

The British Virgin Islands Financial Services Commission  
*Annual Report 2008*



# Mission Statement

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**To uphold the integrity of the British Virgin Islands (BVI)  
as a well regulated international finance centre  
and safeguard the economic interests of the territory:**

- Protecting the interests of the general public and market participants
- Ensuring industry compliance with the highest international regulatory standards and best practices.
- Ensuring that the BVI plays its part in the fight against cross-border, white collar crime, while safe-guarding the privacy and confidentiality of legitimate business transactions.



# Strategic Aims

- **To be fully aware of international standards and their application to the BVI and issue guidelines to the industry as necessary**
- **To ensure that all entities we authorise and supervise are operating within BVI legislation and regulation and international standards of best practice**
- **To ensure that all entities we authorise and supervise meet “fit and proper” criteria at the licensing stage and on an ongoing basis**
- **To conduct an ongoing review of financial services legislation and make recommendations for changes where necessary**
- **To ensure that the FSC operates effectively and efficiently**
- **To identify and deter abuses and breaches of legislation**
- **To raise public awareness of the BVI financial services industry and develop and implement a system of continuing education for industry practitioners**
- **To ensure that the Registry of Corporate Affairs provides world class services to ensure the international competitiveness of the BVI**

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# Chairman's Statement



As Chairman of the British Virgin Islands Financial Services Commission, I report to the Government and people of the British Virgin Islands through the Honourable Premier and Minister of Finance on the activities of the Commission during 2008.

The year 2008 marked the Commission's seventh year of operation and, while the year at first started off mirroring the successes of 2007, change quickly followed. The severe downturn in the global economy, coupled with scandals such as the massive Ponzi scheme perpetrated by Bernard Madoff in the US, have had an adverse impact on the financial wellbeing of this Territory and will require ever more prudent regulation and initiatives to be implemented.

While overall revenues were not adversely impacted in 2008, the numbers of new companies formed fell almost 20% in comparison to 2007, and for the 4th quarter 2008

almost 50% in comparison with the same quarter in the previous year. This most probably will signify reduced revenues in succeeding years as the normal increase in the company base from which renewal fees are derived may not keep up with natural wastage. Additionally, a number of companies carrying on investment business have been adversely affected by the global downturn/Ponzi fraud, and it is anticipated may be forced to liquidate/require enhanced regulatory supervision. Also, a number of captive insurance companies have relocated elsewhere, which will reduce future years' licence fee income.

Throughout these difficult times, the Board of Commissioners remains ever-mindful of the need to balance marketability and competitiveness of the Territory's financial services products with the ongoing requirements of compliance and the Commission's monitoring and regulation duties as we strive to maintain the Territory's reputation as a well-regulated international financial

centre and meet the ever-increasing demands placed upon us by supra-national bodies.

In accordance with section 27 of the Financial Services Commission Act, 2001, I present this report of the operations and activities of the Commission for the 2008 year of operations together with the enclosed auditor's report and accompanying financial statements.

**Robin Gaul**  
Chairman



**Bar Bay, Tortola**  
British Virgin Islands

# Board of Commissioners



**Mr. Robin Gaul**  
*Chairman*



**Mr. Colin O'Neal**  
*Deputy Chairman*



**Mr. Phillip Fenty**  
*Commissioner*



**Mr. E. Walwyn Brewley**  
*Commissioner*



**Ms. Eleanor Smith**  
*Commissioner*



**Mr. Martin Fuggle, OBE**  
*External Commissioner*



**Mr. Robert Mathavious**  
*(Ex-officio) Commissioner*



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The Board of Commissioners meets at least once per month and meetings are presided over by the Chairman and in his absence the Deputy Chairman, with a quorum of four Commissioners. The Board derives its decisions by a majority vote of the Commissioners present.

The appointments of Commissioners are on terms determined by Cabinet and are usually not for periods exceeding three years in one instance. Periods of appointment are made such that no more than one-third of the members' appointments shall expire every two years.

The Board is comprised of the Managing Director, as an ex-officio member, and not fewer than four or more than six other Commissioners, one of whom must be from outside the Territory and have a financial services background.

The Board also has two sub-committees, one in respect of compensation and one with responsibility for finance. Both sub-committees held meetings during the year to deliberate and address issues related to their specific subject areas.

Some of the matters discussed by the Board during its 12 monthly meetings in 2008 included: Action Plans for implementation following the Caribbean Financial Action Task Force assessment and Mutual Evaluation Report, the approval of long term study leave consistent with the Commission's policy and a thematic survey covering the provision of insurance products in the domestic market.



*Board of Commissioners Meeting*

# *Managing Director's* Statement

2008 has been an active, challenging and daunting year for financial services regulators the world over. The unfolding financial crisis has placed added emphasis on enhanced cooperation among regulators to ensure effective cross border information exchange and to present a global front against regulatory arbitrage. The turmoil within the global financial markets has placed the activities of the so-called offshore financial centers under even greater scrutiny.

Our responsibilities as regulators have become more complex and more challenging. As the Commission navigates the new and still evolving reality that is the regulation and supervision of cross-border financial services activities, we are more determined than ever to maintain the BVI's standing as a world-class, risk-based regulator committed to sound, proportionate and prudent supervisory practices.

Accordingly, we have worked very closely this year with our industry bodies, the BVI government and international regulators to manage the impact of the financial crisis on the local industry.

From the very initial stages of the sub-prime crisis, we monitored the affairs of BVI banks for possible signs of weaknesses that could warrant pre-emptive action. This included engaging with parent banks

and their regulators in order to obtain a better picture of the health of each bank. I am pleased to report that there has been little evidence to suggest that BVI banks are exposed to the excesses at the epicenter of the crisis. They have been able to avoid the difficulties experienced by many of their international counterparts.

The Commission embarked on the year committed to a full calendar of activities and initiatives, as laid out in our 2008 strategic work plan. These were designed to ensure that the Commission continued to apply appropriate regulatory best practices and international standards to its oversight of entities conducting financial services business in and from within the BVI. We began comprehensive on-site inspections across all sectors of the industry, fully embracing this as a key supervisory assessment tool. During the year, the Commission also concluded an international bench-marking exercise comparing BVI legislative and regulatory provisions against those of other key international finance centres. This included engaging the services of a private consultant to conduct an internal self-assessment of the BVI's compliance with international regulatory standards, an exercise that would generally be performed by international agencies. These two initiatives informed much of the Commission's strategic activity. Gaps identified were addressed in order to ensure that the BVI's regulatory

regime and industry-related legislation remained compliant with pre-established international requirements.

The Commission coordinated and facilitated a tremendous amount of planning and preparation at the national level for the CFATF's February 2008 assessment of the BVI's anti-money laundering and terrorist financing (AML/CFT) regime. This comprehensive exercise brought together regulators, law enforcement agencies, industry and the BVI government. I am pleased to report that the assessment concluded that BVI demonstrated a high level of compliance with the FATF's AML/CFT standards. The report published in December stated: "The Virgin Islands has maintained a robust public policy commitment to ensuring that the Territory plays its part in the global fight against money laundering and the financing of terrorism".

In February, the Commission issued a new and comprehensive AML/CFT code of practice. This replaced earlier AML/CFT Guidance Notes and advanced the Commission's mandate to deter and confront financial crime. Rollout of the code included a series of workshops to sensitise public sector and private sector officials to the new requirements.

I wish to state here the Commission's profound gratitude to those industry practitioners who continued this year



to give freely of their time and expertise in contributing to policy formulation and legislation and in serving on committees and taskforces. This truly helped to strengthen the BVI's value proposition.

In April 2008, the UK House of Commons Treasury Committee announced that it was embarking on an inquiry into offshore financial centres. The Commission submitted a formal response in which it stressed the importance of regulating and supervising financial services business to established international standards and of promoting international cooperation between regulatory and law enforcement agencies. The Commission argued that these matters were more germane to ensuring effective global financial stability than dwelling on the questionable distinction between so-called offshore and onshore centres. The Commission also highlighted the positive contributions made to global finance by well-regulated international financial centres, noting acknowledgments by the IMF and FSF that these measured up to established international standards of regulation, supervision and compliance

As part of our remit to develop and promote the education of those engaged in financial services business and related business activities, the Commission conducted a one-day seminar to focus the BVI's non-regulated sector on the

Territory's AML/CFT obligations and responsibilities. The seminar was supplemented by appearances by FSC personnel on local television and radio programmes

The Commission also sought industry input on proposals for the Regulatory Code being developed for issue in 2009. A pragmatic and functional regulatory framework needs the flexibility to keep pace with changing international standards and industry developments, and the Code is expected to provide this flexibility. As is customary, the industry has been encouraged to review, evaluate and comment on the proposed Code and a special working session was convened to help finalise and implement it. The Commission also facilitated sector-specific meetings during the year with industry groups, including the BVI Association of Insurance Managers, the BVI Association of Registered Agents and the BVI Bar Association. Together with our quarterly "Meet the Regulator" meetings, these enabled the Commission to maintain close dialogue with key stakeholders on critical issues.

The Commission has taken further steps throughout the year to enrich the skills of all its employees by providing an enhanced range of training right across its operations. I am as ever extremely grateful to our dedicated and energetic staff, who have worked with renewed

commitment and vigilance to ensure that the Commission achieves its objectives efficiently and effectively.

Given the current global climate for financial services activities, I expect that 2009 will see the Commission occupied in addressing the changes needed to the regulatory framework and to supervision generally as the world settles into the new reality. As the business of financial services grows ever more demanding, sensitive and complex, the Commission remains ever committed to championing robust, effective and appropriate regulation for the conduct of legitimate business.

Finally, I must thank our Board of Commissioners and the BVI government for their ongoing and steadfast support. We look forward to financial services continuing to make a powerful contribution to the economic wellbeing of our territory and to the high-level skills of the people of the BVI.

**Robert Mathavious**  
Managing Director/ CEO

# Executive Management and Division Heads of the FS

Executive Management Team

**Robert Mathavious**  
Managing Director/CEO

**Jennifer Potter-Questelles**  
Deputy Managing Director,  
Corporate Services

**Kenneth Baker**  
Deputy Managing Director,  
Regulation

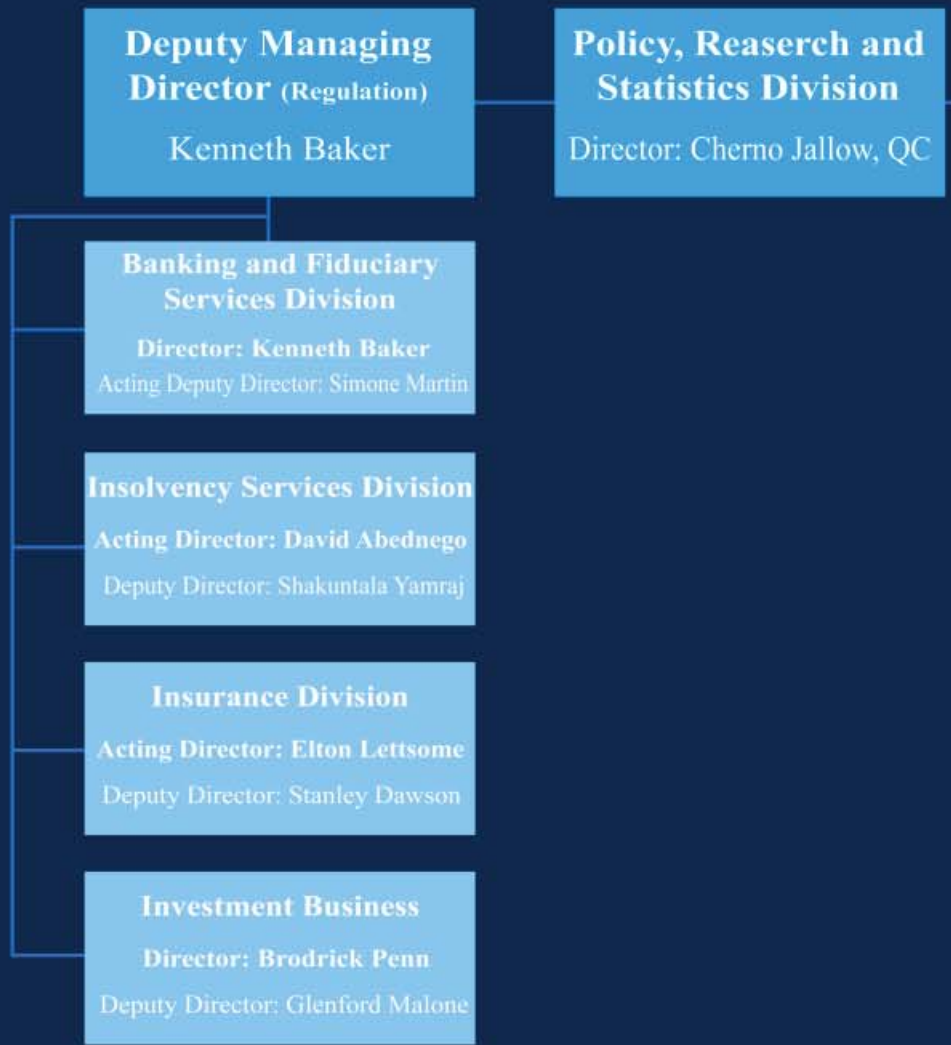
**Jacqueline Wilson**  
Director, Legal and Enforcement  
Legal Counsel

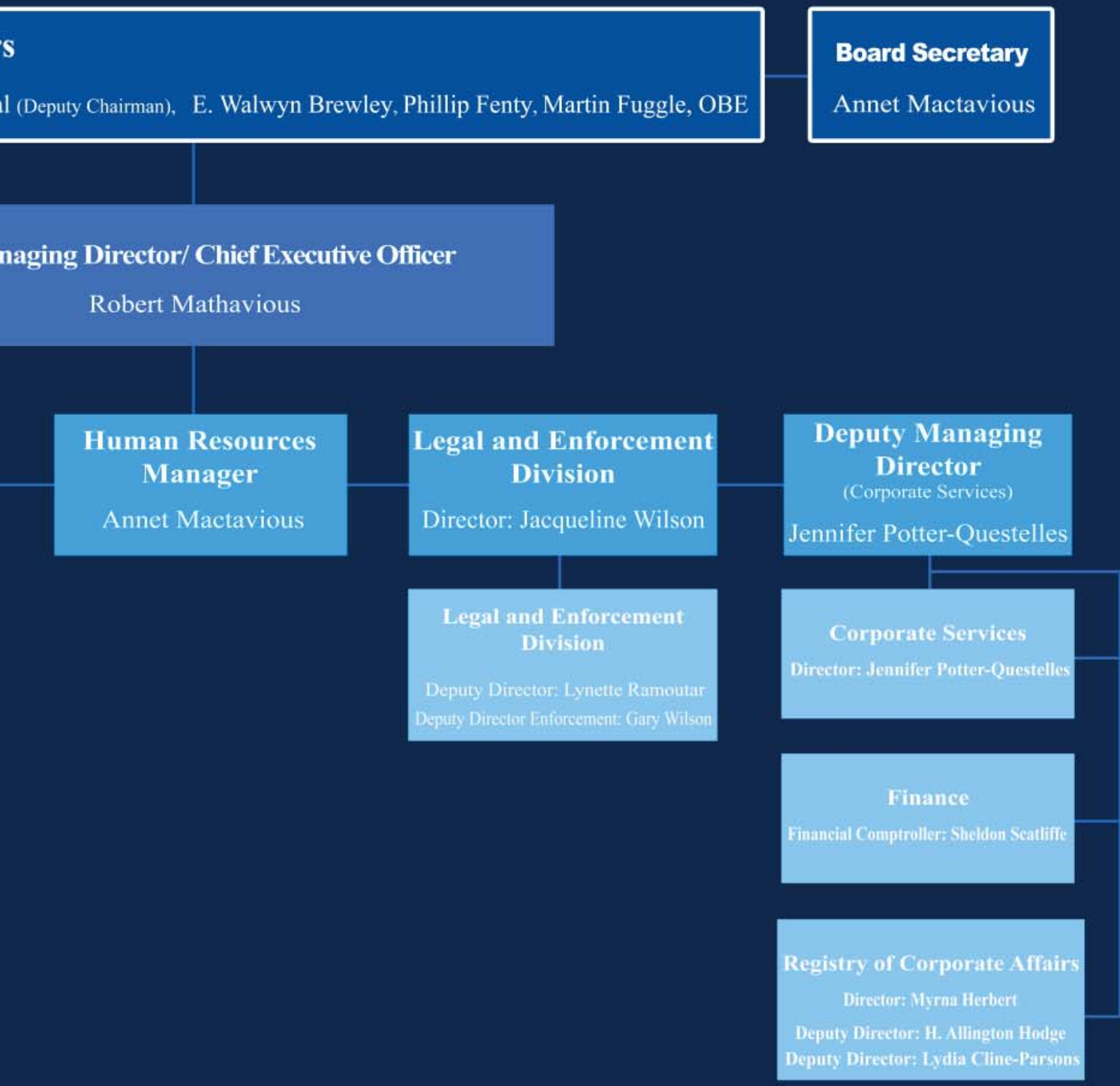
**Cherno Jallow, QC**  
Director, Policy, Research and  
Statistics

**Annet Mactavious**  
Manager, Human Resources  
Secretary, Board of Commissioners

**Board of Commissioners**  
Robin Gaul (Chairman), Colin O’Neal

**Ma**







**Century Plant**  
British Virgin Islands

# Regulation and Supervision

## On-site Inspection Programme

The Commission's On-site Compliance Inspection programme was introduced in 2004 with the primary purpose of assessing the resources, record-keeping and general compliance culture of licensees. The On-site compliance inspections afford the Commission an opportunity to better understand the business risks assumed by licensees and the nuances of their business environments.

Senior regulators who are familiar with the licensee through ongoing supervision review the pre-inspection material supplied by the entity in preparation for the visit.

During the pre-inspection phase, an evaluation is also made of the complexity of the regulated entity's business, its available resources and the FSC's specific concerns; thereafter, the type, scope and duration of the On-site compliance visit is determined. Through these On-site compliance visits, the Commission has identified areas of potential regulatory concern.

These matters are addressed through the issue of guidance notes and other regulatory papers, workshops and other forums aimed at improving regulatory awareness and increasing regulatory compliance.

During the year in review, a total of 51 On-site inspections were conducted. Following the issue of formal inspection reports to the licensees at the conclusion of the process, the licensees are expected to take courses of action prescribed by the Commission in an effort to achieve greater compliance with the Territory's Financial Services legislation. Non-compliance discovered during an inspection visit is liable to attract administrative penalties and/or enforcement action based on the powers available to the Commission.

### *Number of On-site Inspections*

	Q4 2008	Q3 2008	Q2 2008	Q1 2008
Banking and Fiduciary Services: Banks	0	0	4	2
Banking and Fiduciary Services: Fiduciary Service providers	12	1	2	6
Insurance	7	0	0	7
Insolvency	0	2	1	2
Investment Business	4	0	1	0
<b>Total Inspections</b>	<b>23</b>	<b>3</b>	<b>8</b>	<b>17</b>

## Licensing and Supervisory Committee

The Licensing and Supervisory Committee's (LSC) functions are to receive, review and determine applications for authorisations, licences, registration and recognitions under any Financial Services legislation. LSC is the authorisation arm of the Commission and maintains on-going supervision of regulated persons to ensure that they continue to satisfy the fit and proper criteria for the conduct of financial services business.

The LSC continues to meet weekly pursuant to the FSC Act and the Committee's guidelines and there were 49 regular meetings and six extraordinary meetings of the LSC during 2008. During the meetings of the LSC members deliberated and made decisions on 816 matters submitted by the Regulatory Divisions.

## Enforcement Committee

The protection of the public includes investors as well as customers and potential customers of persons who are engaged in the provision of financial services business in or from within the Virgin Islands. One of the Commission's principal functions relates to monitoring and enforcement action which explains the rationale, need and relevance of the essential enforcement tools vested in the Commission and exercised on its behalf by the Enforcement Committee (EC).

When the Commission performs its functions in pursuit of its statutory mandates, it is not liable for any loss or injury that a person may suffer as a result. This protection is essential to ensure the full and effective performance of the Commission's functions without let or hindrance. It is, however, tempered with the principle that in the execution of its duties and the exercise of its powers the Commission shall act in good faith.

The EC is statutorily established under section 14(1) of the Financial Services Commission Act, 2001. It is one of two committees that is so established under the Act, the other being the Licensing and Supervisory Committee (LSC).

The EC performs specific general functions on behalf of the Commission. Essentially, these relate to:

- (a) considering and determining the exercise by the Commission of its enforcement powers under Part V of the FSC Act (compliance and enforcement) or pursuant to any financial services legislation;
- (b) submitting reports to the Board of the Commission in respect of all enforcement action taken by the Commission;
- (c) submitting reports to the Board of the Commission on the performance of its functions at least once every quarter;
- (d) reviewing the enforcement powers of the Commission and making suggested amendments and/or revisions to the Board of the Commission; and

### *Matters before the Enforcement Committee*

Period in 2008	Number of Cases
Q4	41
Q3	39
Q2	27
Q1	14
<b>Total Number of Cases</b>	<b>121</b>



- (e) performing, on the authorisation of the Board of the Commission, any other enforcement functions that are not inconsistent with the FSC Act or any other financial services legislation.

In the performance of its duties and exercise of its powers, the EC must be guided by certain fundamental principles of transparency and fairness; it must demonstrate the highest standards of probity and circumspection, engage in analytical evaluation and foster confidence through its decision making processes. Furthermore, there must be certainty and consistency in the manner in which it takes its decisions, especially with respect to matters with the same or similar set of facts or circumstances under the same or similar governing legal and regulatory regimes; its decisions must equally be certain and consistent (as may be applicable). Decisions of the EC (as adopted and applied by the Commission) may become subject to appeal pursuant to Part VI of the FSC Act or through the process of judicial review. In either case, it is essential that procedural regularity is ensured.

Membership of the EC comprises the Managing Director as Chairman and the Deputy Managing Director (Regulation) as Deputy Chairman, Deputy Managing Director (Corporate Services), Director, Legal and Enforcement and

Director, Policy, Research and Statistics. Members of the EC are held to the oath of confidentiality subscribed to upon assuming office as a member of the Commission as outlined in section 48 of the FSC Act, as well as a code of conduct identified in the Guidelines and Operating Procedures for the Enforcement Committee.

During 2008, 121 matters were referred to the Enforcement Committee for a decision on appropriate enforcement action. The enforcement action taken by the committee included warning letters, advisory warnings, administrative penalties and the issue of directives.

# Regulatory Overview

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**Anegada**  
British Virgin Islands

# Banking and Fiduciary Services

*The primary responsibility of the Banking and Fiduciary Services Division is the administration of the Banks and Trust Companies Act, 1990 and the Company Management Act, 1990. The division conducts day to day supervision of banking and fiduciary services licensees on behalf of the Commission.*

The division focused its resources on conducting compliance inspections of its licensees during the year as the main thrust of supervisory activity. These On-site compliance visits provided an opportunity for the Commission to benchmark, primarily fiduciary service providers, to gain better statistical information on the extent and effectiveness of customer due diligence measures and the segregation and handling of client funds. The compliance of licensees was assessed against the Territory's financial services legislation, including anti-money laundering legislation and against international best practice. Through these visits the Commission also gained valuable insight into the internal controls and management structures of key licensees in the jurisdiction.

In 2008, the Division conducted 27 On-site inspections, approximately 20% of the fiduciary services industry and two-thirds of banking institutions.

As a result of information that came to the Commission's attention during the conduct of two On-site compliance inspections, the Commission took what it considered to be severe enforcement action against two licensees for issues of non-compliance with legislative requirements. In 2009, the Commission will likely expand compliance inspection visits to include some licensees external to the Territory.

## *Licences Issued/Renewed*

	2008	2007
General Banking	6	6
Restricted Class I Banking	3	3
Class I Trust	98	98
Class II Trust	2	2
Class III Trust	6	3
Restricted Class II Trust	104	107
Restricted Class III Trust	0	0
Company Management	20	21
Authorised Custodian	7	7
Registered Agents	118	117

## Prudential Returns

As the current global economic conditions dictate a plethora of changes in the regulatory framework of financial services regulators around the world, the Commission will likely introduce a requirement for fiduciary services licensees to file prudential returns next year. During the year the Division in collaboration with the Policy, Research and Statistics Division worked to develop the initiative in anticipation of the changes. Holders of BVI Banking licences already provide the Commission with quarterly prudential returns which are likely to be revised to conform to requirements for a Basel II framework. Aggregate information compiled from the individual quarterly returns are published by the Commission in its Quarterly Statistical Bulletin.

## Regulation

There are currently nine financial institutions in the British Virgin Islands that are regulated by the Commission. Of the nine banks, there are six general banking and three restricted Class 1 banking licence-holders. BVI licensed banks continue to demonstrate stability with strong capital positions that should provide adequate cushion in the current climate. Through the resources of the regional banking supervisors' group the CGBS, the Commission was able to participate in training events that included simulations of responding to a failing bank. The event also allowed participants to review learning points from other supervisors with prior experience with failed banks and financial institutions. CGBS is recognized as a regional body under the Basel Committee for banking supervision.

The total assets, liabilities and shareholder's equity retained from banks engaged in banking business in and within the BVI as at 31 December, 2008 was reported as US\$2.36 billion, US\$2.02 billion and US\$ 0.34 billion, respectively.

The Division supervised approximately 215 licensees that provide trust administration and/or company management services during 2008 and continued to conduct a

review of current banking and fiduciary services legislation to ensure continued relevance to international developments and best practices.

### Staffing Developments

To assist with the growing and demanding needs of the Division, an additional Regulator II was hired in the fourth quarter of 2008. The

Division's permanent staff as at the end of the year included the Director, an Ag. Deputy Director, three Regulator IIs, three Regulators and an Executive Officer. The Division continues to participate in the Regulatory Cadet Programme, and hosts two cadets.

<i>Banking Sector Quarter 4 2008 (in US '000s)</i>		<i>The Following is Reported for Commercial Banks Only</i>	
Total Assets	\$2,363,702	Average Risk Asset Ratio	27.82%
Total Cash Items	\$873,465	Return on Assets	2.16%
Total Loans & Advances	\$1,310,090	Liquid Assets as a Percentage of Total Deposits	46.48%
Total Investments	\$4,681	<i>Liquidity</i>	
Total Other Assets	\$175,466	Liquid Assets as a percentage of Total Assets	29.32%
Total Shareholders Equity	\$344,776	Liquid Assets as a percentage of Total Deposits	46.48%
Total Liabilities	\$2,018,926	Loans as a percentage of Total Assets	61.75%
Deposits	\$1,570,831	Loans as a percentage of Total Deposits	98.71%
Long Term Debt	\$92,769	<i>Profitability</i>	
Accrued Liabilities	\$5,349	Return on Assets	2.16%
Other Liabilities	\$348,502	Return on Equity	28.93%
Loss Reserves	\$1,475	Profit Margin	62.25%
<i>Statement of Income &amp; Expense</i>		<i>Asset Quality</i>	
Net Interest Income	\$36,036	Non-Performing Loans as a percentage of Total Loans	2.89%
Operating Income	\$43,072	Total Non-Performing Loans in US '000s	\$4,117
Income before Taxes	\$29,571	Non-Accruing Loans in US '000s	\$2,676
Net Income	\$29,571		
Net Income Retained	\$29,571		





**Jost Van Dyke**  
British Virgin Islands

# Investment Business

*The Investment Business Division administers the Mutual Funds Act, 1996 and supervises all funds, managers and administrators licensed, registered and recognised under the Act.*

2008 proved to be one of the most difficult years in the history of the financial markets. The poor performance of the markets has resulted in many long-standing financial institutions either ultimately failing or being acquired, often times by Governments in order to remain functioning. Governments worldwide were also forced to intervene in the capital markets by way of significant injections of 'bail out funds' in an effort to pump liquidity into the capital markets.

Difficulties in the global economy have had far reaching implications even for international financial centres like the British Virgins Islands. Most financial services regulators have seen or will see a shift in their regulatory focus and practices. Among the most affected are hedge funds and therefore the Commission expects changes to the BVI's mutual funds regime to conform to developing international standards.

## On-site Inspections

The Division commenced conducting formal On-site compliance inspections of its licence-holders with its inaugural inspection in Quarter 2, 2008. As the final regulatory division of the Commission to commence inspections, Investment Business, consistent with other divisions, engaged this powerful and important supervisory tool to assess whether regulated persons and entities remain fit and proper and to assist licence-holders with understanding and meeting regulatory requirements, prudential standards and the general expectations of the Commission.

The Division expects that its inspections regime would operate more optimally in 2009 having developed valuable experience, skills and expertise, during the processes and inspections undertaken in 2008.

## Annual Returns

Building on previous initiatives to collect additional financial data on the Fund industry, the Commission developed and introduced in 2008 a prudential/financial reporting requirement for all BVI funds. The regime replaced the former BVI Mutual Fund Survey and was developed in part to gather critical information that would assist the Commission in reviewing and assessing the growth and complexity of the industry sector. The development of the regime was also influenced by the need for greater transparency in the global hedge fund industry, and to allow for the BVI's participation in international hedge fund reporting like the IMF's Coordinated Portfolio Investment Survey (CPIS).

The new Annual Return which was introduced in Quarter 3, 2008 asks all funds to report basic prudential and governance information, summary financial information – including gross and net asset values, subscriptions, redemptions and expenses as well as asset allocation details on an annual basis.

The Commission also intends to develop and introduce a regulatory framework which would make the filing of the annual returns mandatory. Making the filings mandatory for BVI

Funds will ensure greater compliance with the requirement and allow the Territory to participate more meaningfully in attaining an accurate global picture of the fund industry.

## Legal/ Regulatory Developments

Throughout 2008, the Division continued to draft requirements for the proposed Securities and Investment Business Act (SIBA) and supporting Regulations and Codes. SIBA is an encompassing piece of legislation which will replace the current Mutual Funds Act. With its broadened scope it aims to cover the regulation and supervision of investment business, public issues of securities, mutual funds and market abuse.

During Quarter 4 the Commission convened a focus group of industry practitioners and internal experts to review a draft of the legislation. The focus group provided initial comments on SIBA prior to a general industry-wide circulation.

The Commission continues to maintain memberships and associations in key securities regulatory organisations. Chief among them is the International Organisation of Securities Commissions (IOSCO) where the Commission by virtue of its full membership in IOSCO is a standing member of two subcommittees namely the Emerging Markets Committee and the Inter American Regional Committee (IARC).

### *New Licences Issued*

Licenses	2008		2007		2006	
	Granted	Cancelled	Granted	Cancelled	Granted	Cancelled
Managers	41	12	64	36	61	34
Administrators	4	1	2	3	1	0
Managers/ Administrators	2	2	2	3	0	1
<b>TOTAL</b>	<b>47</b>	<b>15</b>	<b>68</b>	<b>42</b>	<b>62</b>	<b>35</b>

### *Certificates of Recognition and Registration*

Professional	258	58	317	124	282	128
Private	68	52	87	79	90	57
Public	13	7	17	2	18	6
<b>TOTAL</b>	<b>339</b>	<b>117</b>	<b>421</b>	<b>205</b>	<b>390</b>	<b>191</b>

In 2008 IOSCO published a consultative document on standards for funds of hedge funds. Consequently, it is anticipated that during 2009, hedge funds will become much more of a focus for IOSCO and therefore it may propose standards and principles specific to regulation of hedge funds. BVI continues to contribute to this discussion and monitor developments through its participation in relevant surveys and attendance at IOSCO meetings.

The Commission continues to be a key resource for, and plays a leading role in, OGCISS. In 2008 senior members of the Commission's Investment Business Division attended OGCISS' annual meeting and served as panelists for discussions on enforcement cases and challenges, and regulatory challenges facing collective investment schemes. The Commission anticipates hosting the 2009 annual meeting of the group.

## Statistical Analysis

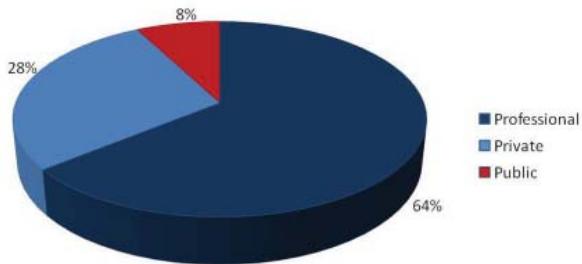
The challenging environment globally has had far-reaching implications for the majority of international markets. Financial Centres like the BVI have not been immune to the tumultuous changes in activity and the regulatory domain.

The number of active managers and/or administrators licensed under the Mutual Funds Act at the end of 2008 had increased by 5.8% (representing eight (8) more licence-holders) over year-end figures for 2007. The number of active mutual funds in Q4 2008 increased to 2,953 from 2,731 in Q4 2007; an 8.1% increase.

Despite the uncertain climate in 2008 new fund applications outpaced fund cancellations. Further changes to the industry are to be expected in the next year as cancellations and liquidations increase owing to the large number of distressed funds currently in limbo.



*Active Mutual Fund Entities  
(Quarter 4 2008)*



## Staffing Developments

In January 2008, following his return from a 6-month outward secondment in Dublin, Ireland, Mr. Brodrick Penn was promoted to the post of Director, Investment Business Division.

In anticipation of the new requirements and scope of the proposed Securities and Investment Business Act, the division's staff complement significantly increased from six to twelve full-time employees during the year.

Professional development achievements included the Division's Director being trained as a financial expert mutual examiner by CFATF and the Deputy Director's continued involvement in CFATF Plenary as a financial expert examiner. The Division also represented the Commission at the IOSCO Annual General conference and emerging markets committee meetings, various AML training and other relevant training through major regulatory

counterparts such as the US and Canadian securities agencies.

## Future Outlook

The Commission anticipates that 2009 will continue to reflect a declining economy, lingering liquidity issues and funds experiencing difficulty attracting new investors.

The Division anticipates little growth in the BVI fund industry in 2009 unless economic activity recovers as existing funds continue to close in an environment with few start up funds. Some growth however will likely emerge from newer vehicles that are responsive to and fit the current economic picture.



**Morning Glow**  
British Virgin Islands

# Insurance

*The Insurance Division is responsible for supervising all licensed insurance companies and related professionals as required by the Insurance Act.*

The BVI Insurance sector like all other financial services sectors experienced some contraction in 2008. The majority of BVI licensed captives originate in the US market which was severely impacted by the financial crisis. The number of new applications and licences granted declined but renewals were not as soft. Of the 332 Captive Insurance companies licensed, over 80% of the business was written in the classes of property, liability and pecuniary insurance which also accounted for 44% of the total premiums written.

## Legal and Regulatory Developments

The Division, remained committed to reviewing all Standards, Principles, Guidance and Issues Papers adopted by the International Association of Insurance Supervisors (IAIS) at its Annual General Meeting and evaluating whether amendments were required to the BVI's suite of Insurance legislation including the Insurance Act, Regulations,

Regulatory Code or related guidance.

The documents reviewed following their adoption by the IAIS during its 2008 annual general meeting included topics such as regulatory, capital requirements, group-wide supervision and the role of the group-wide supervisor and the regulation and supervision of captive insurers.

The Division also commenced work on the Insurance Regulations which will supplement the Insurance Act which was passed in January, 2008. Two important industry liaison meetings were held during the second and third quarters to discuss these two pieces of legislation and provide valued feedback to the Commission on the proposals.

As part of the supervisory process the Division conducted compliance inspections at the premises of seven licensed insurers.

### *Captive Insurance Companies (2008)*

Line of Business	Number of Companies	Percentage of Licence-holders
Motor	2	1%
Property	140	42%
Liability	80	24%
Marine & Aviation	3	1%
Pecuniary*	49	15%
Health	4	1%
Workers Compensation	8	2%
Warranty	8	2%
Life	13	4%
Other	25	8%
<b>Total</b>	<b>332</b>	<b>100%</b>

## **Staffing and Development**

At the end of the year, the staff complement in the Division was nine and comprised the Acting Director, Deputy Director, four Regulators, a Trainee, an Administrative Cadet and an Executive Assistant.

The Division is committed to the development of staff who are exposed to various levels of training offered by or in conjunction with regulatory bodies that the Commission is a member of or with which it is affiliated including the Offshore Group of Insurance Supervisors and the International Association of Insurance Supervisors.

Additionally, members of staff have taken their own initiative towards further development by enrolling in programmes such as the Captive Insurance designation programme that is run by the International Centre for Captive Insurance Education.





**Beef Island**  
British Virgin Islands

# Insolvency Services

*The Insolvency Services Division is responsible for the licensing and regulation of insolvency practitioners. The insolvency regime is governed by the Insolvency Act, 2003 and related legislation.*

Under the Insolvency regime only licensed insolvency practitioners are eligible to accept appointments as administrator, administrative receiver, interim supervisor, supervisor, provisional liquidator, liquidator (other than in a solvent liquidation procedure) or bankruptcy trustee for insolvency matters.

During 2008, the Division assisted International Insolvency Bodies in identifying threats and opportunities in the industry by taking part in special jurisdictional surveys and in providing information on the operation of the regime in the Territory.

The Division also consented to the appointments of overseas insolvency practitioners who were seeking to be jointly appointed to cases with local practitioners as required by BVI law. In conjunction with the Investment Business Division, the Insolvency Services Division consented to the liquidation of several companies and mutual funds regulated by the Commission.

The Division convened several meetings of the Insolvency Liaison Committee during the year. Among the key items on the committee's agenda were the issues of recovering cost

under the Civil Procedure Rules in relation to insolvency applications and suggestions for possible amendment of the Insolvency Act to allow creditors to approve liquidators' fees in certain situations.

## Statistical Analysis

### On-site Inspections

The Division was fully engaged during the year conducting on-site inspections of its Insolvency Practitioners (IPs). During the year a total of six IPs were inspected. The inspections provided the Division with the opportunity to review certain areas of the IPs operation as part of the Commission's adopted risk based monitoring approach, and to identify areas which suggested that insolvency work was not being carried out in accordance with statutory and regulatory requirements.

### Staffing Developments

The former Deputy Director, Insolvency Services accepted the appointment to Acting Director of the Division after the Director completed his contract. The Division also appointed an Acting

### *Licensed Insolvency Practitioners*

	Q4 2008	Q4 2007
Insolvency Practitioners (Full Licence)	15	15
Insolvency Practitioners (Restricted Licence)	1	0
Total No. of Insolvency Practitioners	16	15

Deputy Director who joined the division from the Finance Department following study leave.

The Commission was represented by the Insolvency Services Division at the INSOL International Conference held in South Africa in March 2008 and the INSOL International Seminar held in Chicago, Illinois in July 2008. The conferences helped to illustrate and highlight key challenges faced by insolvency practitioners and provided a medium for BVI's representatives to dialogue with other regulators on matters of mutual interest to help foster more cooperation.

Members of the Division took the opportunity to enhance their professional skills by attending various other conferences and workshops held during the year.

## **Future Goals**

Looking forward, the Division plans to begin its second round of inspections of the practices of licensed insolvency professionals. This second round will focus on monitoring the practices of previously inspected IPs to assess the general compliance culture and the overall state of the industry sector. The overall assessment of the sector will assist the division in solidifying a suite of penalties and other applicable courses of action to address areas of non-compliance in the regime.







**Brandywine Bay**  
British Virgin Islands

# Registry of Corporate Affairs

*The Registry of Corporate Affairs administers the BVI Business Companies Act, the Partnership Act, the Trade Marks Act (cap 158) and the registration of United Kingdom Trade Marks and United Kingdom Patents.*

Former local companies registered under the Companies Act were granted another year to transition to the BVI Business Companies Act through an amendment and so were not re-registered in 2008. 2008 was the Registry of Corporate Affairs' second best year for volume of incorporations of BVI Business Companies despite the general downturn in financial services activity attributed to the global economic crisis.

The processes for conducting and completing local and international searches of the Companies Register were revamped in an effort to improve efficiencies at the Registry. The Searches Department is one of the busiest at the Registry and responds to hundreds of searches daily. The Registry introduced revised search request forms and expanded the request submission methods to accommodate receiving electronic requests and electronic tracking of progress on active search requests internally. The exercise proved very beneficial and the Registry was able to reduce turnaround times significantly. The Radio Frequency Identification (RFID) system to digitally tag all physical files to improve management was completed during the year. The enthusiastic team and support of the Registry staff enabled the

Commission to complete the task in under a year which was far below the vendor's estimate for the volume of files. The Registry hosted a group of students from the Bregado Flax

Educational Centre for a tour of the facilities to supplement their lessons on record and information management.

Using VIRRGIN the Registry recorded the busiest month on record in January and the process was much improved over pre-VIRRGIN experiences for both clients and the Registry's staff. The Registry continued to monitor and evaluate its VIRRGIN electronic system in anticipation of the next round of improvements as no major changes were rolled out in 2008. The Commission gained membership in the Corporate Registers Forum which is an association of Corporate Registrars from around the world. The forum is intended to provide members with the opportunity to discuss and review developments in the corporate registration arena and share experiences. The forum's annual conference which was held in Vancouver, Canada was attended by the Director, Corporate Affairs.

The Registry's management and operations team joined the Council of the Association of Registered Agents for a meeting to discuss collaboration efforts to improve efficiency and administration.

<i>Registrations</i>	<i>Total for 2008</i>
Business Companies	61,906
Limited Partnerships	114
Dissolutions (BCs)	24,323
Continuations (into BVI)	
Foreign Corporations Registered	10

# Non-Supervisory Divisions

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**Josiah's Bay**  
British Virgin Islands

# Legal and Enforcement Division

*The Legal and Enforcement Division provides ongoing legal support to all internal divisions, Executive Management and the Board of Commissioners and represents the Commission in civil proceedings in the High Court. The division is also instrumental in investigating incidences of entities that purport to be licensed by the Commission to conduct financial services business in or from within the BVI.*

Three hundred and forty regulatory matters were referred to the Division from the Regulatory Divisions and other departments within the Commission.

The Division co-ordinates and executes requests for assistance by foreign regulatory and law enforcement authorities and also files its own requests for information from foreign authorities where assistance is required for the performance of the Commission's regulatory functions. For the year 2008, the Division received sixty-one formal requests and sixteen informal requests for assistance from foreign regulatory authorities.

As per the Memorandum of Understanding between the Financial Investigation Agency (FIA) and the Commission, any matters relating to allegations of fraud and money laundering schemes are referred to the FIA.

## Projects Undertaken

On an ongoing basis in 2008, the Division coordinated requests for information and assistance made to the Commission by foreign regulatory and law enforcement authorities. It also reviewed decisions of the Commission in relation to the entities it regulates to ensure that those decisions were consistent with the requirements of the Financial Services Commission Act, 2001, other financial services legislation and, where applicable, international standards of best practice. On an ongoing basis the Division also reviewed the exercise of

the Commission's powers to ensure that the powers are exercised in a reasonable, proportionate and consistent manner. As part of this exercise, the Division was involved in the development of the Enforcement Committee Guidelines, which came into force in April 2008.

In addition, the Division conducted ongoing reviews of the BVI's financial services legislation against international standards, best practices mandated by international organizations and the legislation of other international key players in the financial services industry. It also made recommendations for legislation and legislative amendments for implementing the requirements of international standard setting organizations and international standards of best practice. The draft Non-Financial Services Business Act, the draft Securities and Investment Business Act, and the draft Regulatory Code were reviewed against these international standards and requirements, and comments and recommendations were submitted.

## Staffing Developments

Two Deputy Directors joined the Legal and Enforcement Division in November 2008. The position of Deputy Director, Legal was filled by Ms. Lynette Ramoutar and the position of Deputy Director, Enforcement was filled by Mr. Gary Wilson. With these two critical appointments, the Division is now in a position to devote more time and resources to its role in the enforcement function of the Commission.

## Future Goals

In line with its enhanced role in the enforcement function of the Commission, the Division intends to conduct internal training on regulatory and enforcement investigations, the Enforcement Committee Guidelines and compliance. The Division also plans to conduct an in-house workshop on administrative law as well as to provide anti-money laundering training. Although no Memoranda of Understanding were signed in 2008, the Division intends to strengthen international cooperation by establishing Memoranda of Understanding with certain jurisdictions where regulated entities operate.

### *Legal and International Cooperation Statistics*

	Quarter 4 2008	Quarter 3 2008	Quarter 2 2008	Quarter 1 2008
International Co-operation Matters				
Formal Requests*	9	25	15	11
Informal Requests**	3	1	4	8
Enforcement Matters	41	39	27	14
Advisory Warnings	0	1	1	0
<b>Total</b>	<b>53</b>	<b>66</b>	<b>47</b>	<b>33</b>

\* requires the disclosure of non-public information

\*\* requires the disclosure of public information





**Paraquita Bay**  
British Virgin Islands



# Policy, Research and Statistics

*The Policy, Research and Statistics Division functions as the strategic intelligence and policy development unit of the Commission. The Division is responsible for monitoring international regulatory and legislative developments, developing regulatory policies, researching topics related to the financial services industry, producing industry statistics, and taking the lead in all anti-money laundering and terrorist financing matters.*

## AML/CFT Compliance

2008 was an eventful year for the Division. In February, the Territory was assessed by the Caribbean Financial Action Task Force (CFATF) with respect to its AML/CFT regime. The assessment team reviewed the Territory's institutional framework, the relevant AML/CFT laws, regulations, guidelines and other requirements, as well as the regulatory, enforcement, international cooperation and other systems in place to deter money laundering and the financing of terrorism. The review process also included examining the capacity, implementation and effectiveness of all of these systems.

The evaluation report was reviewed at the CFATF's Plenary and approved by the Ministerial meeting held in November 2008 in St. Kitts and Nevis and was subsequently published on 22nd December 2008. The Territory's final overall rating was 33 and is now fully compliant with 18 recommendations and largely complaint with 15, putting the BVI amongst the top-rated jurisdictions globally that have been evaluated. Thus with respect to the FATF core and key Recommendations, the BVI has an overall score of compliant and largely compliant in 14 out of 16 (the second highest score globally).

Also in February, the first meeting of the Joint Anti-Money Laundering and Terrorist Financing Advisory Committee (JALTFAC) was convened. JALTFAC replaced the Joint Anti-money Laundering Coordinating Committee (JAMLCC) formed in 1998 which

assisted with the drafting of the Anti-money Laundering Guidance Notes, 1999. JALTFAC reviewed and advised on the development of the Anti-money Laundering and Terrorist Financing Code of Practice, 2008 (AMLTFCOP) which replaced the Anti-Money Laundering Guidance Notes, 1999. While the 1999 Guidance Notes set out guidelines to prohibit money laundering, the AMLTFCOP 2008 establishes legally binding standards to aid in the fight against money laundering and the financing of terrorism. The Code addresses basic and enhanced customer due diligence matters and sets standards for record keeping. It further addresses the training of staff and methods for reporting suspicious transaction reports.

Following the enactment of the AMLTFCOP and Anti-money Laundering Regulations in early 2008, the Division assisted with the training of staff of the Commission on the new AML/CFT requirements to assist them in better preparing for AML/CFT inspections of the Commission's licensees. Two workshops were conducted in April and July.

## UK Treasury Committee Review of OTs

In April, the United Kingdom Parliament Treasury Committee issued Press Notice No. 42 inviting written evidence on offshore financial centres and outlined eleven questions of particular interest to the Treasury

Committee. As the entity responsible for the regulation, supervision and inspection of financial services business operating in and from within the Territory, the Commission, guided by the Division, prepared a written response to the UK Treasury Committee outlining its position and emphasized the need to focus on the standard of regulation and supervision of financial centres whether offshore or onshore, and the continued need for international cooperation on matters of information sharing and mutual legal assistance.

### Interaction with the Industry and within the Commission

In May the Commission, following its strategic aim to raise awareness of the industry and develop and implement a system of continuing education for industry practitioners, conducted a Meet the Regulator Forum which attracted a large number of persons from within the industry. The Forum addressed compliance, and on-site inspection issues and concerns arising from the introduction of the new Anti-Money Laundering and Terrorist Financing Code of Practice. During the year the Division also assisted the Investment Business Division in the development of the new Mutual Funds Annual Return forms, which will replace the Mutual Funds Survey currently completed by industry practitioners.

As part of the Commission's promise to consult with industry practitioners on the development of new legislation, a workshop on the proposed

Regulatory Code was conducted in November to update the industry on the status of its development, and to elicit feedback with respect to the proposed requirements of the legislation. The workshop was well attended and the avid discussion and numerous questions asked aided in the progression of the drafting of the legislation.

### Legal and Regulatory Developments

2008 was also a demanding year for the Division with respect to the assistance it provided in the drafting of various pieces of legislation. As part of its policy and mandate to continually review current legislation relating to or affecting the financial services industry and consider emerging international standards of supervision and compliance, the Division effected numerous revisions to the AML/CFT regime to ensure compliance with the FATF 40+9 Recommendations. Similar action was also taken with re-

spect to the regulatory legislation in cooperation with the Attorney General's Chambers. These activities led to the development of the Anti-money Laundering and Terrorist Financing Code of Practice, 2008; Anti-money Laundering Regulations, 2008; Drug Trafficking Offences (Amendment) Act, 2008; Financial Investigation Agency (Amendment) Act, 2008; Proceeds of Criminal Conduct (Amendment) Act, 2008; and Non-financial Business (Designation) Notice, 2008.

The Division also conducted, in liaison with the Attorney General's Chambers, a consolidation of the BVI Business Companies Act, 2004; Banks and Trust Companies Act, 1990; Company Management Act, 1990; Financial Services Commission Act, 2001; and the Insolvency Act, 2003, including all of the various subsidiary legislation. Other legislation prepared in 2008 included the Financial Services (Exemptions) (Amendment) Regulations, 2008; the Financing and

<i>Legislation or Guidance</i>	<i>Date of Issue</i>
Anti-money Laundering and Terrorist Financing Code of Practice, 2008	20 February, 2008
Financial Services (Exemptions) (Amendment) Regulations, 2008	19 November, 2008
Insurance Act, 2008	31 January, 2008
Guidance Notes on the Compliance Regime	8 April, 2008
Guidance Notes on the Revocation or Cancellation of Licences or Certificates of Regulated Persons (including Solvent Liquidations)	8 April, 2008
Guidelines and Operating Procedures of the Enforcement Committee	7 April, 2008

Services Bill, and the Insurance Act which was passed by the House of Assembly on 31st January 2008.

As part of its mandate to develop regulatory policies for the Commission, the Division developed and had approved the following guidelines:

Provisional Guidance Notes on Compliance Regime to inform applicants and approved Compliance Officers of their obligations and the benchmarks used by the Commission to assess their compliance with the established financial services and related statutory regime.

Guidance Notes on Revocation or Cancellation of Licences or Certificates of Regulated Persons, Including the Approval of Solvent Liquidation Procedures which provide a framework for the revocation or cancellation of licences and certificates when applied for by regulated persons in a manner which ensures the protection of stakeholders of the regulated persons and the settlement of all outstanding liabilities.

Guidelines and Operating Procedures of the Enforcement Committee of the Financial Services Commission of the British Virgin Islands which outline the workings of the Commission's Enforcement Committee in its attempt to ensure compliance with, and prohibit and punish contraventions of the industry's regulatory framework. The guidelines map out the applicable laws in the enforcement process, how these laws are applied and in what circumstances, the principles and guidelines

established to aid the process of effective enforcement, the investigative and reporting process, administration of the administrative penalties regimes, and the principles of law that must be borne in mind in the enforcement process.

### **Staffing Developments**

In the fourth quarter of 2008 a Senior Policy Research Officer was added to the Division to fill the void caused by the departure of one Policy Research Officer who left to further her studies. As such, the Division's staff count as at 31st December, 2008 remained at 5 and included the Director, 1 Senior Policy Research and Statistics Officer, 1 Policy Research and Statistics Officer, 1 Executive Assistant and 1 Policy Research Assistant.

### **Looking Forward**

The Division's strategic aims for 2009 include the continuing review of the financial services regulatory and supervisory framework to ensure compliance with the requirements of international standards setting organizations and to develop in collaboration with the Regulatory and Legal Divisions, industry guidelines and internal regulatory policies and procedures, taking into consideration international standards as well as facilitate the development of amendments to and drafting of new legislation to continually develop the financial services industry of the BVI. The Division will also aim to conduct policy oriented research and analysis on issues relating to the behaviour of financial institutions, international

standard-setting institutions and the structure and health of the BVI financial services sector while providing technical expertise and analytical support to all divisions on issues related to finance markets, international standards of prudential regulations and AML/CFT criteria.



**Red Mangrove**  
British Virgin Islands

# Corporate Services

*The Corporate Services Division functions as the Operations arm of the Commission and is comprised of several business units including finance, information technology, general administration, facilities and corporate communications.*

In 2008 the Commission realised a key objective in successfully moving all aspects of financial planning and reporting to a single-electronic platform. The improved and seamless access to financial information means that comparisons between actual financial performance and budgets can be analysed quickly and accurately with up to the minute information. It also provides for greater access to the information for internal and formal audit purposes and strategic decision-making.

The internal financial controls were also strengthened with the implementation of a decentralised but fully automated revenue receipting system to account for all revenue streams.

The Finance Department produces monthly management reports which are presented at Board of Commissioners meetings and a formal financial audit is performed annually in accordance with the provisions of the Financial Services Commission Act.

The Commission's staff complement increased in 2008 and the facilities unit undertook several improvement and expansion projects to existing premises to accommodate new hires as well as reclassification of existing employees into new roles for expanded functions and divisions. The Commission currently occupies two office buildings in the Pasea Estate area with additional premises nearby primarily for document and records management.

Discussions on several possibilities continue in an effort to strategically plan for the short to medium term physical space needs of the Commission. The Commission progressed to an advanced stage, efforts locally and internationally, to augment current business continuity and risk management measures as part of its commitment to total quality management.

As the focus last year was putting a halt to the ever growing need for additional space to store physical files through the introduction of the VIRGIN system at the Registry of Corporate Affairs, 2008 saw the Commission concentrating on improving the storage of and access to the current physical legacy files. The Commission introduced a file management system that employs the latest in Radio Frequency Identification or RFID technology. The Commission's Information Technology department spearheaded the effort to "tag", using RFID, the over 700,000 legacy files related to companies on the Companies Register. The technology allows the employees of the records management unit, Registrars and other officers of the Registry to locate with precise ability, a single file anywhere on the premises. Through the introduction of the technology and reengineered business processes, the Commission has reduced significantly the incidence of misplaced files, reduced the time to locate and produce a file from the records vaults and reduced the error rate in producing files on request from members of the public. Use of the technology is expected to be extended

to other areas within the Commission in due course.

The Information Technology Department undertook a number of critical infrastructure matters during the year to improve and secure the Commission's operations including the phased replacement of critical network hardware and the assessment and review of key proprietary software to support legislative as well as operational changes and requirements in areas including On-site inspections, email handling and document management and the corporate web presence.

The most comprehensive undertaking in Information Technology during the year was the commencement of a series of discussions with regulatory Directors to discuss the commissioning of VIRRGIN Phase III which will provide leadership in technology automation for regulatory processes. The initial meetings provided the ground work for a VIRRGIN Phase III Roadmap to guide the initiative.

The Corporate Communications unit continued to provide leadership and support for the Commission in media relations and public events coordination. The objectives of the unit were achieved through the publication of general press releases, targeted communication to industry participants and by providing access to key members of the Commission's executive and management teams through the grant of interviews, authoring of articles and confirmed speaking engagements to

local, regional and international media outlets. Through activities coordinated by Corporate Communications, the Commission was also able to participate in international surveys, statistical bench-marking and features in various sectors of financial services activity for various online and traditional print publications.

Corporate Communications also organised and hosted for the Commission several key industry events including the popular 'Meet the Regulator' series, a quarterly event where the Commission addresses the industry on current topical matters, and topic specific workshops, seminars and working groups on areas that this year included: new anti-money laundering legislation, the introduction of money services legislation.





**Turpentine Tree**  
British Virgin Islands



# Human Resources

*The Human Resources Department ensures that the Commission utilises equitable employment practices through its services including hiring, termination, discipline, benefits management and training matters.*

The Human Resources Department continued to demonstrate equitable employment practices and services including hiring, termination, discipline, and other personnel-related matters throughout 2008. In its seventh year of operations and with approximately 125 full-time employees, the Commission considered it prudent and applicable to engage the services of a professional firm to conduct a post categorisation and compensation review exercise. The exercise which should be concluded in 2009 will compare and align current roles for equivalence and benchmark compensation packages with like institutions across jurisdictions to ensure that the Commission remains competitive to attract the best resources available. The exercise also included a review of the performance management process and any proposals for changes to this initiative will be introduced in 2009 with the implementation of the revised compensation structure.

## Staffing Developments

Internationally recognisable professional and personal qualifications are significant to the outstanding delivery of quality service and credibility of the organisation. In this regard, the Commission succeeded at facilitating the development of some of its employees by making it convenient for them to attain professional designations such as the ACI (Associates in Captive Insurance, STEP (Society of Trust and Estate Practitioners) and MICA (Member of International Compliance Association), among others. One

employee embarked on long term study leave in the area of law, two others continued their respective courses and many other employees not on extended courses, attended various internal and external training sessions, seminars, conferences and conventions. The FSC also welcomed back two employees who successfully completed their courses of study and returned to full-time employment.

The Commission as part of its annual programme employed nine summer interns in various divisions during the summer months and the Regulatory Cadet Programme continued with five new hires.

The Commission reciprocated a previous secondment opportunity with an inward secondment from the Gibraltar FSC who was assigned to the Banking and Fiduciary Services division.

To strengthen employee relations, and as an incentive to garner more unity among the employees and to foster a culture of family, over the past two years, the Department organised a Christmas Party for the children (12 and under) of its employees. The initiative has helped to elevate employee relations as positive feedback and camaraderie among employees have increased.

## Statistical Analysis

At the end of December 2008, the Commission had a total of 133 employees. During the year, a number of changes occurred owing to the expected, varied activities of the Commission.

**Employee Movement 2008**

Hires	20
Departures	08
Resumption of Duty	02
Study Leave	03
Expiration of Contract	02
Retirement	01
<b>Total</b>	<b>36</b>

The Commission as a relatively young organisation and as an employer takes pride in its ability to retain key employees over 40% of employees have been with the Commission between 5 and 7 years.

**Future Goals**

Looking ahead, the Department anticipates conducting a comprehensive review of the Commission's recruitment and retention practice and an assessment and possible upgrade to the employee orientation process. In support of the needs of its employees, the Commission will also undertake the reactivation of its Employee Assistance Programme and other Human Resources services identified as requiring improvement.

Years	Number of Employees	Percentage of Employees
0-2 Years	44	32.1%
3-4 Years	33	25.2%
5-7 Years	56	42.7%
<b>Total</b>	<b>133</b>	<b>100%</b>



# Financial Statements

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**Whelks Point**  
British Virgin Islands

**BRITISH VIRGIN ISLANDS  
FINANCIAL SERVICES COMMISSION**

**Audited Financial Statements**

For The Year Ended December 31, 2008

**BRITISH VIRGIN ISLANDS FINANCIAL SERVICES COMMISSION****Table Of Contents  
For The Year Ended December 31, 2008**

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## **BRITISH VIRGIN ISLANDS FINANCIAL SERVICES COMMISSION**

### **Commission Directory For The Year Ended December 31, 2008**

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#### **BOARD OF COMMISSIONERS**

Mr. Robin Gaul	Chairman
Mr. Colin O'Neal	Deputy Chairman
Ms. Eleanor Smith	Commissioner
Mr. Phillip Fenty	Commissioner
Mr. Martin Fuggle	Commissioner
Mr. E. Walwyn Brewley	Commissioner
Mr. Robert Mathavious	Managing Director, ex officio Commissioner

#### **REGISTERED OFFICE**

P.O. Box 418  
Pasea Estate  
Road Town, Tortola  
British Virgin Islands

#### **COMMISSION SECRETARY**

Ms. Annet Mactavious

#### **INDEPENDENT AUDITORS**

BDO Binder Limited  
P.O. Box 34  
Sea Meadow House  
Tobacco Wharf  
Road Town, Tortola  
British Virgin Islands



**BDO Binder Limited**  
Accountants and Consultants

Sea Meadow House  
Tobacco Wharf  
P.O. Box 34  
Road Town, Tortola  
British Virgin Islands  
Telephone: (284) 494-3783  
Facsimile: (284) 494-2220  
E-mail: mail@bdobvi.com

## **Independent Auditors' Report**

To the Board of Commissioners  
British Virgin Islands Financial Services Commission  
Tortola, British Virgin Islands

We have audited the accompanying financial statements of the British Virgin Islands Financial Services Commission (the "Commission") as of December 31, 2008 which comprise of the balance sheet and the related statements of income, changes in reserves and cash flows, and the related notes.

### *Management's Responsibility*

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

### *Auditor's Responsibility*

Our responsibility is to express an opinion on these financial statements based on our audit. We have conducted our audit in accordance with International Standards on Auditing. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable, but not absolute, assurance about whether the financial statements are free of material misstatement, whether due to fraud or error.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making these risk assessments, the auditor considers internal controls relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate to the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

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

### *Opinion*

In our opinion, the financial statements present fairly, in all material respects the financial position of the Commission as of December 31, 2008 and the results of its financial performance for the year then ended in accordance with International Financial Reporting Standards.

*BDO Binder Limited*

Tortola, British Virgin Islands  
July 28, 2009

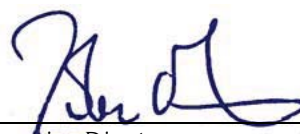
**BRITISH VIRGIN ISLANDS FINANCIAL SERVICES COMMISSION****Balance Sheet  
As at December 31, 2008**

	<u>Notes</u>	<u>2008</u>	<u>2007</u>
<b>ASSETS</b>			
<b>Non-current assets</b>			
Fixed assets	3,4	3,269,896	4,479,411
VIRRGIN project under development	4	<u>386,401</u>	<u>386,401</u>
		<u>3,656,297</u>	<u>4,865,812</u>
<b>Current assets</b>			
Regulatory deposits	5	8,152,796	8,020,060
Cash and cash equivalents	6	16,966,935	15,816,806
Other receivables and deposits		<u>25,894</u>	<u>61,545</u>
		<u>25,145,625</u>	<u>23,898,411</u>
<b>TOTAL ASSETS</b>		US\$ <u>28,801,922</u>	US\$ <u>28,764,223</u>
<b>RESERVES AND LIABILITIES</b>			
<b>Capital reserves</b>			
Contributed capital	7	3,993,900	3,993,900
Property, plant & equipment reserve	7	<u>3,656,297</u>	<u>4,865,812</u>
<b>Total capital reserves</b>		<u>7,650,197</u>	<u>8,859,712</u>
<b>Revenue reserves</b>			
Training reserve	7	400,000	400,000
Loan revolving reserve	7	165,000	165,000
Future capital expansion reserve	7	5,500,000	3,500,000
Refunds reserve	7	50,000	50,000
Enforcement reserve	7	2,000,000	2,000,000
Contingency reserve	7	<u>976,646</u>	<u>943,295</u>
<b>Total revenue reserves</b>		<u>9,091,646</u>	<u>7,058,295</u>
<b>Total reserves</b>		<u>16,741,843</u>	<u>15,918,007</u>
<b>Current liabilities</b>			
Trade and other payables	8	999,184	1,449,414
Deposits on account	9	2,058,099	2,076,742
Distribution payable to Government	10	850,000	1,300,000
Regulatory deposits from licensed entities	5	<u>8,152,796</u>	<u>8,020,060</u>
<b>Total liabilities</b>		<u>12,060,079</u>	<u>12,846,216</u>
<b>TOTAL RESERVES AND LIABILITIES</b>		US\$ <u>28,801,922</u>	US\$ <u>28,764,223</u>

Signed on behalf of the Commission on July 28, 2009



Chairman



Managing Director



**BRITISH VIRGIN ISLANDS FINANCIAL SERVICES COMMISSION****Statement of Income  
For The Year Ended December 31, 2008**

	<u>Notes</u>	<u>2008</u>	<u>2007</u>
<b>INCOME</b>			
Fees collected on behalf of the Government	6	184,343,116	178,063,176
Less: Fees due to the Government	6	<u>(164,921,256)</u>	<u>(159,574,545)</u>
Fees retained by the Commission		19,421,860	18,488,631
Other income		83,850	139,419
Interest income		<u>171,998</u>	<u>40,088</u>
<b>TOTAL INCOME</b>		<u>19,677,708</u>	<u>18,668,138</u>
<b>EXPENSES</b>			
Advertising		3,004	7,308
Conferences and seminars		215,564	168,779
Contributions		24,026	24,304
Depreciation		2,720,241	2,166,105
Financial Investigations Agency funding		350,869	339,805
Insurance		67,144	67,672
Licenses and fees		63,232	111,493
Literature and reference		89,280	95,461
Maintenance and hire		371,770	362,193
Memberships and subscriptions		50,629	72,643
Miscellaneous		26,524	50,533
Office expenses		327,613	299,152
Professional services		2,245,216	1,482,636
Public relations		61,493	11,623
Refunds		5,550	13,845
Rent and lease		938,748	898,675
Staff costs	11,15	8,626,586	8,306,297
Travel and subsistence		830,342	909,895
Telephone and communications		715,611	342,336
Utilities		<u>270,430</u>	<u>244,642</u>
<b>TOTAL EXPENSES</b>		<u>18,003,872</u>	<u>15,975,397</u>
<b>SURPLUS BEFORE GOVERNMENT DISTRIBUTION</b>		1,673,836	2,692,741
Distribution to Government	10	<u>( 850,000)</u>	<u>( 1,300,000)</u>
<b>SURPLUS FOR THE YEAR</b>		US\$ <u>823,836</u>	US\$ <u>1,392,741</u>

*The accompanying notes form an integral part of these financial statements*

**BRITISH VIRGIN ISLANDS FINANCIAL SERVICES COMMISSION****Statement of Changes in Reserves  
For The Year Ended December 31, 2008**

	<b>Opening balance</b>	<b>Surplus for the year</b>	<b>Transfers</b>	<b>Closing balance</b>
<u>Year ended December 31, 2007:</u>				
Surplus for the year	-	1,392,741	(1,392,741)	-
Contributed capital reserve	3,993,900	-	-	3,993,900
Property, plant & equipment reserve	4,031,377	-	834,435	4,865,812
Training reserve	400,000	-	-	400,000
Loan revolving reserve	165,000	-	-	165,000
Future capital expenditure reserve	3,000,000	-	500,000	3,500,000
Refunds & drawbacks reserve	50,000	-	-	50,000
Enforcement reserve	2,000,000	-	-	2,000,000
Contingency reserve	<u>884,989</u>	<u>-</u>	<u>58,306</u>	<u>943,295</u>
	US\$ <u>14,525,266</u>	US\$ <u>1,392,741</u>	US\$ <u>-</u>	US\$ <u>15,918,007</u>
<u>Year ended December 31, 2008:</u>				
Surplus for the year	-	823,836	(823,836)	-
Contributed capital reserve	3,993,900	-	-	3,993,900
Property, plant & equipment reserve	4,865,812	-	(1,209,515)	3,656,297
Training reserve	400,000	-	-	400,000
Loan revolving reserve	165,000	-	-	165,000
Future capital expenditure reserve	3,500,000	-	2,000,000	5,500,000
Refunds & drawbacks reserve	50,000	-	-	50,000
Enforcement reserve	2,000,000	-	-	2,000,000
Contingency reserve	<u>943,295</u>	<u>-</u>	<u>33,351</u>	<u>976,646</u>
	US\$ <u>15,918,007</u>	US\$ <u>823,836</u>	US\$ <u>-</u>	US\$ <u>16,741,843</u>

*The accompanying notes form an integral part of these financial statements*

**BRITISH VIRGIN ISLANDS FINANCIAL SERVICES COMMISSION****Statement of Cash Flows  
For The Year Ended December 31, 2008**

	<u>2008</u>	<u>2007</u>
<b>CASH FLOW FROM OPERATING ACTIVITIES</b>		
Surplus for the year	823,836	1,392,741
Adjustment to reconcile net surplus to net cash from operating activities before working capital changes:		
Depreciation	<u>2,720,241</u>	<u>2,166,105</u>
Operating surplus before working capital changes	3,544,077	3,558,846
Decrease (increase) in other receivables and deposits	35,651	( 45,640)
(Decrease) increase in trade and other payables	( 450,230)	778,792
(Decrease) increase in deposits on account	( 18,643)	324,000
Decrease in distribution payable to Government	<u>( 450,000)</u>	<u>( 200,000)</u>
Net cash generated from operations	<u>2,660,855</u>	<u>4,415,998</u>
<b>CASH FLOW FROM INVESTING ACTIVITIES</b>		
VIRGIN Project under development	-	( 386,401)
Acquisition of fixed assets-net	<u>(1,510,726)</u>	<u>(2,614,139)</u>
Net cash used in investing activities	<u>(1,510,726)</u>	<u>(3,000,540)</u>
<b>NET INCREASE IN CASH AND CASH EQUIVALENTS</b>	1,150,129	1,415,458
<b>CASH AND CASH EQUIVALENTS</b>		
At beginning of year	<u>15,816,806</u>	<u>14,401,348</u>
At end of year	US\$ <u>16,966,935</u>	US\$ <u>15,816,806</u>

*The accompanying notes form an integral part of these financial statements*

## BRITISH VIRGIN ISLANDS FINANCIAL SERVICES COMMISSION

### Notes to the Financial Statements For The Year Ended December 31, 2008

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#### 1. Organization and Objectives

The British Virgin Islands Financial Services Commission (the "Commission") was established under the Financial Services Commission Act, 2001 (the "Act") on December 31, 2001. The Act established the Commission as an autonomous regulatory authority responsible for the regulation, supervision and inspection of all financial services in and from within the British Virgin Islands. Such services include insurance, banking, insolvency, fiduciary business, company management, mutual funds business as well as the registration of companies, limited partnerships, intellectual property and ships. The registered office of the Commission is located at Pasea Estate, Road Town, Tortola, British Virgin Islands.

The Commission oversees all regulatory responsibilities previously handled by the Government of the British Virgin Islands (the "Government") through the Financial Services Department with the additional responsibilities of facilitating public understanding of the financial services system and its products, policing the perimeter of regulated activity, reducing financial crime and preventing market abuse.

#### 2. Significant Accounting Policies

##### (a) Basis of Preparation

These financial statements have been prepared in accordance with International Financial Reporting Standards, which comprise standards issued or adopted by the International Accounting Standards Board and interpretations issued by its Standing Interpretations Committee. They have been prepared under the historical costs convention and are expressed in U.S. dollars.

##### (b) Fixed Assets

Fixed Assets are stated at historical cost less accumulated depreciation. Depreciation is calculated on the straight-line method to write off the cost of each asset over their estimated useful life as follows:

Computer software and equipment	3 years	Motor vehicles	5 years
Office equipment	5 years	Leasehold improvements	5 years
Leasehold land	63 years		

##### (c) VIRRGIN project under development

Costs incurred on the Virtual Integrated Registry and Regulatory General Information Network ("VIRRGIN") project are recognized as intangible assets to the extent that such expenditure is expected to generate future economic benefits. Development costs for each phase, including licensing costs that have been capitalized, are transferred to fixed assets when each phase of project is completed. Depreciation will be charged on the costs of each phase as each phase is brought into use. Maintenance and support costs relating to the VIRRGIN project are expensed in the period to which they relate.

##### (c) Regulated Deposits From Licensed Entities

These deposits are carried at cost and consist of current deposits held at commercial banks with maturity dates of three months or less.

##### (d) Cash and Cash Equivalents

For the purpose of the cash flow statement, cash and cash equivalents consist of current deposits held with commercial banks with maturity dates of three months or less.

**BRITISH VIRGIN ISLANDS FINANCIAL SERVICES COMMISSION****Notes to the Financial Statements  
For The Year Ended December 31, 2008**

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**2. Significant Accounting Policies (Cont'd)**

## (e) Revenue Recognition

Fees and commission income are recognised upon approval of the transaction by the Commission. Interest income and expenses are recognised on an accrual basis.

## (f) Taxation

In accordance with Section 28 of the Act, the Commission is exempt from the payment of taxes on its income and operations.

## (g) Foreign currency translation

Foreign currency transactions are accounted for at the exchange rates prevailing at the date of the transactions. Gains and losses resulting from the settlement of such transactions and from the translation of monetary assets and liabilities denominated in foreign currencies are recognised in the income statement. Assets and liabilities are translated at the exchange rate in effect at the balance sheet date.

## (h) Leases

Leases where a significant portion of the risks and rewards of ownership are retained by the lessor, are classified as operating leases. Payments made under operating leases are charged to the income statement on a straight-line basis over the period of the lease.

## (i) Pension Plan

The Commission's pension plan obligations are recognised on the accrual basis. Past service contributions were recognized when paid.

## (j) Financial Instruments

Financial instruments carried on the balance sheet include cash and cash equivalents, regulatory deposits, other receivables, trade and other payables, deposits on account, and regulatory deposits from licensed entities. The particular recognition methods adopted are disclosed in the individual policy statements associated with each item.

## (k) Use of estimates

The preparation of financial statements in conformity with International Financial Reporting Standards requires management to make estimates and assumptions that effect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

## BRITISH VIRGIN ISLANDS FINANCIAL SERVICES COMMISSION

Notes to the Financial Statements  
For The Year Ended December 31, 2008

## 3. Fixed Assets

	Leasehold Land	Motor Vehicles	Furniture & Equipment	Computers & Software	Leasehold Improvements	Total
<b><u>Year ended December 31, 2007:</u></b>						
Opening net book value	125,874	47,602	472,566	2,326,831	819,925	3,792,798
Additions	-	27,500	156,419	2,331,424	98,796	2,614,139
Transfer from VIRRGIN project under development	-	-	-	238,579	-	238,579
Depreciation	( 2,063)	(17,401)	(237,200)	(1,507,964)	( 401,477)	(2,166,105)
Net book value	US\$ <u>123,811</u>	US\$ <u>57,701</u>	US\$ <u>391,785</u>	US\$ <u>3,388,870</u>	US\$ <u>517,244</u>	US\$ <u>4,479,411</u>
<b><u>Year ended December 31, 2008:</u></b>						
Opening net book value	123,811	57,701	391,785	3,388,870	517,244	4,479,411
Additions	-	98,799	235,139	1,186,057	5,195	1,525,190
Disposal	-	( 14,464)	-	-	-	( 14,464)
Depreciation	( 2,063)	( 33,216)	(222,730)	( 2,157,829)	( 304,403)	(2,720,241)
Net book value	US\$ <u>121,748</u>	US\$ <u>108,820</u>	US\$ <u>404,194</u>	US\$ <u>2,417,098</u>	US\$ <u>218,036</u>	US\$ <u>3,269,896</u>
<b><u>As at December 31, 2008:</u></b>						
Cost	130,000	159,503	1,920,767	7,961,248	2,012,582	12,184,100
Accumulated depreciation	( 8,252)	( 50,683)	(1,516,573)	(5,544,150)	(1,794,546)	(8,914,204)
Net book value	US\$ <u>121,748</u>	US\$ <u>108,820</u>	US\$ <u>404,194</u>	US\$ <u>2,417,098</u>	US\$ <u>218,036</u>	US\$ <u>3,269,896</u>

## BRITISH VIRGIN ISLANDS FINANCIAL SERVICES COMMISSION

### Notes to the Financial Statements For The Year Ended December 31, 2008

#### 4. VIRRGIN Project Under Development

As of December 31, 2008, the Commission has an existing contract with Singapore Computer Systems Limited relating to the development of an internet-based information system featuring electronic filing of documents called Virtual Integrated Registry and Regulatory General Information Network ("VIRRGIN").

VIRRGIN will be completed in three phases of development, each of which will be released separately. The VIRRGIN project costs to be capitalized will include (a) registry engine license; (b) implementation and development costs for Phases I, II and III; other additional consultancy and software implementation charges; and airfares, accommodation and other travel expenses incurred relating to the implementation of the project. The cost of the licensing, development and implementation of the VIRRGIN project is contracted to be S\$4,831,374 (equivalent to US\$3,350,558 as at December 31, 2008 (2007: US\$3,341,861)), excluding contracted costs for maintenance and support, which total S\$2,587,651 (equivalent to US\$1,831,255 as at December 31, 2008 (2007: US\$1,789,878)) over the life of the project. All phases of the VIRRGIN project are expected to be completed by December 31, 2009.

During the year ended December 31, 2008, the Commission incurred additional costs of US\$51,415 (2007: US\$143,989) relating to licensing and for development and implementation of Phase II project.

During the year ended December 31, 2008, the Commission incurred costs of US\$ Nil (2007: US\$ 386,401) relating to the uncompleted Phase III of the project. The estimated costs to completion of the project, excluding any additional costs, are S\$1,161,304 (equivalent to US\$805,364 as at December 31, 2008).

Additional cost from various subcontractors was also incurred and capitalized that relates to the overall VIRRGIN project amounting to US\$147,506 as of December 31, 2008 (2007: US\$967,279).

#### 5. Regulatory Deposits From Licensed Entities

By statute, certain entities licensed to operate in the financial services sector within the British Virgin Islands are required to place a deposit with the Commission. The Commission has undertaken to hold these amounts in a designated interest-bearing account and distributes interest thereon to the licensees on an semi-annual basis. The deposits are refundable upon surrender of the licence.

#### 6. Cash and Cash Equivalents

	<u>2008</u>	<u>2007</u>
Cash held in Government Trust Account	3,096,924	5,976,962
Payable to Government	( 963,781)	( 3,749,979)
Net cash held in Government Trust Account	2,133,143	2,226,983
Cash in operating account	14,596,920	13,589,823
Cash in insolvency account	<u>236,872</u>	<u>-</u>
Total cash and cash equivalents	US\$ <u>16,966,935</u>	US\$ <u>15,816,806</u>

Fees collected on behalf of the Government are paid into a trust account maintained jointly in the name of the Commission and the Government. Prior to the commencement of the Commission's financial year, the Government's Cabinet ("Cabinet") determines the percentage of fees collected on their behalf that is to be remitted to them, with the Commission retaining the balance. On November 20, 2007, Cabinet approved the Commission's retention at 10% of revenue up to the projected revenue stream and thereafter, the Commission will receive 7.5% of any revenue in excess of the projected revenue stream. This resulted in cash of US\$ 963,781 (2007: US\$3,749,979) being held on behalf of the Government as at December 31, 2008.

**BRITISH VIRGIN ISLANDS FINANCIAL SERVICES COMMISSION****Notes to the Financial Statements  
For The Year Ended December 31, 2008****7. Reserves**

In accordance with Section 26 of the Act, the surplus for the year is allocated to capital and revenue reserve accounts at the discretion of the Commission. The capital and revenue reserves established include:

*Capital reserves*

- (i) Contributed capital represents an initial transfer of capital from the Government of the British Virgin Islands on the establishment of the Commission. It represents approximately 3 months of operating expenses.
- (ii) Property, plant, and equipment reserve reflects the investment into property, plant and equipment to date, less amortisation;

*Revenue reserves*

- (i) Training reserve for long term training/ study leave of staff;
- (ii) Loan revolving reserve to facilitate staff loans (personal, medical, etc.) as the Act requires employees transferred from Government at the inception of the Commission to be no less well off than they were with Government;
- (iii) Future capital expansion reserve to partly finance the future securing of property, constructing and equipping the Commission's own building;
- (iv) Refunds reserve to provide cash for making refunds when necessary;
- (v) Enforcement reserve to establish a fund to address enforcement expenses as they arise;
- (vi) Contingency reserve to establish a fund in the event of unforeseen circumstances.

**8. Trade and Other Payables**

	<b><u>2008</u></b>	<b><u>2007</u></b>
Accounts payable and accrued expenses	314,501	832,460
Insolvency surplus reserve	234,649	286,936
Deferred revenue	235,994	178,889
Employee deductions and benefits payable	<u>214,040</u>	<u>151,129</u>
	US\$ <u>999,184</u>	US\$ <u>1,449,414</u>

Pursuant to the Insolvency Rules 2005, the insolvency surplus reserve pertains to monies representing unclaimed assets received from liquidators or bankruptcy trustees after the completion of a liquidation or bankruptcy. Funds are paid out of the reserve to any person the Commission is satisfied is entitled to make a claim with respect to the insolvency proceedings for which the monies were paid into the reserve.

Deferred revenue pertains to fees collected by the Official Receiver, held by the Commission for safekeeping, pending administrative arrangements between the Government and the Commission, including whether the benefit of these funds will accrue to the Commission.



**BRITISH VIRGIN ISLANDS FINANCIAL SERVICES COMMISSION****Notes to the Financial Statements  
For The Year Ended December 31, 2008****9. Deposits on Account**

Effective December 11, 2006, the Commission introduced a new internet based information system (VIRRGIN) which allowed companies to administer transactions online. As a result of this development, companies are required to deposit amounts with the Commission in advance of effecting an online transaction. As at December 31, 2008 the balance on this account amounted to US\$2,058,099 (2007: US\$2,076,742).

**10. Distribution Payable to Government**

On July 28, 2009, the Board of Commissioners approved a distribution to Government of US\$850,000 (2007: US\$1,300,000) from surplus earned by the Commission during the year ended December 31, 2008.

**11. Staff Costs**

	<b><u>2008</u></b>	<b><u>2007</u></b>
Wages and salaries	6,655,879	6,510,215
Allowances and benefits	1,418,273	1,211,174
Employment costs	232,965	248,545
Payroll taxes	<u>319,469</u>	<u>336,363</u>
	US\$ <u>8,626,586</u>	US\$ <u>8,306,297</u>

The average number of full time employees in 2008 was 137 (2007: 145).

During the year ended December 31, 2008, the Commission paid US\$784,038 (2007: US\$696,212) for current service costs toward a defined contribution pension plan (the "Plan"), which has been included in allowances and benefits, of which US\$ Nil (2007: US\$61,281) was payable to the Plan as at December 31, 2008.

**12. Related Party Transactions**

The Government's Financial Secretary and Accountant General along with the Chairman of the Board of Commissioners and the Managing Director of the Commission are signatories to a joint account maintained in the names of the Government and the Commission referred to as the Government Trust Account as per section 19 (1) and (7) of the Act. (See note 6)

**13. Commitments and Contingencies***Commitments*

As explained in note 4, the Commission is contracted with Singapore Computer Systems Limited to design and implement the VIRRGIN project. The contracted cost to completion of the design and implementation of the project is S\$1,161,304 equivalent to US\$ 805,364 (2007: US\$803,274) as at December 31, 2008, plus maintenance and support costs of S\$1,202,939 equivalent to US\$834,238 as at December 31, 2008 (2007: S\$ 2,042,802 equivalent to US\$1,413,006).

**BRITISH VIRGIN ISLANDS FINANCIAL SERVICES COMMISSION****Notes to the Financial Statements  
For The Year Ended December 31, 2008**

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**13. Commitments and Contingencies (continued)**

The Commission currently occupies various properties in accordance with the terms of annual operating lease agreements and is committed to making payments on these leases as agreed in the future.

The future aggregate minimum lease payments under non-cancellable leases are as follows:

2009	952,305
2010	952,305
2011	<u>952,305</u>
	US\$ <u>2,856,915</u>

As at December 31, 2008, the Commission has unpaid vacation days owing to its employees totalling US\$539,555(2007: US\$516,146).

*Contingencies*

In the ordinary course of business, the Commission is subject to legal proceedings, claims, disputes and litigation as a result of its role as the regulator of the British Virgin Islands' financial services industry. As at July 30, 2009, the Commission is involved in three (3) cases against licensed entities: two (2) cases in which the Commission's application for the appointment of a liquidator is being opposed, and one (1) case subject to an appeal in which it sought and obtained an order appointing joint administrators. While it is not practicable to forecast or determine the final results of these pending and threatened legal proceedings, the Commission estimates the financial impact of these cases to be less than US\$500,000.

**14. Financial Risk Management**Financial risk factors

The Commission's activities expose it to a variety of financial risks; market risk (currency risk, fair value interest rate risk and cash flow interest rate risk), credit risk and liquidity risk. The Commission's overall risk management programme focuses on the unpredictability of financial markets and seeks to minimise potential adverse effects on the Commission's financial performance.

Risk management is carried out by management under policies approved by the Board of Commissioners. The management identifies, evaluates and hedges financial risks in close co-operation with the Board of Commissioners. The board provides guidance for overall risk management, as well as written policies covering specific areas, such as foreign exchange risk, interest rate risk, and credit risk, use of derivative financial instruments and non-derivative financial instruments, and investment of excess liquidity.

Financial assets of the Commission include cash and cash equivalents, regulatory deposits, other receivables and deposits. Financial liabilities include trade and other payables, deposits on account, and regulatory deposits from licensed entities.

**BRITISH VIRGIN ISLANDS FINANCIAL SERVICES COMMISSION****Notes to the Financial Statements  
For The Year Ended December 31, 2008****14. Financial Risk Management (continued)**

Financial risk factors (continued)

(a) *Market risk*(i) *Foreign exchange risk*

The Commission is exposed to foreign currency risk on the agreement to supply develop, implement and commission the VIRRGIN project (note 4). The contracted costs for the project are in Singapore Dollars (S\$). As at December 31, 2008, the foreign exchange rate was US\$ 0.69350 (2007: US\$ 0.69170) per S\$, with the average exchange rate for the year ended December 31, 2008 being US\$ 0.70769 (2007: US\$ 0.66408) per S\$. Had the Singapore Dollar foreign exchange rate increased or decreased by 1% (2007: 4%) with all other variables remaining constant, the overall costs to complete the project, including maintenance/support costs, would change by US\$ 33,549 (2007: US\$ 88,497).

At balance sheet date, the Company had liabilities in foreign currency assets of:

	<u>2008</u>	<u>2007</u>
GBP	-	185,741
S\$	81,141	144,006

As at December 31, 2008 the average exchange of US\$ to S\$ for the year then ended is 1.4155 while the year end exchange rate of US\$ to S\$ is 1.4426.

(ii) *Cash flow and fair value rate risk*

The Commission has no significant concentrations of interest rate or fair value risk. The Commission does not enter into credit transactions for its services and as at December 31, 2008 it is not exposed to adversities of fluctuating interest rates. In addition, it did not own any illiquid assets.

(b) *Credit risk*

Credit risk arises from regulatory deposit, cash and cash equivalents and other receivables. These financial assets are held with financial institutions with an investment grade credit rating. Other receivables are unsecured loans extended to various employees of the Commission. The extent of the Commission's exposure to credit risk in respect of these financial assets approximate the carrying values as recorded in the Commission's balance sheet.

The Commission's management assesses the credit risk through placement of cash on short term money market placements, interest bearing deposits and effective and efficient collection policy.

(c) *Liquidity risk*

Prudent liquidity risk management implies maintaining sufficient cash and cash equivalents to meet its current operating requirements. The Commission is not exposed to significant liquidity risk as it maintains sufficient cash and cash equivalents to meet its current and foreseeable future obligations.

**BRITISH VIRGIN ISLANDS FINANCIAL SERVICES COMMISSION****Notes to the Financial Statements  
For The Year Ended December 31, 2008****14. Financial Risk Management (continued)**

Financial risk factors (continued)

*(c) Liquidity risk (continued)*

The table below analyses the Commission's financial liabilities into relevant maturity groupings based on the remaining period at the balance sheet to the contractual maturity date. The amounts disclosed in the table are the contractual undiscounted cash flow. Balances due within 12 months equal their carrying balances as the impact of discounting is not significant.

	<b>Less than 1 year</b>	<b>Between 1 and 2 years</b>	<b>Between 2 and 5 years</b>	<b>Over 5 years</b>	<b>Total</b>
At 31 December 2008					
Trade and other payables	999,184	-	-	-	999,184
Deposit on account	2,058,099	-	-	-	2,058,099
Distribution Payable to Government	850,000	-	-	-	850,000
Regulatory deposits	8,152,796	-	-	-	8,152,796
At 31 December 2007					
Trade and other payables	1,449,414	-	-	-	1,449,414
Deposits on account	2,076,742	-	-	-	2,076,742
Distribution Payable to Government	1,300,000	-	-	-	1,300,000
Regulatory deposits	8,020,060	-	-	-	8,020,060

**15. Defined Contribution Pension Plan**

During the year ended December 31, 2005, a defined contribution pension scheme (the "Plan") was setup to provide retirement benefits for all established employees, which is administered by Trustees appointed by the Commission. Under the Plan, the Commission has an obligation limited to 15% of the participants' basic annual salary, with the participants contributing a minimum of 5%. A participant's interest in the Commission's contributions commences to vest after 7 years employment and is fully vested after 10 years.

## Glossary of Terms

<b>AML</b>	<i>Anti-Money Laundering</i>
<b>ARA</b>	<i>Association of Registered Agents (BVI)</i>
<b>ASBA</b>	<i>Association of Supervisors of Banks of the Americas</i>
<b>BIS</b>	<i>Bank for International Settlements</i>
<b>CARTAC</b>	<i>Caribbean Regional Technical Assistance Centre</i>
<b>CDB</b>	<i>Caribbean Development Bank</i>
<b>CFATF</b>	<i>Caribbean Financial Action Task Force</i>
<b>CFT</b>	<i>Combating the Financing of Terrorism</i>
<b>CGBS</b>	<i>Caribbean Group of Banking Supervisors</i>
<b>CIMA</b>	<i>Cayman Islands Monetary Authority</i>
<b>CMO</b>	<i>Chief Minister's Office (BVI)</i>
<b>CSP</b>	<i>Corporate Service Provider</i>
<b>EAS</b>	<i>Economic Affairs Secretariat (BVI)</i>
<b>ECCB</b>	<i>Eastern Caribbean Central Bank</i>
<b>ECLAC</b>	<i>Economic Commission for Latin America and Caribbean</i>
<b>Egmont Group</b>	<i>Informal Group of FIUs (International Cooperation)</i>
<b>EU</b>	<i>European Union</i>
<b>EUSD</b>	<i>European Union Savings Tax Directive</i>
<b>FATF</b>	<i>Financial Action Task Force</i>
<b>FCO</b>	<i>Foreign and Commonwealth Office</i>
<b>FIA</b>	<i>Financial Investigation Agency (BVI)</i>
<b>FIRST</b>	<i>Financial Sector Reform and Strengthening (FIRST) Initiative</i>
<b>FIUs</b>	<i>Financial Intelligence Units</i>
<b>FRB</b>	<i>Federal Reserve Bank</i>
<b>FSA</b>	<i>Financial Services Authority (UK Regulator)</i>
<b>FSC</b>	<i>Financial Services Commission</i>
<b>FSF</b>	<i>Financial Stability Forum</i>
<b>FSLAC</b>	<i>Financial Services Legislation Advisory Committee (BVI)</i>
<b>IAIR</b>	<i>International Association of Insolvency Regulators</i>
<b>IAIS</b>	<i>International Association of Insurance Supervisors</i>
<b>IBC</b>	<i>International Business Company</i>

## Glossary of Terms (Cont'd)

<b>ICA</b>	<i>International Compliance Association</i>
<b>ICSA</b>	<i>International Chartered Secretaries Association</i>
<b>IFC</b>	<i>International Finance Centre (BVI)</i>
<b>IMF</b>	<i>International Monetary Fund</i>
<b>IOSCO</b>	<i>International Organisation of Securities Commissions</i>
<b>ITIO</b>	<i>International Tax and Investment Organisation</i>
<b>JAMLACC</b>	<i>Joint Anti-Money Laundering</i>
<b>KYC</b>	<i>Know Your Customer</i>
<b>LSC</b>	<i>Licensing and Supervisory Committee (BVI)</i>
<b>MLAT</b>	<i>Mutual Legal Assistance (in Criminal Matters) Treaty</i>
<b>MLRO</b>	<i>Money Laundering Reporting Officer</i>
<b>MOF</b>	<i>Ministry of Finance (BVI)</i>
<b>MOU</b>	<i>Memorandum of Understanding</i>
<b>NGOs</b>	<i>Non-Governmental Organisations</i>
<b>NPOs</b>	<i>Non-Profit Organisations</i>
<b>OECD</b>	<i>Organisation of Economic Co-operation and Development</i>
<b>OFC</b>	<i>Offshore Financial Centre</i>
<b>OGBS</b>	<i>Offshore Group of Banking Supervisors</i>
<b>OGIS</b>	<i>Offshore Group of Insurance Supervisors</i>
<b>OR</b>	<i>Official Receiver (BVI)</i>
<b>PEP</b>	<i>Politically Exposed Person</i>
<b>SAR</b>	<i>Suspicious Activity Report</i>
<b>SEC</b>	<i>Securities and Exchange Commission</i>
<b>SIBA</b>	<i>Securities and Investment Business Act (BVI)</i>
<b>STEP</b>	<i>Society of Trust and Estate Practitioners</i>
<b>STR</b>	<i>Suspicious Transaction Report</i>
<b>TIEA</b>	<i>Tax Information Exchange Agreement</i>



