implement new law are identified and in place.	Appropriations have been received for the preliminary resources	Appropriate resources are available
TIMELINESS		
Complete NZX oversight review.	Progressing – expected completion by 30 September 2009	Within 6 months
Advice is provided to the Minister on approvals of, or proposed changes to, the NZX Conduct Rules within timeframes agreed with the NZX and allowing the Minister to exercise powers within the timeframes specified in the Securities Markets Act 1988.	100%	100%
The Commission has in place the resources to implement new law.	Initial funding bids for appropriate resources were submitted during the first quarter	When the law comes into force
COST		
Expenditure allocated to oversight and supervision work.	15%	10%

OUTPUT 3: LAW AND PRACTICE REFORM

REVIEWING SECURITIES LAW AND PRACTICE AND MAKING RECOMMENDATIONS FOR REFORM.

ACTIVITIES

- ◆ Contribute to Government law reform programmes
- ◆ Recommend changes to corporate and securities law
- ◆ Comment on accounting and other industry standards and codes

PERFORMANCE MEASURES LAW AND PRACTICE REFORM	PERFORMANCE STANDARDS	
	ACTUAL 2009	BUDGET 2009
QUANTITY		
Make recommendations for securities law reform and improved market practice in accordance with obligations under the Securities Act 1978 and other relevant legislation.	The Commission advised the Minister on the proposed trading of emissions units in terms of the Securities Act	The Commission will make recommendations to comply with its obligations under the Securities Act 1978 and with other relevant legislation
	The Commission advised the Minister and MED on the proposed Financial Advisers Bill policy	The Commission will seek priority for reforms to address shortcomings in regulation of financial advisers, product disclosure, FSAP issues and auditor oversight
	Advised the Minister on legal issues concerning real estate and securities law	The Commission's contributions to law reform will arise in particular from its experience gained in the course of its enforcement work
Review exposure drafts of financial reporting and auditing standards, and Financial Reporting Act.	Reviewed 5 discussion papers, 5 exposure drafts, and 2 existing standards	Review as required
Participate on projects and reviews with the Ministry of Economic Development, other government departments and interested parties.	Provided advice and comment to the Minister, MED, and the Finance and Expenditure Committee on the financial advisers and financial service providers reforms	Participation as required
	Assisted MED with a response to Capital Market Development Taskforce recommendations	
	Provided advice and comment to the Ministry of Justice on proposed AML reforms	
QUALITY		
The recommendations for securities law reform and improved market practice made in accordance with obligations under the Securities Act 1978 and other relevant legislation, and the quality of advice and assistance on MED reform programmes, satisfy the MED.	MED is satisfied	MED is satisfied with the quality of advice and assistance given
TIMELINESS		
Provide information and responses to the Ministry of Economic Development and others within agreed timeframes.	100%	100%
COST		
Expenditure allocated to law and practice reform.	7%	6%

OUTPUT 4: EXEMPTIONS AND AUTHORISATIONS

CONSIDERING AND DECIDING ON APPLICATIONS FOR EXEMPTIONS FROM THE PROVISIONS OF THE SECURITIES ACT 1978, SECURITIES MARKETS ACT 1988 AND THE SECURITIES REGULATIONS 1983; CONSIDERING AND DECIDING ON APPLICATIONS FOR AUTHORISATION OF MARKET PARTICIPANTS, INCLUDING FUTURES EXCHANGES AND DEALERS, TRUSTEES AND STATUTORY SUPERVISORS; REVIEWING EXISTING AUTHORISATIONS.

ACTIVITIES

- ◆ Receive and consider applications for exemption from securities law
- ◆ Review existing exemptions
- ◆ Undertake special review projects relating to policy on exemptions
- ◆ Authorise futures dealers and exchanges
- ◆ Consider amendments to futures exchange rules
- ◆ Approve NZFOX participant rules
- ◆ Approve trustees and statutory supervisors
- ◆ Review existing authorisations

PERFORMANCE MEASURES EXEMPTIONS AND AUTHORISATIONS	PERFORMANCE STANDARDS	
	ACTUAL 2009	BUDGET 2009
QUANTITY		
Consider all applications for exemptions and authorisations of market participants.	Considered all applications	All applications
Review existing exemption notices and authorisations.	Reviewed as required	As required
QUALITY		
The Regulations Review Committee does not recommend disallowance of notices, and notices are not successfully judicially reviewed.	100%	100%
A Statement of Reasons published in each notice explains the policy basis for the exemption.	100%	100%
Proportion of notices issued which comply with the Commission's internal processes.	100%	100%
TIMELINESS		
Percentage of exemption applications and authorisations completed within 6 weeks of receiving all necessary information or within other period agreed with applicant.	100%	100%
COST		
Expenditure allocated to exemptions and authorisations.	7%	7%

OUTPUT 5: INTERNATIONAL LIAISON

PROMOTING NEW ZEALAND'S MARKETS AS WELL REGULATED, KEEPING ABREAST OF DEVELOPMENTS IN GLOBAL STANDARD SETTING AND CONTRIBUTING THE COMMISSION'S VIEWS TO THIS PROCESS.

ACTIVITIES

- ◆ Promote New Zealand's markets and regulatory environment
- ◆ Take part in the work of IOSCO's
 - Executive Committee (Jane Diplock is Chairman of this committee)
 - Asia Pacific Regional Committee (Jane Diplock is Vice Chairman)
 - Committee on the Implementation of Objectives and Principles of Securities Regulation
 - MMOU Screening Group
 - Communications Group
- ◆ Meet and confer with overseas regulators and institutional investors
- ◆ Respond to overseas enquiries about New Zealand's regulatory regime
- ◆ Participate in the international standard setting process by completing comparative surveys on securities law and regulation
- ◆ Fulfil the obligations under the IOSCO MMOU and bilateral MOUs
- ◆ Contribute towards trans-Tasman initiatives
- ◆ Liaise with MFAT and NZTE to take opportunities to promote New Zealand's markets and regulatory environment to wider audiences

PERFORMANCE MEASURES INTERNATIONAL RECOGNITION	PERFORMANCE STANDARDS	
	ACTUAL 2009	BUDGET 2009
QUANTITY		
Take part in the work of IOSCO's Executive Committee, Asia Pacific Regional Committee, Implementation of Objectives and Principles of Securities Regulation Committee, and the Screening Group.	Attended all relevant IOSCO meetings. Chairman appointed to Financial Crisis Advisory Group (FCAG)	100% of relevant meetings
Take opportunities at IOSCO meetings to promote understanding of New Zealand as a well-regulated market in which investors can have confidence.	All appropriate opportunities taken	100% of appropriate opportunities are taken
When travelling for IOSCO take opportunities identified with MFAT and NZTE to promote New Zealand to wider business audiences as a well-regulated market in which investors can have confidence.	Leveraging was undertaken in 88% of identified destinations	Leveraging undertaken in 70% of international destinations visited
Respond to requests from overseas regulators.	Responded as required	As required
Meet with ASIC.	Met twice at Commission or Chairmen level	Twice per year
Meet with overseas regulators and institutional investors.	Met at Chairmen level with 7 counterpart agencies and with international bodies and industry contacts. Addressed 10 business audiences identified by NZTE/MFAT and 10 international fora	As required
Contribute towards trans-Tasman initiatives.	Contributed towards implementing mutual recognition of securities offering and addressed 3 trans-Tasman fora	As required

PERFORMANCE MEASURES INTERNATIONAL RECOGNITION	PERFORMANCE STANDARDS	
	ACTUAL 2009	BUDGET 2009
QUALITY		
The Commission will present itself as a constructive and cooperative member of the international community of regulators. Views expressed to IOSCO will take into account the relevant New Zealand values and principles.	Views expressed to FCAG included Australasian perspectives. Presented and or discussed NZ regulatory and financial market environment, notably to or with audiences identified by NZTE and MFAT. Contributions to IOSCO included meeting opinion leaders, moderating IFRS database and helping organise a training seminar	Presentations include information about NZ's regulatory environment
The Commission contributes to achievement of IOSCO's strategic goal for the IOSCO MMOU.	Positive assessment received from IOSCO. With NZAID funding, successfully progressed a technical assistance project helping Papua New Guinea apply to IOSCO MMOU	IOSCO positively assesses our work towards IOSCO's strategic goal for the MMOU
The Commission makes a positive contribution to the work of IOSCO's screening group.	IOSCO and Commission satisfied with contribution. Contributed to meetings resulting in 6 additional signatories to IOSCO MMOU and 11 further jurisdictions joining MMOU	IOSCO and Commission satisfied with contribution
Cooperative work with ASIC is completed to agreed standards and time frames.	100%	100%
TIMELINESS		
Presentations at meetings and responses to committees provided within agreed timeframes.	100%	100%
Contribute towards trans-Tasman initiatives within agreed time.	100%	100%
Obligations under MOUs with overseas regulators are fulfilled in agreed times.	100%	100%
COST		
Expenditure allocated to international recognition.	19%	18%

OUTPUT 6: PUBLIC UNDERSTANDING

PROMOTING PUBLIC UNDERSTANDING OF THE LAW AND PRACTICE OF SECURITIES.

ACTIVITIES

- ◆ Publish *The Bulletin*, annual report and other documents
- ◆ Respond to public inquiries
- ◆ Manage the website
- ◆ Maintain relationships with the news media
- ◆ Develop and implement a public education programme

PERFORMANCE MEASURES PUBLIC UNDERSTANDING	PERFORMANCE STANDARDS	
	ACTUAL 2009	BUDGET 2009
QUANTITY		
Publish <i>The Bulletin</i> .	July, October, January, April	4 times a year
Deal with inquiries from the public.	1,228 inquiries	All inquiries
Manage the Commission's website.	Website was available 100% of the time	Website is available 95% of the time
Develop and implement public education projects.	Two sub-projects: – Youth education completed – Look Learn Invest refresher campaign underway	3 sub-projects are implemented per year
QUALITY		
Readers respond that <i>The Bulletin</i> is interesting and relevant.	No responses sought – next survey in July 2009	No responses will be sought – next survey July 2009
Education projects meet their set measures of success.	75% of the measures of success were met	90% of measures of success for each sub-project are met
Inquiries are dealt with effectively.	No complaints received	Absence of material complaints
TIMELINESS		
<i>The Bulletin</i> is produced on time.	July/Oct/Jan/April	July/Oct/Jan/April
Education projects are carried out to agreed timetables.	The Commission achieved its timetable for the Youth project	Sub-projects milestones are achieved
Public inquiries are handled within 5 working days of receipt.	100%	95%
New information is published on the website without delay.	New information was available on the website within 3 days of receipt	New information is available on the website within 3 days of receipt
COST		
Expenditure allocated to public understanding.	8%	14%

OUTPUT 7: TAKEOVERS PANEL

PROVIDING ADMINISTRATIVE AND SUPPORT SERVICES BY AGREEMENT.

ACTIVITIES

Provide services related to the Panel's outputs including:

- ◆ review of Takeovers Code
- ◆ approvals
- ◆ exemptions
- ◆ enforcement
- ◆ market practice
- ◆ public understanding
- ◆ international liaison
- ◆ administration.

PERFORMANCE MEASURES TAKEOVERS PANEL	PERFORMANCE STANDARDS	
	ACTUAL 2009	BUDGET 2009
QUANTITY, QUALITY AND TIMELINESS		
Services are provided as per the MOU between the Panel and the Commission.	In accordance with the MOU	In accordance with the MOU
COST		
Expenditure allocated to Takeovers Panel.	7%	7%

AUDIT REPORT

AUDIT NEW ZEALAND

Mana Arotake Aotearoa

TO THE READERS OF THE SECURITIES COMMISSION'S FINANCIAL STATEMENTS AND STATEMENT OF SERVICE PERFORMANCE FOR THE YEAR ENDED 30 JUNE 2009

The Auditor-General is the auditor of the Securities Commission (the Commission). The Auditor-General has appointed me, Robert Cox, using the staff and resources of Audit New Zealand, to carry out the audit on his behalf. The audit covers the financial statements and statement of service performance included in the annual report of the Commission for the year ended 30 June 2009.

Unqualified Opinion

In our opinion:

- ◆ The financial statements of the Commission on pages 23 to 42:
 - comply with generally accepted accounting practice in New Zealand; and
 - fairly reflect:
 - the Commission's financial position as at 30 June 2009; and
 - the results of its operations and cash flows for the year ended on that date.
- ◆ The statement of service performance of the Commission on pages 44 to 52:
 - complies with generally accepted accounting practice in New Zealand; and
 - fairly reflects for each class of outputs:
 - its standards of delivery performance achieved, as compared with the forecast standards outlined in the statement of forecast service performance adopted at the start of the financial year; and
 - its actual revenue earned and output expenses incurred, as compared with the forecast revenues and output expenses outlined in the statement of forecast service performance adopted at the start of the financial year.

The audit was completed on 16 July 2009, and is the date at which our opinion is expressed.

The basis of our opinion is explained below. In addition, we outline the responsibilities of the Members of the Commission and the Auditor, and explain our independence.

Basis of Opinion

We carried out the audit in accordance with the Auditor-General's Auditing Standards, which incorporate the New Zealand Auditing Standards.

We planned and performed the audit to obtain all the information and explanations we considered necessary in order to obtain reasonable assurance that the financial statements and statement of service performance did not have material misstatements, whether caused by fraud or error.

Material misstatements are differences or omissions of amounts and disclosures that would affect a reader's overall understanding of the financial statements and statement of service performance. If we had found material misstatements that were not corrected, we would have referred to them in our opinion.

The audit involved performing procedures to test the information presented in the financial statements and statement of service performance. We assessed the results of those procedures in forming our opinion.

Audit procedures generally include:

- ◆ determining whether significant financial and management controls are working and can be relied on to produce complete and accurate data;
- ◆ verifying samples of transactions and account balances;
- ◆ performing analyses to identify anomalies in the reported data;
- ◆ reviewing significant estimates and judgements made by the Members of the Commission;
- ◆ confirming year-end balances;
- ◆ determining whether accounting policies are appropriate and consistently applied; and
- ◆ determining whether all financial statement and statement of service performance disclosures are adequate.

We did not examine every transaction, nor do we guarantee complete accuracy of the financial statements and statement of service performance.

We evaluated the overall adequacy of the presentation of information in the financial statements and statement of service performance. We obtained all the information and explanations we required to support our opinion above.

Responsibilities of the Members of the Commission and the Auditor

The Members of the Commission are responsible for preparing the financial statements and statement of service performance in accordance with generally accepted accounting practice in New Zealand. The financial statements must fairly reflect the financial position of the Commission as at 30 June 2009 and the results of its operations and cash flows for the year ended on that date. The statement of service performance must fairly reflect, for each class of outputs, the Commission's standards of delivery performance achieved and revenue earned and expenses incurred, as compared with the forecast standards, revenue and expenses adopted at the start of the financial year. The Members of the Commission's responsibilities arise from the Crown Entities Act 2004.

We are responsible for expressing an independent opinion on the financial statements and statement of service performance and reporting that opinion to you. This responsibility arises from section 15 of the Public Audit Act 2001 and the Crown Entities Act 2004.

Independence

When carrying out the audit we followed the independence requirements of the Auditor-General, which incorporate the independence requirements of the Institute of Chartered Accountants of New Zealand.

Other than the audit, we have no relationship with or interests in the Commission.



Robert Cox
Audit New Zealand
On behalf of the Auditor-General
Wellington, New Zealand

Matters Relating to the Electronic Presentation of the Audited Financial Statements and Statement of Service Performance

This audit report relates to the financial statements and statement of service performance of the Securities Commission for the year ended 30 June 2009 included on the Securities Commission's website. The Members of the Commission are responsible for the maintenance and integrity of the Securities Commission's website. We have not been engaged to report on the integrity of the Securities Commission's website. We accept no responsibility for any changes that may have occurred to the financial statements and statement of service performance since they were initially presented on the website.

The audit report refers only to the financial statements and statement of service performance named above. It does not provide an opinion on any other information which may have been hyperlinked to or from the financial statements and statement of service performance. If readers of this report are concerned with the inherent risks arising from electronic data communication they should refer to the published hard copy of the audited financial statements and statement of service performance and related audit report dated 16 July 2009 to confirm the information included in the audited financial statements and statement of service performance presented on this website.

Legislation in New Zealand governing the preparation and dissemination of financial information may differ from legislation in other jurisdictions.

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