Jersey Financial Services Commission

Business Plan 2009 - 2011

Published February 2009

Jersey Financial Services Commission

BUSINESS PLAN 2009 - 2011

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SECTION 1: INTRODUCTION

The 2009 – 2011 Business Plan sets out the Commission's objectives together with an explanation of how they will be met. Included in the Business Plan are all known objectives at the time of writing. While many of these are likely to be completed during 2009, some will continue into 2010 and beyond. The Business Plan has been formulated taking account of the Commission's Key Purpose and, Aims. These are set out below.

Key Purpose

The Commission's key purpose is to maintain the Island's position as an international finance centre with high regulatory standards and, as set out in Article 7 of the Financial Services Commission (Jersey) Law 1998, the Commission will have particular regard to:

- reducing risk to the public of financial loss due to dishonesty, incompetence, malpractice or the financial unsoundness of financial service providers;
- protecting and enhancing the Island's reputation and integrity in commercial and financial matters;
- safeguarding the best economic interests of Jersey; and
- countering financial crime both in Jersey and elsewhere.

Aims

In support of its key purpose, the Commission aims to:

- ensure that all entities that are authorised meet fit and proper criteria;
- ensure that all regulated entities are operating within accepted standards of good regulatory practice;
- match international standards in respect of banking, securities, trust company business and insurance regulation, and anti-money laundering and terrorist financing defences;
- identify and deter abuses and breaches of regulatory standards; and
- ensure that the Commission operates effectively and efficiently, and is accountable for its overall performance to the States of Jersey through the Minister for Economic Development, as prescribed in the Financial Services Commission (Jersey) Law 1998.

SECTION 2: ACHIEVEMENTS IN 2008

Overview

As highlighted in last year's Business Plan, the main priority in 2008 was the work to prepare for the visit of the International Monetary Fund (**"IMF"**), which took place in October and November 2008. The preparation work included: updating, finalising and submitting self-assessments against international standards performed in 2007; submission of pre-visit reading material; logistical preparation; and continued work on the Island's primary and secondary legislation.

Amendments were made to the various Codes of Practice arising from changes in legislation made in preparation for the IMF visit. Three new Handbooks for the Prevention and Detection of Money Laundering and the Financing of Terrorism, covering Accountants, Lawyers, and Estate Agents and High Value Dealers were developed and introduced.

The most significant aspect of business as usual has been the continued effort and focus on the closer supervision of the Industry by carrying out the on-site examination programme. This will continue into 2009. The findings of the examinations have been discussed with the businesses concerned and, where necessary, remedial plans have been put in place. General issues arising from such examinations have been published on the Commission's Website and are further explained in the specific Divisional sections in this Business Plan.

Contingency was necessarily built into the Commission's resource planning to allow for the ability to react quickly to new developments, particularly in the area of investigations and litigation where there have been some challenging cases. In addition, the Commission further tried to alleviate pressure on resources through the continued application of its risk-based approach to supervision.

Corporate Governance

Commissioners Scott Dobbie and Advocate Michael Clapham retired, after serving three and two terms respectively, in November 2008. Following their retirement, Advocate Deborah Lang was appointed as a Commissioner on 30 November 2008 and Alastair Clark was appointed as a UK-based Commissioner on 20 January 2009. Also on 20 January 2009, John Averty was reappointed to serve a second term as a Commissioner.

There has been continued co-operation with international organisations and regulators, including with the US Securities and Exchange Commission and the UK Financial Services Authority, in respect of the exchange of information.

The Commission has continued to monitor its standards of corporate governance to ensure that it meets, so far as is applicable, the standards that are applied to commercial organisations. The model used for monitoring and mitigating risks has been the "Combined Code on Corporate Governance" issued by the Financial Reporting Council.

Communication

Since 2005, the Commission has undertaken a planned programme for contact with key overseas regulatory authorities. This included visits to supervisory authorities and the signing of a number of agreements in relation to regulatory cooperation. During 2008, the Commission entered into an updated Memorandum of Understanding ("**MoU**") with the Financial Services Commission of Gibraltar, which supersedes the previous MoU dated October 1998 and takes account of the expansion in both regulators' supervisory remit in recent years. Discussions are being held with other regulators in relation to the Commission entering into new MoUs.

The Commission has also continued the process of communicating its strategic aims and objectives to Industry, and providing feedback on best Industry practice and the results of its on-site examination programme. A series of workshop events were held for Industry, relating primarily to legislative changes arising from the IMF visit and the introduction of three new AML/CFT Handbooks for Lawyers, Accountants, Estate Agents and High Value Dealers. At the start of the Commission's business planning cycle in September 2008, communication and strategy were combined with input from Industry on its priorities via the Chief Executive Officer ("**CEO**") Forum. The Commission also continued to publish its Quarterly Newsletter.

Summary Progress against key priorities set out in the published Business Plan and Annual Report

The Commission has continued its focus on close supervision through on-site examinations and following up any necessary action arising out of those examinations. The examination results have also been fed back to Industry in various ways – through seminars, presentations, dialogue with Industry associations, "Dear CEO" letters, the Quarterly Newsletter, and the Website. The Commission completed 197 examinations during 2008 against a budget of 194 (including some examinations that were outsourced). There were 155 examinations during 2007.

A summary of progress against the main priorities of the 2008 Business Plan is set out below.

International & Policy

Much of the Division's focus in 2008 was on preparations for the visit of the IMF, the "on-site" part of which started on 29 October 2008. Preparations involved a number of elements.

The very detailed self-assessments that had been performed in 2007 against standards set by the Basel Committee on Banking Supervision (the **"Basel Committee"**), the International Association of Insurance Supervisors (**"IAIS"**), the International Organisation of Securities Commissions (**"IOSCO"**), and the Financial Action Task Force (**"FATF"**) were updated and finalised. All of the self-assessments were delivered to the IMF during July and August 2008 to assist with the "off-site" element of the IMF assessment. In addition to these self-assessments, a significant volume of other pre-visit reading material was prepared and submitted by the Division.

The Division assisted with the logistical preparations for the visit, including arrangement of a significant number of meetings between the IMF and Government Agencies and Departments, and also with Industry and trade bodies. This element also included:

- finalising the action plan that had been prepared after the last IMF assessment, a copy of which (including action taken) is published on the Commission's Website;
- running 15 seminars for Industry before the visit in order to explain changes to legislation and preparations for the IMF assessment; and
- providing the secretariat for the Island's Anti-Money Laundering and Countering the Financing of Terrorism Strategy Group (the "**AML/CFT Strategy Group**").

One of the AML/CFT Strategy Group's main achievements in 2008 was to publish an Island strategy for combating money laundering and terrorist financing ("**AML/CFT**").

In February 2008, Schedule 2 of the Proceeds of Crime (Jersey) Law 1999 (the "**Proceeds of Crime Law**"), which defines what is meant by the term "financial services business", was substantially revised in order to include many new activities, such as those conducted by lawyers and accountants, estate agents, and high value goods dealers. The effect of this was to extend the application of detailed requirements to prevent and detect money laundering that are set out in an

Order that is issued under Article 37 of the Proceeds of Crime Law. This Order was itself substantially revised in February 2008 when the Money Laundering (Jersey) Order 2008 (the "**Money Laundering Order**") came into force, introducing more detailed customer due diligence obligations at the time of establishing business relationships or conducting one-off transactions.

At the same time that the Money Laundering Order was introduced, the Commission published the Handbook for the Prevention and Detection of Money Laundering and the Financing of Terrorism for financial services business regulated under the regulatory laws (the "**AML/CFT Handbook**") - the culmination of an extensive and lengthy consultation process. The AML/CFT Handbook sets additional AML/CFT regulatory requirements and also provides guidance to businesses in applying statutory and regulatory requirements. Work continues on sector specific sections for the AML/CFT Handbook.

Later in the year, the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, which provides for the registration and oversight of persons that are subject to the Money Laundering Order, and the Non-Profit Organizations (Jersey) Law 2008, which provides for the registration of non-profit organizations ("**NPOs**") and gives the Commission the responsibility for checking that NPOs are not assisting or being used to assist in the financing of terrorism, came into force. This work has been undertaken by the Commission on behalf of Government.

In September 2008, the States of Jersey also adopted a second wave of amendments to the regulatory laws[1] that the Commission administers, providing for greater consistency in the powers and sanctions that are available to the Commission.

Over and above preparations for the IMF visit, the Division continued to monitor developments in Europe, looking in particular at the effect of the introduction of the Statutory Audit Directive on auditors of Jersey companies that have securities admitted to trade on regulated markets in the EU, and implementation of the Single Euro Payments Area (**"SEPA"**). Work will continue on both areas in 2009 and will involve the introduction of a regime to oversee some audit work for the first time in Jersey, and further consideration of the need for Jersey to apply to join SEPA. In addition, the Division continued to support the application of Her Majesty's Treasury to the European Commission to allow the United Kingdom (the **"UK"**) to be able to treat payments to and from Jersey as "domestic" payments. The UK's

[1] The regulatory laws are the:
- Banking Business (Jersey) Law 1991;
- Collective Investment Funds (Jersey) Law 1988
- Financial Services (Jersey) Law 1998; and
- Insurance Business (Jersey) Law 1996.

application has now been approved, which will allow Jersey individuals and businesses to continue to make payments outside Jersey using UK payment systems.

Banking

The introduction of Basel II reporting requirements for Jersey banks was successfully achieved in time to include first quarter prudential returns, representing the completion of a series of projects. These included a much improved on-line reporting system, the introduction of capital requirements in respect of market risk and operational risk, and the wider risk assessment encapsulated in the Pillar 2 processes. This represents the culmination of several years' work, much of which was completed in collaboration with our colleagues in Guernsey and the Isle of Man.

Enhanced liquidity management reporting requirements commenced in tandem with the switch to Basel II, following an extended period of assessing individual banks' behavioural patterns and negotiating behavioural adjustments to standard liquidity minima.

Amendment No. 6 to the Banking Business (Jersey) Law 1991 was passed. This introduced key regulatory powers relating to the issue of Codes of Practice for Deposit-taking Business (the **"Banking Codes"**), the appointment of a manager and the issue of directions, together with amendments to ensure compliance with the European Convention on Human Rights (**"ECHR"**) and alignment of provisions with other regulatory laws.

Work has continued on a voluntary code for the Island's lenders, some of which are not regulated deposit-takers, which is due to be issued in early 2009. It is hoped that this will contribute significantly to the public's knowledge and awareness of those matters that should be fully considered before entering into debt.

Much time has been spent on interaction with regulatory authorities in the home jurisdictions of our banks given the financial crisis affecting the banking industry worldwide.

Following the introduction of revised AML/CFT requirements at the beginning of the year, the Banking Division has focused most of its on-site efforts on assessing adherence to these requirements. The Division concluded that the banking sector was in large part operating within its regulatory obligations, with adequate policies and procedures. However, areas for potential improvement were identified in respect of completion of a fully compliant Business Risk Assessment, managing intermediary and introducer sourced business, and ensuring full and continuing compliance with policies and procedures. Work to assist and encourage compliance in these areas is likely to continue throughout 2009, given the importance of the subject and the challenges that banks face in this respect.

Insurance

The Insurance Division continued and completed essential preparatory work ahead of the IMF assessment.

Having improved staffing resources, the Insurance Division was also able to pursue a more active on-site examination programme. As a result, it was identified that several general insurance mediation businesses and insurance business permit holders were deficient in meeting the requirement for compliance reporting. A small number of businesses were found to have insufficient processes and procedures for the monitoring of compliance with solvency requirements. The Division has been working with those businesses to remedy the identified deficiencies.

The Commission submitted an application to become a signatory to the IAIS Multi-lateral Memorandum of Understanding covering the exchange of information.

Investment Business

The programme of on-site examinations progressed during 2008. The main issues arising from the on-site examinations are: corporate governance; segregation of duties; compliance monitoring; evidence of a formal process for product/service acceptance; staff vetting procedures, including maintenance of a staff handbook; and financial resources, including Adjusted Net Liquid Asset (**"ANLA"**) calculations.

A number of investigations have been referred to the Enforcement Division, and the Investment Business Team (the **"IB Team"**) has dealt with an increase in investment employee suspensions or dismissals for gross misconduct.

The revised Codes of Practices for Investment Business (the **"IB Codes"**) came into force on 1 July 2008. Registered persons were given a three-month transitional period to come into full compliance. Themed on-site examinations were undertaken in order to assess compliance with the revised IB Codes, and a self–assessment questionnaire was sent to all Class D registered persons (those registered to give investment advice only).

Following a review of the IOSCO standards, the IB Team published the names of all investment business employees of registered persons on the Commission's Website. The plan to publish registration conditions will be merged with proposals to publish registration conditions across all the Supervision Divisions.

With regard to the IMF visit, although there was no formal assessment against the IOSCO principles, meetings were held with the IMF assessors concerned with AML/CFT and financial supervision.

A "mystery shopping" exercise[2] on the suitability of the advice and sales processes provided to customers by regulated investment businesses was completed at the beginning of 2008 and the results published on the Commission's Website. Based on the information collected from the mystery shopping interviews, potential areas for improvement in the advice and sales processes to aid customer understanding emerged. The exercise also identified where the failure of such processes might result in inadequate or inappropriate advice for the customer.

It is intended to conduct a further exercise in 2009.

In terms of legislative developments, the Investment Business and Trust Company Business Accounts Orders were merged, which had the benefit of bringing both sectors to a higher standard of financial reporting.

Funds

As in previous years, the results of the on-site examination programme showed that some local functionaries were not performing the necessary due diligence checks on promoters and other parties in relation to new funds. Issues continue to arise regarding lack of knowledge of the structure of the funds and the attendant responsibilities being taken on. Some corporate governance issues were also noted that typically related to a failure to demonstrate proper oversight of outsourced or delegated functions.

All procedures were updated and work progressed on completing the route planners that are used to plan and carry out on-site examinations.

Work was completed on the transfer of the regulation of fund functionaries from the Collective Investment Fund (Jersey) Law 1988 (the **"CIF Law"**) to the Financial Services (Jersey) Law 1998 (the **"FS(J)L"**), which took effect on 13 November 2007. Phase II of the legal changes were introduced in February 2008. Concessions were made from the Codes of Practice for Fund Services Business in respect of managed entities and a Guidance Note for the class of fund services business called "manager of a managed entity" or "MoME" is currently with Industry for consultation.

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[2] The Market Research Society defines "mystery shopping" or "mystery customer research" as: "The use of individuals trained to experience and measure any customer service process, by acting as potential customers and in some way reporting back on their experience in a detailed and objective way."

The Securities Information Unit was established in January 2008 to review accounts, compile statistics and manage various administrative processes for the Funds and IB Teams.

Unregulated funds were introduced in February 2008 with the general partner and trustee exemption implemented in August 2008. Where an unregulated fund is established as a unit trust or limited partnership, the trustee or general partner is no longer required to register under the FS(J)L for fund services business.

The Outsourcing Policy was amended to take into account changes in the regulatory environment, but will be subject to further review in 2009.

While efforts were made by the Securities Division to update the Collective Investment Funds (Recognized Funds) (Rules) (Jersey) Order 2003, response from Industry has been muted and there appears to be little desire to update the rules at present. Nonetheless, it should be noted that it is a requirement to keep up to date with relevant UK legislation and practice in order for the Island to continue to offer such funds for sale into the UK, and accordingly law drafting time for this exercise has been allocated in 2009.

Trust Company Business ("TCB")

The Codes of Practice for Trust Company Business (the **"TCB Codes"**) have also been amended to provide a proper separation between the actual TCB Codes and the Notes assisting businesses in interpreting the TCB Codes; to introduce additional requirements on evidencing decisions and complying with the Trusts (Jersey) Law 1984 and Companies (Jersey) Law 1991; to provide more substantive wording on the TCB Codes relating to corporate governance and internal systems and controls; and to provide more prescription concerning the requirements for Compliance Officers as well as introducing a higher notification trigger for the ANLA requirement. A table summarising the key changes to the TCB Codes was also sent to the managing director of each trust company business to provide a quick overview of the changes. This was extremely well received.

A Guidance Note in respect of the Commission's liquidity reporting requirements for multi-licensed entities was issued during the year.

The on-site examination programme has been maintained, with a total of 52 examinations completed during the year. 12 of these examinations focussed on compliance with the Corporate Governance section of the AML/CFT Handbook and were outsourced to a firm of chartered accountants, albeit that two members of the TCB Division also joined a number of those examinations. A detailed route planner was developed by the Division to facilitate examination against this aspect of the AML/CFT Handbook and is available for use across all Supervision

Divisions. The Division member who developed the route planner has also provided training on its content and use to Supervision Staff. This themed examination will continue into 2009, resourced from within the Division.

Findings arising from the 52 examinations have been mixed, ranging from excellent to disappointing, with the majority being somewhere in the middle. The Division has also continued to use the enforcement powers contained within the FS(J)L to address the most serious deficiencies that have been identified.

An analytical reporting solution was also developed within the Division to uniformly collate the key findings of on-site examinations to facilitate a greater degree of management information and ability to analyse trends. This has been rolled out across the Supervision Divisions.

Members of the Division have also spoken at various seminars on topics ranging from the risk-based approach, the application of the TCB Codes and a variety of case studies.

Registry

The Registry's primary objective is to maintain an efficient and effective service to its users. During 2008, self-imposed targets continued to be met. The new online search facility now requires certain tasks, such as scanning, to be undertaken in a timelier manner so, where the previous task required a 48 hour turn around, the Registry has been achieving a 100% scanning rate in just 24 hours. This process highlights the changing environment in which the Registry operates.

In June 2008, www.EasyCompanyRegistry.je - the Registry's online environment - was re-launched. Registry users now have the ability to file, search, monitor and retrieve documents online. Amendment No. 9 to the Companies (Jersey) Law 1991 came into force during 2008 and the Registry has adapted to the changes introduced by the amendment. The Director, Registry, continued to promote the Companies Registry internationally, particularly through presentations to the European Commerce Registers' Forum (**"ECRF"**) and European Business Register (**"EBR"**) fora.

Enforcement

The Enforcement Division continued its ongoing investigation of domestic cases involving entities and individuals under the regulatory laws and possible cases of unauthorised business. This involved recommending the use, where appropriate, of regulatory sanctions or, in cases involving criminal offences, a referral to the Attorney General. In addition, the Division continued to respond, in a timely manner, to requests for assistance from overseas supervisory authorities, taking any action locally as appropriate. The Division carefully considered the conduct of individuals who acted with a lack of integrity or competence and, in some instances, used existing powers to ban them from the Industry.

Revised provisions for market abuse were introduced in Financial Services (Amendment No. 3) (Jersey) Law 2008, which replaced the provisions in the Companies Securities (Insider Dealing) (Jersey) Law 1988.

Operations

Much effort has been spent on migrating the functionality of the Commission's primary database for regulated entities, the Central Index System (**"CIS"**), to a new database, the Key Data Repository ("**KDR**"). This has been kept largely on track during 2008 and the new system should become live in early 2009.

The revised risk model for registered persons was launched at the end of 2007 and, by 31 December 2008, 70% of entities had been reviewed using the revised risk model.

Human Resources ("HR")

Emphasis has been placed on achieving our objectives with regard to learning and development and substantial progress has been made in the last quarter of 2008. In addition, a HR Manager, Staff Development, is currently being recruited to ensure delivery of our objectives for the future.

New employment and related legislation has been and will continue to be introduced and the Commission has worked progressively towards ensuring compliance and good business practice in all areas of human resource management. Key policies have continued to be developed and work will continue throughout 2009. In addition, processes are being automated to ensure the accuracy and delivery of key statistical information.

Information and Communication Technology ("ICT")

During 2008, ICT continued its programme of effective communications with the Commission's Divisions to successfully conclude OneSys Phase V online environment with the Registry and to advance the KDR database, the replacement for the CIS database. Both of these are major projects, with changes to the user interfaces, underlying platforms and the technology with which the software works. Increased project management skills were required and an additional member of the Division now provides improved user communications for detailing the business needs of the Commission and managing the relationships with suppliers.

The Commission started the first implementation of the Microsoft Office SharePoint environment in 2008. This is a major change that will improve information management. This is in line with the ICT strategy and will, over the next few years, enable greater collaborative working, and the better presentation of information and intelligence to the Commission staff. This was further supported with the implementation of software to manage better the collation and presentation of intelligence material.

Key Statistics for 2008

Total Examinations 2008

Division	Themed	Focused	Discovery	Total
TCB	27	7	19	53
Funds	17	2	0	19
IB	3	4	10	17
Banking	14	5	7	26
Insurance	0	0	16	16
AML Unit	0	66	0	66
Total	**61**	**84**	**52**	**197**

Funds Statistics

Fund Services Business ("FSB") (since 14 November 2007)	**2007**	**2008**
New application (full FSB)	7	44
New application (managed entity acting in respect of expert or expert equivalent fund)	12	63
Total New FSB authorisations	**19**	**107**
Of which: new classes of business only	-	17

Category	2005	2006	2007	2008
Jersey Funds				
- Jersey CIFs	60	21	20	15
- Expert Funds	105	149	108	74
- Jersey Listed	-	-	11	6
- Total CIF	*165*	*170*	*139*	*95*
- VPUTs	397	311	66	54
- Other COBO only	10	20	11	16
- Total COBO	407	331	77	70
Total Jersey Funds	**572**	**501**	**216**	**165**
Non Jersey Funds				
- CIFs	20	37	29	71
- Expert Fund equivalent	21	28	35	103
- Total Non Jersey CIFs	*42*	*65*	*64*	*174*
- COBO	8	170	128	66
Total Non-Jersey Funds	**49**	**235**	**192**	**240**
Total New Funds	**621**	**736**	**408**	**405**

Enforcement Statistics

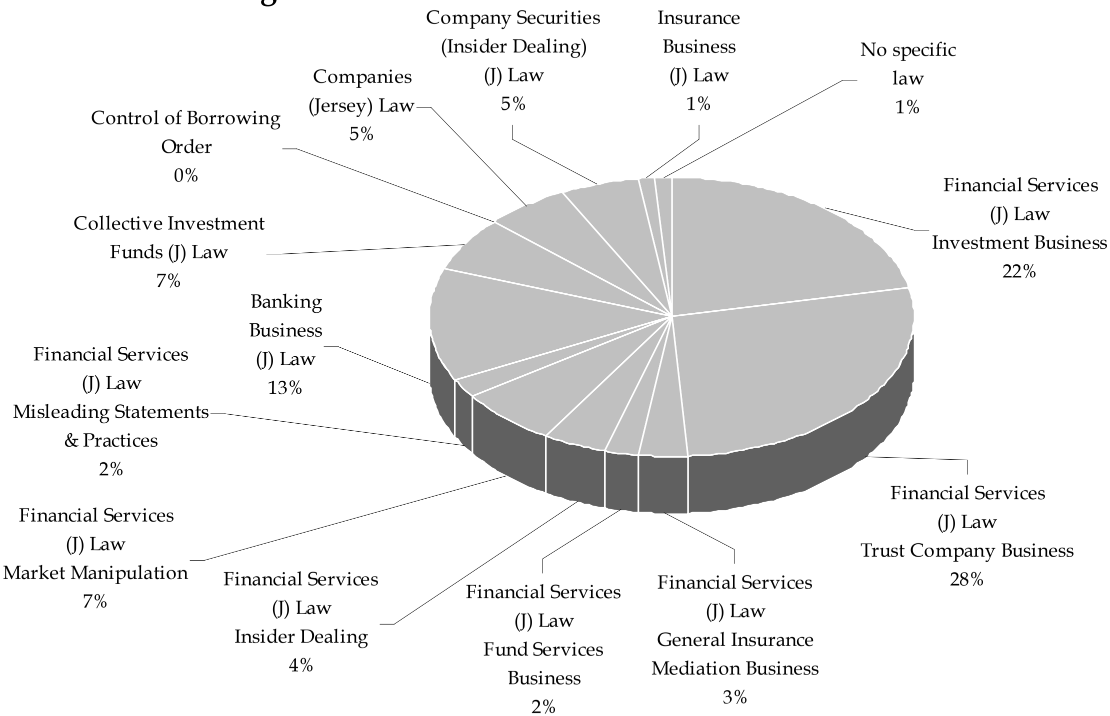
Requests received from other regulators actioned during 2008

Requesting organisation	No of Requests	Law used or relevant Law
Securities Commission of Malaysia	1	Financial Services (Jersey) Law 1998
Austrian Financial Market Authority	1	Financial Services (Jersey) Law 1998
US Securities & Exchange Commission	1	Financial Services (Jersey) Law 1998
Quebec Autorite Des Marches Financiers	1	Financial Services (Jersey) Law 1998
Netherlands Authority for the Financial Markets	1	Financial Services (Jersey) Law 1998
Commissione Nazionale per le Società e la Borsa (Italy)	1	Financial Services (Jersey) Law 1998
Capital Markets Board of Turkey	1	Financial Services (Jersey) Law 1998
Autorite Des Marches Financiers France	1	Financial Services (Jersey) Law 1998
South Africa Financial Services Board	1	Financial Services (Jersey) Law 1998
Swiss Federal Banking Commission	1	Financial Services (Jersey) Law 1998
Hong Kong Securities & Futures Commission	1	Financial Services (Jersey) Law 1998
TOTAL	**11**	

Total Enforcement Cases during the period from 1 January to 31 December 2008

	Financial Services (J) Law Investment Business	Financial Services (J) Law - Trust Company Business	Financial Services (J) Law General Insurance Mediation Business	Financial Services (J) Law Fund Services Business	Financial Services (J) Law Insider Dealing	Financial Services (J) Law Market Manipulation	Financial Services (J) Law Misleading Statements & Practices	Banking Business (J) Law	Collective Investment Funds (J) Law	Control of Borrowing Order	Companies (Jersey) Law	Company Securities (Insider Dealing) (J) Law	Insurance Business (J) Law	No specific law	**Total**
Active 1 January 2008	5	12	1	0	0	2	0	2	3	0	1	4	0	0	30
New cases in year (to 31/12/08)	15	13	2	2	4	4	2	10	3	0	4	1	1	1	62
Total during year (to 31/12/08)	20	25	3	2	4	6	2	12	6	0	5	5	1	1	92
Total shown as percentage	21.74	27.17	3.26	2.17	4.35	6.52	2.17	13.04	6.52	0.0	5.43	5.43	1.09	1.09	100
Balance 31 December 2008	11	5	1	2	1	1	0	3	5	0	2	0	1	1	33

Enforcement Cases during 2008



Registry Statistics

Company incorporation and limited partnership set-ups (comparative figures relate to identical period in previous years).

Period / Activity	Year ended 31 December 2006		Year ended 31 December 2007		Year ended 31 December 2008	
Total company formations	3,479	21.6%	4,050	16.41%	2,758	-31.9%
Dissolutions	2,557	-0.4%	2,593	1.41%	3,046	17.5%
Limited Partnerships	160	41.6%	120	-25.00%	125	4.2%

Self imposed targets and achievements for the year ended 31 December 2008.

	All Companies %	Partnerships %	Searches %	Certification %	Business Names %
Achieved	**98.4**	**99.2**	**100.0**	**100.0**	**98.8**
Target	95 achieved within 2 days	95 achieved within 2 days	95 achieved within 2 days	95 achieved within 2 days	90 achieved within 2 days

SECTION 3: PRIORITIES FOR 2009 - 2011

Overview

In deciding on the Commission's main priorities for 2009 to 2011, the Commission has taken into account the outcomes of two strategic Away Days held in September 2008. The first of these involved the Away Day held by the Board of Commissioners and the Commission's Executive, and focused on identifying those essential projects which would need to continue into 2009 and beyond, and any new essential projects. The second strategic Away Day held with a selection of CEOs and Industry representatives reviewed the Commission's progress against its 2008 Business Plan and provided an Industry perspective on the main future priorities for the Commission.

The overall message from the Away Day held for Commissioners and Directors was that there was a real opportunity to move into new waters from 2009 compared with those in 2008. It was not expected that the Commission and Industry would be faced with the same level of changes in regulatory and AML/CFT legislation as in 2008, many of which arose from the preparations for the IMF assessment in the fourth quarter, and would be able to consolidate and further enhance the effectiveness of the regulatory approach. The need to balance market orientated initiatives with the Commission's key purpose and aims was also recognised.

However, since the Away Days there have been and continue to be dramatic changes in the global financial climate and there is considerable uncertainty about the likely outcome. The Commission therefore will need to monitor closely what is expected to be a rapidly changing economic climate through 2009. In particular, there may be a need to react to international initiatives for financial market reform and new regulatory measures emanating from the Group of 20 (G20) Summit on Financial Markets and the World Economy, which met in Washington in November 2008 and is to meet again in London in April 2009.

Another factor that will bear on the Business Plan priorities will be the reports by the IMF mission on its reviews of the Island's compliance with international standards set by the Basel Committee, the IAIS, IOSCO and the FATF, which are due to be published in the second quarter of 2009. A formal response will be formulated to any recommendations made by the IMF, which may require consequential actions to be taken.

Furthermore, in November 2008 the UK Chancellor of the Exchequer announced in his Pre-Budget Report that a review of Crown Dependencies and Overseas Territories would be undertaken during 2009. The review will look at financial supervision and transparency, financial crisis management, and international co-operation to the extent they affect stability and sustainability. It will not look at taxation rates, nor will it consider any change to Jersey's fiscal autonomy or the constitutional relationship with the UK. The Commission will assist in the Island's response to that review, the conclusions of which are expected towards the end of 2009 and may impact on the Commission's main priorities for 2010 to 2011.

Summary of Key Priorities for 2009

These can essentially be grouped into four thematic areas, reflecting the discussions referenced above and taking into account the Commission's key purpose and aims. These are:

- Protecting of investors, characterised by more intensive supervision of the activities of regulated entities in accordance with the Commission's risk model, and developing initiatives on consumer education and a closer focus on the quality of investment advice offered by Island providers;
- Protecting and enhancing the Island's reputation and integrity in commercial and financial matters, reflected in the outcomes and follow-up to independent evaluations of the Island's financial supervision capabilities and ever greater engagement with the international community;
- Safeguarding the Island's best economic interests through effective engagement and consultation with Government and Industry to identify suitable opportunities for innovation and development, potential regulatory reform consistent with international standards and securing necessary resources for legislative change where appropriate; and
- Countering financial crime, primarily through further development of the Island's AML/CFT regime, particularly with the benefit of the conclusions of the 2008 IMF Review.

In this regard, the essential activities contained in the Business Plan are:

- Post IMF Review activity;
- Preparations for and full participation in the UK's review of the Crown Dependencies;
- The continuing development of the on-site examination programme;
- Assist in the review by the States of Jersey to find out what form of deposit protection scheme would best suit the Island's circumstances;
- Complete work on sector specific sections of AML/CFT Handbook; and

- Oversee the introduction and implementation of provisions to introduce limited scope auditor oversight;

Other important projects that are considered necessary in order to reinforce the Commission's key purpose and aims are:

- Update the Insurance Licensing Policy;
- Introduce Codes of Practice for Certified Funds;
- Establish a separate regime for the licensing and supervision of e-money providers;
- Address financial capability and consumer education, particularly improvements in the interface between investors and financial advisers;
- Analyse the UK Financial Service Authority's feedback from their Retail Distribution Review and assess developments in respect of the local pensions market;
- Make improvements to the EasyCompanyRegistry online environment including B2B enhancements;
- Contribute to consultation on the development of a register of trademarks and intellectual property;
- KDR Phase 1 – complete migration from CIS;
- KDR Phase 2 – enhancements to workflow following migration;
- Develop an international secondment policy with other jurisdictions;
- Continue the exploitation of the Microsoft Office SharePoint Server business platform; and
- Replace the Foreshore Data Centre infrastructure.

There are also some projects that will be consulted on during 2009, which will include:

- The issues surrounding the declaration of beneficial ownership of Jersey incorporated companies through the formation of a working party comprising Registry, TCB, International & Policy, Enforcement, the AML Unit and Industry;
- The development of a Family Office arrangement within the current regulatory regime;
- A review of the scope of regulation for trust company businesses to ascertain whether the level of regulatory grip is still appropriate; and
- A survey of Industry to seek comments, compliments and complaints about the Commission's performance.

Divisional Priorities for 2009

Directorate

The Directorate will aim to spend more time on strategy and international relations, taking stock of the situation post the Island's IMF Review once full results are known. The outcome of the recently announced UK Treasury Review of the Crown Dependencies will also be factored into this objective. Relations will be maintained with regulatory authorities with which the Commission has signed a MoU with efforts made to develop these further in jurisdictions that may hold an adverse view of the Island. The continuing roles of the Chief Financial Officer ("**CFO**") and the Chief Operations Officer ("**COO**"), focussing on financial, technical and operational issues, will allow the Directorate to concentrate on both international tasks and the management of the Supervision Divisions and the issues and cases arising from within Supervision.

The Directorate will also continue to develop and enhance relations with the Minister for Economic Development and other related Government Ministers and Departments, including participation in the AML/CFT Strategy Group, as well as with the various Industry representative bodies domestically. The aim will be to continue the momentum gained in recent years in developing the relationship between the Commission, Industry and Government. There may be matters initiated by Government, such as a depositor compensation scheme, in which the Commission may be asked to provide administrative support or play some other role.

During 2009, the Directorate will seek to deploy resources to develop two areas of the Commission's activity which previously have not been adequately resourced or highly prioritised, namely consumer education and the development of financial education in the Island at both secondary and tertiary education level, the latter depending on and in support of Government initiatives.

CFO

Following the introduction of legislation that permits the Commission to set its own fees, the CFO will review the rotational basis of fee setting with a view to possibly introducing annual amendments to regulatory fees.

The Finance Team will continue the work to integrate its database for regulated entities to Open Accounts in order to facilitate the reconciliation of fee income payable to the Commission recorded in the database to the actual receipts in Open Accounts. This will be a joint project with ICT. Finally, the CFO will progress the arrangements for the 2008 audit, which will be undertaken by PKF (UK) LLP following their appointment as auditors of the Commission.

International & Policy

2009's key priority for the Division will be the publication of the IMF's assessment and related action plan. Where it is considered that any changes to legislation or regulatory requirements are appropriate, then the necessary resources will be made available to effect such changes.

Legislative and regulatory changes not completed in 2008 will be continued. In particular, the application of Schedule 2 of the Proceeds of Crime Law to investment fund products will be reviewed, and sector specific sections added to the AML/CFT Handbook (including sections for funds and trust company business). Additional guidance will also be added to the AML/CFT Handbook as time permits. The Division will also oversee the ongoing review of policy statements and guidance notes to ensure that they remain up-to-date and relevant.

The Division will continue to work on introducing a regime to oversee the work of some Jersey auditors. This will involve an amendment to the Companies (Jersey) Law 1991, the introduction of Audit Rules (which set out the basis to be followed in conducting an audit) and discussions with relevant UK agencies on the logistics of introducing such a regime. The Division will also lead the Island's application to join the SEPA, should this prove to be feasible and achievable. It is likely that some changes to legislation will be necessary to support such an application.

The Division will also bring forward proposals for a separate regime to license and supervise electronic money service providers.

Supervision Divisions

The Supervision Divisions comprise the Banking Division, the Insurance Division, the Securities Division (combining the Funds Team and the IB Team), the TCB Division and the Anti-Money Laundering Unit (the **"AML Unit"**).

The majority of the work undertaken by the Supervision Divisions falls within the category of business as usual, which comprises the on-site supervision of regulated entities, off-site supervision (including the review of audited accounts and other reports), and the authorisation of applications, revocations, amendments and renewals to registrations. The on-site examination programme for regulated entities conducted by Commission staff, and that outsourced to third parties, will continue at similar levels to that achieved in 2008 with 227 examinations planned for 2009.

On-site examinations for 2009 are scheduled as follows:

Division	Themed	Focused	Discovery	Total
TCB	30	7	8	45
Funds	15	5	5	25
IB	6	2	12	20
Banking	17	3	1	21
Insurance	0	12	4	16
AML Unit	10	10	80	100
Total	**78**	**39**	**110**	**227**

Banking

The published Policy on New Banks is to be revised so as to make fully transparent the breadth of considerations applied to deposit-taking licence applications.

The requirements of the Banking Codes relating to concentration risk (large exposures) are to be amended to reflect current international standards. Liquidity management requirements are to be similarly revisited and then incorporated into the Banking Codes.

Ongoing dialogue with Industry is planned in respect of current regulatory capital requirements and the possible need for a depositor compensation scheme. Development of the Pillar 2 process will continue with individual banks, following its introduction in 2008. Guidance will be issued prior to the next round of submissions.

On-site examination focus will continue on AML/CFT matters until the bulk of the banking sector has been assessed but the Division will also address the area of credit provisioning by way of a themed on-site programme.

The Division will continue to monitor the development of international standards issued by the Basel Committee, including the work of the Cross Border Resolution Group on enhanced inter-regulatory dialogue. Participation as a member of the Offshore Group of Banking Supervisors (OGBS) will also continue.

Insurance

The Insurance Division will continue its on-site examination programme and will provide feedback, as appropriate, on common findings. A new Insurance Business

Licensing Policy is to be introduced under the Insurance Business (Jersey) Law 1996 in a similar format to the policies issued in respect of the FS(J)L.

The Insurance Division will continue to monitor the development of international standards by attending meetings of the IAIS and Offshore Group of Insurance Supervisors (OGIS).

Funds

The Funds Team will undertake a broader review of the Outsourcing Policy and the Guide to Open-ended Unclassified Funds. It will also undertake a review of the COBO regime and continue with updating the rules for recognized funds. In addition, the Funds Team will comply with its international obligations by attending IOSCO meetings and dealing with inter-regulator enquiries.

Investment Business

The IB Team will conduct a review of competency requirements within Industry, and will devise and implement a programme for consumer education, particularly in relation to improvements required in the interface between investors and financial advisers. Priority will be given to ensuring, as far as possible, that proper advice is professionally given by independent financial advisers (IFAs) and tied advisers, and that investors are not misled about the risks involved. Consideration will therefore also be given to repeating the "mystery shopping" exercise for persons registered to conduct Classes C and D investment business, which would include the publication of feedback.

TCB

A focus for 2009 will be to provide formal guidance to the trust and company sector on the Commission's expectations of managers of managed trust companies and of those managed trust companies themselves in terms of corporate governance and oversight. Guidance, potentially coupled with changes to the relevant Exemption Order, will also be given in respect of the registration trigger for individuals providing directorship services.

Development work is planned on the subject of private trust companies and family office work, to ensure that the legislation in this area is both competitive across the key trust jurisdictions, but coupled with the right balance of regulatory grip.

A hitherto neglected area of focus for the Division has been our international relationship development, and it is planned to redress this balance in 2009. As well as continuing with our networking with Guernsey, the Isle of Man and Gibraltar, visits are also planned to our regulatory counterparts in Mauritius, Bahrain and Singapore. It is also planned to undertake a joint visit with the International &

Policy Division to Switzerland to gain a better understanding of the robustness of the Swiss Self Regulatory Bodies' requirements on AML/CFT matters.

Work will continue on developing and refining the route planners used in the on-site supervision regime, specifically so that the many amendments to the AML/CFT regime over the last year are properly reflected throughout the suite of route planners.

AML Unit

2009 will see the AML Unit review, consolidate and strengthen its oversight regime, including redrafting the sector specific AML/CFT Handbooks based on Industry feedback, recent legislative changes and its analysis of emerging money laundering and terrorist financing threats and vulnerabilities which may be applicable to Jersey businesses. Recognising that the recent introduction of AML/CFT requirements is a new concept to many newly-regulated sectors, the AML Unit plans a total of 100 on-site examination visits to ensure that early advice and guidance is widely available to those to whom aspects of the regime (particularly the risk-based approach) present a challenge.

The AML Unit will maintain its outreach programme, involving key relationships with trade, Industry and regulatory bodies locally and internationally, including participation at international fora.

In Q3 of 2009, the AML Unit will conduct a formal review into the viability of the AML Unit assuming responsibility, in whole or in part, for AML/CFT oversight of those prudentially supervised and regulated businesses currently supervised by other Divisions.

Operations

The COO will continue to support the Supervision Divisions during 2009. The launch of the new KDR database, to replace CIS, is set to take place in the first quarter of 2009. Following the launch there will be a focus on improving the functionality of the database - especially in the funds area. Operations will liaise with ICT on Phases I and II of the KDR database project, which will continue into 2010.

The Division will continue to develop the risk-based approach for the Commission, particularly the risk model used by all Supervision Divisions to assess the strengths and weaknesses of regulated businesses, and thus the Commission's regulatory approach to each business.

There will be further refocusing of the Operations Division's activities with more emphasis on providing assurance on operational quality as opposed to some of the reactive internal audit tasks previously undertaken. However, selected internal audit work will continue.

Registry

As previously stated, the key priority of the Registry is to ensure that it offers a high quality of service to its users, by managing its workflows as efficiently and effectively as possible. The Registry will, in partnership with the ICT Division, continue the range of automation and e-commerce projects, which will continue through until the end of 2010. In addition, the Registry will promote a revised Registration of Business Names (Jersey) Law and issue related Guidance Notes. This piece of legislation was put on hold during 2008 while other more pressing legislation was progressed.

Finally, the Registry will contribute to consultation on enacted and draft legislation that affects the Registry, such as the new foundations law, intellectual property laws, incorporated limited partnerships and any amendments to the Companies (Jersey) Law 1991 and the Security Interests (Jersey) Law 1983. In addition to participating in the ECRF and EBR (as board member), the Director, Registry, has been re-appointed as a Director of the International Association of Commercial Administrators (IACA), as Chair of the International Relations Section, and will continue to promote internationally the Companies Registry in these fora.

Enforcement

The effective and timely investigation of domestic cases will continue to be a priority for Enforcement. Information and evidence will be collated in a fair, lawful, methodical and ethical manner and disclosed to the subject of the investigation before the decision-making phase of the process and in accordance with the Guidance Note published by the Commission. Where appropriate, cases will be referred to either the Commission's Review Committee or the Board of Commissioners for consideration of further action and application of sanctions in accordance with the regulatory laws.

The Division will continue to work on cases in conjunction with the Supervision Divisions and promote the flow of intelligence. In those cases where the application of regulatory sanctions is considered to be unnecessary, the Division will ensure that the case is monitored and any necessary remedial action undertaken.

Where the Enforcement Division identifies serious criminal conduct, particularly in cases where either investors or the Commission are provided with false or misleading information, a referral will be made to the Attorney General and the Joint Financial Crimes Unit for consideration of criminal prosecution.

The Enforcement Division will continue to service requests for assistance from overseas regulatory authorities in accordance with the powers set out in the regulatory laws.

In conjunction with the International & Policy Division, Enforcement will develop law drafting instructions for consideration of the introduction of legislation for the recovery of investigation costs.

ICT

2009 will be another year for large developments that will enhance and improve the Commission's administration and efficiency. These will include: working with the Registry to increase business-to-business (B2B) activity for filing documentation (OneSys VI); continuing to develop the new KDR database; conducting a full technology infrastructure review; achieving the ISO27001 Information Security Standard; and further development of the SharePoint environment with internet services.

HR

The HR Division will continue to progress enhanced automation of various functions including payroll, personnel records, absence management, and statistics. In addition, HR will be looking to develop an automated Personal Development Review process linked to the learning and development needs of the business. In this regard, a HR Manager, Staff Development, will be recruited to improve and extend the range of training courses and other learning opportunities that will be made available to all staff. The planned expenditure on training will be increased significantly over the 2008 level. HR will also be focussing on the design, maintenance and enhancement of key policies and procedures to ensure compliance with Jersey employment and discrimination legislation.

Resourcing

The Commission's headcount at the end of 2008 was 102 full-time and 11 part-time staff. In terms of the Commission's resourcing to achieve its Business Plan priorities, the Commission has considered carefully its resourcing strategy and has concluded that, to manage its increased remit and the increasing workload during 2009, particularly given the prevailing international trend towards potentially wider scope regulation and expectations of more intensive surveillance, it requires eight additional full-time staff. The Commission's headcount will increase to 110 full-time and 11 part-time staff.

SECTION 4: BUDGET 2009 - 2011

The Commission's policy with respect to the Budget is to:

- Set fees at such a level as to cover the costs of regulating the finance industry and administering the Companies Registry, and to make an appropriate contribution to reserves;
- Keep regulatory fees to a minimum by maintaining strict control of costs; and
- Build up an accumulated reserve equal to one quarter's operating expenditure plus the average of one year's cost of investigations and litigation, in order to meet contingencies.

Income

Fee income in 2008 was £15,309,000, £335,000 above budget. The main cause of the increase was the continued high level of fund receipts combined with the new fee structure for fund services businesses. Fees from the Registry and from general insurance mediation were lower than originally forecast, but income from banking, insurance and investment business was above budget. Trust company fees were almost exactly in line with the budget.

In view of the international economic conditions, setting an income budget for 2009 has been an uncertain exercise. The budget fee income for 2009 is £11,232,000. In respect of Registry income, account has been taken of the changed fee for companies' annual returns whereby a proportion of the fee is now payable directly to the States of Jersey in lieu of the previous annual financial contribution. A conservative view has been taken regarding all other income, the specific increases being for insurance, general insurance mediation and investment business. These fees were due for review under the regular rotational basis. Although fees received from other sectors of the industry are forecast to be at similar levels to 2008, no contribution from the States towards the cost of the AML Unit is expected in 2009.

Bank deposit interest received was £541,000 in 2008 against a budget of £550,000. For 2009 this income is expected to decline to £120,000 because of the significant fall in interest rates.

The budgeted total net income available to the Commission for its own expenditure in 2009 is £11,352,000, compared with £11,450,000 in 2008.

Expenditure

Operating expenditure in 2008 was £10,278,000 against a budget of £11,043,000. The reduced spend of £765,000 arose primarily from staff costs, which were down against budget by £416,000 because of the timing of recruitment during the year. Other reductions included premises costs because of a favourable re-negotiation of service charges for the building, and computer system costs as a result of the timing of developments. Expenditure on business travel was also below budget, largely because this activity was scaled back as a consequence of the work required to prepare for the IMF visit.

In 2009, the budget shows an increase in costs over the 2008 level of £1,417,000 to £11,695,000. The main causes are staff costs, (the pay review and bonus, the effect of the first full year's remuneration to those new staff recruited in 2008, and the anticipated additional recruitment of new staff), the associated training, and costs relating to new computer system developments. The level of maintenance work required on the premises is likely to rise, and it is hoped that business travel, particularly to other regulatory authorities and to international organisations, can be restored now that the IMF visit has been completed. However, the recruitment of additional staff should mean a reduction in the use of external professional service providers to assist with supervisory examinations, so the budget for professional services has been reduced accordingly.

Despite the continued policy that only essential projects are included, the costs of computer systems are anticipated to increase in 2009 as the Commission continues to improve its administrative systems. Software licence fees for the additional staff will also add to the costs of computer systems.

The level of staff training in 2008 reflected the increased staff numbers and the need to ensure that all staff were properly qualified to meet their, and the Commission's, responsibilities. A similar level of training activity is envisaged during 2009.

Investigation and litigation costs amounted to £462,000 in 2008, below the original budget of £1,000,000. The decrease was achieved partly by the increased use of in-house staff to handle these cases rather than by the employment of external service professionals and partly because individual cases have not yet incurred the level of cost that was initially anticipated. The budget has been set at £700,000 for 2009, taking into account the expected future costs of existing cases and allowing for new investigations to arise during the year.

Results for the years 2008 and 2009

2008 produced an excess of income over expenditure of £710,000, compared with an original budget deficit of £619,000. For 2009, the budget shows a deficit of £1,043,000, but the forecast level of reserves at the end of the year, £4,654,000, remains in excess of the minimum target reserve calculated in line with the Commission's policy (£4,389,000).

INCOME AND EXPENDITURE FOR THE YEARS 2007 TO 2009

	2007 £ooo Actual	*2008 £ooo Budget*	2008 £ooo Actual (unaudited)	**2009 £ooo Budget**
Income				
a) Fee Income				
Registry	6,381	*6,400*	6,283	**2,432**
Banking	1,321	*1,348*	1,365	**1,365**
Insurance	517	*530*	559	**640**
General Insurance Mediation	88	*85*	70	**85**
Funds	2,886	*2,850*	3,246	**3,150**
Investment Business	1,112	*1,085*	1,137	**1,250**
Trust Company Business	2,305	*2,300*	2,299	**2,300**
Money Services Business	-	*36*	10	**10**
AML Unit	-	*340*	340	**-**
	14,610	*14,974*	15,309	**11,232**
Less: Contribution to the States of Jersey	4,100	*4,100*	4,400	**-**
	10,510	*10,874*	10,909	**11,232**
b) Other Income				
Bank Interest	569	*550*	541	**120**
Total Net Income	11,079	*11,424*	11,450	**11,352**
Operating Expenditure				
Staff	6,938	*7,754*	7,338	**8,459**
Other operating expenditure	2,956	*3,289*	2,940	**3,236**
Total Operating Expenditure	9,894	*11,043*	10,278	**11,695**
Operational surplus/(deficit)	1,185	*381*	1,172	**(343)**
Investigations/regulatory intervention/litigation	882	*1,000*	462	**700**
Surplus/(deficit) for the year	303	*(619)*	710	**(1,043)**
Accumulated Fund at beginning of year	4,684	*4,987*	4,987	**5,697**
Accumulated Fund at end of year	4,987	*4,368*	5,697	**4,654**

Jersey Financial Services Commission

Projected Balance Sheet as at 31/12/2008 and 31/12/2009

		Actual 2008 (projection)		Budget 2009
	£000	£000	£000	£000
Fixed Assets		1,186		1,280
Current Assets				
Sundry debtors	51		55	
Prepayments	260		270	
Bank balances	8,450		7,381	
		8,761		7,706
Total Assets		9,947		8,986
Current Liabilities				
Fee income received in advance	3,863		3,877	
Sundry creditors and provisions	387		455	
		4,250		4,332
Total Assets less Current Liabilities		5,697		4,654
Accumulated Reserve		5,697		4,654