


SECURITIES COMMISSION ANNUAL REPORT 2007

38.75	17.02	17.02	+0.75	
17.47	42.15	42.15	+0.13	0.48%
42.45	27.09	27.09	+0.46	2.09%
27.15	22.47	22.47	-1.26	-5.12%
22.59	23.37	23.37	+12.51	3.30%
23.97	391.66	391.66	+0.74	0.78%
391.70	95.61	95.61	+0.42	1.69%
95.67	25.22	25.22	+0.30	1.22%
25.32	24.74	24.74		
24.89	24.35	24.82		
57.55	55.00	57.07		



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

#### Our purpose

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

#### Our work

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

#### Outcomes we contribute to

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

The regulatory environment is relevant and effective.

Securities law is tailored to the needs of the markets.

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

Public understanding of the law and practice of securities is increased.

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This has been a landmark year for New Zealand investors and securities markets. The settlement of the Tranz Rail insider trading case was an excellent outcome for shareholders and a signal that investors can have confidence that the law will be enforced. The case achieved the largest insider trading settlement in Australasia which, after costs, will be paid to classes of shareholders approved by the Court.

The result is a strong endorsement of the strengthening of public enforcement of securities laws. The two insider trading cases taken by the Commission (Tranz Rail and Provenco) were brought under insider trading law that came into effect in late 2002. These successful outcomes send a strong signal to the market that the law will be enforced and poor behaviour is not tolerated. The Commission has the resources, the capability and the commitment to effectively take action to remedy illegal behaviour and improve market transparency.

A co-regulatory regime for stock exchanges was also established by the 2002 law reforms. The stock exchange is the front line regulator concerned with the rules of the exchange; the Commission, as the statutory regulator, is concerned with breaches of the law and oversees the exchange's regulatory role. This innovative regime was considered best for New Zealand's markets and it works well in practice. The Commission's second annual review of NZX's performance of its regulatory role was published in June 2007. This found that NZX was satisfying its obligations and its performance of its regulatory functions was good. These reviews show that investors can have confidence in NZX's performance as a registered exchange.



Jane Diplock AO

Insider trading and exchange reforms are part of the process of building a regulatory framework that enables New Zealand to be seen in the global securities markets as an attractive destination for investment in productive businesses. Further significant steps were achieved this year. Legislation passed in October 2006, and due to come into force later in 2007, toughens insider trading law, brings in new law against manipulating the markets, and new disclosure rules for people with substantial holdings in listed companies. Investment advisers will have to tell their clients more about themselves, the investments they advise on, and the money and other benefits they receive from recommending investment products. All these reforms improve the transparency of the New Zealand markets. Along with these changes come new powers for the Commission to enforce the law.

IMF experts reviewed New Zealand in 2003 and identified gaps in the regulatory framework and a number of issues relating to managed funds. Some of these have been addressed and Government and the Ministry of Economic Development are dealing with others in their wider reviews of the regulation of financial intermediaries and financial products and providers.

This work is being done in two stages so that high priority issues can be addressed quickly. In June 2007 Cabinet decided on stage one reforms which include registration of financial service providers, regulation of non-bank deposit-takers, and a new regulatory framework for financial advisers. The Commission has had extensive input into these reviews and will continue to provide advice to the Ministry of Economic Development on detailed policy and drafting of legislation. The Commission welcomes these reforms which will complete a world class regulatory framework for New Zealand.

The globalisation of securities markets has brought new and rapidly changing investment products and new ways of doing business. Issuers raise capital and investors place their funds in foreign jurisdictions. Transactions are instantaneous. This has challenges for regulators which can be met by implementing consistent and high standards of regulation worldwide and cooperating across borders to combat international financial fraud.

The International Organisation of Securities Commissions (IOSCO) is the international standard setter for securities regulation. As Chairman of IOSCO's Executive Committee for the last three years I have been encouraged and impressed by members' determination to raise standards. During this time IOSCO adopted a bold new strategic direction. This includes a commitment for all jurisdictions to meet the stringent requirements to sign on to the IOSCO Multilateral Memorandum of Understanding which enables regulators to exchange information for enforcement work. New Zealand was accepted as a signatory to the IOSCO MMOU in 2003.

New Zealand's involvement with IOSCO gives us input to regulatory innovations at the highest level, and provides opportunities to promote New Zealand internationally as an attractive market for investment.

An important international focus this year has been our relationship with Australia. The new regime for mutual recognition of securities offerings, to come into effect later this year, is an exciting, cutting edge development. The regime will give New Zealand business access to a larger pool of capital and investors will have greater choice of investments. The Commission and the Australian Securities and Investments Commission are making arrangements which will avoid duplication and provide seamless, cost-effective regulation of offers made in both countries.

We were delighted to win the small employer category of the *Unlimited/JRA Best Places to Work in New Zealand Survey* in 2006, after coming second in 2005. This is a great credit to all staff. It is an achievement which reflects and endorses their high levels of professionalism and commitment.

I thank the Members and staff of the Commission for their excellent work this year, in particular for their contribution to the development of a securities regulatory framework and practices that are world class.



**Jane Diplock AO**  
Chairman

The settlement of the  
Tranz Rail insider  
trading case was  
an excellent outcome  
for shareholders



## MEMBERS OF THE COMMISSION

The Securities Commission consists of not less than five and not more than ten Members appointed by the Governor-General on the recommendation of the Minister of Commerce. Members are appointed for their knowledge or experience in industry, commerce, economics, law, accountancy, public administration or securities. At least one Member must be a barrister or solicitor of not less than seven years' practice. Members hold office for a term not exceeding five years and may be reappointed.

There was a full complement of Members during the 2006-2007 year. Lloyd Kavanagh resigned on 31 December 2006 after moving to New York. His contribution to the work of the Commission over seven years is greatly appreciated. John Holland was appointed from 1 January 2007 for a five year term. The Commission held 11 regular monthly meetings (11 in 2005/2006) and 71 division meetings (78). There were an additional 61 resolutions in writing (43). The Audit and Risk Review Committee (Joanna Perry (chair), Cathy Quinn and Keitha Dunstan) met on four occasions (5).

### Members of the Commission as at 30 June 2007



Jane Diplock

**Jane Diplock** AO BA (Hons), LL B, DipEd (Sydney), Dip Int Law (ANU), FIPAA, FNZIM.  
*Chairman.*  
Professional:  
Barrister and Solicitor of the ACT Supreme Court and High Court of Australia, Barrister of the New South Wales Supreme Court; Fellow of the Institute of Public Administration of Australia; Chevening Fellow at London School of Economics; Chairman of the Executive Committee of IOSCO; Fellow of the New Zealand Institute of Management.



John Holland

**John Holland** B Com, LL B.  
*Solicitor, Christchurch.*  
Professional:  
Partner of Chapman Tripp specialising in securities and competition law and mergers and acquisitions.  
Directorships:  
Board member of Chapman Tripp.



David Jackson

**David Jackson** M Com (Hons), FCA.  
*Company Director, Auckland.*  
Professional:  
Chartered Accountant; Member of the Executive Board of the New Zealand Institute of Chartered Accountants.  
Directorships:  
Pumpkin Patch Limited, MediaWorks NZ Limited, The New Zealand Refining Company Limited and Nuplex Industries Limited.



Colin Beyer

**Colin Beyer** LL B, DistFlnstD.  
*Consultant to Simpson Grierson, Wellington.*  
Professional:  
Solicitor, Wellington.



Joanna Perry

**Joanna Perry** MA (Cantab), FCA (ICANZ), FCA (ICAEW).  
*Chartered Accountant and Company Director, Auckland.*  
Professional:  
Chairman of the Financial Reporting Standards Board of the New Zealand Institute of Chartered Accountants; Member of the Australian Accounting Standards Board; previously partner of KPMG.  
Directorships:  
PSIS, Genesis Power Limited, Kiwi Income Property Limited, Pod Limited.



Mai Chen

**Mai Chen** LL B (Hons) (Otago), LL M (Harvard), FNZIM.  
*Partner of Chen Palmer, Wellington, Barristers and Solicitors, Public Law Specialists*  
Professional:  
Specialist in government regulation of business, administrative and constitutional law, public policy and legislation. Member of the New Zealand Trade and Industry Beach Heads Advisory Board and the Asia New Zealand Foundation. Formerly on the Advisory Board of AMP Life Limited (NZ) and Senior Law Lecturer at Victoria University of Wellington. Fellow of the New Zealand Institute of Management.



Cathy Quinn

**Cathy Quinn** LL B.  
*Solicitor, Auckland.*  
Professional:  
Partner of Minter Ellison Rudd Watts specialising in corporate and securities law.



Annabel Cotton

**Annabel Cotton** BMS (Accounting and Finance), ACA, CSAP.  
*Business Consultant, Hamilton.*  
Professional:  
Consultant to companies listed in New Zealand and overseas.  
Directorships:  
Genesis Power Limited, Kingfish Limited, Barramundi Limited and a number of private companies.



Neville Todd

**Neville Todd** B Com (Otago).  
*Company director, Wellington*  
Professional:  
Managing Director of Kinloch Funds Management Limited.  
Directorship:  
Kinloch Funds Management Limited and its subsidiaries.



Keitha Dunstan

**Keitha Dunstan** PhD (QLD), M Bus (QUT), Grad Dip Mgt (UCQ), B Com (QLD), CA.  
*Research Professor, School of Accounting and Commercial Law, Victoria University of Wellington.*  
Professional:  
Head of School, School of Accounting and Commercial Law at Victoria University of Wellington.

## FUNCTIONS AND POWERS

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

- to keep under review the law relating to bodies corporate, securities and unincorporated issuers of securities and to recommend changes to the Minister of Commerce
- to keep under review and comment on practices relating to securities
- to cooperate with overseas securities commissions
- to keep under review and comment on securities markets activities
- to advise the Minister of Commerce on conduct rules proposed by securities exchanges
- to promote public understanding of the law and practice of securities.

To perform these functions the Commission has a number of powers. These include:

- to receive evidence as to securities law and practice, with power to summons people and documents and to carry out inspections
- to ban misleading and illegal offer documents and advertisements
- to enforce insider trading and substantial security holder law
- to enforce continuous disclosure law and to make orders requiring disclosure by issuers
- to require an exchange to provide information and assistance to the Commission
- to accept enforceable undertakings
- to publish reports and comments
- to make orders requiring disclosure by unregistered exchanges
- to exempt persons from compliance with provisions of the Securities Act or Regulations under the Act
- to authorise certain market participants
- to recommend law reform
- to hear appeals against certain decisions of the Registrar of Companies.

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

Other legislation the Commission works with includes the Securities Markets Act 1988, the Investment Advisers (Disclosure) Act 1996, the Financial Reporting Act 1993, the Securities Regulations 1983, the Securities Act (Contributory Mortgage) Regulations 1988, and the Securities (Fees) Regulations 1998.

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



## AUTHORITY

This annual report was approved by the Securities Commission on 19 July 2007.

Jane Diplock AO  
Chairman

Joanna Perry  
Chairman  
Audit and Risk Review Committee

## ENFORCEMENT

The Commission used its powers to ban offer documents and take other actions to address bad practice in the primary markets. It took public enforcement actions which gave clear signals to the market about compliance with the law. The Commission's actions clarified the standards of behaviour expected in the markets.

### Insider trading – Tranz Rail case

The Commission reached a settlement of the insider trading proceedings against Midavia Rail Investments Ltd BVBA (previously known as Pacific Rail Limited NV), which was a former Tranz Rail shareholder, and David Richwhite, a former director of Tranz Rail. Midavia and Mr Richwhite agreed to pay \$20 million. This represents a payment towards the compensatory amount sought by the Commission and includes contributions for interest and the Commission's costs of the proceedings.

Midavia and Mr Richwhite agreed to make this payment without any admission of liability. They considered they had defences to the Commission's claims against them. The settlement was approved by the High Court. No judgment was entered against Midavia and Mr Richwhite.

Four other defendants to the Commission's insider trading proceedings had settled previously. Berkshire Fund III, a former Tranz Rail shareholder and former director Carl Ferenbach, settled with the Commission in March last year. Michael Beard, former managing director and chief executive officer of Tranz Rail, settled in December 2004, and Mark Bloomer, former chief financial officer of Tranz Rail, settled in May 2005.

The settlement brought the total amount paid by the six defendants to over \$27.5 million. The money will be paid to Toll NZ Limited and held in trust pending reimbursement of the Commission's costs for bringing the proceedings, and distribution to classes of shareholders determined by the High Court.

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### Futures dealer convicted

In the first prosecution under the futures dealing provisions of the Securities Markets Act 1988, Tricom Futures New Zealand Limited was convicted in the District Court on 7 August 2006 for dealing in futures contracts without authorisation, and fined \$10,000. This successful prosecution signalled to the market that futures dealers must be authorised.



### Prospectus suspensions and cancellations

The Commission cancelled the prospectus of finance company Classic Capital Limited in March 2007. The prospectus was cancelled because it did not tell investors that the director of the company was bankrupt, banned from management, and facing charges of forgery and dishonestly using his position as a company officer, all in Australia. The director's bankruptcy and management ban related directly to his competence to handle investors' money and to run a finance company. The fact that he was facing criminal charges, although these had not yet been heard, would also be likely to influence people deciding whether or not to invest. The Commission suspended registration of prospectuses of three issuers that were false or misleading or otherwise did not comply with the law.



The Commission's actions clarified the standards of behaviour expected in the markets

## **Banned advertisements**

The Commission prohibited some advertisements for a unit trust offered by Hanover Funds Management Limited because they were likely to mislead or confuse investors about the potential returns. Hanover cooperated with the Commission and agreed to write to all investors to make sure they understood the returns and to offer them their money back. The action against advertising by Hanover was clear guidance to issuers about the standards required when advertising rates of return for a new product.

In May 2007 the Commission banned advertising for investments offered by NearZero Inc, a company incorporated in the United States. This company was raising funds from the public in New Zealand without a prospectus or investment statement. The company was placed in interim liquidation shortly afterwards. It is not known what funds will be available for people who paid money for shares in the company.

Advertisements for the Locke Secured Capital Plan, an investment advertised on the website of Locke Guaranty Trust (NZ) Limited (LGT), were banned in June because the Commission believed they were likely to deceive, mislead or confuse investors. LGT is incorporated in New Zealand and claims to have headquarters in Auckland. LGT stated that New Zealanders are not eligible to invest in the Plan, but appeared to be using New Zealand as a base from which to offer securities in other countries. LGT's website statements said that the investment was safe and risk free. All investments have a degree of risk and the Commission believes these statements were deceptive and misleading. The website also stated that LGT offers internet banking and is regulated under the Reserve Bank of New Zealand Act 1989 and that LGT is regulated by the Securities Act 1978. This could give the false and misleading impression that LGT had been licensed and/or approved by the Securities Commission or the Reserve Bank. The description of the scheme was confusing because it was unclear how LGT intended to use investors' money and the website had potentially inconsistent information about this. LGT removed advertisements for the plan from its website.

## **Banned contributory mortgage broker**

In December 2006 the Commission banned Contributory Mortgage Investments Limited (CMI) from acting as contributory mortgage broker for two of its mortgages and appointed another broker to act in its place. CMI was also banned from offering new mortgages until 30 April 2007. This followed the Commission's acceptance of enforceable undertakings from CMI, its director John Martin and consultant Peter van Nieuwkoop in February 2006 for breaches of the contributory mortgage regulations. Investigations are continuing. The actions against CMI demonstrated that those who raise money from the public must meet certain standards of care and good governance. The Commission continues to have concerns with aspects of CMI's compliance with the law and its conduct in offering and managing contributory mortgages. The Commission decided to state a case for the opinion of the High Court on certain legal issues. It has accepted further enforceable undertakings from CMI and its directors designed to preserve the interest of contributors in the meantime.

## **Overseas enforcement requests**

The Commission provided responses to eight enforcement requests from overseas regulatory bodies within the agreed timeframes.



## MONITORING AND MARKET OVERSIGHT

The Commission monitors market activity to identify and investigate possible breaches of securities law. The Commission's view is that compliance with the law is the minimum standard of market behaviour. To increase the integrity of the markets and in the interests of investors, entities and their directors are encouraged to strive for international best practice in corporate governance.

The Commission's oversight includes NZX, the only registered stock exchange in New Zealand. The Commission and NZX have co-regulatory roles relating to the exchange under the Securities Markets Act 1988. NZX is the front line regulator concerned with breaches of the rules of the exchange and the Commission is the statutory regulator concerned with breaches of the law. The Commission also gives advice to the Minister of Commerce on NZX's rules and oversees NZX's performance of its regulatory role.

### Oversight of NZX

In September 2006 the Commission published *Oversight Review of NZX 2005*, a report of its first review of NZX's performance of its regulatory functions as a registered exchange. The Commission concluded that NZX was satisfying its obligations to operate its markets in accordance with the conduct rules and that NZX's performance as a registered exchange was good. However, improvements could be made in a number of areas. Recommendations for improvements were communicated to NZX, NZX Discipline and the Special Division. NZX agreed to take specific action on some of these by the end of the 2006 calendar year. On the remaining recommendations NZX committed to reconsider its position and report back to the Commission.

The *Oversight Review of NZX 2006*, published on 28 June 2007, also found that NZX was satisfying its obligations to operate its markets in accordance with the conduct rules and its performance as a registered exchange was good. The review reported progress made by NZX on implementing recommendations from the 2005 review. The 2006 review made a number of other recommendations and the Commission will observe progress on these in next year's review. Annual reviews of the NZX are valuable for investors because they provide regular information about NZX's performance to the Commission and to the public via the published reports.



### Telecommunications Stocktake Paper

In July 2006 the Commission published its inquiry relating to the release of the Government's Telecommunications Stocktake Paper and comments reportedly made to the media by the Communications Minister, Mr David Cunliffe, about the dividend policy of Telecom Corporation of New Zealand Limited.

The Commission found no evidence of any trading or tipping in securities by persons who knew of the contents of the Stocktake Paper before it was made public. The Commission also concluded that the comments made by the Minister on 15 May 2006 in the interview with Bloomberg were not based on any confidential or price-sensitive information

about Telecom's intentions or policies, nor did the Bloomberg reports of 16 May 2006 give the impression that they were based on such information. However, the Commission found that there was an avoidable asymmetry of information in the market for some 30 minutes after the NXZ closed and while trading was still underway on the Australian Stock Exchange. The Government and Telecom could have taken steps to avoid this. The Commission recommended that the Government and NZX develop guidelines for Government to disclose information which could be price-sensitive to listed securities, and that everyone, including Ministers of the Crown, who may be presumed by the market to possess non-public information about a listed issuer, should take care when commenting on matters that might affect the price of listed securities.

The Commission  
concluded that NZX's  
performance as a  
registered exchange  
was good

### Reviews of financial reporting

Reports of two further cycles of the Commission's *Financial Reporting and Surveillance Review* were published. The aim is to encourage high quality financial reporting so that investors can have confidence in the credibility of information provided by issuers.

Cycle 3 reviewed the financial reports of 45 issuers with balance dates from 31 March 2005 to 30 September 2005, for compliance with Financial Reporting Standards and other elements of Generally Accepted Accounting Practice and to assess the overall quality of financial reporting. As with earlier reviews, few serious problems were identified but 19 of the 45 issuers had matters that needed to be addressed. The Commission wrote to these issuers and to their auditors.

Cycle 4 considered reports of 40 issuers with balance dates from 30 June 2005 to 31 March 2006 and, as well as general compliance, looked at reports by early adopters of International Financial Reporting Standards. The level of compliance with NZ IFRS was generally good. A number of common non-disclosures were found and commented on to assist and guide issuers make the change to NZ IFRS. Overall 17 issuers had matters that needed to be addressed and we wrote to those issuers. The review identified issues relating to non-disclosure in annual reports of waivers granted by the stock exchange. One matter was referred to NZX and two were referred to the NZX Discipline Special Division.

The Commission is pleased with the cooperation from issuers and their willingness to improve the quality of their financial reporting.

### Enforceable undertakings

Enforceable undertakings given to the Commission by those who breach the law are a cost-effective enforcement tool. They enable the breach to be remedied, address investors' interests, and avoid court action. Undertakings are published and this communicates the standards of behaviour the Commission expects in the markets.

Enforceable undertakings were accepted from CMI and its directors. These were designed to preserve the interests of contributors until a High Court opinion is received on certain legal issues relating to CMI's compliance and conduct in offering and managing contributory mortgages. Undertakings were accepted from property developers Kensington Park Properties Limited, Huka Falls Resort Limited and Patrick Marinus Fontein. The developers were unaware that their developments constituted offers of



securities to the public and therefore required an investment statement and a registered prospectus. The published undertakings highlight the need for property developers to seek advice from a lawyer experienced in securities law.

### Review of Feltex prospectus

In 2006 the Commission reviewed the prospectus of Feltex Carpets Limited, which was placed in liquidation in September 2006. The Commission's review of the 2004 initial public offer prospectus found no breaches of securities law and no evidence that the prospectus was misleading. An inquiry is continuing into continuous disclosure and financial reporting by Feltex after its earnings downgrade announcement of 1 April 2005.

### Finance company disclosure

The Commission announced the results of its second review of finance company disclosure in August 2006. This review followed the April 2005 report into finance company disclosure. Although shortcomings remained, there were marked improvements in finance company disclosure since the earlier report which aimed to give guidance to finance companies about the standards of disclosure required in offer documents. We were pleased with the cooperation received from the finance companies reviewed. Improved disclosure by finance companies is important so that investors can understand how their money is being invested, and the risks this carries.

### Reviews of offer documents and advertisements

The Commission reviewed offer documents and advertisements, including some follow-up work from the review of finance company disclosures in 2005-2006. In many cases the identified shortcomings were readily addressed by companies amending their offer documents, or agreeing to improve future publications. Serious issues of misleading disclosure were referred for enforcement action, including banning offer documents. We continued to use inspections to investigate schemes that came to our attention and to ascertain where there had been breaches of the law.

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## LAW REFORM

The Commission works closely with securities law and is well positioned to identify aspects of the law that are out of date, or not working effectively, or could be improved. As well the Commission seeks cost-effective regulation that does not impose unnecessary compliance costs on issuers of securities.

The Commission has a function under the Securities Act 1978 to recommend to the Minister of Commerce any changes to securities law that it considers necessary. It performs this function to recommend improvements to the law that will achieve a regulatory regime that is internationally acceptable but also cost-effective and suited to New Zealand's markets. Recommendations are based on the Commission's experience with the operation of the law and its inquiries into market behaviour that reveal defects or inadequacies in existing law.

The Commission seeks  
 cost-effective  
 regulation that does  
 not impose unnecessary  
 compliance costs  
 on issuers

## **Regulation of financial products and providers and financial advisers**

The Commission has been heavily involved in the Government's review of financial products and providers, and its review of financial adviser regulation. Discussion documents were published in late 2006 concerning these reviews. The Commission was represented on industry advisory groups established by the Ministry of Economic Development to provide officials with advice and expertise on the development of options for these discussion documents, and on the costs and benefits of various proposals. We took part in working groups with other government agencies and regulators to help with policy development when public submissions had been received.

In June 2007 Cabinet decided on the first round of reforms arising from this work. These reforms will see:

- registration of all financial service providers;
- improved supervision of corporate trustees;
- improved trustee-based prudential supervision of non-bank deposit takers, overseen by a single prudential regulator;
- regulation of financial advisers;
- provision for a comprehensive approach to consumer dispute resolution and redress; and
- the Reserve Bank of New Zealand to be the single prudential regulator for banks, non-bank deposit takers and insurers.

Further work is being done on the remaining areas of the review of financial products and providers. Officials will report back to Cabinet by 30 November 2007 with proposals to provide for:

- a single regulatory regime for collective investment schemes (including superannuation);
- improved trustee supervision of debt issuers;
- an improved approach to disclosure for securities offerings;
- necessary amendments to the law relating to insurance contracts and disclosure;
- a comprehensive and simplified approach to regulating governance of mutuals e.g. credit unions, industrial and provident societies, and building societies;
- the regulation of platforms and portfolio management services that perform investment discretions on behalf of investors; and
- a comprehensive prudential regulatory regime for insurers.

The Commission continues to work with officials on these matters.

## **Securities Legislation Bill**

The Securities Legislation Bill, passed in October 2006, made changes to the law relating to:

- insider trading;
- market manipulation;
- investment advisers;
- substantial security holder disclosure;
- application of securities trading law; and
- penalties and remedies under securities law.

Changes to the Securities Act 1978, increasing the Commission's ability to bring Court actions for breaches of securities law, came into force in October 2006. The changes to the Securities Markets Act 1988 will come into force when regulations have been drafted. This is expected in the second half of 2007.

## **Accounting and auditing**

The Commission made submissions on draft financial reporting standards to the New Zealand Institute of Chartered Accountants and the International Accounting Standards Board.



## EXEMPTIONS AND AUTHORISATIONS

Exemptions from the law reduce costs for issuers bringing new and overseas investment products to the New Zealand markets. The power to exempt people from complying with various parts of securities law is not used lightly. All exemptions are based on the policy of the law and conditions are imposed so that issuers comply with the spirit of the law. In particular, conditions relate to the information that issuers must give investors to enable them to make informed investment decisions.

Conditions of exemption  
give investors information  
to enable them to  
make informed  
investment decisions

It is more cost-effective for issuers to rely on class exemptions, but where this is not possible individual exemptions can be granted. Where an application for exemption raises policy questions the public is consulted if time allows. In these cases an applicant may incur costs for this public benefit and the Commission is grateful to applicants for their willingness to do this.

Authorisations by the Commission are required by certain market participants including trustees and statutory supervisors, and futures dealers who cannot rely on a class authorisation granted to futures and options participants on the NZX and the Sydney Futures Exchange.

### Review of class exemptions

The Commission reviews its class exemption notices every five years to make sure they are current and useful for market participants, and consistent with Commission policy. For the 2007 review comments were sought on some 50 class exemptions from market participants, industry groups, lawyers, accountants and others. We are grateful for the industry involvement in this process. We do not expect to make significant policy changes in this review given the Government's current reform projects. However, where appropriate, amendments will be made to make sure that exemption notices are in line with market developments and industry practice.

As part of the review the Commission will grant a new class exemption for initial public offerings by companies intending to list on the NZSX market. This will reflect exemptions routinely sought by companies seeking to list on the NZSX market. It will reduce compliance costs for these companies, while protecting investors' interests by making sure that relevant information is provided in the offer documents. The review of class exemptions is due to be completed by 30 September 2007.

### Exemptions for property developers

An increasing number of exemptions are being sought by property developers whose developments raise securities law issues. This has largely occurred since the Commission accepted enforceable undertakings from several developers who had inadvertently breached securities law. The Commission is expanding the class exemption for residential property developments to allow a wider range of developments to use this exemption rather than apply for an individual exemption.

### New exemption power

Changes to the Financial Reporting Act in 2006 gave the Commission a new exemption power concerning financial reporting by overseas issuers. This came into force on 18 June 2007. It will be used to ease compliance costs for overseas issuers where financial reporting requirements of their home



jurisdictions are sufficiently robust that New Zealand investors will not be prejudiced if the issuer files its overseas accounts in New Zealand, instead of financial statements that comply with the Financial Reporting Act. The first exemption, for certain issuers incorporated in the United States and subject to reporting requirements under United States securities law, was gazetted on 26 June 2007.

#### **Futures contracts**

The Commission intends to make a declaration that "rolling spot" foreign exchange contracts be regulated as futures contracts. This was supported by most submissions received on the Commission's April 2006 discussion paper on regulation of these contracts. As a result, a number of foreign exchange dealers may need to seek authorisation as futures dealers, and requirements for futures dealer authorisations are being reviewed, including terms of authorisation that suit dealers who are not under the day-to-day supervision of a registered exchange. A revised policy on authorisations will be published in the second half of 2007.

The Commission published a discussion document suggesting that contracts for difference over equity securities should be declared to be futures contracts, as a class. This follows several individual declarations sought by market participants who offer these products. The purpose of the declaration would be to give certainty to the market about the regulatory treatment of these contracts. Submissions are currently being considered.

#### **Registered banks and foreign exchange derivatives**

The Commission granted an exemption from securities law and an associated futures dealing authorisation for registered banks that deal in foreign exchange derivatives. The combined exemption and authorisation gives banks clarity about the law that applies to these products. It also means investors will be given disclosure about these products based on the investment statement, but tailored to the particular requirements of foreign exchange investment, and flexible enough to be compatible with disclosure documents required under Australian law.



## INTERNATIONAL COOPERATION AND RECOGNITION

The Commission's international work has three main components:

- enforcement of New Zealand securities law where cross-border breaches and fraud are suspected;
- contributing to strengthening the international investment environment by raising the standard and consistency of regulation and cross-border cooperation at the global level; and
- contributing towards a single economic market between New Zealand and Australia and facilitating mutual recognition of securities offerings.

### Enforcement of securities law in cross-border cases

In today's global environment it is vital for securities regulators to work together to combat financial fraud. The Commission has multilateral and bilateral arrangements with overseas regulators to enable enforcement of securities law where cross-border fraud is suspected.

The Commission is a long time member of the International Organisation of Securities Commissions (IOSCO). IOSCO's members regulate over 90 percent of the world's securities markets across more than 100 jurisdictions. The *IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information* (IOSCO MMOU) enables signatories to exchange information across borders to enforce domestic legislation and combat international fraud. The Commission was accepted as a signatory in 2003 after rigorous scrutiny by international experts and increasingly uses the IOSCO MMOU to gather information from overseas. In the 2006 calendar year, the Commission used the IOSCO MMOU eight times for enforcement inquiries.

The Commission also has a number of bilateral agreements and this year signed a bilateral Memorandum of Understanding with the Dubai Financial Services Authority. Assisting overseas counterparts contributes to global and domestic investment environments in which investors can have confidence. The Commission gave priority to requests for assistance from other regulators. The Commission completed a regional IOSCO survey about the process for requesting and providing assistance to counterparts overseas when local law requires checks on the standing of persons applying to be authorised as cross-border market intermediaries.

### Contributing to the international investment environment

IOSCO is the international standard setter for securities regulation. It aims to:

- establish and promote high regulatory standards for just, efficient and sound markets;
- establish an effective surveillance of international securities transactions;
- promote market integrity through mutual assistance for a rigorous application of standards and effective enforcement against offences; and
- promote the development of domestic markets.

### International roles

provide opportunities to

promote New Zealand as

a well-regulated market

The Commission is a member of IOSCO's governing body, the Executive Committee. In 2006, Jane Diplock was re-elected to chair this committee for a further two years. The Commission is also Vice-Chair of IOSCO's Asia Pacific Regional Committee. These roles raise New Zealand's profile in the international financial community and provide opportunities to promote New Zealand as a market regulated in accordance with the *IOSCO Objectives and Principles of Securities Regulation*



(IOSCO Principles). The Principles are the benchmark for securities regulation that protects investors, ensures markets are fair, efficient and transparent, and reduces systemic risk. The IOSCO Principles are used by the International Monetary Fund and the World Bank in financial sector assessment programmes to evaluate the strength of a jurisdiction's securities regulation.

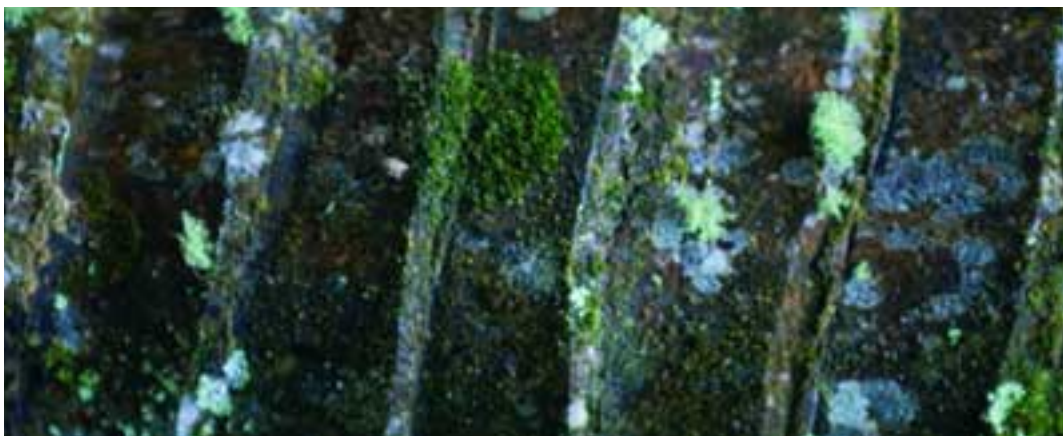
IOSCO adopted a new strategic direction in April 2005 under Jane Diplock's chairmanship. This aims to raise the standard and consistency of securities regulation worldwide and combat cross-border fraud by encouraging and helping member jurisdictions to implement the IOSCO Principles and sign on to the IOSCO MMOU. The Presidents Committee (the annual meeting of all member regulators) set a deadline of 1 January 2010 for all IOSCO member regulators to join, or commit to join, the IOSCO MMOU.

In the past year IOSCO made substantial progress on increasing signatories to the IOSCO MMOU, helping members to implement the IOSCO Principles, and engaging with the wider international financial community. To date, 41 member regulators have joined the IOSCO MMOU, and a further 15 have committed to the reforms needed to join. The Commission is on the screening group which reviews applications to join the IOSCO MMOU.

At the 2007 conference, IOSCO members decided to increase efforts to implement the IOSCO Principles. The Commission is a founding member of the task force which assists with this through workshops, regional presentations and training.

The Commission took part in the work of IOSCO's Asia Pacific Regional Committee contributing to the annual meeting of enforcement directors, the first meeting of directors of intermediaries' supervision, and a sub-committee on implementing the IOSCO Principles. The Commission has joined a database set up by IOSCO to enable regulators to share information on applying International Financial Reporting Standards (IFRS). The aim is to promote consistency in applying IFRS. IOSCO monitors the database and refers any interpretation issues to the International Accounting Standards Board or the International Financial Reporting Interpretations Committee.

In her IOSCO role, the Chairman met with the IMF and World Bank, and spoke at IOSCO's annual, technical committee and emerging markets committee conferences. She also spoke to the International Council of Securities Associations, the inaugural Gulf Cooperation Council's Regulators Summit (which she chaired), and the first joint IOSCO / Financial Stability Institute seminar. The Commission contributed to regional and national comparative studies for IOSCO, APEC and the IMF on the IOSCO Principles, capacity building of regulatory agencies, and governance practices of financial regulators and supervisors.



## Contributing to a single economic market with Australia

The Commission met with the Australian Securities and Investments Commission (ASIC) to discuss trans-Tasman regulatory and enforcement issues. The two regulators are developing arrangements to regulate securities offerings under the mutual recognition regime due to come into effect later this year. Commission staff work regularly with ASIC counterparts on operational matters. As in previous years, several senior staff attended the ASIC Summer School. The Commission and ASIC provided technical assistance to the securities regulator of Brunei Darussalam to help them apply to join the IOSCO MMOU. This project, under the IOSCO MMOU assistance programme, was partially funded by the Asian Development Bank.

The Chairman took part in the Australia New Zealand Leadership Forum and the Trans-Tasman Business Circle. Commission Member Keitha Dunstan spoke on developments in New Zealand's regulatory framework to the Banking and Financial Services Law Association in Queensland.

## Other international liaison

During commitments to IOSCO Chairman Jane Diplock takes up opportunities to promote New Zealand as a well-regulated market in which investors can have confidence. This year she met with the United States Securities and Exchange Commission, the Securities and Exchange Surveillance Commission and the Financial Services Agency in Japan, the Dubai Financial Services Authority, the Comisión Nacional de Valores in Argentina and the Comisión Nacional del Mercado de Valores in Spain.

Commission Member Lloyd Kavanagh took part in the OECD's Roundtable on Capital Market Reform in Asia. Senior staff presented papers on exchange demutualization, consolidations and alliances at an IOSCO conference in Vietnam, attended an enforcement symposium hosted by the United Kingdom Financial Services Authority and an IFRS course organised by the International Accounting Standards Board. A delegation from the Shanghai Stock Exchange visited the Commission.

## PUBLIC UNDERSTANDING OF THE LAW AND PRACTICE OF SECURITIES

An understanding of the securities markets and the law relating to them is essential for market participants and their advisers. Well-informed investors are an essential ingredient for robust capital markets. An understanding of the securities markets, investment products, and the obligation of issuers to provide information about their products, will encourage people to become investors in securities. Because New Zealand has disclosure-based regulation it is important that people are aware of the information they are entitled to and understand that information before they make investment decisions.

### Services

The Commission's websites, publications, media releases and speeches provided information to help people understand the securities markets and how they are regulated. The website, [www.seccom.govt](http://www.seccom.govt), provided relevant, up-to-date material and some 2450 subscribers received email alerts to new information on the site. Visitor numbers averaged over 37,000 per month, an increase from 30,000 last year. The Commission produced a quarterly *Bulletin*, and issued 32 news releases which were widely reported. Reports were published giving the Commission's views relating to financial reporting, NZX's

Well-informed  
investors are an  
essential ingredient for  
robust capital markets

regulatory role, futures contracts, and an inquiry into certain statements relating to the release of Government's Telecommunications Stocktake Paper. The Chairman, Members and staff spoke to groups and conferences in New Zealand and overseas on 26 occasions.

### Education

An education campaign was launched to alert market participants to changes to securities law that come into force later in 2007. This involves advertising to raise awareness and guide people to a website, [www.newsecuritieslaw.govt.nz](http://www.newsecuritieslaw.govt.nz), which broadly explains the new law. More than 230 people are registered to receive information from this site. Articles were published in magazines targeting market participants affected by the law changes, and presentations were made to relevant groups. A *Guide to New Securities Law* was prepared and will be published when regulations are settled. Market testing of the *Guide* with investment advisers and company directors indicated it was welcome and useful. Their comments helped improve the text. A database of people likely to be investment advisers under the new legislation (i.e. people who give advice on investments to the public as part of their job) was prepared. The Commission will notify them when the law is coming into force and send them the *Guide to New Securities Law*.

The Commission began a project to alert the public to the new requirements for investment advisers to disclose information about themselves and the products they advise on before they give investment advice. This includes a brochure *How to choose an investment adviser* to be available on the Commission's websites, at public libraries, and from investment advisers and Citizens Advice Bureaux. The project includes revising parts of the Retirement Commission's *Sorted* website and other material to include the new investment adviser disclosure requirements.

Enterprise New Zealand Trust provides financial education in many New Zealand schools. Previously the Commission had sponsored Enterprise New Zealand Trust to develop a Financial Studies Course (FSC) for senior secondary school students which covers investment, external influences on investment decisions, financial planning and student loans. This year the Commission sponsored teacher resource materials and teacher training in the FSC. As the Foundation Sponsor the Commission committed to continuing sponsorship to promote, deliver and support the course for two more years. A separate sponsorship was agreed to develop a student resource pack.

## EFFECTIVENESS AND ORGANISATIONAL HEALTH

### Capability and risk

The Commission has a risk management framework developed after a study by Deloitte in 2004. It identifies the key areas of our capability and risks to them. The main risks are recruitment, key personnel, staff retention, physical event/disaster, reputation, confidentiality of information and knowledge available. The Commission has developed responses to these.

### Staff

The Commission has 44 staff (42 in 2005/2006). Five people work part time and two are on long term leave. Seven work full time for the Takeovers Panel and other staff work part time in support of the Panel. The risk that the Commission may not be able to recruit suitably qualified staff was countered by graduate recruitment, overseas recruitment, and targeting New Zealand recruitment campaigns effectively. The Commission recruited as required this year.

The risks associated with retaining staff are minimised by our commitment to being a good employer. The Commission won the small employer category (up to 50 staff) of the *Unlimited/JRA Best Places to Work in New Zealand Survey* in 2006, after coming second in 2005. This survey is used to measure



## ACHIEVEMENTS

organisational health and our performance as an employer. We continued our values-based culture, maintained high professional standards, were responsive to staff feedback, and continued the human resource practices that have proven effective.

### *Physical event/disaster*

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

### *Reputation and integrity*

The Commission promotes high ethical standards in the securities markets. If it is to succeed in this, and thereby strengthen confidence in the integrity of New Zealand's capital markets, it is essential that people have confidence in the integrity of the Commission itself.

The Commission must maintain a good reputation both for the quality of our work and the integrity of our approach. Much of our work is highly sensitive and confidentiality must be maintained. These risks were managed through the Values and the Code of Ethics we have adopted as an organisation.

### *Future capability*

The Ministry of Economic Development's review of financial products and providers is proposing reforms which would significantly increase the Commission's responsibilities. A project to estimate the likely resource requirements of these new responsibilities was carried out to help prepare for these changes and to advise the government on the possible funding implications associated with any such reforms. This project quantified the likely funding needs for premises, infrastructure, technology and personnel.

### *Organisational health and capability building*

The Commission worked with the following agencies on its organisational capability and health initiatives:

- the State Services Commissioner, for its six Development Goals for the State Services; and
- the Equal Employment Opportunities Unit (EEO Unit) of the Human Rights Commission for its Good Employer Guidance under the National Equal Opportunities Network.

The Commission's good employer programme reflects its commitment to EEO under which staff are recruited and rewarded on the basis of merit. The statement "This organisation is an equal opportunities employer" was ranked first out of the 60 statements in the *Unlimited/JRA Best Places to Work Survey 2006*.

### **Financial objectives**

The Commission's main financial objective for the 2006-2007 year was to carry out our strategic plan on time and within budget and resources. It achieved this by delivering the outputs, as detailed in the Statement of Service Performance, within the funds appropriated by Parliament for this purpose.

The Commission applied its policies for expenditure, financial delegations, and acquisitions. The financial delegation policy requires all expenditure to be within set delegations, or subject to prior approval by the Commission. Detailed planning and management procedures based on the Auditor-General's guidelines are followed for significant acquisitions including planning and managing litigation expenditure.

## ACHIEVEMENTS

### WORKING WITH OTHERS

The Commission has a wide range of stakeholders and the policy on stakeholders is published on the website.

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

We carried out our co-regulatory role with the NZX over the markets operated by that exchange as required by the Securities Markets Act 1988. NZX is currently the only registered exchange in New Zealand.

We are grateful for the good working relationship we have with Parliamentary Counsel Office. We worked with other government agencies including the Commerce Commission, Police, Registrar of Companies, Reserve Bank of New Zealand, Retirement Commission, Serious Fraud Office, State Services Commission and Takeovers Panel as appropriate and in accordance with our statutory functions and powers. We worked with overseas securities regulators and agencies in accordance with the IOSCO MMOU, bilateral MOUs and applicable law. We also worked with a variety of industry organisations and professional bodies.

### TAKEOVERS PANEL

The Commission provides administrative and support services to the Takeovers Panel in accordance with the Securities Act. These services are provided under an MOU. For the 2006-2007 financial year the Commission and the Panel agreed on the level of services required and on the fees to be paid for them. The income received from the Panel and the costs of providing these services are recorded in the financial statements.

The Commission encourages all entities that have economic impact in New Zealand or are accountable, in various ways, to the public to report on their corporate governance. To assist with this the Commission published *Corporate Governance in New Zealand – Principles and Guidelines* in 2004. We report on how the Commission achieved each of these corporate governance principles in the year to 30 June 2007.

**Principle 1 Directors should observe and foster high ethical standards.**

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

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

The Code sets out measures to deal with breaches of the Code and how they can be reported. Every Commission Member and staff member has been given a copy of the Code which is also published on the website. No breaches of the Code were identified during the year. The Commission has a Conflicts of Interest Policy to ensure compliance with the Crown Entities Act 2004.

**Principle 2 There should be a balance of independence, skills, knowledge, experience, and perspectives among directors so that the board works effectively.**

The skills and attributes required to be a Member of the Commission are set out in the Securities Act 1978. Commission Members are appointed by the Governor-General on the recommendation of the Minister of Commerce. When seeking new Commission Members the Ministry of Economic Development advertises widely to attract people with the skills required by the Act. Commission Members disclose their interests in the securities markets, and must comply with the Commission's conflicts of interest policy. The functions and powers of the Commission set out in the Securities Act establish the responsibilities and roles of the Members. The Chairman has a full time role equivalent to an executive chairman. This is in line with the governance of securities regulators in many overseas jurisdictions. The Chairman is responsible for fostering a constructive corporate governance culture among Members and staff. Much of the Commission's work is carried out between the regular monthly Commission meetings by formal divisions of the Commission. Members are made aware before they are appointed of the likely demands on their time, frequently at short notice. The Commission formally evaluates its performance against its strategic plan each year and evaluates itself as a board. Performance monitoring of staff is carried out each year. Profiles of Commission Members are published on page 4 of this report.

**Principle 3 The board should use committees where this would enhance its effectiveness in key areas while retaining board responsibility.**

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

**Principle 4 The board should demand integrity both in financial reporting and in the timeliness and balance of disclosures on entity affairs.**

As a body corporate which receives funding by Parliamentary appropriation, the Commission is required to meet all its obligations under the Securities Act 1978 and section 44A of the Public Finance Act 1989, including tabling its Annual Report in the House of Representatives. After it is tabled, the Annual Report is available to the public in hard copy and on the website. The Commission's financial statements are signed by the Chairman of the Commission and the Chairman of the Audit and Risk Review Committee. The Commission also reports quarterly to the Minister of Commerce in accordance with its Output Agreement with the Minister. The Commission is required by the Crown Entities Act 2004 to prepare a Statement of Intent. The Statement of Intent for the three years from 2007 to 2010 was tabled in the House in July 2007. The Commission will report against that document in the annual report next year.

**Principle 5 The remuneration of directors and executives should be transparent, fair, and reasonable.**

The remuneration of Commission Members is set by the Remuneration Authority. Members' remuneration is disclosed in the Annual Report. Remuneration for staff is set at levels which aim to attract and retain competent people, and is comparable with other organisations in the public sector. The number of staff with salary bands higher than \$100,000 per annum is disclosed in the financial statements.

**Principle 6 The board should regularly verify that the entity has appropriate processes that identify and manage potential and relevant risks.**

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

**Principle 7 The board should ensure the quality and independence of the external audit process.**

As a body corporate, funded by Parliament, the Commission's financial statements and statement of service performance are audited by Audit New Zealand on behalf of the Auditor-General, which has a formal process for rotating audit staff. The Audit and Risk Review Committee and staff communicate with Audit New Zealand prior to, and following, the audit. Fees paid to Audit New Zealand are disclosed in the Annual Report. No non-audit work was undertaken by Audit New Zealand for the Commission this year.

**Principle 8 The board should foster constructive relationships with shareholders that encourage them to engage with the entity.**

The Commission is a statutory body, and its assets form part of the Crown's assets. It is accountable to Parliament, through the Minister of Commerce, for this ownership interest. The Commission is funded by Parliamentary appropriation to carry out its statutory functions and has an annual Output Agreement with the Minister on the work it will do. Its Statement of Intent for the three years 2007-2010 will be published on the website and reported against in the annual report next year. The Commission reports to the Minister quarterly and formally reports to Parliament each year on how it has used public funds and delivered the services agreed with the Minister of Commerce.

**Principle 9 The board should respect the interests of stakeholders within the context of the entity's ownership type and its fundamental purpose.**

The Commission has a Policy on Stakeholders, published on the website, which identifies the Commission's stakeholders and describes how it relates to and communicates with them.



## REPORT AGAINST THE STATEMENT OF INTENT

The Commission published its first Statement of Intent (SOI) under the Crown Entities Act in June 2006. This set out the broad parameters of work for the three years 2006 to 2009 and a detailed plan for the 2006-2007 financial year.

Objectives set in the SOI for the 2006-2007 financial year are reported against below. The Statement of Service Performance on page 44 reports details of activities under each output for the 2006-2007 year.

### ENFORCEMENT

*Objective* – enforcement work is targeted at those issues most likely to deter bad practice in key areas of market practice.

*Objective* – our actions are seen to have been effective under our enforcement powers.

*Objective* – our responses to enforcement requests from overseas regulatory bodies are provided on time.

The SOI said the Commission will have successfully achieved the enforcement objectives when it has:

- taken appropriate enforcement action if a person has failed to comply with securities law;
- in each case, achieved the desired regulatory outcome;
- provided responses to enforcement requests from overseas regulatory bodies within the agreed timeframes.

#### **Performance against enforcement objectives**

The Commission put in place priority and case selection criteria for allocating resources so that enforcement work was targeted at issues most likely to deter bad practice in the areas most relevant to good market practice. Litigation efforts were largely directed to the Tranz Rail insider trading case, but resources remained available to take other cases if necessary.

The Commission:

- achieved a settlement in the Tranz Rail case for some \$27.5 million which, after costs, will be paid to classes of shareholders as approved by the Court;
- took appropriate enforcement actions in the Tricom, Hanover, CMI, NearZero and Locke cases (see pages 6-7), and others detailed in the Statement of Service Performance;
- achieved in each case, the desired regulatory outcome of addressing and, where possible, remedying the breach of the law. As well, the desired regulatory outcome of informing market participants of the standards expected in the markets was achieved in each of these cases;
- responded to all enforcement requests from overseas regulators on time.



## MONITORING AND MARKET OVERSIGHT

*Objective* – monitoring and market oversight work is targeted at those issues most likely to deter bad practices in key areas.

*Objective* – NZX fulfils its regulatory role in the market.

The SOI said the Commission will have successfully achieved the monitoring and market oversight objectives when it has:

- achieved the desired regulatory outcome in cases where action is taken;
- conducted and reported on its oversight review of NZX and followed up any areas identified as requiring attention.

### *Performance against monitoring and market oversight objectives*

The Commission put in place priority and case selection criteria for allocating its work. The criteria are reviewed regularly so that the focus is on key areas where our actions will effectively contribute to a well-regulated and well-informed market.

The Commission achieved the desired regulatory outcome:

- in its reviews of NZX by reporting publicly on NZX's performance of its regulatory role in relation to its markets;
- in monitoring and oversight activities described at pages 8-10 and detailed in the Statement of Service Performance by appropriately addressing breaches of the law and by signalling the standards of behaviour expected in the markets;

The Commission published its report *Oversight Review of NZX 2005* on 26 September 2006 which included recommendations for improvement. Responses to, and actions resulting from, those recommendations were followed up during the second review carried out in April and May 2007 and reported on in *Oversight Review of NZX 2006* published on 28 June 2007.

## LAW REFORM

*Objective* – a regime is in place for financial intermediaries which is relevant and enforceable.

*Objective* – securities law is up-to-date and useful and meets IOSCO principles.

*Objective* – there are appropriate standards for regulating financial reporting practices of issuers and appropriate auditor oversight.

The SOI said the Commission will have successfully achieved the law reform objectives when it has:

- communicated to government relevant recommendations for law reform;
- commented on relevant government discussion documents and draft legislation;
- participated in industry consultation on potential regulatory roles.

### **Performance against law reform objectives**

The Commission:

- did not have cause to make any formal recommendations for law reform during 2006-2007;



## REPORT AGAINST THE STATEMENT OF INTENT

- commented on relevant discussion documents and draft legislation for the review of financial products and providers, review of financial intermediaries, and Business Law Reform Bill; and
- took part in consultation with industry on the review of financial products and providers and the review of financial intermediaries.

### EXEMPTIONS AND AUTHORISATIONS

*Objective* – all exemptions and authorisations are completed within the agreed time.

*Objective* – an effective regime is in place to regulate approval of trustees and statutory supervisors and authorisation of futures dealers.

The SOI said the Commission will have successfully achieved the exemptions and authorisations objectives when it has:

- dealt effectively with applications for exemptions and authorisations within the time agreed with the applicants;
- introduced and communicated an effective regime for authorisations.

#### Performance against exemptions and authorisations objectives

The Commission:

- granted 63 exemptions, 6 authorisations and 9 approvals of market participants;
- completed 100 % of applications within the time agreed with applicants;
- consulted the public on regulation of "rolling spots" foreign exchange contracts and contracts for difference as futures contracts. This contributed to a review of futures dealers authorisations which is underway and expected to be settled later in 2007.

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### INTERNATIONAL COOPERATION AND RECOGNITION

*Objective* – the Commission's performance within the existing legislative framework is positively regarded internationally.

*Objective* – the Commission makes an effective contribution to the work and development of IOSCO and other relevant international bodies.

*Objective* – the Commission has a strong relationship with ASIC

The SOI said the Commission will have successfully achieved the international cooperation and recognition objectives when it:

- makes use of the IOSCO MMOU and bilateral MOUs to help detect international fraud and effectively enforce securities law;
- takes part as a speaker and adviser at international forums;
- fulfils relevant duties e.g. committee membership and chairmanship, which advance the work of IOSCO and other relevant bodies;
- meets regularly with ASIC Members and staff and has developed programmes for cooperation.

## REPORT AGAINST THE STATEMENT OF INTENT

### Performance against international cooperation and recognition objectives

The Commission:

- made use of the IOSCO MMOU eight times in the course of its enforcement work;
- spoke at a wide range of international forums as described on page 15;
- fulfilled all its duties to IOSCO, in particular Chairman Jane Diplock chaired the Executive Committee which increased its encouragement and assistance to member jurisdictions to join the IOSCO MMOU;
- met with ASIC on two occasions; worked with ASIC at an operational level to develop a regime to regulate securities offered to the public under the Trans Tasman mutual recognition scheme.

### PUBLIC UNDERSTANDING

The Commission's SOI 2006-2009 set out public understanding objectives to be achieved over the next three financial years.

*Objective – investors and potential investors have access to information to help them understand the law and practice of securities.*

*Objective – people are aware of the work and views of the Commission.*

The SOI said the Commission will have successfully achieved the 2006-2009 public understanding objectives when:

- participation in financial education programmes in schools increases;
- surveys and/or feedback indicate participants in education programmes have greater understanding of securities matters;
- the Commission's messages about the securities markets are published in relevant media and website visitor numbers increase.

### Performance against public understanding objectives

The Commission:

- sponsored the Financial Studies Paper for senior secondary school students delivered by Enterprise New Zealand Trust. 603 students took the paper in 2006 an increase from 440 the previous year;
- received feedback from school teachers delivering the Financial Studies Paper that indicated resource materials provided by Enterprise New Zealand Trust are relevant and useful;
- received responses from market participants on its draft *Guide to New Securities Law* which indicated that the publication is useful and understandable;
- issued 32 news releases about its work which were published in the news media and placed articles about new securities law in relevant magazines e.g. New Zealand Lawyer, Infinsia, and Asset Magazine;
- received an average of 37,000 visits per month to its website (30,000 in the 2005-2006 year).







SECURITIES COMMISSION

FINANCIAL REPORT

## SOURCES OF FUNDING

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

## STATEMENT OF RESPONSIBILITY

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

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

In our opinion these annual financial statements and statement of service performance fairly reflect the financial position and operations of the Securities Commission for the year ended 30 June 2007.

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Jane Diplock AO  
Chairman

19 July 2007



Joanna Perry  
Chairman  
Audit and Risk Review Committee

19 July 2007

## FINANCIAL STATEMENTS

## STATEMENT OF FINANCIAL PERFORMANCE

*for the year ended 30 June 2007*

2007 Budget \$000's		Note	2007 Actual \$000's	2006 Actual \$000's
	<b>Revenue</b>			
6,501	Government grant		6,501	5,478
1,230	Administrative services to the Takeovers Panel	3	1,124	1,116
235	Exemption and authorisation fees		277	261
120	Interest		191	118
–	Other income	4	1	13
1,500	Litigation fund income – government grant and bank interest	5	292	785
<u>9,586</u>	<b>Total revenue</b>		<u>8,386</u>	<u>7,771</u>
	<b>Expense</b>			
4,810	Personnel expenses	4	4,599	3,893
501	Occupancy expenses		560	497
389	Depreciation and amortisation	4	364	429
2,374	Other operating expenses	4	2,114	1,756
1,500	Litigation fund expenses	5	292	785
<u>9,574</u>	<b>Total expense</b>		<u>7,929</u>	<u>7,360</u>
<u>12</u>	<b>Surplus</b>		<u>457</u>	<u>411</u>
	<b>Comprising</b>			
12	Operating surplus		457	411
–	Litigation fund surplus		–	–
<u>12</u>			<u>457</u>	<u>411</u>



## STATEMENT OF CHANGES IN EQUITY

*for the year ended 30 June 2007*

Budget \$000's	Note	Accumulated Funds \$000's	Litigation Fund \$000's	Total Equity \$000's
3,143	At 1 July 2005	2,299	844	3,143
455	Surplus for year	411	–	411
455	Total recognised income/expense for the year	411	–	411
3,598	At 30 June 2006	2,710	844	3,554
12	Surplus for year	457	–	457
12	Total recognised income/expense for the year	457	–	457
3,610	At 30 June 2007	3,167	844	4,011



## STATEMENT OF FINANCIAL POSITION

*as at 30 June 2007*

2007 Budget \$000's		Note	2007 Actual \$000's	2006 Actual \$000's
<b>Current assets</b>				
100	Cash and cash equivalents	7	95	1,455
1,500	Term deposits	7	1,950	–
11	Cash and cash equivalents – litigation fund	7	183	619
500	Term deposits – litigation fund	7	575	–
76	GST receivable		60	49
416	Trade and other receivables	10	274	327
<u>2,603</u>	<b>Total current assets</b>		<u>3,137</u>	<u>2,450</u>
<b>Non-current assets</b>				
1,516	Property, plant and equipment	11	1,307	1,554
–	Computer software	12	28	33
<u>1,516</u>	<b>Total non-current assets</b>		<u>1,335</u>	<u>1,587</u>
<u>4,119</u>	<b>Total assets</b>		<u>4,472</u>	<u>4,037</u>
<b>Current liabilities</b>				
436	Trade and other payables	13	388	397
13	Rent holiday liability	14	13	13
<u>449</u>	<b>Total current liabilities</b>		<u>401</u>	<u>410</u>
<b>Non-current liabilities</b>				
60	Rent holiday liability	14	60	73
<u>509</u>	<b>Total liabilities</b>		<u>461</u>	<u>483</u>
<b>Equity</b>				
2,766	Accumulated funds		3,167	2,710
844	Litigation fund	5	844	844
<u>3,610</u>	<b>Total equity</b>	6	<u>4,011</u>	<u>3,554</u>
<u>4,119</u>	<b>Total equity and liabilities</b>		<u>4,472</u>	<u>4,037</u>



## STATEMENT OF CASH FLOWS

*for the year ended 30 June 2007*

2007 Budget \$000's		Note	2007 Actual \$000's	2006 Actual \$000's
<b>Cash flows from operating activities</b>				
Cash was provided from:				
6,501	- Government grant		6,501	5,478
1,403	- Government grant – litigation fund		435	839
235	- Exemption and authorisation fees		295	238
–	- Miscellaneous		1	11
120	- Interest		81	119
1,230	- Administrative services to the Takeovers Panel		1,124	1,111
Cash was applied to:				
(4,737)	- Suppliers		(3,139)	(3,631)
(4,373)	- Employees		(4,446)	(3,444)
2	- Net GST		(11)	
381	Net cash flows from operating activities	15	841	721
<b>Cash flows from investing activities</b>				
Cash was provided from:				
–	- Sale of fixed assets		–	2
–	- Decrease in term deposits		–	500
Cash was applied to:				
(316)	- Purchase of property, plant and equipment		(98)	(138)
–	- Purchase of computer software		(14)	(26)
(100)	- Increase in term deposits		(1,950)	–
–	- Increase in term deposits (litigation)		(575)	–
(416)	Net cash flows from investing activities		(2,637)	338
<b>Cash flows from financing activities</b>				
Cash was provided from:				
–	- Capital contribution		–	–
–	Net cash flows from financing activities		–	–
(35)	Net increase (decrease) in cash balances		(1,796)	1,059
146	Add opening cash and cash equivalents balance		2,074	1,015
111	Closing cash and cash equivalents balance carried forward		278	2,074
<b>Comprising</b>				
100	Cash and cash equivalents		95	1,455
11	Cash and cash equivalents - litigation fund		183	619
111			278	2,074

## NOTES TO THE FINANCIAL STATEMENTS

for the year ended 30 June 2007

### NOTE 1 STATEMENT OF ACCOUNTING POLICIES

#### REPORTING ENTITY

The Securities Commission (the Commission) is a body corporate established by the Securities Act 1978. The financial statements of the Commission are prepared pursuant to section 154 of the Crown Entities Act 2004.

The Commission is an independent Crown entity for legislative purposes and a public benefit entity for the purposes of complying with Generally Accepted Accounting Practices in New Zealand (NZ GAAP).

The financial statements of the reporting entity, the Commission, for the year ended 30 June 2007 were authorised for issue by the Commission on 19 July 2007.

The Commission's primary function is the regulation of investments in New Zealand.

#### BASIS OF PREPARATION

##### *Statement of compliance*

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

##### *Basis of measurement*

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

##### *Functional and presentational currency*

These financial statements are presented in New Zealand dollars (\$) which is the entity's functional currency. All financial information presented in New Zealand dollars has been rounded to the nearest thousand dollars.

##### *Use of estimates and judgements*

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

Estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognised in the period in which the estimates are revised and in any future periods affected.

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

a) *Impairment on library*

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

b) *Litigation*

The Commission has filed proceedings in the High Court in an insider trading case. The Commission has relied on advice from legal counsel in forming a view that the recovery of costs incurred in the filing of proceedings of this matter is disclosed as contingent asset under note 18.

#### SIGNIFICANT ACCOUNTING POLICIES

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

a) *Property, plant and equipment*

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

Library collections that had been revalued to fair value immediately prior to 1 July 2004, the date of transition



to IFRSs, are measured on the basis of deemed cost, being the revalued amount at the date of that revaluation. The following classes of property, plant and equipment have been depreciated over their economic lives on the following bases:

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

b) *Intangible assets*

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

c) *Cash and cash equivalents*

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

d) *Term deposits*

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

e) *Trade and other receivables*

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

f) *Short term employee benefits*

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

g) *Operating leases*

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

h) *GST*

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

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

i) *Trade and other payables*

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

j) *Financial instruments*

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

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

k) *Income tax*

The Commission is exempt from income tax under the Income Tax Act 1994.

l) *Revenue recognition*

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

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

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

m) *Cost allocation policy*

For the purposes of the statement of service performance direct costs are charged directly to outputs. Indirect costs are allocated on the basis of direct labour hours spent on each output.

n) *Litigation fund*

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

The balance of the fund is disclosed as a component of equity in the statement of financial position. The fund is restricted for approved litigation purposes only.

o) *Impairment*

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

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

At each balance date financial assets such as receivables are assessed for impairment. Trade and other receivables are individually assessed for impairment. This assessment is also made with reference to previous experience with debtors. The recoverable amount is the present value of the estimated future cash flows.

An impairment loss is recognised in the statement of financial performance whenever the carrying amount of an asset exceeds its recoverable amount. Any reversal of impairment losses is also recognised in the income statement.

p) *Contingent assets and contingent liabilities*

Contingent liabilities are disclosed if the possibility that they will crystallise is not remote. Contingent assets are disclosed if it is probable that the benefits will be realised.

q) *Changes in accounting policy*

There have been no changes in accounting policies since the date of the last audited financial statements.

## NOTE 2 BUDGET FIGURES

The budget figures are those approved by the Commission on 15 June 2006 and published in the Commission's Statement of Intent 2006-2009. The budget figures are prepared in accordance with generally accepted accounting practice and are consistent with the accounting policies adopted by the Commission for the preparation of the financial statements.

## NOTE 3 ADMINISTRATIVE SERVICES TO THE TAKEOVERS PANEL

The Commission provides administrative services to the Takeovers Panel. For each financial year the Commission and the Panel agree on the level of services required and on the fees to be paid to the Commission for these services. The costs involved in providing these services are part of total expenditure.



**NOTE 4 REVENUE AND EXPENSE**

2007 Budget \$000's	Note	2007 Actual \$000's	2006 Actual \$000's
<b>Other income</b>			
–		–	2
–		1	11
–		1	13
<b>Personnel expenses</b>			
4,155		3,945	3,243
655		654	650
4,810		4,599	3,893
<b>Depreciation and amortisation</b>			
389	11	345	406
–	12	19	23
389		364	429
<b>Other operating expenses</b>			
16		15	13
–		1	11
65		54	58
340		320	328
873		666	371
629		581	578
451		477	397
2,374		2,114	1,756

**NOTE 5 LITIGATION FUND**

The Government has agreed to fund a litigation fund of \$843,750 and to make top-ups as necessary to maintain the fund. The fund is to be used solely for approved litigation costs incurred by the Securities Commission in taking or defending eligible cases.

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

	2007 \$000's	2006 \$000's
Opening balance	844	844
Government grant revenue	243	459
Interest income	49	37
Settlements and cost recoveries	–	289
Expenditure on eligible litigation	(292)	(785)
Closing balance	844	844
<i>Comprising</i>		
Cash and cash equivalents		
- Current account	69	
- Call account	91	–
- Short term deposits	–	550
Term deposits	575	–
	758	619
Trade and other receivables	93	279
	851	898
Trade and other payables	(7)	(54)
Balance	844	844

**NOTE 6 MANAGEMENT OF EQUITY**

The Commission seeks to maintain sufficient equity to enable it to be able to manage its on-going operations and obligations. Surplus funds are invested having regard to the cash flow profile of future commitments. There have been no material changes in the Commission's management of equity during the period compared with the previous period.

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

**NOTE 7 FINANCIAL INSTRUMENTS****CREDIT RISK**

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

There is limited credit risk for the Commission because most of the financial assets are the Commission's cash or investments. These are deposits with Westpac Banking Corporation which is a registered bank in New Zealand and is rated Moody's Aa3, Standard & Poors A1+ short term and AA- long term,.

The Commission does not require collateral or security to support financial instruments.

There is no significant concentration of credit risk pertaining to accounts receivable.

**LIQUIDITY RISK**

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

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

The Commission has cash and other short term deposits that it can use to meet its ongoing payment obligations.

**MARKET RISK**

The only market risk that the Commission is subject to is interest rate risk. Interest rate risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market interest rates. As term deposits are at fixed rates, therefore do not fluctuate, the market risk the Commission is exposed to does not impact its reported financial performance and/or equity.

Details are as follows:

	Effective interest rate	Total \$000's	Maturities 3 months or less \$000's	Maturities greater than 3 months \$000's
<b>2007</b>				
Cash and cash equivalents				
- Current account	3.50%	43	43	-
- Call account	7.20%	52	52	-
Term deposits	7.63%	1,950	-	1,950
		2,045	95	1,950
Cash and cash equivalents – litigation fund				
- Current account	3.50%	92	92	-
- Call account	7.20%	91	91	-
Term deposits	7.69%	575	-	575
		758	183	575
<b>2006</b>				
Cash and cash equivalents				
- Current account	3.50%	55	55	-
- Short term deposits	7.23%	1,400	1,400	-
		1,455	1,455	-
Cash and cash equivalents - litigation fund				
- Current account	3.50%	69	69	-
- Short term deposits	7.03%	550	550	-
		619	619	-



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

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

## FAIR VALUES

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

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

## NOTE 8 FINANCIAL ASSETS

	2007 \$000's	2006 \$000's
<i>Loans and Receivables</i>		
<b>Current</b>		
Cash and cash equivalents	95	1,455
Term deposits	1,950	–
Interest receivable – other	113	5
GST receivable	60	49
Trade and other receivables	131	320
Cash and cash equivalents – litigation fund	183	619
Term deposits – litigation fund	575	–
Interest receivable – litigation fund	30	2
Total loans and receivables	<u>3,137</u>	<u>2,450</u>

## NOTE 9 INCOME FROM FINANCIAL ASSETS

	2007 \$000's	2006 \$000's
<i>Loans and Receivables</i>		
Interest – other	191	118
Interest – litigation fund	49	37
Total interest income from loans and receivables	<u>240</u>	<u>155</u>

## NOTE 10 TRADE AND OTHER RECEIVABLES

	2007 \$000's	2006 \$000's
Trade receivables	51	69
Receivables from the Crown	80	252
Interest receivable	143	6
	<u>274</u>	<u>327</u>



SECURITIES COMMISSION

*The status of trade and other receivables as at 30 June 2007 is as follows:*

<i>Trade and other receivables</i>	Total \$000's	Not past due \$000's	Up to 30 days past due \$000's	Over to 30 days past due \$000's
<b>2007</b>				
Gross receivables	274	249	7	18
Impairment	-	-	-	-
	274	249	7	18
<b>2006</b>				
Gross receivables	327	280	28	19
Impairment	-	-	-	-
	327	280	28	19

**NOTE 11 PROPERTY, PLANT AND EQUIPMENT**

	Office equipment \$000's	Office furniture \$000's	Leasehold improvements \$000's	Library \$000's	Motor vehicle \$000's	Total \$000's
<b>At 1 July 2006</b>						
Net of accumulated depreciation	203	225	913	171	42	1,554
Additions	45	6	17	30	-	98
Disposals	-	-	-	-	-	-
Depreciation charge for the year	(128)	(46)	(140)	(18)	(13)	(345)
At 30 June 2007, net of accumulated depreciation	120	185	790	183	29	1,307
<b>At 30 June 2006</b>						
Cost	748	437	1,251	207	64	2,707
Accumulated depreciation	(545)	(212)	(338)	(36)	(22)	(1,153)
Net book value	203	225	913	171	42	1,554
<b>At 30 June 2007</b>						
Cost	793	443	1,268	237	64	2,805
Accumulated depreciation	(673)	(258)	(478)	(54)	(35)	(1,498)
Net book value	120	185	790	183	29	1,307
<b>At 1 July 2005</b>						
Net of accumulated depreciation	267	280	1,052	168	55	1,822
Additions	115	2	-	21	-	138
Disposals	-	-	-	-	-	-
Depreciation charge for the year	(179)	(57)	(139)	(18)	(13)	(406)
At 30 June 2006, net of accumulated depreciation	203	225	913	171	42	1,554
<b>At 30 June 2005</b>						
Cost	687	435	1,251	185	64	2,622
Accumulated depreciation	(420)	(155)	(199)	(17)	(9)	(800)
Net book value	267	280	1,052	168	55	1,822
<b>At 30 June 2006</b>						
Cost	748	437	1,251	207	64	2,707
Accumulated depreciation	(545)	(212)	(338)	(36)	(22)	(1,153)
Net book value	203	225	913	171	42	1,554



Included as part of cost for library collections is deemed cost of \$155,754 which was the fair value of the library collection as at 1 July 2004 that was taken as deemed cost under the election option in NZ IFRS 1.

Disposals above are nil because the assets disposed during the year were for items that were fully depreciated.

#### NOTE 12 COMPUTER SOFTWARE

	2007 \$000's	2006 \$000's
Gross carrying amount	124	110
Accumulated amortisation	(96)	(77)
Net carrying amount	28	33
	2007 \$000's	2006 \$000's
Opening accumulated amortisation	(77)	(54)
Amortisation	(19)	(23)
Closing accumulated amortisation	(96)	(77)
	2007 \$000's	2006 \$000's
Opening net carrying amount	33	30
Additions	14	26
Amortisation	(19)	(23)
Closing net carrying amount	28	33

#### NOTE 13 TRADE AND OTHER PAYABLES

	2007 \$000's	2006 \$000's
Trade payables	266	286
Employee entitlements	123	111
	389	397

#### NOTE 14 RENT HOLIDAY LIABILITY

This represents amounts received from the landlord for a rent holiday. The accrual is being released having regard to the expected life of the lease of 9 years.

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

	2007 \$000's	2006 \$000's
Reported surplus	457	411
Add (less) non-cash items:		
- Allocation of receipt of rent-free period	(13)	(13)
- Depreciation/amortisation	364	429
	351	416
Add (less) movement in working capital:		
- Increase (decrease) in creditors	(9)	(142)
- Decrease (increase) in receivables	42	38
	33	(104)
Add (less) investing activity items:		
- Gain on sale of assets	-	(2)
	-	(2)
Net cash flows from operating activities	841	721

**NOTE 16 LEASE COMMITMENTS**

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

	2007 \$000's	2006 \$000's
- Not later than 1 year	573	515
- Later than 1 year and not later than 5 years	2,619	2,058
- Later than 5 years	382	815

The Commission rents its premises under an operating lease that ends on 1 February 2013. This lease gives the Commission the right to renew the lease for 3 years subject to a mutually agreed re-determination of the lease rental. The lease specifies that the Commission is required to make good the premises to the original condition on termination of the lease. The make good amount is estimated at \$20,000.

**NOTE 17 CAPITAL COMMITMENTS**

Estimated capital expenditure contracted for at balance date but not provided for: \$30,238 (2006 - NIL).

**NOTE 18 CONTINGENT LIABILITIES AND CONTINGENT ASSETS****CONTINGENT LIABILITIES**

There are no contingent liabilities at balance date. (2006 – NIL).

**CONTINGENT ASSETS**

The Commission filed proceedings against six defendants for insider trading (Securities Commission v Midavia Rail Investments and Others) on 13 October 2004. Since then the Commission has reached a settlement agreement with all defendants. Settlement proceeds received are held on trust by Toll NZ Limited. Under section 19 of the Securities Markets Act 1988 the Commission has first claim against money recovered in the proceedings (including in a settlement) for its costs of the proceedings. The final amount of any distribution to the Commission under section 19 is contingent on a decision of the High Court. Commission costs for the proceedings are expected to be \$2.0 million. Further costs are expected to be incurred pending the distribution decision of the High Court.

**NOTE 19 PROFESSIONAL INDEMNITY INSURANCE**

The Commission has effected a professional indemnity insurance policy to provide cover for members and employees of the Commission as the Commission performs its duties and statutory functions.



**NOTE 20 SUBSEQUENT EVENTS**

There were no material events subsequent to balance date that would affect the interpretation of the financial statements or the performance of the Commission. (2006 – nil)

**NOTE 21 TRANSACTIONS WITH RELATED PARTIES****TRANSACTIONS WITH OTHER ENTITIES WITHIN THE CROWN**

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

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

As indicated in the statement of financial performance income is received from a Government grant and from administrative services provided to the Takeovers Panel. The Commission has receivables from the Takeovers Panel of \$3,908.42 (GST incl).

**TRANSACTIONS WITH SUPPLIERS**

During the year the Commission paid expenses to:

- Genesis Energy, a firm of which A.M. Cotton and J.M.G. Perry, Members of the Commission, are directors. The expenses totalling \$55,623, related to office electricity charges which were charged on normal commercial terms. (2006 - \$51,059)
- New Zealand Institute of Chartered Accountants, of which D.A. Jackson, Member of the Commission, is a member of the Executive Board. The expenses totalling \$6,734, relating to membership fees, course fees and publications which were charged on normal commercial terms. (2006 – \$6,668)
- Enterprise New Zealand Trust, of which Phillip Meyer, the husband of the Chairman is a trustee on a voluntary basis. Expenses totalling \$85,000 relate to sponsorships of investment education in schools. (2006 - \$80,378)
- Chen Palmer Barristers and Solicitors, of which M. Chen, Member of the Commission, is a partner. Expenses totalling \$1,021 related to legal advice were charged on normal commercial terms (2006 – nil)
- Kiwi Income Property Trust Limited, of which J.M.G. Perry, Member of the Commission, is a director. The expenses totalling \$524,866 related to office rent and maintenance which were charged on normal commercial terms (2006 - \$470,951 J.M.G. Perry was not a director in 2006).

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

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

**COMPENSATION OF KEY PERSONNEL**

Key personnel comprise the Chairman, Members of the Commission and the senior management team.

	2007	2006
	\$000's	\$000's
Short term employee benefits comprise:		
- Members' fees	323	304
- Chairman's salary	331	312
- Chairman's motor vehicle benefit	34	34
- Senior management team remuneration	1,098	1,020
	1,786	1,670

**COMPOSITION OF MEMBERS' FEES**

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

	2007 \$000's	2006 \$000's
C.A.N. Beyer	33	42
M. Chen	17	18
A.M. Cotton	64	36
K.D. Dunstan	61	33
J.L. Holland	8	-
D.A. Jackson	21	20
L.A.J. Kavanagh	21	44
J.M.G. Perry	43	38
C.A. Quinn	14	36
N.O. Todd	41	37
	323	304

**EMPLOYEE REMUNERATION**

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

	Number of Employees 2007	Number of Employees 2006
240,001 to 250,000	1	-
230,001 to 240,000	-	-
220,001 to 230,000	-	-
210,001 to 220,000	1	-
200,001 to 210,000	-	-
190,001 to 200,000	1	1
180,001 to 190,000	-	1
170,001 to 180,000	1	1
160,001 to 170,000	1	2
150,001 to 160,000	1	-
140,001 to 150,000	-	2
130,001 to 140,000	1	-
120,001 to 130,000	2	1
110,001 to 120,000	-	-
100,001 to 110,000	5	3

**NOTE 22 BUDGET VARIANCES****INCOME**

Significant variances from budget were:

- Reduced income from Takeovers Panel due to lower than expected enforcement activity and delays in Securities Legislation Bill (SLB) regulations getting passed
- Increased income from interest due to higher than expected average cash balances and bank interest rates

**EXPENDITURE**

Significant variances from budget were:

- Reduced personnel expenses due to lower than expected recruitment of new and replacement staff
- Reduced other operating expenses due to delays in SLB regulations getting passed

**LITIGATION FUND**

- Significant variances from budget were reduced litigation expenses, and hence income, due to lower than anticipated litigation activity



## STATEMENT OF OBJECTIVES

*for the year ending 30 June 2007*

### *Performance of Securities Market Functions*

"This appropriation covers the cost of purchasing the following functions by the Securities Commission:

- Enforcement – inquiring into suspected breaches of securities law and intervening in the interests of investors in accordance with statutory powers.
- Monitoring and market oversight – maintaining oversight of securities market activity and taking actions in accordance with statutory powers.
- Enforcement-based law and practice reform – reviewing securities law and practice and making recommendations for reform.
- Exemptions and authorisations – considering and deciding on applications for exemptions from the provisions of the Securities Act 1978, Securities Markets Act 1988 and the Securities Regulations 1983; considering and deciding on applications for authorisation of market participants, for example, futures exchanges and dealers, trustees and statutory supervisors; reviewing existing authorisations.
- International recognition – promoting New Zealand as a well-regulated country, keeping abreast of developments in global standard setting and contributing the Commission's views to this process.
- Public understanding and market presence – promoting public understanding of the law and practice of securities."

*(The Estimates of Appropriations for the Government of New Zealand for the year ending 30 June 2007, B.5 Vol.1 p149)*

## STATEMENT OF SERVICE PERFORMANCE

*Performance standards and measures for the outputs of the Commission*

*for the year ended 30 June 2007*

### **OUTPUT 1 Enforcement – inquiring into suspected breaches of securities law and intervening in the interests of investors in accordance with statutory powers.**

**Outcome** Bad market practice is seen to be unacceptable and the law is complied with.

**Activities** Take enforcement action in the following areas:

- futures dealers,
- insider trading,
- market manipulation,
- secondary market disclosures (substantial security holder disclosure, continuous disclosure, disclosure of trading by directors and officers),
- offer documents,
- financial intermediaries,
- illegal offers,
- contributory mortgages.

This is done by:

- prohibiting advertising,
- removing offer documents from the market,
- taking civil enforcement action in the Courts,
- referring for prosecution,
- acting on behalf of overseas commissions,
- making other compulsory orders.

Performance measures Enforcement	Performance standards	
	Actual 2007	Budget 2007
<i>Quantity</i>		
Complete the enforcement actions that meet the Commission's case selection criteria, relating to the above matters. We expect there will be 5 such actions.	5	5
<i>Quality</i>		
There is no successful challenge to the Commission's decisions or actions under the rules of natural justice.	100%	100%
Enforcement actions comply with the Commission's internal processes.	Met	Full compliance
<i>Timeliness</i>		
Progress civil enforcement actions from investigation to the filing of proceedings.	Nil	On average, within 24 months of commencing an investigation
Complete other enforcement actions.	4 months	On average, within 6 months of commencing an action
<i>Cost</i>		
Expenditure allocated to enforcement work.	3%	7%

## OUTPUT 2 Monitoring and market oversight – maintaining oversight of securities market activity and taking actions in accordance with statutory powers.

<b>Outcome</b>	Integrity of, and confidence in, the securities markets are improved.
<b>Activities</b>	<p>Maintain oversight of securities markets and take appropriate action in the following areas:</p> <ul style="list-style-type: none"> <li>• insider trading,</li> <li>• market manipulation,</li> <li>• NZX oversight,</li> <li>• secondary market disclosures (substantial security holder disclosure, continuous disclosure and disclosure of trading by directors and officers),</li> <li>• offer documents,</li> <li>• financial intermediaries,</li> <li>• illegal offers,</li> <li>• contributory mortgages,</li> <li>• corporate governance,</li> <li>• futures dealers,</li> <li>• financial reporting,</li> <li>• regulatory co-ordination.</li> </ul>

This is done by:

- reviewing practices of market participants and issuers,
- overseeing the operation of NZX,
- assessing referrals from NZX,
- monitoring market disclosures,
- reviewing offer documents and advertisements for securities,
- responding to public complaints,
- using compulsory information-gathering powers (inspections, summons),
- commenting publicly on market practice,
- accepting enforceable undertakings,
- reviewing financial reporting by issuers,
- reviewing corporate governance reporting,
- acting on behalf of overseas commissions.



Performance measures Monitoring and market oversight	Performance standards	
	Actual 2007	Budget 2007
<i>Quantity</i>		
Complete the monitoring and market oversight matters that meet the Commission's case selection criteria, relating to matters listed above. We expect there to be 200 of these.	117	200
Complete NZX oversight review.	2	1 time in the year
Complete financial reporting surveillance programme.	2	2 cycles in the year
Complete the review of disclosure by finance companies.	1	1
Advise the Minister on proposed changes to NZX Conduct Rules.	3	3 times in the year
Consider and comment on continuous disclosure applications under the MOU with the NZX.	6	12 times
Participate in Securities Act allotment validation proceedings.	2	As required
<i>Quality</i>		
There is no successful challenge to the Commission's decisions or actions under the rules of natural justice.	100%	100%
Monitoring and market oversight inquiries comply with the Commission's internal processes.	Full compliance	Full compliance
<i>Timeliness</i>		
Complete monitoring and market oversight matters.	2.4 months	Within 3 months of commencing inquiries
Complete NZX oversight review.	5.6 months	Within 6 months of commencing review
Complete financial reporting surveillance programme.	10.2 months	On average, within 9 months of each cycle commencing
Complete the review of disclosure by finance companies.	11 months	Within 12 months of review commencing
Advice is provided to the Minister on approvals of, or proposed changes to, the Conduct Rules of NZX Ltd within timeframes agreed with the NZX and allowing the Minister to exercise powers within the timeframes specified in the Securities Markets Act 1988.	100%	100%
Participate in Securities Act allotment validation proceedings.	Met	Meet Court timetables
<i>Cost</i>		
Expenditure allocated to monitoring and market oversight work.	40%	35%

### OUTPUT 3 Law reform – reviewing securities law and practice and making recommendations for reform.

**Outcome** The regulatory environment is relevant and effective.

**Activities** Work, generally with the Ministry of Economic Development, on projects and reviews of:

- the Securities Act 1978:
  - administration and efficiency,
  - surveillance, detection and enforcement powers,
  - exemption powers,
- the Securities Regulations 1983,
- the Securities Legislation Bill,
- investment advisers,
- insider trading and market manipulation,
- substantial security holder disclosure,
- financial intermediaries,
- regulation of stock exchanges,
- corporate governance,
- the Financial Reporting Act 1993.



Work, generally with NZICA and ASRB, on reviews of:

- international financial reporting standards,
- exposure drafts of financial reporting and auditing standards,
- the Financial Reporting Act 1993.

Performance measures	Performance standards	
	Actual 2007	Budget 2007
<i>Law reform</i>		
<i>Quantity</i>		
Make recommendations for securities law reform and improved market practice in accordance with obligations under the Securities Act 1978 and other relevant legislation.	No recommendations were deemed necessary	The Commission will make recommendations to comply with its obligations under the Securities Act 1978 and with other relevant legislation. The Commission's contributions to law reform will arise in particular from its experience gained in the course of its enforcement work
Review exposure drafts of financial reporting and auditing standards, and Financial Reporting Act.	4	Review as required
Contribute to projects and reviews with the Ministry of Economic Development, other government departments and interested parties.	Contributed to Ministry of Economic Development projects being: <ul style="list-style-type: none"> <li>• Securities Legislation Bill</li> <li>• Review of Financial Products and Providers</li> <li>• Review of Financial Intermediaries</li> <li>• Business Law Reform Bill</li> <li>• Non-bank deposit takers</li> </ul>	Contribution as required
<i>Quality</i>		
Recommendations are appropriate, given the prevailing securities law and practice.	No recommendations were deemed necessary	The Commission will base its work on thorough and accurate research into, and analysis of, existing law and practice
All recommendations comply with the Commission's internal processes.	Not applicable	Full compliance
<i>Timeliness</i>		
Provide information and responses to the Ministry of Economic Development and others within agreed timeframes.	100%	100%
<i>Cost</i>		
Expenditure allocated to law and practice reform work.	6%	7%



**OUTPUT 4 Exemptions and authorisations – considering and deciding on applications for exemptions from the provisions of the Securities Act 1978, Securities Markets Act 1988 and the Securities Regulations 1983; considering and deciding on applications for authorisation of market participants, including futures exchanges and dealers, trustees and statutory supervisors; reviewing existing authorisations.**

- Outcome** Securities law regimes are tailored to the needs of the market.
- Activities** Receive and consider applications for exemption from securities law.  
Review existing exemptions.  
Undertake special review projects relating to policy on exemptions.  
Authorise futures dealers and exchanges.  
Consider amendments to futures exchange rules.  
Approve NZFOX participant rules.  
Approve trustees and statutory supervisors.  
Review existing authorisations.

Performance measures	Performance standards	
	Actual 2007	Budget 2007
<b>Exemptions and authorisations</b>		
<i>Quantity</i>		
Consider applications for exemptions, authorisations and approvals of market participants.	Exemptions 63 Authorisations 6 Approvals 9 Designations 1	Exemptions 75 Authorisations 15
Review existing exemption notices and authorisations.	4	As required
<i>Quality</i>		
The Regulations Review Committee does not disallow notices, and notices are not successfully challenged under the rules of natural justice.	100%	100%
Proportion of notices issued which comply with the Commission's internal processes.	100%	100%
<i>Timeliness</i>		
Percentage of exemption applications and authorisations completed within 6 weeks of receiving all necessary information or within otherwise agreed target period	100%	100%
<i>Cost</i>		
Expenditure allocated to exemptions and authorisations work.	9%	11%

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**OUTPUT 5 International liaison – promoting New Zealand as a well-regulated country; keeping abreast of developments in global standard setting and contributing the Commission's views to this process.**

- Outcome** New Zealand's markets and regulatory environment are respected internationally, creating a climate for increased investment and good relationships with overseas regulators.
- Activities** Take part in the work of IOSCO's:
- Executive Committee (Jane Diplock is Chairman of this committee),
  - Asia Pacific Regional Committee (the Commission is Vice-Chairman of this committee),
  - Taskforce on the Implementation of the IOSCO Objectives and Principles of Securities Regulation,
  - Communications Group.
- Meet and confer with overseas regulators and institutional investors.  
Contribute to implementation of the FSAP recommendations for New Zealand.  
Respond to enquiries from overseas about New Zealand's regulatory regime.  
Participate in the international standard setting process by completing comparative surveys on securities law and regulation.  
Fulfill the obligations of an Appendix A signatory under the IOSCO MMoU.  
Contribute towards trans-Tasman initiatives.

Performance measures International liaison	Performance standards	
	Actual 2007	Budget 2007
<i>Quantity</i>		
Take part in the work of IOSCO's Executive Committee, Asia Pacific Regional Committee and Taskforce on the Implementation of the IOSCO Objectives and Principles of Securities Regulation.	Participated, as required	Participate, as required
Meet regularly with overseas regulators and institutional investors.	Met and conferred, as required	Meet and confer, as required
Contribute towards trans-Tasman initiatives.	Contributed	Contribute
Contribute towards implementation of the Financial Sector Assessment Program (FSAP) recommendations for New Zealand.	Contributed	Contribute
<i>Quality</i>		
The Commission will present itself as a constructive and cooperative member of the international community of regulators. Views expressed to IOSCO will take into account the relevant New Zealand values and principles.	The Commission presented itself constructively and cooperatively at the international level. Views expressed to IOSCO were congruent with New Zealand's values and principles.	The Commission bases its presentations and views to the international community of regulators on sound research, consultation and analysis.
<i>Timeliness</i>		
Attendance at key meetings and responses to committees provided within agreed timeframes.	100%	100%
Contribute towards trans-Tasman initiatives, within agreed time.	100%	100%
Contribute towards implementation of the Financial Sector Assessment Programme (FSAP) recommendations for New Zealand, within agreed time frames.	100%	100%
<i>Cost</i>		
Expenditure allocated to international liaison work.	15%	14%



## OUTPUT 6 Public understanding - promoting public understanding of the law and practice of securities

<b>Outcome</b>	People understand the law and practice of securities.
<b>Activities</b>	<ul style="list-style-type: none"> <li>Publish <i>The Bulletin</i>, annual report and other documents.</li> <li>Respond to public inquiries.</li> <li>Manage the website.</li> <li>Maintain relationships with the news media.</li> <li>Develop and implement a public education programme.</li> </ul>

SECURITIES COMMISSION

Performance measures Public understanding	Performance standards	
	Actual 2007	Budget 2007
<i>Quantity</i>		
Publish <i>The Bulletin</i> .	4	4 times a year
Deal with inquiries from the public.	1,338	1,400 a year
Manage the Commission's website.	Website was available	Website is available
Maintain relationships with the news media.	Approached & responded to news media	Liaison as required
Continue the Commission's public education programme.	Youth - teacher resources & teacher training projects completed Youth - student resource project implemented New law – 2 projects implemented	Develop and implement approved projects
<i>Quality</i>		
Readers respond that <i>The Bulletin</i> is interesting and relevant.	No responses sought – next survey July 2007	80% of reader response to survey
Education programme meets target objectives.	Objectives for completed youth projects met	Objectives for each project are met
Inquiries are dealt with effectively.	No complaints received	Absence of material number of complaints
Information on the website is relevant and accurate.	Website information approved by the Commission	Accuracy and relevance of content
Relationships with the news media are constructive.	Initiated contacts and responded constructively to inquiries	Commission and media enjoy mutual respect
<i>Timeliness</i>		
<i>The Bulletin</i> is produced on time.	July/Oct/Jan/April	July/Oct/Jan/April
Education programme development is achieved to agreed timetable.	Youth projects above achieved agreed milestones	Achieve sub-projects milestones
Inquiries are handled within 5 working days of receipt.	100%	95%
Information on the website is up-to-date.	Information published within 2 working days of approval	At all times
Meetings with, and responses to, news media meet agreed timetable.	At all times	At all times
<i>Cost</i>		
Expenditure allocated to public understanding and market presence work.	12%	11%

**OUTPUT 7 Takeovers Panel – providing administrative and support services by agreement.**

**Outcome** Services are provided to the Takeovers Panel in accordance with an annual agreement under the terms of a Memorandum of Understanding between the Panel and the Commission.

**Activities** Provide services related to the Panel’s outputs including:

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

Performance measures	Performance standards	
	Actual 2007	Budget 2007
<b>Enforcement</b>		
<b>Takeovers Panel</b>		
<i>Quantity, Quality and Timeliness</i>		
Services are provided as per the MOU between the Panel and the Commission.	In accordance with the MOU	In accordance with the MOU
<i>Cost</i>		
Expenditure allocated to providing administrative services to Takeovers Panel.	15%	15%





REPORT OF THE AUDITOR-GENERAL

## AUDIT REPORT

### TO THE READERS OF THE SECURITIES COMMISSION'S FINANCIAL STATEMENTS AND PERFORMANCE INFORMATION FOR THE YEAR ENDED 30 JUNE 2007

The Auditor-General is the auditor of the Securities Commission. The Auditor-General has appointed me, Robert Cox, using the staff and resources of Audit New Zealand, to carry out the audit on his behalf. The audit covers the financial statements and statement of service performance included in the annual report of the Securities Commission for the year ended 30 June 2007.

#### Unqualified opinion

In our opinion:

- The financial statements of the Securities Commission comprising the Statement of Financial Performance, Statement of Changes in Equity, Statement of Financial Position, Statement of Cash Flows, and Notes 1 to 22 to the Financial Statements
  - comply with generally accepted accounting practice in New Zealand; and
  - fairly reflect:
    - the Securities Commission's financial position as at 30 June 2007; and
    - the results of its operations and cash flows for the year ended on that date.
  
- The statement of service performance of the Securities Commission:
  - complies with generally accepted accounting practice in New Zealand; and
  - fairly reflects for each class of outputs:
    - its standards of delivery performance achieved, as compared with the forecast standards outlined in the statement of forecast service performance adopted at the start of the financial year; and
    - its actual revenue earned and output expenses incurred, as compared with the forecast revenues and output expenses outlined in the statement of forecast service performance adopted at the start of the financial year.

The audit was completed on 19 July 2007, and is the date at which our opinion is expressed.

The basis of our opinion is explained below. In addition, we outline the responsibilities of the Securities Commission and the Auditor, and explain our independence.

### Basis of Opinion

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

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

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

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

Audit procedures generally include:

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

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

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



## Responsibilities of the Members of the Commission and the Auditor

The Members of the Commission are responsible for preparing financial statements and a statement of service performance in accordance with generally accepted accounting practice in New Zealand. The financial statements must fairly reflect the financial position of the Securities Commission as at 30 June 2007 and the results of its operations and cash flows for the year ended on that date. The statement of service performance must fairly reflect, for each class of outputs, the Securities Commission's standards of delivery performance achieved and revenue earned and expenses incurred, as compared with the forecast standards, revenue and expenses adopted at the start of the financial year. The responsibilities of the Members of the Commission arise from the Crown Entities Act 2004.

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

## Independence

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

Other than the audit, we have no relationship with or interests in the Securities Commission.



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

### Matters relating to the electronic presentation of the audited financial statements

This audit report relates to the financial statements of the Securities Commission for the year ended 30 June 2007 included on the Securities Commission's website. The Members of the Securities Commission are responsible for the maintenance and integrity of the Securities Commission's website. We have not been engaged to report on the integrity of the Securities Commission's website. We accept no responsibility for any changes that may have occurred to the financial statements since they were initially presented on the website.

The audit report refers only to the financial statements named above. It does not provide an opinion on any other information which may have been hyperlinked to/from these financial statements. If readers of this report are concerned with the inherent risks arising from electronic data communication they should refer to the published hard copy of the audited financial statements and related audit report dated 19 July 2007 to confirm the information included in the audited financial statements presented on this website.

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



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