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SERVICES COMMISSION



# **VISION**

To be a strong, credible, impartial and effective regulator.

# **CORE VALUES**

- ACCOUNTABILITY
- COMMUNICATION
- CONFIDENTIALITY
  - EXCELLENCE
    - SERVICE
    - INTEGRITY
  - TEAMWORK
- TRANSPARENCY

HANOVER

WESTMORELAND

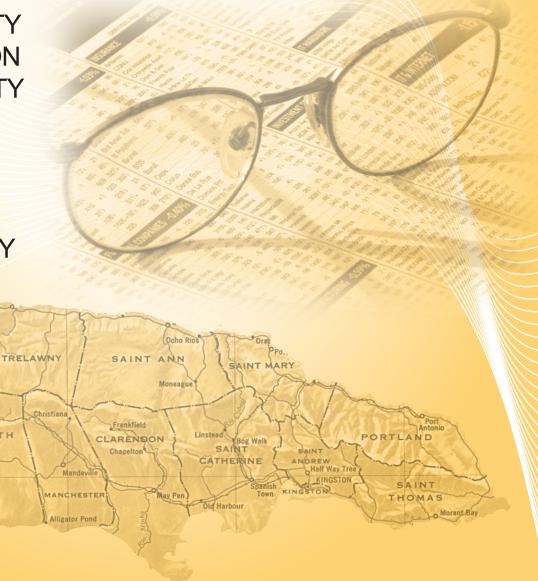
SAINT

JAMES

Black River

# MISSION

To protect users of financial services in the areas of insurance, securities and pensions by fostering the integrity, stability and health of the financial sector through the efforts of competent and committed employees.



# BOARD of Commissioners





# **EXECUTIVE**Management





### SITTING (L - R)

Nicolette Jenez - Senior Director, Pensions
Janice Holness - Director, Investigations & Enforcement
George Roper - Acting Executive Director
Angela Beckford - Chief Actuary

### STANDING (L - R)

Leon Anderson - Senior Director, Insurance
Janet Johnson-Haughton - Director, Regulatory Process
& Reliance

Loretta Reid-Pitt - General Counsel Sheila Martin - Senior Director, Corporate Services Everton McFarlane - Senior Director, Securities

# EXECUTIVE MANAGEMENT

# MESSAGE from the Chairman

FINANCIAL SERVICES COMMISSION

I think it is an honour to present the Annual Report for the Financial Services Commission ("FSC") for the fiscal year ended March 31, 2008. The fiscal year was a challenging one, not only for the FSC but also for Jamaica as a whole. There were rising global commodity prices, and the sub-prime crisis, with its contracting liquidity in the global credit markets and banking system.

Then in September 2007, England experienced a run on Northern Rock, the UK's fifth largest mortgage provider. This represented the first bank run in Britain since 1866¹ and indicated the potential gravity of this crisis. One of the things that the sub-prime crisis reiterates is the need for effective regulation of financial markets. Before a United States Senate Hearing, a Federal Reserve official admitted that the central bank could have done more sooner.²

Likewise, in England, the Chief Executive of the Financial Services Authority stated in its 2007/2008 Annual Report that the supervision of Northern Rock was unacceptable. Being fully cognizant of the critical need for regulation, the FSC remained focussed and vigilant in fulfilling its mission of protecting users of financial services in the areas of insurance, securities, and pensions.

In addition to the potential adverse effects from these global challenges, there was a strong local threat which originated from the unregistered financial organisations ("UFOs") which have emerged over the past two to three years.

Happily Jamaica did not suffer the same experience as Albania, where the economy crashed, and the country descended into uncontained rioting and anarchy in the 1990's, after many investors lost millions of dollars that had been invested in UFOs.

To address the threats posed to investors and the economy, the FSC took the following actions:

- Urged the UFOs to come forward and regularize their operations by registering their securities and arranging for them to be sold through licensed dealers. This was in keeping with a policy announced by Cabinet in January 2008. To date the UFOs have either refused to apply to the FSC to be regularized or in the case of the few who have applied their applications have not met the requirements for registration with the FSC.
- Took enforcement action.

For example, in the case of Cash Plus Limited – a company that was borrowing funds from the public at interest rates of 120% per annum and higher without registering these debt securities or meeting standard disclosure requirements – the FSC issued a cease and desist order in December 2007.

- Mounted an aggressive public education campaign which included:

   (a) warnings to investors through public notices advising the public of the entities which were not registered to conduct securities business,
- (b) print and electronic media advertisements encouraging the public to "Think and Check Before You Invest"
- (c) public forums conducted around the island which gave advice on how to invest wisely.

The FSC continues to investigate all UFOs; whilst the process is on-going it is greatly hoped that many Jamaicans will now understand the role and the mission of the FSC, the risk and dangers of investing with UFOs and that in future they will "Think and Check" before they invest. Notwithstanding these challenging market conditions, the financial health of the insurance and securities sectors, on the whole, continued to improve.

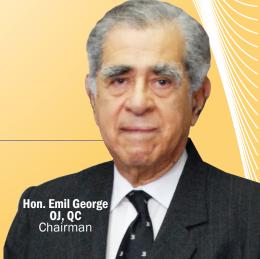
Both sectors have experienced growth in business and profitability. The resilience of the sectors to adverse shocks remained strong as indicated by the capital levels which are at or in excess of minimum statutory levels within these sectors. The FSC continue its campaign to protect the users of financial services on other avenues. These include, but are not limited to (i) promoting public understanding of the financial system, (ii) reducing the extent to which it is possible for a business to be used for money laundering, (iii) advocating greater utilisation of sound corporate governance and risk management practices by financial service providers and (iv) enhancing the regulatory framework by continuing the pensions reform process and modifying existing Acts, regulations and guidelines.

I thank the former Executive Director, Mr. Bryan Wynter, for the professional way in which he helped the FSC from its inception. Let me also thank the present Board, management and staff of the FSC for their dedicated and professional work during the past year. In particular, I wish to thank Mr. George Roper, the Deputy Executive Director who acted as Executive Director for the past year and who patiently educated me in the ways of regulation.

To our many licensees and registrants, to the customers of financial entities and other stakeholders within government and without, I express the FSC's appreciation for the feedback and other forms of interest shown in our regulatory activities. Best wishes for a regulated Christmas as we look forward to the challenges of the coming year.



<sup>&</sup>lt;sup>2</sup> Vikas Bajaj, "Senate Questioning on Mortgages Puts Regulators on the Defensive" The New York Times. Available at <a href="http://www.nytimes.com/2007/03/23/business/23lend.html?\_r=1&oref=slogin">http://www.nytimes.com/2007/03/23/business/23lend.html?\_r=1&oref=slogin</a>



<sup>3</sup> Financial Services Authority, 2007-2008 Annual Report

# REPORT from the Executive Director



### **Financial System Structure 2007**

Despite the prevailing economic conditions and the growth of unregistered financial organisations, the combined assets of the regulated financial system grew by 11.4 percent to \$1,283.2 billions by the end of the calendar year 2007 (see table 1).4 For the purposes of this report, financial institutions are classified according to their regulatory reporting status as: (a) institutions regulated by the FSC, comprising entities offering services related to insurance, securities and pensions<sup>5</sup> and (b) deposit-taking institutions, which comprise banks, building societies and credit unions.6

The total assets of \$1,283.2 billion for the financial system amounted to 181.3 percent of GDP (2006; \$1,152.2 billion or 168.9 percent of GDP). For FSC-regulated institutions, total assets grew by 7.9 percent in 2007 compared to 15.2 percent in 2006.



- <sup>4</sup> For this review of the financial structure, all data on commercial banks, merchant banks and building societies were based on unaudited reports and were taken from the Bank of Jamaica's website. Data on credit unions were sourced from the Jamaica Cooperative Credit Union League. Data on insurance companies and securities entities were based on data supplied in statutory filings to the FSC. Insurance industry data were based on audited reports while securities industry data were based on unaudited quarterly statements. This section of the annual report depicts the performance of the institutions on a calendar year basis.
- 5 The data and analysis on FSC-regulated institutions provided in this report do not cover several types of entities that are regulated by the FSC. The entities that are not covered include: individuals licensed as securities dealers, insurance brokers (including, facultative and reinsurance brokers), insurance agents, insurance consultants, insurance loss adjusters, pension fund trustees and pension fund administrators. In table 1, the assets shown are balance sheet assets as reported at the end of the year and do not include pension fund assets. Pension fund assets are part of the funds under management of licensed securities dealers shown in table 6.
- 6 The BOJ is awaiting approval of regulations for the supervision of credit unions. Credit unions are deposit-taking institutions. The BOJ also regulates cambios and remittance companies.

Table 1: Total Assets by Type of Financial Institution, 2005 - 2007 1

	200	05	200	06	20	07
Types of Financial Institution	Assets (\$ Million)	Percentage of Total Financial System	Assets (\$ Million)	Percentage of Total Financial System	Assets (\$ Million)	Percentage of Total Financial System
FOO Demolected by difference 2						
FSC-Regulated Institutions: <sup>2</sup>	70.005.0		0.4.740.0	0.0		
Life Insurance Companies	78,335.9	7.9	94,718.6	8.2	108,051.6	8.4
General Insurance Companies <sup>3</sup>	33,558.1	3.4	35,195.2	3.1	40,495.8	3.2
Securities Firms	342,247.2	34.3	393,075.3	34.1	415,861.3	32.4
Sub-Total	454,141.2	45.6	522,989.1	45.4	564,408.7	44.0
Deposit-Taking Institutions:						
Banks	375,858.3	37.7	438,436.6	38.1	504,293.4	39.3
Building Societies	89,304.3	9.0	105,617.4	9.2	122,905.8	9.6
Merchant Banks	44,913.0	4.5	46,732.9	4.1	47,332.1	3.7
Credit Unions	32,722.3	3.3	38,469.3	3.3	44,230.5	3.4
Sub-Total	542,797.9	54.4	629,256.1	54.6	718,761.9	56.0
TOTAL	996,939.0	100.0	1,152,245.2	100.0	1,283,170.5	100.0

### Notes:

- 1: The above total asset figures are as at end of each calendar year. 1: See footnote 2 in the text for a description of the FSC-regulated institutes not included in this table.
- 2: The total asset figures for general insurers in 2005 & 2006 do not include figures for Dyoll Insurance Company, which was placed in liquidation in 2005. The above total assets figures do not include Island Heritage Insurance Company Limited which began operations late 2007.
- 3: Securities licensees are characterized as "securities firms" and "non-securities firms". The former group are licensed securities dealers that engage in securities dealing as a principal activity while the latter group are securities licensees that do not deal in securities as a principal activity but who are, nevertheless, required to obtain a securities dealer's licence in order to conduct some business. Securities firms are defined to include unit trust managers. Non-securities firms include several deposit-taking institutions and to avoid double counting non-securities firms are not shown in this table under "FSC-regulated" institutions.

Source: Data compiled by Bank of Jamaica, Jamaica Credit Union League and FSC

# GENERAL INSURANCE Industry



### **Profitability**

For the calendar year ending 2007, the combined total income of general insurance companies 7 grew by 25.9 percent to \$13,779.5 million, whilst their total expenses increased by 25.5 percent to \$11,706.15 million. Consequently aggregate net income before taxes of general insurance companies was \$2,073.4 million, exceeding the amount in 2006 by \$457.2 million or 28.3 percent. With taxes amounting to \$405.3 million, net profit after taxes was \$1,668.1 million, which was \$523.9 million or 45.8 percent more than the net profit generated in 2006. The total income of general insurance companies is derived from three income streams, namely, net underwriting income, net investment income, and other income.

### Analysis of Underwriting Performance

Net underwriting income is the difference between underwriting income and underwriting expenses and reflects the impact of risk transfer activity - a principal activity for general insurance companies - on a company's bottom line. Underwriting income at the end of 2007 amounted to \$10,627.9 million (2006: \$8,459.7 million) while underwriting expenses stood at \$11,706.1 million (2006: \$9,326.4 million), resulting in an underwriting loss of \$1,078.2 million (2006: \$866.7 million). Net premium earned (NPE), which accounted for 97.9 percent of underwriting income, increased by 26 percent to \$10,400.5 million in 2007. The main contributory factor to the growth in NPE was a 17.7 percent rise in total gross premium written<sup>8</sup> which, in turn, was due to (i) an increase in premium rates, with the majority of general insurance companies reporting increased premium rates in the earlier months of 2007; (ii) an increase in the number of policies sold; and (iii) higher values for insured assets, reflecting economy-wide asset inflation.

The main components of underwriting expenses are acquisition expenses, operating expenses, and claims. Acquisition expenses grew by 29.8 percent to \$997.4 million in 2007. Paid commissions, which increased by 112.9 percent, accounted for 33.5 percent of acquisition expenses.

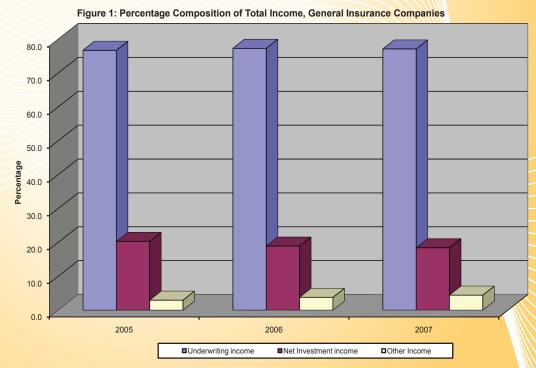
Operating expenses moved from \$2,955.9 million in 2006 to \$3,366.7 million in 2007, a growth of 13.9 percent which is partially accounted for by an expansion of the branch network of several general insurers. Claims went up by \$1,676.9 million (29.3 percent) to \$7,389.1 million in 2007.

Hurricane Dean which occurred on August 20, 2007 was a major contributory factor underlying the increase in claims. According to information collated from the companies, there were a total of 2,634 claims amounting to a net claim<sup>9</sup> value of approximately \$438 million, as at September 30, 2007.

### **Analysis of Investment Performance and Other Income**

The underwriting loss suffered by the general insurance sector was more than compensated for by the performance of investment and other income. Net investment income and other income rose by 22.7 percent and 47.9 percent, to \$2,538.9 million and \$611.8 million respectively, at the end of 2007. This increase in net investment income was underpinned by a 19.7 percent or \$4,079.2 million growth in invested assets. Meanwhile the growth in other income was driven by (i) foreign exchange gains due mainly to the depreciation of the Jamaican dollar, 10 (ii) higher ancillary fees such as service charges and rental income, (iii) a revaluation of real estate assets and (iv)the disposal of real estate assets.

Figure 1 shows the percentage distribution of total income among the three streams of income for the general insurance companies.



7 Internationally the term used for general insurers is "non-life insurers."

<sup>8</sup> Gross Premium Written (GPW) is the total amount of premiums customers are required to pay for insurance policies written during the year. GPW also includes the premiums received when any of the local insurers acts as a reinsurer. Net Premium Earned is an adjustment of GPW to take into account reinsurance ceded and changes in the unearned premium provision.

<sup>9</sup> Net claims is computed as gross claims less reinsurance recoveries and represents the portion of claims for which the insurance companies will bear financial responsibility after the application of reinsurance proceeds.

<sup>10</sup> The annual average exchange rate in 2007 was US\$1 = J\$69.06 compared to the annual average exchange rate of US\$1 = J\$65.88 in 2006. Source: http://bankofjamaica.net/exchange\_rates\_annual.php

# GENERAL INSURANCE Industry (cont'd)



### **Capital**

The general insurance sector remained relatively well capitalized by regulatory standards. The main indicator of capital adequacy currently used for general insurance companies is the Minimum Assets Test ("MAT"). 11

In 2007, the weighted average MAT ratio for the general insurance companies was 133.7 percent. While this result exceeded the regulatory benchmark of 120 percent, it was 1.1 percentage points below the result obtained in 2006.

This decline in the MAT ratio is a result of the 16.9 percent increase in insurance liabilities due to the claim experience arising from Hurricane Dean that affected most companies. Despite the effects of the hurricane, there was a 11.5 percent increase in the capital base. Table 2 shows selected key indicators for general insurance companies.

Table 2: Selected Key Indicators for General Insurance Companies, 2005 - 2007

	\$ Millions					
Selected Indicators	2005	2006	2007			
Total Assets	33,573.0	35,195.2	40,495.8			
Total Invested Assets	18,137.6	20,677.5	24,756.6			
Total Liabilities	23,357.9	22,726.9	26,837.9			
Capital Base <sup>1</sup>	9,064.7	10,691.7	11,919.2			
Net Income (before taxes)	421.0	1,616.2	2,073.4			

### Note:

1: This includes capital, retained earnings, investment and capital reserves. The capital displayed in the above table is the statutory or regulatory capital. It excludes certain forms of capital. As a result, capital base plus total liabilities will not be equal to total asets.

### LIFE INSURANCE Industry



### **Profitability**

During 2007, aggregate net income before taxes of life insurance companies amounted to \$5,247.2 million, which was 21.9 percent or \$941.7 million more than in 2006. With taxes of \$265.5 million, net income after tax was \$4,969.3 million.

Total revenue amounted to \$29,684.7 million, an increase of 7.4 percent compared to 2006. Similar to the general insurance companies, the income streams of life insurers may be categorized as gross premium income, net investment income, and other income.

Other income – which is derived mainly from fees for the management of segregated and pension funds – amounted to \$1,432.6 million, 41.3 percent more than that of 2006. This resulted from a combination of higher fees and an expansion in business opportunities with life insurers having acquired the responsibilities of investment managers and/or administrators for more pension funds and schemes.

With 6.4 percent or \$12,735.8 million more in invested assets, life insurers generated \$10,429.8 million in net investment income, which represented a growth of 11.7 percent compared to the corresponding amount for 2006.

Gross premium income of the life insurance sector grew by 3.1 percent to \$17,822.2 million and this can be attributed to an increase in sums assured on existing policies (through, for example, indexation provisions and other renewals) and an increase in the number of policies sold. A more frequently used indicator of underwriting business in the insurance sector is the net premium income. Net premium income for life insurers grew by 2.6 percent to \$17,308.1 million. Figure 2 illustrates the percentage distribution of total income among the three streams of income.

Total expenses (not including taxes) increased by 4.7 percent to reach \$24,437.5 million. The 2 major components of total expenses - operating expenses and policy benefits - accounted for 58.1 percent and 33.4 percent respectively. Operating expenses grew by 11.7 percent to \$14,202.8 million. The increase in operating expenses was partially influenced by the growth in the number of policies sold.

Policy benefits are payments made to policyholders and/or their beneficiaries by life insurers. Policy benefits rose by 13.7 percent to \$8,292.3 million as a result of an increase in both the number and value of claims. Claims amounted to \$6,412.2 million in 2007, representing 11.1 percent growth over that of 2006.

### **Capital**

In 2007, life insurance companies recorded improved levels of capital adequacy.

For life insurance companies, regulatory capital adequacy is assessed using the Minimum Continuing Capital and Surplus Ratio ("MCCSR"). 13

At the end of 2007, the weighted average MCCSR for the life insurance sector stood at 435.6 percent, which significantly exceeded both the regulatory benchmark of 120 percent and the MCCSR level of 391.1 recorded in 2006. The improvement in capital adequacy was brought about by a 15 percent increase in total combined capital base for the life insurance companies. Table 3 on the next page shows selected key indicators for life insurance companies.

Figure 2: Percentage Composition of Total Income, Life Insurance Companies, 2005 - 2007

<sup>12</sup> Net premium income is gross premium income less reinsurance premiums.

<sup>13</sup> In assessing the adequacy of capital in relation to liabilities, the FSC relies on the Minimum Continuing Capital and Surplus Requirement ("MCCSR"). The MCCSR is a risk-based solvency test which determines the capital required based on an assessment of the level of risk embodied in the asset and liability profile of a life insurance company.

# LIFE INSURANCE Industry (cont'd)



Table 3: Selected Key Indicators for Life Insurance Companies, 2005 - 2007

	\$ Millions					
Selected Indicators	2005	2006	2007			
Total Assets	78,335.9	94,478.6	108,051.6			
Total Invested Assets	64,046.0	77,643.9	90,379.7			
Total Liabilities	57,657.2	69,293.1	79,088.4			
Capital Base 1	20,678.7	25,185.5	28,963.2			
Net Income (before taxes)	4,657.6	4,305.5	5,247.2			

### Note:

1: This is the statutory or regulatory capital, which includes capital, retained earnings, investment and capital reserves.

Source: Financial Services Commission

# THE CURANGE INDUSTRY

# SECURITIES Industry



### **Structure**

The securities industry, for convenience, is categorized into two groups, namely (1) licensed securities dealers that engage in securities dealing as a principal activity, and (2) licensed securities dealers that do not deal in securities as a principal activity, <sup>14</sup> but who are required to obtain a securities dealer's licence in order to conduct some aspect of their business such as, for example, managing the investment portfolio of their own pension fund. <sup>15</sup>

The first group is referred to as "securities firms" and the second group is referred to as "non-securities firms".

Table 4 shows the number of securities licensees within the two groups mentioned above while tables 5, 6 and 7 provide information on the structure of the securities industry in terms of assets, capital, and funds under management.

The discussion of industry performance – in the areas of profitability and capital adequacy – provided in the next two subsections focuses on securities firms because of their importance in securities trading and funds management. <sup>17</sup>

Table 4: Number of Securities Dealers by Type of Licensee, 2006 - 2008

Category of Securities	Numb	Number of Institutions				
Licensee	2006	2007	2008			
Securities Firms	34	34	36			
Non-Securities Firms	17	13	14			
Of which:						
Commercial Banks	4	2	2			
Building Society	1	1	1			
Merchant Banks	2	1	1			
Insurance Companies	2	2	3			
Others	8	7	7			
Total	51	47	50			

Note: As at March 31 of each year Source: Data compiled by the FSC

Table 5: Total Assets of the Securities Industry by Type of Securities Licensee, 2005-2007

		Total Assets						
Category of Securities Licensee	200	<sub>5</sub> R	200	06	200	07		
	\$ Millions	% of total	\$ Millions	% of total	\$ Millions	% of total		
Securities Firms	342,247.2	48.2	393,075.3	59.2	415,858.6	61		
Non-Securities Firms	368,012.0	51.8	271,404.9	40.8	265,782.2	39		
Of which:								
Commercial Banks	218,166.4	30.7	106,617.9	16.0	66,386.9	9.7		
Merchant Banks	32,841.3	4.6	32,056.3	4.8	31,838.0	4.7		
Building Society	44,261.1	6.2	53,649.6	8.1	64,239.1	9.4		
Insurance Companies	49,511.5	7.0	57,076.8	8.6	81,563.7	12		
Others	23,231.8	3.3	22,004.3	3.3	21,754.5	3.2		
Total	710,259.2	100.0	664,480.2	100.0	681,640.8	100		

Notes: R : Revised Source: Financial Services Commission

<sup>14</sup> This group includes Unit Trust Managers.

<sup>&</sup>lt;sup>15</sup> This group consists of companies from a variety of industries ranging from manufacturing to financial services.

<sup>16</sup> Securities firms are involved in a range of financial activities, including stock broking, fixed income trading, arranging commercial paper issuance for clients, providing investment banking services, and managing investments on behalf of clients. Additionally many securities dealers are licensed by the Bank of Jamaica to provide foreign exchange services as cambios. Securities dealers finance significant fixed income securities investments by entering into repurchase agreements with retail and institutional clients. Most repo liabilities are of short-term maturity (less than a year) while a significant share of the assets financed by repos are of significantly longer maturity. Income is generated from interest margins, fees, and commissions, gains from fund management, equity and foreign exchange transactions.

<sup>17</sup> In interpreting Tables 5 and 6 it should be noted that the balance sheets of non-securities firms include assets that are not associated with securities trading and reflect the activities of the entities in their respective primary economic sectors.

# SECURITIES Industry (cont'd)



Table 6: Total Capital of the Securities Industry by Type of Securities Licensee, 2005-2007

Category of Securities		Total Capital							
Licensee	200	5 R	R 2006 2007		007				
	\$ Millions	% of total	\$ Millions	% of total	\$ Millions	% of total			
Securities Firms	32,808.5	32.5	38,822.8	40.6	43,229.9	44.3			
Non-Securities Firms	68,008.5	67.5	56,879.7	59.4	54,328.4	55.7			
Of which:									
Commercial Banks	26,979.1	26.8	15,531.4	16.2	8,339.3	8.5			
Merchant Banks	3,813.0	3.8	3,944.9	4.1	4,237.1	4.3			
Building Society	10,807.5	10.7	11,704.5	12.2	13,152.9	13.5			
Insurance Companies	13,645.2	13.5	15,653.2	16.4	19,458.9	19.9			
Others	12,763.7	12.7	10,045.8	10.5	9,140.2	9.4			
Total	100,817.0	100.0	95,702.5	100.0	97,558.4	100.0			

Notes: R: Revised Source: Financial Services Commission

Table 7: Total Funds Under Management of the Securities Industry by Type of Securities Licensee,

	Funds Under Management						
Category of Securities Licensee	200	5 R	2006		2007		
	\$ Millions	% of total	\$ Millions	% of total	\$ Millions	% of total	
Securities Firms	398,045.5	73.7	433,761.0	74.7	517,828.0	77.8	
Non-Securities Firms	142,021.0	26.3	146,982.6	25.3	148,143.0	22.2	
Of which:							
Commercial Banks	16,246.0	3.0	10,909.0	1.9	6,004.0	0.9	
Merchant Banks	21,608.0	4.0	20,073.9	3.5	18,365.0	2.8	
Building Society	0.0	0.0	0.0	0.0	0.0	0.0	
Insurance Companies	50,352.0	9.3	57,139.0	9.8	105,050.0	15.8	
Others	53,815.0	10.0	58,860.6	10.1	18,724.0	2.8	
Total	540,066.5	100.0	580,743.5	100.0	665,971.0	100.0	

Notes: R : Revised Source: Financial Services Commission

### **Profitability of Securities Firms**

Net income before taxes of securities firms amounted to approximately \$8,651.1 million in 2007 (see Table 8). This represented an increase of 9.9 percent compared to 2006.

# SECURITES Industry (cont'd)



The rise in profitability relative to 2006 resulted from an increase in net interest income and other income, which out-paced the growth in operating and other expenses. 18 Firms generate the majority of their income from interest margins; net interest income of securities firms grew by 1.9 percent to \$8,581.3 billion in 2007. However, the share of net interest income in total income declined to 52.6 percent in 2007 from 59.3 percent in 2005. (See Figure 3 and Table 8).

Figure 3: Income of Securities Firms, by Type of Income, 2005-2007

18 16 14 12 10 8 6 4 2 2005 2006 2007 ■ Net Interest Income
■ Other Income

Table 8: Summary Operating Results	¢ Million					
for Securities Firms, 2005 - 2007	222 P	\$ Million	2007			
	2005 <sup>R</sup>	2006 <sup>R</sup>	2007			
Net Interest Income	8,958.9	8,420.1	8,581.3			
of which: Interest income	39,685.4	41,120.5	41,278.1			
less: Interest expense	30,726.5	32,700.3	32,696.8			
Other Income	6,159.8	6,380.9	7,720.2			
Total Income (net of interest expense)	15,118.6	14,801.0	16,301.5			
Operating & Other Expenses (taxes excluded)	6,420.7	6,926.1	7,652.7			
Net income (before taxes)	8,698.0	7,874.9	8,648.7			
	A	nnual change	(%)			
Net Interest Income	6.2	-6.0	1.9			
of which: Interest income	-3.0	3.6	0.4			
Interest expense	-5.4	6.4	0.0			
Other Income	23.6	3.6	21.0			
Total Income (net of interest expense)	12.6	-2.1	10.1			
Operating & Other Expenses (taxes excluded)	30.7	7.9	10.5			
Net income (before taxes)	3.6	-9.5	9.8			

Notes: R: Revised Source: Financial Services Commission **Capital Adequacy of** 

At the end of 2007, the aggregate capital of all securities firms stood at \$43,229.9 million, an increase of 11.3 percent compared to the level at the end of 2006.

The FSC monitors the adequacy of each firm's capital by specifying capital adequacy ratios that must be maintained by all licensees.19

It is expected that licensees will maintain capital equivalent to at least 6.0 percent of total assets.

In addition licensees must maintain a ratio of capital to risk-weighted assets of at least 10.0 percent.

At the end of 2007, the ratio of capital to total assets of securities firms stood at 10.4 percent (2006: 9.8 percent) and the ratio of capital to risk-weighted assets stood at 56.7 percent (2006: 56.9 percent).

**Securities Firms** 

<sup>18</sup> Net interest income is computed as interest income minus interest expenses.

<sup>19</sup> For more details, see "Guidelines for Interim Capital Standards for Securities Dealers" (SR-GUID-04/07-0011) at http://www.fscjamaica.org/securities.htm.

# REGULATORY ACTIVITIES 20 ANNUAL REPORT 2007 - 2008



### (A) Bulletins and Guidelines

Bulletins and guidelines are used by the Commission to provide information and guidance to licensees, registrants and the general public. These bulletins and guidelines are circulated to relevant industry entities and are usually posted on the Commission's website. A summary of the bulletins and guidelines released during the review year is provided below:

### **Insurance Industry**

- · Procedure for the Approval of New Insurance Policies and Insurance **Policy Amendments under Section 90** of the Insurance Act 2001 AR-GUID-07/06-0005: The purpose of these guidelines is to outline the conditions and procedure under which the FSC is prepared to extend indefinitely the practice whereby the insurer's Board of Directors has the responsibility to oversee the approval of the company's new and amended insurance policies, rather than the FSC conducting a detailed line by line review.
- Accredited Actuarial Associations Recognised by the Financial Services Commission Section 76 of the Insurance Regula-2001 AR-GEN-08/03-0003: Through these guidelines, the FSC will publish an annual list of the Actuarial Associations recognised by the FSC, in accordance with Regulation 76 of The Insurance Regulations, 2001.

### **Securities Industry**

· Cash Plus Limited Information for Investors SR-ADVI-07/12-0002: This document provides information to the general public on the FSC's request of Cash Plus Limited to provide certain information about its financial affairs.

### **Pensions**

· Instructions for the Completion of the Administrator's Return FSC 50 (Form 8) PR-GUID-07/11-0005: These guidelines provide instructions to assist administrators in the completion of the Administrator's Return.

- · Instructions for the Completion of the Administrator's Return FSC 50 (Form 8) PR-GUID-07/11-0005: These quidelines provide instructions to assist administrators in the completion of the Administrator's Return.
- Instructions for the Completion of the Fund Status Report FSC 45 (Form7) PR-GUID-07/11-0006: These guidelines provide directions to assist investment managers in the completion of the Fund Status Report.
- Instructions for the Completion of the Certified Financial Return FSC 60 (Form 6) For Superannuation Funds and Retirement Schemes PR-GUID-07/11-0007: This document provides instructions to assist persons responsible for satisfying the reporting requirements of a superannuation fund or retirement scheme.

### (B) Anti-Money Laundering **/Combating the Financing** of Terrorism ("AML/CFT")

With the enactment of the Proceeds of Crime Act, 2007 ("POCA"), the Money Laundering Act, 1996 - and by extension the Money Laundering Regulations, 1997 - were repealed. The POCA came into effect on May 30, 2007 and provides for the investigation, identification and recovery of the proceeds of crime and connected matters. There are two attendant regulations currently supporting the POCA, namely:

- ☐ The Proceeds of Crime (Money) Laundering Prevention) Regulations, 2007 ("POCMLPR")
- ☐ The Proceeds of Crime Regulations, 2007

To a large extent many of the requirements contained in the predecessor statute have been re-promulgated in POCA. These include, but are not limited to:

- threshold transaction reporting;
- · exemptions from duty to report threshold transactions;
- regulated businesses to establish and implement programmes, policies, procedures and controls for the purpose of preventing or detecting money laundering; and

 systems and training to prevent money laundering.

Some of the changes in the anti-money laundering regime brought about by Part V of the POCA, and the POCMLPR address:

- Broadening the definition of money laundering;
- Cross border movement of funds;
- Issued guidelines being approved by the Minister and published in the Gazette;
- Widening of the institutions falling under the ambit of Part V of POCA from financial institutions to also include non-financial institutions: and
- Electronic filing of reports.

Under the POCA, the regulatory obligations of the FSC are captured under Part V - Money Laundering (provisions 91 to 102) of the Act and the Proceeds of Crime (Money Laundering Prevention) Regulations, 2007. During the review year, there were a number of supporting developments aimed at ensuring that the role, responsibilities and activities of the FSC were aligned with those stipulated by the POCA. These developments included:

### 1. Designation of the FSC as a Competent **Authority**

On November 12, 2007 the Minister of National Security designated the FSC as a Competent Authority, under the Proceeds of Crime Act, 2007 ("POCA"), for the following financial institutions:

- (a) A person who -
  - (i) engages in insurance business within the meaning of the Insurance Act;
- (ii) performs services as an insurance intermediary within the meaning of the Insurance Act, but does not include an insurance consultant or an adjustor;
- (b) A person licensed under the Securities Act as a dealer or investment adviser.

With the designation of FSC as the Competent Authority for the above-named financial institutions, the FSC is obligated to monitor their compliance with the requirements of Part V of POCA and any regulations made there-under; and to issue guidelines relating to effective measures to prevent money laundering by these financial institutions.

# REGULATORY ACTIVITIES (cont'd)



### 2. Revision to the Existing Anti-Money Laundering and Counter-Financing of Terrorism Guidelines

After the repeal of the Money Laundering Act, 1996, the existing Anti-Money Laundering and Counter-Financing of Terrorism Guidelines, which were promulgated under the predecessor statute, are in the process of being reviewed.

### 3. Capacity Building Activities

FSC staff has participated in training on the POCA in an effort to bolster the skill sets and equip the analysts with a thorough understanding of the POCA and the relevant competency skills for the effective and efficient discharge of their duties as prescribed by the new statute. In addition, on March 19 and 20, 2008, the FSC organized and hosted its Second Annual Financial Crime Mitigation Workshop under the theme "Fostering Economic Stability through Market Integrity".

The workshop was aimed at increasing the awareness and knowledge of industry stakeholders on combating financial crime in general, and the requirements of the POCA and AML policies and procedures, in particular. The training of industry practitioners is viewed as an essential tool to promote, create and sustain a culture of compliance within the financial sector. (See section on Public Education).

### (C) Authorizations

During the review year, the FSC issued 553 authorizations for insurance and securities entities and continued to process applications for entities to be registered under the Pensions Act and regulations. The combined number of licensees and registrants in securities and insurance industries increased from 2,219 to 2,523.

### **Insurance Authorizations**

Of the 429 authorizations for the insurance sector, 424 were for insurance sales representatives; meanwhile, 110 sales representatives voluntarily cancelled their licenses as most of these were moving from one company to another. Consequently there were 314 more insurance sales representatives in the industry. See Table 9 below.

Table 9: Number of Licensees and Registrants in the Insurance Industry as at March 31, 2008

	Life Insurance Companies	General Insurance Companies	Association of Underwriters	Insurance Brokers	Insurance Agents	Insurance Sales Reps.	Loss Adjusters	Insurance Consultants	Total
Licensed/ Registered At 31/3/07	(0)	12	1	45	10	1,368	4	1	1,447
Additions	0	0	0	2	3	424	0	0	429
Less Terminations/ Cancellations	0	0	0	0	0	110	0	0	110
Less Merged Entities	0	0	0	0	0	0	0	0	0
Licensed/ Registered At 31/3/08	6	12	1	47	13	1,682	4	1	1,766

Source-Financial Services Commission

# REGULATORY ACTIVITIES (cont'd)



### **Securities Authorizations**

Unlike the insurance industry, the total number of registered entities and individuals in the securities industry was reduced by 15 as a result of net cancellations, as shown in table 10. The table also shows that there are no licensed investment advisers or investment advisers representatives. Of the three voluntary cancellations of securities dealers, one was a company dealer and the other two were individuals.

Table 10: Number of Licensees and Registrants in the Securities Industry as at March 31, 2008

	Securities Dealers	Unit Trusts Managers 1	Securities Dealers' Reps.	Investment Adviser	Investment Adviser's Rep.	Mutual Funds	Unit Trust Schemes 2	Total
Licensed/ Registered At 31/3/07	67	4	682	0	0	19	8	782
Additions	2	0	122	0	0	0	0	124
Less Terminations/ Cancellations	3	0	136	0	0	0	0	139
Merged Entities	0	0	0	0	0	0	0	0
Licensed/ Registered At 31/3/08	66	4	668	0	0	19	8	767

- 1: The 4 unit trust managers are all licensed as securities dealers.
- 2: There are 8 unit trust schemes, one of which has three classes (or portfolios) resulting in 10 different product offerings of unit trust. See list of Unit Trust Schemes on page 32. Source: Financial Services Commission

### BOX 1: Name of Entities that Changed their Status in 2007 - 2008

### Name of Entities that were Registered in the Fiscal Year 2007 - 2008

### **Securities Dealers**

City of Kingston Co-operative Credit Union **RODES Enterprise** 

### Insurance Brokers

Sagicor Insurance Brokers Limited J.B.Boda

### **Insurance Agents**

Chancellor Insurance Agency Gersham McLaughlin T/A Global Risk Management Mutual Agency (Insurance) Ltd Nova Undwerwriters (Insurance Agents & Consultants) Limited

Name of Entities that have Changed their Names in the Fiscal Year 2007 - 2008

### **Securities Dealers**

Dehring Bunting & Golding Limited to Scotia DBG Investments Limited

Name of Entities that Cancelled their Registrations in the Fiscal Year 2007 - 2008

### **Securities Dealers**

**RBTT Bank Jamaica Limited** 

Note: The above table only lists changes that occurred within the fiscal year April 2007- March 2008 Source: Financial Services Commission

# REGULATORY ACTIVITIES (cont'd)



### **Pensions Authorizations**

### Registration & Licensing

Under the Pensions (Superannuation Funds and Retirement Schemes) Act ("the Pensions Act"), and its attendant regulations,<sup>21</sup> the FSC is mandated to regulate and supervise the pensions industry, the duties for which include: (i) the registration of superannuation funds, retirement schemes, trustees and responsible officers, and (ii) the licensing of administrators and investment managers. With the FSC receiving two additional applications for licensing and a further 353 applications for registration during the 2007/2008 fiscal year, the total

Table 11: Number & Types of Applications by Categories of Registrants & Licensees 2006-2008

Types of Applications Descrived	Number of Ap	Number of Applications Received					
Types of Applications Received	2006/2007	2007/2008	Total				
Superannuation Funds	514	12	526				
Retirement Schemes	5	3	8				
Trustees	1580	333	1913				
Corporate Trustees	4	0	4				
Responsible Officers	65	5	70				
Administrators	31	2	33				
Investment Managers	30	1	31				
Total	2229	356	2585				

number of applications for licensing and registration of pension entities that have been received since September 29, 2006 22 is 64 and 2,521, respectively. Table 11 shows the number of submissions received by categories of registrants and licensees.

The progress made by the FSC as at March 31, 2008 in the registration and licensing process of the abovementioned categories is as follows:

 Pensions Plans: Superannuation Funds and Retirement Schemes
 For the review period, 15 additional applications were submitted for registration.

Of this amount, 12 were for superannuation funds and 3 were for retirement schemes.

A total of 534 pension plan applications were received up to the end of the 2007/08 financial year, of which 8 were for retirement schemes while the other 526 were for superannuation funds.

However, only 107 (or 20%) of the submissions received for pension plans contained all the requisite documents necessary for processing.

There are 4 main components to the application review process for pension plans:

**1. Fit and Proper Evaluation**: The individual trustees of each plan must be considered fit and proper as required by the law.

By the end of March 2008, the FSC received 333 additional applications for the registration of individual trustees bringing the total received to that date to 1.913.

2. Business and Financial Appraisal: The financial health of the plans and the service providers is examined by reviewing the financial statements, auditor's reports, and actuarial valuation reports.

Financial statements and actuarial valuation reports of pension plans received for review increased from 35 in the previous year to 111. For the 2007/2008 fiscal year, 113 reviews were completed during the year.

**3. Legal Review**: An evaluation of the constitutive documents such as the Trust Deed and Plan Rules is carried out to ensure compliance with the Act and Regulations. Most of the Constitutive

Documents (i.e., Trust Deed and Plan Rules), of pension plans that submitted complete applications were found to be non-compliant with the Pension Act and Regulations.

The respective trustees have been given additional time to revise these documents.

In addition, for those plans that submitted incomplete applications, the trustees have requested extensions of time to complete their submissions.

4. Tax Status Assessment: The Taxpayer Audit & Assessment Department ("TAAD") inspects the constitutive documents to establish compliance with the relevant laws and to determine whether the plans qualify for tax exemptions.

All pension plans with complete applications have been dispatched to the TAAD for simultaneous processing based on an administrative agreement between the TAAD and the FSC.

<sup>&</sup>lt;sup>21</sup> The Pensions (Superannuation Funds and Retirement Schemes) Act was passed on the 21st of September 2004, with the appointed day being March 1, 2005. The associated regulations became effective on March 30, 2006.

<sup>&</sup>lt;sup>22</sup> Persons and entities wishing to be registered or licensed had to submit their applications to the FSC within 6 months of the passing of the regulations on March 29, 2006. Therefore the deadline for submission of applications for registration and licensing was September 29, 2006.

# REGULATORY ACTIVITIES (cont'd)



Of the 107 pension plans containing all the requisite documents necessary for processing only 2 satisfied the stipulated conditions outlined in the Pensions Act and Regulations.

These 2 plans were approved and registered.

### Administrators and Investment Managers

For the fiscal year 2007/2008, the FSC approved 8 applications for administrators and investment managers moving the total applications approved to 45 out of a total of 64 applications that have been received.

Of the remaining 19 applications received, 6 were returned in the previous year as the documents submitted did not constitute proper applications, 10 were incomplete, 1 was refused, 1 was being processed and 1 applicant was considering withdrawal of its application.

The approved entities represent 90 percent, by value, of pension industry assets under management.

Three of the companies approved have since discontinued operations as administrators and investment managers.

### RESPONSIBLE OFFICERS

Each administrator, investment manger and corporate trustee is required to appoint a responsible officer. Applications for registration of 8 responsible officers were approved during the year, bringing the total to 52. Submissions for 10 other responsible officers were incomplete.

### **Winding Up**

The FSC has been receiving applications for the winding-up of pension plans, as mandated by Section 27 (4) of the Pensions Act.

During the review year, 16 applications were received; and as result, a total of 110 applications have been received to date.

Meanwhile, approval was granted to 26 plans, making it a total of 72 plans approved for winding-up as March 31, 2008.

Table 12: Number of Pension Plan Wind-Ups and Associated Reasons

Reasons Given	Number of plans	Members affected	Asset values (\$Billion)
Company actions/reduction of membership 23	46	1,358	2.57
New defined contribution plan will be established	5	1,255	7.02
Economic hardship of members/members' request	7	3,040	0.62
Perceived cost/legislative burden	33	545	0.3
Not known (Information not yet provided)	19	222	0.12
Source: Financial Services Commission	110	6,420	10.63

### 23 See table below

Company Actions / Reduction of Members	Number	Members Affected	Asset values (\$Billion)
Discontinuance of business operations	12	267	0.23
Divestment/mergers/insolvency	10	457	1.32
Reduction in membership	21	126	0.36
Consolidation of multiple plans	3	508	0.66

With the assets of 2 funds being disbursed prior to the completion of the FSC's review, there were 36 remaining applications. Of this amount, 32 have outstanding documents to be submitted, while 4 were being processed. The reasons given for the winding-up of the pension plans are shown in table 12, including the number of members and asset values involved.

### **Impact of Winding Up**

Approximately 18.6 percent of plans which were estimated to be active as at March 2004 have been wound up, with asset values representing approximately 10.8 percent of the total estimated pension portfolio as at the same date.

Of these, 8 plans with \$7.69 billion of assets were associated with the consolidation or replacement of defined benefit plans with new defined contribution plans.

Consequently, the net asset value of the terminated plans is approximately 3 percent of the estimated portfolio as at March 31, 2004.

Pension coverage, in terms of the estimated number of persons covered by superannuation funds, would have been eroded by approximately 10 percent. However, it is expected that approximately 2.75 percent represent members who are in consolidated plans or will be re-enrolled in newly established defined contribution pension plans. The net erosion in pension coverage as a result of plans being wound-up is therefore estimated at 7.25 percent.

### **Surplus Distribution**

Trustees are required by Section 32(2) to obtain the Commission's approval of the scheme of distribution. During the year, 23 of the 72 pension plans whose wind-up applications had been approved filed applications for approval of schemes of distribution of surplus. With these 23 plans, the total applications received to date increased to 37.

Fourteen (14) of these 37 applications were approved during the year, representing an increase of 56% over the 9 approvals granted in the previous year. With total applications approved to date being 23, only 14 applications were unapproved as at March 31, 2008.

### **INVESTIGATIONS**

### FINANCIAL SERVICES COMMISSION

### & ENFORCEMENT

Table 14: Analysis of Complaints, 2007 - 2008

The FSC carries out special investigations for various reasons including, but not limited to:

### 1. Investigations into Suspected Breaches of Any Relevant Act

During the review period, the FSC conducted 65 investigations into suspected breaches of the Insurance and Securities Acts and the Regulations. Table 13 contains information on these suspected breaches.

# 2. Investigations into the Fit and Proper Status of Persons Applying to Be Licensed or Registered under any of the Relevant Acts

The quality of management is an essential factor for customer protection.

The protection of investors can be significantly improved and risks minimized if the qualifications and reputations of managers are examined.

While not all applicants for fit and proper assessment are subjected to an investigation, during the review period, twenty (20) investigations were carried out in relation to persons applying for a license or registration under the Pensions, Securities and the Insurance Acts or seeking senior positions of responsibility within the securities, pensions and insurance industries.

At the end of the year, fourteen (14) of these investigations were completed, with the remaining six (6) in progress.

### 3. Investigations of Complaints Received from the Public

For the review year, a total of two hundred and twenty two (222) complaints against licensees were investigated.

Of this amount, 75 percent were against licensees in the insurance industry.

At the end of the year, 160 or 72% of the 222 complaints were resolved. Table 14 provides more detailed information on the complaints received.

	General Insurance	Life Insurance	Securities	Pensions	Total
Total complaints reviewed	127	40	26	29	222
Number of cases closed	93	30	16	21	160
Percentage closed	73%	75%	61.50%	72%	72%
4 0011 0					

1: Of the figures reviewed, 19 general insurance complaints 4 life insurance complaints, 2 securities complaints and 6 pension complaints were carried forward from 2006/2007.

Source: Financial Services Commission

For the general insurance industry, 57 percent of these complaints had to do with either claims not honoured by insurers or delays in claim settlement. The main issues raised in the complaints relating to life insurance policies are delay in claims payment and disputes as to the value of a paid-up balance. For the securities industry, complaints related to two main issues, namely, unfair dealing with clients and misleading information. Approximately 70 percent of the pension complaints pertained to benefit payments.

### 4. Investigations and Enforcement Activity Involving Unregistered Entities

The FSC continued to devote much time and effort to investigations and enforcement actions against unregistered entities. During the year, the number of unregistered entities under investigation rose to 34 entities. However, three of the major investigation and enforcement matters which took precedence during the year were:

- Cash Plus Limited
- OLINT/David Smith
- Lewfam/Neil Lewis

### (i) CASH PLUS

The findings of the completed investigation into the activities of Cash Plus Limited, the financing arm of the Cash Plus Group, identified breaches of the Securities Act. In May 2007, Cash Plus Limited filed an action in the Supreme Court for a declaration as to whether or not its activities were covered by the securities laws.

Cash Plus Limited ("Cash Plus") did not seek or obtain a stay preventing the FSC from taking enforcement action against it. After protracted discussions with the entity and its attorneys, Cash Plus continued to refuse to comply with the securities laws.

Hence, on December 28, 2007, the FSC issued a Cease and Desist Order ("CDO") against Cash Plus Ltd./Carlos Hill directing Mr. Hill and his company to cease issuing unregistered securities (in violation of Sec. 26 of the Securities Act) and from dealing in securities (in violation of section 7 of the Securities Act).

A separate order was served on Kahlil Harris directing him to cease and desist from holding himself out as a Dealer Representative and from carrying out the functions of a Dealer Representative (in violation of Section 10 of the Securities Act).

On January 10, 2008, Cash Plus applied for a stay of execution of the CDO and the matter was heard on January 16, 2008, before Mr. Justice Patrick Brooks.

The Court granted a stay of execution of the CDO until the claim for the declaration or the appeal against the CDO (whichever occurred first) was determined.

However, in granting the stay, the Court also attached the following conditions:

# ANN CONTROL OF THE PROPERTY OF



There should be no increase in the clientele of Cash Plus during the period for which the stay was effective;

- (a) Cash Plus should, for the duration of the stay of the CDO, accept no new investments from existing clients.
- (b) Cash Plus Limited shall complete a list of its present clients and that one of its directors shall file and serve, on or before February 8, 2008, an affidavit verifying the nature of the list and attesting to its accuracy. The list was to be enclosed in a sealed envelope under the custody of the Registrar and returned to Cash Plus in the event that it was successful. In the event that the FSC was successful, the Registrar shall deliver the list to the FSC.
- (c) In the event that the FSC alleges a breach of condition (b) then on an Order from the Court, the Registrar should deliver the list to the FSC.
- (d) The list, if and when it is provided to the FSC, would be subject to sections 15 and 16 of the FSC Act.

On January 18, 2008 Cash Plus filed a notice of application for leave to appeal the decision of Justice Brooks that was handed down on January 12, 2008. After hearing the matter, Cash Plus' application was dismissed as Cash Plus failed to satisfy the Court, on the evidence, that an appeal would have any reasonable prospects of success. Cash Plus' application to the Court for a determination on whether or not their activities fall, inter alia, under the Securities Act was set down to be heard on January 23, 2008. However, Cash Plus discontinued the claim on the basis that it would submit to the jurisdiction of the FSC and apply for registration. The Court therefore ordered that:

- a) The claim was withdrawn by Cash Plus. Cash Plus is to file and serve a Notice of Discontinuance on or before January 25, 2008;
- b) The stay granted on January 16, 2008 was lifted; and
- c) Costs of \$100,000.00 were to be paid to the Defendants on or before February 1, 2008.

### (ii) OLINT and LEWFAM

Olint Corp, David Smith (hereafter collectively referred to as "Olint") and Lewfam Investments ("Lewfam") filed appeals against the Cease and Desist Orders issued by the FSC on March 24, 2006. The appeals commenced on March 27, 2007, and were heard together before Mrs. Justice Norma McIntosh. The Court delivered judgment on the appeals on December 24, 2007. In both matters, judgment was awarded in favour of the FSC on the substantive as well was the procedural issues.

The Judge's conclusions on the issues raised in both appeals are summarised as follows:-

- 1. The evidence was sufficient to satisfy the FSC that both of the Appellants were engaged in the activities alleged in the respective Cease and Desist Orders, including the issuing and dealing in investment contracts and certificates of participation in a profit sharing agreement and engaging in the business of investment advice.
- 2. The doctrine of implied repeal did not affect the provisions under the Securities Act that were relied on by the FSC in issuing the Cease and Desist Orders.
- 3. The FSC therefore acted properly in issuing the Cease and Desist Orders pursuant to its powers under the Securities Act.
- 4. The doctrine of separation of powers was not breached by the FSC in issuing the Cease and Desist Orders.
- The principles of natural justice were not breached by the FSC in issuing the Cease and Desist Orders.
- 6. The FSC did not interfere with the right of association under section 23 of Jamaican Constitution contended by Lewfam.
- 7. In the Lewfam appeal, the evidence showed that their principals were acting as and holding themselves out as dealers' representatives.

8. Though not a factor to be considered by the FSC in issuing the orders, the evidence supported a finding that the Appellants were providing services to the public.

In light of the above, the following Orders were issued by the Court-

- 1. Both appeals were dismissed with special costs awarded to the FSC.
- 2. The stay of execution of the Cease and Desist Orders issued on Olint Corp. and David Smith was extended for a further six weeks.

Both Olint and Lewfam have filed appeals against the decision. The stay of execution of the Cease and Desist Orders issued against Olint was extended by the Court of Appeal pending the appeals.

One of the conditions for the extension of the stay was that Olint should not increase its membership/clientele.

Update on the Dyoll Criminal Matter On September 8, 2006, charges were filed against Dyoll Insurance Company Limited (a Company in Liquidation).

The company was charged with violating section 147(1) of the Insurance Act for its failure to comply with directions of the FSC to provide proof of an injection of \$150 million in capital into the company.

The company was joined with four other defendants who were previously charged in this matter.

During the review period, the four Directors/Officers of Dyoll against whom criminal charges were brought made applications to the Constitutional Court to stay the criminal charges brought against them contending that the FSC had no power in relation to the insurance industry at the time the offences were committed.

The hearing of the applications was held November 26 – 28, 2007. Judgment was reserved.

# SUPERVISION of Financial Institutions



### **Insurance Supervision**

For the review period, there were 19 off-site examinations and 7 on-site examinations.24

A number of deficiencies were observed during the course of these examinations, some of which were breaches of relevant Acts and regulations while others were not statutory violations. but were nevertheless of concern to the FSC as they represented departures from what would be considered "best practice."

The deficiencies that were not statutory contraventions related mainly to operational management and internal controls.

Most of the observed statutory violations can be grouped into three areas, corporate governance, namely, investments and anti-money laundering.

Table 15 provides more information on the breaches that were observed under the three headings.

Other violations of the Insurance Act and Regulations include the following:

- a. Section 13 which mandates that insurers inform the FSC of any change in the information submitted when the company applied for registration.
- b. Section 85 which makes it an offence for a broker, insurer, agency, or an individual of any these entities to compensate unlicensed persons for placing or negotiating insurance.
- c. Section 147(c)(ii) which states that it is an offence for a registered entity to submit incorrect information to the FSC.
- d. Regulation 131 which outlines the manner in which an insurer should terminate an insurance contract.

TABLE 15: VIOLATIONS OF THE INSURANCE ACT & REGULATIONS, 2006 - 2008

	,		
Type of Deficiencies	Requirements of Act & Regulation	Number of Violations 2006/2007	Number of Violations 2007/2008
Corporate Governance:			
Regulations 73, 74, & 75	These regulations stipulate the formation of an Audit, Conduct Review, and Loan Committees and their their functions.	4	3
Regulations 84 & 85	These directives outline the power of the Conduct Review Committee to approve or disapprove transactions.	4	4
Regulation 104 (2) (b)	This instruction dictates the some of the functions for the Investment and Loan Committee.	1	4
Anti-Money Laundering			
Regulation 5 & 6 The Proceeds of Crime (Money Laundering Prevention) Regulations, 2007	This regulation specifies the control mechanisms that should be implemented by an institution to prevent and detect money laundering. These mechanisms include but not limited to, procedure manuals, training of employees, proper record keeping and appointment of "Designated Officer"	7	7
Regulation 7 The Proceeds of Crime (Money Laundering Prevention) Regulations, 2007	This section mandates the procedures to be maintained at each regulated institution for proper identification of customer and prohibits the institution from continuing the business relationship if customer fails to provide proper identification.	0	3
Investment:			
Regulation 42	This section requires that a Company shall not invest more than 5% of its total assets in a single counterparty.	2	3
Regulation 44	Directs a local insurer to obtain approval from the board or the appropriate committee before any investment and loan.	1	1
Regulations 45 & 46	This sections state that a minimum of 40% of the Minimum Capital Required shall be invested in government securities.	3	2
Regulation 68	It identifies permissible investments in corporations.	1	0
Regulation 69	Prohibits an insurer from conducting certain type of investments and extending loans to its officers. Section 23 of the Insurance Act also mandates the conditions under which insurers can extend loans.	2	0
Regulation 94 (10)	Advises an insurer to value all real estate investments at least once a year unless market conditions dictate otherwise.	1	0

<sup>24</sup> This number does not include the off-site quarterly examinations of all insurance companies and the off-site half-yearly examinations of brokers and agencies. The abovementioned 19 off-site examinations reflect assessment of annual filings. An off-site or desk-top examination involves a review of the financial statements and other selected documents submitted by the licensees and registrants to enable the FSC to monitor their financial health using early warning ratios and other risk indicators. An on-site examination typically involves a team from the FSC going to the company to perform a thorough inspection of the company's records that are deemed relevant to the examination. The decision on the areas targeted in an on-site examination is usually based on issues revealed from off-site examinations as well as other concerns.

# SUPERVISON of Financial Institutions (cont'd)



### **Securities Supervision**

A total of 8 examinations were conducted, all of which were on-site.<sup>25</sup> Table 16 indicates the number and the nature of violations that were observed. Brief explanations of the main violations are provided below:

### 1. Fit & Proper Requirements

Section 9(3)(a)(ii) outlines the conditions which officers or members of a company must satisfy for a company to be granted a license under the Securities Act.

### 2. Registration of Representatives or Investment Advisers

The violations related to section 10 of the Securities Act include: (i) failure to return certificate of registration as required under Section 10(7) and, (ii) failure to notify the FSC when an individual ceases to hold the position of a responsible officer as required by Section 10 (A) (4).

### 3. Issuer of Securities

Section 26 mandates that all issuers of securities must apply to the FSC to be registered with respect to their securities before the securities are issued. The issuer must apply with the prescribed form and within the prescribed time.

### 4. Issue of Contract Notes

Violations of the Securities Act were observed in relation to the issue of contract notes by dealers. These included breaches of the following provisions of the Act: • Section 38(3)(c), which mandates dealers, when dealing as principals in a transaction with a non-licensee, to disclose that they are so acting: • Section 38(3)(f), which establishes that the contract note issued must contain the number, amount and a description of the securities that are subject to the transaction.

### 5. Disclosure of Dealers' Interest in **Market Circulars**

In this case, a dealer was issuing marketing circulars and brochures in contravention of section 39(1) of the Securities Act which requires that dealers disclose the nature of their interest in the acquisition or disposal of any securities which they recommend by way of written communication. Section 39 directs that the dealer, investment adviser or their representatives must disclose any interest they have in securities being offered to clients.

TABLE 16: VIOLATIONS OF THE SECURITIES ACT & REGULATIONS, 2006/07 & 2007/08

Legal Provision Violated	Description of Provisions	Number of Violations 2006/07	Number of Violations 2007/08
S 9(3)(a)(ii)	Fit & Proper	1	0
S10	Registration of Representative or Investment Advisers	0	1
S26	Issuer of Security to Be Registered with the FSC	0	1
S38	Issue of Contract Notes	7	4
S39	Provision of Disclosure of Dealers' Interest in Securities	0	1
S40	Provision Governing Dealers Dealing as Principal	2	4
S59 (A)	Audit and Conduct Review Committees	0	0
S63	Dealing without Dealer's Accounting Records	1	0
COB (8)	Request for Proposal	4	6
COB (10)	Client Statements	1	4
COB (11)	Securities Lending	1	0
COB (12)	Maintaining Proper Records	1	0
COB (13)	Presentation of Financial Reports	1	3
COB (14)	Filing of Quarterly Financial Reports	2	2
COB (16)	Anniversary Filings	0	1
POCA(MLP)R 7-11	Know Your Customer	3	7

6. Dealing as Principallt was observed that some dealers were issuing contract notes that did not satisfy the requirement contained in Section 40(3) of the Securities Act. This Section stipulates that a dealer, when dealing as principal in a transaction with a non-licensee, should disclose prior to effecting the transaction that it is dealing as a principal and not as an agent. This information should be reflected on the relevant contract note.

### 7. Transparency of Financial Position

Section 63(1)(A) of the Securities Act mandates that every dealer keep accounting records in such a manner that will correctly record and explain the transactions and

financial positions of the securities business carried on by the dealer.

### 8. Conduct of Business

The violations under the Securities (Conduct of Business) Regulations ("COB") that were observed are as follows:

### a. Request for Proposal (RFP) Forms

On opening an account with a dealer, each client is required to sign an RFP form. Several licensees used RFP forms which contravened regulation 8(2)(b),(c) and (d) of the COB by not stating clearly the following: ☐ The kind of authority given to the portfolio manager (i.e., full discretion, partial discretion or no discretion);

25 Securities firms are also subjected to routine off-site examination through the assessment of quarterly and annual filings, including financial statements. These routine assessments are used to monitor the financial health of securities firms on an on-going basis and to facilitate the computation of early warning indicators. Note that in the 2006-2007 Annual Report, it was reported that there were 6 off-site examinations conducted. However, this was in reference only to examinations conducted under the CAMEL framework and not to the routine quarterly and annual assessments.

<sup>1:</sup> References are to the Securities Act and Regulations. For example; section 38 of the Securities Act is referenced as "S38"; COB refers to the Conduct of Business Regulations. Source: Financial Services Commission

# SUPERVISON of Financial Institutions (cont'd)



### b. Issuing a Statement of Account

Regulation 10 of the COB stipulates that dealers must provide their clients with periodic statements of account every month when there is trading activity on the account or every three months, if there is no such activity on the account.

### c. Presentation of Financial Reports

Regulations 13 and 14 of the COB require that:

- ☐ licensees file, within 90 days of the end of the financial year, audited accounts along with the prescribed annual reports "Form PR.A" and "Management Discussion and Analysis of Financial Condition and Results of Operations"
- ☐ licensees file prescribed quarterly returns within 45 days of the end of the quarter.

Returns to be filed include "Form PR.Q" and quarterly financial statements.

### d. Anniversary Filings

Regulation 16 stipulates that each licensee must submit to the FSC within thirty days after each anniversary specific documents as outlined by the section.

### 9. Internal Regulatory Controls

The Money Laundering Act requires that financial institutions establish and implement policies, procedures and controls to detect and prevent money laundering.

These include a mechanism to evaluate personal employment and financial history of their employees.

These mechanisms must also involve use of identification procedures that will enable businesses to know their customers.

The on-site examinations of licensees revealed instances where AML control mechanisms were deficient.

### **Pensions Supervision**

Similar to supervision of the insurance and securities industries, the aim of pension industry supervision is to promote stability, security, transparency, and confidence in the market, as well as to ensure that the interests of plan members and beneficiaries are protected.

To accomplish these supervisory objectives, the FSC requires timely submission of relevant information from licensees and registrants.

However, given that the registration process for entities that pre-existed the legislation is on-going, pension supervision is still at an early stage.

requirements statutory pension supervision include:

### Statutory Filings

Letters clarifying the commencement date for filing pertinent statutory reports were dispatched to registrants and licensees.

Administrators and Investment Managers have commenced filing the requisite reports. Reports for superannuation funds and retirement schemes also become due in October 2008.

These reports are mandated by Regulations 12 to 16 of the Pensions (Superannuation Funds Retirement Schemes) (Registration, Licensing and Reporting) Regulations,

These Regulations and bulletins provide guidance for completing the reporting forms and have been circulated to the pension industry and posted to the Pensions Page of the FSC Website.

From these reports, the FSC will assess the financial health and viability of the pension plans and determine whether trustees, administrators and investment managers are compliant to the Pensions Act and Regulations.

### Statement of Investment Policies and Principles

Regulation 8 of the Investment Regulations requires that a Statement of Investment Policies and Principles ("SIPP") be submitted for review to the FSC within 60 days of a superannuation fund ("fund") or retirement scheme being approved by the FSC.

The SIPP outlines the investment strategy to be pursued by the investment manager.

During the review year, SIPPs were received for six plans; only one of which has been approved and registered by the FSC.

Each SIPP has been reviewed and feedback has been provided to the trustees of one plan while the remaining five documents are being considered as works-in-progress.



### **PUBLIC** Education



In response to the recent emergence of unregistered investment several schemes, the FSC's public education programme, during the review period, was focused primarily on encouraging Jamaican investors to invest wisely. A mass media campaign entitled 'Think and Check before You Invest" was implemented and was aimed at sensitizing investors and potential investors to the importance of exercising due diligence in investment planning by, among other things, asking questions and requesting adequate financial and product related information before making a decision to invest.

The key messages used in educating investors when considering investment opportunities were:

- Obtain as much information as possible about the entity and the investment product involved.
- Understand the risks associated with investing in that product.
- Understand the costs assumed in making the investment.
- Seek and accept advice only from licensed dealers or investment advisors to determine whether the investment being offered is suitable for you.
- If in doubt, contact the FSC before investing your funds to find out if the investment product is registered or if the dealer is licensed under the Securities Act.

Several strategies were utilized in imparting this message. Advertisements were produced and placed in the print and electronic media. In addition, there were fixed billboards, billboards on wheels with JUTC buses, newsletters, brochures, press releases and public notices. Six public meetings around the island were held where investors were given the opportunity to discuss issues and ask questions. An ongoing strategy of accepting telephone and e-mail queries from the public and assisting customers in research on the issue of safe investing was also continuously managed. The FSC also sought to keep the public informed of enforcement actions against unregistered entities and has periodically published a "watch list" of unregistered entities offering a variety of financial products and services in the securities market. During the review year, the FSC also produced a weekly television programme called the "FSC Minute."

The aim of this programme is to continuously educate licensees on emerging regulatory issues in Jamaica. Twenty Four programmes of the FSC Minute were produced and broadcasted via local and cable radio and television networks. These programmes were produced in partnership with the Jamaica Information Service.

### **Seminars & Workshops**

The FSC either hosted or participated in the following seminars and workshops:

Insurance: Industry Seminar: The FSC on November 7, 2007, engaged insurance industry participants in a seminar entitled "The Regulator and You: New and Emerging Issues in Insurance Supervision". This forum provided timely information on some of the emerging issues to individuals who are integral in mobilising and directing their organisation's strategic development. These key individuals included, but were not restricted to directors, chief executive officers, senior managers, and persons involved in the operational areas of their respective companies. The FSC used the opportunity to present to its insurance licensees the significant changes in international accounting standards, the global macro-economic environment, the approach to risk management and the emphasis being placed on corporate governance, which have occurred over the past few years. All of these developments have influenced and determined changes in the regulatory framework as the regulator must keep abreast of these changes and harness the necessary resources and skills to monitor all regulated insurance entities. The seminar was held at the Terra Nova Hotel.

Securities: The 3rd Annual Jamaica Stock Exchange Conference on Investments and Capital Markets: The Jamaica Stock Exchange hosted its 3rd Annual Regional Conference on Investments and Capital Markets from January 29 to February 1, 2008 at the Rosehall Resort and Country Club in Montego Bay. The event attracted over 300 licensees from Jamaica and across the Caribbean. The FSC participated as an exhibitor-sponsor under the theme "Partnering for Change, Embracing Competition for Regional Advancements in a Global Environment"

and provided information on its regulatory role in insurance, pensions and, particularly, securities.

Pensions: During the year, the public education programme for the pensions sector was focused on the preparation of material for posting on the Pensions Page of the FSC Website as part of the Division's continued drive to educate stakeholders. Two brochures were also published during the year. A total of six other documents geared towards trustees and pension plan members have also been prepared. The drive to educate the wider public was also continued through: (i) meetings with trustees and sponsors upon request and (ii) radio and television advertisements and features.

Anti-Money Laundering: The Financial Crime Mitigation Workshop: On Wednesday, March 19, 2008 and Thursday, March 20, 2008, the FSC hosted its Second Annual Financial Crime Mitigation Workshop under the theme "Fostering Economic Stability through Market Integrity". Presenters included experts in the fields of financial crimes, investigations and prosecutions and consultants in the development and implementation of financial crime mitigation systems. Panellists also included representatives from the Attorney General Chambers, Financial Investigations Division, Ministry of Foreign Affairs and Foreign Trade, Office of the Director of Public Prosecutions, Taxpayer Audit Assessment Department, and local consultants who collectively provided technical support for this initiative. This training initiative was specifically geared towards those officers with responsibility for the financial crime mitigation programme such Nominated/Compliance Officers, General Counsels, Internal Auditors, and Investigators. The total number of participants on each day was approximately 140.

Website: The FSC website, www.fscjamaica.org, continues to be used as a very important public information tool for the general public and our licensees. The website is currently being redesigned and enhanced to ensure that it efficiently delivers maximum information of importance to the FSC's stakeholders.

# **CAPACITY** Building



During the period under review, 68.0% of the staff complement participated in forty-two training courses accounting for approximately 80.0% of the training budget (see table below). These courses included in-house, local and overseas training. A significant highlight was the fact that the FSC successfully negotiated with The Pensions Regulator, the UK regulator of work-based pension schemes, to accommodate an observation mission whereby two (2) employees from the Pensions Division were immersed on-site at the FSA to observe their operations, especially as it related to risk-based regulation of pension funds. Table 17 below indicates the different topics covered in the training programmes that were implemented in the review period.

Table 17: List of Training Opportunities Accessed by Staff, 2007 / 2008

Course/Seminar	Provider	Number of Staff Trained	
Anti-Money Laundering in the Securities Industry	SEC/USAID/Superintendent Securities Dominican Republic	1	
Appointed Actuary Seminar	Canadian Institute of Actuaries	1	
Career Planning	Caribbean Center for Organizational Development Excellence (CARICODE)	1	
Caribbean Commercial Law Workshop	University of the West Indies	1	
Comprehensive Auditing	Institute of Chartered Accountants of Jamaica ("ICAJ")	6	
Conflict of Interest	ICAJ	2	
Corporate Fraud Prevention & Detection	Certified Tech. Trainers	2	
Effective Business Writing Skills	Jamaica Institute of Bankers	17	
How to Write Effectively	CARIMAC	1	
IFRS 7: Financial Instruments – Disclosure	ICAJ	18	
IFRS Assessment & Application	ICAJ	1	
Insurance Regulators Workshop	CARTAC/IAIS	2	
Insurance Supervision	Financial Stability Institute	\\\\\\ 1	
Insurance Supervision	Toronto International Leadership Centre	1	
Intensive Credit Risk	CariCHRIS	2	
International IT Governance	Certified Tech. Trainers	1	
International Symposium on Economic Crime	University of Cambridge	1	
Interpretation & Analysis of Financial Statements	ICAJ	2	
Introduction to Financial Investigation	Caribbean Regional Drug Training Centre	2	
Jamaican Securities Course	Jamaican Institute of Management	2	
JASAP Annual Convention & Education Forum	Jamaica Association of Secretaries & Administrative Professionals ("JASAP")	2	
JASAP Annual Educational Seminar	JASAP	6	
Latin American & Caribbean Capital Market Development Workshop	CARTAC, Trinidad		
Leadership Skills for Supervisors	Jamaica Employers Federation	\\\2	
Malta/Commonwealth 3rd Country Insurance Supervision	Malta International Training Centre, Floriana, Malta	///	
Measuring the ROI of Training	Training Magazine, Atlanta, USA	1\\\\	
Monetary & Financial Statistics	CARTAC, Barbados	2	
Pension Fund Seminar	NCB Insurance Company Limited	10	
Pension Scheme Governance	Crown Agents	5	
Pensions: Amendments to the Income Tax Act	Jamaica Conference Board	4	
Principles of Reinsurance	College of Insurance & Professional Studies	2	
Project Management Principles & Techniques	Boston University/UTECH	1	
Project+	New Horizons Learning Centre	1	
Proofreading	CARIMAC	2	
Public Speaking	CARIMAC	1	
Research & Writing Skills	Jamaica Employers Federation	9	
Risk-based Regulation of Pension Funds	The Pensions Regulator, UK (Job shadowing)	2	
Securities Enforcement & Market Oversight	United States Securities & Exchange Commission	2	
Securities Market Development	United States Securities & Exchange Commission	1	
Successful Training Manager Workshop	Langevin Learning Services, Florida, USA	1	
VII Biennial Regional Central Legal Seminar	Cayman Islands Monetary Authority	1	
Web 2.0 Ready	CARIMAC	1	

# **PENDING**Changes to Legislations & Regulations



In keeping with the FSC's mission, one of the strategic objectives is to implement and maintain an effective legal and regulatory framework. To this end, the FSC constantly reviews and, when necessary, proposes amendments to the Acts and is empowered to make Regulations. Before any amendment is made, the FSC invites the stakeholders in the relevant industry to comment on the proposed amendment.

### **Insurance Industry**

The Financial Services Commission ("the FSC") is considering proposals for certain amendments to be made to the Insurance Act ("the Act"), 2001 and for a general penalties clause to be included under the Insurance Regulations ("the Regulations"), 2001. The proposed amendments for consideration are as follows:

- Section 2 (2) Carrying on Insurance Business in or from Jamaica: Section 2 (2) (b) of the Act sets out a list of activities that, when undertaken by "an unregistered insurer "or any person acting with authorization of the insurer, are deemed to constitute the "carrying on of insurance business in or from Jamaica". The provision should be amended to apply to a registered insurer, an unregistered insurer, and to a person carrying on the activities specified therein or any person acting with the actual or apparent authority of that person. Although the term "carrying on insurance business in or from Jamaica" is defined, the proposed amendment would serve to further clarify what is regarded as "carrying on insurance business in or from Jamaica."
- Sections 11 (3) (a), 14 (2) (a) and 75 (2) (a) Hearings and Appeals Procedures: It is proposed that sections of the Insurance Act that relate to the refusal or suspension of registration, be harmonized with the corresponding provision under the Securities Act by amending Sections 11 (3)(a), 14 (2)(a) and 75 (2)(a) of the Insurance Act to make it clear that:
- (a) Once the Commission intends to suspend or revoke registration or grant registration subject to conditions then the Commission

must notify a person of its intention to do so, offering that person the opportunity to be heard.

(b) A person aggrieved by a decision of the Commission in that regard, may appeal the decision before the Appeal Tribunal.

### Section 23(1)(c) -- Prohibition relating to Loans:

Section 23 (1)(c) prohibits a registered insurer from granting unsecured credit facilities to any person except under certain conditions. However, this section does not apply to the business relationship between the insurer and their brokers. The proposed amendments therefore seek to modify the language of section 23 (1)(c) to include an exception for premiums receivable by brokers.

### Section 61 (2) – Association of Underwriters:

The Act does not allow an association of underwriters to be registered to carry on both long term and general insurance business, unless such general insurance business consists exclusively of accident insurance business. It is believed that this restriction inhibits the development of the sector. It is proposed that section 61 (2) of the Act be amended to allow for an association of underwriters to carry on both long term and general insurance business and that the necessary consequential amendments be made to related provisions of the Act, for instance in section 63 (2) that sets out the requirements for registration.

### Section 110 -- Notice in respect of Long Term Insurance Policies by Insurer:

Section 110 requires the insurer to serve a notice on the policyholder giving details of the nature and type of the policy. Annexed to the notice should be a form of notice of cancellation for use by the prospective policyholder in case he or she does not wish to proceed with the policy.

All of the above is to be provided to the prospective policyholder within 7 days after the effective date of the policy or else the contract is of no effect.

The insurance industry, in dialogue with the FSC, argued that the period of 7 days is too short as the average delivery time, from the time the contract is entered into, to delivery of the policy, should be a maximum of 15 days.

### Section 145 - Exemptions

It is proposed that Section 145 be amended to allow:

- (1) The Minister by order and subject to such conditions as he may think fit, grant the exemptions listed under section 105 (b) and (c) of the repealed 1971 Insurance Act, after consultation with the FSC.
- (2) The Minister to at any time revoke, amend, suspend, or vary any order granting an exemption or any condition that may be attached to the exemption.
- (3) The Commission's power to exempt a class of insurance business from the regulatory requirements of the Act to be preserved.

### Proposed Amendment to the Insurance Regulations and the FSC Act

Some registered insurers and intermediaries have repeatedly violated certain provisions of the Regulations.

Therefore, in order to discourage those licensees from committing the violations, it is proposed that a general penalties clause be inserted in the Regulations.

Further, it is recommended that fines for breaches of the regulations be included in the Fourth Schedule to the Financial Services Commission Act.

In tandem with these proposed amendments, the FSC intends to seek an amendment to Section 21 of the FSC Act in order to accommodate fixed penalties for breaches of the Regulations under the Insurance Act.

# PENDING Changes

### to Legislations & Regulations (cont'd)



The FSC is considering proposals for certain amendments to be made to the Securities Act.

The proposed amendments for consideration are aimed, inter alia, at the following:

- Improving the legislative framework for derivative products, registration of secondary offerings and the appeals protocol; and
- Clarifying the FSC's powers relating to Cease and Desist Orders and the imposition of penalties for breaches of regulations.

Also amendments have been proposed to the Unit Trust Act and Regulations.

In order to lift the moratorium on unit trusts, the FSC considers it necessary to impose additional requirements for unit trust managers to ensure that an adequate level of protection is provided for unit trust investors.

### **Pensions Industry**

Pension Reform - Phase II: Pending Changes to the Pensions (Superannuation Funds and Retirement Schemes) Act and its attendant Regulations.

Proposed amendments to the Pensions (Superannuation Funds and Retirement Schemes) Act ("The Act") and its attendant Regulations were prepared and subsequently sent to the Chief Parliamentary Counsel ("CPC") and the Ministry of Finance and Planning in February 2007.

Subsequently, the FSC met with representatives of the CPC to clarify certain issues.

It is anticipated that the Bill and the draft regulations will be provided to the FSC for its review by the end of the second quarter in the fiscal year 2008/2009. The drafting instructions included the following:

- a) Proposed amendments to existing provisions of the Act, such as the amendment of an approved fund's constitutive documents, requirements for approval of a fund and requirements for approval of a scheme;
- b) Proposed amendments relating to new items to be included in the Act, including the registration of selfadministered funds, mandatory review of the Act and regulations, and mandatory vesting;
- c) Proposed amendments to provisions in the existing Regulations;
- d) Proposed amendments relating to new items to be included in the existing Regulations including issues dealing with mandatory vesting, pension benefits, contribution holidays and portability;
- e) Proposed regulations for retirement schemes;
- f) Proposed regulations for termination and winding-up of superannuation funds and retirement schemes:
- g) Funding and Solvency Regulations for approved superannuation funds and approved retirement schemes; and
- h) Amendments to the Third Schedule to the Registrations, Licensing and Reporting Regulations, 2006.



# PENDING Bulletins and Guidelines

FINANCIAL SERVICES COMMISSION

Before issuing a guideline or bulletin, the FSC prepares a draft and invites the relevant industry stakeholders to provide feedback. After the consultative process has concluded, the bulletin and/or guideline is then released to the industry.

A number of these consultative papers have been posted on our website<sup>26</sup> inviting comments and feedback from industry stakeholders. These are listed below:

### Insurance

Draft Minimum Capital Test Guideline for General Insurance Companies AR-GUID-07/05-0004: This Guideline outlines FSC's intention to introduce a new risk-based capital test for the general insurance industry, namely the Minimum Capital Test ("MCT").

This test assesses the aggregate level of risk attached to assets and policy liabilities by applying various factors and margins.

The draft MCT Guideline provides the general framework for the calculation of the MCT and the assessment of whether a general insurer has sufficient capital under the Insurance Act and Regulations.

### **Securities**

• Asset Management Platform Providers SR-CONSUL-07/10-0020: This discussion paper informs stakeholders of the FSC's intention to propose to the Minister of Finance that he issue an Order exempting the providers of Asset Management Platform<sup>27</sup> services from the requirement to obtain a license to conduct securities business in Jamaica.

The discussion paper invited comments from these stakeholders. Based on the responses received from industry participants the FSC subsequently decided not to move forward with this proposal.

• Draft Guidelines for Exempt Distributions SR-GUID-07/12-0015: The FSC seeks to issue its Exempt Distribution Guidelines ("Guideline XD") which replace the existing Private Placement provision in the Issuers of Securities Guidelines (SR-GUID-02/12-0005). The final version of Guideline XD subsequently came into effect on June 15, 2008.

### **Pensions**

 Draft Policy on Transfer Values for Approved Superannuation Funds and Retirement Schemes AR-CONSUL-07/10-0003:

This document invites relevant stakeholders and the public to comment on the FSC draft policy on transfer values for approved superannuation funds and approved retirement schemes.

Issues discussed include transfers into and out of under-funded or insolvent plans, transfers between defined contribution and defined benefit plans, and the basis for determining the actuarial assumptions to be used in the calculation of transfer values.

• Pension Plans – Guidance on the Presentation and Calculation of Accrued and Projected Pensions of Active Members AR-GUID-07/12-0006: With the release of this draft guideline the FSC solicits the participation of relevant stakeholders by providing comments on the proposed methods for the calculation of accrued and projected pensions of active members and the manner in which such information should be presented.

This draft guideline also serves to clarify and supplement the minimum standards specified in Part I of the First Schedule of the Pensions (Superannuation Funds and Retirement Schemes) (Governance) Regulations, 2006.

<sup>26</sup> www.fscjamaica.org

<sup>27</sup> The term "asset management platform" refers to a program of discretionary or non-discretionary advisory services offered by an overseas broker/dealer or investment advisor to local licensed dealers, giving them the ability to outsource asset allocation services to asset managers around the world in order to manage individual portfolios according to their individual clients' risk profiles.

# **STATUTES** & Regulations

The statutory duties and responsibilities of the Commission and the regulatory provisions governing financial services in the areas of insurance, securities, and pensions are stipulated in a number of laws. The following is a brief summary of the laws currently in effect.

The Financial Services Commission Act – enacted in 2001 and amended in 2004; it provides for the basic functions and responsibilities of the Commission.

The Financial Services Commission (Overseas Regulatory Authority) (Disclosure) Regulations – promulgated in 2005. The regulations give the Commission the authority to provide information and documents, as the Commission deems appropriate, in response to a request made by an overseas regulatory authority.

The Insurance Act – enacted in 2001; it provides for the regulation of insurance business in Jamaica.

The Insurance Regulations – promulgated in 2001 and last amended in 2004; they provide detailed rules and regulations governing individuals and companies operating in the insurance industry.

The Insurance (Actuaries) (Life Insurance Companies) Regulations – promulgated in 2001; these regulations set out the rules governing the preparation of actuarial reports and the business conduct of actuaries for life insurance companies.

The Insurance (Actuaries) (General Insurance Companies) Regulations – promulgated in 2002; they set out the rules governing the preparation of actuarial reports and the business conduct of actuaries for general insurance companies.

The Insurance (Prescribed Sum) Regulations – promulgated in 2004; they prescribe the amount payable by an insurer to an individual who satisfies the insurer that he is entitled to obtain probate of the will of the deceased person or to take out letters of administration.

The Securities Act – enacted in 1993 and last amended in 2001; the Act provides for the licensing, operation and supervision of entities dealing in securities as well as regulation of the

capital markets.

The Securities (Licensing and Registration) Regulations – promulgated in 1996 and last amended in 2003; the regulations provide for the licensing and registration of dealers, investment advisers, their representatives and responsible officers.

The Securities (Conduct of Business)
Regulations – promulgated in 1999
and last amended in 2003; they deal
with the dealer/client relationship and
guidelines for filing of financial
information by licensed dealers.

The Securities (Disclosure of Interest) Regulations – promulgated in 1999; they provide for the disclosure of information relating to public companies as well as issuers of commercial paper.

The Securities (Mutual Funds) Regulations – promulgated in 1999; they stipulate the rules for the business operation and supervision of mutual funds. The regulations also contain specific provisions concerning the protection of investors.

The Securities (Take-Overs and Mergers) Regulations – promulgated in 1999 and amended in 2000; these regulations deal with mergers and acquisitions of public companies.

The Securities (Central Securities Depository) Regulations – promulgated in 2000 and amended in 2002; the regulations deal with the operational procedures of a central securities depositary.

The Unit Trusts Act – enacted in 1971 and last amended in 2001; the Act governs the operation of unit trusts.

The Unit Trusts (Registration of Schemes) Regulations – promulgated in 1971; the regulations govern the process of registration for unit trusts.



The Unit Trusts (Books and Document)
Regulations – promulgated in 1973;
the regulations deal with the books and
records which should be maintained by
unit trusts.

The Pensions (Superannuation Funds and Retirement Schemes) Act — enacted in September 2004 and amended in March 2005 and March 2006; the Act provided for the licensing, operation and supervision of entities in the pensions industry.

The Pensions (Superannuation Funds and Retirement Schemes) (Specified Pension Funds and Specified Pensions Scheme) Regulations, 2005 – promulgated on March 11, 2006; these regulations define the meaning of "specified pension fund" or "specified pension scheme".

The Pensions (Superannuation Funds and Retirement Schemes) (Registration, Licensing and Reporting) Regulations, 2006 – promulgated on March 29, 2006; the regulations describe the conditions for the licensing and registration of schemes, funds, investment managers, administrators and other key persons.

The Pensions (Superannuation Funds and Retirement Schemes) (Governance) Regulations, 2006 – promulgated on March 29, 2006; the regulations outline the operational procedures for those who preside over pensions funds and retirement schemes.

The Pensions (Superannuation Funds and Retirement Schemes) (Investment) Regulations, 2006 – promulgated on March 29, 2006; the regulations provide detailed rules and guidelines for trustees and investment mangers to prudently invest and manage the assets that fall under their responsibility.



# **COMPENSATION**



### of Executive Management

### Compensation of Executive Management 2007/2008

### 1. Basic Salary Range of Executive Management

- a) Director
- b) Senior Director and General Counsel
- c) Chief Actuary
- d) Deputy Executive Director
- e) Executive Director

### 2. Gratuity in Lieu of Pension

- 3. Motor Vehicle Allowance
  - a) Executive Director
  - b) Other Executive Management

\$3,336,165 - \$4,170,206

\$4,310,775 - \$5,280,699

\$4,868,892 - \$6,573,004

\$5,394,627 - \$6,608,418

\$7,247,000 - \$8,696,400

25% per annum basic salary

Fully maintained company car \$568,812 per annum

NOTE - Executive Management includes the Executive Director, Deputy Executive Director, Senior Directors (4) Chief Actuary (1), Directors (2), and General Counsel (1). Each member of Executive Management is on contract and is therefore not on the Commission's pension plan.

The members are, however, eligible for health insurance coverage on the Commission's group health plan.

# DESTRUCTIVE MANAGEMENT

# List of **REGISTERED**Entities as at March 31, 2008



Dealer Companies - There were fifty-two (52) licensed securities dealers (Companies) as at March 31, 2008:

- 1. Alliance Investment Management Limited
- 2. Barita Investments Limited
- 3. Barita Portfolio Management Limited
- 4. Barita Unit Trusts Management Company Limited
- 5. Capital & Credit Fund Managers Limited
- 6. Capital & Credit Merchant Bank Limited
- 7. Capital & Credit Securities Limited
- 8. Capital Options Limited
- 9. Capital Solutions Limited
- 10. Citifinance Limited
- 11. City of Kingston Co-operative Credit Union Limited
- 12. CWJ Employees Co-operative Credit Union Limited
- 13. DB&G Unit Trust Managers Limited
- 14. Dehring, Bunting & Golding Limited
- 15. E. W. Lewis Investments & Finance Limited
- First Global Bank Limited
- 17. First Jamaica Investments Limited
- 18. FirstCaribbean International Bank (Jamaica) Limited
- 19. FirstCaribbean International Securities Limited
- 20. First Global Financial Services Limited
- 21. Gleaner Company Limited
- 22. Guardian Asset Management Limited
- 23. Guardian Life Limited
- 24. Ideal Finance Corporation Limited
- 25. Ideal Portfolio Services Limited
- 26. Intertrade Finance Corporation Limited

- 27. Jamaica Co-operative Credit Union Limited
- 28. Jamaica Money Market Brokers Limited
- 29. Jamaica National Building Society
- 30. JMMB Securities Limited
- 31. JN Fund Managers Limited
- 32. Life of Jamaica Limited
- 33. MF&G Asset Management Limited
- 34. M/VL Stockbrokers Limited
- 35. Mayberry Investments Limited
- 36. Money Express Financial Services Limited
- 37. MoneyMasters Limited
- 38. NCB Capital Markets Limited
- 39. NCB Insurance Company Limited
- 40. Pan Caribbean Asset Management Limited
- 41. Pan Caribbean Financial Services Limited
- 42. Prime Asset Management Limited
- 43. RODES Enterprise Limited
- 44. RBTT Securities Limited
- 45. Scotia Jamaica Investment Management Limited
- 46. Sterling Asset Management Limited
- 47. Stocks and Securities Limited
- 48. UGI Finance & Investments Limited
- 49. Victoria Mutual Wealth Management Limited
- 50. Village Resorts Limited
- 51. West Indies Trust Company Limited
- 52. West Indies Union Investment Management Limited

# List of REGISTERED A Entities as at March 31, 2008



Dealers (Individuals) – There were fourteen (14) individuals licensed as securities dealers as at March 31, 2008:

- 1. Bailey, Lorreston
- 2. Berry, Christopher \*
- 3. Berry, Konrod \*
- 4. Campbell, Ryland \*
- 5. Clarke, Oliver \*
- 6. Harrison, Verley
- 7. Issa, Christopher
- 8. Johnson, Roy
- 9. Lewis, Everton \*
- 10. Ming, Herman \*
- 11. Moss, Kathleen
- 12. Riley, C. Roy
- 13. Shirley, Sandra \*
- 14. Wray, Wayne \*

Mutual Funds – There were eighteen (18) registered mutual funds as at March 31, 2008:

- 1. AIC Advantage Group Fund
- 2. AIC Money Market Corporate Class
- 3. AIC Balanced Group Fund
- 4. AIC Diversified Group Fund
- 5. AIC Focused Group Fund
- 6. CI Sector Balanced Funds
- 7. CI Sector Diversified Equity Funds
- 8. CI Sector Fixed Income Funds
- 9. CI Sector Focused Equity Funds

### Mutual Funds -(cont'd)

- 10. Grace Caribbean Fixed Income Fund
- 11. JMMB Select Index fund
- 12. Scotia US Growth Mutual fund
- 13. Scotiabank Canadian Growth Fund
- 14. Scotiabank Global Growth Fund
- 15. Scotiabank Money Market Fund
- 16. Scotiabank US Dollar Bond Fund
- 17. Scotiabank, Mutual Funds, SPC
- 18. Trinidad Select Index Fund Limited

Unit Trust Managers – There were four (4) registered unit trust fund managers as at March 31, 2008:

- 1. Barita Unit Trusts Management Limited
- 2. DB&G Unit Trusts Management Limited
- Capital & Credit Fund Managers Limited
- 4. Pan Caribbean Asset Management Limited

Unit Trust Schemes – There were eight (8) registered unit trust schemes as at March 31, 2008:

- 1. Barita Unit Trusts Money Market Fund
- 2. Barita Unit Trusts Capital Growth Fund
- 3. Capital & Credit Income & Growth Fund
- 4. Capital & Credit Giltedge Fund
- 5. Capital & Credit Capital Growth Fund
- 6. DB&G Money Market Fund
- 7. DB&G Premium Growth Fund
- 8. Pan Caribbean Assets Management Unit Trust 29

<sup>28</sup> The asterisks indicate individual dealers who are associated with a company that is also licensed as dealer.

<sup>29</sup> This unit trust scheme has three portfolios; namely, Sigma Fixed Income Fund, Sigma Optima Fund, and Sigma Real Estate Fund. Therefore there are really 10 types of unit trust products being sold.

# List of REGISTERED Entities as at March 31, 2008



**Life Insurance Companies** – There were six (6) life insurance companies registered as at March 31, 2008:

- 1. Blue Cross of Jamaica
- 2. CUNA Mutual Insurance Society
- 3. Guardian Life Limited
- 4. Life of Jamaica Limited
- 5. NCB Insurance Company Limited
- 6. Scotia Jamaica Life Insurance Company Limited

**General Insurance Companies** – There were twelve (12) general insurance companies registered as at March 31, 2008:

- 1. American Home Assurance Company
- 2. British Caribbean Insurance Company Limited
- 3. General Accident Insurance Jamaica Company Limited
- 4. Globe Insurance Company of Jamaica Limited
- Island Heritage Insurance Company Limited
- 6. Jamaica International Insurance Company Limited
- 7. Key Insurance Company Limited
- 8. NEM Insurance Company (Jamaica) Limited
- 9. The Insurance Company of Jamaica Limited
- 10. United General Insurance Company Limited
- 11. Victoria Mutual Insurance Company Limited
- 12. West Indies Alliance Insurance Company Limited

**Insurance Brokers** – There were twenty six (26) insurance brokers registered as at March 31, 2008:

- 1. Allied Insurance Brokers Limited
- 2. Assurance Brokers of Jamaica Limited
- 3. Billy Craig Insurance Brokers Limited
- 4. Caribbean Assurance Brokers Limited
- 5. CGM Insurance Brokers Limited
- 6. Covenant Insurance Brokers Limited

### Insurance Brokers (cont'd)

- 7. Desmond Mair Insurance Brokers Limited
- 8. Excel Insurance Brokers Limited
- 9. Firm Insurance Brokers Limited
- 10. Fraser Fontaine & Kong Limited Insurance Brokers
- 11. GEM Insurance Brokers Limited
- 12. Genesis Insurance Brokers Limited
- 13. Guardian Insurance Brokers Limited
- 14. Jamaica Citadel Insurance Brokers Limited
- 15. JMMB Insurance Brokers Limited
- 16. Lawe Insurance Brokers Limited
- 17. Marathon Insurance Brokers Limited
- 18. Maritime General Insurance Brokers Limited
- 19. Mutual Security Insurance Brokers Limited
- 20. National Property & General Insurance Brokers Limited
- 21. Orion Insurance Brokers Limited
- 22. Progressive Insurance Brokers Ltd.
- 23. Solid Life and General Insurance Brokers Limited
- 24. Spectrum Insurance Brokers Limited
- 25. Thwaites Finson Sharp Insurance Brokers Limited
- 26. Zenith Insurance Brokers Limited

Facultative Placement Brokers – There were eighteen (18) facultative placement brokers registered as at March 31, 2008:

- 1. Allied Insurance Brokers Limited
- 2. Assurance Brokers Jamaica Limited
- 3. Billy Craig Insurance Brokers Limited
- 4. Caribbean Assurance Brokers Limited
- 5. CGM Insurance Brokers Jamaica Limited
- 6. Desmond Mair Insurance Brokers Limited

# List of **REGISTERED**Entities as at March 31, 2008



### Facultative Placement Brokers (cont'd)

- 7. Excel Insurance Brokers Limited
- 8. Firm Insurance Brokers Limited
- 9. Fraser Fontaine & Kong Limited Insurance Brokers
- 10. Guardian Insurance Brokers Limited
- 11. JMMB Insurance Brokers Limited
- 12. Lawe Insurance Brokers Limited
- 13. Marathon Insurance Brokers Limited
- 14. Mutual Security Insurance Brokers Limited
- 15. National Property & General Insurance Brokers Limited
- 16. Spectrum Insurance Brokers Limited
- 17. Thwaites Finson Sharp Insurance Brokers Limited
- 18. Sagicor Insurance Brokers Limited

Overseas Reinsurance Brokers – There were two (2) overseas reinsurance broker registered as at March 31, 2008:

- 1. Benfield Limited
- 2. J.B. Boda

**Local Reinsurance Brokers** – There was one (1) local reinsurance broker registered as at March 31, 2008:

CGM Insurance Brokers Jamaica Limited

Insurance Agents – There were thirteen (13) insurance agents as at March 31, 2008:

- 1. Associated Owners Insurance (Agents) Limited
- 2. Chancellor Insurance Agency Limited
- 3. Crichton Insurance Agency Limited
- 4. Doran Ferguson T/A Apex Insurance Agents
- 5. First Union Insurance Agency
- Gersham McLaughlin T/A Global Risk Management Insurance Agents

### Insurance Agents (cont'd)

- 7. Mutual Agency (Insurance) Ltd.
- 8. Mutual Enterprises (Insurance) Agents Limited
- 9. Nationwide Insurance Agents and Consultants Limited
- 10. Nova Underwriters (Insurance Agents & Consultants) Limited
- 11. NUCS Co-operative Insurance Services Limited
- 12. Paul Anthony Simpson, General Insurance Agent
- 13. Riviera Insurance Agency Limited

Insurance Managing General Agents – There were no insurance managing general agents registered as at March 31, 2008.

Insurance Loss Adjusters – There were four (4) insurance loss adjusters registered as at March 31, 2008:

- 1. Caribbean Loss Adjusters Limited
- 2. Evan Evans T/A Evans Insurance Consultants Limited
- 3. Innovative Consulting Services Limited T/A International Claims Services
- 4. Trans Jam Loss Adjusters Limited

Insurance Consultants – There was one insurance consultant registered as at March 31, 2008:

Nicholas James Wood

Pensions Administrators – There were twenty-two (22) licensed pension administrators as at March 31, 2008:

- 1. ATL Group Pension Fund Trustees Nominee Limited
- 2. The Bank of Nova Scotia Jamaica Limited
- 3. Barita Portfolio Management Limited
- 4. Capital & Credit Securities Limited
- 5. Development Bank of Jamaica Limited
- 6. Employee Benefits Administrator Limited
- 7. FirstCaribbean International Securities Limited
- 8. FirstCaribbean International Bank (Jamaica) Limited

# List of **REGISTERED**Entities as at March 31, 2008



### Pensions Administrators (cont'd)

- 21. Scotia Jamaica Life Insurance Company Limited
- 22. Veritat Nominees Limited

Pensions Investment Managers – There were twenty (20) licensed pension investment managers as at March 31, 2008:

- 1. ATL Group Pension Fund Trustees Nominee Limited
- 2. Barita Portfolio Management Limited
- 3. Capital & Credit Securities Limited
- 4. Development Bank of Jamaica Limited
- 5. FirstCaribbean International Securities Limited
- 6. First Global Financial Services Limited
- 7. Guardian Asset Management Limited
- 8. Guardian Life Limited
- 9. Investment Nominees Limited
- 10. Jamaica Co-operative Credit Union League Limited
- 11. Jamaica Money Market Brokers Limited
- 12. JN Fund Managers Limited
- 13. Life of Jamaica Limited
- 14. Mayberry Investments Limited
- 15. MF&G Asset Management Limited
- 16. NCB Insurance Company Limited
- 17. Prime Asset Management Limited
- 18. RBTT Securities Jamaica Limited
- 19. Scotia DBG Investments Limited
- 20. Veritat Nominees Limited



# REVIEW of Financial Performance



The financial statements that appear on pages 38 - 58 in this annual report present the financial position operating results and cash flows of the FSC in accordance with International Financial Reporting Standards for the financial year ended March 31, 2008. The following comments provide an analysis of the performance during the year and should be read in conjunction with the financial statements.

### 1. Income and Expenditure

The FSC ended the financial year with a net surplus of \$17.4 million compared with the net loss of \$35.3 million for the 2006/2007 financial year. Highlights of the income and expenditure are presented below:

### Income

The FSC is funded mainly through fees charged to the licensed financial institutions and private pension plans, which the FSC regulates and supervises. The amount charged to individual institutions is determined according to the fee formulae set out in regulations. In general, the system is designed to allocate the FSC's costs based on the time spent supervising and regulating each industry.

Costs are then charged to individual institutions within an industry based on the applicable formula. Fee income for the year was \$423 million or 26% higher than the fee income for the 2006/2007 financial year. The insurance industry accounted for 41% or \$173 million of the total fee income; the pensions industry 31% or \$132.6 million and the securities industry 28% or \$117.4 million.

Tables 18 -20 provide details of the income earned from the three industries.

Revenue grants totalling \$65.4 million were received during the year from the Government of Jamaica ("GOJ") (\$42.2 million) and the Inter-American Development Bank ("IDB") (\$23.2 million).

The grants provided by the IDB of \$23.2 million were used for professional fees and staff training relating to several institutional strengthening projects.

Table 18: Fee Income from Securities

Industry 2006/07 and 2007/08	2006/07		2006/07 2007/20		2008
Source	Income ('\$000)	% of Total	Income ('\$000)	% of Total	
Dealers Licenses	83,327	68	82,355	70	
Stock Exchange & JCSD	32,639	27	27,387	23	
Applications (Non-refundable)	205	0	855	1	
Commercial Paper	488	0	495	0	
Mutual Funds	5,782	5	6,272	5	
Totals	122,441	100	117,364	100	

Table 19: Fee income from the

Insurance Industry 2006/07 and 2007/08	2006/07		<b>2006/07 2007/200</b>	
Source	Income ('\$000)	% of Total	Income ('\$000)	% of Total
Renewal Fees – General Companies	82,306	55	81,197	47
Renewal Fees – Life Companies	56,965	37	71,240	41
Renewal Fees – Intermediaries & Registration	11,237	8	20,040	12
Filling & Application Fees	321	0	571	0
Totals	150,829	100	173,048	100

Table 20: Revenue from the Pensions

Industry 2006/2007 & 2007/2008	2006/2007		<b>2006/2007</b> 2007/2008	
Source	Revenue ('\$000)	% of Total	Revenue ('\$000)	% of Total
Annual Licensing Fees – Investment Managers & Administrators	40,715	66	131,344	99
Non Refundable Registration Fees	21,049	34	1,234	1
Totals	61,764	100	132,578	100

The FSC is a beneficiary of a Caribbean Development Bank ("CDB")/GOJ grant agreement. These grants amounting to \$14.5 million were used to cover the cost of professional fees and staff training relating to several technical assistance projects. The FSC occupies a building owned by the GOJ (through the Ministry of Lands and Environment) rent free without a lease agreement. This grant estimated at \$27.7 million is based on the commercial value of annual rental for similar property and is netted against rental expense in the financial statements.

### **Expenses**

Total expenses for the 2007/2008 financial year were \$453.1 million, an increase of 13.3% over the previous year. The major items of expenditure were:

- i) Staff Costs Staff costs, the main driver of the FSC's expenses, were \$301.1 million for the year, an increase of 12% when compared to the 2006/2007 financial year. The increase in staff costs reflects annual adjustments in compensation of approximately 7% and an increase in the staff complement from 113 at the end of 2006/2007 to 117 at the end of 2007/2008.
- ii) Project Expenses Project expenses were \$37.9 million for the year, an increase of 71% when compared with the previous year. Project expenses consisted of professional fees and staff training provided by the GOJ under a technical assistance loan agreement with CDB and a grant agreement with IDB.

# REVIEW of Financial Performance (cont'd)



iii) Public Education - Public education expenses increased from \$9.8 million in 2006/2007 to \$31.1 million in 2007/2008, a 216% growth. This significant increase is due to the extensive "Safe Industry" campaign undertaken by the FSC during the year, in direct response to the proliferation of unregistered financial operations in Jamaica.

iv) Professional Expenses - Professional expenses decreased by \$6.3 million or 32.2% from the previous year due to a reduction in the use of external lawyers.

### 2. Liquidity

Under the Financial Services Commission Act, 2001, the FSC is not permitted to borrow and therefore finances its expenditure (recurrent and capital) from fee income and grants. The FSC maintains a substantial portion of its financial assets in liquid form. At the end of the year, the balance sheet showed cash and cash equivalents of \$13.5 million and resale agreements totaling \$90 million.



# Auditor's Report AND FINANCIAL STATEMENTS

FINANCIAL SERVICES COMMISSION



### INDEPENDENT AUDITORS' REPORT

To the Members of FINANCIAL SERVICES COMMISSION

### REPORT ON THE FINANCIAL STATEMENTS

We have audited the financial statements of Financial Services Commission ("the commission") set out on pages 39 to 58, which comprise the balance sheet as at March 31, 2008 the statements of income and expenditure and cash flows for the year then ended, a summary of significant accounting policies and other explanatory notes.

### Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with International Financial Reporting Standards. This responsibility includes: designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and consistently applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

### Auditors' Responsibility

Our responsibility is to express an opinion on the financial statements based on our audit. We conducted our audit in accordance with International Standards on Auditing. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance as to whether or not the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal controls relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal controls.

An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### Opinion

In our opinion, the financial statements give a true and fair view of the financial position of the commission as at March 31, 2008, and of its financial performance, changes in equity and cash flows for the year then ended in accordance with International Financial Reporting Standards.

October 1, 2008



### FINANCIAL SERVICES COMMISSION

Balance Sheet March 31, 2008

	Notes	2008	<u>2007</u>
CURRENT ASSETS			
Cash and cash equivalents		13,498,096	10,123,137
Resale agreements	3	90,000,000	115,000,000
Accounts receivable and prepayment	4	85,160,582	59,095,554
Taxation recoverable	5	13,825,781	11,553,726
		202,484,459	195,772,417
CURRENT LIABILITIES			
Accounts payable	6	30,065,567	24,760,872
Deferred fees		120,912,445	119,554,589
		150,978,012	144,315,461
NET CURRENT ASSETS		51,506,447	51,456,956
NON-CURRENT ASSETS			
Property, plant & equipment	7	34,101,752	16,876,539
Intangible assets	8	15,273,669	15,127,254
		\$ <u>100,881,868</u>	83,460,749
Represented by:			
RESERVES	9	\$ <u>100,881,868</u>	83,460,749

The financial statements on pages 39 to 58 were approved by the Commissioners on October 1, 2008, and signed on its behalf by:

Hon. Emil George OJ, QC

George Roper

Executive Director (Acting)

The accompanying notes form an integral part of the financial statements.

Chairman



## FINANCIAL SERVICES COMMISSION

Income and Expenditure Account and Statement of Total Recognised Gains and Losses Year ended March 31, 2008

	<u>Notes</u>	2008	2007
		<del></del>	<del>=</del>
INCOME			
Fees		423,573,047	335,034,261
Interest income		9,270,496	6,339,946
Miscellaneous		-	269,944
Gain on disposal of property, plant & equipme	ent	<u> </u>	620,221
		432,843,543	342,264,372
GRANTS	10	37,682,077	20,356,982
ORAIVIS	10		
		<u>470,525,620</u>	<u>362,621,354</u>
EXPENDITURE			
Advertising		2,268,718	5,746,256
Appeal Tribunal		1,926,710	1,920,979
Audit		1,200,000	950,480
Bank charges		169,804	153,534
Building maintenance		3,290,348	2,882,259
Commissioners' fees		1,510,320	2,121,927
Depreciation and amortisation		13,426,316	20,492,334
Motor vehicle & parking expenses		6,150,490	4,597,837
Office expenses		12,194,335	14,695,834
Printing and stationery		2,055,524	2,669,894
Professional fees		13,307,724	19,629,892
Project expenses		37,890,761	22,149,751
Public education		31,083,792	9,829,271
Utilities		12,793,885	11,111,439
Staff costs		301,098,722	268,710,675
Subscriptions		3,127,406	4,215,579
Travelling		-	519,774
Training and conferences		9,609,646	7,488,759
		453,104,501	399,886,474
Net profit /(loss) from operations before transfer		17,421,119	( 37,265,120)
Transfer from capital reserve of amount equivalent			
to depreciation charge on donated assets	9		1,928,772
Surplus /(deficit) for the year, being total			
gains/(losses) recognised		\$ <u>17,421,119</u>	( <u>35,336,348</u> )

The accompanying notes form an integral part of the financial statements.



### FINANCIAL SERVICES COMMISSION

Statement of Cash Flows Year ended March 31, 2008

	2008	<u>2007</u>
CASH FLOWS FROM OPERATING ACTIVITIES		
Surplus/(deficit) for the year	17,421,119	(37,265,120)
Adjustment for:		
Depreciation and amortisation	13,426,316	20,492,334
Gain on disposal of property, plant & equipment	-	(620,221)
Interest income	( <u>9,270,496</u> )	( <u>6,339,946</u> )
	21,576,939	(23,732,953)
(Increase)/decrease in current assets		
Resale agreements	25,000,000	(34,000,000)
Accounts receivable and prepayment	(25,859,586)	( 162,655)
Taxation recoverable	( 2,272,055)	(1,587,758)
Increase/(decrease) in current liabilities		
Accounts payable	5,304,695	( 826,372)
Deferred fees	1,357,856	77,361,202
Net cash provided by operating activities	25,107,849	17,051,464
CASH FLOWS FROM INVESTING ACTIVITIES		
Additions to property, plant & equipment	(27,692,602)	(13,207,177)
Additions to intangible assets	(3,105,342)	( 4,307,605)
Proceeds from disposal of property, plant & equipment	-	763,510
Interest received	9,065,054	7,429,671
Net cash used by investing activities	(21,732,890)	(_9,321,601)
Net increase in cash and cash equivalents	3,374,959	7,729,863
Cash and cash equivalents at beginning of the year	10,123,137	2,393,274
Cash and cash equivalents at end of the year	\$ <u>13,498,096</u>	10,123,137



### **FINANCIAL SERVICES COMMISSION**

Notes to the Financial Statements Year ended March 31, 2008

### 1. The Commission

The Financial Services Commission ("the Commission") is a statutory not-for-profit organization established under the Financial Services Commission Act, 2001 ("the Act").

The principal functions of the Commission are as stated in Section 6 (1) of the Act, which states:

For the purpose of protecting customers of financial services, the Commission shall:

- a) supervise and regulate prescribed financial institutions;
- b) promote the adoption of procedures designed to control and manage risk, for use by the management, boards of directors and trustees of such institutions;
- c) promote stability and public confidence in the operations of such institutions;
- d) promote public understanding of the operation of prescribed financial institutions;
- e) promote the modernisation of financial services with a view to the adoption and maintenance of international standards of competence, efficiency and competitiveness.

On August 2, 2001, all assets, rights and liabilities of the Securities Commission in existence on that date were transferred to and vested in the Commission which commenced operations on that day. On the same date the Commission assumed responsibility for Unit Trusts under the Unit Trusts (Amendment) Act, 2001. With the passing of the new Insurance Act 2001, the Commission assumed regulatory responsibility for the insurance industry, on the appointed day (December 21, 2001).

During the previous years, the Government of Jamaica ("GOJ") through its agencies, the Superintendent of Insurance and the Financial Sector Adjustment Company, donated certain property, plant and equipment to the Commission. These assets were brought in at valuation.

The Commission had in its employment 117 (2007:113) employees as at March 31, 2008, out of a Board approved establishment of 128 (2007:122) employees.

### 2. <u>Statement of compliance, basis of preparation and accounting policies</u>

### (a) Statement of compliance:

The financial statements are prepared in accordance with International Financial Reporting Standards ("IFRS"), with their interpretations adopted by the International Accounting Standards Board.



### FINANCIAL SERVICES COMMISSION

Notes to the Financial Statements (Continued) Year ended March 31, 2008

- 2. Statement of compliance, basis of preparation and accounting policies (cont'd)
  - (a) Statement of compliance (cont'd):

During the year under review, certain new standards interpretations and amendments to the existing standards became effective. In preparing these financial statements, the Commission has adopted IFRS 7 Financial Instruments: Disclosures and the Amendments to IAS 1 Presentation of Financial Statements: Capital Disclosures, IFRIC 9 Reassessment of Embedded Derivatives and IFRIC 10 Interim Financial Reporting and Impairment. The adoption of IFRS 7 and the amendment to IAS 1 affect the type and amount of disclosures made in these financial statements but had no impact on the reported profits or financial position of the Commission. In accordance with transitional requirements of the standards, full comparative information has been provided. The adoption of IFRIC 9 and IFRIC 10 have no impact on the financial statements.

At the date of authorisation of the financial statements the following relevant new standards, amendments to standards and interpretations become effective for the financial years beginning after March 31, 2008 and have therefore not been applied in preparing these financial statements:

- IFRS 8 Operating Segments requires disclosures, based on the components of a group or company that management monitors in making decisions about operating matters as well as qualitative disclosures on segments. IFRS 8 becomes effective for accounting periods beginning on or after January 1, 2009. As at March 31, 2008, the Commission had not determined the impact of the application of IFRS 8 on its financial statements.
- IFRIC 12 Service Concession Arrangements addresses the accounting requirements for public-to-private service concession arrangements in private sector entities. IFRIC 12, effective for accounting periods beginning on or after January 1, 2008, is not expected to have any impact on the Commission's financial statements.
- IAS 1 (revised 2007) Presentation of Financial Statements (effective January 1, 2009) requires the presentation of all non-owners changes in equity, either in a single statement of comprehensive income, or in an income statement and a statement of comprehensive income. The standard is not expected to have any significant impact on the financial statements, when adopted in 2009.
- Amendments to IAS 32 Financial instruments: Presentation and IAS 1, Presentation of Financial Statements (effective January 1, 2009) allows certain instruments that would normally be classified as liabilities to be classified as equity if certain conditions are met. Where such instruments are reclassified, the entity is required to disclose the amount, the timing and the reason for the reclassification. The standard is not expected to have any significant impact on the financial statements, when adopted in 2009.



### FINANCIAL SERVICES COMMISSION

Notes to the Financial Statements (Continued) Year ended March 31, 2008

### 2. Statement of compliance, basis of preparation and accounting policies (cont'd)

### (b) Basis of preparation:

These financial statements are prepared in Jamaica dollars (J\$), which is the functional currency of the Commission.

The financial statements are prepared on the historical cost basis, modified for the inclusion of certain property, plant & equipment at deemed cost on the IFRS transition date.

### (c) Use of estimates and judgements:

The preparation of the financial statements to conform to IFRS requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, contingent assets and contingent liabilities at the balance sheet date and the income and expenses for the year then ended. Actual amounts could differ from these estimates.

Estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognised in the period in which the estimate is revised if the revision affects only that period, or in the period of the revision and future periods if the revision affects both current and future periods. Management has exercised judgement in the application of IFRS that has significant effect on the financial statements and estimates with a significant risk of material adjustment in the next financial year as discussed below:

### (i) Allowance for impairment losses on receivables:

In determining amounts recorded for impairment losses in the financial statements, management makes judgement regarding indicators of impairment, that is, whether there are indicators that suggest that there may be a measurable decrease in the estimated future cash flows from receivables, for example, default and adverse economic conditions. Management also makes estimates of the likely estimated future cash flows from impaired receivables as well as the timing of such cash flows. Historical loss experience is applied where indicators of impairment are not observable on individual significant receivables with similar characteristics, such as credit risks.

It is reasonably possible, based on existing knowledge, that outcomes within the next financial year that are different from these assumptions could require a material adjustment to the carrying amount reflected in the financial statements.

### (d) Grants:

Monetary grants are accounted for on the cash basis. Grants in kind are accounted for when the services or assets are received by the Commission.



### FINANCIAL SERVICES COMMISSION

Notes to the Financial Statements (Continued) Year ended March 31, 2008

- 2. Statement of compliance, basis of preparation and accounting policies (cont'd)
  - (e) Property, plant & equipment and intangible assets:
    - (i) Owned assets:

Items of property, plant & equipment and intangible assets are stated at cost or deemed cost, less accumulated depreciation and impairment losses.

Intangible assets include computer software and security system software.

(ii) Subsequent costs:

The cost of replacing part of an item of property, plant and equipment is recognized in the carrying amount of the item if it is probable that the future economic benefits embodied within the part will flow to the company and its cost can be measured reliably. The cost of the day-to-day servicing of property, plant and equipment are recognised in the income and expenditure account.

(f) Depreciation and amortisation:

Property, plant & equipment and intangible assets are depreciated/ amortised on the straight-line basis at annual rates estimated to write off the assets over their expected useful lives. The depreciation rates are as follows:

Motor vehicles 20%
Office furniture and equipment 10% & 25%
Computer equipment and software 25%

The depreciation methods, useful lives and residual values are reassessed at the reporting date.

(g) Capital expenditure:

Amounts utilized from government grants for the purchase of property, plant & equipment, including donated assets and advances to secure future purchases, are transferred to capital reserve. An amount equivalent to the annual depreciation charge on the relevant property, plant & equipment is transferred from capital reserve to the general fund.

(h) Cash and cash equivalents:

Cash and cash equivalents comprise cash and bank balances.

(i) Resale agreements:

Securities purchased under resale agreements ("resale agreements") are accounted for as collateralised financing.



### **FINANCIAL SERVICES COMMISSION**

Notes to the Financial Statements (Continued) Year ended March 31, 2008

- 2. Statement of compliance, basis of preparation and accounting policies (cont'd)
  - (j) Accounts receivable:

Accounts receivable are stated at their cost less impairment losses [see accounting policy (n)].

(k) Accounts payable:

Accounts payable are stated at amortised cost.

(1) Provisions:

A provision is recognised in the balance sheet when the Commission has a legal or constructive obligation as a result of a past event, and it is probable that an outflow of economic benefits will be required to settle the obligation. If the effect is material, provisions are determined by discounting the expected future cash flows at a pre-tax rate that reflects current market assessments of the time value of money and, where appropriate, the risks specific to the liability.

- (m) Fees:
  - (i) Securities

Application fees for registration as dealers, dealers' representatives, responsible officers, investment advisers and mutual funds, which are payable on application along with fees from commercial paper, are taken to income on receipt. Annual license fees from dealers, dealers' representatives, responsible officers, investment advisers and mutual funds are deferred and recognized as income in the period to which they relate. Fees from traders on the stock exchange are recognized as income in the year to which they relate.

In accordance with the Securities (Licensing and Registration) (Amendment) Regulations 2003, fees are calculated using "the greater of:

- (i) \$170,000; or
- (ii) The aggregate of 5 basis points on the 1st \$2 billion of assets; and
  - 2 basis points on the next \$13 billion of assets; and
  - 2/100<sup>th</sup> of a basis point on assets over \$15 billion, less the aggregate amount of fees paid by the dealer for its representatives and responsible officer during the 12 months preceding the anniversary".



### FINANCIAL SERVICES COMMISSION

Notes to the Financial Statements (Continued) Year ended March 31, 2008

- 2. <u>Statement of compliance, basis of preparation and accounting policies (cont'd)</u>
  - (m) Fees (cont'd):
    - (i) Securities (cont'd)

For the purpose of the fee calculation, items (i) or (ii) "assets" is taken to mean:

- (a) the "aggregate total of a dealer's balance sheet assets as at the 31<sup>st</sup> December of the year immediately prior to the anniversary of the grant of the licence taken without the netting of its liabilities plus the aggregate value, at that date, of securities or other investment instruments held or managed on behalf of clients whether on a discretionary or non discretionary basis; or
- (b) in the case of a unit trust and overseas mutual funds, the net value of securities sold by or through the dealer during the year ending on the 31<sup>st</sup> December immediately prior to the anniversary of the grant of its licence".
- (ii) Insurance

Fees for new registration for insurance companies, agents, brokers, sales representatives and other insurance intermediaries are taken to income on receipt. Renewal fees from insurance companies are recognized as income in the year to which they relate.

In accordance with the amended 20<sup>th</sup> schedule, which came into effect on October 1, 2003, renewal fees for Intermediaries were the greater of the fee indicated on the amended 20<sup>th</sup> schedule or 0.5% of earned commissions. Fees for General & Life Insurance companies were now based on assets as outlined in the amended 20<sup>th</sup> schedule.

Renewal Fees – Insurance Companies

(1) Jamaican and CARICOM Life/Sickness & Health Insurance Companies

A fee of \$1 million, or the sum of: First \$5 billion of total assets at 0.14%; Second \$5 billion of total assets at 0.07%; and Total assets in excess of \$10 billion at 0.04%, whichever is greater.

(2) Jamaican and CARICOM General Insurance Companies

A fee of \$1 million, or the sum of: First \$1 billion of total assets at 0.37%; Second \$1 billion of total assets at 0.27%; and Third \$1 billion of total assets at 0.17%; and Total assets in excess of \$3 billion at 0.07%, whichever is greater.



### FINANCIAL SERVICES COMMISSION

Notes to the Financial Statements (Continued) Year ended March 31, 2008

### 2. <u>Statement of compliance, basis of preparation and accounting policies (cont'd)</u>

### (m) Fees (cont'd):

- (ii) Insurance (cont'd)
  - (3) Foreign Companies Life/Sickness & Health and General Insurers

The fee will be charged on the above bases at (1) and (2), but on assets relating to liabilities in Jamaica only.

Note – For fee computation, "Total Assets" are as shown in the annual statements as at December 31, of the previous year.

### (iii) Pension

The licensing fee payable by Investment Managers and Administrators is one tenth of one percent of the total assets under management as at December 31<sup>st</sup> of the previous year.

Note – for fee computation, "total assets" are as shown in the annual statements as at December 31, immediately prior to the renewal date.

### (n) Impairment:

The carrying amounts of the Commission's assets are reviewed at each balance sheet date to determine whether there is any indication of impairment. If any such indication exists, the asset's recoverable amount is estimated at each balance sheet date. An impairment loss is recognised whenever the carrying amount of an asset or its cash-generating unit exceeds its recoverable amount. Impairment losses are recognised in the income and expenditure account.

### (i) Calculation of recoverable amounts:

The recoverable amount of the Commission's receivables is calculated as the present value of expected future cash flows, discounted at the original effective interest rate inherent in the asset. Receivables with a short duration are not discounted.

The recoverable amount of other assets is the greater of their net selling price and value in use. In assessing value in use, the estimated future cash flows are discounted to their present value using a discount rate that reflects current market assessments of the time value of money and the risks specific to the asset. For an asset that does not generate independent cash inflows, the recoverable amount is determined for the cash-generating unit to which the asset belongs.

### (ii) Reversals of impairment:

An impairment loss in respect of receivables is reversed if the subsequent increase in recoverable amount can be related objectively to an event occurring after the impairment loss was recognised. An impairment loss is reversed if there has been a change in the estimate used to determine the recoverable amount.



### **FINANCIAL SERVICES COMMISSION**

Notes to the Financial Statements (Continued) Year ended March 31, 2008

### 2. <u>Statement of compliance, basis of preparation and accounting policies (cont'd)</u>

### (o) Foreign currencies:

Foreign currency balances outstanding at the balance sheet date are translated at the rates of exchange ruling on that date. Transactions in foreign currencies are converted at the rates of exchange ruling at the dates of those transactions. Gains and losses arising from fluctuations in exchange rates are included in the income and expenditure account.

### (p) Financial instruments:

A financial instrument is any contract that gives rise to both a financial asset of one enterprise and a financial liability or equity instrument of another enterprise. For the purpose of these financial statements, financial assets have been determined to include cash and cash equivalents, resale agreements, accounts receivable and prepayment. Similarly, financial liabilities include accounts payable and deferred fees.

### (q) Related parties:

A party is related to the commission if:

- (i) directly or indirectly, the party:
  - controls, is controlled by, or is under common control with the Commission;
  - has an interest in the Commission that gives it significant influence over the commission; or
  - has joint control over the Commission.
- (ii) the party is a member of the key management personnel of the Commission. Such personnel are persons having authority and responsibilities for planning, directing and controlling the activities of the Commission whether directly or indirectly and whether through an executive or non-executive role.
- (iii) the party is a close member of the family of any individual referred to in (i) or (ii) above.
- (iv) the party is a post-employment benefit plan for the benefit of employees of the Commission, or any entity that is a related party of the Commission.

The commission has a related party relationship with the Government of Jamaica and its agencies, commissioners, directors and key management personnel.

### (r) Determination of fair value:

Fair value amounts represent estimates of the arm's length consideration that would be currently agreed between knowledgeable, willing parties who are under no compulsion to act and is best evidenced by a quoted market price, if one exists.



### FINANCIAL SERVICES COMMISSION

Notes to the Financial Statements (Continued) Year ended March 31, 2008

### 3. Resale agreements

Resale agreements represent purchases of Government of Jamaica Local Registered Stocks by the Commission from a broker under agreement to resell them on specified dates (within a year), at specified amounts.

The interest rates on resale agreements were 11.15% and 12% (2007: 11.10% and 12.65%) as at the year end. The market value of the underlying securities as at March 31, 2008 was \$90,692,322 (2007: J\$115,279,828).

The Commission's exposure to credit and currency risks related to resale agreements are disclosed in note 14.

### 4. Accounts receivable

	<u>2008</u>	<u>2007</u>
Trade receivables, net	69,143,352	52,524,001
Prepayments and deposits	15,108,513	5,390,700
Other receivables	404,843	882,421
Interest receivable	503,874	298,432
	\$85,160,582	59,095,554

Trade receivables are shown net of a provision for impairment losses of \$4,776,831 (2007: \$4,776,831).

The Commission's exposure to credit and currency risks and impairment losses related to trade and other receivables are disclosed in note 14.

### 5. Taxation recoverable

Taxation recoverable represents tax withheld by financial institutions on interest income earned on balances held with those institutions.

### 6. Accounts payable

	<u>2008</u>	<u>2007</u>
Trade and other payables Employee benefits	12,309,958 17,755,609	4,694,441 20,066,431
	\$ <u>30,065,567</u>	24,760,872

The Commission's exposure to liquidity and currency risks related to trade and other payables are disclosed in note 14.



### FINANCIAL SERVICES COMMISSION

Notes to the Financial Statements (Continued) Year ended March 31, 2008

7	Property	nlant	& ea	ninment

Property, plant & equipment				
	Motor vehicles	Office furniture and equipment	Computer equipment	<u>Total</u>
At cost or deemed cost:				
March 31, 2006	3,455,875	21,129,330	31,460,765	56,045,970
Additions	269,943	9,939,671	2,997,563	13,207,177
Disposal	(1,908,775)	<del></del>		( <u>1,908,775</u> )
March 31, 2007	1,817,043	31,069,001	34,458,328	67,344,372
Additions	<u>3,474,738</u>	21,082,559	3,135,305	<u>27,692,602</u>
March 31, 2008	<u>5,291,781</u>	52,151,560	37,593,633	95,036,974
Depreciation:				
March 31, 2006	2,596,471	12,268,830	24,021,919	38,887,220
Charge for year	363,408	4,583,160	8,399,531	13,346,099
Eliminated on disposal	( <u>1,765,486</u> )			(_1,765,486)
March 31, 2007	1,194,393	16,851,990	32,421,450	50,467,833
Charge for year	867,853	6,464,231	3,135,305	10,467,389
March 31, 2008	2,062,246	23,316,221	35,556,755	60,935,222
Net book value:				
March 31, 2008	\$3,229,535	28,835,339	2,036,878	34,101,752
March 31, 2007	\$ <u>622,650</u>	14,217,011	2,036,878	16,876,539

Office furniture and equipment and computer equipment donated by the Government of Jamaica (see note 1) were valued as at February 25, 2002 on a fair market valuation of \$3,205,766 and \$593,000 respectively by Delano Reid and Associates Limited.

### 8. <u>Intangible assets</u>

These represent software cost capitalised as follows:

	<u>2008</u>	<u>2007</u>
Cost:		
At beginning of year Additions	28,584,693 <u>3,105,342</u>	24,277,088 _4,307,605
At end of year	31,690,035	28,584,693
Amortisation:		
At beginning of year Charge for the year	13,457,439 2,958,927	6,311,204 7,146,235
At end of year	<u>16,416,366</u>	13,457,439
Net book values	\$ <u>15,273,669</u>	<u>15,127,254</u>

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Notes to the Financial Statements (Continued) Year ended March 31, 2008

### 9. Reserves

	<u>General</u>	Reserve [see note below]	<u>Total</u>
Balance at March 31, 2006	117,718,533	3,007,336	120,725,869
Periodic depreciation charge transfer	-	( 1,928,772)	( 1,928,772)
Deficit for the year	( <u>35,336,348</u> )		(_35,336,348)
Balance at March 31, 2007	82,382,185	1,078,564	83,460,749
Surplus for the year	17,421,119		17,421,119
Balance at March 31, 2008	\$ <u>99,803,304</u>	1,078,564	100,881,868

### Note:

This includes property, plant and equipment valued at \$1,078,564 taken over from the Securities Commission. These assets were donated by the United States Agency for International Development through the Ministry of Finance for use by the Commission.

10. Grants	2008	2007
GOJ revenue grants (i) GOJ grants (ii)	14,465,077 <u>27,720,000</u>	11,908,495 20,020,000
Less rent expenses (ii)	42,185,077 <u>27,720,000</u>	31,928,495 20,020,000
Funds received – IADB (iii)	14,465,077 23,217,000	11,908,495 <u>8,448,487</u>
	\$37,682,077	20,356,982

- (i) The Commission is a beneficiary of the Caribbean Development Bank ("CDB")/GOJ loan agreement through the Ministry of Finance and Planning. The grants represent project expenses such as professional fees and training expenses paid by the CDB amounting to \$11,320,891 (2007:\$7,226,975) and \$3,144,186 (2007:\$4,681,520) respectively.
- (ii) The Commission occupies a building owned by the Government of Jamaica "GOJ" (through the Ministry of Lands and Environment) rent-free without a lease agreement.
  - This government grant is based on the commercial value of the annual rental which is estimated at \$27,720,000 (2006: \$20,020,000) and is netted against rental expense in the financial statements.
- (iii) The Commission is a beneficiary of the Inter-American Development Bank ("IADB")/GOJ funding agreement through the Ministry of Finance and Planning. Funds received during the year were used to finance professional fees and training expenses aggregating \$23,217,000 (2007: \$8,448,487) to cover institutional strengthening of the Commission.



### FINANCIAL SERVICES COMMISSION

Notes to the Financial Statements (Continued) Year ended March 31, 2008

### 11. Taxation

Under Section 14 of the Financial Services Commission Act, 2001 the Commission is not subject to income tax.

### 12. Pension scheme

Effective June 1, 1996, the Securities Commission commenced operations of a contributory pension scheme for employees who are eligible in accordance with the rules of the Plan. On August 2, 2001, the Commission assumed responsibility for the Plan (see note 1).

The scheme is a defined contribution plan which is set up under trust and is administered by a life insurance company.

Contributions by the Commission for the year amounted to \$7,400,929 (2007: \$6,148,124).

The scheme is subject to periodic actuarial reviews at intervals of not more than three years.

### 13. Insurance Licence Deposit

In accordance with Section 21 of the Insurance Act 2001 insurance companies, which operate in Jamaica, are required to deposit a prescribed amount with the Commission.

As stated in Regulation 8 (1) of the Insurance Regulations, 2001, the minimum asset required to be deposited with the Commission by a registered insurer from commencement of operations in or from within Jamaica shall be:

- (a) in respect of an entity which proposes to carry on life or sickness and health insurance business, or both, ninety million dollars (\$90,000,000);
- (b) in respect of an entity which proposes to carry on general insurance business, forty-five million dollars (\$45,000,000).

Regulation 9 (1) states that the value of securities deposited shall be estimated at their market value, not exceeding par, at the time they are deposited.

As at March 31, 2008, securities so deposited and which were in the possession of the Commission amounted to \$1,387 million (2007: \$1,378 million)



### FINANCIAL SERVICES COMMISSION

Notes to the Financial Statements (Continued) Year ended March 31, 2008

### 14. Financial instruments

### (a) Fair values:

Fair value amounts represent estimates of the arm's length consideration that would be currently agreed upon between knowledgeable, willing parties who are under no compulsion to act and is best evidenced by a quoted market price, if one exists. Where quoted market prices are not available, the fair values of financial instruments have been determined, where practicable, using a generally accepted alternative method. However, considerable judgment is required in interpreting market data to develop estimates of fair value and even greater judgment where there is no public or over-the-counter market. Accordingly, the estimates presented below are not necessarily indicative of the amounts that the company would receive on realisation of its financial assets or would pay to settle its financial liabilities in a current market exchange.

The fair values of cash and cash equivalents, resale agreements, accounts receivable and prepayment, and accounts payable are assumed to approximate their carrying value due to their short-term nature.

### (b) Financial risk management:

Exposure to various types of financial instruments risks arises in the ordinary course of the commission's business. The Board of Commissioners has overall responsibility for the establishment and oversight of the Commission's risk management framework. Key management has responsibility for monitoring the commission's risk management policies.

Exposure to credit risk, liquidity risk and market risk arises in the ordinary course of the commission's business. No derivative investments are presently used to manage, mitigate or eliminate exposure to financial instrument risks.

### (i) Credit risk:

Credit risk is the risk that one or both parties to the financial instruments will fail to discharge an obligation resulting in financial loss to one or both parties.

The commission maintains cash and short-term investments with one reputable financial institution and investments are made in repurchase agreements involving Government of Jamaica securities.



### FINANCIAL SERVICES COMMISSION

Notes to the Financial Statements (Continued) Year ended March 31, 2008

### 14. Financial instruments (cont'd)

- (b) Financial risk management (cont'd):
  - (i) Credit risk (cont'd):

At the balance sheet date, except for cash and cash equivalents, resale agreements and accounts receivable, there was no significant concentration of credit risk and the maximum exposure to credit risk is represented by the carrying amount of the financial assets as follows:

	Carryi	Carrying amount	
	<u>2008</u> \$	<u>2007</u> \$	
Cash and cash equivalents Resale agreements Accounts receivable	13,498,096 90,000,000 85,160,582	10,123,137 115,000,000 59,095,554	
	188,658,678	184,218,691	

The Commission generally does not require collateral in respect of trade receivables. Trade receivables relate mainly to the amounts due from customers. Management does not have a formal credit policy in place as the customer has been determined by entities that are registered under the Act.

The aging of accounts receivable (gross) at the reporting date was:

	<u>2008</u> \$	<u>2007</u> \$
Past due 0-30 days Past due 30-60 days Past due 60-90 days Past due over 90 days	46,928,131 4,392,800 426,680 22,172,572	39,556,492 1,352,594 2,463,142 13,928,604
	<u>73,920,183</u>	<u>57,300,832</u>
Trade receivables impairment	4,776,831	4,776,831



### FINANCIAL SERVICES COMMISSION

Notes to the Financial Statements (Continued) Year ended March 31, 2008

### 14. Financial instruments (cont'd)

(b) Financial risk management (cont'd):

### (ii) Liquidity risk:

Liquidity risk also referred to as funding risk, is the risk that the Commission will encounter difficulty in raising funds to meet commitments associated with financial instruments. Liquidity risk may result from an inability to sell a financial asset quickly at close to its fair value. Prudent liquidity risk management implies maintaining sufficient cash and marketable securities, and the availability of funding through an adequate amount of committed credit facilities. The Commission manages this risk by maintaining a substantial portion of its financial assets in liquid form and is not authorised to borrow.

### (iii) Market risk:

Market risk is the risk that changes in market prices, such as interest rate, foreign exchange rates and equity prices will affect the value of the Commission's assets, the amounts of its liabilities and/or the Commission's income. At the balance sheet date, the Commission did not have any significant exposure to foreign currency risk or equity price risk.

### Interest rate risk:

Interest rate is the risk that the value of a financial instrument will fluctuate due to changes in market interest rates.

The Commission invests mainly in fixed interest rate bearing instruments and does not have any borrowings (See note 3).

Fair value sensitivity analysis for fixed rate instruments

The Commission does not account for any fixed rate financial assets at fair value through profit or loss. Therefore a change in interest rates at the reporting date would not affect profit or loss.

### (iv) Foreign currency risk:

Foreign currency risk is the risk that the value of a financial instrument will fluctuate due to changes in foreign exchange rates.

The Commission incurs foreign currency risk primarily on amounts held in United States dollars (US\$). At March 31, 2008, the foreign currency asset was US\$60,822 (2007: US\$53,345).



### FINANCIAL SERVICES COMMISSION

Notes to the Financial Statements (Continued) Year ended March 31, 2008

### 14. Financial instruments (cont'd)

- (b) Financial risk management (cont'd):
  - (iv) Foreign currency risk (cont'd):

Exchange rates, in terms of Jamaica dollars were:

	J\$ value of
	<u>US\$1.00</u>
At March 31, 2008:	70.79
At October 1, 2008:	72.75

Foreign currency sensitivity analysis:

A 5% strengthening of the United States dollar (US\$) against the reporting currency at the year end would have decreased profit by \$215,279. A 5% weakening of the US\$ against the Jamaica dollar at the balance sheet date would have had the equal but opposite effect to the amounts shown above, assuming all other variables remained constant.

### (c) Capital management:

The Commissioners and management monitors the return on capital, which is defined as reserves. The FSC's policy is to maintain adequate capital to sustain future development of the entity.

### 15. Contingent liabilities

At March 31, 2008 there are various outstanding lawsuits filed against the Commission. One such suit is a claim for damages aggregating approximately US\$5 million or J\$354 million (2007: US\$5 million or J\$339 million). Subject to the immunity conferred by the Act these suits may have financial implications for the Commission in the event the applications are successful. The outcome of these suits cannot be determined at this time. Consequently, these have not been provided for in these financial statements.

### 16. Capital commitment

The Commission is committed to spend approximately \$30,000,000 for refurbishing during the next financial year.



