

SECURITIES COMMISSION
NEW ZEALAND

ANNUAL REPORT 2010

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

OUR PURPOSE

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

OUR WORK

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

OUTCOMES WE CONTRIBUTE TO

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

The regulatory environment is relevant and effective.

Securities law is tailored to the needs of the markets.

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

People understand the law and practice of securities.

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E.25 Thirty-first Annual Report

Laid before the House of Representatives pursuant to sections 150-157 of the Crown Entities Act 2004

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CHAIRMAN'S REPORT



The last 12 months have been among the most significant in the history of New Zealand's financial market regulation.

As our economy has emerged from the tumult of recent years, there has been increased appreciation from all quarters for the role of market regulation in building a sustainable platform for economic growth.

Over the past year, one of the most significant trends in the New Zealand investment market – as the market snapshot on page 10 shows – has been the continued growth of KiwiSaver. As many thousands of New Zealanders become first-time investors in New Zealand's securities markets, the role of effective market regulation as a foundation for investor confidence is more important than ever.

It is against this backdrop that the process of reforming our regulatory framework has gathered momentum and the Commission has continued its vigorous enforcement programme.

For Securities Commission Members and staff it has been a year of frenetic activity and significant highlights.

Staff have had huge workloads, and in some cases the process of change has added an element of uncertainty. Throughout, the professionalism, intelligence, perseverance and sheer hard work of all staff has continued to inspire me. My Commission colleagues have been a source of great intellectual assistance and personal support, and I particularly value their market experience. The Commission's ongoing achievements are the result of all their efforts.

In September 2009, the *Report on the Effectiveness of New Zealand's Securities Commission* was published by two independent experts, Michel Prada, former head of the French financial markets regulator and the

International Organisation of Securities Commissions (IOSCO) Executive and Technical Committees, and Neil Walter, former head of New Zealand's Ministry of Foreign Affairs and Trade. Their key findings were that the Commission was an efficient and effective organisation within the constraints of its funding and legislative remit.

The report concluded that New Zealand securities regulation has been hampered by the Securities Commission's narrow mandate, and limited powers and funding. This view reflects the Commission's own and the recommendations we have consistently made to government in recent years.

Consequently, the Commission has actively supported the process of regulatory reform over the past 12 months, working with the Capital Market Development Taskforce and the Ministry of Economic Development (MED).

Like many other New Zealanders, I am enthusiastic about the potential of the new Financial Markets Authority (FMA) when it takes over the functions of the Securities Commission in 2011. It will combine the functions of the Securities Commission with some regulatory functions of the Companies Office, the MED's National Enforcement Unit, the Government Actuary and NZX.

While I am hopeful for the new regime, it is vital that the FMA is adequately funded and resourced, and armed with a broader regulatory mandate and legal powers than the Securities Commission has been. Otherwise there is a risk the new body will fall short of expectations.

The last vital ingredient in the new regulatory regime is the Securities Act review, which gathered momentum with the release of the Ministry of Economic Development's discussion paper in June.

Among the critical regulatory additions that must not be lost in the review process are widening the regulator's powers by making directors' duties enforceable by the regulator. This would enable the regulator to represent the interests of small investors, who, in the case of deposit-taking finance companies, have been owed only limited duty of care by directors under current law. Similarly, it is important that the new organisation is given call-in powers to regulate new financial products that expose vulnerable consumers to investment risk, regardless of the strict letter of the law. The 'Blue Chip' property scheme is the most high-profile recent example, showing the dangers of a system that allows new products to slip between the regulatory cracks.

The consequences of what was clearly an inadequate regulatory system are only too evident in the heavy enforcement workload the Commission has undertaken over the past 12 months. Our enforcement team has been completing investigations into 40 failed finance companies that had operated without the constraints of prescribed minimum capital ratios or conduct regulation. We laid criminal and civil charges against the directors of Capital + Merchant Finance Limited, Lombard Finance and Investments Ltd and Dominion Finance Group Limited, and referred six more finance company cases to other authorities for further action.

In June, we recommended to the Minister of Commerce that Aorangi Securities Limited and the interests of Allan and Margaret Hubbard be placed in statutory management, following an investigation by the Registrar of Companies. Cabinet subsequently decided to proceed with statutory management. The Serious Fraud Office has also initiated investigations on referral from the Registrar of Companies.

We continued our oversight of NZX, and published our fourth annual oversight review in December 2009. We investigated 27 possible cases of NZX market misconduct. In April, we laid charges against certain directors of Nuplex Limited for breaches of NZX continuous disclosure rules, the first such charges to be laid.

Over the past year, the implementation of the new regulatory regime for financial advisers has also proceeded at a brisk pace. The new regime is on track for full implementation during the next 12 months. The Commissioner for Financial Advisers reports more fully on this work on page 6.

As the economy continues its slow climb out of recession, an important role for the Commission is granting exemptions to facilitate the raising of capital. In the last 12 months, a new class exemption was created to enable companies to raise more capital from existing shareholders.

The Commission's financial reporting surveillance programme continued, with three more review cycles completed.

During the year, we also reviewed corporate governance reporting and, in July 2010, published our report. The Commission has for the first time identified who was subject to review, enabling investors to follow up if they so choose.

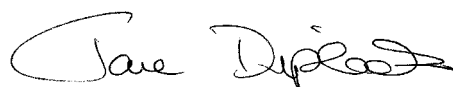
The Commission's international work programme continues to deepen our financial links to the global economy. In October 2009, 18 months after the commencement of trans-Tasman mutual recognition of securities offerings, the Australian Securities and Investments Commission (ASIC) published research on the regime's impact. It found that mutual recognition saves issuers between 55% and 95% in additional legal and documentation costs of capital-raising in the host country.

The revised Memorandum of Understanding between the New Zealand and Australian governments on Coordination of Business Law signed on 23 June 2010, sets out important principles for the trans-Tasman relationship going forward. These principles will be important guideposts for the establishment of the FMA. They include a principle on Australia and New Zealand working together on international standard setting.

The Commission continued to play a significant role in the process of international regulatory standard setting by IOSCO. I have remained Chair of IOSCO's Executive Committee as the organisation has achieved its milestone of having 97% of its 119 members sign up to the information-sharing agreement. This is designed to let regulators pursue financial transgressors across international borders. Under this agreement, overseas jurisdictions have requested information from New Zealand 10 times in the past year.

New Zealand remains Vice-chair of IOSCO's Asia Pacific Regional Committee, a position that gives us added regional influence in co-operation, enforcement and supervision. I have also continued to work with the Ministry of Foreign Affairs and Trade and New Zealand Trade and Enterprise to use my position in IOSCO to create opportunities to further New Zealand's reputation as an investment destination.

With the establishment of the FMA, this country's market regulation will take an historic step towards full implementation of global standards in New Zealand. The next 12 months promise to be as challenging as the previous twelve.



Jane Diplock AO
Chairman

COMMISSIONER FOR FINANCIAL ADVISERS' REPORT



Implementation of the financial adviser industry reforms proceeded in earnest this past financial year. First, my predecessor, Annabel Cotton, appointed the Code Committee required to draft the code for minimum standards of professional conduct.

The Committee, serviced by Commission staff, consulted on the required areas of competence, knowledge and skills; ethical behaviour and client care; and, continuing professional training. This was followed by a full consultation on the resulting draft Code released on 31 March.

The level of engagement from industry, which has embraced the idea of becoming a recognised profession, has been very encouraging. Both Annabel Cotton and I have been impressed by the individual dedication and collective wisdom that Committee members have brought to the task.

At the same time, the legislation was subject to pre-implementation adjustments against the backdrop of an ambitious implementation timeline. What were intended to be changes of a technical nature led, through the Select Committee process, to a significant resetting of the policy framework and consequent extension of the timetable to 1 July 2011.

The aim remains the same – to professionalize the financial adviser industry; but the regulatory emphasis is now on those who provide personalised, investment advice to retail clients. As part of achieving this refinement, the Commission has been given greater exemption and enforcement powers.

The Commission has already begun building its capacity and capability to operate the new regime, with particular focus on the licensing phase: for authorised financial advisers (AFAs) providing investment advice

to retail clients; and for approving qualifying financial entities (QFEs), who will take front-line compliance responsibility for staff giving this advice. At the same time, the Commission is formulating policy on how it will monitor both AFAs and QFEs to enable it to be satisfied, on renewing licences, that they have discharged their compliance obligations. This, in the case of AFAs, includes their compliance with the minimum professional standards prescribed by the Code of Professional Conduct; and, in the case of QFEs, providing consumer protection of a standard similar to that required by the Code.

In addition to completing these work streams, the next phase of implementation will cover developing effective enforcement tools. This will include gathering intelligence about what is happening in the market place. It is an essential part of the establishment of a profession that those unprepared to abide by the rules are excluded from it. That concept is clearly embedded in the new regulatory framework for financial advisers.

The past 12 months have been extremely busy for both the financial adviser industry and Securities Commission staff. We look forward to another equally productive year on the final stretch to implementation of the new regime. Many in the industry clearly understand that adopting higher standards and better business practices is essential if they are to win back public confidence. There is much to be done, and, all going well by the end of the next year, we will be set to enter a new era of financial adviser professionalism and public investor confidence in our financial markets.

A handwritten signature in black ink, appearing to read 'David Mayhew'. The signature is fluid and cursive, with a prominent 'D' and 'M'.

David Mayhew

Commissioner for Financial Advisers

HIGHLIGHTS

DURING THE YEAR THE SECURITIES COMMISSION:

- advised the Ministry of Economic Development on the establishment of the new consolidated regulator, the Financial Markets Authority
- continued the process of completing investigations into 40 collapsed finance companies
- laid criminal and civil charges against the directors of Capital + Merchant Finance Limited, Lombard Finance and Investments Ltd and Dominion Finance Group Limited
- took civil proceedings against Nuplex Limited and certain current and former directors alleging breach of NZX continuous disclosure obligations and the Securities Markets Act 1988, the first such case to be taken
- recommended to the Minister of Commerce that Aorangi Securities Limited, certain charitable trusts, and Mr Allan and Mrs Margaret Hubbard be placed in statutory management
- referred six finance company cases to other authorities for further action
- warned finance company investors to seek advice when faced with unsolicited and below face-value offers for their debentures
- issued guidance notes for disclosure by KiwiSaver providers and credit rating disclosure by non-bank deposit takers
- completed three cycles of the financial reporting surveillance programme
- completed our fourth annual oversight review of the NZX's performance of its regulatory function as a registered exchange
- investigated 27 possible cases of market misconduct
- mobilised the financial services industry around the setting up of a new profession of licensed financial advisers
- granted a new class exemption to allow listed companies to raise more money from existing shareholders
- progressed two applications for designation as settlement systems, together with the Reserve Bank
- assisted overseas regulators in their cross-border investigations on 10 occasions.

THE CHAIRMAN OF THE COMMISSION:

- continued to play a significant role in establishing new international finance rules for the post-global financial crisis through her work as Chair of the IOSCO Executive Committee, Vice-chair of the Asia-Pacific Regional Committee and a member of the Financial Crisis Advisory Group.

MEMBERS OF THE COMMISSION

The Securities Commission consists of between five and 11 Members appointed by the Governor-General on the recommendation of the Minister of Commerce. Members are appointed for their knowledge or experience in industry, commerce, economics, law, accountancy, public administration or securities.

At least one Member must be a barrister or solicitor of not less than seven years' practice. Members hold office for a term not exceeding five years, and may be reappointed.

The Commission began the 2009/10 year with 10 Members and, with a number of changes in membership during the year, finished with nine. Three completed their terms of appointment during the year, namely Mai Chen in August 2009, and Colin Beyer and Cathy Quinn in February 2010.

Two further Members, David Jackson and Elizabeth Hickey, resigned in April 2010.

David Mayhew became a Member of the Commission in January 2010. He was appointed Commissioner for Financial Advisers, replacing Annabel Cotton who held that position from May 2009 as a transitional arrangement.

Three other new Members joined the Commission during the year – Mark Verbiest in October 2009, and Simon Botherway and Shelley Cave in February 2010.

The Commission held 11 regular monthly meetings (11 in 2008/09) and 79 division meetings (75). It passed an additional 93 written resolutions (87). The Audit and Risk Review Committee met 5 times (5); its chair is Keitha Dunstan. Other members of the Audit and Risk Review Committee are Annabel Cotton, John Holland and Neville Todd.

MEMBERS OF THE COMMISSION AS AT 30 JUNE 2010



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

Professional: Barrister and solicitor of the ACT Supreme Court and High Court of Australia, Barrister of the New South Wales Supreme Court; Chairman of the Executive Committee of IOSCO; Fellow of the Institute of Public Administration of Australia; Fellow of the Australian Institute of Company Directors; Fellow of the New Zealand Institute of Management.



David Mayhew BA, LL B (Hons)

Commissioner for Financial Advisers since January 2010.

Professional: Barrister and solicitor of the High Court of New Zealand and Solicitor of the Supreme Court of England and Wales.



Simon Botherway B Com, CFA

Professional investor, Auckland.

Directorships: Fisher & Paykel Appliances Holdings Limited, Financial Markets Authority Establishment Board (Chairman) and Electricity Authority Establishment Board.



Shelley Cave LL B

Solicitor, Auckland.

Professional: Partner at Simpson Grierson specialising in corporate and securities law.

Directorships: Financial Markets Authority Establishment Board.



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

Business consultant, Hamilton.

Professional: Consultant to companies listed in New Zealand and overseas. Commissioner for Financial Advisers (May 2009 – January 2010).

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



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

Professor, Gold Coast.

Professional: Head of School of Business, Bond University, Gold Coast, Australia.



John Holland B Com, LL B

Solicitor, Christchurch.

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

Directorships: Kathmandu Holdings Limited.



Neville Todd B Com

Company director and business consultant, Wellington.

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



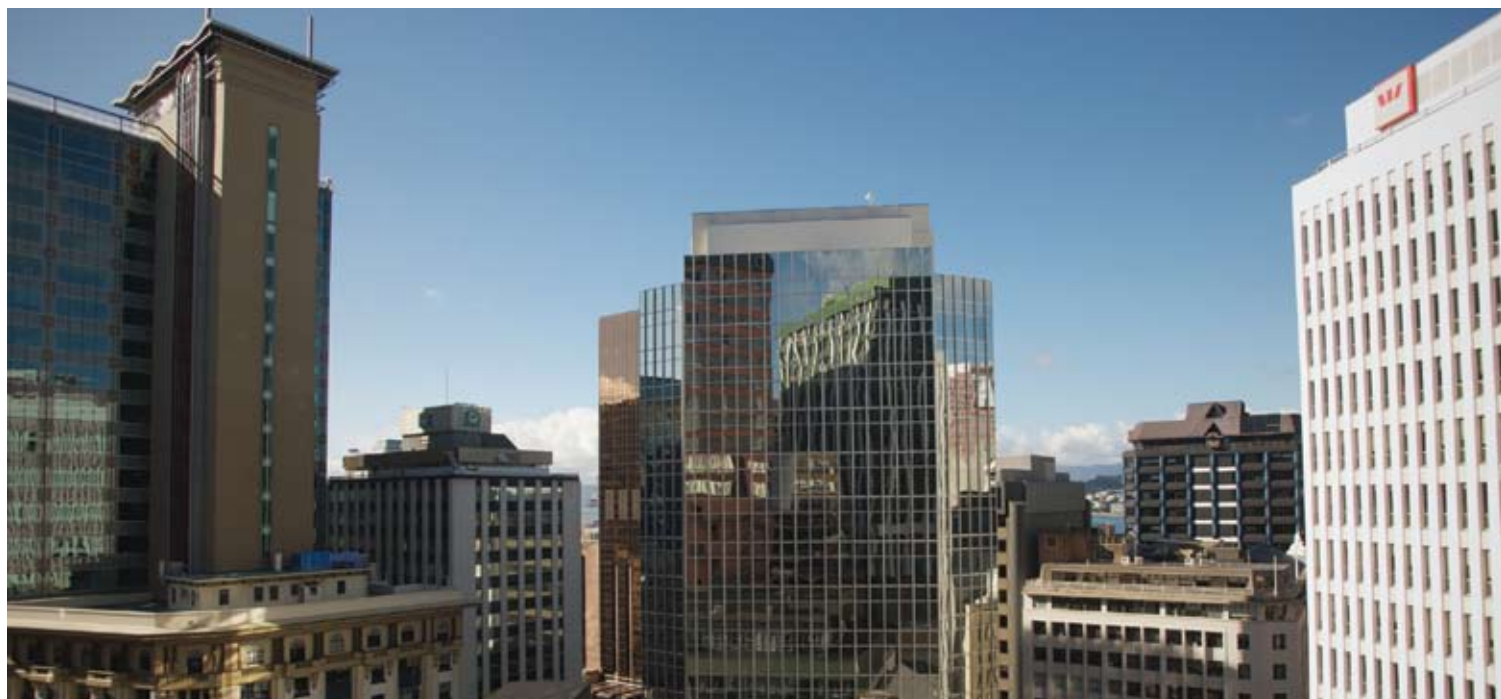
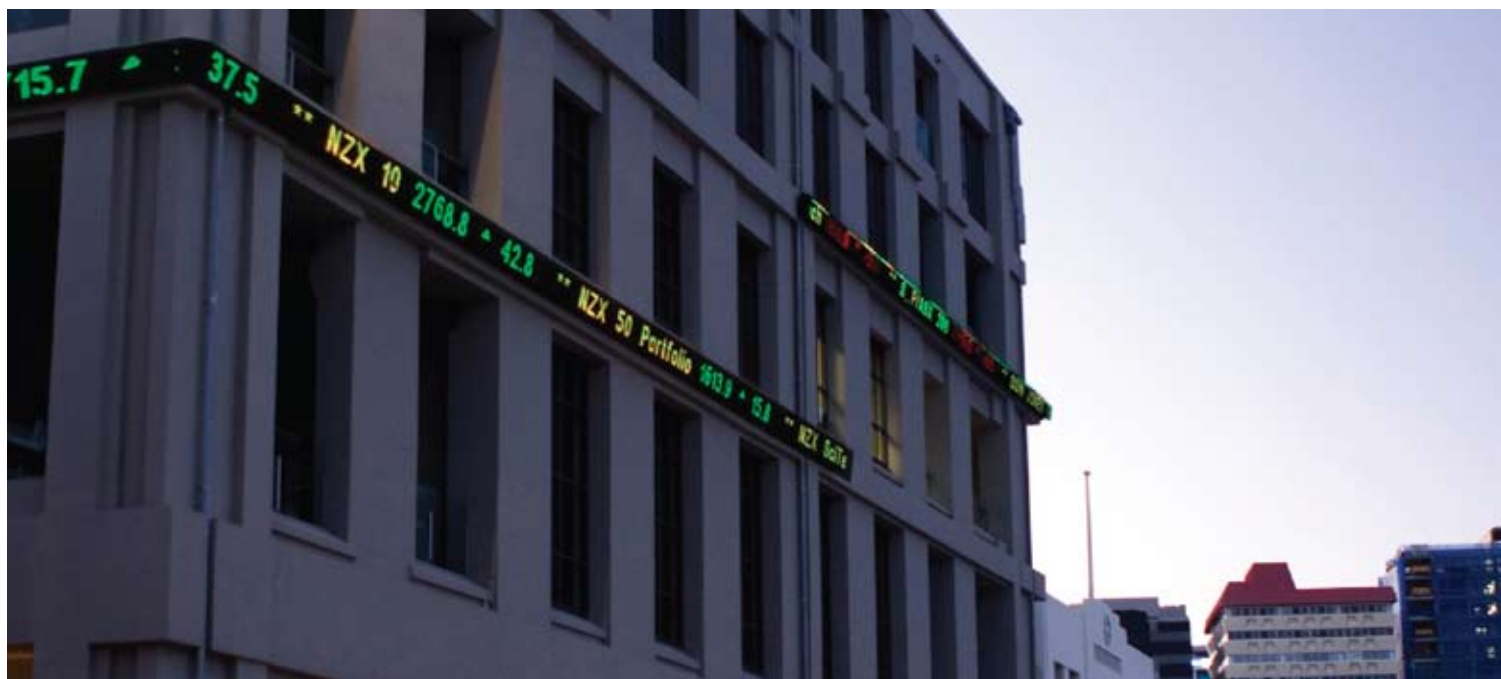
Mark Verbiest LL B

Company director/consultant, Wellington.

Professional: Consultant to Simpson Grierson.

Directorships: AMP Haumi Management Limited (manager of AMP NZ Office Trust), Freightways Limited, Government Superannuation Fund Authority, Southern Cross Medical Care Society, Health Trust and related entities, Aptimize Limited (Chairman), Willis Bond Capital Partners Limited (Chairman).

NEW ZEALAND SECURITIES MARKETS



This section provides an overview of the securities markets in which the Commission operates. We have used recent industry data from the Reserve Bank of New Zealand and NZX.

Financial assets held by households in New Zealand include deposits with registered banks, superannuation schemes (including KiwiSaver), unit trusts and group investment funds, other managed funds, life insurance products and assets directly invested on the New Zealand stock market.

As at 31 December 2009, these investments totalled \$212 billion, compared with \$196 billion 12 months earlier.

DEPOSIT TAKERS

Nineteen banks were registered as at 30 June 2010, 10 of which were incorporated in New Zealand.

The New Zealand household sector's aggregate deposits in registered banks was \$92.9 billion as at 31 December 2009, an increase of 3.3% from the previous year.

A number of non-bank financial institutions also issue debt securities. These include deposit-taking finance companies, building societies and credit unions.

As at 31 December 2009, households' investment in non-bank deposit takers decreased by 5% over the same period to \$8.8 billion.

SUPERANNUATION SCHEMES (INCLUDING KIWISAVER)

The aggregate value of managed superannuation funds was \$23 billion as of December 2009¹, an increase of 23% from 2008. KiwiSaver contributions made up 21% of superannuation investment, with a total of \$5.0 billion

being invested in KiwiSaver as at December 2009. This figure has increased by 76% on December 2008.

UNIT TRUSTS, GROUP INVESTMENT FUNDS AND OTHER MANAGED FUNDS

The value of household investments managed in unit trusts, group investment funds and other forms of mandate was \$26.5 billion at 31 December 2009, an 8.7% growth on the previous year.

LIFE INSURANCE

The value of policy holders' funds managed by life insurance companies was \$7 billion as at 31 December 2009, down by 2.6% from the previous year.

EQUITIES

The value of equities held directly by households and listed on the NZX's two equity markets – the NZSX and NZAX – was estimated at \$15 billion at the end of 2009, an increase of 30% from 2008.

The value of direct overseas equities estimated to be held by households at the end of 2009 was \$6.8 billion.

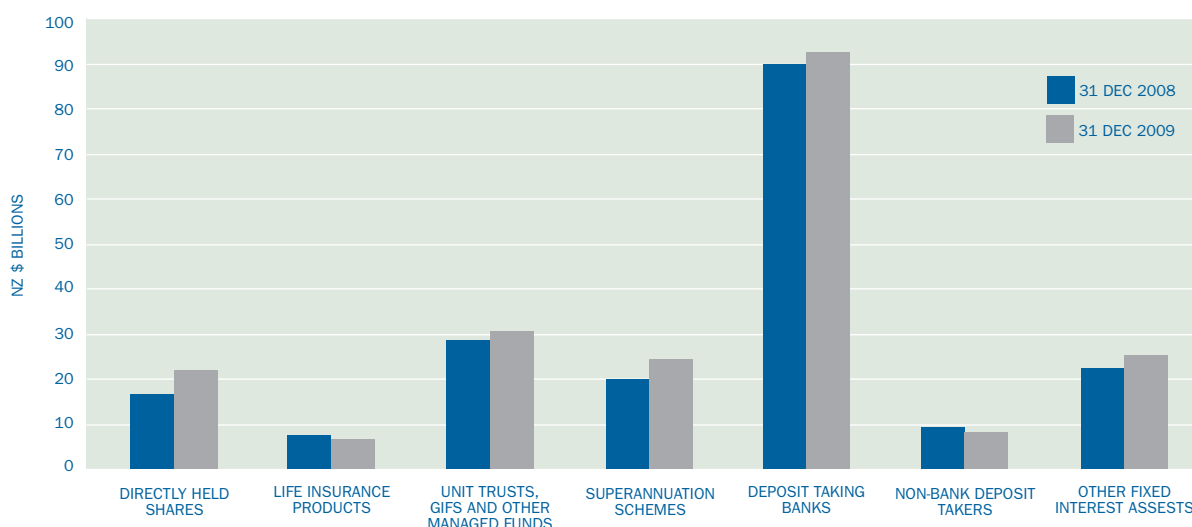
The market capitalisation of shares listed on the NZSX as at 30 June 2010 was \$49.6 billion. This is an increase of 2.5% on last year's figure of \$48.4 billion. The smaller NZAX index decreased from \$600 million to \$390 million over the same period, a fall of 35%.

As at 30 June 2010, there were 152 issuers listed on the NZSX, compared with 156 at 30 June 2009. The NZAX had 27 issuers as at 30 June 2010, compared with 31 a year earlier.

The total new equity raised on the NZSX and NZAX during the year to 30 June 2010 was \$2.85 billion, compared with \$2.34 billion for the 2008/09 year.

FIGURE 1. FINANCIAL INVESTMENTS OF NEW ZEALAND HOUSEHOLDS

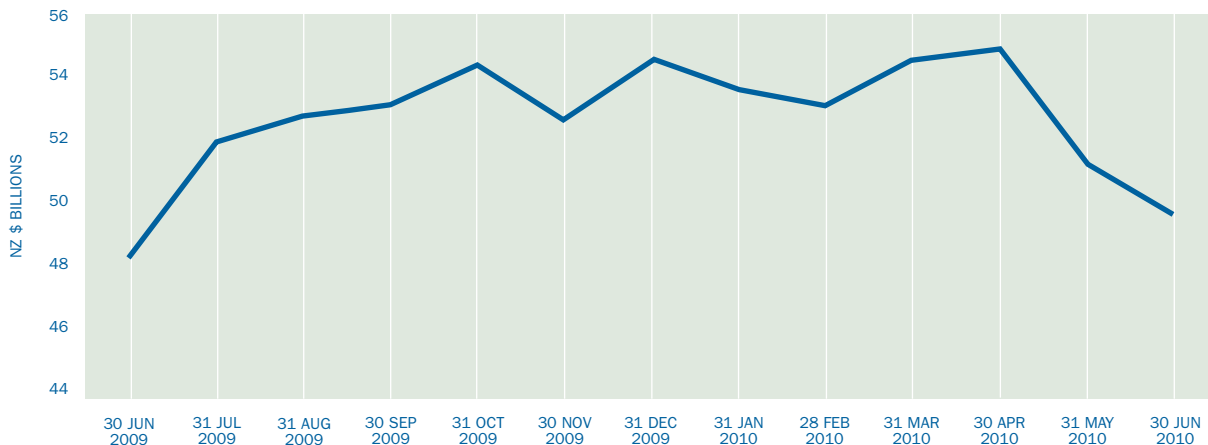
Source: Annual household financial liabilities and assets survey, RBNZ



¹ December 2009 data is from the RBNZ's quarterly managed funds survey, which does not cover smaller fund managers whose data is included in Figure 1.

FIGURE 2. NZSX MARKET CAPITALISATION

Source: NZX



DEBT

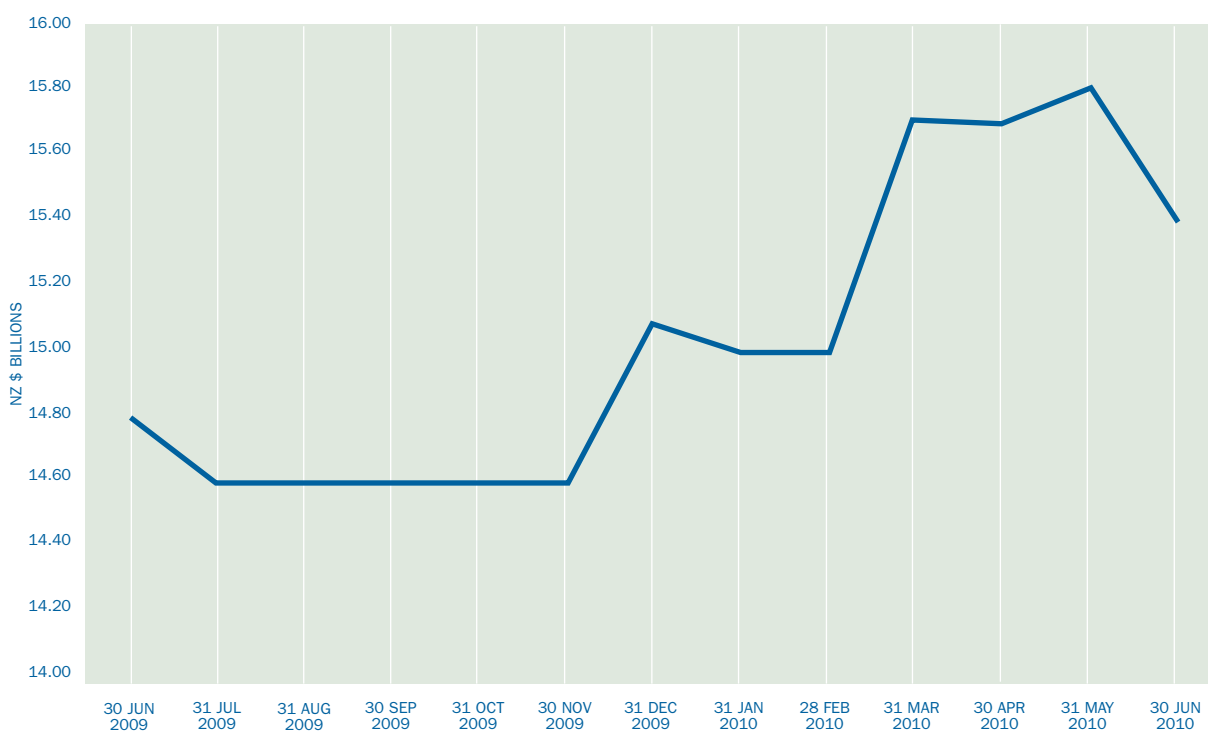
The NZDX is New Zealand’s market for trading a range of investment securities, including corporate and government bonds, and fixed income securities. The value of the NZDX as at 30 June 2010 was \$15.4 billion, a 4.4% increase from the same time last year.

There were 59 issuers listed on the NZDX at 30 June 2010, compared with 61 at 30 June 2009.

The total new debt raised on the NZDX during the year to 30 June was \$1.66 billion, compared with \$3.27 billion for the previous year.

FIGURE 3. MARKET CAPITALISATION NZDX

Source: NZX



PERFORMANCE AGAINST OBJECTIVES



In May 2009, the Commission published its fourth Statement of Intent (SOI) under the Crown Entities Act. This outlined work for 2009-12.

We report below against SOI objectives for the 2009/10 financial year. The Statement of Service Performance (page 56) details activities under each output for the same year.

We also report progress on the medium-term performance for each output against the medium-term measures included in the SOI 2009-12.

SURVEILLANCE AND ENFORCEMENT

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

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

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

OBJECTIVES

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

MEASURES

- In 90% of surveillance cases where deficiencies are identified the desired regulatory result is achieved
- Resources are applied in accordance with the Commission's market surveillance and enforcement priorities
- The Commission achieves the desired regulatory result in at least 80% of enforcement actions

SURVEILLANCE – DESIRED REGULATORY RESULT

In 97% of surveillance cases where deficiencies were identified, the desired regulatory result was achieved.

In respect of surveillance work the desired regulatory outcome can be achieved through a range of means, including:

- the subject correcting or remedying a breach
- the Commission accepting an enforceable undertaking
- the offer being withdrawn, conduct ceased and/or money repaid.

In some cases the desired regulatory outcome is that no action is taken, for instance if there is no evidence of a breach of the law.

In the last year, the Commission completed 99 surveillance investigations into suspected breaches of the law. These resulted in a range of actions, including:

- withdrawal of offers – seven companies withdrew their offers entirely after Commission action
- corrections to misleading disclosure – 10 companies made corrections after the Commission requested changes
- warnings about disclosure obligations were made in five cases

- fraud charges – police laid fraud charges in one case after referral from the Commission
- referrals to other agencies – three cases were referred to other agencies for consideration for prosecution, in addition to the six finance company referrals (explained below)
- companies improving compliance procedures – one company agreed to improve its procedures after Commission attention
- assistance to international enforcement agencies was given on 10 occasions.

In addition to the 99 surveillance actions, the Commission researched 71 possible overseas broker scams and where appropriate listed them on its website.

RESOURCE ALLOCATION PRIORITIES

The Commission applied its resources according to the priorities set out in its Strategic Plan.

The principle enforcement priority for the year was investigating failed finance companies.

The surveillance priorities were:

- secondary market disclosures relating to banking covenants, and misleading or lack of secondary market disclosure. This led to an enforcement action against Nuplex
- financial reporting surveillance programme.

Why the Commission prioritises its surveillance and enforcement work

The Commission has finite resources to work with. Enforcement cases can be expensive because investigations can take a long time to complete. The Commission is required to act fairly to all concerned in its investigations. We must ensure we have obtained and reviewed relevant documentation and other evidence (which can be extensive) before deciding whether there are grounds to proceed against any of those investigated.

Some investigations uncover material breaches of the law. In these cases, civil or criminal charges may be laid against those involved. Once charges are laid, the matter is dealt with by the Court and can take a long time to come to trial.

Other investigations do not uncover material breaches of the law, or uncover breaches that an application of the Solicitor-General's public interest test (see below) indicates should not be prosecuted.

It is important the Commission prioritises this work. The Commission applies its resources according to the priorities set out in its Strategic Plan.

Finance company enforcement

Forty finance companies (non-bank deposit takers) either collapsed or froze payments over the past three years. The Commission has been investigating all of these.

Action taken against directors of finance companies

During the past 12 months, criminal and civil charges were laid against the directors of three finance companies.

- In March, charges were laid against five directors of Capital + Merchant Finance Limited, which collapsed in November 2007 owing approximately \$167 million to some 7,000 investors. The receivers advised that investors were unlikely to recover any of their investments.
- In April, charges were laid against the directors of Lombard Finance and Investments Limited, which collapsed in April 2008 owing approximately \$127 million to some 4,400 investors. The receivers estimated that secured debenture holders would receive less than 30% of their investment back, while unsecured creditors were unlikely to receive any return. The Commission is continuing its investigations and is considering further proceedings.
- In June, charges were laid against the six directors of Dominion Finance Group Limited, which collapsed in September 2008 with approximately \$176.9 million debenture stock on issue to some 5,900 investors. The receivers estimated that secured debenture holders were likely to receive 10-25% of their original investment. The Commission is continuing its investigations and is considering further proceedings.

We allege that the directors of these companies misled investors by making untrue statements in their offer documents.

During the last two years, the Commission has laid criminal and civil charges against the directors of five finance companies. In December 2008 charges were laid against the directors of Bridgecorp (NZ) Limited and Nathans Finance NZ Limited. Six additional cases have been referred to the National Enforcement Unit of the Ministry of Economic Development for further action.

No further action on some finance companies

The Commission decided that no further action was warranted in 16 finance company cases because, either, no material breach of the law was uncovered, or, where there was a material breach, the Commission judged it not in the public interest to proceed to prosecution.

The public interest test

In all cases where criminal or civil charges could possibly be laid, the Commission applied the Solicitor-General's public interest test. Reasons for not proceeding with court action may include low likelihood of success; lack of significant material benefit to investors if court action proceeded (eg investors unlikely to receive compensation if civil charges were successful); lack of impact of any penalty on the accused (eg the accused is already bankrupt or banned from acting as a director); the desired regulatory outcome is achievable by other means (eg those investigated offer an enforceable undertaking); or, the Commission judges there to be a potentially greater benefit to investors if its finite resources are directed to other cases.

Warnings to finance company investors to seek advice before accepting unsolicited offers

The Commission issued three warnings advising finance company debenture holders to seek advice before accepting unsolicited offers to buy their debentures for a percentage of their face value.

Two warnings were issued to Strategic Finance investors following offers in January from Marchmont Securities of 10 cents in the dollar, and in June from Stock and Share Trading Pty Limited of 5 cents in the dollar.

In May, a warning was issued relating to an unsolicited offer to St Laurence Finance Debenture Holders of 8 cents in the dollar.

Continuous disclosure enforcement - Nuplex

In April, our secondary markets surveillance work led the Commission to bring its first continuous disclosure enforcement case when it filed civil proceedings against Nuplex Industries Limited and certain of its current and former directors. The case alleges that Nuplex failed to disclose to the market a breach of a banking covenant, and that this failure breached its continuous disclosure obligations under NZX's Listing Rules and the Securities Markets Act 1988.

Financial reporting surveillance programme

In the past 12 months, the Commission completed three review cycles of the financial reporting surveillance programme, looking at the financial reports of 68 issuers.

During the course of the three review cycles (9, 10 and 11), we wrote to 54 issuers to follow up issues we identified in their reports. In 103 cases, the issues were resolved to our satisfaction. In a further 10, other regulatory follow-up action was taken or enquiries were in progress.

Detailed published reports on each cycle are available on our website.

Why does the Commission undertake financial reporting surveillance?

Transparent financial reporting is a critical element in building investor confidence. This involves the application of international accounting standards (NZ IFRS) to ensure New Zealand is a globally recognised market.

To encourage high-quality financial reporting in New Zealand, the Commission undertakes an ongoing financial reporting surveillance programme to monitor the standard of financial reporting, encourage issuers to improve their reporting, and, if necessary, take regulatory action.

With regard to its role in lifting compliance with financial reporting standards to new levels, the Commission sees itself as a facilitator as much as an enforcer of currently accepted standards. We work closely with accounting and audit firms to educate the market on raising the quality of financial reporting, and communicate directly with issuers to bring to their attention any matters we believe require attention.

ENFORCEMENT – DESIRED REGULATORY RESULT

Enforcement actions completed during the year achieved the desired regulatory result in 83% of cases. This included the charges laid against the directors of Capital + Merchant Finance as outlined above.

OTHER SURVEILLANCE AND ENFORCEMENT ACTIONS COMPLETED

In addition to the progress achieved against the main output measures, the Commission has undertaken other surveillance and enforcement work as outlined below.

Statutory management

Following careful consideration of a report from the Registrar of Companies, the Commission recommended that Aorangi Securities Limited, certain charitable trusts, and Mr Allan and Mrs Margaret Hubbard should be placed in statutory management. Pursuant to section 38 of the Corporations (Investigation and Management) Act 1989 the Minister of Commerce placed these entities under statutory management on 20 June.

What is statutory management?

Statutory management is a measure of last resort, which the Corporations Act allows in exceptional circumstances. This is done by an Order in Council made by the Governor-General on the advice of the Minister of Commerce following a recommendation from the Securities Commission.

Statutory management exists alongside more traditional legal methods of dealing with at-risk companies, such as receiverships, liquidations and schemes of arrangement. The Act can apply to any corporation, which means any group of people – incorporated or not – and can include a company, a group of companies, and some types of trust.

Statutory management applies to a corporation that may be operating fraudulently or recklessly; or, where it is desirable to preserve the interests of the corporation's shareholders or creditors (including investors), or beneficiaries, or the public interest, and if there is no other lawful way to adequately protect those interests.

A statutory manager has powers to manage a corporation in statutory management to the exclusion of all others, to pay creditors and compromise claims, to carry on the business of the corporation, or to sell a corporation's business undertakings. The manager can exercise the powers of a corporation's directors and shareholders, and suspend payment of its debts.

When a corporation is placed in statutory management none of its assets may be removed from New Zealand. There is a moratorium on commencing or continuing Court action.

A statutory manager can apply to the High Court for directions about the exercise of any powers, and the Court can confer additional powers on the statutory manager.

Guidance for non-bank deposit takers on disclosure of credit ratings

In February, the Commission published guidance for non-bank deposit takers on disclosure of credit ratings, in preparation for implementing the requirement the following month for them to have a credit rating from an approved rating agency. In cases such as this, the Commission regards guidance as preventative enforcement.

Guidance for KiwiSaver providers

In March, the Commission published guidance for KiwiSaver providers on the Commission's expected standards for the promotion, distribution and disclosure of performance of KiwiSaver schemes. Guidance was issued in response to concerns about the standard of disclosure provided to new and inexperienced KiwiSaver investors.

SURVEILLANCE AND ENFORCEMENT ACTIVITY IN PROGRESS

The following surveillance and enforcement work remained in progress at 30 June 2010.

Finance companies

Investigations are continuing in relation to 13 finance companies.

ANZ/ING settlement

In June, the Commerce Commission achieved a settlement with ANZ National Bank Limited and ING (NZ) Limited relating to its investigation into alleged breaches of the Fair Trading Act 1986 by those and other entities in relation to the marketing, promotion and sale of the ING Diversified Yield Fund and ING Regular Income Fund.

The Securities Commission welcomed the settlement, believing it the most appropriate outcome for investors. Therefore, under section 69J of the Securities Act 1978, the Commission accepted an enforceable undertaking from ANZ National and ING in respect of the conduct investigated by the Commerce Commission, and agreed to take no further action on this matter. The undertaking requires ING to obtain an independent review of certain internal procedures and to report to the Commission on this.

Corporate governance reporting

In recent years there has been growing concern in New Zealand and internationally about the importance to investor confidence of transparent standards of corporate governance. During the past 12 months, we recommenced corporate governance surveillance review work. Our report on these standards was published in July 2010.

MEDIUM-TERM PERFORMANCE

Measure

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

Achievement

During the year the Commission maintained its focus on initiating enforcement actions as described above. In the medium term, the Commission plans to develop measurement systems that confirm whether these actions show improved compliance with the law. We have yet to carry out any follow-up assessments on the impact of the enforcement actions completed this year.

OVERSIGHT AND SUPERVISION

OBJECTIVES

- NZX properly fulfils its regulatory role in the market
- The Commission is ready to fulfil new statutory roles including under the Financial Advisers legislation

MEASURES

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

NZX

The Commission was satisfied NZX had responded constructively to matters raised in the oversight review of the 2007 calendar year. NZX had made improvements in the availability of listed issuer information on its website and completed the revision of the New Zealand Markets Disciplinary Tribunal Rules.

This was reported in the Commission's fourth annual oversight review of NZX's performance of its regulatory functions as a registered exchange, published in December and available on the Commission's website.

FINANCIAL ADVISERS REGULATION

The Commission remains on track for full implementation of the new regime regulating financial advisers.

Under the Financial Advisers Act 2008, the Commission is responsible for regulating the financial adviser industry. Over the past 12 months, we have been mobilising the financial sector to set up the new financial adviser regime.

The regime aims to promote the professionalism of all financial advisers, requiring them to meet general conduct and disclosure standards. In addition, advisers who provide personalised advice to retail clients must comply with licensing requirements and demonstrate they meet minimum standards of conduct and competence. Streamlined licensing arrangements are available for adviser businesses that can satisfy the Commission they have the capacity to take responsibility for their advisers' conduct and meet the level of consumer protection required by law.

Oversight of this work has been undertaken by the Commissioner for Financial Advisers. David Mayhew replaced Annabel Cotton in this role in January 2010.

In April, the Minister extended the timetable for implementing the Financial Advisers Act, announcing that the new regime will come fully into force on 1 July 2011. This gives advisers a further seven months to complete any training and education needed to meet the competence standard required for authorisation.

Significant aspects of the work undertaken are outlined below.

Industry consultation

The Commission has supported the work of the independent financial advisers Code Committee, which drafted a Code of Professional Conduct for authorised financial advisers. The Code has been released to the industry for comment and will be presented to the Commissioner for approval later in 2010. The Commission has also consulted extensively with industry bodies and participants on implementation issues.

Education

We have worked with ETITO, the training organisation for the financial services industry, which is establishing a qualification regime. ETITO is, in turn, working with numerous public and private education providers to establish training courses for advisers preparing for authorisation.

Public register

We have been working with the Companies Office to facilitate setting up a public register of all financial service providers. The public will be able to access this to check if an adviser or organisation is registered or authorised.

Guides for industry

The Commission published two guides for the financial adviser industry to assist with transition to the new regime. These explained how to prepare an Adviser Business Statement (ABS), which is a key requirement for being licensed by the Commission. The first guide targeted businesses applying for qualifying financial entity (QFE) status; the second targeted individuals applying to become an authorised financial adviser (AFA). These documents were made freely available on the Commission's website.

LAW REFORM

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

OBJECTIVES

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

Communication with industry

Communication with the financial adviser industry has been a priority as we facilitate the set-up phase of the new financial adviser profession via face-to-face meetings, speeches by the Commissioner for Financial Advisers and key staff, and industry media. We also added a new section to our website with up-to-date information on financial adviser regulation and implementing the new regime.

CLEARING AND SETTLEMENT

In addition to the actions on NZX and financial adviser regulation, the Commission undertook work on clearing and settlement systems. The Reserve Bank of New Zealand Amendment Act 2009 created a new Part 5C. This provides for the designation of settlement systems and their oversight by making the Commission and the Reserve Bank joint regulators.

MEDIUM-TERM PERFORMANCE

Measures

- Few recommendations in significant areas need to be made to NZX and it takes action in response to the Commission's recommendations.
- The Financial Advisers legislation is successfully implemented and the Commission equipped to take on its related role.

Achievements

- The last review of NZX, published in December 2009, found its performance as a registered exchange was good and it had taken on board the Commission's recommendations.
- The Commission remains on track with its preparations for full implementation of the financial adviser regime.

MEASURES

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

ADVICE ON REFORMS

Our advice to the Minister and Ministry of Economic Development focused on those matters the Commission believed should be given priority.

This included advising and assisting with Capital Market Development Taskforce recommendations.

The reforms we worked on during the year are outlined below.

Financial Markets Authority

In April, the Minister of Commerce announced the establishment of a consolidated regulatory agency to be known as the Financial Markets Authority (FMA). The FMA will combine the Securities Commission with aspects of the regulatory functions of the Companies Office, the National Enforcement Unit of the MED, and those of the Government Actuary that deal with supervising KiwiSaver and superannuation schemes. The FMA will be responsible for approving NZX's conduct rules, and for oversight of auditors.

Securities Act Review

The Commission has been working with MED for some time on a review of the Securities Act. In June, the MED published a discussion document seeking submissions on proposals for reform. The discussion document focuses on changes in four main areas: defining financial products, offers to exempt investors, disclosure and collective investment schemes.

Financial Service Providers (Pre-Implementation Adjustments) Bill

Introduced in December 2009 and passed on 30 June 2010 as the Financial Advisers Amendment Act 2010, this Bill amends the Financial Advisers Act 2008 and the Financial Service Providers Act 2008. The amendments provide for effective and efficient implementation of the Financial Advisers Act by making changes that include strengthening the Commission's power to monitor and enforce it. The changes aim to ensure the law provides for responsible regulation of the financial services sector and robust consumer protection. They emphasise the protection of unsophisticated investors.

Securities (Moratorium) Regulations 2009

These regulations came into effect in January 2010, in response to Commission concerns that retail investors required better information before voting on a proposal for a moratorium. The regulations require any issuer proposing a moratorium to issue a revised investment statement in a simple question-and-answer format outlining relevant details of the proposal. The regulations also require issuers in moratorium to issue half-yearly reports on the progress of the moratorium.

Securities Trustees and Statutory Supervisors Bill

This Bill, proposing new powers for the Commission to regulate trustees, was introduced to the House in December 2009. The proposed law will require trustees, statutory supervisors and unit trustees to be licensed by the Securities Commission and to report to it on the conduct and financial health of the issuer they oversee. The Bill will address the shortcomings in New Zealand's regulatory regime made apparent in recent years by the failure of some trustees to exercise effective oversight of finance company issuers.

Securities Regulations 2009

As part of the ongoing effort to simplify offer documents for investors and reduce compliance costs for issuers, new regulations came into effect on 1 October 2009.

These outline the simplified disclosure prospectuses that listed issuers may, in prescribed circumstances, use when offering equity securities, debt securities or units in a unit trust. The new regulations greatly simplify financial reporting requirements for prospectuses, thereby reducing compliance costs for capital raising.

Anti-Money Laundering and Countering Financing of Terrorism Act

This Act was passed in October 2009. The law is designed to enhance collaboration between the financial sector and government in combating money laundering and resulting crime.

The Securities Commission is one of three government agencies (along with the Reserve Bank and the Department of Internal Affairs) appointed to work with the Police's Financial Intelligence Unit for supervising and enforcing this law. The Securities Commission's responsibility covers issuers of securities, collective investment schemes, brokers, financial advisers, trustee companies and futures dealers.

The law is still in the implementation stage, with regulations being drafted for implementation by the responsible agencies. The Commission is preparing a sector risk assessment; it has surveyed industry to determine the money laundering and terrorism financing risks across all entities it surveys.

Settlement Systems, Futures and Emissions Units Bill

The Bill passed into law in November 2009. It reforms the law relating to settlement systems under the Reserve Bank of New Zealand Act 1989, changes the application process for an entity seeking to become an authorised futures exchange under the Securities Markets Act 1988, and clarifies the regulatory framework for emissions units under the Securities Act 1978 and Securities Markets Act.

FEEDBACK FROM MED

The Ministry of Economic Development is satisfied with the Commission's advice.

MEDIUM-TERM PERFORMANCE

Measure

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

Achievement

The Securities Regulations and Securities Moratorium Regulations were enacted, addressing shortcomings identified by the Commission.

EXEMPTIONS AND AUTHORISATIONS

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

OBJECTIVES

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

MEASURES

- Published a Statement of Reasons as part of each exemption notice, which explains the policy basis for the Commission's decision
- Dealt with all applications for exemptions and authorisations within the time agreed with the applicants

The Commission published a Statement of Reasons in every exemption notice to provide transparency around the policy basis for the decision.

Seventy-one applications for exemptions and authorisations were dealt with during the year. Of these, 97% were completed within the agreed time as explained in the Statement of Service Performance.

SIGNIFICANT EXEMPTIONS AND AUTHORISATIONS

Share purchase plans

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

Deposit guarantee scheme

We granted a new class exemption for the extended government deposit guarantee scheme.

Exempting overseas issuers from the Financial Reporting Act

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

Futures dealers authorisations

We authorised 11 futures dealers on Securities Markets Act-compliant terms and conditions.

Securities transfer systems authorisation

The Commission recommended that Austraclear's securities transfer system be approved under the Securities Transfer Act as an electronic securities transfer system.

MEDIUM-TERM PERFORMANCE

Measure

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

Achievement

The next five-yearly review of class exemptions will be undertaken in 2012.

INTERNATIONAL COOPERATION AND RECOGNITION

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

OBJECTIVES

- The Commission's high profile and good standing in the International Organisation of Securities Commissions (IOSCO) and its contribution to IOSCO's work are maintained, and opportunities leveraged from these to promote New Zealand as a well-regulated market internationally
- The Commission participates in and promotes use of international MOUs to facilitate effective cooperation and enforcement
- The Commission promotes the furthering of the trans-Tasman Single Economic Market agenda and maintains a strong relationship with ASIC
- The Commission promotes the development of the New Zealand capital markets and facilitates cross-border investments

MEASURES

- Take part in all relevant IOSCO meetings and working groups
- Take all opportunities identified with MFAT and NZTE while on IOSCO engagements to promote New Zealand as a well-regulated market in which investors can have confidence
- Positive assessment of the Commission's work towards IOSCO's strategic goal for the IOSCO MMOU is received from IOSCO
- Meet regularly with ASIC, and cooperative work is completed to agreed standards and timeframes
- Promote the development of the New Zealand capital markets

IOSCO PARTICIPATION

The Commission contributes significantly to strengthening the international investment environment through its participation in IOSCO, the international standards setter for securities regulation.

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

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

Under Jane Diplock's leadership, IOSCO has continued its work to establish the regulatory framework for the post-global financial crisis economic world order. This has concentrated on enhancing transparency and accountability, and promoting integrity in financial markets.

PROMOTING NEW ZEALAND IN THE INTERNATIONAL FINANCIAL COMMUNITY

During the past 12 months, while undertaking IOSCO and Financial Crisis Advisory Group (FCAG) commitments, the Chairman promoted New Zealand as a well-regulated securities market to overseas business audiences at 10 leveraging events.

We work with the Ministry of Foreign Affairs and Trade, and New Zealand Trade and Enterprise to maximise the potential benefits for New Zealand's

international economic objectives. This involves creating opportunities for the Chairman to promote New Zealand as an investment destination attractive to potential investors, and forging with regulators from other jurisdictions stronger links that will help New Zealand in its aspiration of becoming an international financial centre.

The Commission's prominent role in these international standard-setting organisations, and Jane Diplock's role as Chair, means New Zealand is gaining influence in the global financial community.

CONTRIBUTION TO IOSCO'S STRATEGIC GOAL FOR INFORMATION-SHARING

New Zealand is a signatory to IOSCO's Multilateral Memorandum of Understanding (MMOU), a global information-sharing agreement intended to enhance the ability of regulators to deal with cross-border enforcement issues. The MMOU has now been signed by 97% of IOSCO's 119 member jurisdictions. These either meet the requirements for becoming a signatory or have made a commitment to seek the necessary legislative changes that would allow them to do so in the near future.

The Commission contributes to the IOSCO MMOU Screening Group, which assesses applications to join the MMOU. It ensures signatories meet the high standards required for providing effective cross-border assistance. The Commission received positive feedback from IOSCO on this work.

The Commission received 10 requests for information under the IOSCO MMOU and/or bilateral MOUs from six overseas regulators. Nine of these have concluded, and inquiries are continuing on one.

TRANS-TASMAN COOPERATION

New Zealand enjoys a particularly close working relationship with the Australian Securities and Investments Commission. We regularly communicate to discuss the global and trans-Tasman regulatory environment and enforcement issues of mutual interest, as well as to educate staff of both organisations.

The Trans-Tasman Mutual Recognition of Securities Offerings regime reduces costs and simplifies compliance for issuers making offers of securities. It continues to be used by more issuers on both sides of the Tasman. By 30 June, 13 New Zealand companies had used the regime 15 times, and 91 Australian funds and companies 343 times, since it was established in June 2008.

In October 2009, ASIC published results of an issuer poll conducted on both sides of the Tasman on the effects of the mutual recognition regime. It showed that mutual recognition arrangements save issuers between 55% and 95% in the additional legal and documentation costs of capital-raising in the host country.

FINANCIAL CRISIS ADVISORY GROUP

In addition to the progress achieved against the main output measures, the Commission has undertaken work to present itself as a constructive and cooperative member of the international community of regulators. Of note, it has contributed to the work of the Financial Crisis Advisory Group (FCAG).

FCAG comprises 18 international finance-sector leaders appointed in 2008. They advise the global accounting standard setters – the International Accounting Standards Board and the United States Financial Accounting Standards Board – on the implications of the global financial crisis for global financial reporting standards. Jane Diplock is a member of FCAG.

In July, the group published its report outlining broad principles for improving financial reporting. These would contribute to a more stable global economic order through, most notably, a single set of globally accepted accounting standards. After reviewing implementation of its recommendations, the group sent a follow-up letter to G-20 leaders in January.

MEDIUM-TERM PERFORMANCE

Measure

Cooperation in our enforcement work is forthcoming from other regulators when needed.

Achievement

100% of our requests for information under the IOSCO MMOU and/or bilateral MOUs were met with good cooperation.

PUBLIC UNDERSTANDING

The Commission promotes public understanding of securities law and practice because well-informed investors are an essential ingredient of robust capital markets.

OBJECTIVES

- Investors and potential investors, intermediaries and market participants understand securities law and securities market practices that are applicable to them
- The public and news media are aware of the work and views of the Commission
- Communications maximise regulatory impact

MEASURES

- Initiatives meet pre-set measures of success to 90%
- Significant regulatory actions are communicated

SIGNIFICANT INITIATIVES

The Commission undertook three significant communications initiatives which all met pre-set measures of success.

- A refresher campaign promoting the Commission's *Look Learn Invest* website saw a threefold increase in traffic to the website during the campaign.
- Monthly media monitoring begun in January provided a baseline for evaluating media coverage of the Commission.
- Research to assess the level of public awareness and understanding about the Commission established a reliable baseline. It found 22% of the population had heard of the Commission and had a reasonably correct perception of what it did.

SIGNIFICANT REGULATORY ACTIONS

We publicised all significant regulatory actions and informed people about securities markets and their regulation using a range of communication tools. These include our websites, media releases, published articles and speeches.

OTHER COMMUNICATIONS

In addition to the above achievements, the Commission improved investor understanding of real property proportionate ownership schemes, provided guidance for Hanover investors considering the Allied Farmers offer, and discussed regulatory landscape issues, by way of articles published in the New Zealand Herald and on our website.

MEDIUM-TERM PERFORMANCE

Measure

Our communications initiatives succeed in delivering information to their target audiences.

Achievement

The Commission expects the FMA to develop medium-term measures for its communications initiatives by 2012/13.

EFFECTIVENESS AND CAPABILITY



CAPABILITY AND RISK

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

RECRUITING AND RETAINING STAFF

As at 30 June, the Commission had 69 staff positions (51 in 2008/09) and 55.6 fulltime equivalent employees (40.8 in 2008/09). The risk of being unable to recruit suitably qualified staff was countered by graduate and overseas recruitment, and by effectively targeting New Zealand recruitment campaigns.

The organisation minimises the risk of losing staff by committing itself to being a good employer. The Commission continues its values-based culture, maintains high professional standards and responds to staff feedback.

PHYSICAL EVENT/DISASTER

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

REPUTATION AND INTEGRITY

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

CONFIDENTIALITY OF INFORMATION

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

ACCESSIBLE KNOWLEDGE

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

FUTURE CAPABILITY

The Ministry of Economic Development has continued to propose reforms that would expand Commission responsibilities. These have been superseded by the Government's decision to establish a new regulator, the Financial Markets Authority (FMA), to take over the functions and powers of the Securities Commission. Notwithstanding, we continue to advise the Ministry on future resource and funding implications.

ORGANISATIONAL HEALTH AND CAPABILITY BUILDING

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

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

The Commission's good employer programme reflects our commitment to EEO, according to which staff are recruited and rewarded on the basis of merit and affordability.

FINANCIAL OBJECTIVES

We achieved our main financial objective for 2009/10 by carrying out our strategic plan on time and within budget and resources. To achieve this, the Commission balanced its operating deficits on baseline and FAA appropriations with the operating surplus on AML appropriations.

The Commission delivers the outputs listed in the Statement of Service Performance and detailed in our Output Agreement with the Minister of Commerce, within the funding appropriated by Parliament for the purpose.

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

WORKING WITH OTHERS

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

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

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

As appropriate, and according to our statutory functions and powers, we worked with a number of government agencies, including the Commerce Commission, New Zealand Police, Registrar of Companies, Reserve Bank of New Zealand, Serious Fraud Office, Ministry of Justice, Department of Internal Affairs, State Services Commission, Retirement Commission and Takeovers Panel.

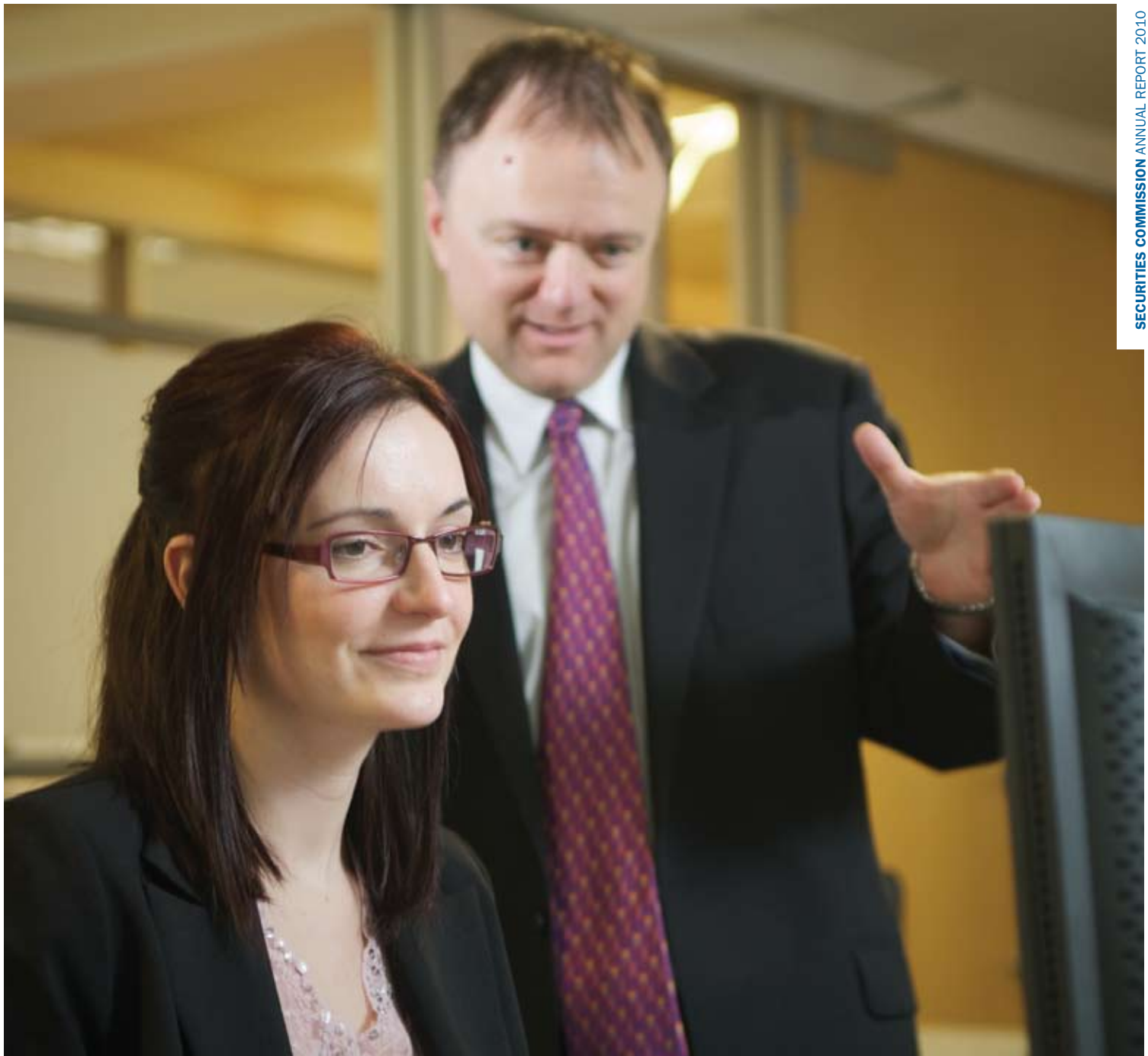
According to our statutory functions and processes arising from implementation of the financial adviser regime, we worked with non-government agencies, notably ETITO (Electrotechnology Industry Training Organisation).

In line with the IOSCO Multilateral MOU, bilateral MOUs and applicable law, we worked with overseas securities regulators and agencies, as well as with a range of industry organisations and professional bodies.

TAKEOVERS PANEL

In accordance with the Securities Act and under the terms of an MOU, the Commission provided the Takeovers Panel with administrative services. Since the Panel relocated to separate premises at Solnet House, 70 The Terrace, in August, the Commission has provided no further services.

CORPORATE GOVERNANCE



The Commission encourages all entities impacting economically on New Zealand or variously accountable to the public to report on their corporate governance. To this end, the Commission published *Corporate Governance in New Zealand – Principles and Guidelines* in 2004. We report on how the Commission itself applied each of these principles in the 2009/10 year.

PRINCIPLE 1 DIRECTORS SHOULD OBSERVE AND FOSTER HIGH ETHICAL STANDARDS

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

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

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

PRINCIPLE 2 THERE SHOULD BE A BALANCE OF INDEPENDENCE, SKILLS, KNOWLEDGE, EXPERIENCE AND PERSPECTIVES AMONG DIRECTORS SO THE BOARD WORKS EFFECTIVELY

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

The Chairman has a fulltime role equivalent to an executive chairman, in line with the governance of many overseas jurisdictions' securities regulators. The Chairman is responsible for fostering a constructive corporate governance culture among Members and staff. The Commissioner for Financial Advisers also has a fulltime role. Much of the Commission's work is carried out by its formal divisions between regular monthly Commission meetings. Members are made aware before appointment of likely demands on their time, frequently at short notice. Commission Members' profiles appear on page 9.

In July, the Commissioner for Financial Advisers appointed the 10-member Code Committee with appropriate experience and competence, in accordance with the Financial Advisers Act 2008.

Each year we formally evaluate our performance against our strategic plan. The Commission also periodically evaluates itself as a board. Staff performance monitoring is carried out each year.

Additionally, we commissioned an independent review of the Commission's effectiveness, which resulted in a report by Michel Prada and Neil Walter published in September. The review found that "within the limits of its powers and resources, the Securities Commission discharges its responsibilities efficiently and to a high professional standard".

PRINCIPLE 3 THE BOARD SHOULD USE COMMITTEES WHERE THIS WOULD ENHANCE ITS EFFECTIVENESS IN KEY AREAS WHILE RETAINING ITS RESPONSIBILITY

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

PRINCIPLE 4 THE BOARD SHOULD DEMAND INTEGRITY BOTH IN FINANCIAL REPORTING AND IN THE TIMELINESS AND BALANCE OF DISCLOSURES ON ENTITY AFFAIRS

As a body corporate funded by Parliamentary appropriation, the Commission is required to meet all obligations under the Securities Act 1978 and the Crown Entities Act 2004, including tabling our annual report in Parliament. After tabling, the annual report is made publicly available in hard copy and on our website. The Commission's financial statements are signed by the Chairman of the Commission and the Chairman of the Audit and Risk Review Committee. The Commission also reports quarterly to the Minister of Commerce, in accordance with our output agreement. The Crown Entities Act 2004 requires us to prepare a statement of intent (SOI). Our SOI for the three years from 2010 to 2013 was tabled in the House on 24 May 2010.

PRINCIPLE 5 THE REMUNERATION OF DIRECTORS AND EXECUTIVES SHOULD BE TRANSPARENT, FAIR AND REASONABLE

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

PRINCIPLE 6 THE BOARD SHOULD REGULARLY VERIFY THAT THE ENTITY HAS APPROPRIATE PROCESSES THAT IDENTIFY AND MANAGE POTENTIAL AND RELEVANT RISKS

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

PRINCIPLE 7 THE BOARD SHOULD ENSURE THE QUALITY AND INDEPENDENCE OF THE EXTERNAL AUDIT PROCESS

As a body corporate funded by Parliament, the Commission's financial statements and statement of service performance are audited by Audit New Zealand on behalf of the Auditor-General, which has a formal process for rotating audit staff. The Audit and Risk Review Committee and staff communicate with Audit New Zealand before and after the audit. Fees paid to Audit New Zealand are disclosed in the annual report. Audit New Zealand undertook non-audit work for the Commission this year as described in the financial report on page 43.

PRINCIPLE 8 THE BOARD SHOULD FOSTER CONSTRUCTIVE RELATIONSHIPS WITH SHAREHOLDERS THAT ENCOURAGE THEM TO ENGAGE WITH THE ENTITY

The Commission is a statutory body, and its assets form part of the Crown's assets. We are accountable to Parliament through the Minister of Commerce for this ownership interest. The Commission is funded by Parliamentary appropriation to carry out statutory functions and we have an annual output agreement with the Minister on the work we will do. We report quarterly to the Minister, and formally report to Parliament annually on how we used public funds to deliver services agreed with the Minister of Commerce. We follow engagement protocols as set out in our output agreement with the Minister of Commerce.

PRINCIPLE 9 THE BOARD SHOULD RESPECT THE INTERESTS OF STAKEHOLDERS WITHIN THE CONTEXT OF THE ENTITY'S OWNERSHIP TYPE AND ITS FUNDAMENTAL PURPOSE

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

FUNCTIONS AND POWERS

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

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

The Commission's powers to perform these functions include:

- receiving evidence on securities law and practice, with power to summons people and documents, and carry out inspections
- banning misleading and illegal offer documents and advertisements
- enforcing securities law and the law relating to insider trading, market manipulation and disclosure by substantial security holders and investment advisers
- enforcing continuous disclosure law and making orders requiring disclosure by issuers
- requiring an exchange to provide the Commission with information and assistance
- accepting enforceable undertakings
- publishing reports and comments

- making orders requiring disclosure by unregistered exchanges
- exempting persons from compliance with provisions of the Securities Act or Regulations under the Act
- authorising certain market participants
- recommending law reform
- hearing appeals against certain decisions of the Registrar of Companies.

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

Other legislation the Commission works with includes the Securities Markets Act 1988, the Financial Reporting Act 1993, the Financial Advisers Act 2008, the Anti-Money Laundering and Countering Financing of Terrorism Act 2009, the Securities Regulations 1983, the Securities Act (Contributory Mortgage) Regulations 1988, and the Securities (Fees) Regulations 1998.

The Commission may also consider certain matters arising under the Corporations (Investigation and Management) Act 1989 (in particular, directions to "at risk" corporations and recommendations about statutory management).

The Commission will be responsible for administering the Financial Advisers Act when this comes into force. We will authorise advisers and monitor their conduct and competency requirements. We have been working on implementing the new regime with the aim of having it in place by July 2011.

The Commission will have a supervisory role under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009. Our responsibility covers issuers of securities, collective investment schemes, brokers, financial advisers, trustee companies and futures dealers. We have been working with the other AML/CFT supervisors in developing the regulatory framework.

AUTHORITY

This annual report was approved by the Securities Commission on 22 July 2010.



Jane Diplock AO
Chairman



Keitha Dunstan
Chairman, Audit & Risk Review Committee

FINANCIAL REPORT



SOURCES OF FUNDING

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

STATEMENT OF RESPONSIBILITY

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

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

In our opinion these annual financial statements and statement of service performance fairly reflect the financial position and operations of the Securities Commission for the year ended 30 June 2010.



Jane Diplock AO

Chairman
22 July 2010



Keitha Dunstan

Chairman, Audit & Risk Review Committee
22 July 2010

STATEMENT OF COMPREHENSIVE INCOME

FOR THE YEAR ENDED 30 JUNE 2010

| 2010 BUDGETS \$000s | | NOTES | 2010 ACTUAL \$000s | 2009 ACTUAL \$000s |
|--|--|-------|--------------------------|--------------------------|
| REVENUE | | | | |
| 9,121 | Government grant | 4 | 11,041 | 7,301 |
| - | Government grant – ETITO funding | | 1,300 | - |
| 844 | Litigation fund income | 5 | 1,333 | 656 |
| 250 | Exemption and authorisation fees | | 362 | 267 |
| 96 | Administrative services to the Takeovers Panel | 3 | 80 | 503 |
| 10,311 | Total revenue | | 14,116 | 8,727 |
| INCOME | | | | |
| 75 | Interest | 9 | 169 | 155 |
| 28 | Other income | | 75 | 35 |
| 103 | Total income | | 244 | 190 |
| 10,414 | Total revenue and income | | 14,360 | 8,917 |
| EXPENDITURE | | | | |
| 6,934 | Personnel expenditure | 4 | 7,894 | 5,509 |
| 844 | Litigation fund expenditure | 5 | 1,329 | 675 |
| - | ETITO expenditure | | 1,337 | - |
| 709 | Occupancy | | 668 | 642 |
| 449 | Depreciation and amortisation | 4 | 332 | 341 |
| 2,553 | Other operating expenditure | 4 | 3,120 | 2,030 |
| 11,489 | Total expenditure | | 14,680 | 9,197 |
| (1,075) | Surplus/(deficit) | | (320) | (280) |
| - | Other comprehensive income | | - | - |
| (1,075) | TOTAL COMPREHENSIVE INCOME/(EXPENDITURE) ATTRIBUTABLE TO THE OWNERS OF THE COMMISSION | | (320) | (280) |
| TOTAL COMPREHENSIVE INCOME/(EXPENDITURE) COMPRISES: | | | | |
| (1,075) | Net operating surplus/(deficit) | | (324) | (261) |
| - | Net litigation fund surplus/(deficit) | | 4 | (19) |
| (1,075) | | | (320) | (280) |

The accompanying Notes form part of these Financial Statements.

STATEMENT OF CHANGES IN EQUITY

FOR THE YEAR ENDED 30 JUNE 2010

| BUDGET \$000s | NOTE | ACCUMULATED FUNDS \$000s | LITIGATION FUND \$000s | TOTAL EQUITY \$000s |
|------------------|---|--------------------------------|------------------------------|---------------------------|
| 4,467 | AT 1 JULY 2008 | 2,696 | 2,866 | 5,562 |
| (1,259) | Total comprehensive income (expenditure) for the year | (261) | (19) | (280) |
| - | Capital repayment | - | (2,066) | (2,066) |
| 3,208 | AT 30 JUNE 2009 | 2,435 | 781 | 3,216 |
| (1,075) | Total comprehensive income (expenditure) for the year | (324) | 4 | (320) |
| - | Capital contribution | 1,110 | - | 1,110 |
| 2,133 | AT 30 JUNE 2010 | 3,221 | 785 | 4,006 |

The accompanying Notes form part of these Financial Statements.

STATEMENT OF FINANCIAL POSITION

AS AT 30 JUNE 2010

| 2010 BUDGET \$000s | | NOTE | 2010 ACTUAL \$000s | 2009 ACTUAL \$000s |
|--------------------------------|---|----------|--------------------------|--------------------------|
| CURRENT ASSETS | | | | |
| 39 | Cash and cash equivalents | 7 | 639 | 332 |
| 600 | Term deposits | 7 | 2,615 | 1,400 |
| 243 | Cash and cash equivalents – litigation fund | 7 | 486 | 297 |
| - | Term deposits – litigation fund | 7 | - | - |
| 30 | GST receivable | | 92 | 63 |
| 158 | Trade and other receivables | 10 | 672 | 646 |
| 1,070 | Total current assets | | 4,504 | 2,738 |
| NON-CURRENT ASSETS | | | | |
| 1,593 | Property, plant and equipment | 11 | 910 | 1,110 |
| - | Computer software | 12 | 45 | 14 |
| 1,593 | Total non-current assets | | 955 | 1,124 |
| 2,663 | Total assets | | 5,459 | 3,862 |
| CURRENT LIABILITIES | | | | |
| 496 | Trade and other payables | 13 | 1,419 | 599 |
| 13 | Rent holiday liability | 14 | 13 | 13 |
| 509 | Total current liabilities | | 1,432 | 612 |
| NON-CURRENT LIABILITIES | | | | |
| 21 | Rent holiday liability | 14 | 21 | 34 |
| 530 | Total liabilities | | 1,453 | 646 |
| EQUITY | | | | |
| 1,289 | Accumulated funds | | 3,221 | 2,435 |
| 844 | Litigation fund | 5 | 785 | 781 |
| 2,133 | Total equity | 6 | 4,006 | 3,216 |
| 2,663 | Total equity and liabilities | | 5,459 | 3,862 |

The accompanying Notes form part of these Financial Statements.

STATEMENT OF CASH FLOWS

FOR THE YEAR ENDED 30 JUNE 2010

| 2010 BUDGET \$000s | | NOTE | 2010 ACTUAL \$000s | 2009 ACTUAL \$000s |
|---|--|-----------|--------------------------|--------------------------|
| CASH FLOWS FROM OPERATING ACTIVITIES | | | | |
| Cash was provided from: | | | | |
| 9,121 | - Government grant | | 11,041 | 7,302 |
| - | - Government grant – ETITO funding | | 1,300 | - |
| 1,350 | - Litigation fund income | | 1,355 | 2,188 |
| 255 | - Exemptions and authorisations fees | | 295 | 264 |
| 28 | - Miscellaneous | | 65 | 22 |
| 99 | - Interest | | 190 | 216 |
| 96 | - Administrative services to the Takeovers Panel | | 90 | 500 |
| Cash was applied to: | | | | |
| (4,219) | - Suppliers | | (5,812) | (3,579) |
| (6,814) | - Employees | | (7,731) | (5,230) |
| (42) | - Net GST | | (29) | (12) |
| (126) | Net cash flows from operating activities | 15 | 764 | 1,671 |
| CASH FLOWS FROM INVESTING ACTIVITIES | | | | |
| Cash was provided from: | | | | |
| 900 | - Decrease in term deposits | | 650 | 1,632 |
| - | - Decrease in term deposits (litigation) | | - | 2,557 |
| Cash was applied to: | | | | |
| (850) | - Purchase of property, plant and equipment | | (116) | (81) |
| - | - Purchase of computer software | | (47) | (3) |
| - | - Increase in term deposits | | (1,865) | (1,400) |
| - | - Increase in term deposits (litigation) | | - | (1,907) |
| 50 | Net cash flows from investing activities | | (1,378) | 798 |
| CASH FLOWS FROM FINANCING ACTIVITIES | | | | |
| Cash was provided from: | | | | |
| - | - Capital repayment | | - | (2,066) |
| - | - Capital contribution | | 1,110 | - |
| - | Net cash flows from financing activities | | 1,110 | (2,066) |
| (76) | Net increase (decrease) in cash balances | | 496 | 403 |
| 358 | Add opening cash and cash equivalents balance | | 629 | 226 |
| 282 | Closing cash and cash equivalents balance carried forward | | 1,125 | 629 |
| COMPRISING | | | | |
| 39 | Cash and cash equivalents | | 639 | 332 |
| 243 | Cash and cash equivalents – litigation fund | | 486 | 297 |
| 282 | | | 1,125 | 629 |

The accompanying Notes form part of these Financial Statements.

NOTES TO THE FINANCIAL STATEMENTS

FOR THE YEAR ENDED 30 JUNE 2010

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| 12 | Computer software | 50 |
| 13 | Trade and other payables | 50 |
| 14 | Rent holiday liability | 50 |
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NOTE 1 STATEMENT OF ACCOUNTING POLICIES

Reporting entity

The Securities Commission (the Commission) is a body corporate established by the Securities Act 1978. The Commission's primary function is the regulation of investments in New Zealand.

The Commission is an independent Crown entity for legislative purposes and a public benefit entity for the purposes of complying with Generally Accepted Accounting Practices in New Zealand (NZ GAAP). The Commission's financial statements are prepared pursuant to section 154 of the Crown Entities Act 2004.

The financial statements have been prepared on a dissolution basis, following the Government's decision to transfer the Commission's powers and functions to a new organisation, the Financial Markets Authority.

The financial statements of the reporting entity, the Commission, for the year ended 30 June 2010 were authorised for issue by the Commission on 16 July 2010.

BASIS OF PREPARATION

Statement of compliance

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

Basis of measurement

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

Functional and presentational currency

These financial statements are presented in New Zealand dollars (\$), the entity's functional currency. All dollar figures have been rounded to the nearest thousand.

Use of estimates and judgements

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

Estimates and underlying assumptions are subject to ongoing review. Revisions to accounting estimates are recognised in the period in which the estimates are revised and in any future periods affected.

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

a) Financial Markets Authority

On 28 April 2010, Minister of Commerce, Hon Simon Power, announced the Government's decision to create a new, consolidated regulator for New Zealand's capital markets. This new regulator will be named the Financial Markets Authority (FMA).

The powers and functions of the Commission will be transferred to the FMA along with:

- the parts of the Companies Office at the Ministry of Economic Development that deal with financial service provider entities, including those that investigate and enforce securities laws;
- the functions of the Government Actuary relating to the monitoring and supervision of superannuation and KiwiSaver schemes; and
- the NZX Disciplinary Tribunal which will become a rulings panel serviced by the FMA.

Decisions are yet to be made on the FMA structure and operations, including how the Commission and other entities will be vested and integrated.

While the legislation to implement these changes has not yet been enacted, based on the Minister's announcement that the FMA will be up and running in early 2011, we have assumed the Commission will be dissolved in the year ending 30 June 2011. Its functions, duties and powers will become the functions, duties and powers of the FMA. We have also assumed, based on the Minister's announcements, that all the Commission's assets, rights, liabilities, contracts, entitlements and engagements will be transferred to the FMA.

The pending dissolution of the Commission requires the financial statements to be prepared on a dissolution basis, not on the normal going-concern basis. However, as the Commission expects its current outputs to continue being delivered by the FMA's organisational structure, the assets and liabilities of the Commission are expected to be relevant to the FMA. For that reason, while the financial statements have been prepared on a dissolution basis, no adjustments have been made to the financial statements because of the dissolution basis of preparation.

b) Impairment on library

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

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

NZ IFRS 9

NZ IFRS 9 *Financial Instruments* will eventually replace NZ IAS 39 *Financial Instruments: Recognition and Measurement*. NZ IAS 39 is being replaced through the following three main phases:

- Phase 1 Classification and Measurement
- Phase 2 Impairment Methodology
- Phase 3 Hedge Accounting.

Phase 1 on the classification and measurement of financial assets has been completed and has been published in the new financial instrument standard NZ IFRS 9.

NZ IFRS 9 uses a single approach to determine whether a financial asset is measured at amortised cost or fair value, replacing the many different rules in NZ IAS 39. The NZ IFRS 9 approach is based on how the entity's business model manages its financial assets and their cash-flow characteristics. It requires the use of a single impairment method, replacing the numerous impairment methods in NZ IAS 39 arising from various classification categories.

The FMA will be required to adopt NZ IFRS 9 for the year ended 30 June 2014. The Commission has not assessed the effect of NZ IFRS 9.

NZ IAS 24

NZ IAS 24 *Related Party Disclosures (Revised 2009)* replaces NZ IAS 24 *Related Party Disclosures (Issued 2004)* and is effective for reporting periods commencing on or after 1 January 2011. The revised related party standard:

- i) Removes the previous disclosure concessions applied by the Commission for arms-length transactions between it and entities controlled or significantly influenced by the Crown. The effect of the revised standard is to require the disclosure of more information about transactions between the Commission and such entities.
- ii) Clarifies disclosure of related party transactions with Ministers of the Crown. Further, the Commission will be exempted from certain disclosure requirements relating to transactions with Ministers of the Crown, with the exception of the Minister of Commerce. The clarification could result in additional disclosures should there be any related party transactions with Ministers of the Crown.
- iii) Clarifies that related party transactions include commitments with related parties.

The FMA will be required to adopt NZ IAS 24 for the year ended 30 June 2012. The Commission has not assessed the impact of NZ IAS 24.

SIGNIFICANT ACCOUNTING POLICIES

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

a) Property, plant and equipment

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

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

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

- office furniture – 20% of diminishing value
- office equipment – straight line over three years
- leasehold improvements – straight line over remaining life of lease
- library collections – straight line over 10 years
- motor vehicle – straight line over five years.

b) Intangible assets

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

c) Cash and cash equivalents

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

d) Term deposits

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

e) Trade and other receivables

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

f) Short term employee benefits

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

g) Operating leases

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

h) GST

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

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

i) Trade and other payables

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

j) Financial instruments

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

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

k) Income tax

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

l) Revenue recognition

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

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

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

m) Cost allocation policy

For the purposes of the statement of service performance, direct costs are charged directly to outputs.

Indirect costs are allocated on the basis of direct labour hours spent on each output.

n) Litigation fund

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

The balance of the fund is disclosed as a component of equity in the statement of financial position.

The fund is restricted for approved litigation purposes only.

o) Impairment

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

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

At each balance date, financial assets such as receivables are assessed for impairment. Trade and other receivables are individually assessed for impairment, taking previous experience with debtors into account. The recoverable amount is the present value of the estimated future cash flows.

The statement of comprehensive income recognises an impairment loss whenever the carrying amount of an asset exceeds its recoverable amount. The statement of comprehensive income also recognises any reversal of impairment losses.

p) Contingent assets and contingent liabilities

Contingent liabilities are disclosed if the possibility of their crystallising is not remote. Contingent assets are disclosed if it is probable the benefits will be realised.

q) Changes in accounting policy

During the year, the Commission has adopted NZ IAS 1 *Presentation of Financial Statements (Revised 2007)*, which replaces NZ IAS 1 *Presentation of Financial Statements (Issued 2004)*. The revised standard requires information in financial statements to be aggregated on the basis of shared characteristics and introduces a statement of comprehensive income. Adopting this revised standard has resulted in presentational changes, and the financial statement information for the year ended 30 June 2009 has been restated accordingly for comparative purposes.

r) Superannuation schemes

Obligations for contributions to KiwiSaver and the State Sector Retirement Savings Scheme are accounted for as defined contribution superannuation scheme, and are recognised as an expense in the statement of comprehensive income as incurred.

NOTE 2 BUDGET FIGURES

The budget figures are those approved by the Commission on 19 June 2009 and published in the Commission's Statement of Intent 2009-2012. Figures are prepared in accordance with generally accepted accounting practice and are consistent with the accounting policies adopted by the Commission for the preparation of the financial statements.

NOTE 3 ADMINISTRATIVE SERVICES TO THE TAKEOVERS PANEL

The Takeovers Panel relocated to their separate premises at Solnet House, 70 The Terrace, and it has been provided with no administrative services since August 2009.

NOTE 4 REVENUE AND EXPENDITURE

| 2010 BUDGET \$000s | | NOTE | 2010 ACTUAL \$000s | 2009 ACTUAL \$000s |
|--------------------------------------|---|------|--------------------------|--------------------------|
| REVENUE | | | | |
| 6,501 | Securities Market Functions | | 6,501 | 6,501 |
| 2,620 | Financial Advisers and Financial Service Providers | | 2,620 | 800 |
| - | Anti-Money Laundering and Countering Financing of Terrorism | | 1,920 | - |
| 9,121 | | | 11,041 | 7,301 |
| EXPENDITURE | | | | |
| Personnel expenditure | | | | |
| 6,143 | Staff expenses | | 6,776 | 4,775 |
| 791 | Members' fees | | 1,118 | 734 |
| 6,934 | | | 7,894 | 5,509 |
| DEPRECIATION AND AMORTISATION | | | | |
| 435 | Depreciation | 11 | 316 | 327 |
| 14 | Amortisation | 12 | 16 | 14 |
| 449 | | | 332 | 341 |
| OTHER OPERATING EXPENDITURE | | | | |
| 20 | Auditors – audit fees | | 28 | 19 |
| - | Auditors – other assurance services | | 7 | - |
| - | Provision for doubtful debts | | - | 1 |
| 72 | Communication charges | | 76 | 62 |
| 395 | Printing and stationery | | 346 | 335 |
| 1,007 | Professional services | | 1,211 | 543 |
| 579 | Services and supplies | | 720 | 568 |
| 480 | Travel and accommodation | | 732 | 502 |
| 2,553 | | | 3,120 | 2,030 |

The Commission contracted Audit New Zealand to provide assurance reviews of three significant contracts entered during the year.

NOTE 5 LITIGATION FUND

The Government has appropriated a litigation fund to cover actual litigation costs up to a maximum of \$1,370,000 for the year ended 30 June 2010. The fund is to be used solely for approved litigation costs incurred by the Securities Commission in taking or defending eligible cases.

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

| | 2010 \$000s | 2009 \$000s |
|-------------------------------------|----------------|----------------|
| Opening balance | 781 | 2,866 |
| Government grant revenue | 1,304 | 505 |
| Interest income | 8 | 81 |
| Settlements and cost recoveries | 21 | 70 |
| Total litigation fund income | 1,333 | 656 |
| Expenditure on eligible litigation | (1,329) | (675) |
| Capital repayment | - | (2,066) |
| Closing balance | 785 | 781 |
| COMPRISING | | |
| Cash and cash equivalents | | |
| - Current account | 481 | 271 |
| - Call account | 5 | 26 |
| - Short term deposits | - | - |
| Term deposits | - | - |
| | 486 | 297 |
| Trade and other receivables | 484 | 505 |
| | 970 | 802 |
| Trade and other payables | (185) | (21) |
| Balance | 785 | 781 |

Last year the Commission received \$2,065,417 settlements for costs in the Tranz Rail matter, which, following a Government directive, the Commission transferred by way of a capital repayment.

NOTE 6 MANAGEMENT OF EQUITY

The Commission aims to maintain sufficient equity to allow it to manage its ongoing operations and obligations. Surplus funds are invested with regard to the cash-flow profile of future commitments. Compared with the previous period, there have been no material changes in the Commission's management of equity.

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

NOTE 7 FINANCIAL INSTRUMENTS

Credit risk

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

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

The Commission does not require collateral or security to support financial instruments. Credit risk is concentrated in accounts receivable, in relation to receivables from the Government, but this risk is very low.

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

Liquidity risk

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

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

The Commission has cash and other short-term deposits with which it can meet ongoing payment obligations.

Market risk

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

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

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

Details are as follows:

| | EFFECTIVE INTEREST RATE | TOTAL \$000s | MATURITIES 3 MONTHS OR LESS \$000s | MATURITIES GREATER THAN 3 MONTHS \$000s |
|---|----------------------------|-----------------|---|--|
| 2010 | | | | |
| Cash and cash equivalents | | | | |
| - Current account | 0.30% | 574 | 574 | - |
| - Call account | 3.40% | 65 | 65 | - |
| Term deposits | 4.65% | 2,615 | - | 2,615 |
| | | 3,254 | 639 | 2,615 |
| Cash and cash equivalents – litigation fund | | | | |
| - Current account | 0.30% | 481 | 481 | - |
| - Call account | 3.40% | 5 | 5 | - |
| Term deposits | - | - | - | - |
| | | 486 | 486 | - |
| 2009 | | | | |
| Cash and cash equivalents | | | | |
| - Current account | 0.30% | 166 | 166 | - |
| - Call account | 3.00% | 166 | 166 | - |
| Term deposits | 5.86% | 1,400 | - | 1,400 |
| | | 1,732 | 332 | 1,400 |
| Cash and cash equivalents – litigation fund | | | | |
| - Current account | 0.30% | 271 | 271 | - |
| - Call account | 2.00% | 26 | 26 | - |
| Term deposits | - | - | - | - |
| | | 297 | 297 | - |

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

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

Sensitivity analysis

As at 30 June 2010, if the floating interest rate on call deposits had been 100 basis points higher or lower, with all other variables held constant, the surplus/deficit for the year would have been \$700 (2009: \$1,920) higher or lower.

Fair values

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

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

NOTE 8 CATEGORIES OF FINANCIAL ASSETS AND FINANCIAL LIABILITIES

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

| | 2010 \$000s | 2009 \$000s |
|---|----------------|----------------|
| LOANS AND RECEIVABLES | | |
| Cash and cash equivalents | 639 | 332 |
| Term deposits | 2,615 | 1,400 |
| Interest receivable – other | 22 | 43 |
| GST receivable | 92 | 63 |
| Trade and other receivables | 650 | 603 |
| Cash and cash equivalents – litigation fund | 486 | 297 |
| Term deposits – litigation fund | - | - |
| Interest receivable – litigation fund | - | - |
| Total loans and receivables | 4,504 | 2,738 |

Financial liabilities at amortised cost:

| | 2010 \$000s | 2009 \$000s |
|-----------------------|----------------|----------------|
| Trade payables | 977 | 320 |
| Employee entitlements | 442 | 279 |
| | 1,419 | 599 |

NOTE 9 INCOME FROM FINANCIAL ASSETS

| | 2010 \$000s | 2009 \$000s |
|---|----------------|----------------|
| LOANS AND RECEIVABLES | | |
| Interest – other | 169 | 155 |
| Interest – litigation fund | 8 | 81 |
| Total interest income from loans and receivables | 177 | 236 |

NOTE 10 TRADE AND OTHER RECEIVABLES

| | 2010 \$000s | 2009 \$000s |
|--------------------------------|----------------|----------------|
| Trade receivables | 165 | 89 |
| Less: provision for impairment | - | (1) |
| Receivables from the Crown | 485 | 515 |
| Interest receivable | 22 | 43 |
| | 672 | 646 |

The status of trade and other receivables as at 30 June 2010 is as follows:

| TRADE AND OTHER RECEIVABLES | TOTAL \$000s | NOT PAST DUE \$000s | UP TO 30 DAYS PAST DUE \$000s | OVER 30 DAYS PAST DUE \$000s |
|-----------------------------|-----------------|------------------------|-------------------------------------|------------------------------------|
| 2010 | | | | |
| Gross receivables | 672 | 629 | 18 | 25 |
| Impairment | - | - | - | - |
| | 672 | 629 | 18 | 25 |
| 2009 | | | | |
| Gross receivables | 647 | 546 | 17 | 84 |
| Impairment | (1) | - | - | (1) |
| | 646 | 546 | 17 | 83 |

NOTE 11 PROPERTY, PLANT AND EQUIPMENT

| | OFFICE EQUIPMENT \$000s | OFFICE FURNITURE \$000s | LEASEHOLD IMPROVEMENTS \$000s | LIBRARY \$000s | MOTOR VEHICLE \$000s | TOTAL \$000s |
|---|-------------------------------|-------------------------------|-------------------------------------|-------------------|----------------------------|-----------------|
| AT 1 JULY 2009 | | | | | | |
| Net of accumulated depreciation | 161 | 153 | 545 | 207 | 44 | 1,110 |
| Additions | 71 | 10 | 2 | 33 | - | 116 |
| Disposals | - | - | - | - | - | - |
| Depreciation charge for the year | (103) | (32) | (146) | (22) | (13) | (316) |
| At 30 June 2010, net of accumulated depreciation | 129 | 131 | 401 | 218 | 31 | 910 |
| AT 30 JUNE 2009 | | | | | | |
| Cost | 1,043 | 492 | 1,312 | 302 | 64 | 3,213 |
| Accumulated depreciation | (882) | (339) | (767) | (95) | (20) | (2,103) |
| Net book value | 161 | 153 | 545 | 207 | 44 | 1,110 |
| AT 30 JUNE 2010 | | | | | | |
| Cost | 1,114 | 502 | 1,314 | 335 | 64 | 3,329 |
| Cost (Disposals) | (8) | - | - | - | - | (8) |
| Cost | 1,106 | 502 | 1,314 | 335 | 64 | 3,321 |
| Accumulated depreciation | (985) | (371) | (913) | (117) | (33) | (2,419) |
| Accumulated depreciation (Disposals) | 8 | - | - | - | - | 8 |
| Accumulated depreciation | (977) | (371) | (913) | (117) | (33) | (2,411) |
| Net book value | 129 | 131 | 401 | 218 | 31 | 910 |
| AT 1 JULY 2008 | | | | | | |
| Net of accumulated depreciation | 224 | 188 | 692 | 196 | 56 | 1,356 |
| Additions | 46 | 3 | - | 32 | - | 81 |
| Disposals | - | - | - | - | - | - |
| Depreciation charge for the year | (109) | (38) | (147) | (21) | (12) | (327) |
| At 30 June 2009, net of accumulated depreciation | 161 | 153 | 545 | 207 | 44 | 1,110 |
| AT 30 JUNE 2008 | | | | | | |
| Cost | 997 | 489 | 1,312 | 270 | 64 | 3,132 |
| Accumulated depreciation | (773) | (301) | (620) | (74) | (8) | (1,776) |
| Net book value | 224 | 188 | 692 | 196 | 56 | 1,356 |
| AT 30 JUNE 2009 | | | | | | |
| Cost | 1,043 | 492 | 1,312 | 302 | 64 | 3,213 |
| Accumulated depreciation | (882) | (339) | (767) | (95) | (20) | (2,103) |
| Net book value | 161 | 153 | 545 | 207 | 44 | 1,110 |

NOTE 12 COMPUTER SOFTWARE

| | 2010 \$000s | 2009 \$000s |
|---|----------------|----------------|
| Gross carrying amount | 190 | 143 |
| Accumulated amortisation | (145) | (129) |
| Net carrying amount | 45 | 14 |
| Opening accumulated amortisation | (129) | (115) |
| Amortisation | (16) | (14) |
| Closing accumulated amortisation | (145) | (129) |
| Opening net carrying amount | 14 | 25 |
| Additions | 47 | 3 |
| Amortisation | (16) | (14) |
| Closing net carrying amount | 45 | 14 |

NOTE 13 TRADE AND OTHER PAYABLES

| | 2010 \$000s | 2009 \$000s |
|-----------------------|----------------|----------------|
| Trade payables | 977 | 320 |
| Employee entitlements | 442 | 279 |
| | 1,419 | 599 |

NOTE 14 RENT HOLIDAY LIABILITY

This represents amounts received from the landlord for a rent holiday. The accrual is being released with regard to the expected life lease's nine-year.

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

| | 2010 \$000s | 2009 \$000s |
|---|----------------|----------------|
| Reported Surplus (deficit) | (320) | (280) |
| Add (less) non-cash items: | | |
| - Allocation of receipt of rent-free period | (13) | (13) |
| - Depreciation/amortisation | 332 | 341 |
| | 319 | 328 |
| Add (less) movement in working capital: | | |
| - Increase in creditors | 820 | 58 |
| - Decrease (increase) in receivables | (55) | 1,565 |
| | 765 | 1,623 |
| Net cash flows from operating activities | 764 | 1,671 |

NOTE 16 LEASE COMMITMENTS

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

| 56 THE TERRACE | 2010 \$000s | 2009 \$000s |
|--|------------------------|------------------------|
| - Not later than 1 year | 721 | 655 |
| - Later than 1 year and not later than 5 years | 1,143 | 1,692 |

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

| 22 THE TERRACE | 2010 \$000s | 2009 \$000s |
|--|------------------------|------------------------|
| - Not later than 1 year | 159 | - |
| - Later than 1 year and not later than 5 years | 188 | - |

The Commission has taken a short-term operating lease that ends on 31 July 2012. The make-good amount is estimated at \$10,000.

NOTE 17 CAPITAL COMMITMENTS

Estimated capital expenditure contracted for at balance date, but not provided for: \$95,843 (2009 – Nil).

NOTE 18 CONTINGENT LIABILITIES AND CONTINGENT ASSETS

Contingent liabilities

There are no contingent liabilities at balance date. The Commission is litigating against a number of parties. Should any case be unsuccessful, it might have costs awarded against it. (2009 – A contingent liability of \$50,000 in possible adverse cost orders exists in relation to current litigation. The Commission considers the likelihood of this liability crystallising as very slight.)

Contingent assets

There are no contingent assets at balance date (2009 – Nil).

NOTE 19 PROFESSIONAL INDEMNITY INSURANCE

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

NOTE 20 SUBSEQUENT EVENTS

There were no material events before balance date that would affect the interpretation of the financial statements or the performance of the Commission (2009 – Nil).

NOTE 21 TRANSACTIONS WITH RELATED PARTIES

Transactions with other entities within the Crown

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

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

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

Transactions with suppliers

During the year the Commission incurred expenses of:

| TRANSACTION | | TRANSACTION VALUE YEAR ENDED 30 JUNE | | BALANCE OUTSTANDING YEAR ENDED 30 JUNE | |
|-------------|--|---|--------|---|------|
| | | 2010 | 2009 | 2010 | 2009 |
| AM Cotton | Genesis Energy | 52,394 | 52,739 | 1,978 | - |
| EH Hickey | New Zealand Institute of Chartered Accountants | 7,933 | 9,160 | - | - |
| CA Quinn | Minter Ellison Rudd Watts | 1,103 | 884 | - | - |
| S Botherway | S Botherway | 6,300 | - | - | - |
| P Meyer | Young Enterprise Trust | - | 55,000 | - | - |
| D Ireland | Kensington Swan | 14,613 | - | 14,613 | - |

- Genesis Energy, a firm of which AM Cotton, Member of the Commission was a director until April 2010. The expenses relate to office electricity charged on normal commercial terms.
- New Zealand Institute of Chartered Accountants, of which EH Hickey, Member of the Commission until March 2010, is a director. The expenses relate to subscription fees, course fees and publication costs charged on normal commercial terms.
- Minter Ellison Rudd Watts, of which CA Quinn, Member of the Commission until March 2010, is a partner. The expenses relate to a market education function held by the Commission at her office.
- S Botherway, Member of the Commission from September 2009. The expenses relate to professional advice provided to the Commission.
- Young Enterprise Trust, none. (2009 – Young Enterprise Trust, of which P Meyer, the Chairman's husband is voluntary trustee. Expenses relate to sponsorships of investment education in schools.)
- Kensington Swan, of which D Ireland, Member of the Code Committee, is a partner. The expenses relate to drafting services provided to the Code Committee.

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

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

Compensation of key personnel

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

| | 2010 \$000s | 2009 \$000s |
|--|----------------|----------------|
| Short-term employee benefits comprise: | | |
| - Members' fees | 427 | 342 |
| - Code Committee fees | 297 | - |
| - Chairman's salary | 385 | 385 |
| - Chairman's motor vehicle benefit | 34 | 34 |
| - Commissioner for Financial Advisers | 197 | 7 |
| - Executive team remuneration | 1,372 | 1,320 |
| | 2,712 | 2,088 |

Compensation of Members' fees

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

| | 2010 \$000s | 2009 \$000s |
|-------------|----------------|----------------|
| CAN Beyer | 27 | 60 |
| S Botherway | 26 | - |
| S Cave | 19 | - |
| M Chen | 3 | 17 |
| AM Cotton | 61 | 52 |
| KD Dunstan | 50 | 47 |
| EH Hickey | 29 | 39 |
| JL Holland | 34 | 20 |
| DA Jackson | 24 | 18 |
| CA Quinn | 16 | 32 |
| NO Todd | 108 | 57 |
| M Verbiest | 30 | - |
| | 427 | 342 |

Composition of Code Committee fees

Code Committee fees are paid on the basis of time spent on committee work and were:

| | 2010 \$000s | 2009 \$000s |
|-------------|----------------|----------------|
| S Brown | 20 | - |
| R Butler | 82 | - |
| P Dunphy | 21 | - |
| S Edmond | 18 | - |
| D Ireland | 72 | - |
| L Koh | 9 | - |
| P Middleton | 5 | - |
| D Russell | 20 | - |
| M Staal | 25 | - |
| G Young | 25 | - |
| | 297 | - |

Employee remuneration

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

| REMUNERATION \$ | NUMBER OF EMPLOYEES 2010 | NUMBER OF EMPLOYEES 2009 |
|--------------------|--------------------------|--------------------------|
| 270,001 to 280,000 | 1 | 1 |
| 260,001 to 270,000 | - | - |
| 250,001 to 260,000 | - | - |
| 240,001 to 250,000 | 1 | 1 |
| 230,001 to 240,000 | - | - |
| 220,001 to 230,000 | - | - |
| 210,001 to 220,000 | 2 | 2 |
| 200,001 to 210,000 | - | - |
| 190,001 to 200,000 | 1 | - |
| 180,001 to 190,000 | - | 2 |
| 170,001 to 180,000 | 2 | 1 |
| 160,001 to 170,000 | 1 | - |
| 150,001 to 160,000 | 1 | 1 |
| 140,001 to 150,000 | 1 | 2 |
| 130,001 to 140,000 | 4 | 2 |
| 120,001 to 130,000 | 2 | 3 |
| 110,001 to 120,000 | 1 | - |
| 100,001 to 110,000 | 2 | 3 |

No compensation was made for cessation of employment during the year. (2009 – \$5,000 was paid to one employee as compensation for cessation of employment.)

NOTE 22 BUDGET VARIANCES:

a) Revenue and income

Significant variances from budget were the extra government grant of \$1,920,000 received for AML implementation, and \$1,300,000 received for ETITO funding.

b) Expenditure

Significant variances from budget were:

- i) Increased personnel expenditure because of higher than expected staffing activity for FAA and AML implementation
- ii) Increased other expenditure because of greater than expected activity on industry liaison for FAA implementation.

c) Litigation income and expenditure

Significant variances from budget were due to higher than expected activity on finance company litigation.

STATEMENT OF OBJECTIVES

FOR THE YEAR ENDED 30 JUNE 2010

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

- Surveillance and enforcement – monitoring securities market activity, inquiring into suspected breaches of securities law and taking actions to enforce the law.
 - Oversight and supervision – oversight of NZX's performance of its regulatory function, and preparation for supervisory roles under Government reforms. (*arising from Financial Advisers Act 2008*)
 - Enforcement-based law and practice reform – reviewing securities law and practice and making recommendations for reform.
 - Exemptions and authorisations – considering and deciding on applications for exemptions from the provisions of the Securities Act 1978, Securities Markets Act 1988 and the Securities Regulations 1983; considering and deciding on applications for authorisation of market participants, including futures exchanges and dealers, trustees and statutory supervisors; reviewing existing authorisations.
 - International recognition – promoting New Zealand's markets as well-regulated, keeping abreast of developments in global standard setting and contributing the Commission's views to this process.
- Public understanding and market presence – promoting public understanding of the law and practice of securities.
 - The Takeovers Panel is provided with services in accordance with an agreement under a Memorandum of Understanding between the Takeovers Panel and the Commission. The Panel is expected to relocate to separate premises in September 2009 whereupon this MOU will cease to be relevant. It may be replaced with a defined-period agreement to share resources like library services.

Source: Pages 5 and 6 of the Output Agreement between the Minister of Commerce and the Securities Commission for the period 1 July 2009 and 30 June 2010

Following the enactment of the Anti-Money Laundering and Countering the Financing of Terrorism Act 2009 (AML), the Commission has further agreed to deliver the following:

- Anti-Money Laundering and Countering Financing of Terrorism – monitoring market activity, inquiring into suspected breaches of anti-money laundering and countering financing of terrorism law, and taking actions to enforce the law.

Source: OBU 2009

STATEMENT OF SERVICE PERFORMANCE

PERFORMANCE STANDARDS AND MEASURES FOR THE OUTPUTS OF THE COMMISSION FOR THE YEAR ENDED 30 JUNE 2010

OUTPUT 1: SURVEILLANCE AND ENFORCEMENT

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

Activities

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

Primary market – offer documents, illegal offers, contributory mortgages

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

Intermediaries – futures dealers, investment advisers.

This is done by:

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

| PERFORMANCE MEASURES SURVEILLANCE AND ENFORCEMENT | NOTES | PERFORMANCE STANDARDS | |
|--|-------|--|---|
| | | ACTUAL 2010 | BUDGET 2010 |
| QUANTITY | | | |
| Complete surveillance actions that meet the Commission's case criteria relating to the above activities. | | 99 | 86 |
| Complete the enforcement actions that meet the Commission's case selection criteria, relating to the above activities. | | 6 actions completed | 2 |
| Complete the financial reporting surveillance programme. | | 3 cycles completed | 2 cycles in the year |
| QUALITY | | | |
| Surveillance and enforcement resources are applied in accordance with the Commission's market surveillance and enforcement priorities. | 1A | Full compliance | Full compliance |
| The desired regulatory result is achieved in surveillance cases where deficiencies are identified. | | 97% | 90% |
| Enforcement actions achieve the desired regulatory result. | 1B | 83% for actions completed | 80% |
| | 1C | The Commission continues to progress towards the desired regulatory result for finance companies enforcement | |
| There is no successful judicial review of the Commission's decisions or actions. | | 100% | 100% |
| TIMELINESS | | | |
| Complete surveillance actions. | 1D | 3.6 months | On average within 3 months |
| Progress civil enforcement actions from investigation to the filing of proceedings. | | 20.5 months | On average, within 24 months of commencement of investigation |
| Complete other enforcement actions. | | 5.1 months | On average, within 6 months of action commencing |
| Complete financial reporting surveillance reporting programme. | | 6.2 months | On average within 9 months of commencing each cycle |
| COST | | | |
| Expenditure allocated to surveillance and enforcement work – \$000(%). | 1E | \$2,942 (22%) | \$3,709 (35%) |
| Expenditure of litigation fund allocated to surveillance and enforcement work – \$000(%). | | \$1,329 (100%) | \$675 (100%) |

NOTES – SUPPORTING INFORMATION

QUALITY

1A *Enforcement*
The Commission's enforcement priority during the year was investigating failed finance companies.

Surveillance

The Commission's priorities during the year were:

- secondary market disclosures relating to banking covenants and misleading or lack of secondary market disclosure
- maintaining focus on the financial reporting surveillance programme.

1B During the year, 6 enforcement actions were completed. The desired regulatory results were:

- repayments to all identifiable shareholders at the time of the trading period the Commission investigated
- offer documents prohibited
- proceedings for 2 cases filed in Court
- 1 breach found to be immaterial.

The desired regulatory result was not achieved in 1 case because the National Enforcement Unit (NEU) prosecution was unsuccessful.

1C It is progressing towards the desired regulatory result by making the work high priority, regularly communicating Commission expectations to the market, and supporting the Select Committee inquiry into finance companies.

TIMELINESS

1D The average time to complete all jobs during the year, except one, was 3.2 months. The exception took 37 months because it involved numerous, intricate matters that drew out the investigative process, and resulted in a higher actual average of 3.6 months.

COST

1E Costs are below budget because the Commission used lower than expected amounts of its operating funds. Instead of using operating funds, the Commission was able to use its litigation fund for all eligible litigation, mainly finance companies work.

OUTPUT 2: OVERSIGHT AND SUPERVISION

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

Activities

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

This is done by:

- overseeing the operation of NZX
- analysing the resources that will be needed in order to undertake new roles
- ensuring appropriate resources needed to implement new law for financial advisers are identified and in place.

| PERFORMANCE MEASURES OVERSIGHT AND SUPERVISION | NOTES | PERFORMANCE STANDARDS | |
|--|-------|--|---|
| | | ACTUAL 2010 | BUDGET 2010 |
| QUANTITY | | | |
| Complete NZX oversight review. | | The 2008 calendar year review was published in December 2009 The Commission has begun reviewing the 2009 calendar year | 1 time in the year |
| Advise the Minister on proposed changes to Conduct Rules of the NZX. | | NZX proposed no changes | 2 times in the year |
| Consider and comment on continuous disclosure applications under the MOU with the NZX. | | 4 | 6 |
| QUALITY | | | |
| NZX takes actions in response to recommendations in the Commission's oversight review reports. | | NZX responded constructively to recommendations in the 2008 review of 2007 calendar year | NZX responds constructively to recommendations |
| The recommendations for the proposed changes to Conduct Rules of the NZX satisfy the Minister. | | NZX proposed no changes | The Minister responds that he is satisfied with the quality of the proposed changes |
| TIMELINESS | | | |
| Complete NZX oversight review. | 2A | The review of the 2008 calendar year was completed in 10.4 months The Commission has begun reviewing the 2009 calendar year | Within 6 months |
| Advice is provided to the Minister on approvals of, or proposed changes to, the NZX Conduct Rules within timeframes agreed with the NZX and allowing the Minister to exercise powers within the timeframes specified in the Securities Markets Act 1988. | | NZX had no approvals nor did it propose any changes | 100% |
| Subject to funding, the Commission has in place the people, training, procedures and infrastructure to perform its functions under the financial adviser law when the law comes into force. | 2B | Implementation of plan is underway and on schedule | Implementation of plan is on schedule |

| PERFORMANCE MEASURES OVERSIGHT AND SUPERVISION | NOTES | PERFORMANCE STANDARDS | | | |
|--|-------|-----------------------|-------|-------------|-------|
| | | ACTUAL 2010 | | BUDGET 2010 | |
| COST | | | | | |
| Expenditure allocated to oversight and supervision work – \$000 (%): | 2C | | | | |
| • Financial Adviser Act implementation | | \$5,226 | (39%) | | |
| • All other oversight and supervision | | \$517 | (4%) | | |
| | | \$5,743 | (43%) | \$2,914 | (27%) |

NOTES – SUPPORTING INFORMATION

TIMELINESS

- 2A Actual time taken exceeded budget because a key NZX witness was temporarily unavailable and a natural justice process required multiple appearances.
- 2B In April the Minister extended the timetable for implementing the new regime arising from the Financial Advisers Act (FAA) to 1 July 2011 and we adjusted the implementation schedule accordingly.
Key achievements for the FAA implementation in the year:
- appointment of the Commissioner for Financial Advisers
 - establishment of the Code Committee
 - Draft Code public consultations by the Code Committee
 - recommended amendments to the FAA and regulations to the Minister and MED
 - release of 1 staff discussion paper
 - finalisation of the FAA Operational Plan
 - recruitment of personnel
 - significant stakeholder liaison (government, ITOs, industry)
 - release of QFE and ABS Adviser Business Statement guides
 - release of a communications strategy, including “Are you an AFA?” branding
 - press releases, guidance, articles and speaking engagements to encourage industry readiness for the FAA regime.

COST

- 2C Costs are over budget because of the unexpected extra work for establishing the Code Committee, funding the ETITO and implementing the FAA regulatory regime.

OUTPUT 3: LAW AND PRACTICE REFORM

REVIEWING SECURITIES LAW AND PRACTICE AND MAKING RECOMMENDATIONS FOR REFORM.

Activities

- contribute to Government law reform programmes
- recommend changes to corporate and securities law
- comment on accounting and other industry standards and codes.

| PERFORMANCE MEASURES LAW AND PRACTICE REFORM | NOTES | PERFORMANCE STANDARDS | |
|--|-------|--|---|
| | | ACTUAL 2010 | BUDGET 2010 |
| QUANTITY | | | |
| Make recommendations for securities law reform and improved market practice in accordance with obligations under the Securities Act 1978 and other relevant legislation. | | The Commission was consulted on changes to the Finance Companies Securities Regulations, on initial proposals regarding the review of the Securities Act, and on the Securities Regulations | The Commission will make recommendations to comply with its obligations under the Securities Act 1978 and with other relevant legislation |
| | | The Commission made returns a priority by: <ul style="list-style-type: none"> • contributing to the AML Bill as a member of the inter-agency taskforce led by MoJ • advising and commenting on trustee oversight papers to address the Financial Services Assessment Programme (FSAP) recommendation • advising on trustee oversight and moratorium • contributing to the Settlement Systems Futures and Emissions Units Bill as a member of the inter-agency taskforce led by MED | The Commission will seek priority for reforms to address: <ul style="list-style-type: none"> • shortcomings in regulation of anti-money laundering supervision and product disclosure • FSAP issues |
| | 3A | <ul style="list-style-type: none"> • progressing CMDT recommendations related work | <ul style="list-style-type: none"> • Capital Market Development Taskforce (CMDT) recommendations |
| | | <ul style="list-style-type: none"> • commenting to MED on the draft discussion paper on auditor oversight | <ul style="list-style-type: none"> • auditor oversight |
| | 3B | The broader review of the Securities Act is progressing The Commission's contribution to law reform arose from experience gained in its enforcement work | <ul style="list-style-type: none"> • The broader review of the Securities Act The Commission's contributions to law reform will arise, in particular, from experience gained in its enforcement work |
| Review exposure drafts of financial reporting and auditing standards, and Financial Reporting Act. | | 6 discussion papers, 8 exposure drafts, 2 Cabinet Papers and 1 suggested amendment reviewed | Review as required |
| Participate on projects and reviews with the Ministry of Economic Development, other government departments and interested parties. | | The Commission advised and commented on reforms for oversight of trustees and moratorium regulations | Participation as required |

| PERFORMANCE MEASURES LAW AND PRACTICE REFORM | NOTES | PERFORMANCE STANDARDS | |
|--|-------|-----------------------|--|
| | | ACTUAL 2010 | BUDGET 2010 |
| QUALITY | | | |
| The recommendations for securities law reform and improved market practice made in accordance with obligations under the Securities Act 1978 and other relevant legislation, and the quality of advice and assistance on MED reform programmes, satisfy the MED. | | MED is satisfied | MED is satisfied with the quality of advice and assistance given |
| TIMELINESS | | | |
| Provide information and responses to the Ministry of Economic Development and others within agreed timeframes. | | 100% | 100% |
| COST | | | |
| Expenditure allocated to law and practice reform work – \$000 (%). | | \$508 (4%) | \$688 (7%) |

NOTES – SUPPORTING INFORMATION

QUANTITY

| | |
|----|---|
| 3A | Capital Market Development Taskforce recommendations were made public in December 2009 and the Commission has addressing the relevant issues in 2010 through its contribution to the Securities Act review. |
| 3B | Contributed to discussions with Ministry officials on the Securities Act review. A discussion document and a consultation draft bill for the Financial Markets Authority were received from the Ministry and the Commission will comment. |

OUTPUT 4: EXEMPTIONS AND AUTHORISATIONS

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

Activities

- receive and consider applications for exemption from securities law
- review existing exemptions
- undertake special review projects relating to policy on exemptions
- authorise futures dealers and exchanges
- consider amendments to futures exchange rules
- approve NZFOX participant rules
- approve trustees and statutory supervisors
- review existing authorisations.

| PERFORMANCE MEASURES EXEMPTIONS AND AUTHORISATIONS | NOTES | PERFORMANCE STANDARDS | |
|---|-------|--------------------------------------|------------------|
| | | ACTUAL 2010 | BUDGET 2010 |
| QUANTITY | | | |
| Consider all applications for exemptions and authorisations of market participants. | 4A | All (71) applications were completed | All applications |
| Review existing exemption notices and authorisations. | 4B | 3 reviews conducted | As required |
| QUALITY | | | |
| The Regulations Review Committee does not recommend disallowance of notices, and notices are not successfully judicially reviewed. | | 100% | 100% |
| A Statement of Reasons published in each notice explains the policy basis for the exemption. | | 100% | 100% |
| Proportion of notices issued which comply with the Commission's internal processes. | | 100% | 100% |
| TIMELINESS | | | |
| Percentage of exemption applications and authorisations completed within 6 weeks of receiving all necessary information or within other period agreed with applicant. | 4C | 97% | 100% |
| COST | | | |
| Expenditure allocated to exemptions and authorisations work – \$000 (%). | | \$854 (6%) | \$769 (7%) |

NOTES – SUPPORTING INFORMATION

QUANTITY

4A The 71 applications completed in the year compare with 57 in 2008-09. Since this is a demand-driven performance measure, it will vary from period to period.

4B This is also a demand-driven performance measure. Three reviews were completed in the year, being Directors' Certificates – Collective Investment Schemes SR 2009-417, Share Purchase Plans exemption SR 2009/267 and Capital Rights Options and Convertible Securities SR 2009/265.

In addition to these three reviews, the first stage of the special project to transition existing exemptions to the 2009 Securities Regulations was completed in November 2009, when the Securities Act (Transition to Securities Regulations 2009) exemption notice SR 2009/368 was gazetted.

TIMELINESS

4C We met this performance standard, except for 1 non-urgent application, and 1 overseas-issuer application for a new exemption; this was withdrawn because it could not be dealt with in the requested time.

OUTPUT 5: INTERNATIONAL COOPERATION AND RECOGNITION

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

Activities

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

| PERFORMANCE MEASURES INTERNATIONAL RECOGNITION | NOTES | PERFORMANCE STANDARDS | |
|--|-------|---|--|
| | | ACTUAL 2010 | BUDGET 2010 |
| QUANTITY | | | |
| Take part in the work of IOSCO's Executive Committee, Asia Pacific Regional Committee, Implementation of Objectives and Principles of Securities Regulation Committee, and the Screening Group. | 5A | Chaired/participated in meetings of the IOSCO Executive Committee, associated Executive Committee Task Forces, Asia-Pacific Regional Committee and IOSCO MMOU Screening Group | 100% of relevant meetings |
| Take opportunities at IOSCO meetings to promote understanding of New Zealand as a well regulated market in which investors can have confidence. | 5B | 100% of appropriate opportunities taken | 100% of opportunities are taken |
| When travelling for IOSCO take opportunities identified with MFAT and NZTE to promote New Zealand to wider business audiences as a well regulated market in which investors can have confidence. | 5C | In conjunction with MFAT/NZTE, 10 leveraging events were held in 10 relevant international destinations | Leveraging undertaken in 100% of relevant international destinations visited |

| PERFORMANCE MEASURES INTERNATIONAL RECOGNITION | NOTES | PERFORMANCE STANDARDS | |
|--|-------|---|----------------|
| | | ACTUAL 2010 | BUDGET 2010 |
| Meet with overseas regulators and institutional investors. | 5D | Met separately with regulator agencies of China, France, Malaysia, Singapore, UK and US. Spoke to key investor contacts at World Capital Markets Symposium, Asian Banker Summit's Markets and Exchanges Convention, Islamic Financial Services Board Summit and held dialogue with international credit rating agency representatives | As required |
| Respond to requests from overseas regulators. | 5E | 12 requests received and responded to | As required |
| Meet with ASIC. | | Met at Commission level in September and May, and at staff level in July, in addition to ongoing informal liaison | Twice per year |
| Contribute towards trans-Tasman initiatives. | 5F | Reviewed operation and use of mutual recognition of securities offerings and joint work programme; shared information on market surveillance; staff met with AUSTRAC 8 presentations to trans-tasman audiences and 1 magazine article contribution | As required |

QUALITY

| | | | |
|---|----|--|---|
| The Commission will present itself as a constructive and cooperative member of the international community of regulators. Views expressed to IOSCO will take into account the relevant New Zealand values and principles. | | FCAG presented its recommendations to IASB, US FASB and G20 Leaders in July; views included Australasian perspectives; FCAG reviewed implementation progress in December Contributions to IOSCO included moderating and expanding IFRS database | Presentations include information about NZ's regulatory environment |
| The Commission makes a positive contribution to the work of IOSCO's screening group towards IOSCO's strategic goal for the IOSCO MMOU. | 5G | Contributed more than satisfactorily to the recommendations for new signatories to the IOSCO MMOU and to Appendix B of MMOU | IOSCO satisfied with contribution |
| Cooperative work with ASIC is completed to agreed standards and time frames. | 5H | 100% | 100% |

TIMELINESS

| | | | |
|--|----|------|------|
| Presentations at meetings and responses to committees provided within agreed timeframes. | | 100% | 100% |
| Contribute towards trans-Tasman initiatives within agreed time. | 5I | 100% | 100% |

| PERFORMANCE MEASURES INTERNATIONAL RECOGNITION | NOTES | PERFORMANCE STANDARDS | |
|--|-------|-----------------------|---------------|
| | | ACTUAL 2010 | BUDGET 2010 |
| Obligations under MOUs with overseas regulators are fulfilled in agreed times. | 5J | (100%) | (100%) |
| COST | | | |
| Expenditure allocated to international recognition work – \$000 (%). | | \$1,602 (12%) | \$1,391 (13%) |

NOTES – SUPPORTING INFORMATION

QUANTITY

| | |
|----|---|
| 5A | Meetings reported on are members-only for IOSCO’s Executive Committee, Executive Committee Taskforces, Asia-Pacific Regional Committee and MMOU Screening Group. |
| 5B | IOSCO meetings in this context are defined as those with external parties, notably World Bank, FSB and OECD, which Securities Commission Members attend in their IOSCO capacity. 19 were held during 2009/10. (NB: This performance standard does not include internal IOSCO member-only meetings.) |
| 5C | A “relevant international destination” in this context is defined as a city/country the Chairman travels to for IOSCO purposes, that has an MFAT and NZTE presence, resources and an identified target audience. When no leveraging is organised in a particular destination, it is listed as non-relevant either because there is “no appropriate audience” identified or because of “timing issues”. |
| 5D | 26 meetings were held either with overseas regulators or with an audience that included institutional investor and/or financial agencies. |
| 5E | This performance measure is demand-driven by requests from overseas regulators. |
| 5F | The Chairman made a joint presentation with ASIC at the Australia-New Zealand Leadership Forum. She also gave speeches to the Australasian Compliance Institute, Trans-Tasman Business Circle, ASIC Summer School, Australian Regulators Master Class, New Zealand-Australia Investment Forum, Global Financial Crisis Symposium, and Australian Institute of Companies Directors Conference. She contributed an article to the Australian Accounting Review. |

QUALITY

| | |
|----|---|
| 5G | The Commission annually seeks from IOSCO an expression of its satisfaction or otherwise with New Zealand’s contribution. IOSCO reported it was “more than satisfied” with New Zealand’s contribution. During the year, a further 15 jurisdictions signed Appendix A of the IOSCO MMOU and 16 signed Appendix B. |
| 5H | The 2 meetings held in September 2009 and May 2010 met the quality standards. |

TIMELINESS

| | |
|----|---|
| 5I | The 2 meetings held in September 2009 and May 2010 met the timeliness standards. |
| 5J | 10 IOSCO MMOU requests were received and we have responded to 10; one request received in March is under continued action following a further, related request. |

OUTPUT 6: PUBLIC UNDERSTANDING

PROMOTING PUBLIC UNDERSTANDING OF THE LAW AND PRACTICE RELATING TO SECURITIES.

Activities

- develop and implement initiatives to promote awareness and understanding of securities law and securities market practices and the Commission's work
- publish *The Bulletin*, annual report and other documents
- respond to public inquiries
- manage the website
- maintain relationships with the news media.

| PERFORMANCE MEASURES PUBLIC UNDERSTANDING | NOTES | PERFORMANCE STANDARDS | |
|---|-------|--|--|
| | | ACTUAL 2010 | BUDGET 2010 |
| QUANTITY | | | |
| Publish <i>The Bulletin</i> . | | July, October, January, April | 4 issues |
| Deal with inquiries from the public. | 6A | 1,367 inquiries | All inquiries |
| Manage the Commission's website. | | The website was available 100% of the time | Website is available 95% of the time |
| Communicate significant regulatory actions. | 6B | 100% | 100% |
| QUALITY | | | |
| Readers respond that <i>The Bulletin</i> is interesting and relevant. | | 100% of survey responders rate <i>The Bulletin</i> as interesting and relevant | 95% of survey respondents |
| Major communications initiatives. | 6C | 100% of pre-set measures of success for <i>Look Learn Invest</i> campaign, media analysis, and public awareness research, were met | 90% of pre-set measures of success for each initiative |
| Inquiries are dealt with effectively. | | No complaints received | Absence of material complaints |
| TIMELINESS | | | |
| <i>The Bulletin</i> is produced on time. | | July/Oct/Jan/April | July/Oct/Jan/April |
| Public inquiries are handled within 5 working days of receipt. | | 100% | 95% |
| New information is published on the website without delay. | | New information was available on the website within 3 days of receipt (107 pieces and the new Code Committee website) | New information is available on the website within 3 days of receipt |
| COST | | | |
| Expenditure allocated to public understanding work – \$000 (%). | 6D | \$840 (6%) | \$1,078 (10%) |

NOTES – SUPPORTING INFORMATION

QUANTITY

| | |
|----|--|
| 6A | The 1,367 enquiries received in the year compare with 1,228 in 2008-09. Since this is a demand-driven performance measure, it will vary from year to year. |
| 6B | <p>25 significant regulatory actions were communicated during the year. These included charges laid, warnings, guides and financial reporting surveillance. These are described in the Performance Against Objectives section of the Annual Report, and are listed below:</p> <ul style="list-style-type: none">• Cycle 10 – corporate governance reporting• ING offer to investors• proportionate property ownership schemes• Cycle 10 – financial reporting surveillance• Cycle 11 – financial reporting surveillance• review of share trading by Allied Farmers• NZX Oversight Review• guide for Qualifying Financial Entities released• warning – unsolicited offer for Strategic Finance debentures• warning – illegal share offer – Interialess Drive ZPE (2010) Ltd• guide for disclosure of credit ratings by non-bank deposit takers• charges laid – Capital + Merchant Finance directors• guidance for KiwiSaver providers• Huljich KiwiSaver Fund withdraws investment statement• guidance on boundary between financial planning and advice• draft FAA Code released• charges laid – Lombard Finance & Investments• civil proceedings laid – Nuplex Industries Limited and certain directors• warning – unsolicited offer for St Laurence Finance debentures• warning – offer of securities by 9999 Goldmining Corporation• alerted investors to refund entitlements• guide for Authorised Financial Advisers released• warning – further unsolicited offer for St Laurence Finance debentures• banned investment adviser and broker – Neville Cant• accepted enforceable undertaking – ANZ and ING. |

QUALITY

| | |
|----|---|
| 6C | <ul style="list-style-type: none">• The <i>Look Learn Invest</i> campaign aimed for a 100% increase in website traffic; in fact, it increased by an average 300% over the 2-month period.• The monthly media analysis aimed to establish a baseline, which was achieved. The analysis begun in January provided a baseline for evaluating media coverage of the Commission. For the 977 pieces in the six months from January to June, 50% of Commissions mentions were positive, 43% neutral and 7% negative.• The public awareness research aimed to establish a baseline, which was achieved. The public awareness research surveyed 500 people and established a reliable baseline of public awareness of Commission work and views. It found 22% of the population had heard of the Commission and had a reasonably correct perception of what it did. |
|----|---|

COST

| | |
|----|---|
| 6D | Costs are under budget due to lower than expected work on public education initiatives. |
|----|---|

OUTPUT 7: TAKEOVERS PANEL

PROVIDING ADMINISTRATIVE AND SUPPORT SERVICES BY AGREEMENT.

Activities

Provide services related to the Panel's outputs including:

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

| PERFORMANCE MEASURES TAKEOVERS PANEL | NOTES | PERFORMANCE STANDARDS | |
|--|-------|----------------------------|---|
| | | ACTUAL 2010 | BUDGET 2010 |
| QUANTITY, QUALITY AND TIMELINESS | | | |
| Services are provided as per the MOU between the Panel and the Commission. | 7A | In accordance with the MOU | In accordance with the MOU or any agreed amendments to it |
| COST | | | |
| Expenditure allocated to Takeovers Panel – \$000 (%). | | \$78 (1%) | \$96 (1%) |

NOTES – SUPPORTING INFORMATION

| QUANTITY, QUALITY AND TIMELINESS | |
|---|---|
| 7A | The Takeovers Panel has relocated to separate premises. |

OUTPUT 8: ANTI-MONEY LAUNDERING AND COUNTERING FINANCING OF TERRORISM

MONITORING MARKET ACTIVITY, INQUIRING INTO SUSPECTED BREACHES OF ANTI-MONEY LAUNDERING AND COUNTERING FINANCING OF TERRORISM LAW AND TAKING ACTIONS TO ENFORCE THE LAW.

Note: This is a new output created following the release of extra appropriations during the period.

Activities

- develop procedures and processes for implementation of the regime.

| PERFORMANCE MEASURES ANTI-MONEY LAUNDERING | NOTES | PERFORMANCE STANDARDS | |
|--|-------|-----------------------|--|
| | | ACTUAL 2010 | BUDGET 2010 |
| QUANTITY | | | |
| Appropriate resources needed to implement new law are identified and in place. | | 6 FTEs | 6 FTEs with appropriate facilities |
| Participation in National Coordination Committee. | | 4 meetings attended | Participation in accordance with the Anti-Money Laundering and Countering Financing of Terrorism Act |

| | | | |
|--|----|--|--------------------|
| The Securities Commission liaises with the Financial Action Task Force (FATF) and other jurisdictions, especially Australia, to improve cooperation, administration and enforcement of AML/CFT law and promote international understanding and respect between the Securities Commission and these bodies. | | Preliminary liaison with AUSTRAC to gain information and discuss systems and process to promote consistent approach with Australia | As required |
| Complete sector risk assessment to inform NZ Police National Risk Assessment. | 8A | Sector risk questionnaire completed | 1 time in the year |
| Provide assistance to Ministry of Justice to develop regulations to successfully implement law. | | Commented on “Implementation of the AML and CFT Act 2009: Regulations and Codes of Practice: Consultation Document, 2010” | As required |

QUALITY

| | | | |
|--|----|--|--|
| Ongoing sector surveys show that outreach and education programmes raise sector awareness of the law and obligations, and provide guidance to help sector to raise compliance. | 8B | Initial sector risk questionnaire completed, with a baseline for participation established | Initial risk assessment sets baseline for participation, awareness, and compliance standards |
|--|----|--|--|

TIMELINESS

| | | | |
|--|----|---|-----------------|
| Sector risk assessment completed to inform NZ Police National Risk Assessment. | 8A | Initial sector risk questionnaire completed | By 30 June 2010 |
|--|----|---|-----------------|

COST

| | | | |
|---|----|------------|--------------|
| Expenditure allocated to anti-money laundering and countering financing of terrorism – \$000 (%). | 8C | \$784 (6%) | \$N/A (N/A%) |
|---|----|------------|--------------|

NOTES – SUPPORTING INFORMATION

QUANTITY

| | |
|----|--|
| 8A | The due completion date for all sector risk assessments has been moved to 30 September 2010 to allow input from the National Risk Assessment, now underway. Sector participants understand that National Risk Assessment input is required before sector risk assessments can begin. |
|----|--|

QUALITY

| | |
|----|--|
| 8B | 17% of people replied to our initial risk assessment survey for participation in AML outreach programmes. The awareness survey results are being collated. |
|----|--|

COST

| | |
|----|---|
| 8C | Anti-money laundering and countering financing of terrorism is a new function allocated to the Commission during the year. It was not, therefore, part of the budget set in the Output Agreement with the Minister for 2009/10. |
|----|---|

TOTAL REVENUE, INCOME AND EXPENDITURE FOR CLASS OF OUTPUTS VOTE COMMERCE

FOR THE YEAR ENDED 30 JUNE 2010

| | 2010 ACTUAL \$000 | 2010 BUDGET \$000 |
|--|-------------------------|-------------------------|
| NON-DEPARTMENTAL OUTPUT EXPENSE APPROPRIATION, PART 2.2: | | |
| Performance of Securities Market Functions | | |
| Crown revenue – for Securities Market functions | 6,501 | 6,501 |
| Crown revenue – Financial Advisers Act functions | 2,620 | 2,620 |
| ETITO funding | 1,300 | - |
| Interest | 169 | 75 |
| Fees | 362 | 250 |
| Other revenue | 155 | 124 |
| | 11,107 | 9,570 |
| Expenditure | 11,230 | 10,645 |
| ETITO expenditure | 1,337 | - |
| Operating surplus | (1,460) | (1,075) |
| Regulation of Anti-Money Laundering and Countering Financing of Terrorism | | |
| Crown revenue | 1,920 | - |
| Expenditure | 784 | - |
| Operating surplus | 1,136 | - |
| Total for Part 2.2 | (324) | (1,075) |
| NON-DEPARTMENTAL OTHER EXPENSES, PART 5.2: | | |
| Securities Commission Litigation Fund | | |
| Crown and interest revenue | 1,333 | 656 |
| Expenditure | 1,329 | 675 |
| Litigation surplus | 4 | (19) |
| Total for Part 5.2 | 4 | (19) |

AUDIT REPORT

AUDIT NEW ZEALAND

Mana Arotake Aotearoa

TO THE READERS OF THE SECURITIES COMMISSION'S FINANCIAL STATEMENTS AND STATEMENT OF SERVICE PERFORMANCE FOR THE YEAR ENDED 30 JUNE 2010

The Auditor-General is the auditor of the Securities Commission (the Commission). The Auditor-General has appointed me, Robert Cox, using the staff and resources of Audit New Zealand, to carry out the audit on her behalf. The audit covers the financial statements and statement of service performance included in the annual report of the Commission for the year ended 30 June 2010.

UNQUALIFIED OPINION

In our opinion:

- The financial statements of the Commission on pages 34 to 54 that are prepared on a disestablishment basis:
 - comply with generally accepted accounting practice in New Zealand; and
 - fairly reflect:
 - > the Commission's financial position as at 30 June 2010; and
 - > the results of its operations and cash flows for the year ended on that date.
- The statement of service performance of the Commission on pages 56 to 71:
 - complies with generally accepted accounting practice in New Zealand; and

- fairly reflects for each class of outputs:
 - > its standards of delivery performance achieved, as compared with the forecast standards outlined in the statement of forecast service performance adopted at the start of the financial year; and
 - > its actual revenue earned and output expenses incurred, as compared with the forecast revenues and output expenses outlined in the statement of forecast service performance adopted at the start of the financial year.

The audit was completed on 22 July 2010, and is the date at which our opinion is expressed.

The basis of our opinion, which refers to the transfer of functions to the Financial Markets Authority and the financial statements being appropriately prepared on a disestablishment basis, is explained below. In addition, we outline the responsibilities of the Members of the Commission and the Auditor, and explain our independence.

BASIS OF OPINION

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

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

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

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

Audit procedures generally include:

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

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

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

TRANSFER OF FUNCTIONS TO THE FINANCIAL MARKETS AUTHORITY

In forming our opinion, we considered the accounting policy on pages 39 and 40 about the financial statements being prepared on a dissolution basis because of the Government's decision to transfer the functions of the Commission to the proposed Financial Markets Authority (FMA).

Legislation to implement these changes has not yet been enacted, but it is anticipated that the Commission will be disestablished on establishment of the FMA and that this will occur in 2011.

The financial statements have therefore been prepared on a disestablishment basis.

However, there has been no change to the measurement basis used for assets and liabilities or to their classification between current and non-current. This is because all assets and liabilities of the Commission are expected to transfer across to, and be relevant to, the FMA. For that reason, no adjustments have been made to the financial statements because of the disestablishment basis of preparation. We consider the basis of preparation of the financial statements and the related disclosures to be appropriate to the Commission's circumstances.

RESPONSIBILITIES OF THE MEMBERS OF THE COMMISSION AND THE AUDITOR

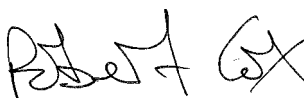
The Members of the Commission are responsible for preparing the financial statements and statement of service performance in accordance with generally accepted accounting practice in New Zealand. The financial statements must fairly reflect the financial position of the Commission as at 30 June 2010 and the results of its operations and cash flows for the year ended on that date. The statement of service performance must fairly reflect, for each class of outputs, the Commission's standards of delivery performance achieved and revenue earned and expenses incurred, as compared with the forecast standards, revenue and expenses adopted at the start of the financial year. The Members of the Commission's responsibilities arise from the Crown Entities Act 2004.

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

INDEPENDENCE

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

Other than the audit and an independent quality assurance engagement relating to tendering processes, we have not provided any engagements for the Securities Commission during the year ended 30 June 2010. In addition, we have no relationships with, or interests in, the Securities Commission.



Robert Cox

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

MATTERS RELATING TO THE ELECTRONIC PRESENTATION OF THE AUDITED FINANCIAL STATEMENTS AND STATEMENT OF SERVICE PERFORMANCE

This audit report relates to the financial statements and statement of service performance of the Securities Commission for the year ended 30 June 2010 included on the Securities Commission's website. The Members of the Commission are responsible for the maintenance and integrity of the Securities Commission's website. We have not been engaged to report on the integrity of the Securities Commission's website. We accept no responsibility for any changes that may have occurred to the financial statements and statement of service performance since they were initially presented on the website.

The audit report refers only to the financial statements and statement of performance named above. It does not provide an opinion on any other information which may have been hyperlinked to or from the financial statements and statement of service performance. If readers of this report are concerned with the inherent risks arising from electronic data communication they should refer to the published hard copy of the audited financial statements and statement of service performance as well as the related audit report dated 22 July 2010 to confirm the information included in the audited financial statements and statement of service performance presented on this website.

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



SECURITIES COMMISSION

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