



**Jersey Financial  
Services Commission**

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**Business Plan  
2010 - 2012**

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**BUSINESS PLAN 2010 - 2012**

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## **SECTION 1: INTRODUCTION**

The 2010 – 2012 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 2010, some will continue into 2011 and beyond. The Business Plan has been formulated taking account of the Commission’s Key Purpose, Aims and Values. 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 by:

- 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 reputation and integrity of Jersey 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 and the Registry operate effectively and efficiently.

## SECTION 2: ACHIEVEMENTS IN 2009

### Overview

As previously reported, the Island has been the subject of a number of wide-ranging reviews and evaluations during 2008 and 2009, which have included the regulation of the financial sector and the framework for countering money laundering and terrorist financing (“**AML/CFT**”). The resulting reports have furnished strong endorsements of the Island’s approach in these areas, which will distinguish it from other offshore financial centres and assist the Island’s regulated firms in gaining access to international markets.

In April 2009, the Group of 20 (“**G20**”) Summit on Financial Markets and the World Economy met in London. The Island was placed on the “White List” of co-operative jurisdictions, which meet international standards of financial regulation and tax information exchange, by the Organisation of Economic Co-operation and Development (“**OECD**”).

Following its review in the fourth quarter of 2008, the International Monetary Fund (the “**IMF**”) published its Financial System Stability Assessment Update (“**FSSA**”) on Jersey in September 2009 and concluded that financial sector regulation and supervision are of a “high standard” and “comply well” with international standards.

The FSSA says that Jersey has put in place a “comprehensive and robust” AML/CFT framework and has achieved a “high level of compliance” with almost all aspects of the Financial Action Task Force’s (“**FATF**”) 40+9 Recommendations. The FSSA also says that financial soundness indicators for banks are satisfactory and that Jersey’s banking system is resilient to a range of shocks.

The detailed assessment reports, that form the basis for most of the FSSA, show compliance ratings for each of the international standards against which the Island has been assessed. The reports show that Jersey complies or largely complies with:

- All of the Basel Committee’s Core Principles for Effective Banking Supervision.
- 24 of the 27 Insurance Core Principles against which it has been assessed.
- 44 of the 49 FATF Recommendations, and 15 of the 16 “core” and “key” FATF Recommendations.

These ratings place Jersey in the “top division” of international finance centres, including those in the G20 and European Union (“**EU**”). Where it is possible to make comparisons with other jurisdictions, Jersey’s ratings put it at the top of compliance tables. While compliance with the International Organisation of Securities Commissions’ (“**IOSCO**”) Objectives and Principles of Securities Regulation was not assessed, the FSSA says it is evident that the regulation of

investment business, particularly funds business, has been “significantly strengthened” since the last IMF report in 2003. The FSSA also says the trust and company services business sector enjoys a “comprehensive” regulatory and supervisory framework.

The FSSA highlights two particular areas that are specific to Jersey’s business model and where further enhancements could be considered.

- Reference is made to the common business practice of “up-streaming”, where Jersey banks take deposits from customers (in Jersey and elsewhere) and then place these funds with group entities (mostly in the United Kingdom (“UK”) and other Member States of the EU) – providing liquidity to the group. The report says that, in the event that the health of the group were to deteriorate, the exposure of Jersey banks would require careful management.
- Mention is made of the reliance that may be placed by Jersey businesses on third parties (in Jersey and elsewhere) to have carried out customer due diligence measures for AML/CFT purposes. The IMF encourages the insular authorities to review the use of this concession, which is described as “overly generous”.

The FSSA also makes a number of recommendations, identified as “high” or “medium” priority. The Commission, in conjunction with other Island Authorities, will develop an action plan to deal with these recommendations. The plan will be published and the Authorities will report annually on progress.

Despite this very positive assessment, there is no room for complacency. In particular, the FSSA says the Commission will be “challenged” to react to changes in supervisory standards coming out of the global financial turmoil and implement them “proportionately to the risks on the Island”.

In October 2009, the Final Report of the Independent Review of British Offshore Financial Centres, which was commissioned by the UK Chancellor of the Exchequer, was published by Mr Michael Foot (the “**Foot Review**”). This report also endorsed the high standards and robustness of the Island’s financial regulation and provided an acknowledgement of the large regular flow of funds from Jersey to the UK, but again warned that there was no room for complacency. The Report also called upon the UK to take the lead internationally in encouraging improvements to international standards and transparency of beneficial ownership.

In November 2009, the Commission undertook an on-line survey of the finance industry in Jersey (the “**Industry**”) in order to receive feedback on the Commission’s performance as a regulator. The Industry Survey included sections on the role of the Commission, information provision, communication with Industry and interaction with Industry. The Commission will be providing a summary of the results in early 2010 and is committed fully to considering the views of the Industry.

As anticipated in the 2009-2011 Business Plan, the Commission and the Industry did not face 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, thus enabling the Commission to consolidate and further enhance the effectiveness of the regulatory approach. The Commission was able to recognise the need to balance market orientated initiatives with the Commission's key purpose and aims.

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 2010. 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 facilitate the ability to react quickly to new developments, particularly in the area of investigations and litigation where there continue to be 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**

Colin Powell, CBE, retired as Chairman of the Board of Commissioners on 17 September 2009, having reached the age of 72, the statutory age for retirement of Commissioners. However, his expertise will not be lost as Colin Powell will be retaining an office within the Commission in his continuing role as Chairman of the Offshore Group of Banking Supervisors ("OGBS"). Clive Jones, who joined the Board of Commissioners in October 2007, was appointed as Chairman of the Board of Commissioners by the States of Jersey (the "States") to succeed Colin Powell.

In June 2009, Commissioner John Boothman retired after serving one term, in order to concentrate on his appointment as Chairman of the Jersey Telecoms Group. Alastair Clark was appointed as a UK-based Commissioner on 20 January 2009, but decided to retire on 31 October 2009 in order to take up an appointment as a senior adviser on financial sector and financial stability issues to HM Treasury. On 23 October 2009, John Mills, CBE, and Philip Taylor, FCA, were appointed as Commissioners by the States to fill two of the vacancies.

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 has included visits to supervisory authorities and the signing of a number of agreements in relation to regulatory cooperation. During 2009, the Commission entered into Memoranda of Understanding (“MoU”) with the United States (“US”) Federal Reserve; the US Office of the Comptroller of the Currency; the US Federal Deposit Insurance Corporation; the US Office of Thrift Supervision; the UK Panel on Takeovers and Mergers; the Commission Bancaire, Financière et des Assurances in Belgium; and the Polish Financial Supervision Authority. 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. As part of the Commission’s business planning cycle, communication and strategy were combined in October 2009 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**

A summary of the key areas of progress against the main priorities of the 2009 Business Plan is set out below.

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 242 examinations during 2009 against a budget of 227. There were 197 examinations during 2008.

## **International & Policy**

Much of the Division’s focus in 2009 has been on finalisation and publication of the IMF’s FSSA and detailed assessment reports, in particular the report on observance of the FATF Recommendations. The very positive conclusions of the FSSA and detailed reports are considered at length elsewhere in this report.

The Division has also continued to monitor developments in Europe and consider how the Commission, and the Island as a whole, should respond to those developments. In particular:

- The Commission has consulted on legislation to introduce a regime to oversee the work of auditors of “market-traded” companies - those companies that have securities traded on certain exchanges in the EU.

This legislation was considered by the States of Jersey in December 2009 and is expected to come into force on 5 April 2010. The Commission has also consulted on the detailed rules that would apply to auditors under such legislation. Preparation of legislation and rules involved close liaison with Guernsey's Commerce and Employment Department, the Isle of Man Financial Supervision Commission, the Institute of Chartered Accountants of England and Wales (the "ICAEW") and the UK Professional Oversight Board, which is part of the Financial Reporting Council.

- The Division has considered how the Island might implement the EU's Payment Services Directive to support an application to the European Payments Council for Jersey to join the Single Euro Payments Area (the "SEPA"). The Commission expects to publish a consultation paper on this matter in 2010.
- The Commission published a consultation paper in November 2009 on options for the future regulation of electronic money.
- A MoU between the UK and Jersey under the EU Payments Regulation took effect from 1 September 2009. Agreement of the MoU is extremely important as it allows payments between payment service providers in the two jurisdictions to continue to be made using UK payment systems.

The Division continued to be active in supporting the Industry's vigilance in countering money laundering and terrorist financing. In particular:

- A number of significant amendments were made to 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"). In April 2009, Parts 2 (information resource) and 3 (supervision of compliance) were updated, and in July 2009 Section 4 of Part 1 was revised to provide the requirements that apply where a foundation seeks to establish a business relationship or carry out a one-off transaction with a person that is carrying on business listed in Schedule 2 of the Proceeds of Crime (Jersey) Law 1999.
- In October 2009, the Commission published a consultation paper on proposals for a sector specific section in the AML/CFT Handbook to cover trust company business. Responses to the consultation paper were requested by 11 December 2009.
- In September 2009, the Commission published a consultation paper on a further amendment to the Money Laundering (Jersey) Order 2008. The amendment addresses a number of "quick fixes" that were identified by the IMF in its detailed assessment of Jersey's

compliance with the FATF Recommendations. A feedback paper was issued on this matter in November 2009.

- The Division coordinated a visit in June 2009 by representatives of the World Bank and United Nations Office on Drugs and Crime, as part of a joint Stolen Asset Recovery (StAR) Initiative to develop a policy paper on politically exposed persons. That paper has since been published. The Division also supported an AML/CFT training session in July 2009 organised jointly by the People's Bank of China and EU-China Trade Project.
- The Division represents the OGBS on an Expert Group which is reviewing FATF Recommendation 9. This recommendation permits reliance to be placed in certain circumstances on identification measures carried out by third parties.

The Division has provided support to the Enforcement Division in the task of proposing amendments to legislation to provide for the Commission to be able to recover some or all of its costs and disbursements due to enforcement action and investigations leading to such action.

The Division continued to coordinate a review of policy statements and guidance notes such that they remain up to date and relevant. In addition, the Division worked closely with the Enforcement Division to publish in May 2009 a guidance note to explain the Commission's decision-making process.

A Handbook on International Co-operation and Information Exchange was published in April 2009 to assist overseas supervisory authorities when they seek to obtain assistance from the Commission in the discharge of a function that is the same as, or similar to, a function of the Commission.

The Division agreed a MoU with the Polish Financial Supervision Authority covering the exchange of regulatory information and assistance in enforcement matters. In addition, as part of revised arrangements covering the takeover or merger of Jersey companies listed on a UK stock exchange, the Division agreed a MoU with the UK Panel on Takeovers and Mergers and the Minister for Economic Development.

On the domestic legislative front, the Division has continued to review and comment on draft legislation that affects the Commission and the Industry that it supervises. The Division has also coordinated the Commission's law drafting work in 2009, which has included liaison with the Law Draftsman.

### **Banking**

The 2009 business plan for the Banking Division has been largely achieved, although some developmental tasks will stretch into 2010. Key achievements were:

- The targeted level of entity examinations of 22 was achieved. Two themed on-site programmes were run, being (1) a continuation of the AML assessments commenced in 2008 and subsequently extended until all banking groups had been examined in this area and (2) credit provisioning assessments - these having been run in response to a specific recommendation contained in the IMF assessment of the Island's adherence to the Basel Core Principles for Effective Banking Supervision. In both cases, summary findings will be published for industry guidance;
- Off-site supervisory tasks were comprehensively addressed and completed in line with required standards;
- A registration fee increase was successfully consulted upon and implemented;
- The Bank Licensing Policy was substantially overhauled, consulted upon and re-issued, achieving the desired increased level of transparency and comprehensiveness;
- The Division acted as chair and organiser for an Industry working party which has developed over a number of years, and launched in 2009, the (voluntary) Code of Practice for Consumer Lending. This is intended to provide guidance both for the Island's lenders in terms of conduct and for consumers in respect of matters they should consider before taking on indebtedness. This was a new initiative for the Commission in terms of consumer education and also in influencing the conduct of non-regulated lenders;
- Guidance on Pillar 2 (of Basel II) was issued and two industry workshops run on the subject;
- A high level of assistance was provided to the Cook Islands regulator on an enforcement case, with a successful outcome;
- The OGBS annual plenary was successfully hosted in September;
- An appropriately heightened level of inter-regulatory dialogue (given the global stresses seen in the banking sector) was held at all levels, with particular activity seen in respect of the UK Financial Services Authority ("FSA"), de Nederlandsche Bank, the Swiss Financial Markets Authority (FINMA), the German Bundesanstalt für Finanzdienstleistungsaufsicht (BaFIN), various Middle Eastern institutions, the Bank of Greece and the tri-partite working arrangements now well established with Guernsey and the Isle of Man;

- A further two MoUs were signed during the year - with USA and Belgium - the former involving all four of the main US banking regulatory bodies;
- A high level of input was given to reviews initiated by government, including the Depositor Compensation Scheme, involving Jersey Finance Limited, McKinsey and Oxera; and
- A strong working relationship was maintained with industry, enabling much of the foregoing to have been achieved in a co-operative and supportive fashion.

### **Insurance**

The Insurance Division continued with its active on-site examination programme and is on schedule to have conducted the planned total of 16 such examinations during 2009. The most common findings of these examinations have been in respect of the inadequacy of documented procedures of licensed businesses and deficiencies in the standard of compliance monitoring and reporting. The Division has been working with entities to remedy identified shortcomings.

A new Insurance Business Licensing Policy was introduced, under the Insurance Business (Jersey) Law 1996, in similar format to the equivalent policy issued under the Financial Services (Jersey) Law 1998.

The Insurance Division contributed to the Offshore Group of Insurance Supervisors (“OGIS”) training efforts for regulators with the theme “Taking action when things go wrong”.

The Division also worked with the validation panel that is reviewing the Commission’s application to become a signatory to the International Association of Insurance Supervisors (“IAIS”) Multi-lateral Memorandum of Understanding covering the exchange of information.

### **Investment Business**

The Investment Business Team (the “IB Team”) was bolstered by the recruitment of two additional staff during 2009. The IB Team has used this resource to undertake a significantly higher number of on-site examinations and to commence work on an investor education initiative which is to be launched in 2010.

The key themes that emerged from the 2009 on-site examination programme were: recommendations to switch from one product to an alternative product not being sufficiently comprehensive or balanced; inadequate or insufficiently independent compliance arrangements; inadequate disclosure of commissions, fees and underlying charges; and AML/CFT risk ratings not being completed for some clients. The IB Team will provide a fuller summary of their findings by way of a “Dear CEO” letter in the first quarter of 2010.

In terms of policy developments, the IB Team has been closely monitoring emerging proposals under the FSA's Retail Distribution Review (the "RDR"). The RDR has yet to conclude, but the IB Team will continue to work with local trade associations on this topic and intends to participate in a local seminar in 2010 prior to issuing a position paper setting out the Commission's response to the proposals.

### **Funds**

The Funds Supervision Unit undertook 16 on-site examinations during 2009, six of which were themed examinations looking at all aspects concerning the valuation of fund assets. Common themes coming out of this year's examination programme included: a lack of appropriate due diligence on promoters and other parties in relation to new funds; a failure to demonstrate proper oversight of outsourced or delegated functions; and failure to comply with all the requirements of the Island's AML regime.

The Funds Team continued to manage a number of forensic investigations in conjunction with the Commission's Enforcement Division, the most notable result being the successful conclusion of representation proceedings in respect of the R2R Funds.

The Funds Team has had a busy period of recruitment throughout the year both filling existing vacancies and some new posts in the Funds Supervision Unit. The Funds Team aims to use this additional resource to increase the extent of interaction with regulated entities, enhance our in-depth knowledge of the Industry and to shorten response times.

A number of policy developments were completed during the year. A guidance note for a Manager of a Managed Entity (MoME) and certain managed entities was published in April, and consultation papers were issued for certified fund prospectuses and the Codes for Funds in the summer.

The Division has continued to be actively involved in international and domestic regulatory liaison. On the international front, there has been active participation in IOSCO and the Enlarged Contact Group meetings, whilst at home close liaison has been maintained with Jersey Finance and the Jersey Funds Association on a number of initiatives including the EU Directive on Alternative Investment Fund Managers (the "AIFM Directive"), and discussions on changes to recognized funds' rules. A fund authorisation user group was also set up during the year.

### **Trust Company Business ("TCB")**

Perhaps the most important regulatory development during 2009 for the TCB sector was the development and implementation in July 2009 of a regime to regulate the service of acting as a council member of a foundation. The Division was instrumental in the development of the legislation and accompanying regulatory regime.

A Guidance Note in relation to the activity of an individual acting as a director was also issued during the year, together with law drafting instructions that will introduce a 'de minimis' regime of six engagements for those individuals acting as a director. An update to the Guidance Note in respect of an individual conducting a single class of trust company business has also been published.

The on-site examination programme has been maintained, with a total of 56 examinations completed during the year. The majority of the examinations were "themed", split between conduct of business, risk management and AML/CFT.

Findings arising from the 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 Financial Services (Jersey) Law 1998 (the "FS(J)L") to address the most serious deficiencies that have been identified.

An analytical reporting solution continued to be 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.

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

As well as continuing liaison with Guernsey, the Isle of Man and Gibraltar, international relationships were developed further as members of the Division undertook two visits in 2009. The first visit was to Bahrain, to review trust regulation, and the second to Switzerland, as a joint visit with the International & Policy Division, to better understand the Swiss self regulatory body regime in terms of robustness of AML/CFT requirements.

### **Anti-Money Laundering Unit ("AML Unit")**

During 2009, the AML Unit consolidated its supervision regime of sectors new to regulation. During the course of the year, approximately 50% of firms in each sector were subject to a supervision visit and it is anticipated that all registered firms will have been visited before the end of 2010.

The AML/CFT Handbooks for Designated Non Financial Businesses and Professions ("DNFBPs") - Lawyers, Accountants, Estate Agents and High Value Dealers - were reviewed in response to industry feedback and legislative changes. It is anticipated that, where necessary, revised AML/CFT Handbooks for DNFBPs will be published in 2010.

Whilst it was anticipated that the AML Unit would assume greater responsibility for AML/CFT oversight of those prudentially supervised and regulated businesses currently supervised by other Divisions, it is now considered more appropriate for the Unit to review and standardise AML/CFT supervision procedures across the Commission.

## **Registry**

The Registry's primary objective is to maintain an efficient and effective service to its users. During 2009, self-imposed targets continued to be met. The new online search facility now requires certain tasks, such as scanning, to be undertaken in a more timely manner so, whereas 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 addition, Registry users now show a preference to using the online search facility at [www.easycompaniesregistry.je](http://www.easycompaniesregistry.je).

In July 2009, the new Foundations (Jersey) Law 2009 came into force and Registry launched an online foundation registration service. Registry users now have the ability to file, search, monitor and retrieve foundation documents online. Amendment No. 10 to the Companies (Jersey) Law 1991 came into force during 2009, 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 fora such as the European Commerce Registers' Forum ("ECRF"), the European Business Register ("EBR") and the International Association of Commercial Administrators ("IACA").

## **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 prevent or restrict them from the Industry in accordance with the published policy on the Commission's Decision-Making Process. The Division further developed an already effective working relationship with the Joint Financial Crimes Unit and the Law Officers' Department, and introduced the concept of an operational working group when cases involving all three agencies came to light.

## **Operations**

In March 2009, the Commission's new regulatory database, the Key Data Repository ("KDR") went live. Following this, the process of designing and building process management systems for specific key areas commenced with statistical returns and regulatory fees. These systems should be ready for launch by the end of 2010.

### **Information and Communication Technology (“ICT”)**

In 2009, the ICT Division continued to work with Commission’s Supervision Divisions to deliver the replacement of the Commission’s core regulatory database, now called KDR. This is a new structure designed to harness technologies that can utilise the internet, is modular, and can be added to efficiently and cost effectively. The development of the Registry systems has continued with the rewrite of the infrastructure platform, which is now the same as KDR and is consistent with the Commission’s strategy to have systems that can “talk to each other” and “share” information. Other Registry developments include the software to process the registration of foundations and continued progress on business-to-business (“B2B”) activities for the OneSys VI database.

In-house development of a case management system for Enforcement to manage its information has been completed, along with a new professional development review (PDR) system for Human Resources - both systems were designed and built in-house using the Commission’s investment made in the Microsoft Office SharePoint Server (“SharePoint”) platform, which will have continued benefits in the future.

The year finished with the receipt of the ISO27001 information security standard for ICT. This is a Channel Islands first and, following a very strict audit, demonstrates the resilience of the Commission’s infrastructure and the robust management of security policies and procedures.

### **Human Resources (“HR”)**

Significant achievements have been made within the Division with regard to the 2009 objectives, specifically: the introduction of the Senior Management Development Programme, the successful integration of the payroll in-house; and the recruitment of a full-time Human Resources Officer who is currently responsible for the Commission’s Learning and Development function. In addition work commenced on a student education project and a contribution was made to the consultation on specific employment legislation matters.

The Division has continued to ensure compliance with good business practice in all areas of HR management. Key policies have been developed and work will continue in this regard during 2010. In respect of resourcing there have been significant achievements during 2009 with the recruitment of 25 permanent and contract members of staff to fill new or replacement posts.

**Key Statistics for 2009**

**Total Examinations 2009**

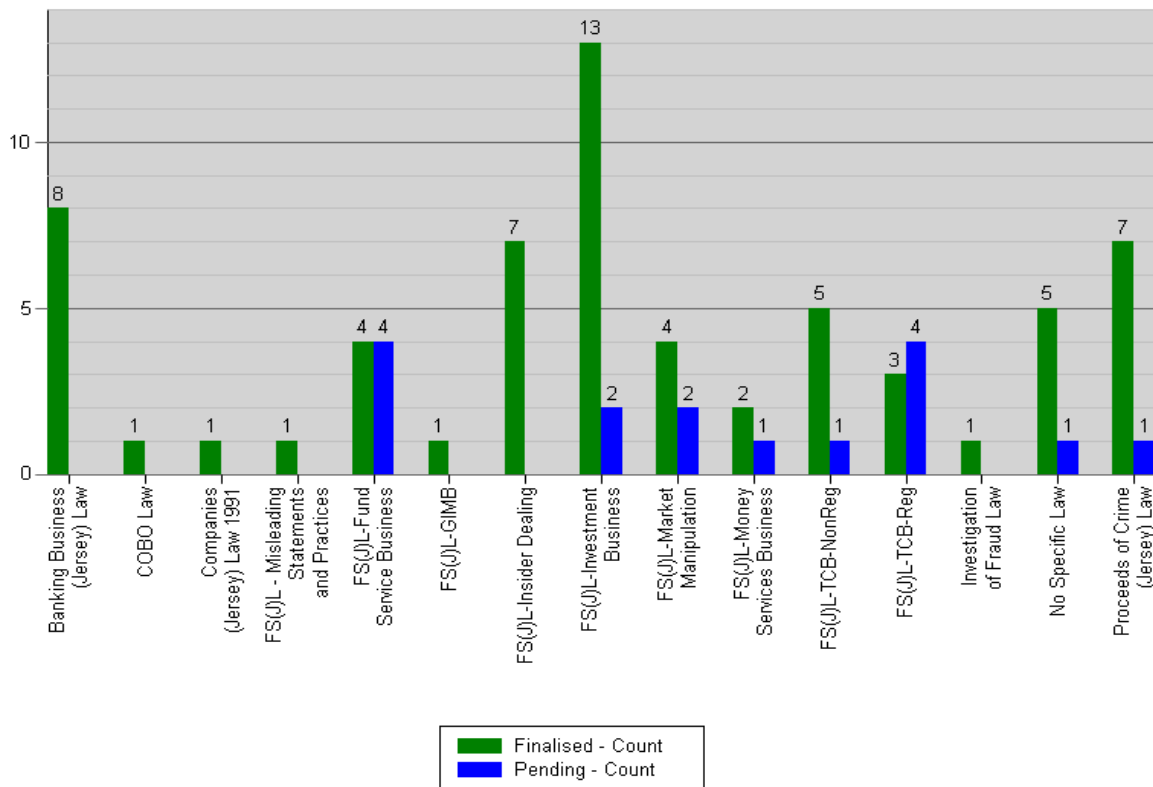
<b>Division</b>	<b>Themed</b>	<b>Focused</b>	<b>Discovery</b>	<b>Total</b>
<b>TCB</b>	27	11	18	56
<b>Funds</b>	6	3	7	16
<b>IB</b>	8	1	22	31
<b>Banking</b>	21	2	1	24
<b>Insurance</b>	0	6	10	16
<b>AML Unit</b>	105	1	0	106
<b>Total</b>	167	24	58	249

**Enforcement Statistics**

Requests received from other regulators actioned during 2009

<b>Requesting organisation</b>	<b>No of Requests</b>	<b>Law used or relevant Law</b>
Australian Securities and Investments Commission	1	Financial Services (Jersey) Law 1998
Austrian Financial Market Authority	1	Financial Services (Jersey) Law 1998
US Securities & Exchange Commission	5	Financial Services (Jersey) Law 1998
Agencia Tributaria (Spanish Tax Agency)	1	No specific law - public information only
UK Financial Services Authority	5	Financial Services (Jersey) Law 1998
Guernsey Financial Services Commission	1	Financial Services (Jersey) Law 1998
Swiss Financial Markets Authority	1	Financial Services (Jersey) Law 1998
<b>TOTAL</b>	<b>15</b>	

### New Enforcement Cases during the period from 1 January to 31 December 2009



**Funds Statistics**

<b>Category</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>
<b>Jersey Funds</b>					
- Jersey CIFs	60	21	20	15	10
- Expert Funds	105	149	108	74	40
- Jersey Listed	-	-	11	6	3
- <i>Total CIF</i>	165	170	139	95	53
- VPUTs	397	311	66	54	33
- Other COBO only	10	20	11	16	5
- Total COBO	407	331	77	70	38
<b>Total Jersey Funds</b>	<b>572</b>	<b>501</b>	<b>216</b>	<b>165</b>	<b>91</b>
<b>Non Jersey Funds</b>					
- CIFs	20	37	29	71	52
- Expert Fund equivalent	21	28	35	103	20
- <i>Total Non Jersey CIFs</i>	42	65	64	174	72
- COBO	8	170	128	66	34
<b>Total Non-Jersey Funds</b>	<b>49</b>	<b>235</b>	<b>192</b>	<b>240</b>	<b>106</b>
<b>Total New Funds</b>	<b>621</b>	<b>736</b>	<b>408</b>	<b>405</b>	<b>197</b>

<b>Fund Services Business ("FSB") (since 14 November 2007)</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>
New application (full FSB)	7	44	16
New application (managed entity acting in respect of expert or expert equivalent fund)	12	63	19
<b>Total New FSB authorisations</b>	<b>19</b>	<b>107</b>	<b>35</b>
Of which: new classes of business only	-	17	7

### Registry Statistics

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

Period Activity	Year ended 31 December 2007		Year ended 31 December 2008		Year ended 31 December 2009		Forecast year ended 31 December 2010	
	<b>Total company formations</b>	4,050	21.6%	2,758	- 31.9%	<b>2,329</b>	-15.6%	2,200
<b>Dissolutions</b>	2,593	1.4%	3,046	17.5%	<b>2,650</b>	-13.0%	2,300	-24.5%
<b>Limited Partnerships</b>	120	-25.0%	125	4.2%	<b>94</b>	-24.8%	75	-20.0%

Self imposed targets and achievements for the year ended 31 December 2009.

	<b>All Companies %</b>	<b>Partnerships%</b>	<b>Searches %</b>	<b>Certification %</b>	<b>Business Names %</b>
<b>Achieved</b>	98.4	99.2	100.0	100.0	98.8
<b>Target</b>	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 2010 - 2012**

### **Overview**

In deciding on the Commission's main priorities for 2010 to 2012, the Commission has taken into account the outcome of its annual strategic Away Days held in September 2009. The Board of Commissioners and the Commission's Executive focused on identifying those essential projects which would need to continue into 2010 and beyond, and any new essential projects. In October 2009, a meeting between the Commission, a selection of CEOs and Industry representatives reviewed the Commission's progress against its 2009 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, for 2010, the Commission would seek to consolidate the significant progress made in 2009 and ensure an effective and proportionate response to international calls for additional regulatory and supervisory measures in the aftermath of the financial crisis. One of the main tasks going into 2010 will be to produce an action plan as part of the Island's response to the recommendations made in the IMF's FSSA. However, this needs to be viewed in the context the proposals emanating from the G20 in response to the changes in the global financial climate and evolving international standards set by the Basel Committee, the IAIS, IOSCO and the FATF. Going forward, the IMF now plans an annual desk-based assessment of the Island's progress against its action plan.

The Commission will also continue to monitor changes in the EU and, where appropriate, will develop compatible regimes so as to allow continued access to EU markets by firms regulated in the Island.

### **Summary of Key Priorities for 2010**

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 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 to:

- Develop the Island's action plan arising out of the recommendations made in the IMF's FSSA published in September 2009, consulting with Industry as necessary;
- Monitor developments and outcomes arising from the Foot Review;
- Monitor and respond where appropriate to international regulatory developments including greater participation in international regulatory fora and development of further bi-lateral regulatory relationships;
- Continue and enhance further the on-site examination programme;
- Complete work on sector specific sections of AML/CFT Handbook and review the AML/CFT Handbooks for DNFBS;
- Seek to take part in the IOSCO programme of assisted self-assessments;
- Complete preparations for the introduction of a regime to oversee the work of auditors of "market-traded" companies; and
- Publish a summary of the results of the 2009 Industry Survey having fully considered and commented on the views of the Industry.

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

- Extend the Entity Collapse Contingency Plan so as to establish a pan-Island authority approach to a bank collapse;
- Continue the investor education initiative by:
  - producing and distributing website content, concentrating on investment matters,
  - issuing guidance on the use of pension products, and
  - developing consumer guidance for bank depositors;

- Work with Industry on monitoring and responding to the draft EU AIFM Directive and other emerging EU initiatives;
- Carry out a “mystery shopping” exercise on banks and IFAs;
- Monitor the progress of Solvency II and IAIS risk-based solvency requirements to assess any possible impact on Jersey’s related regulatory requirements for insurance businesses;
- Give formal guidance to the TCB sector with respect to the Commission’s expectations of managers of managed trust companies, and of those managed trust companies themselves, in terms of corporate governance and oversight;
- Host a workshop for the UK and the Crown Dependencies on the AML/CFT supervision of DNFBPs;
- Assist with legislative preparations for the Island’s application to join the SEPA;
- Promote a revised Registration of Business Names (Jersey) Law and issue related guidance notes;
- Continue the exploitation of the SharePoint platform;
- Effect KDR enhancements to improve workflow, including regulatory fees and funds statistics;
- Complete changes to the Outsourcing Policy;
- Review the Control of Borrowing (Jersey) Order 1958 (“COBO”);
- Address registered office issues; and
- Continue improvements to the EasyCompanyRegistry on-line environment including B2B enhancements.

There are also some projects that will be consulted on during 2010, which will include:

- Draft legislation for the recovery of investigation costs;
- The introduction of an Accounts Order to be issued under the Banking Business (Jersey) Law 1991;
- Proposals to introduce a consistent regime that will allow the Commission to object to the appointment (and continued appointment) of auditors of persons that are supervised under the regulatory laws;
- A Client Assets Order for fund services business;

- Any consequential amendments that are required in relation to the UK's Retail Distribution Review ("RDR") proposals; and
- A Commission-wide project to ensure that the provisions within the various Codes of Practice are consistent, with any variances in Codes being on an exception basis with appropriate rationale;

## **Divisional Priorities for 2010**

### **Directorate**

The 2010 Business Plan assumes a period of consolidation, but this does not imply that events driving and shaping global finance and the regulatory agenda in the wake of the 2008/09 financial crisis are stable or normal.

Consolidation in this sense means first and foremost "more and better" supervision, building on the real progress achieved by the Commission in recent years, cementing further the success attested to by the IMF evaluation completed in 2009, and seeking to reflect and measure up to the rising demand globally for greater oversight by financial services regulators in terms of both scope and depth.

Accordingly a main aim of the Commission's Director General in 2010 will be to achieve the best possible balance of resources between day-to-day supervisory activity to be conducted at an ever increasing tempo on the one hand, and project and development tasks as defined in this Business Plan on the other. Given the quantum and scope of the planned development of the regulatory platform in the form of KDR and associated processes in 2010, which requires the regular release and involvement of skilled supervisory staff, this balance will be a challenge to achieve - the more so as the Business Plan sets a clear agenda to achieve all 2010 targets with net neutral headcount relative to 2009.

Domestic relationship management and representative activity will continue with similar intensity as in 2009. This will involve the continued enhancement and development of relations with the Minister for Economic Development and other related Government Ministers and Departments, including participation in the Finance Sector Advisory Board ("FSAB") and AML/CFT Strategy Group (both chaired by Government), as well as with various Industry representative bodies. The Director General will continue his programme of speeches and presentations at numerous Industry events on matters of topical regulatory interest. There will also be coordination of the Commission's ongoing support role in matters initiated by Government such as the Depositor Compensation Scheme, Ombudsman and/or other issues where administrative assistance or advice will be sought from the Commission.

A significant amount of the Director General's 2010 activity will be directed towards international representation and development as well as issue management, particularly given the post-crisis environment for Jersey and the ongoing challenges it represents despite 2009 successes. This will entail the

development of key bilateral regulatory relationships such as with China (CBRC and CSRC); India (RBI and SEBI); and with various regulatory bodies in the Middle East, to underpin the Island's overall efforts to develop these key future markets. In addition to these developmental relationships, effort will be directed towards enhancing important existing links with counterpart bodies in key EU Member States: UK (FSA); France (Commission Bancaire and AMF) and Germany (BaFin) as well as those in the USA (FED and SEC) and Switzerland (FINMA).

Opportunities for speaking engagements internationally will be taken up and a range of activities undertaken in line with Jersey's commitments to international organisations such as IOSCO and the OGBS.

In line with the experience of 2008/09 the Director General can expect to be involved significantly once more in a number of complex enforcement cases over the next twelve months.

### **The Chief Financial Officer**

The Finance Team will continue the work to integrate the KDR database for regulated entities with Open Accounts in order to facilitate the reconciliation of fee income payable to the Commission recorded in the KDR database to the actual receipts in Open Accounts. This will be a joint project with ICT. Work will continue with the development of the internal monitoring of progress against the Business Plan on the SharePoint platform, in order to provide greater management information for the Executive and the Board of Commissioners.

### **International & Policy**

The Division expects to finish its preparations for the introduction of a regime to oversee the work of auditors of "market-traded" companies - those companies that have securities traded on certain exchanges in the EU. So long as all the necessary legislation has been adopted, the Commission expects to introduce the regime at the start of April 2010, at the same time as similar models are introduced in Guernsey and the Isle of Man. Under the requirements, auditors will be required to register with the Commission and allow the ICAEW to oversee the audit work that has been carried out in respect of "market-traded" companies.

The Division will also continue to assist with legislative preparations for the Island's application to join the SEPA.

The Division will continue ongoing negotiations with the Commission Bancaire in France to put in place a MoU covering the exchange of regulatory information and assistance in enforcement matters. This will involve (inter alia) the completion of an extensive questionnaire from the Commission Bancaire seeking information on Jersey's regulatory framework and laws.

The Division will lead the Commission's participation in IOSCO's programme of assisted self-assessments should this prove possible and be necessary, including the associated preparation for and coordination of the assessment. The objective of

such an assessment would be to demonstrate compliance with IOSCO's Objectives and Principles of Securities Regulation.

Work will continue on adding sector specific sections to the AML/CFT Handbook. Consultation started in 2009 on a sector specific section for trust company business, and will be followed in 2010 by consultation on a sector specific section for funds and fund services business. Additional guidance will also be added to the AML/CFT Handbook as time permits.

Following work carried out by the Division in 2009, the Commission will consult on proposals to introduce a consistent regime that will allow it to object to the appointment (and continued appointment) of auditors of persons that are supervised under the regulatory laws, if it is not satisfied that the (proposed) auditor has the requisite qualifications, skill, resources or experience for a particular audit, or if it would not be in the best interests of clients or customers of a registered person.

Following publication of the IMF's FSSA in September 2009, the Division will monitor the action plan developed following that report. This will include publication of an annual progress update. The Division will also continue to oversee the ongoing review of codes of practice, policy statements and guidance notes such that they remain up to date and relevant.

### **Supervision Divisions**

The Supervision Divisions comprise the Banking and Insurance Division, the Securities Division (combining the Funds Team and the IB Team), the TCB Division and 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 2009 with 251 examinations planned for 2010.

On-site examinations for 2010 are scheduled as follows:

<b>Division</b>	<b>Themed</b>	<b>Focused</b>	<b>Discovery</b>	<b>Total</b>
<b>TCB</b>	23	7	15	45
<b>Funds</b>	14	4	12	30
<b>IB</b>	10	2	10	22
<b>Banking</b>	15	3	6	24
<b>Insurance</b>	12	4	4	20
<b>AML Unit</b>	10	10	90	110
<b>Total</b>	84	30	137	251

### **Banking**

The Banking Division plans to undertake 24 examinations during 2010, to include completion of the AML and credit provisioning themed programmes and home regulator visits to Guernsey and the Middle East. The Division also intends to:

- Extend the Entity Collapse Contingency Plan so as to establish a pan-Island authority approach to a bank collapse;
- Fully address relevant recommendations of the IMF report on the banking sector;
- Develop dialogue with home regulators in line with IMF recommendations, including seeking agreement on pro-active input by such institutions at times of stress;
- Complete the consultation process on a proposed Accounts Order, to be issued under the Banking Law, agree drafting of the Order in conjunction with the Law Draftsman, consult again and issue. The Banking Codes will be amended consequentially;
- Consider and develop the publication of Industry data in line with an IMF recommendation, liaising with Industry and Jersey Finance Limited;
- Complete a review of the Large Exposure Policy, which now includes an IMF recommendation in respect of the current exemption of inter-bank exposures under twelve months, consult and incorporate those requirements within the Banking Codes. Related amendments will be made to the General Provisions Order;
- Keep under continual review liquidity management and regulatory capital standards, given the current international focus on these

areas. Prudential liquidity requirements will be incorporated into Banking Codes; and

- Develop consumer guidance for bank depositors.

### **Insurance**

The Insurance Division will extend its on-site examination programme to include themed examinations in respect of intermediaries that arrange payment protection insurance cover and in respect of travel insurance arranged by travel agents. Individual reports will be issued to entities examined, in addition to summarised findings published on the Commission's website for wider Industry guidance.

The Insurance Division will continue to monitor the development of relevant international standards, partly through continued involvement with the IAIS and OGIS.

The Division will monitor the progress of Solvency II and IAIS risk-based solvency requirements to assess any possible impact on Jersey's related regulatory requirements.

### **Funds**

The Funds Supervision Unit intends to significantly raise the number of examinations conducted in 2010 now that it is up to full strength. The examinations are to focus on director responsibilities, AML obligations and new entrants to the Industry, amongst other topics.

Operationally, the Commission will launch a new enhanced statistics module which will make the process of statistics reporting for Industry far more straightforward.

From a policy perspective, as well as finalising the Codes of Practice for Certified Funds and the Certified Funds Prospectuses Order, there are a number of other initiatives planned. Discussions will continue on changes to the Outsourcing Policy and Recognized Funds Rules. The Funds Team will look at revising the Guide to open-ended unclassified collective investment funds offered to the general public (OCIF Guide) and producing a similar document for closed-ended funds. A consultation is planned on a Client Assets Order for fund services business and work will be undertaken with the International and Policy Division on a funds sector specific section of the AML/CFT Handbook.

The Commission is also likely to continue to spend a significant portion of time working with Industry on monitoring and responding to the draft EU AIFM Directive.

### **Investment Business**

The IB Team intends to complete its ongoing programme of themed examinations of independent financial advisers ("IFAs") and to report key themes and findings by way of a "Dear CEO" letter. This work will be augmented by a "mystery

shopping”<sup>1</sup> exercise on banks and IFAs along similar lines to the exercise conducted by the Commission in 2007/08.

The Commission will launch an investor education initiative in 2010. This initiative will initially take the form of website content concentrating on investment matters; however, it is envisaged that the scope and distribution of this material will be further extended as soon as possible.

The Commission intends to issue a consultation paper outlining proposals to further align the Codes of Practice for each supervision area. The IB Codes will be included in this exercise.

The IB Team will continue to monitor the RDR in conjunction with local trade associations and intends to issue a position paper setting out the Commission’s view of the proposals and what, if any, consequent amendments may be appropriate for our own regulatory regime.

Finally, the Commission intends to offer guidance on the use of pension products in 2010. Pensions are not subject to direct product regulation in Jersey, but suitable advice must be provided by financial advisors in relation to such products as an investment.

## **TCB**

The results of the examinations carried out in 2009, have led the Division to designate the main theme for examinations in 2010 to be ‘AML – customer profiling and transaction monitoring’.

A focus for 2010 will be to update the TCB Codes of Practice. This task will be undertaken in conjunction with a Commission wide project to ensure that the provisions within the Codes are consistent through all the Supervision Divisions with any variances in Codes being on an exception basis with appropriate rationale.

The Division is currently working on providing formal guidance to the TCB sector with respect to the Commission’s expectations of managers of managed trust companies and of those managed trust companies themselves in terms of corporate governance and oversight. This Guidance Note will be published in 2010.

Further 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.

The Division will also be reviewing the regulatory regime for Class O registrations. This may require a change to the Registration and Fees Order.

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<sup>1</sup> 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.”

Work will continue on developing and refining the route planners used in the on-site supervision examination regime.

### **AML Unit**

During 2010, the AML Unit will complete a full review and update of all its procedures and processes, including its supervision regime and risk-modelling systems. The Unit will further review AML/CFT supervision in all Supervision Divisions in order to enhance skills and capabilities Commission-wide.

The Unit will maintain its outreach programme, involving key relationships with trade, industry and regulatory bodies locally and internationally, including participation at international fora. The Unit plans to host a workshop for the UK and the Crown Dependencies on the AML/CFT supervision of DNFBPs.

Having built on the experience gained since the Unit was formed in 2007, it is likely that the Unit will assume a greater role in sanctions development and enforcement and assume responsibility for updating the Island's AML/CFT strategy.

### **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 2012. 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 any new intellectual property laws, incorporated limited partnerships and any amendments to the Companies (Jersey) Law 1991, COBO 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 IACA, as Chair of the International Relations Section, and will continue to promote the Companies Registry through 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 in accordance with the published decision-making process guidance note. Where appropriate, cases will be referred to the Commission's Review Committee and 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 misconduct, 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 consider the introduction of legislation for the recovery of investigation costs or similar measures.

### **Operations**

Operations will continue to support the Supervision Divisions during 2010. The main focus will be on the design and building of electronic process management systems to support day-to-day regulatory functions. This will include working towards a B2B capability for the Commission's website that in time should enable on-line regulatory filing by regulated firms. In addition, internal reports will be reviewed and upgraded to better serve regulatory aims.

In the longer term, the Division will continue to work closely with the Supervision Divisions and the ICT Division to design and build an integrated system of electronic processes to support the regulatory functions and provide the Industry with a more efficient interface with the Commission.

### **ICT**

The ICT strategy will continue with more collaborative working within the Commission and with enhancing Commission systems to enable effective data sharing and improved security. This will start in the Supervision Divisions and key projects will include the on-line reporting of fund statistics and the on-line payment of regulatory fees, which will share the data automatically with KDR and the Open Accounts systems.

Participation in the review of Registry services will continue, as will progressing the themes of B2B and automation of the Registry workflow processes. In addition, ICT will assist in the development of new Registry databases for new corporate bodies.

The range of IT suppliers used by the Commission has grown and reflects its complex infrastructure. The development of the Commission's infrastructure has been formalised and ICT will continue to ensure close working with the rest of the

Commission and its IT suppliers using the PRINCE2 project management methodology.

ICT will conduct more research into the exploitation of the SharePoint platform and look at exploring options available in technology to implement a Document Management System in 2011 and the use of the eXtensible Business Reporting Language (XBRL) for the on-line submission of accounts for review by the Commission.

## **HR**

The challenge for any HR function is to maintain employee engagement, employee productivity and commitment to organisational values. This represents the main objective that HR is striving to achieve during 2010 and onwards.

In addition, other essential projects will include continuing with the Executive, Advanced and Management Programmes, developing both international and local secondment opportunities and devising an internal secondment programme for all Divisions. In readiness for the proposed new anti-discrimination legislation a major review of the Commission's Staff Handbook will be undertaken. Improving absence management by migrating to a new absence management database during 2010 will also feature. It is also the Division's intention to obtain external accreditation for its management programmes.

## **Resourcing**

With regard to staff numbers, it is the Commission's intention to maintain the current level of headcount. However, there will be a need to resource any leavers, but it is hoped that turnover will be kept to a minimum.

## **SECTION 4: BUDGET 2010 - 2012**

### **Policy**

The Commission's policy with respect to its 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 six months' operating expenditure plus the average of the last five years' cost of investigations and litigation, in order to meet contingencies.

### **Income**

Fee income in 2009 was £11,445,000, £213,000 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 banking, investment business and trust company businesses were lower than originally forecast, but income from insurance and general insurance mediation was marginally above budget. Fees from foundations were received for the first time.

As last year, in view of the international economic conditions, setting an income budget for 2010 has been an uncertain exercise. The budgeted fee income for 2010 is £12,185,000. A conservative view has been taken regarding Registry income, and account has been taken of the increased fees for banks and trust companies that have been agreed under the rotational basis of review. A full year's income has been included for foundations. It has been assumed that the proposed fee income from Industry and the financial contribution from the States of Jersey calculated to cover some 85% of the costs of the AML Unit, will be received. Fees received from other sectors of the Industry are forecast to be at similar levels to 2009.

Bank deposit interest received, at £51,000, was less than half of the budget in 2009 because interest rates fell below the level forecast a year ago. For 2010 this income is expected to be similar on the assumption that rates will continue at their present level.

The budgeted total net income available to the Commission for its own expenditure in 2010 is £12,245,000, compared with £11,496,000 in 2009.

### **Expenditure**

Operating expenditure in 2009 was £11,199,000 against a budget of £11,695,000. The reduced spend of £496,000 arose partly from staff costs, which were down against

budget by £199,000 because of the timing of recruitment during the year. Other under-spends included professional services and legal and regulatory costs, where external assistance was not required to the anticipated level (saving £72,000), and business travel (a saving of £68,000) which was not as frequent as expected.

In 2010, the budget shows an increase in costs over 2009 of £351,000 (3.13%) to £11,550,000, of which the overall increase in staff costs is £114,000 (1.39%). The main causes of this increase are the first full year costs of the new staff recruited in 2009, the premises' rent review, travel and training costs, and computer systems expenditure (including capital asset depreciation).

Despite the continued policy that only essential projects are included, the costs of computer systems are anticipated to increase in 2010 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.

With increased staff numbers and more extensive international contacts expected next year, travel costs will probably be higher in 2010, as will staff training and development expenditure, because this remains a high priority for the Commission.

In 2009, against a budget of £700,000, net costs relating to investigations and litigation were just £108,000. The under-spend has arisen from the expenditure of £444,000 being offset by cost recoveries of £336,000, that mostly related to prior years. Also, the decrease was achieved to an extent by the increased use of in-house staff to handle such cases rather than by the employment of external service professionals. The budget has been set at £600,000 for 2010, assuming a similar level of cases, taking into account the expected future costs of existing cases and allowing for new investigations that may arise during the year.

### **Results for the years 2009 and 2010**

2009 produced an excess of income over expenditure of £189,000, compared with an original budget deficit of £1,043,000. For 2010, the budget shows a surplus of £95,000, but the forecast level of reserves at the end of the year, £5,981,000, remains a little below the minimum target reserve calculated in line with the Commission's policy of £6,289,000.

As in previous years, the Commission's reserve is available to fund the costs associated with any major investigations or litigation cases that may arise in the future. Realistically, the amount of the reserve available for this purpose can be assessed only on the cash element (i.e. adjusting for fees received in advance, the book value of fixed assets and any other non-realizable items) and under this measure the available reserve was £4.510m at the end of 2009 and is forecast to be £4.553m by December 2010.

## INCOME AND EXPENDITURE FOR THE YEARS 2008 TO 2010

	2008	2009	2009	2010
	£000	£000	£000	£000
	Actual	Budget	Actual (unaudited)	Budget
<b>Income</b>				
a) Fee Income				
Registry	6,283	2,432	2,430	2,340
Banking	1,365	1,365	1,325	1,398
Insurance	559	640	667	674
General Insurance Mediation	70	85	97	108
Funds	3,246	3,150	3,413	3,250
Investment Business	1,137	1,250	1,221	1,260
Trust Company Business	2,299	2,300	2,253	2,453
Foundations	-	-	29	72
Money Services Business	10	10	10	10
AML Unit	340	-	-	620
	<u>15,309</u>	<u>11,232</u>	<u>11,445</u>	<u>12,185</u>
Less: Contribution to the States of Jersey	<u>4,400</u>	<u>-</u>	<u>-</u>	<u>-</u>
	10,909	11,232	11,445	12,185
b) Other Income				
Bank Interest	<u>541</u>	<u>120</u>	<u>51</u>	<u>60</u>
<b>Total Net Income</b>	<u>11,450</u>	<u>11,352</u>	<u>11,496</u>	<u>12,245</u>
<b>Operating Expenditure</b>				
Staff costs	7,338	8,459	8,260	8,375
Other operating expenditure	<u>2,940</u>	<u>3,236</u>	<u>2,939</u>	<u>3,175</u>
<b>Total Operating Expenditure</b>	<u>10,278</u>	<u>11,695</u>	<u>11,199</u>	<u>11,550</u>
Operational surplus	1,172	(343)	297	695
Investigations/regulatory intervention/litigation	<u>462</u>	<u>700</u>	<u>108</u>	<u>600</u>
<b>Surplus/(deficit) for the year</b>	710	(1,043)	189	95
Accumulated Fund at beginning of year	<u>4,987</u>	<u>5,697</u>	<u>5,697</u>	<u>5,886</u>
<b>Accumulated Fund at end of year</b>	<u>5,697</u>	<u>4,654</u>	<u>5,886</u>	<u>5,981</u>

## PROJECTED BALANCE SHEET AS AT 31/12/2009 AND 31/12/2010

	Actual 2009 (unaudited)		Budget 2010
	£000	£000	£000
Fixed Assets		1,056	1,128
Current Assets			
Sundry debtors	56		60
Prepayments	320		300
Bank balances	<u>8,925</u>		<u>8,879</u>
		<u>9,301</u>	<u>9,239</u>
Total Assets		10,357	10,367
Current Liabilities			
Fee income received in advance	3,963		3,861
Sundry creditors and provisions	<u>508</u>		<u>525</u>
		<u>4,471</u>	<u>4,386</u>
Total Assets less Current Liabilities		<u><u>5,886</u></u>	<u><u>5,981</u></u>
Accumulated Reserve		<u><u>5,886</u></u>	<u><u>5,981</u></u>