

ANNUAL REPORT



*FINANCIAL
SERVICES
COMMISSION*

2008-2009

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Vision

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

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.*

Core Values

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

BOARD of Commissioners



Hon. Emil
GEORGE OJ, QC



Rohan **BARNETT**
Executive Director



Dennis
BOOTHE



Dayle
BLAIR



Roald
HENRIQUES



David
TENNANT



Shirley
WILLIAMS



Audrey
WELDS



Peter
WILSON

NOT PICTURED HERE: Celia BROWN-BLAKE

Executive Management



SITTING L-R)

Nicolette Jenez – *Senior Director, Pensions*
 Janice Holness – *Director, Investigations & Enforcement*
 Rohan Barnett – *Executive Director*
 Angela Beckford – *Chief Actuary*

STANDING L-R)

Leon Anderson – *Senior Director, Insurance*
 Sheila Martin – *Senior Director, Corporate Services*
 Everton McFarlane – *Senior Director, Securities*
 Loretta Reid-Pitt – *General Counsel*
 George Roper – *Deputy Executive Director*

Not Pictured here: Janet Johnson-Haughton – *Director Regulatory Process & Reliance*

FSC at a Glance

The Financial Services Commission ("FSC") came into existence on August 2, 2001 after the enactment of the Financial Services Commission Act. It has replaced the Office of the Superintendent of Insurance (OSI), the Office of the Superintendent of Unit Trusts and the Securities Commission. The FSC supervises and regulates the securities industry, the insurance industry, and the private pensions industry. As such it may be properly described as an integrated financial services regulator. The duties of the FSC are mandated by the FSC Act, Section 6, 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 modernization of financial services with a view to the adoption and maintenance of international standards of competence, efficiency and competitiveness."

Corporate Governance

The FSC is governed by a Board of Commissioners consisting of a Chairman, the Executive Director (ex-officio) and up to eight (8) other members. Each Commissioner, with the exception of the Executive Director, is appointed by the Minister of Finance for up to five years and may be reappointed to serve additional terms. The Board of Commissioners appoints the Executive Director.

Board of Commissioners establishes policies and provides overall guidance for the operations of the FSC. The Commissioners meet on a regular basis to

discuss and approve matters relating to the functions of the FSC. The multi-sector duties of the FSC, when combined with the objective of fully exploiting the benefits of integrated regulation, represent a considerable challenge for the Board. Accordingly, five committees of the Board have been established to ensure full coverage with the appropriate depth of review of all matters within its purview. These committees include

a) Securities Committee

The Securities Committee is charged with responsibility for all matters requiring regulatory approval under the Securities Act and the Unit Trusts Act.

b) Insurance Committee

The Insurance Committee is charged with responsibility for all matters requiring regulatory approval under the Insurance Act.

c) Pensions Committee

The Pensions Committee is charged with responsibility for all matters requiring regulatory approval under the Pensions (Superannuation Funds and Retirement Schemes) Act.

d) Human Resources and Administration Committee

The objective of the Human Resources and Administration ("HRA") Committee is to consider, recommend and report on all matters relating to staff including salaries and benefits, personnel policies and procedures, management information systems, premises and any other administrative issues. The HRA Committee also reviews, approves and recommends contracts relating to the procurement of goods and services.

e) Finance and Audit Committee

The objective of the Finance and Audit Committee is to consider, recommend and report on all matters relating to the financial affairs of the FSC

including the monthly and annual financial statements and the annual budget. This Committee also reviews and recommends the fee structure for the regulatory services provided by the FSC.

Board and Committee Meetings

During the twelve-month period ended March 31, 2009, there were 12 Board meetings. The agenda and a full set of papers for consideration were distributed before each meeting to ensure that members had sufficient time for review and proper preparations for discussion and informed decision-making. Separate and apart from the Board meetings, there were also meetings of the committees. The number of meetings for each committee is shown in Table 1.

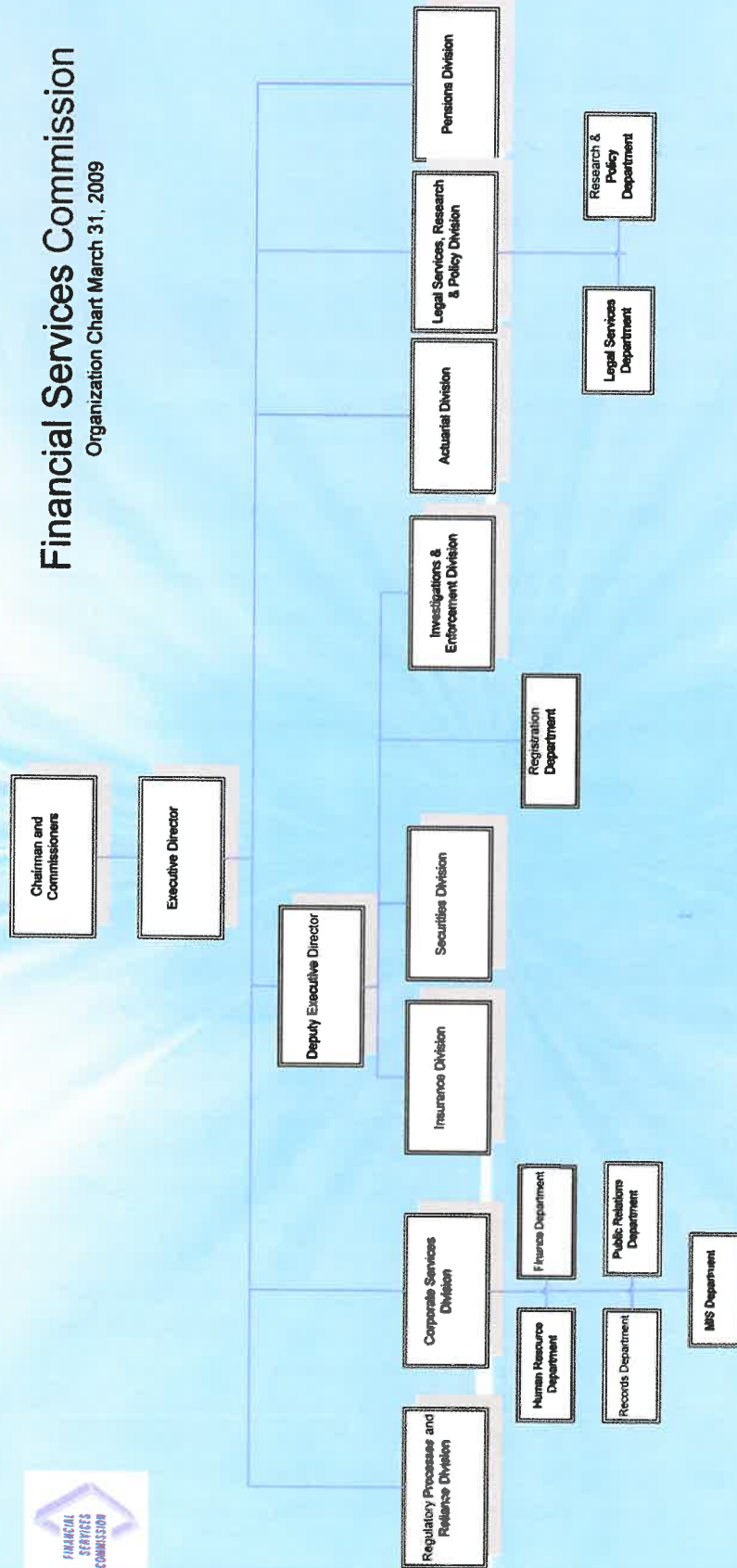
Corporate Overview

The FSC is structured along functional lines representing its regulatory and supervisory responsibilities in the areas of Insurance, Private Pensions and Securities. These regulatory and supervisory functions are given technical and administrative support by other divisions which provide legal, research, enforcement, actuarial, audit and administrative services. All supervisory and support functions report to an executive office comprising the Executive Director and Deputy Executive Director. Figure 1 shows the current organizational structure of the FSC.

**Table 1: Committee Meetings Held
in 2008/2009**

Committee	Number of Meetings
Securities	10
Insurance	8
Pension	11
Human Resources & Administration	5
Finance & Audit	4

Financial Services Commission Organization Chart March 31, 2009



MESSAGE from the Chairman

The United States ("US") sub-prime mortgage market problems, which began in autumn 2007, snowballed into a wider global financial crisis. Due to the increasing intensity of the crisis from September 2008, more financial institutions in the US, Iceland, Japan, and Europe with established names and of international renown suffered significant losses, some went bankrupt and some were nationalised, whilst others were taken over by rivals. The global crisis also prompted unprecedented interventions by governments and central banks to save other financial institutions from collapsing. This crisis has been described as the greatest crisis in at least a century as this crisis is unlike others in that it had a unique degree of financial contagion that caused many countries to be affected simultaneously¹. With a lack of confidence in all financial markets and their associated instruments, the capital and credit markets seized up which stifled global demand for goods and services. Consequently, the financial crisis has become a global economic downturn as manifested by the numerous collapses of financial and non-financial companies, massive layoffs, and plummeting asset values.

Jamaica's financial sector entered this period very well capitalized and in compliance with relevant

liquidity and other prudential requirements, which has helped the financial institutions to weather the storm to date. The regulatory framework has insulated us from the direct impact of the global financial crisis as the balance sheets of our institutions were not compromised by the toxic assets or risky practises which were the seeds of the crisis. Even when the parent companies of two local general insurers were adversely affected, the local subsidiaries remained in good financial health. Nevertheless the FSC increased the intensity of the supervision of its licensees in order to examine the impact of the US crisis on non-deposit taking institutions. For example, in addition to the regular reports from the industries, the FSC received weekly reports from the securities dealers (9 out of 50) who had borrowed money from overseas financial institutions to fund the purchase of foreign currency denominated securities. Furthermore the FSC has representatives on the technical committee that was announced by the Prime Minister to analyse and monitor the crisis and its potential impact on the financial stability of the Jamaican economy.

In terms of the industries regulated by the FSC, there were two main sources of exposure to the immediate effects of the crisis. First, there were a relatively small



Hon. Emil George, OJ, QC.
Chairman

number of securities dealers that had borrowed money, under margin account and repurchase agreement arrangements, from foreign financial institutions, such as Bear Stearns, Lehman Brothers and Merrill Lynch, all of which were US-based firms that became the subject of takeovers due to financial problems stemming from the financial crisis. Due to the tightening of liquidity and credit that accompanied the crisis, there was a significant increase in margin calls by the foreign institutions on the liabilities held by local securities dealers. With the Bank of Jamaica ("BOJ") establishing a Special Loan Facility in foreign currency for securities dealers and deposit-taking institutions needing to repay margin arrangements to overseas financial institutions, the liquidity impact of the exposure to margin calls was contained.

The second source of exposure to the direct effects of the financial crisis on FSC-regulated sectors arose from the fact that speculative

¹ Financial Services Authority, 2009, The Turner Review: A Regulatory Response to the Global Banking Crisis See http://www.fsa.gov.uk/pubs/other/turner_review.pdf

pressures in the market for Government of Jamaica Global Bonds led to a weakening of the prices of many of these securities. Falling asset values, in turn, led to some impairment of the capital base of licensees holding these assets. The provision of a special liquidity facility from the BOJ, and a gradual improvement in credit conditions in global financial markets are among the countervailing factors which has since contributed to a reversal of these speculative pressures.

We continue to monitor the impact of the economic downturn on the performance and soundness of the Jamaican financial system. The economic downturn with its declining assets values, increasing unemployment, and decreased revenue for the government can have adverse effects on all three industries. As at the end of 2008, the securities and insurance industries showed increased profitability; however all three industries – securities, insurance and pensions had been impacted by falling assets values. Nevertheless, the firms remain in sound financial health and there still exists a buffer against possible adverse shocks.

The FSC is fully cognizant of the urgent need, especially in a recession, to remain resolutely vigilant in protecting the consumers of financial services. Financial instability and economic downturn tend to (i) reveal Ponzi and other fraudulent schemes and (ii) increase corporate accounting fraud. With

regards to these matters, the FSC has and will continue to monitor, investigate, and take enforcement actions against individuals and corporate entities when required.

Since the revelation of the Ponzi scheme operated by Bernard Madoff amid the financial crisis, other schemes have been uncovered in several other countries. For example, Mr. David Murcia Guzmán and Mr. Ramalinga Raju have been disparaged as the “Madoff” of Colombia and India respectively.² Closer to home, in the Caribbean there was Mr. Allen Stanford. Similar to Jamaica, many investors in these countries saw these perpetrators as folk heroes, geniuses and espoused the view that government-intervention was just another example of injustice against the poor.

In 2008, the FSC detected additional unregulated financial organisations (“UFOs”). We encourage the public to continue to report any suspicious financial operations. As is the experience in other countries, fraudulent financial operations will always exist in the market and the FSC will continue its efforts to protect investors by

- i. ***Urging the UFOs to come forward and regularize their operations*** by registering their securities and arranging for them to be sold through licensed dealers.
- ii. ***Utilizing all available enforcement actions*** when UFOs refuse to comply with the securities laws.

- iii. ***Continuing our aggressive public education campaign.***

Another significant initiative undertaken in the 2008-2009 fiscal year was the internal review of legislative and regulatory framework applied to FSC supervised industries. From these reviews, work has begun to amend the necessary acts and regulations in order to (i) strengthen the FSC’s capacity in the fight against fraud; (ii) increase the demand and supply of financial products, for example, facilitating the growth of pooled fund products such as unit trust; and (iii) ensure that the legal and regulatory framework is appropriate for the effective supervision of the three industries. We are pleased to say that at the beginning of the fiscal year 2008-2009, the number of pension approvals granted was 457, but by the end, we had approved 1,302 licensees and registrants.

Also during the period the FSC was involved in many regional and international initiatives through its membership in bodies such as the International Organisation of Securities Commission (“IOSCO”), International Association of Insurance Supervisors (“IAIS”) and the International Organisation of Pension Supervisors (“IOPS”). In addition, the FSC worked closely with the other members of both the Caribbean Association of Insurance Regulators (“CAIR”) and the Caribbean Group of Securities Regulators (“CGSR”). It is through these

² See the New York Times and the Business Week at <http://www.nytimes.com/2009/01/31/world/americas/31murcia.html> and http://www.businessweek.com/globalbiz/content/jan2009/gb2009017_807784.htm [2009-06-16]

collaborations that the FSC will examine international standards, observe the lessons learnt from the financial crisis, and share our experience and approach with the Caribbean and wider global community.

Let me welcome again the new Executive Director, Mr. Rohan

Barnett, to the Commission and thank the present Board, management and staff of the FSC for facilitating a smooth transition for Mr. Barnett and their professionalism and dedication which form the cornerstone of FSC's ability to fulfil our mandate. I take this opportunity to acknowledge their contributions and thank them for

their ongoing commitment and hard work. I also want to express the FSC's appreciation for the feedback and other forms of interest shown in our work by our licensees and registrants, the customers of financial entities and other stakeholders.

REPORT from the Executive Director

EFFECTS OF THE FINANCIAL CRISIS

In September 2008 with the fall of Lehman Brothers, the global financial crisis, which began with the bursting of the housing bubble in the US intensified. Since then, more financial institutions in the US, in Europe and Iceland have collapsed. Consequently, a global financial crisis has mushroomed and inflicted a significant toll on financial markets and economies around the world. Examples of the adverse impact on both developed and emerging economies include the following:

- During 2008, the stock markets in both developed and emerging markets have fallen significantly. For example, the Organisation of Economic Co-operation for Development ("OECD") noted that by October 2008, stock markets in the US, Euro area, and emerging markets had fallen by nearly 50 percent of their value at the start of the year.³
- Also many currencies depreciated considerably against the United States dollar. For example, the Pound Sterling, Canadian dollar, Euro and the Mexican peso depreciated against the US dollar by 17.0 per cent, 14.0 per cent, 12.3

per cent, and 20.0 per cent, respectively, in the last quarter of the calendar year 2008.⁴

- Heightened distrust among investors – both individual and financial institutions – resulted in the world-wide credit market becoming illiquid, fostering a disruption in the lines of credit and reducing demand for emerging market debt. Consequently sovereign bond spreads for emerging markets rose from about 450 basis point in September 2008 to 891 on October 24.⁵
- Massive layoffs. "In 2008 global unemployment increased by 14 million, and current trends point to an ongoing severe deterioration. In OECD member states, over 7 million persons became unemployed between January 2008 and January 2009."⁶
- Numerous collapses of financial and non-financial companies.
- Reduced exports, falling remittances, and lower tourism receipts.

The Jamaican economy has not been immune and the impact of the crisis has been manifested in the following developments:



Rohan Barnett
Executive Director

- By December 31, 2008, the Jamaica Stock Exchange ("JSE") main index lost 25.8 percent of its value since the start of the calendar year; with some 21.4 percent vanished in the last quarter alone. See Figure 2.

³ OECD, 2008, *Pension Markets in Focus December 2008 Volume 5* <http://www.oecd.org/dataoecd/42/19/41770561.pdf> Accessed January 28, 2009

⁴ Bank of Jamaica, 2008 *Quarterly Monetary Report October – December 2008, Volume 9 No 3* See http://www.boj.org.jm/uploads/pdf/qmp_report/qmp_report_october_december2008.pdf

⁵ World Bank Group, 2008, *The International Financial Crisis What Next For Emerging Markets?* See http://crisistalk.worldbank.org/files/International_Financial_Crisis.pdf Accessed June 1, 2009

⁶ International Labour Organisation ("ILO"), 2009, *Tackling the Global Job Crisis* See http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_106162.pdf

Figure 2: The Jamaica Stock Exchange Main Index as at the End of Selected Quarters



- Similar to other emerging bonds, Jamaica's Eurobond prices declined sharply during the month of October 2008. According to Merrill Lynch & Co.'s emerging-market sovereign indexes, there was a 23 percent loss in 2008.⁷
- Given the collapse in the prices of these GOJ global bonds, there was a marked increase in calls from overseas brokers to the local securities dealers for increased collateral against loans that were backed by these securities (margin calls). These margin calls led to an exceptional demand for foreign currency at a time when the demand for foreign currency was already high due to (i) seasonally higher demand and (ii) a decrease in supply from mineral exports, remittances, and tourism. Consequently, by the end of 2008, the Jamaican dollar depreciated by 7.6 percent to \$76.61 for US\$1. It should be noted that only 1.5 percent devaluation occurred within the first three quarters of the year. See figure 3 below.
- In response, the Bank of Jamaica ("BOJ") established a lending facility for securities dealers and deposit-taking institutions with US dollar liquidity needs and to introduce a foreign currency intermediation facility to enhance the flow of credit in the system. The BOJ also tightened monetary policy, increasing interest rates across the entire spectrum of Open Market Operations securities on 17 October and 01 December 2008.⁸ Figure 4 shows the upward movement in interest rates.⁹
- In October 2008, there were 1.17 million employed persons. This amount then fell to 1.14 million at January 2009 and then further declined to 1.12 million as at April 2009.¹⁰ It is therefore predictable with these job losses, and the fallout of unregulated investment schemes, that lending institutions will see higher delinquency rates and make higher loan provisions.

⁷ Bloomberg, 2009, See http://www.bloomberg.com/apps/news?pid=email_en&sid=a1q2k81jmg1

⁸ Bank of Jamaica, 2008 *Quarterly Monetary Report October – December 2008, Volume 9 No 3* See http://www.boj.org.jm/uploads/pdf/qmp_report/qmp_report_october_december2008.pdf

⁹ For the quarters ending June & September 2008, the interest rates were the same.

¹⁰ Source: The Statistical Institute of Jamaica ("STATIN")

Figure 3: The Exchange Rate for United States (US\$) Dollar as at the End of Selected Quarters

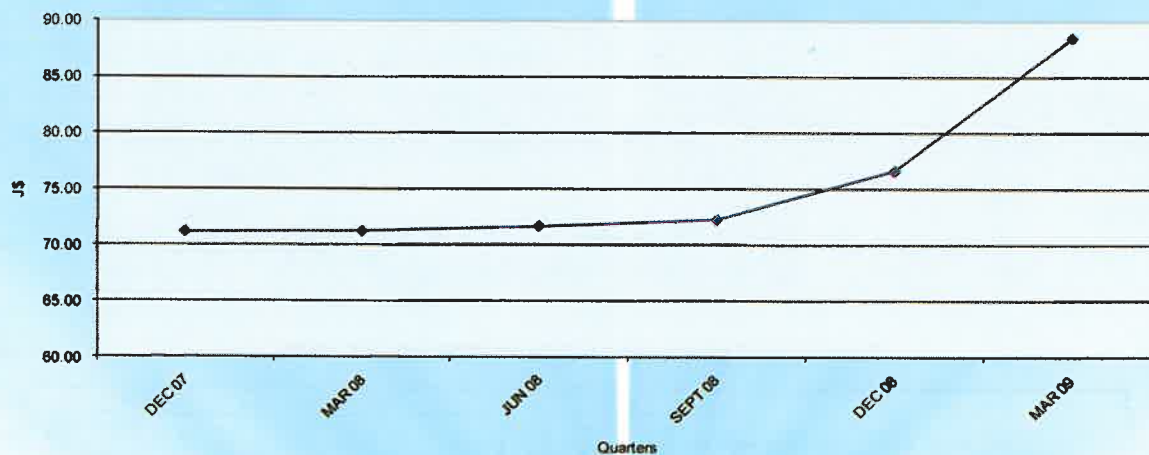
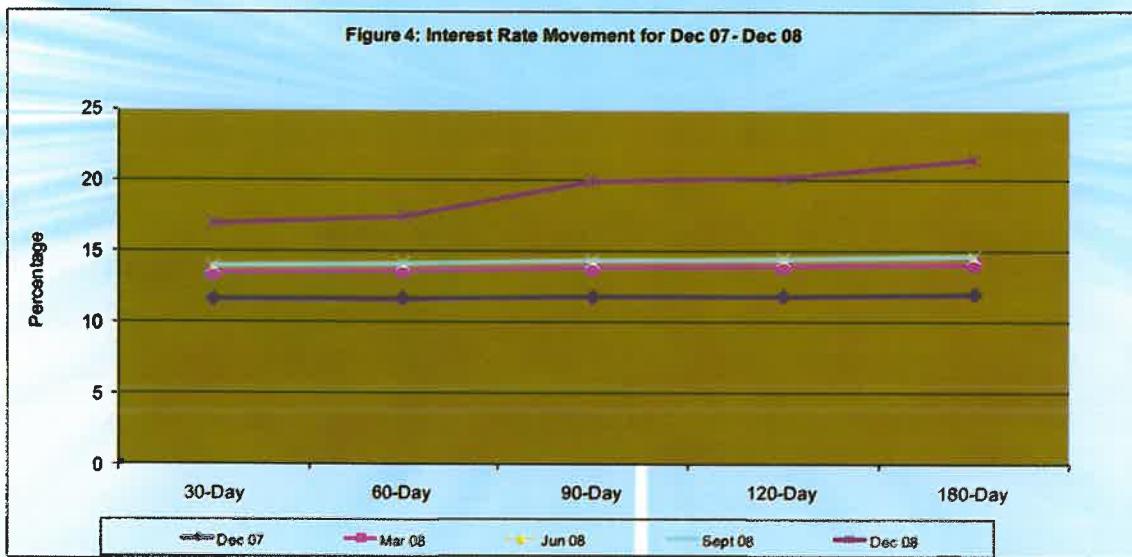


Figure 4: Interest Rate Movement for Dec 07 - Dec 08



FINANCIAL SYSTEM STRUCTURE 2008

The combined assets of the Jamaican regulated financial system grew by 11.5 percent to \$1,431.3 billion by the end of the calendar year 2008 (see table 2).¹¹ This percentage growth was of the same magnitude as in 2007. 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 pensions¹² and (b) deposit-taking institutions, which comprise banks, building societies and credit unions.¹³

The total assets of \$1,431.3 billion for the financial system amounted

to 136.6 percent of nominal GDP (2007: \$1,283.2 billion or 181.3 percent of GDP). This percentage decline is a reflection of the fact that the inflation rate of 16.8 percent was greater than the growth in assets. For FSC-regulated institutions, total assets grew by 15.4 percent in 2008 compared to 7.9 percent in 2007.

Table 2: Total Assets by Type of Financial Institution, 2006 - 2008 ¹

Types of Financial Institution	2006		2007		2008	
	Assets (\$ Million)	Percentage of Total Financial System	Assets (\$ Million)	Percentage of Total Financial System	Assets (\$ Million)	Percentage of Total Financial System
FSC-Regulated Institutions: ²						
Life Insurance Companies	94,718.6	8.2	108,051.6	8.4	127,007.9	8.9
General Insurance Companies ³	35,195.2	3.1	40,495.8	3.2	43,565.5	3.0
Securities Firms ⁴	393,075.3	34.1	415,861.3	32.4	480,937.9	33.6
Sub-Total	522,989.1	45.4	564,408.7	44.0	651,511.3	45.5
Deposit-Taking Institutions:						
Banks ⁵	438,438.8	38.0	504,293.4	39.3	556,650.2	38.9
Building Societies	105,617.4	9.2	122,905.8	9.6	138,611.8	9.7
Merchant Banks ⁵	46,732.9	4.1	47,332.1	3.7	33,891.8	2.4
Credit Unions ⁶	38,549.6	3.3	44,223.1	3.4	50,618.0	3.5
Sub-Total	629,336.4	54.6	718,754.4	56.0	779,771.8	54.5
TOTAL	1,152,325.5	100.0	1,283,163.1	100.0	1,431,283.1	100.0

Notes:

- 1: The above total asset figures are as at end of each calendar year.
- 2: See footnote 12 in the text for a description of the FSC-regulated institutions not included in this table.
- 3: The total asset figures for general insurers in 2006 do not include figures for Dyll 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.
- 4: 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 aspects of their 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.
- 5: The Minister of Finance approved the granting of a commercial banking licence to Pan Caribbean Bank Limited, (formerly Pan Caribbean Merchant Bank Limited), with effect from 23 June 2008, consequently, there was one less merchant banking and one more commercial bank.
- 6: The total asset figure for credit unions in 2007 was revised while for 2008 the figure is preliminary.

Source: Data compiled by Bank of Jamaica, Jamaica Co-operative Credit Union League and Financial Service Commission

¹¹ For this review of the financial structure, all data on commercial banks, merchant banks and building societies were based on un-audited 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 un-audited quarterly statements. This section of the annual report depicts the performance of the industries (pensions, insurance, and securities) on a calendar year basis.

¹² 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 2, 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 8.

¹³ 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.

GENERAL Insurance Industry

Profitability

For the calendar year ending 2008, the combined total income of general insurance companies¹⁴ grew by 16.3 percent to \$16.0 billion, whilst their total expenses including taxes increased by 12.3 percent to \$13.6 billion. Consequently aggregate net income after taxes of general insurance companies was \$2.4 billion, exceeding aggregate net income in 2007 by \$762.7 million or 45.7 percent. With total taxes amounting to \$728.5 million, the aggregate net profit before taxes was \$3.2 million, which was \$1.1 billion or 52.4 percent more than the net profit generated in 2007. The total income of general insurance companies is derived from three income streams, namely, net premium earned ("NPE")¹⁵, net investment income, and other income.

Analysis of Underwriting Performance

Underwriting performance of general insurance companies is normally measured by net underwriting income or loss. Net underwriting income/loss is the difference between net premium earned and underwriting expenses. Net underwriting income reflects the impact of risk transfer activity – the principal activity for general insurance companies – on a company's bottom line. NPE at the end of 2008 amounted to \$11.9 billion (2007: \$10.4 billion) while

underwriting expenses stood at \$12.9 billion (2007: \$11.7 billion), resulting in a combined underwriting loss of \$852.3 million (2007: \$1.1 billion). The decrease in underwriting losses can be attributed to increases in premium rates and improved underwriting practices.

The main components of underwriting expenses are acquisition expenses, operating expenses, and claims. Aggregate acquisition expenses fell by 4.6 percent to \$951.3 million in 2008 while cumulative operating expenses increased by 12.8 percent to \$3.8 billion in 2008. Aggregate claims went up by \$776.6 million (10.5 percent) to \$8.2 billion in 2008. This 10.5 percent growth in claims is considerably less than the 29.3 percent increase in 2007 and is a result of the reduction in damage to insured properties during the 2008 hurricane season.

Analysis of Investment Performance and Other Income

The combined underwriting loss suffered by the general insurance companies was more than matched for by the performance of aggregate investment and other incomes. Net investment income and other income rose by 20.9 percent and 58.6 percent, to \$3.1 billion and \$3.2 billion respectively, at the end of 2008. This increase in net

investment income was underpinned by a 12.5 percent or \$3.1 billion growth in invested assets and an increase in interest rates. (see Figure 4). Meanwhile the growth in other income was driven mainly by foreign exchange gains which were due mainly to the depreciation of the Jamaican dollar vis-a-vis the United States dollar as shown in figure 3. Figure 5 shows the percentage distribution of total income among the three streams of income for the general insurance companies.

Capital

As a result of the fall in stock prices in 2008, investment and capital reserves, components of the regulatory capital base for insurance companies, declined by 50 percent to \$1.0 billion by the end of 2008. Nonetheless, the combined capital base of insurance companies increased by 10.3 percent to \$13.1 billion as retained earnings increased by 43.6 percent to \$7.4 billion.

The main indicator of capital adequacy currently used for general insurance companies is the Minimum Assets Test ("MAT")¹⁶. In 2008, the benchmark for the industry was raised to 135% from the 120% in 2007. The weighted average MAT ratio for all general insurance companies was 133.5 percent, relatively the same as last year. This result indicates that as a group the insurance companies'

¹⁴ Internationally the term used for general insurers is "non-life insurers."

¹⁵ NPE is calculated as gross premium written less reinsurance ceded minus any increase or plus any decrease in net unearned premiums.

¹⁶ The MAT establishes a minimum ratio of available assets of a predefined quality to liabilities.

assets exceeded liabilities by a margin that is over 30 percent, which means that the companies have a considerable buffer of capital to absorb adverse shocks. indicators for general insurance companies. Table 3 below shows selected key

Figure 5: Percentage Composition of Total Income, General Insurers, 2006-2008

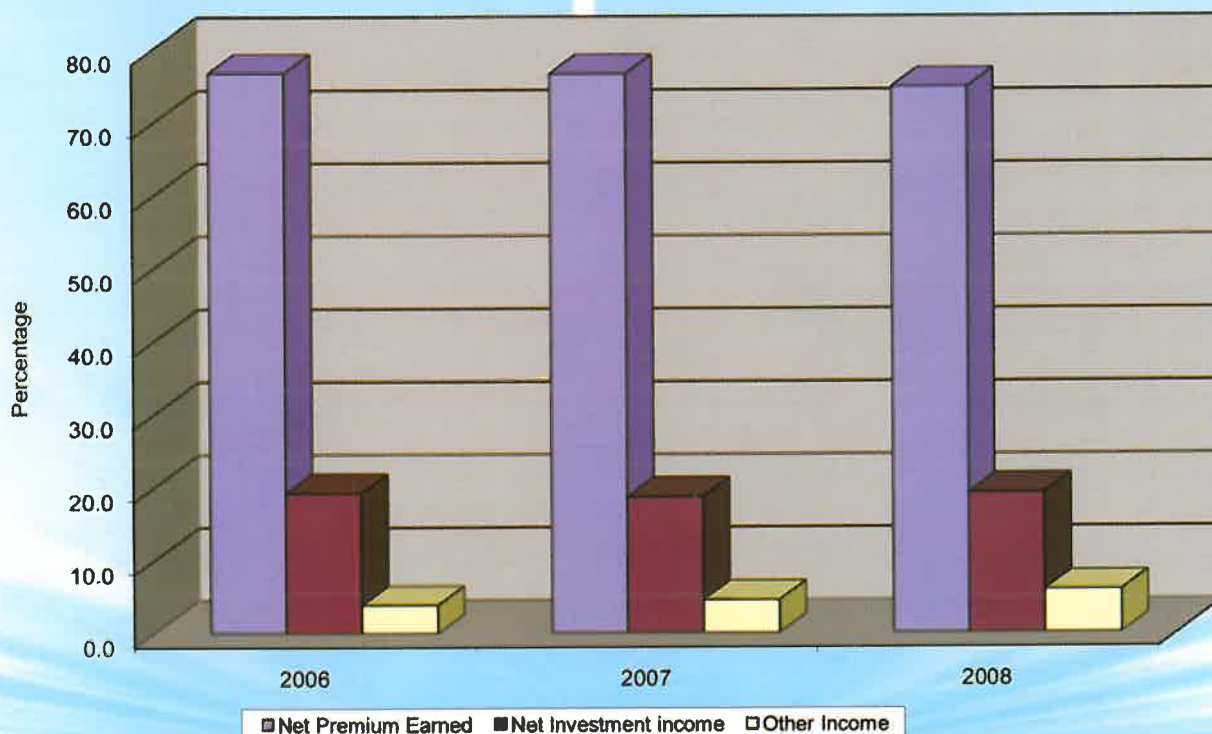


Table 3: Selected Key Indicators for General Insurance Companies, 2006 - 2008

Selected Indicators	\$ Billions		
	2006	2007	2008
Total Assets	35.2	40.5	43.6
Total Invested Assets	20.7	24.8	28.5
Total Liabilities	22.7	26.8	28.9
Capital Base ¹	10.7	11.9	13.1
Net Income (before taxes)	1.6	2.1	3.2

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 assets.

Source: Financial Services Commission

LIFE Insurance Industry

Profitability

By the end of 2008, aggregate net income before taxes of life insurance companies amounted to \$7.5 billion, which was 42.5 percent or \$2.2 billion more than in 2007. With taxes of \$412.8 million, net income after tax was \$7.1 billion.

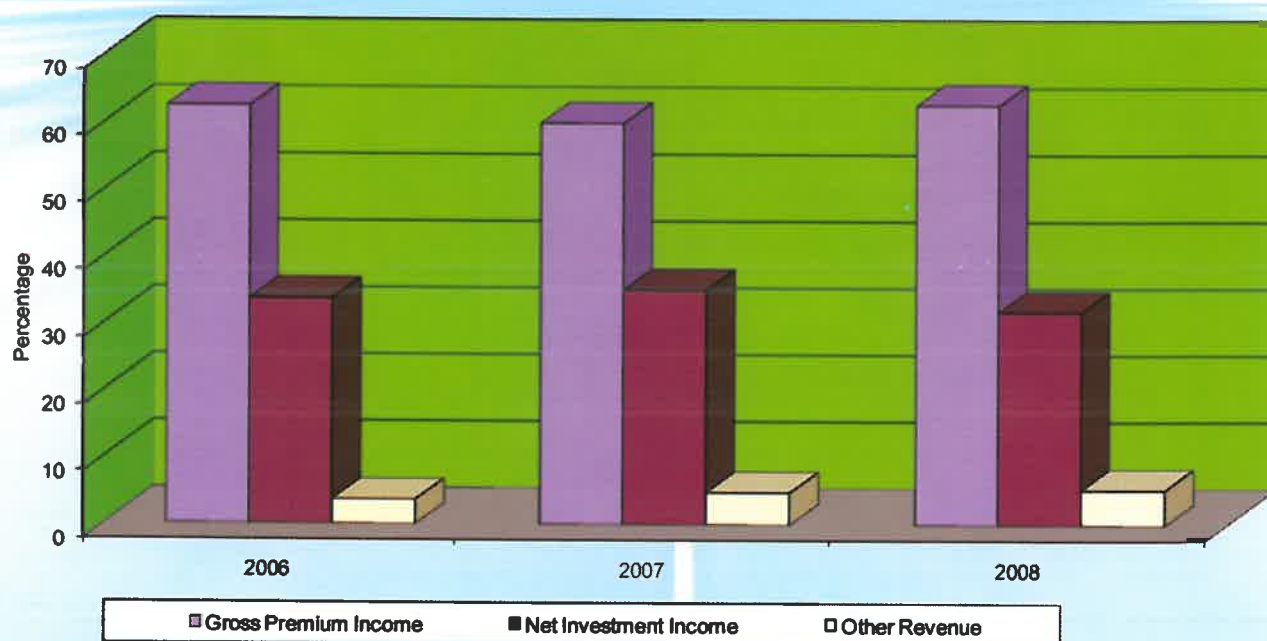
Total revenues amounted to \$25.3 billion, an increase of 42.1 percent compared to 2007. Similar to the general insurance companies, the income streams of life insurers may be categorized as gross premium income, net investment income, and other income. Other income – which is derived mainly

from fees for the management of segregated insurance and pension funds – amounted to \$2.1 billion, 48.9 percent more than that of 2007. This resulted from life insurers taking on the responsibilities of investment managers and/or administrators for more pension funds and schemes during the year. With 19.4 percent or \$17.9 billion more in invested assets and upward movement in interest rates, life insurers generated \$12.9 billion in net investment income, which represented a growth of 23.4 percent compared to the corresponding amount for 2007.

Gross premium income of the life

insurance sector grew by 42.1 percent to \$25.3 billion and this can be attributed to among other things (i) an increase in sums assured on existing policies (through, for example, indexation provisions and other renewals), (ii) an increase in the number of policies sold, and (iii) new business growth in the health and annuities market segments. A more frequently used indicator of underwriting business in the insurance sector is net premium income.¹⁷ Net premium income for life insurers grew by 44.2 percent to \$24.9 billion. Figure 6 illustrates the percentage distribution of total income among the three streams of income.

Figure 6: Percentage Composition of Total Income for Life Insurers, 2006 - 2008



¹⁷ For life insurers, net premium income is gross premium income less reinsurance premiums.

Total expenses (not including taxes) increased by 34.4 percent to reach \$32.9 billion. The two major components of total expenses – operating expenses and policy benefits – accounted for 46.4 percent and 26.3 percent respectively of the aggregate incurred during the year. Operating expenses grew by 7.4 percent to \$15.3 billion. 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 4.1 percent to \$8.6 billion, while claims - which

represented 71 percent of policy benefits - declined by 4.9 percent to \$6.1 billion in 2008. Annuity payments constituted 15 percent of policy benefits in 2008 and grew by 53.2 percent to \$1.3 billion.

Capital

In 2008, 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”).¹⁸ At the end of 2008, the weighted average MCCSR for the life insur-

ance sector stood at 512.6 percent, which significantly exceeded both the regulatory benchmark of 135 percent and the weighted average MCCSR level of 435.6 percent recorded in 2007. While the investment and capital reserves for life insurers declined by 146.1 percent, aggregate retained earnings increased by 20.9 percent to \$21.8 billion. Total capital base grew by 5.5 percent to \$30.3 billion. Table 4 shows selected key indicators for life insurance companies.

Table 4: Selected Key Indicators for Life Insurance Companies, 2006 - 2008

Selected Indicators	\$ Billions		
	2006	2007	2008
Total Assets	94.5	108.1	127.0
Total Invested Assets	79.2	92.1	110.0
Total Liabilities	69.3	79.1	96.7
Capital Base ¹	25.2	29.0	30.3
Net Income (before taxes)	4.3	5.2	7.5

Note:

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

Source: Financial Services Commission

¹⁸ 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.

The SECURITIES Industry

Structure

The intermediaries in the securities industry, for convenience, are categorized into two groups, namely (1) licensed securities dealers that engage in securities dealing as a principal activity¹⁹ and (2) licensed securities dealers that do not deal in securities as a principal activity, 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.²⁰ The first group will be referred to as "securities firms" and the second group will be referred to as "non-securities firms".

Securities firms are involved in a range of investment activities, including stock brokerage services, fixed income trading, arranging of commercial paper issuances, providing investment banking services and managing investments

on behalf of clients. Many securities firms also provide money exchange services as cambios licensed by the BOJ. Securities firms finance significant fixed income securities investments by entering into repurchase agreements with retail and institutional clients. Hence, income is generated from interest margins, fees, commissions, and gains from foreign exchange and equity transactions. Firms generally generate the

majority of their income from interest margins.

Table 5 shows the number of licensed securities dealers within the two groups mentioned above while Tables 6, 7 and 8 provide information on the structure of the securities industry in terms of assets, capital, and funds under management.²¹

Table 5 : Number of Securities Dealers by Type of Licensee As At December 31, 2006 - 2008

Institution Type	Number of Licensees		
	2006	2007	2008
Securities Firms			
Of Which			
Securities Dealers	30	32	30
Unit Trust Management Companies	4	4	4
Non-Securities Firms			
Of Which			
Merchant Banks	1	1	1
Insurance Companies	2	3	3
Commercial Banks & Building Societies	4	3	3
Others	7	7	8
Total	48	50	49

Table 6: Total Assets of the Securities Industry by Type of Securities Licensee, 2006 - 2008

Category of Securities Licensee	Total Assets					
	2006		2007 ^R		2008	
	\$ Billions	% of total	\$ Billions	% of total	\$ Billions	% of total
Securities Firms	395.7	59.3	415.7	61.0	480.9	60.8
Non-Securities Firms	271.3	40.7	265.8	39.0	310.2	39.2
Of which:						
Commercial Banks	106.6	16.0	66.4	9.7	85.3	10.8
Merchant Banks	32.1	4.8	31.8	4.7	26.2	3.3
Building Society	53.6	8.0	64.2	9.4	71.3	9.0
Insurance Companies	57.0	8.6	81.6	12.0	96.5	12.2
Others	22.0	3.3	21.8	3.2	30.9	3.9
Total	667.0	100.0	681.5	100.0	791.2	100.0

Notes:

R : Revised to reflect latest data available

Source: Financial Services Commission

¹⁹ This group includes Unit Trust Managers

²⁰ This group consists of companies from a variety of industries ranging from manufacturing to financial services.

²¹ In interpreting Tables 6 and 7 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.

Table 7: Total Capital of the Securities Industry by Type of Securities Licensee, 2006-2008

Category of Securities Licensee	Total Capital					
	2006		2007 ^R		2008	
	\$ Billions	% of total	\$ Billions	% of total	\$ Billions	% of total
Securities Firms	38.5	40.6	43.0	44.2	39.3	40.3
Non-Securities Firms	56.4	59.4	54.3	55.8	58.3	59.7
Of which:						
Commercial Banks	15.5	16.3	8.3	8.6	8.9	9.1
Merchant Banks	3.9	4.2	4.2	4.4	3.6	3.7
Building Society	11.7	12.3	13.2	13.5	11.9	12.2
Insurance Companies	15.7	16.5	19.5	20.0	20.1	20.6
Others	9.6	10.1	9.1	9.4	13.8	14.1
Total	94.9	100.0	97.4	100.0	97.6	100.0

Notes:

R : Revised to reflect latest data available

Source: Financial Services Commission

Table 8 provides data on funds under management in the securities industry. At the end of 2008, securities firms accounted for 83.4 percent of funds under management. The discussion of industry performance provided in the next two subsections focuses on securities firms because of their importance in securities trading and funds management.

Profitability

Net income before taxes of securities firms amounted to approximately \$9.6 billion in 2008 (see Table 9). This represented an increase of 9.5 percent compared to 2007. The rise in profitability relative to 2007 resulted from an increase in net interest income and an increase in other income.²² However, this was tempered by the growth in operating and other expenses. The share of net interest income in total income declined to 49.9 percent in 2008 from 57.0 percent in 2006 (See Figure 7 and Table 9).

Table 8: Total Funds Under Management of the Securities Industry by Type of Securities Licensee, 2006 - 2008

Category of Securities Licensee	Funds Under Management					
	2006		2007 ^R		2008	
	\$ Billions	% of total	\$ Billions	% of total	\$ Billions	% of total
Securities Firms	433.7	74.7	517.8	77.8	647.3	83.4
Non-Securities Firms	147.0	25.3	148.1	22.2	128.9	16.6
Of which:						
Commercial Banks	10.9	1.9	6.0	0.9	6.8	0.9
Merchant Banks	20.1	3.5	18.4	2.8	5.5	0.7
Building Society	0.0	0.0	0.0	0.0	0.0	0.0
Insurance Companies	57.1	9.8	105.1	15.8	99.5	12.8
Others	58.9	10.1	18.7	2.8	17.1	2.2
Total	580.7	100.0	666.0	100.0	776.3	100.0

Notes:

R : Revised to reflect latest data available

Source: Financial Services Commission

²² Interest income minus interest expense.

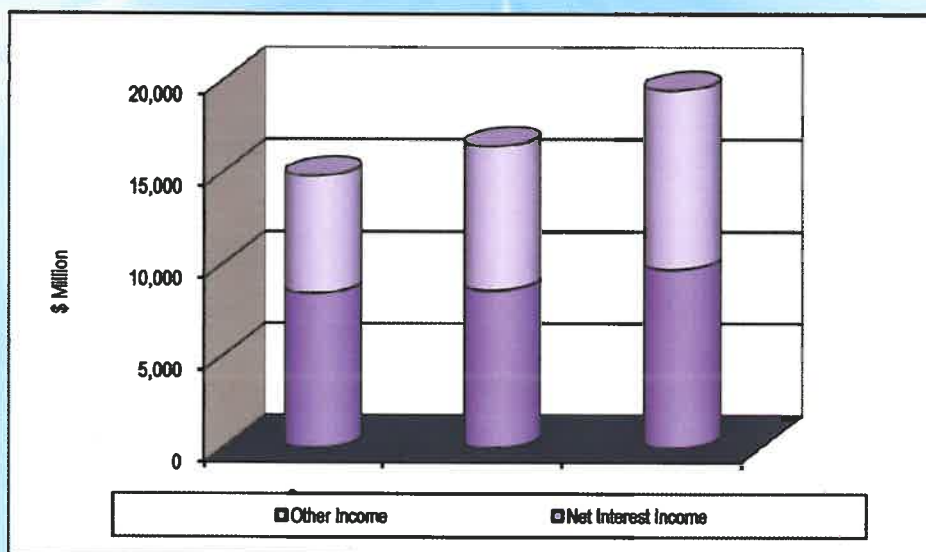
Table 9: Summary Operating Results for Securities Firms, 2006 - 2008

	\$ Billion		
	2006	2007 ^R	2008
Net Interest Income	8.4	8.6	9.7
of which: Interest income	41.1	41.2	50.5
less: Interest expense	32.7	32.6	40.8
Other Income	6.4	7.8	9.8
Total Income (net of interest expense)	14.8	16.4	19.5
Operating & Other Expenses (taxes excluded)	7.3	7.6	9.9
Net income (before taxes)	7.5	8.8	9.6
	Annual change (%)		
Net Interest Income	-6.1	2.0	13.3
of which: Interest income	3.6	0.1	22.8
Interest expense	6.4	-0.4	25.2
Other Income	3.8	22.8	24.3
Total Income (net of interest expense)	-2.1	11.0	18.5
Operating & Other Expenses (taxes excluded)	13.2	5.2	29.0
Net income (before taxes)	-13.3	16.5	9.5

Notes: R : Revised to reflect the latest data

Source: Financial Services Commission

Figure 7: Income of Securities Firms, by Type of Income, 2006-2008



Net interest income of securities firms grew by 13.3 percent to \$9.7 billion in 2008. The increase in interest spreads resulted from (i) the upward shift and an apparent steepening of the yield curve that accompanied a general rise in interest rates (See Figure 4) and (ii) a 15.7 percent growth in the asset base of the securities firms. Net interest earnings from assets financed by repurchase agreements with retail clients would have particularly benefited from this shift in the yield curve.²³

Capital

At the end of 2008 aggregate capital of securities firms stood at \$39.3 billion representing a decrease of 8.7 percent compared to the level at the end of 2007. This is a direct result of the global financial crisis which resulted in falling global asset prices that eroded the capital base of firms. The FSC tests the adequacy of each firm's capital by specifying capital adequacy ratios that must be maintained by all licensees²⁴. It is expected that licensees will

maintain capital equivalent to at least 6.0 percent of total assets. In addition each licensee must maintain a ratio of its capital base to risk-weighted assets of at least 10.0 percent. At the end of 2008, the ratio of capital to total assets of securities firms stood at 8.2 percent (2007: 10.4 percent) and the ratio of capital to risk-weighted assets stood at 39.5 percent (2007: 55.7 percent). Despite the decline in both ratios, collectively securities firms were meeting the FSC's capital adequacy ratios.

²³ 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.

²⁴ For more details, see "Guidelines for Interim Capital Standards for Securities Dealers" (SR-GUID-04/07-0011) at <http://www.fscjamaica.org/securities.htm>.

The PENSIONS Industry

Table 10 shows the number of corporate service providers by category inclusive of the pension assets under management.

Impact of the Global Financial Crisis

Like pensions industries in other countries, Jamaica's pensions industry has been affected by the global financial crisis. Most of the pensions industry's assets are invested in Government of Jamaica ("GOJ") securities and equities on the Jamaican stock market. The effects will be in most parts similar to the effects seen on the other two industries, such as higher interest income and falling asset values. For example, as at the end of 2008, assets under management totalled \$196.4 billion, a 4.7% reduction from \$206.1 billion as at June 30 2008. This decline is due in part to the fall in stock prices.

Another adverse impact will be a reduction in contributions and also the winding-up of plans due to the

Table 10: Total Assets under Management of Corporate Service Providers, December 31, 2008

Service Providers	Number of Entities	Asset Values as at 2008 December 31 \$' Millions
Insurance Companies	4	83,167.80
Securities Firms	13	78,658.20
Credit Unions	3	1,866.70
Other	7	32,716.90
Total	27	196,409.60

growing number of layoffs and business closures. The following situations evince this impact:

1. Increased financial constraints have resulted in at least one sponsor indicating that it was experiencing temporary cash flow problems.
2. The Bauxite and Mining Sector with investment asset value totalling \$16.3 billion at June 30, 2008 accounted for approximately 8% of the pension industry in Jamaica. The fall in the price of aluminium due
3. With job losses in the Agriculture Sector, that constituted 2% (\$3.9 billion as June 30, 2008) of the total asset value of the pension industry, three superannuation funds are being wound up as a result of the divestment of sugar plants.

Box 1: INSULATION OF THE JAMAICAN FINANCIAL SECTOR

The root of the global financial crisis lies in a decline in lending standards, low interest rates, and the advent of sub-prime mortgages (mortgages issued to buyers who had greater credit risks and as such were much less likely to be able to pay off the mortgage) which enabled more people to buy homes than ever before. Mortgage brokers were aggressively entering into transactions with clients who did not fully understand the risks associated with adjustable rate mortgage ("ARM") products. Quasi-governmental agencies began bundling loans to form mortgage-backed securities ("MBS") to sell to institutional investors.²⁵ Financial institutions repackaged these MBS into innovative financial products promising higher returns with little increase in risks. These financial products have come to be called collateralized debt obligations ("CDO"). When the housing bubble burst and borrowers defaulted, many financial institutions were left holding useless securities. This reality took a severe toll as demonstrated by the 25 banks that have gone under in 2008 in the United States²⁶ alone and in addition to the write-down of assets, capital injection and bankruptcies in many countries such as Belgium, Germany, UK, Iceland, Italy Switzerland and Japan.²⁷ From a regulator's perspective the causes of the crisis can be summarized as (i) inadequate regulation, (ii) inappropriate lending practices and (iii) speculative investing by excessive optimism.

The Jamaican regulatory framework was able to insulate the Jamaican financial sector amid the financial crisis even when the overseas parent companies were significantly affected. The relevant acts and regulations restricted the regulated financial institutions' level of participation in sub-prime investments by placing a limit on (i) investment in foreign currency and (ii) investment in non-sovereign assets. Sub-prime assets would be classified as non-sovereign assets. In addition, through the capital adequacy standards, there is also a limit on the amount of leveraging that Jamaican firms are permitted to exercise. Overseas financial firms in the United States and Europe that were severely affected by the financial crisis were those that had leveraged in excess of 25, 30, and even 40 times. Jamaican securities firms are limited to 16.7 times.

Another feature of the regulatory framework which proved extremely useful in the 2008-2009 fiscal year was the limit placed on related third party transactions. While the global financial crisis was not the primary cause of the collapse of the CL Financial conglomerate and its subsidiaries, Clico Investment Bank and insurance provider CLICO, its Jamaican subsidiary remains financially sound. This is unlike the many other Caribbean subsidiaries, some of which had up to 53 percent of assets invested in the parent company.²⁸

Canada is another country whose financial institutions have remained relatively insulated. The Canadian banks are more tightly regulated, more liquid and less highly leveraged than their American counterparts. Canadian banks are limited to leveraging of 20 times. The World Economic Forum has rated Canada's banks as the world's soundest.²⁹ Significantly Canada is one of the countries which the FSC examines to identify best practices.

²⁵ Fannie Mae, Freddie Mac and the government agency Ginnie Mae facilitate the bundling of loans into MBS <http://www.pathtoinvesting.org/investing/goa/s/homeownership/understanding-subprime-crisis/causes-of-mortgage-meltdown.htm>

²⁶ <http://www.cnn.com/id/26673834>

²⁷ <http://news.bbc.co.uk/2/hi/business/7096845.stm>

²⁸ The Nassau Guardian http://www.thenassauguardian.net/national_local/6934105163183.php

²⁹ The Washington Post, Worldwide Financial Crisis Largely Bypasses Canada <http://www.washingtonpost.com/wp-dyn/content/article/2008/10/15/AR2008101503321.html>

SUMMARY OF KEY OBJECTIVES & PERFORMANCE

Tables 11-13 below outlines key insurance, securities and pensions. objectives are presented in the strategic objectives for the main Details of many of these activities various segments of the Executive regulatory functional areas – undertaken in pursuit of these Director's report.

Table 11: Performance against Objectives 2008-2009 for the Insurance Division

Objectives	Strategies	Targets	Status
<i>To ensure that the legal & regulatory framework is appropriate for the effective supervision of the insurance industry</i>	Insurance Act Amendment	Finalise draft amendments to sections 2, 11, 14, 23, 75, 110, 145 by the end of the first quarter.	This target was achieved. The proposed amendments were sent to the Chief Parliamentary Counsel ("CPC").
	Insurance Regulations Amendment	Complete drafts to amend regulations 94 and 100 by year-end.	The drafts amendments were completed by March 31 and issued to the insurance companies for comment.
		Draft regulations requiring auditors and actuaries to meet the fit and proper requirements by the end of the 3rd quarter.	Drafting was not completed by the end of March, but expected to be completed by mid-April 2009.
		Draft regulations for Title insurance.	These were not completed and have been carried forward.
	Prescribe regulations as required by the Insurance Act	Finalise the drafting of prescribed regulations under the followings sections of the Insurance Act. Sections 31 and 112 by March 31, 2009.	The prescriptions to section 31 are only partially complete. The prescription under section 112 was not completed by March, but is expected to be completed shortly.
	Review Solvency Standards in Association with the Chief Actuary.	In association with the Actuarial Division finalise the Minimum Capital Test ("MCT") regulations for general insurers by March 31, 2009.	The guidelines were finalised, but extended consultation with the industry delayed the drafting of the regulations. This has been carried forward to 2009/2010.
<i>To have full compliance with the Insurance Act and Regulations and IAIS Core Principles</i>	Annual and Quarterly Desk review	Complete Annual reports by the end of August each year.	Work was completed by the end of September 2008.
		Complete Quarterly reports after 2 months of due date (3 times per year).	Target was achieved.
	Onsite Examinations	Complete at least 4 onsite examinations per year and 2 follow-up examinations. (total of 6 for the year).	Target was achieved.
	Reinsurance Treaties	The reinsurance treaties of 6 general insurance companies will be reviewed in depth each year by September 30.	All 6 in-depth reports were completed by March 31, 2009.
	Annual and Half Yearly Review of	All returns received by the due date.	Target was achieved.

Table 12: Performance against Objectives 2008-2009 for the Securities Division

Objectives	Strategies	Targets	Status
<i>Continue the improvement in the regulatory infrastructure in order to enhance investor protection.</i>	Amend the Securities Act	Draft brief for the FSC's Legal Dept. by April 30, 2008	Target was achieved. Initial draft document was prepared and reviewed by the Securities Committee of the FSC. Additional research to be done.
	Amend the Unit Trust Act and Regulations	Draft brief for the Legal Dept. by September 30, 2008	Target Achieved. Draft paper outlining proposed changes to the Unit Trust Act and Regulations was reviewed and approved by the FSC Board. Drafting instructions for changes to the regulations were prepared and sent to the CPC by March 31, 2009.
	Amend Securities Legislation to facilitate exemption for Investment Clubs.	Prepare position paper pertaining to Investment Clubs by June 2008.	Target achieved. Internal document prepared and proposals for the registration of investment clubs incorporated in draft document outlining proposed amendments to the Securities Act (see item above). Work on going.
	Amendment to the Guidelines on Margin for Repurchase Agreements ("Repos")	Amend Repo Margin Guidelines to reflect the new framework for computing minimum margin by June 1, 2008	Target not met. This has been carried forward to 2009/2010.
	Amendment to the Conduct of Business Regulations ³⁰ ("COB")	Review draft amendments to the regulations by December 31, 2008	Target was achieved.
<i>Licensing of entrants to meet statutory requirements, monitoring of licensees and application of supervisory or enforcement actions when appropriate</i>	Carry out programme of monitoring related to market intermediaries and their representatives	1. 10 onsite examinations	1. Target achieved
		2. 1 onsite examination of Collective Investment Schemes	2. Target achieved
		3. 1 targeted examination of the Jamaica Stock Exchange	3. Target not met
		4. 10 CAMEL Assessment of Licensed Dealers	4. Target not met

³⁰ Includes amendments to expand scope of Regulation 77 and to insert provisions for repo margins, advertisements, and the treatment of securities acquired on margin

Table 13: Performance against Objectives 2008 - 2009 for the Pensions Division

Objectives	Strategies	Targets	Status
1. Completion of the Registration and Licensing of persons and entities doing business in the pensions industry.	Follow-up with applicants with respect to outstanding application information and documents.	Complete fit and proper review of at least 50% of applications that are complete.	Target was achieved; see Pension Authorisation.
2. Completion of the set of draft regulations pertaining to Phase II of the Pension Reform process.	Work with the Ministry of Finance and industry stakeholders to finalize drafting of amendments to the pensions legislation to reflect Phase II reform issues.	Review draft amendments from the CPC.	On-going. One draft regulation received from the Chief Parliamentary Counsel and as at March 31, 2009 was still being reviewed.
		Review feedback on draft regulations and amendments from industry stakeholders.	Other drafts are not yet available from the CPC.
		Prepare and submit recommendations for further drafting instructions to the CPC.	
3. Monitor and review winding-up of pension plans	Identify and confirm plans which commence winding-up prior to March 31, 2005.	Send letters to administrators and investment managers.	Ongoing. Plans have been identified and the exercise to request additional information regarding these plans is ongoing.
	Review winding-up applications.	Grant approvals.	Target achieved; see Pension Authorization.
	Review applications received for scheme of distribution of surplus.	Grant approvals.	Target achieved; see Pension Authorization.
	Review winding-up progress reports.	Progress report requested and reviewed.	Target achieved; see Supervision.

REGULATORY Activities³¹

(A) Bulletins and Guidelines

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

Insurance Industry

- *Minimum Capital Test for General Insurance Companies and Branches of Foreign Companies Carrying on General Insurance Business in Jamaica AR-GUID-09/03-0009*: This consultative paper notifies the industry that the FSC intends to introduce a new risk-based capital test for the general insurance industry, namely the Minimum Capital Test ("MCT"). The test will assess the risks of assets and policy liabilities by applying various factors and margins.

Pensions Industry

- *Pension Plans – Guidance on the Presentation and Calculation of Accrued and Projected Pensions of Active Members AR-GUID-08/11-0007*: Trustees of an approved superannuation fund or approved retirement scheme are required

to provide members of a fund or scheme with benefit statements. This guideline sets out the information that must be contained in benefit statements for active members of a fund or scheme. Furthermore it stipulates that these benefit statements are clear, accurate, complete and timely in order to help members understand how their pensions are built up and thus help them plan for their retirement

Securities Industry

- *Guidelines for Exempt Distributions SR-Guid-08/05-0016*: These securities industry guidelines are for the attention of persons who intend to issue securities in Jamaica by way of an exempt distribution. They convey the requirements that are to be complied with in order for a distribution of securities to be exempt from registration of its prospectus or offering document with the FSC. These guidelines do not apply to securities issued by the Government of Jamaica or issuers operating under the ambit of the Unit Trust Act and Mutual Fund regulations.
- *Guidelines for Issuers of Securities SR-GUID-08/05-0017*: These securities industry guidelines replace Guidelines for Issuers of Securities (SR-GUID-02/12-0005).

These guidelines are for the attention of persons who intend to issue securities in Jamaica pursuant to a public offer. They state the requirements that are to be complied with in order to secure registration with the FSC in respect of those securities. They do not apply to securities issued by the Government of Jamaica or to issuers operating under the ambit of the Unit Trusts Act and Mutual Fund Regulations.

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

The efforts of the FSC on financial crime mitigation were directed mainly through the entities in the financial industry, specifically in the securities, insurance, and pensions sectors, which are regulated by the FSC. The measures instituted are to ensure compliance with the FSC Act, Section 6 (2)(f), which mandates the FSC to "... implement measures designed to reduce the possibility of a prescribed financial institution being used for any purpose connected with an offence involving fraud, theft or money laundering".

In addition to on-site examinations (see segment on Supervision) and

³¹ This and the following sections report on activities that occurred within the fiscal year April 1, 2008 – March 31, 2009

capacity building (see segment on Public Education), the following initiatives were executed in the review year:

- **FSC Guidelines:**

The “FSC Guidelines on Anti-Money Laundering & Counter-Financing of Terrorism”, which provide detailed guidance on this issue, and, if followed, are a defence to prosecution, were first issued in 2005, and are currently undergoing the sixth revision. The finalized document will require the approval of the Minister of National Security (as the responsible minister under the Proceeds of Crime Act) before being gazetted.

- **Focus Meetings & Notifications**

Focus meetings were also held with the industry associations to address concerns and to clarify regulatory requirements on anti-money laundering issues. These meetings, which were consistently held with FSC sector divisions, served as another opportunity to address AML/CFT issues which arose during the year.

The FSC also circulated notifications to its regulated entities on international developments especially in respect of persons and organizations included on the UN Security Council Consolidated List, and in conjunction with the Ministry of Foreign Affairs and Foreign Trade. There was

also collaboration with the Financial Investigation Division (“FID”) to enhance efforts to improve report filing compliance.

- **Collaboration & Mutual Evaluation**

Additionally, the FSC collaborated with the Ministry of Finance & Public Service and its departments and related statutory bodies, including the FID, to recommend legislative changes for systemic protection of the integrity, stability, and health of the sectors. The FSC also joined forces with the BOJ on the mutual evaluation process conducted by the international lending organizations.

shows the number of licensees and registrants in the insurance industry.

Securities Authorisations

Table 15 shows the number of additions and voluntary cancellations within the securities industry that occurred in the 2008-2009 fiscal year.

(C) Authorisations

Under the relevant Acts and the attendant regulations, the FSC is mandated to regulate and supervise the insurance, securities, and pensions industries. This includes the registration and the licensing of different products, entities and individuals for each sector. This section will review the authorisations issued by the FSC for each industry.

Insurance Authorisations

Of the 308 authorisations for the insurance sector, 305 were for insurance sales representatives; meanwhile, 110 sales representatives voluntarily cancelled their registration as most of these were moving from one company to another. Consequently there were 122 more insurance sales representatives in the industry. Table 14

Table 14: Number of Licensees and Registrants in the Insurance Industry as at March 31, 2009

	Life Insurance Companies	General Insurance Companies	Association of Underwriters	Insurance Brokers	Facultative Placement Brokers	Overseas Reinsurance Brokers	Local Reinsurance Brokers	Insurance Agents	Insurance Sales Reps.	Loss Adjusters	Insurance Consultants	Total
Licensed/Registered At 31/3/08	6	12	1	26	18	2	1	13	1,682	4	1	1,766
Additions	0	0	0	1	2	0	0	0	305	0	0	308
Less Terminations/Cancellations	1	0	0	0	0	0	0	3	183	0	0	187
Less Merged Entities	0	0	0	0	0	0	0	0	0	0	0	0
Licensed/Registered At 31/3/09	5	12	1	27	20	2	1	10	1,804	4	1	1,887

Source: Financial Services Commission

Table 15: Number of Licensees and Registrants in the Securities Industry as at March 31, 2009

	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 31/3/08	66	4	668	0	0	18	8	764
Additions	2	0	109	0	0	2	0	113
Less Terminations/Cancellations	5	0	109	0	0	1	0	115
Merged Entities	0	0	0	0	0	0	0	0
Licensed/Registered At 31/3/09	63	4	668	0	0	19	8	762

Notes:

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 57

Source: Financial Services Commission

BOX 2: Name of Entities that Changed their Status in 2008 - 2009

Name of Entities that Were Registered in the Fiscal Year 2008 - 2009

Securities Dealers

Churches Co-operative Credit Union Limited
 Scotia Jamaica Life Insurance Company Limited

Insurance Broker

City Insurance Brokers Limited

Facultative Placement Brokers

City Insurance Brokers Limited
 Maritime General Insurance Brokers Limited

Name of Entities that Have Changed their Names in the Fiscal Year 2008 - 2009

Securities Dealers

DB&G Unit Trust Managers Limited to Scotia DBG Fund Managers Limited
 Barita Portfolio Management Limited to BPM Financial Limited

Insurance Companies

Life of Jamaica Limited to Sagicor Life Jamaica Limited
 United General Insurance Company Limited to Advantage General Insurance Company Limited

Insurance Broker

CGM Insurance Brokers Jamaica Limited to CGM Gallagher Insurance Brokers Jamaica Limited

Name of Entities that Cancelled their Licenses / Registrations in the Fiscal Year 2008 - 2009

Securities Dealers

Capital Options Limited
 Money Express Financial Services Limited
 Rodes Enterprise Limited
 Village Resorts Limited

Insurance Company

Blue Cross of Jamaica

Insurance Agents

First Union Insurance Agency
 Mutual Agency (Insurance) Ltd
 Nova Underwriters (Insurance Agents & Consultants) Limited

Note: The above table only lists changes that occurred within the fiscal year April 2008 - March 2009
 Source: Financial Services Commission

Pensions Authorisations

During the 2008/2009 fiscal year, two applications for licensing and 327 applications for registration

were received, bringing the total number of applications for licensing and registration that have been received since September 29, 2006³² to 66 and 2,848, respec-

tively. Table 16 below shows the number of submissions received by categories of registrants and licensees.

Table 16: Number of Applications by Categories of Registrants & Licensees 2006 - 2008

	Number of Applications			
	2006/2007	2007/2008	2008/2009	Total
Superannuation Funds	514	12	10	536
Retirement Schemes	5	3	3	11
Trustees	1,580	333	311	2,224
Corporate Trustees	4	0	0	4
Responsible Officers	65	5	3	73
Administrators	31	2	1	34
Investment Managers	30	1	1	32
Total	2,229	356	329	2,914

- **Pensions Plans: Super-annuation Funds and Retirement Schemes**

For the review period, 13 additional applications were submitted for registration; 10 were for superannuation funds and 3 were for retirement schemes. A total of 547 pension plan applications were received up to the end of the 2008/09 financial year, of which 11 were for retirement schemes while the other 536 were for superannuation funds. Out of the 547 pension plans for which applications were received, processing was discontinued for 45 plans – 4 due to merger, 1 owing to withdrawal of the application, and 40 as a result of winding-up. Only 204 (or 41%) of the remaining 502 ap-

plications received 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 2009, the FSC received a total of four applications for corporate trustees and 2,224 for the registration of individual trustees. Two hundred and sixteen of the 2,224 individual trustees have resigned or withdrawn their application bringing the combined total net applications for both individual and

corporate trustees received to date to 2,012. Out of this amount, only 1,450 submitted all the requisite documents; the FSC has so far completed fit and proper assessments for 1,363 (or 94%) of the 1,450 persons who submitted complete trustee applications.

2. **Business and Financial Appraisal:** The financial health of the plans and the corporate service providers is examined by reviewing the financial statements, actuarial valuation reports and business plans. Financial statements and actuarial valuation reports of 171 pension plans were received for review, representing an increase of 54% above the 111 requests made in the previous year. For the 2008/2009 fiscal

³² 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.

year, 180 reviews were completed for pension plans and 3 reviews for corporate entities.

3. **Legal/Technical Review:** An evaluation of the constitutive documents (i.e., Trust Deed and Plan Rules) is carried out to ensure compliance with the Act and Regulations. A review of the technical provisions contained in the constitutive documents of 83 pension plans was completed during the fiscal year 2008/2009.

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.

Of the 204 pension plans containing all the requisite documents

necessary for processing only 103 (97 superannuation funds and 6 retirement schemes) satisfied the stipulated conditions outlined in the Pensions Act and Regulations and have been approved and registered.

During the fiscal year 2008/2009, 859 authorisations were given, of which 101 were for pension plans. See Table 17.

Table 17: Number of Licensees and Registrants in the Pensions Industry as at March 31, 2009

	Number of Registrants Approved By Category					
	Superannuation Funds	Retirement Schemes	Individual Trustees	Corporate Trustees	Responsible Officers	Total
Registered as at 31/03/08	2	0	401	2	52	457
Additions	95	6	758	0	0	859
Terminations / Refusal	2	0	5	0	7	14
Less merged entities	0	0	0	0	0	0
Registered as at 31/03/09	95	6	1,154	2	45	1,302

- **Administrators and Investment Managers**

For the fiscal year 2008/2009, the FSC approved 1 application for licensing as an investment manager moving the total applications approved to 46 out of a total of 59 net applications that have been received as shown in Table 18. Three of the companies approved have since discontinued operations as adminis-

trators and investment managers.

- **Responsible Officers**

Each administrator, investment manager, and corporate trustee is required to appoint a responsible officer. To date 73 applications for registration relating to 45 persons, some of whom perform the function of a responsible officer in a dual capacity, have been received for processing. From these ap-

plications, 18 have since been withdrawn. Out of the 55 remaining applications, 45 have been approved, 1 was refused registration, 4 were being reviewed, while the submissions received for the other 5 were incomplete.

Winding-Up

The FSC has been receiving applications for the winding-up of pension plans, as mandated by

Table 18: Status of Applications for Administrators and Investment Managers as at March 31, 2009

	Received	Withdrawn	Net Applications	Incomplete	Complete	Approved	Refused	Awaiting Approval	Work In Progress
Administrators	34	4	30	3	27	23	0	1	3
Investment Managers	32	3	29	3	26	23	1	0	2
Total	66	7	59	6	53	46	1	1	5

Section 27 (4) of the Pensions Act. During the review year, 22 applications were received. Therefore a total of 132 applications have been received to date. Three were outside the ambit of section 27(4) and 2 were not approved by the FSC, leaving a total of 127 applications for processing. With 21 approvals granted during the period under review, the total approvals granted to date is 93. Of the remaining 34 applications, 31 had outstanding documents to be submitted, 1 was

awaiting approval, while 2 were being reviewed.

The reasons given for the winding-up of the pension plans are shown in Table 19, including the number of members and asset values involved.

Impact of Winding-Up

Approximately 21.6 percent of plans which were estimated to be active as at March 2004 have been wound up, with asset values repre-

senting approximately 16.7 percent of the total estimated pension portfolio as at the same date. Six of these plans, with \$7.02 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 terminated plans is approximately 9 percent of the estimated portfolio as at March 31, 2004.

Table 19: Number of Pension Plan Wind-Ups and Associated Reasons

Reasons Given	Number of plans	Members affected	Asset values (\$Billions)
Company actions/reduction of membership ³³	61	3,945	8.35
New defined contribution plans will be established	6	1,255	7.02
Economic hardship/members' requests	8	3,054	0.61
Perceived Cost/Legislative burden	38	652	0.37
Unknown (Information not yet provided)	16	138	0.1
Total	129	9,044	16.46

Note:

33: The table below provides an analysis of this category:

Company Actions / Reduction of Membership	Number of plans	Members affected	Asset values (\$Billions)
Discontinuance of business operations	15	1,609	4.14
Consolidation of multiple plans	3	508	0.66
Divestment/mergers/insolvency	20	1,695	3.19
Reduction in membership	23	133	0.37
Total	61	3,945	8.35

Pension coverage, in terms of the estimated number of persons covered by superannuation funds, would have been eroded by 14 percent. However, it is expected that approximately 2.75 percent represent members who are in consolidated plans or will be re-enrolled in new defined contribution pension plans which will be established. The net erosion in pension coverage as a result of plans being wound up is therefore estimated at 11.34 percent. This position, however, is offset by the number of members enrolled in new pension plans. Membership data for these plans, however, are not available at this time.

Surplus Distribution

Trustees are required by Section 32(2) to obtain the FSC's approval

of the scheme of distribution. During the year, 10 of the 93 pension plans whose winding-up had been approved filed applications for approval of schemes of distribution of surplus bringing the total applications received to date to 47. Seventeen (17) of these applications were approved in the year. With total applications approved to date being 40, only 7 applications were unapproved as at March 31, 2009.

New Products

The FSC is also required by law to approve new products before they can be offered to the public. During the 2008-2009 fiscal year, approval was granted for 11 new insurance products and 2 mutual funds. The mutual funds are the AIC Specialty Group Fund and the

Scotia DBG Caribbean Income Incorporated, while Table 20 lists the new insurance products.

In addition, as at March 31, 2009,³⁴ there were 6 approved Retirement Schemes which are as follows:

1. Capital & Credit Securities Limited Individual Retirement Schemes
2. Mayberry Investments Limited Retirement Scheme
3. Jamaica Money Market Limited Retirement Scheme
4. ScotiaBRIDGE
5. Prime Asset Management Limited Retirement Scheme
6. The Retirement Scheme for Members of the City of Kingston Co-operative Credit Union Limited

Table 20: New Insurance Policies Approved by the FSC, 2008-2009

Name of Company	Name of Product	Type of Product
Blue Cross of Jamaica Limited ¹	Executive Blue Plus	Individual Health
Blue Cross of Jamaica Limited ¹	Flexi-Benefit Health Plan	Group Health
Guardian Life Limited	5 for Life Plan	Term Insurance
Guardian Life Limited	Guardian Care Plus	Critical Illness
Sagicor Life of Jamaica Limited	Equity Investor Plan	Equity-linked, Investment
Sagicor Life of Jamaica Limited	Group Pension Annuity Contract	Group Annuity
Sagicor Life of Jamaica Limited	Preferred Term Plan	Term Insurance
Sagicor Life of Jamaica Limited	Single Premium Group Health Insurance Policy	Group Health
Scotia Jamaica Life Insurance Company Limited	Optional Participation Group Credit Insurance - Level Premium	Group Credit Insurance
Scotia Jamaica Life Insurance Company Limited	Optional Participation Group Credit Insurance - Single Premium	Group Credit Insurance
Scotia Jamaica Life Insurance Company Limited	ScotiaCriticare	Critical Illness

Note 1: These products were approved before Sagicor Life of Jamaica acquired Blue Cross of Jamaica Limited

³⁴ 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

INVESTIGATIONS & Enforcement

The Investigation and Enforcement Division is responsible for (i) carrying out investigations, (ii) recommending and executing enforcement actions, and (iii) collaborating on cross border enforcement actions. There are two main types of investigations – (i) Fit and Proper and (ii) Suspected Breach of Statutes and Regulations. Table 21 indicates the number of these investigations. In addition to these investigations, the FSC through this division, handles the public's complaints on its regulated industries. A brief description on the complaints and investigations is provided below.

Table 21: Number and Type of Investigations, April 1, 2008 - March 31, 2009

	Fit & Proper Investigations	Breach of Statutes/ Regulations	Total
Unresolved investigation brought forward from March 31, 2008	9	171	180
Total investigations opened in Fiscal Year Ending March 31, 2009	15	55	70
Total investigations conducted Fiscal Year Ending March 31, 2009	24	226	250
Investigations resolved / closed Fiscal Year Ending March 31, 2009	14	171	185

Source: Financial Services Commission

Complaints Resolution³⁵

For this review period, a total of 233 complaints against licensees were processed. Of these 233 complaints, 214 were received during the review period while 19 were carried forward from the previous period.³⁶ At the end of the year, 195 or 84% of the 233 complaints were resolved. Table 22 provides a detailed breakdown of the complaints reviewed.

Table 22: Analysis of Complaints, 2008 - 2009

	General Insurance	Life Insurance	Securities	Pensions	Total
Total complaints reviewed	185	16	7	25	233
Number of cases closed	155	14	5	21	195
Percentage closed	84%	88%	71%	84%	84%

Source: Financial Services Commission

Of the 233 complaints, 86% were against licensees in the insurance (combined life and general) industry. For the general insurance industry, 90% of these complaints related to undue delay in settling claims while the main issue for the life insurance industry was delays in processing premium refunds or

cash/surrender values. Within the securities industry, most complaints related to discrepancies in portfolio values (including fees incurred for breaking an agreement prior to maturity). The pension industry was dominated

by complaints relating to deferred pension benefits at the pensionable age and delays in receiving refund of contributions upon separation from the sponsor company.

³⁵ The Annual Report 2007-2008 indicated that of the 222 complaints investigated within that review period 160 of those complaints were resolved. However, that figure was inadvertently misstated and should have instead read, "At the end of the year, 203 or 91.4% of the 222 complaints were resolved." This means that 19 and not 62 complaints remained unresolved at March 31, 2008 and were carried forward to the current review period.

³⁶ These 19 complaints (carried forward from 2007/2008) are broken down as follows: 9 General Insurance, 1 Life Insurance, 6 Pensions and 3 Securities

Fit and Proper Investigation

The protection of investors can be significantly improved and risks minimized if an examination of the qualifications and reputations of those seeking positions that involve managing and protecting other people's property or money is conducted. As such, the FSC conducts fit and proper assessments. While not all applicants for a fit and proper assessment become the subject of an investigation, during the period under review, 24 investigations were conducted. These investigations related to (i) candidates applying for a license or registration under the Pensions, Securities and Insurance Acts or (ii) individuals seeking senior positions or responsibilities within the insurance, pensions and securities industries. Of these 24 investigations, 9 were brought forward from the 2007-2008 fiscal year and were assessed during the 2008-2009 period. At the end of the year, March 31, 2009, 14 of these investigations were completed and 10 remained in progress and will be carried forward for assessment in the fiscal year April 1, 2009 – March 31, 2010.

Investigation into Suspected Breaches of Any Relevant Act

During the period April 1, 2008 – March 31, 2009, the FSC conducted 226 investigations into suspected breaches of the Insurance and Securities Acts and the respective Regulations. While the major-

ity of these breaches were within the insurance industry for contravention of Sections 20, 70, and 85 of the Insurance Act, the securities industry experienced the continued trend of a phenomenal increase in the number of securities related un-registered financial operations ("UFOs"). The number of UFOs on the FSC published list rose to 58 by March 31, 2009, an increase of 71% over last year's number of 34. All UFOs operated in breach of sections 7 and 26 of the Securities Act while some were also in breach of sections 8 and 10.

Investigations and Enforcement Activities Involving UFOs

A major portion of the division's time was consumed by investigation and enforcement activities against UFOs, all of which were within the securities industries. The period was marked by complaints alleging fraud stemming from these UFOs' inability to pay their investors as promised or to return investors' funds upon request. The fact that these entities were operating illegally means there was no regulatory oversight and so the extent of losses suffered by investors cannot be estimated, verified or confirmed by the FSC.

In addition to the published list of UFOs, other enforcement actions were executed by the FSC. Three of these, which have been publicised, are briefly mentioned below:

- **Capital Blu / Donovan Davis**
The FSC had on March 28,

2008 issued a press release advising the public that Capital Blu was not licensed or registered with the FSC to conduct securities business in Jamaica and later placed Capital Blu on the published list of UFOs in June 2008. Additionally, the FSC instructed Capital Blu to publicly retract misleading statements made in an earlier advertisement. The FSC, in its public actions against Capital Blu, was vindicated when the National Futures Association ("NFA") in the United States of America ("US") took emergency enforcement action and issued Member Responsibility Action ("MRA") against Capital Blu and its principal, Donovan Davis on September 16, 2008.³⁷

Among other things, the MRA suspended Capital Blu from NFA membership and prohibited the firm from soliciting or accepting any customer or pool participants' funds or placing trades on behalf of any customer or pools. The MRA also prohibited Capital Blu from disbursing or transferring any customer or pooled funds from any accounts without NFA's approval and from acting in any manner which required registration under the Commodity Exchange Act.

³⁷ NFA, September 17, 2008. See <http://www.nfa.futures.org/NFA-regulation/regulationNewsRel.asp?ArticleID=2182>

Since the NFA's enforcement action in September 2008, the US's Commodity Futures Trading Commission ("CFTC") also took enforcement action. On April 7, 2009, the CFTC announced that they charged Capital Blu, Donovan Davis and others "with operating a fraudulent commodity scheme involving about 100 investors and approximately \$17 million solicited purportedly to invest in foreign currency ("forex") futures and options. The complaint was filed under seal on March 23, 2009 in the U.S. District Court for the Middle District of Florida."³⁸

- **Olint Corporation and David Smith**

While the FSC did not execute any enforcement action against OLINT/David Smith in the 2008-2009 fiscal year, events involving Olint/David Smith which occurred in the reporting period justified FSC's previous enforcement actions against this UFO. David Smith, who fled the jurisdiction in 2006 for the Turks & Caicos Islands ("TCI") after the FSC took enforcement action against him and his UFOs, OLINT and Overseas Locket International Corp., has since been arrested and charged on several fraud related charges in the TCI relating to the operation of his entity. His assets, while de minimis compared to the alleged value of his outstanding obligations to his in-

vestors, have also been the subject of freezing orders both in the TCI and the US.

- **World Wise Partners Limited ("WWPL")/Noel Strachan**

In August 2008, the FSC issued a Cease and Desist Order ("CDO") prohibiting WWPL/Noel Strachan from the continued operation of the entity in violation of the Securities Act. Unlike other CDOs previously issued by the FSC, this CDO permitted WWPL to make payouts to the investors in order to close out their investors' accounts between August and November 2008. Despite being permitted to make payouts, investors informed the FSC of the continued challenges they faced in trying to have their investments returned within this period.

The FSC sought information from WWPL to facilitate a review of WWPL's request for an extension of the payout period. This information was not forthcoming and in its absence, the FSC varied the CDO on March 20, 2009 to permit continued payouts without restrictions to investors. While the CDO was varied, the FSC went on record to clearly state that they have no knowledge of the financial condition of WWPL and did not know whether or not WWPL had the capacity to meet its obligations to their investors. Investors

still report of their continued challenges in trying to recover their investments.

Litigation

Previous enforcement actions have resulted in litigation in a number of cases, namely:

- f) **Claim No. HCV 0817/2006-Olint Corporation and David Smith v. The Financial Services Commission**

In this matter, Olint Corporation and David Smith (the Claimants) are claiming the sum of Five Million United States Dollars (US\$5,000,000.00) against the FSC for damages arising from a search and seizure exercise conducted by the FSC at premises occupied by the Claimants. The suit was commenced in 2006, but has since been in abeyance. The Claimants are yet to set out the claim in detail. The suit is still pending.

- g) **Claim No. SCCA No. 6/2008 Olint Corporation/ David Smith v. The Financial Services Commission**

Olint Corporation and David Smith (the Applicants) filed an appeal before the Court of Appeal on January 23, 2008. The Notice of Appeal indicated that the Applicants were seeking to challenge the decision of the Supreme Court that was handed down on December 24, 2007 affirming the CDOs issued to the Applicants by the

³⁸ CFTC, April 7, 2009, See <http://www.cftc.gov/newsroom/enforcementpressreleases/2009/pr5643-09.html>

FSC in March 2006. The appeal challenged the CDOs on both substantive and procedural grounds.

During the period February 9, 2009 to February 12, 2009, the Court of Appeal heard the appeal. The Court of Appeal reserved judgment on the matter for an unspecified date.

h) Neil/ Janice Lewis (t/a Lewfam Investments) v. The Financial Services Commission

On January 31, 2008, Lewfam Investments filed an appeal against the decision of the Supreme Court that was handed down on December 24, 2007 affirming the CDOs issued to the Applicants by the FSC in March 2006.

The appeal was not pursued as LewFam withdrew their appeal. The FSC instructed its external counsel to take the necessary steps to enforce the judgment that was granted by Justice McIntosh in the court below.

i) Claim No. HCV 01975 OF 2009 World Wise Partners Limited and Noel Strachan v. The Financial Services Commission

On April 14, 2009, WWPL and Noel Strachan filed a Notice of Appeal in the Supreme Court of Jamaica contesting the CDOs issued by the FSC to them on August 5, 2008 and subsequently varied on March 20, 2009. The challenges were made on both procedural and

substantive grounds including allegations of breach of natural justice and procedural fairness by the FSC and assertions that WWPL was not acting in breach of the Securities Act. The matter is scheduled to be heard on October 5, 2009.

Besides these matters relating to UFOs, the FSC was also involved in other matters that resulted from enforcement actions. The details are provided below.

j) Dyoll Insurance Company

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. Similar charges were brought against four Directors and Officers of Dyoll.

Thereafter the Counsel for the Joint Liquidators of Dyoll made an application to the Supreme Court for an Order to stay the criminal proceedings against Dyoll (In Liquidation). The Hearing of the Application to stay the criminal proceedings against Dyoll was held on November 12, 2007. The court ruled in favour of the FSC.

During the 2007-2008 fiscal year, 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.

The judgment was handed down on December 18, 2008 in favour of the four Applicants stating that the charges against the Applicants under the Insurance Act were null and void, as the FSC had no authority under the Insurance Act to perform any function in relation to the insurance industry, at the time the offences were alleged to have been committed.

The court further directed that on March 6, 2009, the scheduled return date to the criminal court, the DPP should apply the proper procedure and bring the criminal matter to an end. The criminal charges against the four defendants and the Company (Dyoll) were mentioned in the Half Way Tree Resident Magistrate's Court on March 6, 2009. The matter was adjourned sine die. No date has been set to hear the appeal of the judgment of the Supreme Court.

**k) Lowell Lawrence v.
Financial Services
Commission**

On October 28, 2005, the Full Court of the Supreme Court of Judicature of Jamaica dismissed the application made by Mr. Lowell Lawrence ("the Appellant") for judicial review of the decision made by the Financial Services Commission to offer to him a fixed penalty pursuant to section 21 and the Fourth Schedule to the Financial Services Commission Act. The fixed penalty was offered to the Appellant as

an alternative to prosecution for carrying on insurance business as an insurance sales representative without being registered to do so, in contravention of section 70 of the Insurance Act, 2001.

The Appellant filed an appeal against the Full Court's decision. On June 13, 2008, the Court of Appeal affirmed the decision of the Full Court of the Supreme Court. On July 3, 2008, the Appellant filed a Motion in the Court of Appeal for an Order that the Appellant be granted leave to appeal to

Her Majesty in Council from the judgment of the Court of Appeal.

On July 21, 2008, the Court of Appeal granted leave to the Appellant to make a further appeal to the Judicial Committee of the Privy Council on the basis that the matter concerned a civil proceeding in which a final decision was delivered under, and by virtue of, section 110 (1) (a) of the Constitution of Jamaica. The hearing in the Privy Council is set for October 6, 2009.

SUPERVISION of Financial Institutions

Insurance Supervision

For the review period, there were 19 off-site examinations and 5 on-site examinations.³⁹ 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 practices." 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, namely, corporate governance, investments and anti-money laundering. Table 23 provides more information on the breaches that were observed under the three headings. Other violations of the Insurance Act and Regulations include

- Paying of compensation to unregistered sales representatives who were conducting insurance business on behalf of the companies
- Deficiencies in the reconciliation process in respect of premium receivables from brokers and agents

The observed violations and deficiencies were communicated to the management of each company and efforts are being made to ensure that the matters are addressed within the time frames agreed with the companies.

Securities Supervision

A total of 10 examinations were conducted, all of which were on-site.⁴⁰ Table 24 indicates the number and the nature of violations that were observed. The on-site examinations also revealed that several companies were not operating in accordance with the Margin R and the Repo Guidelines. The observed violations and deficiencies were communicated to the management of each company and efforts are being made to ensure that the matters are addressed within the time frames agreed with the companies.

Pension Supervision

The supervisory activities conducted by the FSC during the year under review are summarised below:

1. Winding-up Progress Reports

A total of 9 reports on the progress of the winding-up of pension plans whose applications were approved by the

FSC were processed during the year.

2. Auditors and Actuaries

The FSC is required to determine the suitability of the actuary and auditor appointed to the pension plans which fall within the ambit of the Pensions Act. Information relating to the appointment of 5 actuaries and 24 auditors was reviewed.

3. Statement of Investment Policies and Principles ("SIPP")

During the review year 16 SIPPs were received. Review of 1 SIPP was completed while 13 were being processed as at 2009 March 31.

4. Examinations

53 preliminary off-site examinations of administrators and investment managers were conducted and risk assessment commenced for 2 entities.

5. Statutory Breaches

The number and description of statutory provisions which were violated by registrants and licensees (including applicants not yet granted registration or a licence by the FSC) is summarized in Table 25:

³⁹ These numbers do 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.

⁴⁰ 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.

TABLE 23 : VIOLATIONS OF THE INSURANCE ACT & REGULATIONS, 2007/2008 - 2008/2009

Type of Deficiencies	Requirements of Act & Regulation	Number of Violations 2007/2008	Number of Violations 2008/2009
Corporate Governance:			
Regulations 73, 74, & 75	These regulations stipulate the formation of an Audit, Conduct Review, and Loan Committees and their functions.	3	2
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 some of the functions for the Investment and Loan Committee.	4	1
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 are not limited to, procedure manuals, training of employees, proper record keeping, and appointment of a "Designated Officer"	7	6
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.	3	2
Investment:			
Regulation 42	This section requires that a Company shall not invest more than 5% of its total assets in a single counterparty.	3	1
Regulation 44	Directs a local insurer to obtain approval from the board or the appropriate committee before any investment and loan.	1	0
Regulations 45 & 46	This sections state that a minimum of 40% of the Minimum Capital Required shall be invested in government securities.	2	0
Regulation 47	Outline the conditions under which an insurer may invest in instruments issued by corporations.	0	1
Regulation 62	States the requirements that an insurer must satisfy when investing in ordinary shares.	0	1

TABLE 24: VIOLATIONS OF THE SECURITIES ACT & REGULATIONS, 2007/08 & 2008/09

Legal Provision Violated ¹	Description of Provisions	Number of Violations 2007/08	Number of Violations 2008/09
S 9(3)(a)(ii)	Outlines the conditions which officers or members of a company must satisfy for a company to be granted a licence.	1	2
S10	Failure to return certificate of registration as required under Section 10(7) and failure to notify the FSC when an individual ceases to hold the position of a responsible officer as required by Section 10 (A) (4).	1	1
S26	Issuer of Security to Be Registered with the FSC.	1	0
S38	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.	4	5
S39	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.	1	2
S40	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.	4	4
S60	States that making false or misleading statements is an offence.	0	1
S63	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.	0	2
COB 8	Several licensees used Request for Proposal forms which contravened regulation 8(2)(b),(c) and (d) of the COB by not stating clearly (i) the kind of authority given to the portfolio manager (i.e., full discretion, partial discretion or no discretion) and (ii) the risk appetite of the client (i.e., aggressive, medium or conservative).	6	6
COB 10	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.	4	6
COB 12	Mandates every licensee should maintain certain records, which include, <i>inter alia</i> , daily records of security sales and purchases, cash disbursements and receipts, security ledgers, and client ledgers.	0	2
COB 13	Presentation of Financial Reports	3	0
COB 14	Filing of Quarterly Financial Reports	2	0
COB 16	Anniversary Filings	1	0
POCA (MLP) 5, 7 - 11	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.	7	5

Notes:

1: References are to the Securities Act and Regulations and the Proceeds of Crime Act ("POCA"). For example; section 38 of the Securities Act is referenced as "S38"; "COB" refers to the Conduct of Business Regulations; and "POCA (MLP)" refers to the Proceeds of Crime (Money Laundering Prevention) Regulations.

TABLE 25: VIOLATIONS OF THE PENSIONS ACT & REGULATIONS, 2008/09

Legal Provision Violated	Description of Provisions	Number of Violations 2008/09
Pension Plans		
ACT 10 (3)	Failure to notify the FSC within 14 days of the designation of an Administrator and Investment Manager.	2
ACT 27 (4)	Failure to notify FSC within 90 days of their intention to wind-up the pension plan (Voluntary).	8
INV 8 (1)	Failure to submit to the FSC within sixty days of the Plan's approval the Statement of Investment Policies and Principles (SIPP).	18
INV 37 (a) & (b)	Failure to submit to the FSC within ninety days of approval of the Pension Plan a Statement of Compliance or Transition Plan certified by the Trustees.	18
Corporate Trustees		
RLR 14(a)	Failure to submit annual report containing financial statement within 120 days after the Corporate Trustees' year-end.	2
RLR 14(b)	Failure to submit certification of tax compliance covering the financial year within 120 days after the Corporate Trustees' year-end.	1
Investment Managers		
ACT 5 (3)	Acting as Investment Manager without licence.	1
GOV 9(f)	Failure to notify the FSC of the cessation of duties as Investment Manager of a particular pension plan.	1
ACT11(6)	Failure to notify the FSC of the cessation of duties of the Responsible Officer within 7 days of the cessation date.	2
RLR 15(1)c	Failure to submit evidence of renewed professional indemnity and fidelity guarantee insurance within 120 days of the financial year-end.	16
RLR 15(1)b	Failure to submit a certification of tax compliance within 120 days of the financial year-end.	17
RLR 15(1)a	Failure to submit an annual report containing audited financial statements within 120 days of the financial year-end.	24
RLR 15(2)	Failure to submit Form 7 within 60 days of the end of the calendar quarter.	51
Administrators		
GOV9(f)	Failure to notify the FSC of the cessation of duties as Administrator of a particular pension plan.	1
ACT 11(6)	Failure to notify the FSC of the cessation of duties of the Responsible Officer within 7 days of the cessation date.	2
RLR 16(1)c	Failure to submit a certification of tax compliance within 120 days of the financial year-end.	20
RLR 16(1)d	Failure to submit evidence of renewed professional indemnity and fidelity guarantee insurance within 120 days of the financial year-end.	21
RLR 16(1)b	Failure to submit an Administrator's Return within 120 days of the financial year-end.	22
RLR 16(1)a	Failure to submit an annual report containing audited financial statements within 120 days of the financial year-end.	27

Notes:

1: References are to the Pensions Act and Regulations. For example; section 10 of the Pensions Act is referenced as "ACT 10";

"INV" refers to the Investment Regulations, and "GOV" refers to Governance Regulations.

Source: Financial Services Commission

PUBLIC Education

During the review period, the thrust of public information was largely proactive and responsive to the educational needs of the investing public, a significant portion of which had placed money with unregulated investment schemes. Several public education strategies were engaged in order to (i) support and strengthen public perception and stimulate awareness of the role and function of the FSC; (ii) reinforce the advantages of investing with registered entities and persons; (iii) ensure that the public also has vital information on pertinent areas of the organization's mandate; and (iv) address emerging issues of public importance to the pensions, insurance and securities industry.

The mass media were utilized through various channels to impart these messages. Public notices and news releases were disseminated on emerging regulatory issues, while advertisements promoting the safe investing message were placed with the print and electronic media. Interviews were also coordinated through radio and television, where Senior Directors of the FSC were given the opportunity to outline specific initiatives of the FSC. These interviews were also extended to the print media as journalists from the print media requested information from the FSC. During the period the FSC maintained five Billboards at strategic locations around the island and sponsored one bus stop, all displaying the message "Be careful

where you put your money".

During the year, the FSC also produced and aired a weekly television programme called the FSC Minute which was aired on radio and television (free-to-air and cable) networks through the Jamaica Information Service ("JIS"). The aim of this programme is to educate licensees and the general public on emerging regulatory issues in Jamaica. Forty programmes of the FSC Minute were produced and broadcasted.

The FSC organized and collaborated with the Jamaica Deposit Insurance Corporation ("JDIC") and the Jamaica Stock Exchange ("JSE") to host public meetings in Kingston, Santa Cruz, Mandeville and Montego Bay. At these forums, investors were given the opportunity to understand the role and functions of the FSC as well as to ask questions on the regulatory actions of the FSC. During the period there was the recognition that many Jamaicans were still not knowledgeable on the role and function of the FSC and as such contact was made with organisations and schools – secondary and tertiary, to educate employees and students respectively, on the operations of the FSC.

An ongoing strategy of answering e-mail and telephone queries from the public and handling research on safe investing was also continuously managed; over three hun-

dred queries were answered through these means.

• Investor Education Week

The JSE and the FSC partnered to present a successful National Investment Education Week ("NIEW"), which was held from September 27 - October 3, 2008 under the distinguished patronage of the Governor General, His Excellency Sir Kenneth Hall. Several activities were held starting with a church service at the Ken-cot Seventh Day Adventist Church. A media briefing took place at the FSC where information was shared on the financial condition of FSC licensees. A public forum was held at the Terra Nova Hotel which focused on educating investors about the safeguards of the financial system. Over 2,600 investors and potential investors attended the JSE/FSC Expo at the Hilton Kingston Hotel on Wednesday, October 1, 2008.

In addition to the abovementioned activities, the following seminars and workshops were also organized by the FSC:

• Insurance

In October, the FSC engaged insurance industry professionals in a seminar entitled "**The Regulator and You: Current Regulatory and Accounting Issues Impacting the Insurance Industry**". This Forum was designed to

sensitize individuals responsible for the strategic direction, financial reporting and compliance monitoring of insurance companies and intermediaries to key elements of new and revised accounting standards and essential risk management techniques.

• Securities

In an effort to further develop the capital markets, the FSC released Exempt Distribution Guidelines (SR-GUID-08/05-0016) (“XD Guidelines”) which replaced the existing private placement provisions contained in the Guidelines for the Issuers of Securities (SR-GUID-02/12-0005). The XD Guidelines sets out the process to be complied with in order for issuers to benefit from exemptions related to the registration of offering documents with the FSC. To assist with the implementation process, these changes were discussed in a Seminar entitled, ‘*Understanding Exempt Distribution Guidelines*’, at the Terra Nova Hotel on Wednesday, July 23, 2008.

• Third Annual Financial Crime Mitigation Workshop

The FSC hosted its Third Annual Financial Crime Mitigation Workshop for its regulated entities on Wednesday, March 25, 2009, at the Hilton Hotel. The workshop had as its theme, *Financial Crime: Identification, Mitigation and Reporting*, and opened with a Keynote Address by the Honourable Audley Shaw, MP – Minister of Finance & the Public

Service. The Workshop presented issues relating to financial crime mitigation including identification of forms of financial crime, trends in financial crimes, coordinating with supervisors for law enforcement, as well as strategies aimed at mitigation. The target audience included those officers in organisations with responsibility for financial crime mitigation programmes such as compliance officers, general counsels and legal officers, internal auditors, and investigators.

• Workshop – Understanding and Combating Unregulated Investment Schemes

The FSC hosted a workshop entitled **Caribbean Region Securities Market Enforcement Programme: Understanding and Combating Unregulated Investment Schemes**, from October 29-31, 2008 at the Half Moon Hotel. It was held in association with Caribbean Regional Technical Assistance Centre (“CAR-TAC”), the United States Agency for International Development (“USAID”), the United States Securities and Exchange Commission (“US SEC”) and the International Monetary Fund (“IMF”).

Approximately sixty (60) participants attended this Workshop which included regulatory bodies and law enforcement agencies across the region including Jamaica. The workshop facilitated discussions on coordination among criminal and enforcement authorities at local, regional and

international levels, and provided information on the anatomy of unregulated schemes, as well as the best practices in planning and executing investigations and prosecutions.

• Workshop and Conference for Caribbean Association of Insurance Regulators (“CAIR”)

More than 60 representatives from insurance regulatory bodies in 19 countries of the region including Jamaica, participated in an FSC-hosted five-day Workshop and Conference, aimed at further strengthening insurance regulations in the Caribbean.

The event was held at the Rosehall Resort and Spa, in Montego Bay, St. James, from December 1 to 5, 2008, under the theme – Preparing for the Unexpected: Brainstorming the Risks Faced by Insurance Supervisors.

CAPACITY - Building

During the period under review, approximately 81% of the current staff complement participated in thirty-two (32) training courses, totalling approximately 1,511 contact hours and accounting for approximately 94% of the training budget. These courses included in-house, local and overseas training.

The College of Insurance and Professional Studies and Fitz Ritson & Associates were two of the major contractors to provide in-house training for staff. In addition to participating in the United States Securities & Exchange's three-week intensive Securities Market Development Programme, the FSC was able to secure funding from the Caribbean Regional Technical Assistance Centre to facilitate 2 members of staff from the Pensions Division to participate in an observation mission at the Financial Services Commission of Ontario, along with 18 other Caribbean participants. The mission gave employees a first-hand view of the intricacies involved in Pensions regulation at an international leading Pensions regulator. Table 26 indicates the different topics covered in the training programmes that were undertaken in the review period.

Table 26: List of Training Opportunities Accessed by Staff, 2008/2009

Course/Seminar	Provider	Number of Staff Trained
Appointed Actuary Seminar	Canadian Institute of Actuaries	1
Benfield Reinsurance Workshop	College of Insurance & Professional Studies	3
Caribbean Commercial Law Workshop	University of West Indies (Port-of-Spain)	1
Certificate in Applied Project Management	Development Partners & Management International	1
Insurance Core Supervisory Principles	Financial Stability Institute	1
Customer Service for Office Attendants	Heather Little-White & Associates	1
Evolving Risk-based Solvency Frameworks & Evaluation Methods	Financial Stability Institute	1
Financial Accounting	Fitz Ritson & Associates	17
Financial Crisis & Accounting Implications	Institute of Chartered Accountants of Jamaica	1
Fundamentals of Derivatives & Commodities	Jamaica Stock Exchange	2
Instructional Designer Certificate	Training Magazine, Atlanta, GA	1
Insurance Accounting (Advanced)	College of Insurance & Professional Studies	12
Insurance Supervision	Toronto Leadership Centre	1
Jamaica Securities Course	Jamaican Institute of Management	1
JASAP Development Workshop	Jamaica Association of Secretaries & Administrative Professionals	1
JSE Junior Exchange Seminar #1	Jamaica Stock Exchange	4
National Association of Insurance Commission ("NAIC") Summer Workshop	NAIC, (USA)	1
Pensions Governance Workshop	Crown Agents	6
Pensions Supervision	Financial Services Commission of Ontario	2
Performance Management: Going Beyond PM & Managing for Results	GovStrat	2
Project Management Principles & Practices	University of New Orleans	3
Real Estate Investment Trust Workshop	Jamaica Stock Exchange	3
Reinsurance & Other Risk Transfers	Financial Stability Institute	1
Securities & Portfolio Management	Fitz Ritson & Associates	3
Securities Supervision	Toronto Leadership Centre	1
Supervisory Management Techniques	Professional Trainers Institute	1
Supervisory Management Techniques	Management Institute for National Development	1
Techniques of Financial Investigation	Caribbean Regional Drug Law Enforcement Centre	1
Understanding IFRS in a Changing World	Institute of Chartered Accounts of Jamaica	15
Securities & Enforcement Institute	United States Securities & Exchange Commission	1
Securities Market Development	United States Securities & Exchange Commission	2
Leadership Development	SimuLearn	4

PENDING Changes to Acts and 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 Regulations. The process of making amendment to any act or regulations involves many stakeholders. The process to amend an act normally begins with a policy decision taken by the FSC. After consultation with the industry and obtaining the approval from the Ministry of Finance and Public Services ("MOFPS"), the MOFPS will seek approval from the Cabinet for drafting of the amendments. After Cabinet approves, MOFPS will give the Chief Parliamentary Counsel ("CPC") drafting instructions.

The draft Bill, as presented by the CPC, then goes through a consultative process involving the MOFPS, FSC, and the CPC to be finalised. After the draft Bill has been revised to reflect the views of the three parties, copies of the draft Bill should be circulated to all other ministries inviting comments to be made within a two-week period. After consideration of all comments and any revisions made, the Bill will then go to the Legislation Committee for detailed examination. After approval is granted, Cabinet will then review and if consent is given

the amendment then goes to both Houses of Parliament to be debated.

The process to amend regulations is a much simpler and the amendment could be passed by negative and affirmative resolution. The table 27 provides a brief update on the proposed amendments that were described in the 2007-2008 Annual Report.

During the review period, preliminary work has begun or continued in following areas:

- Proposed amendments relating to new items to be included in the Insurance Regulations including issues dealing with (a) fit and proper requirements for auditors and actuaries and (b) title insurance.
- Proposed amendments to existing provisions of the Mutual Funds Regulations and Conduct of Business Regulations.

Table 27: Status of Proposed Amendments.

Proposed Sections and ACT to be amended	Status of Amendment
Insurance	
Section 2 (2) - Carrying on Insurance Business in or from Jamaica;	Currently at the Ministry of Finance and Public Services
Sections 11 (3) (a), 14 (2) (a) and 75 (2) (a) - Hearings and Appeals Procedures	
Section 23(1)(c) -- Prohibition relating to Loans	
Section 61 (2) – Association of Underwriters	
Section 110 -- Notice in respect of Long Term Insurance Policies by Insurer	
Section 145 – Exemptions	
Proposed Amendment to the Insurance Regulations and Section 21 of the FSC Act – Fixed penalties and Fourth Schedule	
Securities	
Improving the legislative framework for derivative products, registration of secondary offerings and the appeals protocol	Being developed at the FSC
Clarifying the FSC's powers relating to Cease and Desist Orders and the imposition of penalties for breaches of regulations	
Investment Clubs	
Unit Trust Act and Regulations	CPC has drafted the proposed amendments to the Unit Trust Act and Regulations. These amendments incorporated the industry comments. Two rounds of review of the draft regulations from the CPC have already taken place since the end of March 2009. Once the regulations have been finalized, the Unit Trust Act requires that these regulations be approved by the relevant Minister and become effective subject to negative resolution in Parliament. The Minister has been briefed and is in agreement on the actions being taken.
Pensions	
1 Proposed amendments to existing provisions of the Act, such as the	Currently at the Chief Parliamentary Counsel ("CPC")
• amendment of an approved fund's constitutive documents,	
• requirements for approval of a fund and	
• requirements for approval of a scheme.	
2 Proposed amendments relating to new items such as	
• the registration of self-administered funds,	
• mandatory review of the Act and regulations, and	
• mandatory vesting.	
3 Proposed amendments to provisions in the existing Regulations;	
4 Proposed amendments relating to new items to existing Regulations dealing with mandatory vesting, pension benefits, contribution holidays and portability.	
5 Proposed regulations for retirement schemes;	
6 Proposed regulations for termination and winding-up of superannuation funds and retirement schemes;	
7 Funding and Solvency Regulations for approved superannuation funds and approved retirement scheme.	
8 Amendments to the Third Schedule to the Registrations, Licensing and Reporting Regulations, 2006.	

PENDING Bulletins and Guidelines

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 are then released to the industry. A number of these consultative papers have been posted on our website⁴¹ inviting comments and feedback from industry stakeholders. These are listed below.

Pensions

- ***Leases PR-GUID-08/07-0008:***

This draft bulletin aims to explain the legislative and accounting requirement that applies to superannuation fund or scheme that invests in leases.

- ***Content of the Business Plan PR-GUID-08/07-0009***

The draft guideline establishes the minimum standard regarding the content of the Business Plan which the FSC will consider in obtaining an understanding of how the applicant intends to manage its pensions business.

- ***Conversion PR-GUID-08/07-0010***

This draft guideline sets out the documents required to be submitted to the FSC where a defined benefit plan is to be converted to a defined contri-

bution plan. It also outlines the FSC's expectations regarding applicable principles.

- ***Statutory Filings for Trustees PR-GUID-08/07-0012***

This draft bulletin is published by the FSC, as part of its continuing effort to assist trustees in discharging their duties by briefly outlining the documents to be filed with the FSC. It does not represent a comprehensive statement of the law nor does it purport to do so. Trustees should therefore, when in doubt use the Act and Regulations to determine specific legislative requirements.

- ***Statutory Filings for Administrators And Investment Managers PR-GUID-08/07-0011***

This draft bulletin is published by the FSC, as part of its continuing effort to assist administrators and investment managers in discharging their duties by briefly outlining the documents to be filed with the FSC. It does not represent a comprehensive statement of the law nor does it purport to do so. Administrators and investment managers should therefore, when in doubt use the Act and Regulations to determine specific legislative requirements.

⁴¹ www.fscjamaica.org

REVIEW of Financial Performance

The financial statements that appear on pages 65 to 85 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, 2009. The following comments provide an analysis of the performance during the year and should be read in conjunction with the financial statements.

Income and Expenditure

The Financial Services Commission ("FSC") achieved a net surplus of \$17.3 million which was in line with the net surplus of \$17.4 million for the previous 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 fees formulae set out in regulations. In general, the system is designated 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. Fees as shown on the Income and Expenditure statement include the following:

i. Licensing/Registration fees	\$502.9 million
ii. Fees from seminars/workshops	\$1.4 million
iii. Foreign exchange gains	\$1.3 million
Total	\$505.6 million

Licensing and Registration fees for the 2008/2009 financial year increased by approximately 19% when compared with the previous year. This increase in fees was due to the following:

- A 17% increase in fees from the insurance industry due in part to the impact of the new fee structure for the general insurance companies, which became effective November 1, 2008.
- A 27% increase in fees from the securities in-

dustry due to a 94% increase in the fees earned from the stock exchange and the JCSD for 2008/2009, when compared to the previous year.

- A 14% increase in fees from the pensions industry due to growth in the pension funds assets being managed by investment managers/administrators.

The fee structures for the securities industry and the insurance industry were adjusted in the third quarter of the 2008/2009 financial year however; the full impact of the adjustment will not be seen until the 2009/2010 financial year.

Tables 28, 29, and 30 on page 53 - provide details of the sources of fee income from the securities, insurance and pensions industries for 2008/2009 and the comparative 2007/2008.

Grants

• **Technical Assistance – CDB & IDB**

Technical assistance ("TA") grants represent amounts provided by the Government of Jamaica under technical assistance loan/grant agreements with the Caribbean Development Bank ("CDB") and the Inter-American Development Bank ("IADB"). TA grants for the year from CDB were \$19.4 million. These grants were used to finance fees for consultants and training expenses. There were no grants from IDB during the year.

• **Technical Assistance – CARTAC**

The Caribbean Regional Technical Assistance Centre ("CARTAC") also provided technical assistance to the FSC for staff training. Funds provided by CARTAC totalled \$2 million.

• **Other**

The building occupied by the FSC, rent-free without a lease agreement, is owned by the Commissioner of Lands. This government grant is based on the average commercial value of rent (per sq ft.) in the New Kingston area which for the 2008/2009 financial year

was estimated at \$30.8 million. This grant was used to off-set the rental expense which would have been incurred for the lease of the building.

Expenses

Total expenses for the 2008/2009 financial year were \$522.6 million, an increase of 15.3% when compared with the previous year. The major items of expenditure were:

1. Staff Costs

Staff costs for the year was \$362.8 million, an increase of approximately 20% when compared with the previous year due largely to a 15% inflation adjustment in salaries. The staff complement at the end of the year was 117 compared with 113 at the end of the 2007/2008 financial year. Staff costs accounted for 69.4% of the total expenses for the year.

2. Depreciation and Amortization

Depreciation expense was \$26.3 million an increase of 96% over the previous year due to the purchase of new furniture and equipment and leasehold improvements arising from the refurbishing of the FSC's offices. The value of lease-hold improvements for the year was \$13.3 million.

3. Public Education

Expenses for public education for the year were \$15.9 million or approximately 49% lower than the previous year. A decision was taken during the 2008/2009 financial year to significantly reduce the print and electronic advertisements.

4. Project Expenses

Project expenses relate to fees for consultancy and training provided under the technical co-operation loan agreement between the Government of Jamaica ("GOJ") and the Caribbean Development Bank and the grant agreement between GOJ and the Inter-American Development Bank. Project expenses for the 2008/2009 were \$19.4 million a reduction of 49% when compared with the previous year.

The technical assistance projects are nearing completion and will end in the 2009/2010 financial year.

5. Training and Conferences

Training and conference expenses for the year were \$15.9 million or 65% higher than the previous year due primarily to an increase in the number of staff participating in conferences. Several number of staff participated in the Caribbean Association of Insurance Regulators ("CAIR") hosted by the FSC in Jamaica.

Liquidity

The FSC ended the year with cash and cash equivalents of \$37.6 million compared with the \$13.5 million at the end of the 2007/2008 financial year. Resale agreements (short term investments) were \$138.8 million or \$48.8 million more than the previous year.



Rohan Barnett

Executive Director

Table 28: Revenue from the Securities Industry 2007/2008 and 2008/2009

Source	2007/2008		2008/2009	
	Revenue ('\$000)	% of Total	Revenue ('\$000)	% of Total
Licensing / Registration Fees– Securities Dealers etc	88,627	76	94,889	64
Stock Exchange & JCSD Fees	27,387	23	53,035	35
Application Fees	855	1	1,303	1
Commercial Paper	495	0	194	0
Totals	117,364	100	149,421	100

Table 29: Revenue from the Insurance Industry 2007/2008 and 2008/2009

Source	2007/2008		2008/2009	
	Revenue ('\$000)	% of Total	Revenue ('\$000)	% of Total
Registration Fees – General Companies	81,197	47	106,204	52
Registration Fees – Life Companies	71,240	41	80,318	40
Registration Fees – Intermediaries	20,040	12	15,529	8
Application Fees	571	0	260	0
Totals	173,048	100	202,311	100

Table 30: Revenue from the Pensions Industry 2007/2008 and 2008/2009

Source	2007/2008		2008/2009	
	Revenue ('\$000)	% of Total	Revenue ('\$000)	% of Total
Licensing Fees – Investment Managers/Administrators	131,344	99	149,963	99
Application Fees	1,234	1	1,193	1
Totals	132,578	100	151,156	100

COMPENSATION of Executive Management

Table 31: Compensation of Executive Management 2008/2009

1. Basic Salary Range of Executive Management	
a) Director	\$3,836,590 - \$4,795,737
b) Senior Director and General Counsel	\$4,957, 391 - \$6,072,804
c) Chief Actuary	\$5,599,226 - \$7,558,956
d) Deputy Executive Director	\$6,203,821 - \$7,559,681
e) Executive Director	\$10,800,000 per annum
2. Allowances	
Motor Vehicle	
a) Executive Director	Fully maintained company car \$796,500 per annum
b) Other Executive Management	
Housing	
Executive Director	\$4,432,680 per annum
3. Gratuity in Lieu of Pension	
	25% per annum basic salary

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.

FSC Statutes & Regulations

The statutory duties and responsibilities of the FSC 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 (FSC Act) – enacted in 2001 and amended in 2004; it provides for the basic functions and responsibilities of the FSC.

The Financial Services (Overseas Regulatory Authority) (Disclosure) Regulations – promulgated in 2005. The regulations give the FSC the authority to provide information and documents, as the FSC 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; these regulations 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; these regulations 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; these 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; these regulations deal with the dealer/client relationship and guidelines for filing of financial information by licensed dealers.

The Securities (Disclosure of Interest) Regulations – promul-

gated in 1999; these 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; these regulations 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; these regulations deal with the operational procedures of a central securities depository.

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; these regulations govern the process of registration for unit trusts.

The Unit Trusts (Books and Document) Regulations – promulgated in 1973; these 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; these 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; these 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; these regulations provide detailed

rules and guidelines for trustees and investment managers to prudently invest and manage the assets that fall under their responsibility.

List of **REGISTERED** **Entities/Individuals as at March 31, 2009**

Dealers (Companies)

There were fifty (50) licensed securities dealers (Companies) as at March 31, 2009:

- | | |
|---|---|
| 1. Alliance Investment Management Limited | 25. Jamaica Co-operative Credit Union League Limited |
| 2. Barita Investments Limited | 26. Jamaica Money Market Brokers Limited |
| 3. BPM Financial Limited (formerly Barita Portfolio Management Limited) | 27. Jamaica National Building Society |
| 4. Barita Unit Trusts Management Company Limited | 28. JMMB Securities Limited |
| 5. Capital & Credit Fund Managers Limited | 29. JN Fund Managers Limited |
| 6. Capital & Credit Merchant Bank Limited | 30. MF&G Asset Management Limited |
| 7. Capital & Credit Securities Limited | 31. M/VL Stockbrokers Limited |
| 8. Capital Solutions Limited | 32. Mayberry Investments Limited |
| 9. Churches Co-operative Credit Union Limited | 33. MoneyMasters Limited |
| 10. Citifinance Limited | 34. NCB Capital Markets Limited |
| 11. City of Kingston Co-operative Credit Union Limited | 35. NCB Insurance Company Limited |
| 12. CWJ Employees Co-operative Credit Union Limited | 36. Pan Caribbean Asset Management Limited |
| 13. E. W. Lewis Investments & Finance Limited | 37. Pan Caribbean Financial Services Limited |
| 14. First Global Bank Limited | 38. Prime Asset Management Limited |
| 15. First Jamaica Investments Limited | 39. RBTT Securities Limited |
| 16. First Caribbean International Bank (Jamaica) Limited | 40. Sagicor Life Jamaica Limited (formerly Life of Jamaica Limited) |
| 17. First Caribbean International Securities Limited | 41. Scotia DBG Fund Managers Limited |
| 18. First Global Financial Services Limited | 42. Scotia DBG Investments Limited |
| 19. Gleaner Company Limited | 43. Scotia Jamaica Investment Management Limited |
| 20. Guardian Asset Management Limited | 44. Scotia Jamaica Life Insurance Company Limited |
| 21. Guardian Life Limited | 45. Sterling Asset Management Limited |
| 22. Ideal Finance Corporation Limited | 46. Stocks and Securities Limited |
| 23. Ideal Portfolio Services Limited | 47. UGI Finance & Investments Limited |
| 24. Intertrade Finance Corporation Limited | 48. Victoria Mutual Wealth Management Limited |
| | 49. West Indies Trust Company Limited |
| | 50. West Indies Union Investment Management Limited |

List of **REGISTERED** Entities/Individuals as at March 31, 2009

Dealers (Companies)⁴²

There were thirteen (13) individuals licensed as securities dealers as at March 31, 2009:

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. **Moss, Kathleen**
11. **Riley, C. Roy**
12. **Shirley, Sandra ***
13. **Wray, Wayne ***

Mutual Funds

There were nineteen (19) registered mutual funds as at March 31, 2009:

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. AIC Specialty Group Fund
7. CI Sector Balanced Funds
8. CI Sector Diversified Equity Funds
9. CI Sector Fixed Income Funds
10. CI Sector Focused Equity Funds

11. Grace Caribbean Fixed Income Fund
12. JMMB Select Index fund
13. Scotia US Growth Mutual fund
14. Scotiabank Canadian Growth Fund
15. Scotia DBG Caribbean Income Inc ("SDCIF")
16. Scotiabank Global Growth Fund
17. Scotiabank Money Market Fund
18. Scotiabank US Dollar Bond Fund
19. Trinidad Select Index Fund Limited

Unit Trusts Managers

There were four (4) registered unit trust fund managers as at March 31, 2009:

1. Barita Unit Trusts Management Limited
2. DB&G Unit Trusts Management Limited
3. 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, 2009:

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

⁴² The asterisks indicate individual dealers who are associated with a company that is also licensed as dealer.

List of **REGISTERED** **Entities/Individuals as at March 31, 2009**

6. DB&G Money Market Fund
7. DB&G Premium Growth Fund
8. Pan Caribbean Assets Management Unit Trust⁴³

Life Insurance Companies

There were five (5) life insurance companies registered as at March 31, 2009:

1. CUNA Mutual Insurance Society
2. Guardian Life Limited
3. Sagicor Life Jamaica Limited, formerly Life of Jamaica Limited
4. NCB Insurance Company Limited
5. Scotia Jamaica Life Insurance Company Limited

General Insurance Companies

There were twelve (12) general insurance companies registered as at March 31, 2009:

1. Advantage General Insurance Company Limited, formerly United General Insurance Company Limited
2. American Home Assurance Company
3. British Caribbean Insurance Company Limited
4. General Accident Insurance Jamaica Company Limited
5. Globe Insurance Company of Jamaica Limited
6. Island Heritage Insurance Company Limited
7. Jamaica International Insurance Company Limited

8. Key Insurance Company Limited
9. NEM Insurance Company (Jamaica) Limited
10. The Insurance Company of Jamaica Limited
11. Victoria Mutual Insurance Company Limited
12. West Indies Alliance Insurance Company Limited

Associations of Underwriters

There was one (1) Association of Underwriters registered as at March 31, 2009:

- Lloyds

Insurance Brokers

There were twenty seven (27) insurance brokers registered as at March 31, 2009:

1. Allied Insurance Brokers Limited
2. Assurance Brokers of Jamaica Limited
3. Billy Craig Insurance Brokers Limited
4. Caribbean Assurance Brokers Limited
5. CGM Gallagher Insurance Brokers Jamaica Limited
6. City Insurance Brokers Limited
7. Covenant Insurance Brokers Limited
8. Desmond Mair Insurance Brokers Limited
9. Excel Insurance Brokers Limited
10. Firm Insurance Brokers Limited
11. Fraser Fontaine & Kong Limited Insurance Brokers
12. GEM Insurance Brokers Limited
13. Genesis Insurance Brokers Limited

⁴³ 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/Individuals as at March 31, 2009**

- | | |
|---|---|
| 14. Guardian Insurance Brokers Limited | 7. Desmond Mair Insurance Brokers Limited |
| 15. Jamaica Citadel Insurance Brokers Limited | 8. Excel Insurance Brokers Limited |
| 16. JMMB Insurance Brokers Limited | 9. Firm Insurance Brokers Limited |
| 17. Lawe Insurance Brokers Limited | 10. Fraser Fontaine & Kong Limited Insurance Brokers |
| 18. Marathon Insurance Brokers Limited | 11. Guardian Insurance Brokers Limited |
| 19. Maritime General Insurance Brokers Limited | 12. JMMB Insurance Brokers Limited |
| 20. Mutual Security Insurance Brokers Limited | 13. Lawe Insurance Brokers Limited |
| 21. National Property & General Insurance Brokers Limited | 14. Marathon Insurance Brokers Limited |
| 22. Orion Insurance Brokers Limited | 15. Maritime General Insurance Brokers Limited |
| 23. Progressive Insurance Brokers Ltd. | 16. Mutual Security Insurance Brokers Limited |
| 24. Solid Life and General Insurance Brokers Limited | 17. National Property & General Insurance Brokers Limited |
| 25. Spectrum Insurance Brokers Limited | 18. Sagicor Insurance Brokers Limited |
| 26. Thwaites Finson Sharp Insurance Brokers Limited | 19. Spectrum Insurance Brokers Limited |
| 27. Zenith Insurance Brokers Limited | 20. Thwaites Finson Sharp Insurance Brokers Limited |

Facultative Placement Brokers

There were twenty (20) facultative placement brokers registered as at March 31, 2009:

1. Allied Insurance Brokers Limited
2. Assurance Brokers Jamaica Limited
3. Billy Craig Insurance Brokers Limited
4. Caribbean Assurance Brokers Limited
5. CGM Gallagher Insurance Brokers Jamaica Limited
6. City Insurance Brokers Limited

Overseas Reinsurance Brokers

There were two (2) overseas reinsurance broker registered as at March 31, 2009:

1. Benfield Limited
2. J.B. Boda

Local Reinsurance Brokers

There was one (1) local reinsurance broker registered as at March 31, 2009:

- CGM Gallagher Insurance Brokers Jamaica Limited

List of **REGISTERED** **Entities/Individuals as at March 31, 2009**

Insurance Agents

There were ten (10) insurance agents registered as at March 31, 2009:

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. Gersham McLaughlin T/A Global Risk Management Insurance Agents
6. Mutual Enterprises (Insurance) Agents Limited
7. Nationwide Insurance Agents and Consultants Limited
8. NUCS Co-operative Insurance Services Limited
9. Paul Anthony Simpson, General Insurance Agent
10. Riviera Insurance Agency Limited

Insurance Managing General Agents

There were no insurance managing general agents registered as at March 31, 2009.

Insurance Loss Adjusters

There were four (4) insurance loss adjusters registered as at March 31, 2009:

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 (1) insurance consultant registered as at March 31, 2009:

- Nicholas James Wood

Pensions Administrators

There were twenty-two (22) licensed pension administrators as at March 31, 2009:

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. First Caribbean International Securities Limited
8. FirstCaribbean International Bank (Jamaica) Limited
9. First Global Financial Services Limited
10. Guardian Life Limited
11. Guardian Life Pension Funds Limited
12. Investment Nominees Limited
13. Jamaica Co-operative Credit Union League Limited
14. Jamaica Money Market Brokers Limited
15. JN Fund Managers Limited
16. Mayberry Investments Limited

List of **REGISTERED** **Entities/Individuals as at March 31, 2009**

17. MF&G Asset Management Limited
18. NCB Insurance Company Limited
19. Prime Asset Management Limited
20. Scotia DBG Investments Limited
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, 2009:

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. First Caribbean 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. Mayberry Investments Limited
14. MF&G Asset Management Limited
15. NCB Insurance Company Limited
16. Prime Asset Management Limited
17. RBTT Securities Jamaica Limited
18. Sagicor Life Jamaica Limited (formerly Life of Jamaica Limited)
19. Scotia DBG Investments Limited
20. Veritat Nominees Limited

FINANCIAL SERVICES COMMISSION
ANNUAL REPORT 2008-2009





FINANCIAL STATEMENTS & AUDITOR'S REPORT



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Chartered Accountants
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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 67 to 85, which comprise the balance sheet as at March 31, 2009 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.

KPMG, a Jamaican partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International, a Swiss cooperative.

Elizabeth A. Jones
Caryl A. Fenton
R. Tarun Handa
Patrick A. Chin
Patricia O. Dailey-Smith

Linroy J. Marshall
Cynthia L. Lawrence
Rajan Trehan
Norman O. Rainford
Nigel R. Chambers



To the Members of
FINANCIAL SERVICES COMMISSION

Report on the Financial Statements, cont'd

Opinion

In our opinion, the financial statements give a true and fair view of the financial position of the Commission as at March 31, 2009, and of its financial performance, changes in equity and cash flows for the year then ended in accordance with International Financial Reporting Standards.

A handwritten signature of the KPMG firm, written in dark ink.

August 7, 2009

FINANCIAL SERVICES COMMISSION ANNUAL REPORT 2008-2009



FINANCIAL SERVICES COMMISSION

Balance Sheet
March 31, 2009

	Notes	2009	2008
CURRENT ASSETS			
Cash and cash equivalents		37,597,721	13,498,096
Resale agreements	3	138,815,810	90,000,000
Accounts receivable and prepayment	4	102,676,434	85,160,582
Taxation recoverable	5	11,958,179	13,825,781
		<u>291,048,144</u>	<u>202,484,459</u>
CURRENT LIABILITIES			
Accounts payable	6	40,601,324	30,065,567
Deferred fees		183,960,436	120,912,445
		<u>224,561,760</u>	<u>150,978,012</u>
NET CURRENT ASSETS		66,486,384	51,506,447
NON-CURRENT ASSETS			
Intangible assets	7	10,748,584	15,273,669
Property, plant & equipment	8	40,975,027	34,101,752
		<u>\$118,209,995</u>	<u>100,881,868</u>
Represented by:			
RESERVES	9	<u>\$118,209,995</u>	<u>100,881,868</u>

The financial statements on pages 67 to 85 were approved by the Commissioners on August 7, 2009, and signed on its behalf by:


Hon. Emil George O.J. Q.C. Chairman


Rohan Barnett Executive Director

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

FINANCIAL SERVICES COMMISSION

Income and Expenditure Account and Statement of Total Recognised Gains and Losses Year ended March 31, 2009

	<u>Notes</u>	<u>2009</u>	<u>2008</u>
INCOME			
Fees		505,608,601	423,573,047
Interest income		<u>12,870,123</u>	<u>9,270,496</u>
		518,478,724	432,843,543
GRANTS	10	<u>21,467,651</u>	<u>37,682,077</u>
		<u>539,946,375</u>	<u>470,525,620</u>
EXPENDITURE			
Advertising		3,019,701	2,268,718
Appeal Tribunal		403,749	1,926,710
Audit		1,350,000	1,200,000
Bad debt expense		8,937,684	-
Bank charges		56,423	169,804
Building maintenance		3,058,198	3,290,348
Commissioners' fees		2,519,376	1,510,320
Depreciation and amortisation		26,297,255	13,426,316
Motor vehicle & parking expenses		7,785,798	6,150,490
Office expenses		15,279,755	12,194,335
Printing and stationery		2,530,121	2,055,524
Professional fees		14,176,775	13,307,724
Project expenses		19,411,394	37,890,761
Public education		15,959,561	31,083,792
Utilities		15,547,809	12,793,885
Staff costs		362,800,095	301,098,722
Subscriptions		7,602,034	3,127,406
Training and conferences		<u>15,882,520</u>	<u>9,609,646</u>
		<u>522,618,248</u>	<u>453,104,501</u>
Surplus for the year, being total gains recognised		\$ <u>17,328,127</u>	<u>17,421,119</u>

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

FINANCIAL SERVICES COMMISSION ANNUAL REPORT 2008-2009



FINANCIAL SERVICES COMMISSION

Statement of Cash Flows Year ended March 31, 2009

	<u>2009</u>	<u>2008</u>
CASH FLOWS FROM OPERATING ACTIVITIES		
Surplus for the year	17,328,127	17,421,119
Adjustment for:		
Depreciation and amortisation	26,297,255	13,426,316
Interest income	<u>(12,870,123)</u>	<u>(9,270,496)</u>
	30,755,259	21,576,939
(Increase)/decrease in current assets		
Resale agreements	(48,815,810)	25,000,000
Accounts receivable and prepayment	(16,012,720)	(25,859,586)
Taxation recoverable	1,867,602	<u>(2,272,055)</u>
Increase in current liabilities		
Accounts payable	10,535,757	5,304,695
Deferred fees	<u>63,047,991</u>	<u>1,357,856</u>
Net cash provided by operating activities	<u>41,378,079</u>	<u>25,107,849</u>
CASH FLOWS FROM INVESTING ACTIVITIES		
Additions to property, plant & equipment	(27,111,470)	(27,692,602)
Additions to intangible assets	(1,533,975)	(3,105,342)
Interest received	<u>11,366,991</u>	<u>9,065,054</u>
Net cash used by investing activities	<u>(17,278,454)</u>	<u>(21,732,890)</u>
Net increase in cash and cash equivalents	24,099,625	3,374,959
Cash and cash equivalents at beginning of the year	<u>13,498,096</u>	<u>10,123,137</u>
Cash and cash equivalents at end of the year	<u>\$37,597,721</u>	<u>13,498,096</u>

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

FINANCIAL SERVICES COMMISSION

Notes to the Financial Statements
Year ended March 31, 2009

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.

At March 31, 2009 the Commission had in its employment 116 (2008:117) employees, out of a Board approved establishment of 129 (2008:128) employees.

2. Statement of compliance, basis of preparation and accounting policies

(a) Statement of compliance:

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

Certain new IFRS, and interpretations and amendments to the existing standards which were in issue, came into effect for the 2009 financial year. There were no such pronouncements that had a material effect on the preparation of the Commission's financial statements during the year.

FINANCIAL SERVICES COMMISSION

Notes to the Financial Statements (Continued)
Year ended March 31, 2009

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

(a) Statement of compliance (cont'd):

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, 2009 and have therefore not been applied in preparing these financial statements:

- *IAS 1 (Revised) Presentation of Financial Statements* 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, which becomes effective for accounting periods beginning on or after January 1, 2009, will result in enhanced financial statement disclosure when adopted in preparing the Commission's 2010 financial statements.
- *Amendments to IAS 32 Financial instruments: Presentation and IAS 1, Presentation of Financial Statements* is effective for annual periods beginning on or after January 1, 2009. The amendments allow 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 2010.
- *Amendments to IFRS 7 Financial instruments: Disclosure* is effective for accounting periods beginning on or after January 1, 2009, require enhanced disclosures in respect of fair value measurement for financial instruments, specifically in relation to the inputs used in the valuation techniques and the uncertainty associated with such valuations, and improves disclosure over liquidity risk, to address current diversity in practice. The amendments will become effective for the 2010 financial statements. Management is assessing the impact that the revised standard will have on the financial statements.

(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.

FINANCIAL SERVICES COMMISSION

Notes to the Financial Statements (Continued)
Year ended March 31, 2009

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

(c) Use of estimates and judgements (cont'd):

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.

(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 entity 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.

FINANCIAL SERVICES COMMISSION

Notes to the Financial Statements (Continued)
Year ended March 31, 2009

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

(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.

(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.

(l) 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.

FINANCIAL SERVICES COMMISSION

Notes to the Financial Statements (Continued)
Year ended March 31, 2009

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

(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
- 2/100th 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".

During the year, the above fee schedule was amended as follows:

In accordance with the Securities (Licensing and Registration) (Amendment) Regulations 2008 which came into effect on October 1, 2008, fees are calculated using "the greater of:

(i) \$500,000; or

(ii) The aggregate of - 5 basis points on the 1st \$5 billion of total assets; and
- 1.5 basis points on the next \$25 billion of total assets; and
- 75/100 basis points on total assets over \$30 billion".

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 31st 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 31st December immediately prior to the anniversary of the grant of its licence".

FINANCIAL SERVICES COMMISSION

Notes to the Financial Statements (Continued)
Year ended March 31, 2009

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

(m) Fees (cont'd):

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

During the year, the above fee schedule was amended as follows:

In accordance with the amended 20th schedule which came into effect on November 1, 2008, the new fee structure for Jamaican and CARICOM General Insurance Companies are the aggregate of a fixed amount of \$4.7 million and an amount equivalent to 0.20% of total asset.

(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.

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

FINANCIAL SERVICES COMMISSION

Notes to the Financial Statements (Continued)

Year ended March 31, 2009

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

(m) Fees (cont'd):

(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 31st of the previous year.

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.

(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.

FINANCIAL SERVICES COMMISSION

Notes to the Financial Statements (Continued)
Year ended March 31, 2009

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

(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.

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.

FINANCIAL SERVICES COMMISSION

Notes to the Financial Statements (Continued)
Year ended March 31, 2009

3. Resale agreements (cont'd)

The interest rates on resale agreements were 17.25% (2008: 11.15% and 12%) as at the year end. The market value of the underlying securities as at March 31, 2009 was approximately \$139,800,000 (2008: J\$90,600,000).

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

4. Accounts receivable

	<u>2009</u>	<u>2008</u>
Trade receivables, net	96,071,300	69,143,352
Prepayments and deposits	4,395,842	15,108,513
Other receivables	202,286	404,843
Interest receivable	<u>2,007,006</u>	<u>503,874</u>
	<u>\$102,676,434</u>	<u>85,160,582</u>

Trade receivables are shown net of an allowance for impairment losses of \$4,121,000 (2008: \$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. Taxation recoverable is shown net of a provision for impairment loss of \$4,816,684 (2008: Nil).

6. Accounts payable

	<u>2009</u>	<u>2008</u>
Trade and other payables	16,248,442	12,309,958
Employee benefits	<u>24,352,882</u>	<u>17,755,609</u>
	<u>\$40,601,324</u>	<u>30,065,567</u>

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, 2009

7. Intangible assets

These represent software cost capitalised as follows:

	<u>2009</u>	<u>2008</u>
Cost:		
At beginning of year	31,690,035	28,584,693
Additions	<u>1,533,975</u>	<u>3,105,342</u>
At end of year	<u>33,224,010</u>	<u>31,690,035</u>
Amortisation:		
At beginning of year	16,416,366	13,457,439
Charge for the year	<u>6,059,060</u>	<u>2,958,927</u>
At end of year	<u>22,475,426</u>	<u>16,416,366</u>
Net book values	<u>\$10,748,584</u>	<u>15,273,669</u>

8. Property, plant & equipment

	<u>Motor vehicles</u>	<u>Office furniture, equipment and leasehold improvements</u>	<u>Computer equipment</u>	<u>Total</u>
At cost or deemed cost:				
March 31, 2007	1,817,043	31,069,001	34,458,328	67,344,372
Additions	<u>3,474,738</u>	<u>21,082,559</u>	<u>3,135,305</u>	<u>27,692,602</u>
March 31, 2008	5,291,781	52,151,560	37,593,633	95,036,974
Additions	<u>291,846</u>	<u>21,973,560</u>	<u>4,846,064</u>	<u>27,111,470</u>
March 31, 2009	<u>5,583,627</u>	<u>74,125,120</u>	<u>42,439,697</u>	<u>122,148,444</u>
Depreciation:				
March 31, 2007	1,194,393	16,851,990	32,421,450	50,467,833
Charge for year	<u>867,853</u>	<u>6,464,231</u>	<u>3,135,305</u>	<u>10,467,389</u>
March 31, 2008	2,062,246	23,316,221	35,556,755	60,935,222
Charge for year	<u>1,040,379</u>	<u>13,782,375</u>	<u>5,415,441</u>	<u>20,238,195</u>
March 31, 2009	<u>3,102,625</u>	<u>37,098,596</u>	<u>40,972,196</u>	<u>81,173,417</u>
Net book value:				
March 31, 2009	<u>\$2,481,002</u>	<u>37,026,524</u>	<u>1,467,501</u>	<u>40,975,027</u>
March 31, 2008	<u>\$3,229,535</u>	<u>28,835,339</u>	<u>2,036,878</u>	<u>34,101,752</u>

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.

FINANCIAL SERVICES COMMISSION
Notes to the Financial Statements (Continued)
Year ended March 31, 2009
9. Reserves

	<u>General</u>	<u>Capital Reserve [see note below]</u>	<u>Total</u>
Balance at March 31, 2007	82,382,185	1,078,564	83,460,749
Surplus for the year	<u>17,421,119</u>	<u>-</u>	<u>17,421,119</u>
Balance at March 31, 2008	99,803,304	1,078,564	100,881,868
Surplus for the year	<u>17,328,127</u>	<u>-</u>	<u>17,328,127</u>
Balance at March 31, 2009	<u>\$117,131,431</u>	<u>1,078,564</u>	<u>118,209,995</u>

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

	<u>2009</u>	<u>2008</u>
GOJ revenue grants (i)	19,411,394	14,465,077
GOJ grants (ii)	<u>30,800,000</u>	<u>27,720,000</u>
	50,211,394	42,185,077
Less rent expenses (ii)	<u>30,800,000</u>	<u>27,720,000</u>
	19,411,394	14,465,077
Funds received – IADB (iii)	-	23,217,000
Funds received – CARTAC (iv)	<u>2,056,257</u>	<u>-</u>
	<u>\$21,467,651</u>	<u>37,682,077</u>

(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 \$19,411,394 (2008:\$11,320,891) and \$Nil (2008:\$3,144,186) 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 \$30,800,000 (2008: \$27,720,000) 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 \$Nil (2008: \$23,217,000) to cover institutional strengthening of the Commission.

FINANCIAL SERVICES COMMISSION

Notes to the Financial Statements (Continued)
Year ended March 31, 2009

10. Grants (cont'd)

- (iv) CARTAC is a regional resource, based in Barbados which provides technical assistance and training in core areas of economic and financial management at the request of its participating countries. The Caricom Council of Ministers of Finance and Planning took the decision to establish the centre in September 1999 and the centre became operational in November 2001.

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 \$9,327,284 (2008: \$7,400,929).

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, 2009, securities so deposited and which were in the possession of the Commission amounted to \$1,379 million (2008: \$1,387 million)

FINANCIAL SERVICES COMMISSION

Notes to the Financial Statements (Continued)
Year ended March 31, 2009

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, 2009

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:

	<u>Carrying amount</u>	
	<u>2009</u>	<u>2008</u>
	\$	\$
Cash and cash equivalents	37,597,721	13,498,096
Resale agreements	138,815,810	90,000,000
Accounts receivable	<u>102,676,434</u>	<u>85,160,582</u>
	<u>\$279,089,965</u>	<u>188,658,678</u>

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>2009</u>	<u>2008</u>
	\$	\$
Past due 0-30 days	66,773,852	46,928,131
Past due 30-60 days	1,601,400	4,392,800
Past due 60-90 days	375,400	426,680
Past due over 90 days	<u>31,441,648</u>	<u>22,172,572</u>
	<u>100,192,300</u>	<u>73,920,183</u>
Allowance for impairment losses	<u>4,121,000</u>	<u>4,776,831</u>

(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.

FINANCIAL SERVICES COMMISSION

Notes to the Financial Statements (Continued)
Year ended March 31, 2009

14. Financial instruments (cont'd)

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

(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, 2009, the foreign currency asset was US\$132,372 (2008: US\$60,822).

Exchange rates, in terms of Jamaica dollars were:

	J\$ value of US\$1.00
At March 31, 2009:	87.95
At August 7, 2009:	88.92

Foreign currency sensitivity analysis:

A 10% strengthening of the United States dollar (US\$) against the reporting currency at the year end would have decreased profit by \$1,164,211. A 10% 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.

Notes to the Financial Statements (Continued)
Year ended March 31, 2009

14. Financial instruments (cont'd)

(c) Capital management:

The Commissioners and management monitor 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

- (a) At March 31, 2009 there are various outstanding lawsuits filed against the Commission. One such suit is a claim for damages aggregating approximately US\$5 million or J\$440 million and J\$8 million (2008: US\$5 million or J\$354 million and \$Nil). 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.
- (b) As at March 31, 2009 there is an outstanding issue regarding the Commission's collection of Investment Managers' license fees for funds and schemes which commenced their winding-up prior to September 29, 2006. The Commission is taking steps to resolve the matter. The amount cannot be determined at this time and hence no provision has been made in the financial statements.

16. Capital commitment

The Commission is committed to spend approximately \$25,328,280 for refurbishing the office building during the next financial year.

Notes