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<u>THE STATES OF DELIBERATION</u>
<u>of the</u>
<u>ISLAND OF GUERNSEY</u>

POLICY & RESOURCES COMMITTEE

THE GUERNSEY FINANCIAL SERVICES COMMISSION:
2021 ANNUAL REPORT AND ACCOUNTS

The States are asked to decide: -

Whether, after consideration of the Policy Letter entitled The Guernsey Financial Services Commission: 2021 Annual Report and Accounts, dated 1st June, 2022, they are of the opinion:-

1. To note the annual report and accounts of the Guernsey Financial Services Commission for the year ended 31st December, 2021.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

THE GUERNSEY FINANCIAL SERVICES COMMISSION:
2021 ANNUAL REPORT AND ACCOUNTS

The Presiding Officer
States of Guernsey
Royal Court
St Peter Port

1st June, 2022

Dear Sir

1. Executive Summary

1.1 The 2021 annual report and accounts of the Guernsey Financial Services Commission are hereby presented to the States in accordance with the Financial Services Commission (Bailiwick of Guernsey) Law, 1987, as amended.

2. Recommendation

2.1 The States are asked to decide whether they are of the opinion :-

To note the annual report and accounts of the Guernsey Financial Services Commission for the year ended 31st December, 2021.

3. Compliance with Rule 4

3.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.

3.2 In accordance with Rule 4(1): a) the proposition contributes to the States' objectives and policy plans by complying with the relevant legislation; b) in preparing the proposition consultation has been undertaken with the Guernsey Financial Services Commission c) the proposition has been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications; d) there are no financial implications to the States of carrying the proposal into effect.

3.3 In accordance with Rule 4(2): a) the proposition relates to the duties and powers of the Policy & Resources Committee in regard to its powers under the Financial Services Commission (Bailiwick of Guernsey) Law, 1987, as amended; b) the proposition has the unanimous support of the Policy & Resources Committee.

Yours faithfully

P T R Ferbrache
President

H J Soulsby
Vice-President

M A J Helyar
J P Le Tocq
D J Mahoney

2021

Guernsey Financial Services Commission

ANNUAL REPORT AND FINANCIAL STATEMENTS

For the year ended 31 December 2021

"Confidence in the Bailiwick: securing good regulatory outcomes with integrity, proportionality and professional excellence"

Guernsey Financial Services Commission

Appendices

This report, including the financial statements as required by section 18 of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987 as amended (the Commission Law), is made in pursuance of section 6 of the Commission Law to the States Policy and Resources Committee and submitted for consideration by the States of Guernsey.

Note: Throughout this report the Guernsey Financial Services Commission is referred to as "the Commission". The Chairman and other members are referred to collectively as "the Commissioners"

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CHAIRMAN'S STATEMENT

In drafting my first statement for the Annual Report, I have had the benefit of six months as a Commissioner and some four days as 'on-island' Chairman from the 31st December 2021. This time has given me some appreciation of the duties of the Commission – looking after the interests of the Bailiwick through its financial stability work, its protection of on and off island consumers and working effectively to combat financial crime.

As is clear from my brief CV (on page 58), I have worked in Guernsey since 2005 in the finance sector regulated by the Commission, with further direct responsibility for operations in Jersey regulated by the Jersey Financial Services Commission, Gibraltar regulated by the Gibraltar Financial Services Commission and Bermuda regulated by the Bermuda Monetary Authority. Prior to this, I worked in the City of London whose financial services sector is regulated by the FCA, previously the FSA. In short, I am very clear as to what the financial services industry likes to see in a financial services regulator and more importantly, what it considers makes a good one. In this respect I would like to start by thanking my enormously experienced predecessor, Drs Cees Schrauwers, who has bequeathed an organisation that is in good shape, one that has been well-managed and fully supported by an excellent team. Having said this, we work in a fast-changing world where politics, international relationships, corporate and client demand, product development and the people in the global and local finance industry are constantly moving. Standing still, and any resting on laurels are not options.

Newly involved as 'poacher-turned-gamekeeper', I have been afforded the brief privilege of asking the simple question of many of the Commission's stakeholders "what do you want from the Commission?". Those stakeholders included regulated companies, regulated individuals, representatives of Guernsey Plc, users of regulated products and services, finance industry representatives both inside and outside Guernsey and other regulators. While there has been a myriad of individual responses, they break down into three primary headings:

1. It must be easy to deal with;
2. It must be cost-appropriate; and
3. It must be competent.

Briefly, the 'easy to deal with' is very clear. The Commission must be approachable, speak a language that is understood by users, radiate an 'open for business' attitude and be fair and appropriately clear. In a perfect world, it should be seen by all stakeholders to be of benefit to the Bailiwick's finance industry as well as the citizens and customers whose interests it is established to serve.

The cost-appropriate requirement is obviously by jurisdictional comparison particularly measured by users, many of whom are large corporates and clients who operate either internationally or globally. Intertwined with this is a comparison of quality.

The final point regarding competence is wide ranging as it covers many of the specific functions of the Commission as appropriate to each of the stakeholders. It does also necessarily define the bar required with respect to the level of expertise and knowledge of all Commission staff. Finally and arguably most importantly, it should serve the Bailiwick in the manner and at the level the Bailiwick requires if it is to continue to prosper as an internationally respected financial services centre.

My second question for stakeholders has been and will remain throughout my time as Chairman of the Commission, "how are we measuring up?" To date it is clear to me, though I acknowledge this is in full recognition of the minute amount of time I have been involved, that the Commission is delivering to a good standard. There are no current significant issues but it is recognised, and acknowledged, that we can always do better and we are working on that. I plan to follow up on this in due time as we continue to fulfil our mandate. In the interim, some of the more important priorities are around the continuing preparations for the visit to Guernsey by MONEYVAL in early 2024.

Julian Winser
Chairman

HIGHLIGHTS

Authorisations and Innovation

550 Dealt with over 550 applications (up 8.5% on 2020)

Assessed over 9,000 Online Personal Questionnaires, Appointments and Resignations

Authorised Guernsey's first cryptocurrency fund

Completed a pilot scheme for the pre-authorisation of captive insurance cells

Supervision

238 Number of Risk Mitigation Programme actions set

270 Number of Risk Mitigation Programme actions completed by firms

Interviewed 38 individuals under our MLRO and MLCO exit interview programme since 2020

Discussed suspicious activity reporting practices with 242 senior industry representatives at our workshops in November, alongside the Financial Intelligence Service

Assessed compliance by Guernsey Green Funds and found that they appear to be being invested properly in appropriate assets

Carried out 31 Full Risk Assessment visits and 115 further engagements with firms

Highlights *(continued)*

Policy

Held 3 open meetings as well as over 50 individual conversations to discuss the planned Credit and Finance legislation

Implemented revisions to our banking regulations to meet Basel III international standards

De-regulated by revoking the Non-Guernsey Scheme regime rules

3 New routes created to establish a private investment fund introducing greater flexibility while ensuring appropriate levels of investor protection

Rolled out new suite of regulatory laws plus the new Enforcement Law and Procedures on 1 November 2021

Technology

Developed three prototype SupTech Augmented Intelligence tools to support our supervisory processes

Developed and delivered new firm document management system

58 Forms delivered for new replacement portals for Personal Questionnaires and for Online Submissions with a single sign-on Authentication Server as part of a move away from an unsupported web technology platform

DIRECTOR GENERAL'S STATEMENT

Economic Risk and the Bailiwick's Economy

Despite ongoing Covid restrictions, the Bailiwick's financial services economy appears to have had a positive year. In terms of authorisations, we have seen a growth in the number of new funds and insurance entities authorised relative to 2020 and 2019. Add to this the States of Guernsey's positive budgetary forecast for 2021 and the small cost to the States of Covid support relative to the support costs for many other jurisdictions, and the economic outlook appeared broadly benign at the end of 2021.

That said, the inflationary risk we warned of in our 2020 annual report appears to have come to pass to some degree both locally and internationally. What remains to be seen is how global central banks react to the new wave of price increases and whether high inflationary expectations start to embed themselves in the minds of populations to the extent that a stagflation outcome becomes more likely. There is also some concern amongst well informed commentators that fiscal dominance (the risk that central banks raising interest rates may cause a sovereign debt crisis) may inhibit central banks' ability to raise rates quickly enough. Thus, alongside inflation, the potential for renewed Euro area sovereign debt problems if central banks react robustly to inflationary pressures is a key economic factor that industry may like to consider over the course of the next twelve months.

I wrote in my January draft of this report, a paragraph on how a conflict between Russia and Ukraine would magnify inflationary risks. Sadly that scenario has come to pass in the most terrible way and firms will wish to think through the implications of the raw material shortages and elevated food prices which are the likely result of the economic blockade of Russia and the low probability of Ukraine having a harvest this year. Other geo-political scenarios involving events in Asia could also lead to significant supply issues affecting the global economy severely.

Closer to home, the Commission will continue to work with the States to ensure that the Bailiwick is well equipped to withstand economic shocks. We will continue to support the States in its efforts to integrate the Bailiwick fully into new post-Brexit trading arrangements. We will also continue to focus on the need for financial services businesses to position "mind and management" in the Bailiwick rather than relying on off-island hubs for activity, given the need for businesses to be supervisable and for mind and management to remain within the Bailiwick.

We noted last year that environmentally friendly finance would become more economically important. At COP26 in November, the process towards making all financial services environmentally friendly took another leap forward. The Commission, through its active membership of the Network for Greening the Financial System and the Sustainable Insurance Forum will continue to participate fully in global moves to enhance the sustainability of financial services. All firms, following our environmental amendments to the Code of Corporate Governance in 2021, need to consider how to adapt their business models as a matter of urgency as international standards on environmental sustainability are quite likely to be promulgated over the course of 2022.

Commission Activity and Achievements in 2021

A key achievement, despite increasing staff losses and the impact of Covid restrictions, was the delivery of our annual targets for firm inspections. This is the unglamorous and largely unsung part of regulation whereby we give a significant number of firms a health check each year, often followed by risk mitigation programme actions, designed to help improve a firm's health. Whilst we are only resourced to look at the larger firms on a regular basis, we often uncover significant issues whose remediation helps make those firms more resilient in the future. One supervisory review we were particularly pleased to complete was on the "greenness" of the Guernsey Green Funds we had authorised. Although our thematic review showed that there was room for improvement on some administrative matters, our overall conclusion - that Guernsey Green Funds were investing in environmentally appropriate areas - was heartening. This should provide reassurance that Guernsey Green Funds are making a positive environmental contribution, with no indications of greenwashing.

Another area on which we focused supervisory attention was Guernsey-based overseas retail insurers. These have consumed a great deal of supervisory time over the past two years as supervisors have worked hard with overseas counterparts to protect retail policyholders. We intend to reset expectations for this insurance sub-sector going forward to reduce the likelihood of further serious failings occurring.

We were pleased with the large number of applications successfully processed by our Authorisations team during 2021 although it is fair to say the weight of applications has, at times, pushed our staff to their limit. We have responded by increasing the number of senior officers allocated to authorisations work whilst continuing with, and confirming, the pre-authorisation scheme for captive insurance cells. This was introduced in late 2020 and industry has found this scheme user-friendly. In the longer term, it would be good to have the resources to invest in automating considerable parts of the authorisations process. We will be working with an external consultant in 2022 to work out

Director General's Statement *(continued)*

how we might improve our processes to ensure that the Bailiwick further enhances its reputation as a jurisdiction which is happy to approve good quality business within decent timescales.

On the policy front, a number of workstreams have advanced considerably as discussed further on in this annual report. A key one which reached fruition in 2021 was the vast Revision of Laws project which came into effect on 1st November. This and its immediate precursor, the Consolidation of Laws project, have occupied huge amounts of Commission and Law Officer effort for over nine years. Now we finally have the new laws in place, we are much better able to demonstrate that the Bailiwick complies appropriately with relevant international standards, a key aspect of Bailiwick firms' ability to operate with a global client base.

Another key policy milestone was the renewal of the Private Investment Fund (PIF) rules. Here we worked with experts in the legal sphere to develop two new pathways towards running a regulated investment fund, explicitly opening up the proven PIF regime to family office investment vehicles and newer fund managers thereby enhancing the regulated product range available to investment managers whilst, we hope, minimising unnecessary administrative burdens and maintaining protections for retail investors.

On the Enforcement front, we brought two major cases with a strong anti-money laundering aspect to successful conclusions. A smaller case relating to someone failing to provide full, frank and unambiguous information to the Commission was also concluded. A number of serious cases, several with a strong anti-money laundering aspect, continue to be progressed through our investigatory and legal processes. As at the end of the year the number of cases under investigation had increased to 14, relative to the 12 under investigation at the end of the prior year. It is worth noting that we have not in any way lowered the threshold for a matter being referred by supervisors for investigation by the Enforcement Division. It is difficult for us to progress this number of cases simultaneously with the number of investigatory and legal staff we are able to afford but we have, thanks to the passage of the Revision of Laws, been able to review our internal processes with a view to being able to deliver justice more swiftly. That said, it is inevitable that when faced with well-resourced opponents determined to explore every legal avenue, some cases are always going to take a considerable time to reach fruition. We have continued to develop our working relationship with Law Enforcement and hope that its ability to progress some cases we have referred to it using criminal, rather than administrative powers, will be helpful to the Bailiwick's overall objective of being a "no go zone" for financial crime.

Internally, we completed our technology-focused first three-year business plan with the renewal of our internal electronic filing system and our financial returns system, hopefully future proofing them for some years to come. Whilst not necessarily eye-catching, the level of technological effort we require to keep functional and up-to-date as a small regulator is considerable. Many of the systems we require are simply not available "off the shelf" although we continue to endeavour to use untailored systems where possible to reduce the ongoing systems maintenance burden.

Less positively, our staff wastage rate this year has been considerably higher than we would wish to see, although it was no higher than that we have seen in some prior years. Having done some root cause analysis, we have seen some staff wastage as a result of the buoyancy of the financial services sector with whom we compete for talent. We have also seen some staff poached with salary offers with which we cannot afford to compete and some staff relocating to the UK in the wake of Covid to be within easier reach of their family and friends. The cost of travel to the UK is also raised by junior staff in exit interviews as a reason for leaving as too much of their salary is consumed by travel to see their families. I am sure some will say that we should react by recruiting fewer people from the UK and rely more on local residents. We are very positive about recruiting locally and always try to do so but the reality is that the skills we require are in short supply within the Bailiwick and we cannot afford to pay the salaries it would take to recruit enough staff solely from within the Bailiwick.

We reacted to the wastage rates by giving a reasonable pay rise to all officers for the first time in eight years. We think we will need to continue to increase salaries by inflation going forwards given the buoyant job market. We also conducted a fulsome anonymous staff survey to understand how our people viewed us as an employer. This provided us with positive feedback on many aspects of our employment proposition, but it also highlighted one or two areas where our terms and conditions are perhaps tougher than industry norms. We will consider how to most appropriately react to this feedback in the first part of 2022, recognising the high toll that losing good staff too quickly has on organisational effectiveness and efficiency. We have already implemented a programme to support housing for graduates without easy access to local accommodation in the current slightly frenetic rental market. This is not something we particularly wished to do but we expect to have to continue to provide this sort of support for our junior staff for so long as the current demand for modest rental flats remains at an elevated level.

Looking to the Future

The Bailiwick is due to be inspected by the Financial Action Task Force's regional body MONEYVAL (part of the Council of Europe) in 2023/24. Unsurprisingly, preparing for this visit is at the centre of our new three-year business plan which is due to run until mid-2024. In 2021, we continued to enhance the financial crime regulatory returns which we started to upgrade in 2020. These improvements should provide us with a more valuable flow of data by the time the MONEYVAL inspection team arrive, helping us to demonstrate that we understand and seek to effectively mitigate the money laundering and terrorist financing risks to which the Bailiwick is exposed. We are also undertaking an extensive internal review of procedures with external assistance to check that what we are doing is aligned with the latest Financial Action Task Force standards. Following this work, we may undertake a consultation in 2022 on whether we need to reform the rules relating to exemptions in relation to certain aspects of our regulatory framework. Despite the high demand for skilled labour discussed above, we were successful in 2021 in recruiting new officers into our recently enlarged Financial Crime Division. Thanks to this success, we hope (Covid restrictions permitting) to be able to undertake 60, rather than 45, onsite visits with a financial crime focus in 2022, thereby helping to demonstrate sufficient supervisory visits to MONEYVAL inspectors.

The economic costs to the Bailiwick of being grey-listed by the Financial Action Task Force after a MONEYVAL inspection would be high. The Commission is not, alone, responsible for the outcome of the MONEYVAL inspection as industry, various other public sector bodies and the States of Guernsey are also involved, with the Bailiwick as a whole needing to demonstrate competence across eleven Immediate Outcomes. We are, however, determined to play our part in helping the Bailiwick achieve a positive outcome against the markedly higher standards to which MONEYVAL will work, relative to those it used during the 2015/16 inspection.

On the policy front, we will: -

- Digest the results of our December 2021 consultation on Professional Indemnity Insurance. Here our review of the current regime at the request of industry has highlighted areas where it is perhaps administratively burdensome and other areas where the current rules actually do not work well enough in terms of giving customers of firms adequate protection. The package on which we are consulting is designed to create a more balanced regime which should make it easier for firms to buy cover whilst also increasing the utility of the cover bought for customers.
- Continue to work with the Law Officers and the States on the Credit and Finance Law. Since the States of Deliberation agreed a Policy Letter in Q1 2021, we have worked alongside the Law Officers to draft the black letter law which will allow the Bailiwick to regulate consumer credit, FinTech and Virtual Asset Service Providers in an appropriate internationally compliant fashion. If the States approves the black letter law in the first half of 2022, we intend to consult extensively with industry about how to most efficaciously implement different aspects of this complex piece of legislation which needs to be embedded prior to our 2023/24 MONEYVAL inspection.
- Continue to support the States and Law Officers as they take forward legislation to implement international standards with regard to insurance policyholder prioritisation and bank resolution.

Internationally, we will continue to support the States as it works to fully integrate the Bailiwick into the new architecture of international trade agreements which are being created in the wake of Brexit. Allied to this is the issue of regulatory deference or equivalence which is often important in the context of services focused trade deals relevant to financial services. Here we will continue to work to make sure that the Bailiwick's businesses are recognised as being regulated to internationally expected standards and can, in consequence, continue to be used for the international clients on which the Bailiwick's international financial centre depends. It is difficult to overemphasise the importance of the success of this work for the long-term economic prosperity of the Bailiwick. Being fully integrated into the enhanced systems for services trade being created by the UK after Brexit will allow us to continue to add value to the global economy.

We will also continue to play an active role in international regulatory bodies such as IOSCO, IAIS, FATF, GIICS, GIFCS, GFIN, SIF and the NGFS. In these bodies we work to try to ensure that the international standards which are developed are sensible and open rather than overly bureaucratic and hostile to free trade. We are not always successful given our minute size and scale relative to the main players, but we endeavour to make an intelligent contribution to help ensure that global finance can prosper in an innovative and sound fashion.

Internally, we will continue to work with partners on the development and application of Augmented Intelligence (AI) SupTech (Supervisory Technology) solutions to previously intractable regulatory problems. During 2021 we advanced to the stage of having a number of operational prototypes which aim to solve several capacity constraints that we and other regulators have always experienced with regard to proactive small firm supervision. Our challenge over the next two years, alongside developing further AI solutions, is taking the prototypes into full scale operation within our supervisory teams. We will also take forward data work to improve our data gathering and usage to make sure we at least stay with the peloton of international regulatory expectations with regard to gathering good quality data from firms in an efficient manner and then making productive use of it.

On the environmental front, having purchased two electric bikes in late 2021 to help staff travel to meetings in a more environmentally sustainable manner, we will continue to take forward our sustainability programme with the intent of planting more than 50,000 trees at our Angus site in the first half of 2022 to start us on a journey towards full offsetting of our greenhouse gas emissions. Conscious that sustainability is about more than greenhouse gas emissions, we are undertaking the most ecologically sensitive planting that is compatible with being a commercial forest. We also intend to undertake further work in conjunction with counterparts in Guernsey Finance on more financial services focused environmental initiatives to complement our green insurance capital and Guernsey Green Fund regimes.

Some Thanks

Our long-serving Commission Secretary Dale Holmes retired from full time work in Q3 2021. I would like to thank him for his invaluable counsel and service to the Bailiwick over many years. 2021 was also a year in which both the Vice Chairman and Chairman of the Commission retired - albeit Bob Moore retired at the beginning of the year and Cees Schrauwers at the very end. Leading the Commission is something of a partnership between the executive directors and the non-executive Commissioners. Particularly important is the partnership between the Chairman and the Director General. Bob and Cees are very different individuals but the scrutiny and advice which they were able to offer the Senior Officers over a number of years have been noteworthy and it feels appropriate to record my thanks to them both for their tireless work helping the Commission navigate numerous shoals and shallows during their time in office.

William Mason
Director General

AUTHORISATIONS AND INNOVATION

Authorisations

We were pleased to be appointed as Co-Directors of the Authorisations and Innovation Division in the final quarter of 2021 following in the footsteps of Emma Bailey. It is our intention to continue, and refine, the risk-based approach to reviewing applications that is currently in place.

The Bailiwick was faced with a second lockdown early in 2021 but, positively, this had little effect on the volume of applications received by the Commission as firms were, by then, adept at working from home. Similarly, the Authorisations and Innovation Division remained open for business throughout the lockdown with staff quickly adapting once again.

Business remains at pre-pandemic levels as the graph at Figure 15 (on page 67) shows. The final quarter of 2021 was especially strong, with October and November outperforming the corresponding months in 2020. Early December 2021 was also busy, although this tailed off a little towards the end of the month.

A risk-based approach to our assessment of application submissions results in most applications achieving straight-through review by the Division without reference to supervisors. Authorisation Review Panels (ARPs), continued to be used where required; in 2021, eight applications were referred to an ARP with most cases continuing to approval once the necessary risk mitigations were in place.

During the last three years, 2019, 2020 and 2021, 97% of applications have proceeded to the approval stage, demonstrating our commitment to allowing suitable quality businesses to proceed. Applications which did not receive approval were either withdrawn by the applicant, in some cases at our invitation, or lapsed. The quality of applications continues to be the key to turnaround times and applications which are otherwise straightforward can be held up if key information is missing or not clearly explained. It should be borne in mind that whilst firms will know their client and its business plan very well, this needs to be clearly communicated in the application submission. The Commission cannot make assumptions when there are gaps in information and therefore we may have to revert with questions that, to the applicant, appear obvious.

We have previously reported on the post facto review process for fast-track applications. Having refined this process in 2021, we are now focussed on increasing the number of post facto reviews completed during 2022. Post facto reviews are concerned with the due diligence and assessment performed by the administrator in order for it to be able to sign the declarations required for a fast-track application. We have already begun to increase our activity in this area for 2022 which is important as 24% of applications received are fast-track.

The Online Personal Questionnaire Portal (PQ Portal) continued to be busy with a total of 9,381 submissions made during 2021, an increase on the number in 2020. All Online Personal Questionnaires (OPQs), Online Appointments (OAs) and Online Resignations (ORs) are reviewed by the Authorisations and Innovation Division. We conduct due diligence, discuss with supervisory colleagues as appropriate and then process on the portal. We do experience some basic errors in the submission of OPQs and OAs which result in around 11% being returned for correction or clarification. We therefore encourage all licensees to engage with clients to ensure that they give due attention to these submissions to avoid such delays impacting on their applications. Careful review of PQ Portal submissions remains fundamental to the work of the Commission in ensuring that only suitable individuals are approved for supervised roles.

We encourage Licensee Main Users (LMU) to regularly check that appointments relating to client entities are up-to-date and that all OAs and ORs have been followed up and are complete on the portal. The Commission spends a significant amount of time dealing with queries and tidying up records that have not been correctly submitted or concluded on the portal. We also frequently receive OPQs where there is no obvious reason for submission. Please ensure that when OPQs are submitted, the reason for submission is correctly identified, in particular if it relates to an application, and ensure that relevant OAs are submitted at the same time so that it is clear why the OPQ has been submitted. We will not action an OPQ if we cannot determine the reason for its submission.

During the year we have made some internal changes to the operation of the Online Services Helpdesk to free up staff to deal with other matters. We have expanded the FAQ section of the portal to include more of the common queries that we receive and this has resulted in a reduction in the number of email queries from 9,541 in 2020 to 6,506 in 2021. The Commission is moving towards two factor authentication (2FA) for portal access and further information on this can be found in the Operations section of this report.

Innovation

The Commission continues to encourage innovation and is willing to work with potential applicants to understand how the regulatory framework may apply to their financial services businesses.

The Commission has taken a measured approach to crypto and cannabis funds following applications received during 2021, approving funds in each category over the course of the year. When considering applications for funds investing in virtual assets, crypto technologies or cannabis, the Commission considers each application on its merits and looks to ensure that key controls around custody, liquidity, valuation of assets and investor information are appropriate. We would also expect the promoter or sponsor to have a demonstratable and proven track record in the relevant asset class. Such applications are not usually appropriate for the fast-track regimes and will most likely require referral to an ARP.

Amendments to the Private Investment Fund (PIF) rules were made during April 2021 thus expanding the fast-track application regime. New application forms were rolled out for the three PIF routes and we have seen all three routes used, although with the vast majority being Route 1.

Last year, we reported on the commencement of a pilot scheme for the pre-authorisation of insurance cells within a protected cell company (PCC). Following evaluation of the scheme, which received positive feedback from industry, the Commission has made the scheme permanent. The scheme allows licensed insurance managers to form captive insurance cells quickly, within a licensed PCC, providing the cells fall within the parameters of the scheme. 18 cells were formed during the pilot scheme period by five PCCs. The Commission will continue to monitor the scheme and has introduced consequences for breaches of the scheme parameters and taken the opportunity to remind licensees that relevant OPQs must be submitted at the time of application.

To further assist with incorporation of insurance entities and to allow this process to run in parallel to the licence application, we have introduced an automatic approval to use the relevant insurance cognate expressions, in accordance with the relevant regulatory laws, following submission of an application. A note on the final page of the application form now provides this confirmation, so that insurance managers do not need to wait for a specific approval. This does not apply to PCCs for which there is a separate requirement for the Commission to approve incorporation under the Companies Law.

The Commission continues to participate in the Global Financial Innovation Network (GFIN) and was reconfirmed as a member of the GFIN Coordination Group in September 2021. We also remain involved in the cross-border testing programme, which is currently being reviewed and refined.

Caroline Bradley & Alison Gavey
Co-Directors

BANKING

Supervision

Compared to 2020, the global and local economic outturn was far more benign in 2021. Significant output growth is officially estimated to have taken place globally and in the UK; and the same is likely to be the case in the Bailiwick. UK fiscal and monetary policy remained highly accommodative. UK wage growth in 2021 was positive with the unemployment level remaining low. In the Bailiwick, the residential housing market saw a significant rise in prices over the first three recorded quarters of 2021, albeit after several years of low growth. Nevertheless, the future for the global and local economy remains uncertain due to the outbreak of the Omicron variant – and possible future variants. In addition, with accelerating UK inflation, 2022 UK real wage growth is under significant pressure. The task of both eventually tightening UK fiscal and monetary policy without prompting major dislocation in either the real economy or financial markets will be a difficult one which has clear relevance for the Bailiwick.

In a continuing environment of exceptionally low interest rates, the creation of shareholder value by banks is difficult. Nevertheless, global bank profitability is likely to have been buoyed in 2021 by accommodative monetary policies, real economy growth, high transaction volumes and by a low default rate. Guernsey banks should be no exception to this trend in 2021, albeit, given their collective low historic default rate, they are unlikely to have benefited to the same extent.

Between September 2020 and September 2021, third-party deposits rose from £37bn to £41bn. Such a variation is within the band of normal annual fluctuation, not least due to the currency composition of liabilities.

Two banks left the jurisdiction during 2021 with the number of banks in Guernsey in September 2021 standing at twenty.

In line with other banking regulators, the Commission submitted bank subsidiaries to a series of asset and liquidity stress tests during 2021. As elsewhere in the world and following a tougher regulatory approach following the Global Financial Crisis of 2008, these tests concluded that subsidiaries had an appropriate level of capital and liquidity. Potentially, it is possible to see risk in the local residential housing market but even here recent price growth could simply be playing catch-up. The key standard risks of Guernsey banks remain therefore broadly operational. A major challenge is around cyber security and the Commission issued cross-sectoral rules on this topic in 2021. Other operational risks are around cross-border outsourcing, the mitigation of financial crime and documentation risk due to the extensive use of collateralised lending amongst private banks.

Policy

The Bailiwick is committed to the implementation of international regulatory standards in a proportionate manner. Accordingly, in 2021, the Commission put in place a new policy on Large Exposures as set out by the Basel Committee. Principally, this policy requires banks to disperse inter-bank lending more widely. The Commission intends to issue a final Consultative Paper that will implement the residual parts of the post-2008 Basel capital rules but this will be dependent on the timing of implementation by the G7.

The States of Deliberation is expected to consider in due course, the establishment of a bank resolution regime and work is already underway in preparation for this. The Commission has been involved in this work which is necessary if Guernsey is to be viewed as complying with Basel Committee Standards.

Risk Outlook

The following are likely to be key risks for 2022:-

- cyber-attacks;
- failing to maintain compliance with changing international regulations against money laundering and terrorist financing;
- greenwashing and the consequent alienation of clients; and
- inadequate investment in compliance either for people or systems.

Jeremy Quick
Director

FIDUCIARY AND PENSION

Supervision

During 2021, we undertook 20 onsite visits to Fiduciary and Pension licensees. Thematic reviews continued to complement focused Full Risk Assessments. We explored the initial impact of Covid upon the liquidity, credit and capital risks of Investment and Fiduciary licensees, broadly concluding that the sectors remained resilient.

We have commenced a thematic review of "Pension Transfers", exploring licensees' compliance with "The Pension Scheme and Gratuity Scheme Rules and Guidance, 2021", with a specific focus on the timeliness, ease and cost of pension transfers.

We have been disappointed at the accuracy of data received by the Commission from licensees. Errors are found in regular reporting and in response to thematic reviews. Some errors appear to be a consequence of 'fat fingers' (for example extra zeros or miscalculation of currency exchange) whilst other errors persist annually making validation checks at the Commission difficult. Accuracy of data is going to be an ongoing area of focus for the Commission; put simply, if the data provided to us is incorrect, what else is wrong?

A total of 125 Fiduciary and Pension Risk Mitigation Programme (RMP) actions were created during the year. Financial Crime risk (38%), Governance risk (29%) and Operational risk (21%) account for the largest number of RMPs. As in previous years, the Commission has observed ongoing Mergers and Acquisition across many sectors, including the Fiduciary Sector. The Commission remains concerned that, on occasion, more effort appears to be spent on completing a deal/transaction, with less effort and resource being devoted to integrating separate businesses or maintaining investment in important areas like compliance. Such an approach only leads to short-term savings and is regularly leading to longer term costs. Fiduciary licensees are inherently long-term businesses with long-term assets and relationships, thus any short-term view from a prospective purchaser will be misaligned.

Policy

During the year, the Commission consulted on and revised the fiduciary policy framework to reflect the changes brought in with the commencement of the revised Fiduciaries Law on 1 November 2021.

At the end of 2021, a consultation paper was issued making proposals for amendment to the regulatory requirements for licensed Fiduciaries to hold Professional Indemnity Insurance, and following a review of consultation responses, the Commission intends to amend the relevant rules in 2022.

Following our amendment of the Finance Sector Code of Corporate Governance in 2021, boards of licensed fiduciaries, as part of their internal risk management process, should now consider the impact of climate change on their business strategy and risk profile and, where appropriate, make timely climate change related disclosures.

Risk Outlook

The local Fiduciary sector has continued to adapt successfully to address the uncertainty around the impact of the global pandemic. Measures such as increased use of outsourcing and embedding of remote working have been a feature of this adaptation but licensees must ensure that adequate governance and management control is maintained.

In adopting outsourcing arrangements, particular regard must be given to due diligence conducted on prospective providers, ongoing oversight and adequate contingency planning for the cessation of an arrangement. Neither must outsourcing or remote working lead to a situation where a Guernsey licensee becomes an empty shell that lacks substance. For example, technology may facilitate the relocation of local director positions outside the Bailiwick, but the Commission requires substantial mind and management to remain in the Bailiwick.

2021 also saw an increase in interest in the use of alternative asset classes such as cannabis and crypto assets and it is expected that this theme will continue in the coming year. As is the case for any asset class, we would expect licensees to have the requisite knowledge and expertise to evaluate the risks around any new line of business and prudently carry out their regulatory responsibilities.

Gillian Browning
Director

Supervision

As was the case with insurance supervisors across the world, 2021 saw the Commission and licensees remain alert to the impact of Covid on the local insurance sector. Given the nature of the local industry, the focus of attention for the Commission was on the conduct and prudential implications of Covid on business interruption, medical and travel insurers. Nonetheless, as the world adjusted to the pandemic over both 2020 and 2021, and in the wake of a ruling by the UK Supreme Court on business interruption (albeit not conclusive), residual concerns around these lines of business have lessened.

As to the more general and continuing impact of Covid on the Bailiwick's insurance market, the Commission's main concern is around the cyber security risks resulting from working from home and the business challenges of cross-border outsourcing, given that the impact of Covid on global jurisdictions can be different at any one time. In 2021, the Commission issued cross-sectoral rules on cyber security risk with the expectation that all insurers and insurance managers will conduct a gap analysis against their own policies and practices.

2021 also saw a continuing hardening of the global general insurance market. This has resulted in additional business in the Bailiwick's captive market, not least around Professional Indemnity Insurance (PII). Premiums on the latter market have increased materially which has made this line of business more attractive to captives; although care should be taken that this risk is not under-priced by the latter. The global Insurance Linked Securities market however, is still being held back by the recent experience of a succession of claims and Guernsey is no exception to this, as reflected in the statistical return at the back of this annual report. In the future, possible increased interest rates will affect spread risk, although, unless interest rate increases are significant, the impact on life insurers is likely to be marginal. Global regulators have continued to focus on a possible increase in default risk in the search for yield and on the impact of Augmented Intelligence on the insurance market. Nevertheless, neither of these factors has emerged materially in the Bailiwick.

The impact of climate change on the global insurance market is still being assessed. For example, many larger insurers now include climate change scenarios in their economic planning while catastrophe reinsurers are reconfiguring their models with climate change in mind. In the Bailiwick, as set out in the Green Operations section of the report, the Commission in 2021 amended the Finance Sector Code of Corporate Governance to ask Boards to consider the impact of climate change on their strategy and risk profile and, where they judge it appropriate, to make climate change related disclosures. Further, the Guernsey International Insurance Association issued in 2021, a self-certification framework in connection with the UN Principles for Sustainable Insurance.

Following the Commission taking enforcement action against a general retail insurer in 2020, the Commission continues to pay particular attention to Bailiwick (re)insurers (and their insurance managers) who underwrite policies for ordinary people around the world, including in the UK. While many retail insurers continue to write business appropriately, there have been, in recent years, some examples of poor practice. These examples include inadequate due diligence around the use of reinsurers, poor regulatory reporting and business being written outside the risk appetite set out in the business plan. In addition, there has been an occasional failure by General Representatives (usually insurance managers) to report issues to the Commission. Accordingly, the Commission is now of the view that the regulatory regime for retail insurers needs to be strengthened. We plan to issue a consultation paper in 2022. For the sake of completeness, the paper will also include residual action points arising from the 2019 International Association of Insurance Supervisors' review of the Commission's observance of international Insurance Core Principles.

In 2021, the Commission began to undertake routine internal peer analysis as part of the PRISM process. For insurance, this work centred on market risk and on Own Risk and Solvency Assessments (ORSA) and Own Solvency Capital Assessments (OSCA), using samples across all types of Bailiwick insurers.

On market risk, the Commission expects an insurer to have a policy agreed at board level that is sufficiently detailed and which the board periodically monitors for compliance. Our review found some excellent examples of this. Nevertheless, in some cases, such policies either did not exist, were unduly vague or were rarely monitored. This may, in part, reflect the fact that many insurers have a conservative approach to market risk. For example, general insurers and captives might simply deposit funds in local banks. Another reason is that insurers sometimes fill in a market risk template provided by an insurance manager without thinking through their approach – that is a tick-box mentality. Nevertheless, the presence of an effective market risk policy – which need not be unduly complex - ensures that a board understands and controls market risk even if that risk is limited.

ORSAs and OSCAs enable insurance boards to assess for themselves the main risks in their business and allocate appropriate capital to those risks. Our assessment witnessed some good examples of this with boards using this mechanism to limit risk and maximise returns, though this was mainly limited to larger firms. Elsewhere, we saw several examples where boards had not linked their assessments to their risk registers, where the assessments were purely quantitative and where poor documentation meant that it was impossible to understand how an assessment of a particular risk had been made. In several cases, board minutes indicated minimal consideration of a ORSA or OSCA, suggesting that the analysis was not owned by the board.

In 2021, the Commission also conducted an external thematic study of the use of reinsurance by Bailiwick insurers. This was undertaken both because of local concerns about the use of unrated reinsurers and because of a global regulatory focus on reinsurance.

This review revealed many examples of good practice; for example, most firms have specific policies and procedures for managing reinsurance. Nevertheless, there were some cases of contracts being either unduly brief and/or remaining unsigned. There was also an occasional tendency to undertake little due diligence on a reinsurer on the sole basis that it had come recommended by a regulated broker. The Commission has issued a public feedback paper highlighting these and other points.

The Commission continued its engagement with the International Association of Insurance Supervisors and the Sustainable Insurance Forum in 2021. It also, for the first time, participated in a college of insurance manager supervisors under the aegis of the Group of International Insurance Centre Supervisors (GIICS). This is part of a wider programme to ensure appropriate regulation of multi-jurisdictional insurance managers.

Policy

In 2021, the Commission issued a consultation paper on the use of Professional Indemnity Insurance by insurance intermediaries.

Risk Outlook

Specific to 2022, risks include: -

- under-pricing PII;
- ignoring climate change/greenwashing;
- failure to manage cross-border outsourcing not least in the wake of Covid; and
- treating a general insurer with the same risk appetite as a captive.

Jeremy Quick
Director

Supervision

During 2021, we undertook 16 onsite visits to Investment licensees. Thematic reviews continued to complement focused Full Risk Assessments. We explored the initial impact of Covid upon the liquidity, credit and capital risks of Investment and Fiduciary licensees, broadly concluding that the sectors remained resilient.

We undertook an external thematic review of Guernsey Green Funds, concluding that whilst the level of oversight demonstrated by some of the Designated Administrators during the review did not always meet the expectations of the Commission, the Funds themselves appeared to be being invested properly in appropriate assets and thus provide mitigation against the risk of 'greenwashing'.

We have been disappointed at the accuracy of data received by the Commission from licensees. Errors are found in regular reporting and in response to thematic reviews. Some errors appear to be a consequence of 'fat fingers' (for example, extra zeros or miscalculation of currency exchange), whilst other errors persist annually making validation checks at the Commission difficult. Accuracy of data is going to be an ongoing area of focus for the Commission; put simply we question if the data provided to us is incorrect, what else is?

A total of 85 Investment Risk Mitigation Programme (RMP) actions were created during the year. Financial Crime risk (37%), Governance risk (20%) and Operational risk (29%) account for the largest number of RMPs. As in previous years, the Commission has sadly seen repeat instances where (non-listed) Fund Directors take their fees, but when something goes wrong, they have been found wanting. The Commission reminds all Directors of the importance of ensuring respective responsibilities of all service providers to a fund are clear and properly documented, and that their oversight includes receiving evidence rather than simply relying on assurances from, for example, a dominant manager.

Policy

As was the case for other sectors a large proportion of Investment policy resource was taken up this year with review, consultation and amendment of relevant rules, guidance and other policy papers, to facilitate the successful revision to the supervisory laws which was completed at the end of the year. Nevertheless, other policy initiatives that had been commenced in the previous year, were also brought to completion in the period; one streamlining the regulatory landscape through deregulation and the other broadening options for fund registration. First, the Non-Guernsey Scheme Rules were revoked removing an unnecessary application process while maintaining appropriate regulation over licensed Investment firms. Second, the Private Investment Fund regime was amended to allow more investor categories to take advantage of this appropriately regulated fund structure.

At the end of the year, proposals to amend the regulatory requirements for Professional Indemnity Insurance were consulted upon and this process will continue into 2022.

Risk Outlook

The local Investment sector has continued to successfully adapt to address the uncertainty around the impact of the global pandemic. Measures such as increased use of outsourcing and embedding of remote working have been a feature of this adaptation but licensees must ensure that adequate governance and management control is maintained.

In adopting outsourcing arrangements, particular regard must be given to due diligence conducted on prospective providers, ongoing oversight and adequate contingency planning for the cessation of an arrangement. Neither must outsourcing or remote working lead to a situation where a Guernsey licensee becomes an empty shell that lacks substance. For example, technology may facilitate the relocation of local Director positions outside the Bailiwick but, the Commission, not to mention evolving international standards, requires substantial mind and management to remain in the Bailiwick.

2021 also saw an increase in interest in the use of alternative asset classes such as cannabis and crypto assets and it is expected that this theme will continue in the coming year. As is the case for any asset class, we would expect licensees to have the requisite knowledge and expertise to evaluate the risks around any new line of business and prudently carry out their regulatory responsibilities.

Gillian Browning
Director

Supervision

2020 was a busy time for many Bailiwick licensees serving the retail public. The reason for this was the need to help customers deal with concerns around health and travel insurance and, for small businesses, around business interruption in the wake of Covid. These concerns became less urgent in 2021 as the world adjusted to Covid, and especially after a ruling by the UK's Supreme Court on business interruption mitigated some concerns. In addition, both the public and local banks were better prepared for the second lockdown in the first quarter of 2021, having already experienced a lockdown in 2020. Therefore, conduct work connected to Covid somewhat lessened for the Commission in 2021 compared to 2020.

With people spending more time at home in the developed world and average real wages – at least in the UK – still rising, retail savings accumulated in 2021. Due to interest rates remaining exceptionally low, some of these savings bolstered mortgage borrowing. Accordingly, residential house prices in 2021 rose significantly in both the UK and the Bailiwick. Whilst lenders make home finance loans on affordability criteria and carry out stress tests, borrowers still need to consider their own long-term ability to service mortgage debt, were interest rates to increase significantly.

Another response to additional savings has been the retail purchase of more speculative assets such as crypto technologies and Non-Fungible Tokens. The Commission has already cautioned retail investors around investments in these items, due to limited regulation and volatility.

Policy

The main focus of the Commission in 2021 in the area of conduct was preparation for the likelihood of the States of Deliberation passing a law to mitigate conduct risk for local retail lending. This intention was set out in a States' Policy Letter in December 2020 and represents a major initiative in the realm of local consumer finance. The Policy Letter is the basis for the creation of a regulatory regime in the Bailiwick to cover all forms of retail lending and brokerage. Whilst conduct risk is already overseen by the Commission for relevant Bailiwick banks, the new regime will require formal licensing not just for banks, but also for those providing home finance loans into the retail housing sector, all those making retail loans and all those who broker home and credit loans, including for vehicles.

In addition, the States' intention is to replace the Non-Regulated Financial Services Businesses Law so that, under the new credit legislation, discussed above, residual financial services businesses will be regulated by, rather than simply registered with, the Commission. The States also intend to legislate to require the licensing by the Commission of Virtual Asset Service Providers (VASPs) in the Bailiwick; that is, in more general terms, services relating to crypto technologies and exchanges and Non-Fungible Tokens.

In light of the above, during 2021, the Commission undertook significant work with potential licensees to prepare for the issuance in due course of a Consultation Paper to include prospective rules. This work included bilateral meetings, breakfast meetings for specific sectors, an industry survey and bilateral discussions with other regulators to understand their experiences with this type of regulation. In 2022, the Commission intends to continue with this work, subject to the progression of the new legislation by the States.

In recent years, there has been a systemic increase in the cost of Professional Indemnity Insurance (PII), not least for insurance intermediaries. Arguably, this increase is an adjustment from previous under-pricing, Nevertheless, in 2021, the Commission reviewed its policy on PII for several types of licensees including insurance intermediaries. The Commission issued a Consultation Paper in 2021 and the results will be taken forward in 2022.

Risk Outlook

The following are relevant for 2022:-

- preparation for the proposed new credit regime;
- early negotiation with brokers for routine PII coverage;
- caution over retail investment in speculative assets and Non-Fungible Tokens; and
- increasingly successful Authorised Push Payment fraud.

Jeremy Quick
Director

Supervision

A jurisdiction with a business profile which is a higher risk for money laundering must manage that risk effectively. Guernsey is an international finance centre with an inherently higher risk offering private banking, asset and wealth management services to an international client base. The Bailiwick will be assessed by MONEYVAL in two years' time on its ability to manage that higher risk effectively; this will include the industry.

Analysing the risk migration programmes (RMPs) we impose helps us to assess how firms may fare in front of assessors who – fast forward two years – will be scrutinising these programmes to examine the main supervisory findings.

Only a very few firms – two in 2021 – are referred to the Enforcement Division each year for further investigation with a view to sanctioning because our assessment of their controls reveals that they are too weak for the significant money laundering and terrorist financing risks they run. RMPs are also imposed on these firms requiring deficiencies to be remediated and for that work to be assessed and reported on to us by an independent inspector. Those firms' deficiencies include material weaknesses in certain monitoring controls. Such weaknesses were also observed, albeit with less severity, at a number of fiduciaries and fund administrators. Weaknesses were also identified in firms' periodic review process and the adverse media screening of customers and beneficial owners.

Some firms had backlogs in periodic reviews and risk assessments of their existing business relationships and/or delays in addressing the action points arising from those reviews that had been undertaken. We also saw cases of some reviews being poorly executed with assessments being copied across word for word from the preceding version which ignored relevant changes or developments in key risk factors such as the customer or beneficial owner's status, transaction activity and new funding which could materially impact the risk attributed to the relationship.

In respect of adverse media screening, there have been occasions where checks on open-source media have revealed longstanding, publicly available adverse information about a customer or beneficial owner which should have come to the firm's attention sooner, particularly where that information then led to the filing of a suspicious activity report with the Financial Intelligence Services ("FIS"). One of the firms informed us that the relationship would have been outside its risk appetite and would not have been taken on if it had identified the existence of that information in a more timely manner.

Firms must have effective monitoring arrangements covering both the suitability and robustness of its systems as well as having sufficient staff to run them. Neither a firm or the Bailiwick can afford for there to be systemically weak controls over the activities of customers or beneficial owners if financial crime is to be deterred and seen to be deterred by assessors.

Preliminary indications from our 2021 thematic review on sanction screening systems are, however, positive. This review covering 15 banks, two fund administrators, two fiduciaries and an insurer, found strong controls for identifying persons designated under a targeted financial sanction. Those banks which are responsible for handling the vast majority of financial transactions by volume in and out of the Bailiwick had very strong screening systems.

In July, we published a report on our 2020 thematic which looked at the reporting of suspicion. We had met a large number of well qualified, sufficiently senior and independent Money Laundering Reporting Officers ("MLRO"). We found generally good policies and procedures on reporting, but we also found Board oversight in this area lacking at some firms – perhaps because it is a highly specialised area under the remit of a few key expert personnel. Nevertheless, Boards are responsible for ensuring there are effective procedures for timely and good quality reporting of suspicious activity and for setting clear expectations on the fulfilment of reporting officers' duties. In return, Boards should be receiving sufficient, good quality management information on reporting to be satisfied that those processes are effective.

We were pleased to discuss these themes with 250 industry representatives who attended our workshops in November alongside the FIS. We also drew on what we had learnt from our MLRO exit interview programme, under which we have interviewed 38 individuals who had resigned from MLRO and Money Laundering Compliance Officer positions since 2020. We do not interview all individuals who have resigned from their role, but instead take a risk-based approach to determining with whom we would like to learn more about their experience at a particular firm. These individuals are well-placed to apprise us of the firm's culture and the robustness of its controls for managing and mitigating its financial crime risks.

Policy

Our policy work in 2021 centred on ensuring that the Commission is well prepared for MONEYVAL's mutual evaluation which will take place in the first quarter of 2024.

It was sobering to have to remove the Cayman Islands in March and then Malta in July from the Appendix C list of equivalent jurisdictions and issue instructions to firms to review, and where required, overhaul their due diligence on relationships connected with these jurisdictions after they were found seriously wanting in their mutual evaluations.

Although our next evaluation has been in mind since the last one in 2014, our preparatory work up to 2021 had largely focussed on external projects to bring the regulatory framework up to current Financial Action Task Force (FATF) standards and on making a significant input into the Bailiwick's National Risk Assessment (NRA). Nevertheless, we considered it was time to ensure that our supervision was in good order - that our supervisory policies and procedures reflected the outcomes from the NRA as well as current practices and processes, and that we had accurate and up-to-date information recording the breadth and depth of the Commission's work on combating money laundering and terrorist financing.

Before embarking on this, we undertook our own analysis of what the Commission does against the relevant FATF standards for supervision. We also took forward workstreams ranging from preparing case studies on our AML/CFT supervision, enforcement and authorisation checks, to reviewing internal processes. We did all of this in order to ensure we are operating on up-to-date policies and procedures in areas such as policing the perimeter which is the work the Commission already undertakes to detect any breaches of licensing or registration requirements.

Notwithstanding this self- assessment, we began a review at the end of the year by an external evaluations expert who is examining our MONEYVAL preparatory work.

Much of our MONEYVAL preparations have focused on internal processes and this will continue to be the case. This work is largely unseen by industry but it has necessitated additional staff resources to enable the Division to increase the number of onsite inspections from 45 to 60 firms a year. In 2022, more firms will be meeting us so we can discuss and review their AML/CFT controls.

Our MONEYVAL preparations have also included the two-phased enhancements to the annual financial crime risk return which were finalised for the 2021 return, completing the collection of data and information that we require to fully apply AML/CFT supervision based upon the money laundering and terrorist financing risks posed by each firm. Those last enhancements included additional reporting on suspicious activity reports and tax disclosure, further information on governance and compliance arrangements, controls for identifying politically exposed persons, adverse media and sanctioned persons, additional information on periodic reviews and revised geographical data in relation to customers.

As well as examining the Commission's activities, the 2024 evaluation will also assess how well firms are applying AML/CFT measures which are commensurate with their money laundering and terrorist financing risks and reporting suspicion. These mutual evaluations now put industry in the spotlight alongside the jurisdiction's AML/CFT authorities. In light of the industry's enhanced role in an evaluation, well-attended presentations were given during the year to the Association of Guernsey Banks and the Guernsey Association of Trustees on the role of industry in a MONEYVAL evaluation.

Risk outlook

It is imperative that firms are vigilant in ensuring that their AML/CFT controls remain up-to-date and effective for combatting the money laundering and terrorist financing risks they face. We could not imagine last year how relevant our sanction screening thematic was to become, given the unprecedented scale of sanctions designations presently being made by the UK on Russian interests. All firms must ensure that not only are their screening systems effective for the timely identification of designated persons but that their beneficial ownership checks and monitoring controls can also withstand attempts from "bad actors "to evade those sanctions. Vigilance on all fronts will also stand the private sector in good stead when their performance is evaluated by MONEYVAL in two years' time.

Fiona Crocker
Director

Cases reported

The disruption that occurred during 2020 due to the global pandemic continued, albeit to a lesser extent, in 2021 and cases moved forwards in a productive manner. The regulatory enforcement world appeared to be affected far more elsewhere than in the Bailiwick as regulatory colleagues continued to work mostly from home. We completed three enforcement cases with some of the most serious findings, in terms of the value of relevant transactions made through this jurisdiction, since the Division's inception eight years ago.

Further to this, appeals have been lodged before the Royal Court in relation to some of the concluded cases. We would envisage that judgments from the Royal Court may be handed down during 2022, and no more commentary can be made at this juncture. Of note, the Commission continued to negotiate split settlements in 2021 and where circumstances allow, that will continue in the future, as it seems to be an appropriate way to deal in a timely manner with those that accept their wrongdoing at an early stage of the process.

By far the largest case that came to fruition in 2021 involved the movement of over $1.4 billion through the jurisdiction within client trust structures for one of our largest licensees, which was a subsidiary of the principal holding company for the Group. The licensee agreed to settle the case with the Commission at an early stage. The Commission found a block transfer of business to the licensee from another jurisdiction without the appropriate skill or consideration being given to financial crime regulations. It was also found, amongst other matters, that there was inadequate risk management and that the licensee was reliant on its Group's policies without considering whether they were appropriate and fit for the Bailiwick's regulatory requirements. The licensee found 97% of client files onboarded from another jurisdiction contained potential breaches.

The licensee had already taken a commercial decision to close down its Guernsey operation and had sought to transfer client assets to Singapore, of which $265 million was identified as being potentially linked to tax evasion in Indonesia. It was also established that there was nearly $1.1 billion where the source of wealth and source of funds were not known. The failings were so serious and systemic that it took the licensee over three years to remediate its client base.

In another case that concluded at the end of 2021, the Commission reached settlement with a licensee regarding AML/CFT failings, amongst other matters. The findings in this case were serious and spanned a significant period, including after 13 November 2017, when The Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2016 ("the Amendment Law") came into force. This law increased the administrative penalties available to the Commission and this was the first time that the new fining powers were used. As a result, no direct comparisons can be made to previous cases with similar failings.

In this particular case it was found that the licensee had failed to monitor and manage the financial crime risks associated with its customers as required by the Bailiwick's AML/CFT regime. This was particularly concerning in the light of the firm's high-risk appetite and its proportion of high-risk clients. The Commission was particularly concerned about one, long-standing client who, should have been identified as a Politically Exposed Person, due to their father being a government Minister for a foreign country. The Commission found that the licensee and directors had failed to ensure that it had adequate policies, procedures and controls in place, resulting in the licensee being vulnerable to being used to facilitate money laundering and terrorist financing. In fairness, the licensee had identified some of the issues before the Commission's visit and steps were already being taken to remedy these issues. The Commission took this remedial work into account in its assessment of the case.

There is one other matter than can be reported on which resulted in a prohibition order against an individual. In this case the individual failed to provide full, frank and unambiguous information relating to the circumstances in which he left his previous employment. The information was material to the Commission's assessment of his fitness and propriety. The Commission will take a firm stance on false or misleading information being provided to it when an individual is seeking a supervised role in a licensed firm, and will seek to prohibit - where necessary and proportionate to do so - in an effort to protect, not only the reputation of the Bailiwick, but potential clients and consumers, where elements of potential dishonesty are identified.

General Process

At the beginning of 2021, the Enforcement Division had twelve active cases and at the end of the year this number had increased to fourteen. These range from some that had been very recently referred by one of the supervisory divisions to some at an advanced legal stage considerably beyond the investigation. We completed three cases during the course of the year and took on five new ones.

Holding face-to-face meetings and interviews with key people who were off-island during the course of the year proved difficult, however, video interviews were possible in some instances. We did not allow these difficulties to stall ongoing investigations. This is important as on-island practitioners, who may find themselves under scrutiny, often have a desire for matters to be concluded as soon as possible, which is understandable.

During 2021, partly in response to an internal audit report which made various recommendations as outlined in the 2020 Annual Report, the Enforcement Division completed an overhaul of its processes. There were previously some fourteen explanatory notes on the Commission's website about enforcement processes. These have now been condensed into one explanatory note, which takes into account the various changes made as a result of the enactment of The Financial Services Business (Enforcement Powers) (Bailiwick of Guernsey) Law, 2020 which came into force on 1 November 2021. Henceforth, when matters are referred to Enforcement, they will be dealt with under this law. In addition, some changes were made to the Decision-Making Process, in an effort to shorten it, again taking into account the internal audit recommendations and also our experience gained from some fifty completed investigations. We are already seeing the benefits of these changes. I would reiterate the message provided last year for those that find themselves being referred to enforcement, to use the representation opportunities wisely and focus on addressing the issues at hand.

The other significant change in 2021, was the impact on some enforcement cases which, upon enactment of The Financial Services Commission (Bailiwick of Guernsey) Amendment Law, 2016, were caught by the new discretionary fining powers. This decision was made, having regard to the fact that the above mentioned Law makes no provision for transitional provisions. The Commission believes it is right to apply the current (new) powers, rather than our more circumscribed historic fining powers, in all cases which involve any wrongdoing that occurred after 13th November 2017 – this being the date when the new Law came into force.

Across all investigations, we served eleven statutory notices on individuals and licensees. These statutory notices are focussed requests for information that the Commission may reasonably require for the performance of its functions. The Commission is careful when issuing notices to seek only what it believes is sufficient information to properly investigate matters and to form a basis for a response from a licensee or individual. This is, in essence, the start of the engagement process for those under investigation. We also conducted thirteen interviews during the year – close to the average of pre-Covid years.

We continued to represent the Commission on Committee 4 for the International Organisation of Securities Commissions (IOSCO) in 2021, albeit meetings continued to be held remotely. The Commission continues to act as the assessor of one jurisdiction applying to become a signatory to the Enhanced Memorandum of Understanding. We also continued to be part of an assessment team from the Group of International Finance Centre Supervisors (GIFCS) involved in an assessment of another jurisdiction against the GIFCS standards. These offer valuable insights and experience for our assessors.

Simon Gaudion
Director

SENIOR DECISION MAKERS

This is my first report as the President of the Panel of Senior Decision Makers. I was appointed on 1 January 2021, succeeding Michael Blair QC, and prior to my appointment, I was a member of the Panel (which was established by the Commission in 2014) from its inception.

Save for the change in my own role, the constitution of the Panel remained the same this year as in 2020. At the year end, the Panel was as follows (in alphabetical order):

- Glen Davis QC (England and Wales)
- Russell Finch OBE, former Judge of the Royal Court (Guernsey)
- Catherine Gibaud QC (England and Wales)
- Kirsty Hood QC (Scotland)
- Ben Hubble QC (England and Wales)
- Richard Jones QC (England and Wales)
- Terence Mowschenson QC (England and Wales) and
- Alison Potter (England and Wales).

At the start of the calendar year 2021, there were three cases ongoing before a Senior Decision Maker. Two of those cases concluded in March and the third in April 2021. The total number of cases dealt with by Senior Decision Makers since the inception of the Panel is now 16.

The above cases were the subject of remote oral meetings pursuant to the power conferred by *The Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) Regulations*. In March 2021, the States of Guernsey's Policy & Resources Committee confirmed the Commission's ability to hold remote meetings by making this power permanent by means of The Financial Services Commission (Bailiwick of Guernsey) Law, 1987 (Amendment) Ordinance, 2021.

On 7 April 2021, the Royal Court handed down its judgment in *Chick v Guernsey Financial Services Commission* dismissing an application brought by Mr Chick to appeal decisions of the Commission out of time on the basis that there were no exceptional circumstances and because Mr Chick had not done all he could to bring the appeal timeously.

I am pleased that, having been unable to meet in 2020 due to the pandemic, the annual training day for the Senior Decision Makers was able to take place remotely on 23 April 2021.

On 1 November 2021, the new Enforcement Law, the Financial Services Business (Enforcement Powers) (Bailiwick of Guernsey) Law 2020, came into effect. It was accompanied by a new Explanatory Note regarding The Investigation and Decision-Making Process Relating to the Use of Enforcement Powers which replaced, with immediate effect, the Guidance Note – Decision-Making Process Relating to the Use of Enforcement Powers dated November 2019. The new Law and Explanatory Note should simplify the task of the Senior Decision Makers and of those who are involved in proceedings before them.

Finally, on behalf of myself and all of the Panel, I wish to thank the former Commission Secretary, Dale Holmes, who retired from that role in May 2021, for his long and distinguished service in supporting the Senior Decision Makers and acting as the point of liaison in cases before them. I am also pleased to congratulate the new Commission Secretary, Alice Joy, who has already ensured a seamless transition.

Leigh-Ann Mulcahy QC
President of the Panel of Senior Decision Makers

RISK AND FINANCIAL STABILITY

Risk

During 2021, the Risk Unit continued to operate a strong 'second line of defence' for the Commission by providing challenge, assurance and further developing our approach to risk-based supervision, alongside being instrumental in successfully delivering several internal projects as part of the Commission's three-year business plan.

One of these projects was to replace the technology behind our Online Submissions and Personal Questionnaire portals as the previous software had become unsupported, while another involved implementing a new document management system across the entire Commission. Both projects have already brought a range of benefits to end-users, such as a single sign-on process and improved user experience for the former and a more structured approach for the saving and retrieval of information for the latter. We also refreshed and updated portions of our internal PRISM guidance to support the change in our risk-based supervisory approach, which was brought in at the start of the year.

From January 2021, we implemented our re-engineered PRISM approach following a review of our experiences gained during the first Covid lockdown in 2020. As part of this, we introduced less frequent face-to-face meetings with larger firms that have what could be considered to be more straightforward business models. Full Risk Assessments are now less frequent and more narrowly focused on governance, business model and strategy, and operational risks. Alongside these changes, we commenced a programme of Internal Sector Reviews (ISRs) that examine key prudential matters such as credit, insurance, and capital risks at similar firms at the same time, which we believed would give better quality insights compared to assessing these risks at individual firms and in isolation. The initial indications from the small number of ISRs carried out in 2021 is that this has been the case. These changes have been supported by adaptations to our PRISM system to ensure that we can continue to capture, record and analyse our findings for further risk analysis and insights in the future. As we move into 2022, the Risk Unit will continue to monitor and assess the efficacy of this adapted supervisory approach.

Despite the impact of Covid and the reintroduction of short-term, lockdown restrictions early in the year, our planned supervisory activities were minimally affected. The Commission carried out 31 Full Risk Assessment visits and over 115 further engagements with firms. Following these, the Risk Unit continued to act as an internal voice of challenge to our supervisors by providing an independent view on the Risk Mitigation Programme (RMP) actions that were being proposed. 238 actions were assigned to firms during the year and this input from Risk helped to ensure that they were consistent, proportionate and risk focused. These actions are created where the weakness identified at a firm for a specific issue result in the probability of the risk crystallising being above the Commission's risk appetite.

During each year, the Risk Unit carries out reviews and assessments of our supervisory approach to ensure it is being applied correctly and consistently across each of our sectors or risk types. In 2021, these reviews looked at several areas including our approach to low impact, reactive supervision and how many documents we request from firms when carrying out Full Risk Assessments. It was reassuring to note that the latter review confirmed that we have not increased our document requests to firms prior to a visit over the course of the last three years. Supervisors continue to ask for documentation during an onsite visit where evidence is needed to support the controls the firm states are in place.

The Commission continued to set RMP actions to mitigate a wide range of risk types with, as in previous years, a significant number targeted at governance, operational, financial crime and conduct risks (Figure 1 overleaf) and while some of these may be discrete in nature, often an interdependency exists between them. Firm directors should continue to ensure they are satisfied that their own systems and controls in each of these risk areas, as well as their effect on each other, are sufficiently robust to mitigate the level of risk that they face, especially if the firm operates a high-risk or innovative business model.

Additionally, we continued to receive and review a range of additional information on the firms we supervise. This information is received from a number of sources such as online returns, firm notifications, social media and the whistleblowing hotline. From these different sources, we dealt with approximately 6,660 alerts and raised over 1,750 triages to record the action the Commission has or, where appropriate, has not taken. These alerts and triages cover a wide range of events from breaches of legislation or rules to reporting errors or the need to follow up an RMP action that had been set.

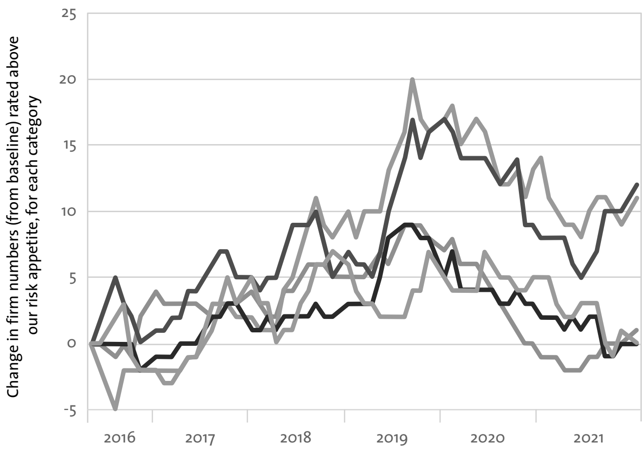
We continue to consider the best ways to process and analyse the information that we receive by using supervisory technology (SupTech) to augment our supervisory approach. Building on the

Risk and Financial Stability *(continued)*

foundations laid last year with the two internally developed prototypes, we have written and put into production another, which utilises Natural Language Processing to aid supervisors with the review of documentation submitted to us by firms. Our intention during 2022, is to continue to enhance, consolidate and add to these applications, thereby developing an 'intelligent' early warning system that integrates with our existing PRISM system.

The Risk Unit will remain as a mainly internal facing function of the Commission, although we will continue to contribute to global fora, such as chairing the Regulatory Reporting Special Unit of the Global Financial Innovation Network, participating in industry events and delivering educational initiatives as appropriate. We will also continue to be responsible for ensuring that PRISM remains effective in mitigating the risks of the firms regulated by the Commission through the operation of Risk Governance Panels, regular management information and specific assurance reviews of our supervisory approach.

Figure 1. **Change in Open RMP Actions**



Financial Stability

Writing this section of the annual report over the last three years has never been easy. Each time there has been a variety of options as to what the impact of the pandemic, in its different stages, might be on financial markets, our industry sectors, our island, and our lives in general over the next year. The one certainty was uncertainty, and so far this year that has not changed. With regards to the biggest questions for the year going forwards, such as the ongoing recovery from the pandemic and the impact of inflation, there is very little that we, in the Bailiwick of Guernsey, can do to affect the key drivers of these.

We are, however, due to our successful navigation of Covid and the fact that a small proportion of our power is derived from gas, less affected than many other countries from some of the more painful aspects of these issues. We remain exposed to several near-term pressures on supply and inflation, many of which have only been exaggerated by the war in Ukraine.

Given the manifest uncertainties in the near-term global macro-economic outlook as acknowledged recently by the ECB President, I thought I might take this opportunity to talk about the sustainability of the financial services sector within the Bailiwick of Guernsey.

The term sustainability is more normally associated with the green agenda, and remains relevant in that arena, but does have a wider connotation. The 1989 Brundtland Commission defined sustainability as 'meeting the needs of the present without compromising the ability of the future generations to meet their own needs'. This definition can therefore be applied across a number of areas within the Bailiwick of Guernsey.

To meet the needs of the present we need to continue to grow the economy of the Bailiwick, and from our perspective this means the growth of financial services. At the start of January 2022, only

1% of the work force in the Bailiwick was wholly unemployed[1] and 2.2% registered as unemployed. The finance sector provided 18.3% of the total roles, the largest employment sector on the island, and after construction and wholesale industries, finance has the largest number of employers. People employed within the Finance sector also had the highest four quarter average median earnings at the end of September 2021, 35.9% higher than the overall median. With the cost of living in Guernsey increasing significantly in 2021, at 4.4% RPI in December 2021[2], and only looking to increase in 2022, it suggests a key method for the island to be sustainable is to employ more people in financial services. This means we need to collectively have the policies in place to facilitate growth in the financial services sector, a growth we are already seeing through an increasing number of applications in 2021 to carry out regulated activities within the Bailiwick of Guernsey.

As noted within the Director General's report we have had an ongoing concern about the impact of inflation over the next few years. This has crystalised to a greater degree than we had hoped with the war in Ukraine. Inflationary pressures, previously considered to be short term by some, have now been embedded within the global markets, especially with the impact on oil, gas and wheat prices brought about by the war. Inflation is having an impact across the Bailiwick's economy and society, including of course the financial services sector. Classically inflationary pressures have been addressed through supply side reforms to reduce costs and alleviate barriers to the supply of goods and services, as well as the use of higher interest rates to contain demand and reward saving. As interest rates rise while inflation increases, regulated firms will have to work out how to best recruit, retain and sustain their skilled on-island staff on whom their success and stability depends, in what has become an exceptionally tight employment market for skilled staff. Different business models within financial services will have different reactions to demand, one of which is to increase prices, and consumer facing firms will need to take care to ensure that any price increases do not unfairly disadvantage the vulnerable. That said, we believe the high value financial services offered by many Bailiwick firms are likely to offer them sufficient pricing power to adapt to rising cost pressures so we do not believe, other things being equal, that higher inflation and interest rates should disrupt the core business models of many of our firms. Again, this demonstrates the sustainability of our financial services sector. That said, we do not run a zero failure regime and a few firms with marginal business models may struggle with this changed environment. Where that is the case we will endeavour to ensure that orderly wind-downs or takeovers are effected to minimise consumer harms and knock-on effects on other actors.

For the financial services industry to be sustainable itself we need to look towards products and partners that are sustainable too. We did this with our launch two years ago of the Guernsey Green Fund demonstrating a commitment to meeting the needs of the current, growing individuals' wealth, without damaging the future. As noted elsewhere within the report Green funds now contain £4.4bn of assets demonstrates an area of Guernsey's fund industry which is focused on sustainable growth.

We also need to be sustainable with respect to the type of business and individuals that we interact with in ensuring that we prevent money laundering and terrorist financing within the Bailiwick. If we do not get this right now, we might grow our financial services business currently but it will not be without compromising the ability of financial services in the future to meet ongoing international requirements. This would significantly impact our ability to have a strong and robust financial services sector that is able to support the growth and development of the Bailiwick of Guernsey. This is why we are focusing so closely on preparing for the visit of MONEYVAL in 2024 as this is key to ensuring the sustainability of financial services in the Bailiwick of Guernsey for the next decade.

Katherine Jane
Director

[1] Guernsey Annual Electronic Census Report 2021
[2] Retail Price Index Inflation (RPI and RPIX) - States of Guernsey (gov.gg)

THE COMMISSION'S THREE-YEAR BUSINESS PLAN (2018-2021)

At the start of 2018, following the removal of the States Pension related liabilities from our balance sheet, the resultant improvement in our financial position gave the Commission the capacity to consider longer term development plans. These led to the Commission establishing its first three-year business plan, to run from 2018 to 2021.

2018-2021

During 2021, each of the projects detailed within the Commission's first Three-Year Business Plan ('3YBP'), which commenced in the first half of 2018, was completed. This represented a significant investment by the Commission, not only in terms of money invested (£3.6mn over the three years) but also in terms of our staff's skill, expertise, knowledge and time. These projects did not radically change how we, as a Commission operated, but enabled us as an organisation to focus on developing, improving and updating key parts of our systems over a longer-term horizon than simply one year.

Online Portals

One of the main drivers for the initial creation of the 3YBP was the identification of several updates needed to our online portals and forms, however, this was very quickly superseded by the realisation that a significant section of this system was going to sit on unsupported software. A major success of this 3YBP was a complete re-write of the front end of these portals and all the forms which sat on them, thereby future-proofing the portals in terms of coding and documentation and at the same time improving the functionality for licensees including developing a single user sign on to both systems. The benefits of this new system infrastructure were demonstrated when we were required to update our website and all forms to reflect the changes on commencement of our new suite of supervisory laws on 1st November 2021.

Policy

We used some of the Three-Year Business Plan funding to employ additional temporary staff who supported the development of a wide range of policy areas whilst at the same time creating space to enable our current policy teams to focus on required updates. This has included, but is not limited to, the completion of the revision and update of all our main supervisory laws, including the creation of a specific enforcement law, a wide-ranging update and modernisation of our Fiduciary rules, revised Pension rules, an update to our insurance rules to address gaps identified following an international review and an update to our Private Investment Fund rules including expanding their usefulness for Family Offices. In addition to all these major policy areas, over the course of the last three years, there have been multiple smaller changes that have been supported by resources provided by the 3YBP.

Back-office functions

We implemented a brand new and simplified General Ledger system which allows for more flexibility within our back-office systems and also links into an expenses system that can deal with both invoices and staff expenses. This is supported by a new HR system which enables the Commission to use electronic approvals for a range of policies and procedures and has a self-service functionality that enables our staff to do anything from booking holiday to recording training. Linked to this is a new, more tailored payroll system. Individually, each of these systems has improved our back-office systems and controls and together they have considerably strengthened our operational system and controls whilst at the same time introducing significant efficiencies.

Data Management

The main asset of the Commission is the information, both current and historic, that it holds on licensees which allows it to carry out effective authorisation, supervision and enforcement. Whilst material judgements on firms taken as part our risk- based supervisory approach are recorded on PRISM, there is large amount of additional information that is held in a variety of different systems. The first step in addressing this problem was the creation of a document management system which enables documents and records to be stored in a consistent, logical and transparent manner. Whilst a fair amount of work remains to be completed to reduce the number of systems in which information is stored, the completion of this document management system was a successful start to this journey and links into many other future plans and developments within our IT systems.

Augmented Intelligence

If one of the main assets of the Commission is the information it holds, then the main challenge we face is using this information as efficiently and effectively as possible. A key part of the first 3YBP therefore was exploring, with specialist innovation and technology partners, the use of new technology and innovative methods to develop new tools to support our supervisory processes. This has led to the development of three individual tools known as Compass, Comet and Corpus, which help a supervisor to undertake an initial analysis of significant amounts of data in order to identify key or high-risk areas.

2021-2024

Whilst the first 3YBP demanded much from the Commission, both in terms of financial support and staff resources, it successfully enabled us to address several long-term issues and to move the Commission's systems forwards. On this basis, it was agreed at the start of 2021 to consider what projects might form part of a new 3YBP, enabling us to again re-focus our time and resources on longer term developments. Our previous 3YBP had focused heavily on systems allowing the priorities for the next 3YBP to switch to preparation for future events or system upgrades that we know will be required. Below is a short summary of each of the projects due to be delivered within our 2021-2024 3YBP.

MONEYVAL

This project was started under the first 3YBP by allocating time and resources to commence the planning and preparations for the next MONEYVAL inspection which should take place over 2023/4. It has been over six years since the last visit and global expectations on AML/CFT have moved on significantly since then. We have already made significant progress in updating our Financial Crime Risk Return to gather more specific data and by reviewing our internal policies and documentation to identify any gaps or weaknesses. These steps will continue into the next 3YBP but there will also be an increase in our outreach to industry, a re-examination of the exemptions that are provided within our legislation and a significant increase in the number of onsite visits.

Credit and Finance

As touched on elsewhere within this annual report, we are getting closer to the launch of the first ever consumer credit legislation in the Bailiwick, which will provide important protection to ordinary Guernsey residents as well as a framework for regulating Virtual Asset Service Providers ('VASPs'). To implement this successfully will require a cross-Commission effort in developing policy, rules and guidance following the implementation of the law and also in updating our internal systems, authorisations and Online Portals to reflect the new regulated entities that will fall under this law.

Data

Our first 3YBP developed a data management system and updated our online portals which provided a solid base for the 2021-24 3YBP. In common with any organisation, our IT systems and data storage has developed over time with additional systems being added when required. The Commission is now reflecting on its overall data strategy, including storage, retrieval, and accuracy, to consider the steps that need to be taken to ensure that the Commission receives accurate information in a timely manner which then can be accessed, retrieved, and analysed effectively to ensure we are identifying key risks and taking relevant regulatory actions in a timely manner.

Linked to this approach will be further development of our data management system. As noted above, within the first 3YBP a centralised data management system was created and embedded across the Commission, but this was simply the first step. Within the SharePoint system we are now using, there is a variety of additional tools that can be used to help simplify the data storage process for all our staff. A follow-on project will look at implementing the most useful of these tools.

Augmented Intelligence

Following the success of the project during the first 3YBP, we are now investing in bringing into production the tools we created in the first phase of the project with the aim of rolling them out to all our supervisors, whilst also considering offering them to other regulators. We have also identified a range of other potential tools or systems that would help support our supervisory and authorisation processes. Within this project we will be considering the prioritisation of such tools with a focus on what can support both our supervisors and industry too. As part of this project, we are continuing to work with our IT provider, d-Fine, which assists us in continuing to develop our PRISM supervisory system alongside these innovative tools.

Website

The Commission's website is a key tool which we use to relay messages and information to industry. It can also be the first experience many people have when considering whether to start a financial services business in Guernsey. As part of the 2021-24 3YBP we are going to take the opportunity to garner feedback on our website from a range of stakeholders and then to consider what may need to be updated or amended to improve the experience of people using it.

The Commission's Three-Year Business Plan (2021-2024) *(continued)*

Equivalence Strategy

We continue to support the States of Guernsey with its ongoing work on developing trade agreements, alongside the UK, with several key jurisdictions. This work is key to ensuring the ongoing growth of financial services within the Bailiwick of Guernsey, not only opening new opportunities for businesses to explore, but also protecting our current marketplaces. To ensure we have a clear focus, and resources available, for this work we have created a project to analyse data and information to identify the key jurisdictions which are of importance to the Bailiwick and are also involved in ongoing work to support the assessment of proposed free trade agreements.

Funding

As noted, our last 3YBP was a significant investment of our balance sheet and reserves into developing, improving and future proofing (as much as possible) our internal systems and controls. Whilst we expect the capital expenditure for our next 3YBP to be less, there will be additional operational expenses to provide resources for our MONEYVAL and Credit and Finance projects. Again, we will look to utilise our reserves for these projects, meaning potential deficits for the next three years, with an aim to have a balanced budget (from a cash perspective) at the end of the three-year period.

Katherine Jane
Director

Supervision

In 2021, the Commission, after consultation, having noted industry support, amended the Finance Sector Code of Corporate Governance to include the following – 'The Board should consider the impact of climate change on the firm's business strategy and risk profile and, where appropriate in the judgement of the board, make timely climate change related disclosures.' The Commission's intention was to encourage those firms which were not already advanced in their sustainability thinking, to prepare for a future in which green considerations and green disclosures are likely to become an important part of international standards for financial services firms. For example, starting in 2022, the Financial Conduct Authority (FCA) requires relevant disclosures from asset managers, life insurers and FCA-regulated pension providers at both entity and product level. Licensees are therefore encouraged to consider disclosure sooner rather than later.

In 2021, the Commission undertook a thematic review of the Guernsey Green Fund Regime to gain an enhanced understanding of its existing Guernsey Green Fund population and assess how the latter complies with the 2018 Guernsey Green Fund Rules. In particular, the Commission wished to be able to provide assurance to investors and those thinking of making green investments, that funds enjoying use of the Guernsey Green Fund accreditation were investing in projects which comply with the criteria for green investments set out by the multilateral development banks (that is, to counter greenwashing). Whilst noting that there were some administrative areas where there was room for improvement, the Commission found that Guernsey Green Funds appeared to be being invested properly in appropriate assets.

In its everyday supervision, the Commission continues to ask firms about their approach to climate change. For example, how is climate change factored into business strategy, how the firm's operations might be affected by climate change and how a firm's approach to climate change might be viewed by clients. The Commission also continues to engage internationally through its membership of both the Network for Greening the Financial System (NGFS) and more generally through its membership of various regulatory standard setting bodies where climate change has now become a standing agenda item. As part of COP26 and in co-ordination with the NGFS, the Commission made three pledges for 2021-23. These are around continued engagement with the life insurance industry in connection with its unique green life insurance capital regime, continued development of the Commission's Scottish woodland supported by Scottish Forestry and in relation to sustainable funds. In 2021, the Commission continued to explore how its everyday operations could be made more sustainable.

Policy

The Commission is currently considering how to build on the Guernsey Green Fund Rules in the environmental sphere.

Risk Outlook

Risks relevant to 2022: -

- *greenwashing* - green-minded clients are likely to be unhappy if they find a firm they use not 'walking the talk'. Such greenwashing is also likely to damage the credibility of the jurisdiction;
- *ignoring climate change* - even if a board thinks that climate change is not relevant to the firm's business, it needs to formally consider and document this; and
- *ignoring global regulatory developments* – such as around climate change related disclosures.

Jeremy Quick
Director

Human Resources

2021 was a challenging year for the Commission in terms of recruitment in what we considered to be a tight employment market. We experienced a number of staff deciding to leave the Bailiwick with lockdown and travel restrictions being a key factor in their decision-making. This had an impact on the Commission's staff turnover. Nevertheless, despite ongoing Covid challenges, we have increased the headcount in our Authorisations and Innovation Division, General Counsel Division and Financial Crime Division. Our Graduate Development Programme continues to be successful in developing our own talent and seven Graduate Analysts were inducted into the programme in 2021. The Commission employed 118 permanent staff as at 31 December 2021.

Our approach to training and development is kept under constant review to ensure that all training is delivered in an intelligent, coordinated and cost-effective manner across all areas. 28 staff were studying for one or more professional qualifications in 2021 including an MSc in Applied Economics, the Chartered Financial Analyst Levels I-III, the Investment Management Certificate, the International Compliance Association (ICA) International Diploma in Anti-Money Laundering and the STEP Certificate in International Trust Management. 85 internal training sessions were organised including sessions on governance risk assessment and interview skills, business writing, analysing business models, Microsoft Excel and cyber security. We also launched a new online training module on anti-money laundering in conjunction with the ICA for our new joiners to complete within their first month of employment and as part of our wider training strategy on anti-money laundering and terrorist financing.

Staff attended over 140 external training events in 2021 including courses on trade-based money laundering, management development, building an effective business risk assessment, overviews of the types of trust in Guernsey, data protection training and mental health first aider training.

We continue to support staff wellbeing. We have a new Chaplain who continues to provide a listening ear and support to our staff alongside our mental health first aiders. We enhanced our private medical insurance offering in 2021 by adding Mind Health which is a service that connects staff with various types of online therapies and professional counsellors.

Finally, over 100 staff participated in a staff survey to share their views on our working practices, policies and employment package. The results of the survey were positive and contained a number of suggestions for further improvement which will be considered in early 2022.

Annabel Hitchon
Deputy Director

Financial Information

Several unanticipated factors contributed to a small increase in the Commission's reserves of 3.7% over 2021, compared with the deficits the Commission has run in the previous two years.

One of these factors was, as mentioned elsewhere, a strong increase in the volume of new licence applications, which was a material contributor to the additional £489k in fee income received in 2021 above 2020 income levels. As noted in our feedback paper on the fees consultation undertaken in the second half of the year, this was a key reason for the reduction in the originally higher planned fee increase.

At the start of 2021, we anticipated that there would be more freedom of movement during the year and hence levels of off-island travel, but overall expenditure remained muted in all areas, when compared to that incurred in 2019. Ongoing measures to suppress the spread of Covid variants have continued to reduce travel and consultancy expenditure, which decreased by 13% from 2020. Meanwhile, as projects from the previous three-year business plan were completed, IT expenditure began to reduce in the latter part of 2021. Staff turnover and persistent vacancies over 2021 meant that, whilst salary costs declined by £265k, increased pressure was placed on a reduced number of staff as vacancies remained unfilled.

Finally, legal costs were £568k lower than 2020, while the value of discretionary financial penalties collected was much lower (£39k in 2021 compared with £707k in 2020). This reflects the unpredictable and cyclical nature of enforcement action. As cases referred to enforcement progress, including over the course of 2022, we anticipate that these penalties may increase.

The combined effect of the factors described above, unexpectedly put the Commission in a better financial position at the end of 2021 than the original forecast at the start of the year. We think that a number of these trends will reverse over the course of 2022, as Covid restrictions reduce and the Commission continues to recruit the skilled staff necessary to fulfil its functions. Nevertheless, as delivery of several projects progresses during 2022, including the implementation of the Credit and Finance legislation, as well as rolling out preparations for the anticipated inspection, in 2023/4, of the Bailiwick's financial services by MONEYVAL, we expect to incur significant costs within our operational and supervisory areas.

The Commission continues to prudently manage its funds, to ensure it can withstand unanticipated stress scenarios and is able to continue to deliver on its statutory objectives. Our level of cash, deposits and marketable securities has remained consistent with prior years, standing at £11.6 million.

By comparison, the Commission's operational assets have decreased in value by 23%. This reflects a number of pieces of software reaching the end of their lives, as well as a re-assessment of how frequently systems development and replacement is necessary, based on recent experience from IT projects we have completed. As we continue to develop our own regulatory technology internally while re-evaluating the level of IT infrastructure which it is necessary to retain within the Commission's premises, we anticipate a greater weighting in our balance sheet toward intangible assets in future years.

Whilst we have delivered our first three-year business plan, which implemented several new systems within the finance team, we continue to work on improving the efficiency and effectiveness of our back-office processes. Not only are we looking to utilise system-based controls more fully, but we also continue to consider further ways by which we can streamline our invoicing system.

Katherine Jane
Director

Information Technology

Over the course of 2021, the impact of Covid has continued to challenge the IT team on service delivery and infrastructure provision. This has continued to a lesser extent in the early part of 2022. However, IT staff have continued to manage this seamlessly and the previous improvements to our IT infrastructure, as well as our virtual network, have allowed all staff to continue to work effectively despite the disruption of moving between home and office.

Over the coming years we will need to replace parts of our IT hardware and systems and, as part of this, we are considering the lessons learned from Covid in how we can improve our future resilience. This continues alongside the need to improve the effectiveness of our systems as well as taking account of the development of cloud-based systems which are now the default provision by all global IT organisations. This will involve the Commission utilising a broader range of services from cloud computing providers, where this balances our specific data and cyber security needs, as a regulatory body, while being appropriate to our size and scale.

Projects

The team completed two major IT projects over the course of 2021, which had formed part of the 2018-21 three-year business plan. The move of the Online Submissions Portal and several remaining forms to an upgraded structure was completed in the first half of 2021, finishing a period of intense work by the IT team to improve the effectiveness of those systems.

Implementation of a new document migration system was also completed and went live during the first half of 2021. Given the significant amount of data the Commission holds, this project was not without its challenges and represented a massive effort on the part of IT staff and third-party contractors. This has positioned the Commission well to continue seeking improvements in how it collects, analyses, and stores data which will form part of a key project over the next 2021-24 three-year business plan, mentioned elsewhere in this report.

The IT team also supported other projects during the year, such as the update to our website, online portals and forms following the commencement of our new suite of regulatory laws, the final step of our Revision of Laws project. They also facilitated developments in our Financial Crime Risk Return, which was needed to gather further data from firms in advance of the anticipated 2023/4 MONEYVAL inspection, as well as the issuance of a new form for Overseas Collective Investment Schemes.

We already know some of the projects that will be absorbing IT resource in 2022, such as the development to our systems to facilitate the forthcoming Credit and Finance legislation, alongside further work on our central customer relationship management system. It remains a continuing challenge to ensure our systems are fit for purpose, properly maintained, and updated to meet IT good governance practices and security needs.

Cyber Security

With the impact of Covid increasing the amount of remote working performed by Commission staff, the importance of strong cyber security controls further increased. For the Commission, this meant continuing to improve our cyber resilience, ensuring it was fit-for-purpose in a world where such risks are heightened.

In addition to ongoing staff training and phishing testing, several scenario-based workshops were completed with senior management and operations staff. This included assessing our ability to completely restore systems from backups in the event of a severe ransomware attack, and a cyber attack on a third party that impacted our ability to use finance and HR systems. These have been useful in helping strengthen our technical controls and business continuity plans.

While none of these improvements guarantee complete certainty, we are confident that they have helped to further prepare the Commission to make the right decisions when, not if, a major cyber event occurs. Evidence from past examples externally has demonstrated how a firm reacts to such an event is key in determining their ability to swiftly and effectively recover from it.

During the past 12 months, we have also seen evidence of scammers trying to mimic or impersonate the Commission with our licensees. This has led to us, and the Guernsey Police, issuing notices on our website or in the media highlighting these attempts. Thankfully, it appears that no significant damage has been done via these attempts although it is certain that they will not stop. We have therefore been considering carefully the resilience of our systems.

Operations report *(continued)*

The Commission's Online Portals - the Personal Questionnaire Portal, and Online Submissions Portal - are currently accessed via single sign on by authorised individuals at regulated entities. Whilst this sign on system offers regulated entities the ability to turn on two factor authentication ('2FA') for their staff, only a small portion of firms have done so. 2FA is an additional control to prevent unauthorised access of an account. Considering recent events, the Commission, following communication with industry, intends to turn on this requirement for all regulated entities. This aims to reduce the risk to our licensees that an unauthorised individual may submit inaccurate or incorrect information to the Commission for malicious purposes.

As part of ensuring that we maintain a strong control environment and good cyber hygiene, the Commission is currently "Cyber Essentials" certified. Over the first half of 2022 the Commission will complete a re-assessment against Cyber Essentials, ensuring we continue to meet the standards we expect of industry, where appropriate.

Katherine Jane
Director

INDEPENDENT AUDITOR'S REPORT

Opinion

We have audited the financial statements of the Guernsey Financial Services Commission (the "Commission") for the year ended 31 December 2021 which comprise the Statement of Comprehensive Income, the Statement of Changes in Equity, the Statement of Financial Position, the Statement of Cash Flows and notes to the financial statements, including a summary of significant accounting policies. The financial reporting framework that has been applied in their preparation is applicable law and United Kingdom Accounting Standards including Financial Reporting Standard 102: 'The Financial Reporting Standard applicable in the UK and Republic of Ireland' ("FRS 102").

In our opinion, the financial statements:

- give a true and fair view of the state of the Commission's affairs as at 31 December 2021 and of its surplus for the year then ended;
- are in accordance with United Kingdom Accounting Standards including (FRS 102) and
- comply with the requirements of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987.

Basis for opinion

We conducted our audit in accordance with International Standards on Auditing (ISAs) and applicable law. Our responsibilities under those standards are further described in the 'Auditor's responsibilities for the audit of the financial statements' section of our report. We are independent of the Commission in accordance with the ethical requirements that are relevant to our audit of the financial statements in Guernsey, including the International Code of Ethics for Professional Accountants (including International Independence Standards) issued by the International Ethics Standards Board for Accountants, and we have fulfilled our other ethical responsibilities in accordance with these requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Other information

The Commissioners are responsible for the other information. The other information comprises the information included in the annual report, other than the financial statements and our auditor's report thereon. Our opinion on the financial statements does not cover the other information and, except to the extent otherwise explicitly stated in our report, we do not express any form of assurance conclusion thereon.

In connection with our audit of the financial statements, our responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or our knowledge obtained in the audit or otherwise appears to be materially misstated. If we identify such material inconsistencies or apparent material misstatements, we are required to determine whether there is a material misstatement in the financial statements or a material misstatement of the other information. If, based on the work we have performed, we conclude that there is a material misstatement of this other information, we are required to report that fact.

We have nothing to report in this regard.

Responsibilities of the Commissioners for the financial statements

The Commissioners are responsible for the preparation of the financial statements which give a true and fair view, and for such internal control as the Commissioners determine is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Commissioners are responsible for assessing the Commission's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the Commissioners either intend to liquidate the Commission or to cease operations, or have no realistic alternative but to do so.

Independent Auditor's Report *(continued)*

Auditor's responsibilities for the audit of the financial statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with ISAs, we exercise professional judgment and maintain professional scepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.

- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal control.

- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.

- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Commission's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Commission to cease to continue as a going concern.

- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

We communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

We also provide those charged with governance with a statement that we have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on our independence, and where applicable, related safeguards.

Use of our report

This report is made solely to the Commissioners. Our audit work has been undertaken so that we might state to the Commissioners those matters we are required to state to them in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Commission and the Commissioners as a body, for our audit work, for this report, or for the opinions we have formed.

Grant Thornton Limited
Chartered Accountants
St Peter Port, Guernsey

25 May 2022

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FINANCIAL STATEMENTS

STATEMENT OF COMPREHENSIVE INCOME

For the year ended 31 December 2021

Note		2021	2020
		£	£
	Regulatory income		
2.1.	Fee and financial penalty income	14,251,409	14,069,879
		14,251,409	14,069,879
	Operating expenses		
2.2.	Administrative and general expenses	(4,033,630)	(4,401,817)
3.1.	Staff expenses	(9,849,629)	(9,977,342)
		(13,883,259)	(14,379,159)
	Operating surplus/(deficit)	368,150	(309,280)
2.3.	Net finance income	128,620	184,663
	Total comprehensive surplus/(deficit) for the year	496,770	(124,617)

STATEMENT OF CHANGES IN EQUITY

	Retained surplus
	£
At 1 January 2020	13,512,780
Total comprehensive deficit for the year	(124,617)
At 31 December 2020	13,388,163
Total comprehensive surplus for the year	496,770
At 31 December 2021	13,884,933

All operations are considered continuing. There was no other comprehensive income in the current or prior year.
The accompanying notes are an integral part of the Financial Statements.

STATEMENT OF FINANCIAL POSITION

As at 31 December 2021

Note		2021	2020
		£	£
	Non-current assets		
4.1.	Intangible assets	1,753,000	2,416,429
4.2.	Property, plant and equipment	1,067,075	1,248,198
5.1.	Forestry assets	139,421	110,440
5.2.	Non-current financial assets	3,331,554	3,134,842
6.1.	Non-current receivables	28,264	102,209
		6,319,314	7,012,118
	Current assets		
5.2.	Current financial assets	3,700,000	7,065,000
6.1.	Current receivables	1,075,176	610,444
6.2.	Cash and cash equivalents	4,603,669	1,216,137
		9,378,845	8,891,581
	Total assets	15,698,159	15,903,699
	Current liabilities		
6.3.	Current payables	(1,268,669)	(2,173,004)
		(1,268,669)	(2,173,004)
	Non-current liabilities		
6.4.	Provisions	(544,557)	(342,532)
		(544,557)	(342,532)
	Net assets	13,884,933	13,388,163
	Equity		
	Retained surplus	13,884,933	13,388,163
	Total equity	13,884,933	13,388,163

The accompanying notes are an integral part of the Financial Statements.
The audited financial statements on pages 41 to 57 were approved by the Commissioners and signed on their behalf on 25 May 2022 by:

J. P. Winser
Chairman

Baroness Couttie
Vice-Chairman

W. E. D. Mason
Director General

STATEMENT OF CASH FLOWS

For the year ended 31 December 2021

Note		2021	2020
		£	£
	Cash flows from operating activities		
	Total comprehensive surplus/(deficit) for the year	496,770	(124,617)
	Adjusted for non-cash items:		
4.1.	Amortisation	751,376	690,441
4.2.	Depreciation	285,463	291,345
4.1.	Loss on disposal or write-down of intangible assets	164,773	78,080
4.2.	(Gain)/Loss on disposal or write-down of property, plant and equipment	(5,140)	108
2.3.	Net finance income	(128,620)	(184,663)
	Movements in working capital:		
6.1.	(Increase)/decrease in receivables	(390,787)	61,166
6.3.	Decrease in payables	(904,335)	(380,815)
6.4.	Increase in provisions	202,025	28,476
	Net cash from operating activities	471,525	459,521
	Cash flows from investing activities		
4.2.	Purchase of property, plant and equipment	(104,700)	(143,073)
	Proceeds received on disposal of equipment	5,500	-
4.2.	Software development expenditure	(252,719)	(1,271,048)
5.1.	Purchase of forestry assets	(28,981)	(110,440)
5.2.	Net Sale/(purchase) of financial assets	3,289,010	(1,433,116)
2.3.	Net Finance Income Received	7,897	46,121
	Net cash from investing activities	2,916,007	(2,911,556)
	Increase/(decrease) in cash in the year	3,387,532	(2,452,035)
	Cash and cash equivalents at the start of the year	1,216,137	3,668,172
	Cash and cash equivalents at the end of the year	4,603,669	1,216,137

There were no cash flows from financing activities in the current or prior year.
The accompanying notes are an integral part of the Financial Statements.

NOTES TO THE FINANCIAL STATEMENTS

For the year ended 31 December 2021

1. Accounting information

This section explains the basis of preparation for the Commission's Financial Statements and accounting policies that relate to these as a whole.

1.1. General information

The Guernsey Financial Services Commission ("the Commission") is a body corporate established under the Financial Services Commission (Bailiwick of Guernsey) Law, 1987 ("the Commission Law"). The Commission's operations are carried out from its offices at Glategny Court, St Peter Port, Guernsey.

The Commission is a Public Benefit Entity whose primary objective is to regulate the financial services industry in the Bailiwick of Guernsey.

1.2. Statement of compliance

The Financial Statements give a true and fair view, are prepared in accordance with FRS 102 *The Financial Reporting Standard applicable in the UK and Republic of Ireland* ("FRS 102") and comply with the Commission Law.

1.3. Basis of preparation

The Financial Statements have been prepared under the historical cost convention with the exception of the revaluation of investment property and financial assets, which are held at fair value through surplus or deficit. The Commission's principal accounting policies, which have been applied consistently by the Commission year-on-year, are described in the relevant notes below.

1.4. Functional currency

The Commission's functional currency is Pounds Sterling ("£") and is the currency in which the Commission presents the Financial Statements and measures its financial performance, position, and cash flows.

1.5. Going concern

The Financial Statements are prepared on a going concern basis. In concluding that the Commission remains a going concern, with adequate financial resources to continue its operations 12 months following approval of the Financial Statements, the Commissioners have considered the following:

- The Commission's net assets include cash and marketable securities of £11,635,223 (2020: £5,615,979) that are readily realisable within three months in normal market conditions and liabilities of £1,813,226 (2020: £2,515,536).
- The Commission's projected income, expenditure, and cash flows for 2022 and its three-year planning cycle. The Commission's net assets and projected income are, at the time of approval of the Financial Statements, deemed adequate to enable the Commission to continue to fulfil its statutory objectives.
- Scenario analyses have been undertaken on the impact of increases in Commission expenditure and reduction in the Commission's projected income due to a reduction in the volume of new applications or existing licensees. Whilst this would be likely to cause/increase any projected operating deficit, the Commission's strong financial position means we believe it would continue to meet its ongoing financial commitments.

1.6. Use of judgements and estimates

The preparation of the Financial Statements requires the use of judgements, estimates, and assumptions that affect the application of our accounting policies and the reported amounts of assets, liabilities, income, and expenses. Although these estimates are based on the Commission's best available knowledge, uncertainty in assumptions and estimates mean actual results may ultimately differ from those estimates.

Information about the judgements, assumptions, and estimates that are most significant to the Financial Statements are set out in the following notes:

A. Critical accounting judgements

(i) Recognition of Intangible Assets (see note 4.1)
(ii) Classification of Leases (see note 4.3)

B. Key sources of estimation uncertainty

(i) Useful Lives of Intangible Assets (see note 4.1)
(ii) Fair Value of Investment Property (see note 5.1)
(iii) Fair Value of Financial Assets (see note 5.2)
(iv) Bad Debt Allowance for Fee and Penalty Receivables (see note 6.1)
(v) Provision for Lease Obligations (see note 6.4).

2. Performance for the year

This section describes the Commission's regulatory income, other income, operating expenses, and other expense items relevant to the Commission's results for the year-ended 31 December 2021.

2.1. Regulatory income

The Commission's primary sources of income are through the raising of fees for firms carrying out regulated activities under the Commission Law and levying of penalties, which enables the Commission to recover the costs of carrying out its statutory functions.

	2021	2020
	£	£
Fee income		
Annual fee income	12,582,803	12,526,627
Application fee income	1,160,790	756,196
	13,743,593	13,282,823
Penalty income		
Administrative penalty income	125,500	76,750
Discretionary penalty income	466,800	755,750
	592,300	832,500
(Increase)/decrease in bad debt allowance	(60,663)	27,611
Bad debts written-off in the year, net of recoveries	(23,821)	(73,055)
	14,251,409	14,069,879

The following table provides information about the nature of the major sources of regulatory income and their associated income recognition policies:

Type of income	Nature	Recognition
Annual fees	The periodic fee payable by licensees and registrants, as prescribed by regulation and set out on the Commission's website on a sectoral basis.	Income is recognised where an entity is licensed or registered on 1 January of each year. Where an entity is licensed or registered partway through a financial year, a pro-rata annual fee is charged. Any fee income received prior to 1 January is deferred and treated as fees in advance (see note 6.3).
Application fees	A person wishing to be licensed or registered with the Commission to carry out a regulated activity is required to pay a non-refundable fee when submitting the application, as prescribed by regulation. Licensees must also pay a fee when making certain notifications to the Commission, as specified in regulation.	Application fees are recognised on receipt of the relevant fee with the application made to the Commission.
Administrative financial penalty	Where a licensee files an annual return, financial statement, or other relevant document, or pays its annual fee, after the stipulated deadline date, a penalty is levied as prescribed by regulation.	Income is recognised when the penalty can be reliably measured, once the return, financial statement, or relevant document has been submitted to the Commission in an appropriate manner, or the relevant fee has been paid.
Discretionary financial penalty	The Commission may impose financial penalties using its statutory powers under section 39 of the Financial Services Business (Enforcement Powers) (Bailiwick of Guernsey) Law, 2020, and previously section 11D (1) of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987. Such decisions are subject to the Commission's published enforcement process and confer a right of appeal to the Royal Court.	Income from financial penalties are recognised when a formal decision has been made by the Commission, following its published enforcement process, a public statement has been placed on its website, and the parties have settled or any statutory appeal process has either been concluded or an appeal has not been lodged with the Royal Court within the statutory timeframe.

The greatest uncertainty from income recognition arises from recoverability of penalties or regulatory fees. This is when the circumstances of a particular debtor give rise to concerns over whether they will be able to settle a penalty or regulatory fee in full. In such circumstances, the Commission will raise a bad debt allowance against amounts receivable from that debtor, which is assessed on a case-by-case basis. This is described further in note 6.1.

2.2. Administrative and general expenses

The following are included within the Commission's operating surplus:

	2021	2020
	£	£
Rent rates and premises costs	1,078,029	1,005,603
Amortisation (see note 4.1)	751,376	690,441
Depreciation (see note 4.2)	285,463	291,345
(Gain)/Loss on disposal or write-down of property, plant and equipment (see note 4.2)	(5,140)	108
Loss on disposal or write-down of intangible assets (see note 4.1)	164,773	78,080
Changes in measurement of provisions (see note 6.4)	202,025	28,476
Legal expenses	398,536	1,125,220
Professional expenses	191,733	172,611
Auditor's remuneration	9,200	9,500
Other expenses	957,635	1,000,433
	4,033,630	4,401,817

Administrative and general expenses are accounted for on an accruals basis in the year to which they relate. A breakdown of expenses by functional area for the current and prior year can be found in the Statistical Data section on page 68.

Gains or losses on disposal or write-down of property, plant and equipment and intangible assets are determined as the difference between the proceeds received or costs incurred on disposal of the assets, if any, and its net carrying value on the date of disposal or write-down.

NOTES TO THE FINANCIAL STATEMENTS *(continued)*

For the year ended 31 December 2021

2.3. Net finance income

	2021	2020
	£	£
Dividend and interest income	60,998	97,530
Bank and Management charges	(52,312)	(50,564)
Net gains/(losses) on financial assets	119,934	137,696
	128,620	184,662

Interest income on fixed income instruments, fixed-term deposits, notice, and call accounts is recognised on an accruals basis using the effective interest rate method. Dividend income is recognised on an accruals basis in the event the Commission owns a security after the ex-dividend date has passed.

Realised gains or losses on the disposal of financial assets held at fair value is determined as the difference between the sale proceeds and the carrying value of the asset at the commencement of the reporting period plus additions in the period. Unrealised changes in fair value on revaluation are taken to surplus or deficit. Refer to note 5.2 for information on the determination of fair value for financial assets.

2.4. Taxation

The Commission is exempt from income tax under the Income Tax (Guernsey) Law, 1975, as amended.

3. People and related parties

This section describes the range of employment and post-employment benefits provided to the Commission's staff and our relationships with other key people.

3.1. Staff costs

The total remuneration for the Commission was £9,849,629 (2020: £9,977,342) comprising:

	2021	2020
	£	£
Wages and salaries	7,638,244	7,703,907
Social insurance, permanent health, and medical insurance costs	871,195	870,715
Pension costs	828,412	806,837
Recruitment and training costs	282,959	326,966
Commissioners' fees	228,819	268,917
	9,849,629	9,977,342

3.2. Post-employment benefits

A. Defined contribution scheme

The Commission recognised £94,039 (2020: £118,454) of expenses relating to the Commission's defined contribution scheme. Employer contributions are calculated at 12% of pensionable salary. Up until 30 June 2014 mandatory employee contributions were at a rate of 5%, after which employee contributions became entirely voluntary. No contributions were outstanding at 31 December 2021 (2020: £nil).

B. Multi-member RATs scheme ("GFSC group pension scheme")

The Commission recognised £533,843 (2020: £500,968) of net expenses for employer contributions to the GFSC Group Pension Scheme. Employer contributions are calculated at 12% of pensionable salary. Employee contributions are entirely voluntary. No contributions were outstanding at 31 December 2021 (2020: £nil).

3.4. Related parties

A. Controlling party

The Commission does not have a controlling party. No party can direct the financial and operating policies of the Commission with a view to gaining economic benefits from their direction.

B. Key management personnel

Remuneration paid to key management personnel in 2021, including pension and social insurance, totalled £2,008,788 (2020: £2,017,081). Key management personnel include the Commissioners and the executive directors.

C. Related party transactions

The following amounts were recognised in the year in relation to related parties:

- Commissioner Dorey is a Non-Executive Director of Schroders (C.I.) Limited. The firm provides investment management and deposit administration services for the Commission, for which it received fees during 2021 of £45,815 (2020: £44,364).
- Commissioner Howitt's long-term partner is a senior counsel of Walkers (Guernsey) LLP. The firm provided legal advice to the Commission during 2021, for which it received fees during 2021 of £20,825 (2020: £10,103).
- Members of key management personnel and certain Commission officers were granted an indemnity by the Commission in respect of liability incurred because of their office. The indemnities were in force during the year-ended 31 December 2021 and remain in force. The indemnity was not called on during the current or prior year.

Commissioners Dorey and Howitt are not present at discussions with Commissioners relating to any business involving the firms for which they are a related party.

4. Operating assets and liabilities

This section describes the long-term assets used by the Commission in fulfilling its objectives and related obligations.

4.1. Intangible assets

These are non-physical assets consisting of purchased and internally developed computer software. This software is designed to help the Commission carry out its various statutory functions more efficiently and effectively. These are stated at cost less accumulated amortisation and impairments.

	Computer software
	£
Cost	
At 1 January 2021	6,103,629
Additions	252,719
Disposals and write-offs	(1,275,263)
At 31 December 2021	5,081,085
Accumulated amortisation	
At 1 January 2021	(3,687,200)
Expense for the year	(751,376)
Disposals and write-offs	1,110,491
At 31 December 2021	(3,328,085)
Net carrying value	
At 31 December 2020	2,416,429
At 31 December 2021	1,753,000

The cost of internally developed software, including all directly attributable costs necessary to create, produce, and prepare the software for use is capitalised when it meets the criteria specified by FRS 102.

Once available for use, intangible assets are amortised on a straight-line basis over the shorter of their expected useful life or 7 years. These are assessed based on the technical life of a given piece of software, the period over which ongoing supplier support is available, and the period over which it is anticipated Commission staff will benefit from use of the software all of which are uncertain estimates based on our technical knowledge and judgement.

Intangible assets are assessed for impairment annually, or sooner if events or circumstances indicate potential impairment of the asset's carrying value. The carrying value of an asset is immediately written-down where this is greater than that asset's estimated recoverable amount.

4.2. Property, plant and equipment

These are physical assets that are held by the Commission for administrative or operational purposes. These are stated at cost less accumulated depreciation and impairments.

	Leasehold improvements	Fixtures, fittings and equipment	Computer hardware	Total
	£	£	£	£
Cost				
At 1 January 2021	1,446,221	543,980	896,967	2,887,168
Additions	-	46,117	58,583	104,700
Disposals and write-offs	(520)	(1,870)	(80,973)	(83,363)
At 31 December 2021	1,445,701	588,227	874,577	2,908,505
Accumulated depreciation				
At 1 January 2021	(649,600)	(387,363)	(602,007)	(1,638,970)
Expense for the year	(76,178)	(23,245)	(186,040)	(285,463)
Disposals and write-offs	160	1,870	80,973	83,003
At 31 December 2021	(725,618)	(408,738)	(707,074)	(1,841,430)
Net carrying value				
At 31 December 2020	796,621	156,617	294,960	1,248,198
At 31 December 2021	720,083	179,489	167,503	1,067,075

Cost includes the original purchase price of the asset and the costs attributable to bringing the asset to its working condition for its intended use.

Property, plant and equipment is depreciated on a straight-line basis over the expected useful life of the asset, based on the following periods:

- Leasehold Improvements: over the lease term or, if shorter, the improvement's estimated useful life;
- Office Equipment: 4 years;
- Fixtures and Fittings: 10 years or, if shorter, the asset's estimated useful life; and
- Computer Hardware: 3 years.

The residual values and useful lives of property, plant and equipment are reviewed and, if appropriate, adjusted at the end of each reporting period. The carrying value of an asset is immediately written-down where this is greater than that asset's estimated recoverable amount, following an impairment assessment. These are carried out annually, or sooner if events or circumstances indicate potential impairment of the asset's carrying value.

4.3. Operating leases

The Commission is party to several operating leases for premises. This includes its offices at Glategny Court, which are subject to a non-cancellable lease ending in 2034, and two flats each leased for a 2-year term that are sub-let to staff who have relocated to Guernsey.

All of these leases have been classified as operating leases, as the Commission does not consider the risks and rewards incidental to ownership to have transferred to the lessee. Rental payments made on these leases are recognised as expenses as they are incurred.

A summary of the minimum aggregate value of lease payments has been presented below:

	£
Less than 1 Year	723,497
Between 2 and 5 Years	2,755,539
More than 5 Years	5,267,939
	8,746,975

The Commission has obligations under the terms of the lease for its office premises to undertake redecoration and reinstatement works. Provisions have been recognised for those obligations, as detailed in note 6.4.

5. Financial and forestry investments

This section sets out the investments, both financial and physical, that the Commission has made.

5.1. Forestry assets

	Investment property	Biological assets	Total
	£	£	£
At 1 January 2020	-	-	-
Additions	110,440	-	110,440
At 31 December 2020	110,440	-	110,440
Additions	-	28,981	28,981
At 31 December 2021	110,440	28,981	139,421

Investment property represents land acquired by the Commission in June 2020, held to offset the carbon emissions arising from its activities through afforestation. Investment property is measured at fair value, with any changes in fair value being recognised in surplus or deficit.

Biological assets represent preparation work for afforestation of the acquired land undertaken during 2021. These are initially recognised at purchase price and recognised at cost less impairment, where applicable.

Valuations of investment property are performed on a three-year cycle by an independent, expert valuer. We plan to conduct the first such valuation in 2023. In the intervening period, the Commission assesses whether the carrying value of the land approximates its fair value by reference to market evidence of transaction prices for similar properties, consideration of the economic environment relevant for forestry land, and an assessment of the land itself for evidence of physical impairment.

5.2. Financial assets

The Commission invests a portion of its surplus funds in liquidity funds, fixed income securities, and a portfolio of investment funds managed by an external discretionary investment manager. This is to protect the capital value of the Commission's net assets, through a cautious investment strategy that is sustainable where possible, while mitigating against the erosion of the value of cash balances due to inflation.

	Current		Non-current		
	Fixed term deposits	Liquidity funds	Fixed interest securities	Investment funds	Total
	£	£	£	£	£
At 1 January 2020	5,600,001	-	514,549	2,513,635	8,628,185
Net purchases/(disposals)	199,999	1,265,000	(134,199)	6,340	1,337,140
Net change in fair value	-	-	6,035	228,482	234,517
At 31 December 2020	5,800,000	1,265,000	386,385	2,748,457	10,199,842
Net purchases/(disposals)	(5,800,000)	2,435,000	(386,385)	598,392	(3,152,993)
Net change in fair value	-	-	-	(15,295)	(15,295)
At 31 December 2021	-	3,700,000	-	3,331,554	7,031,554

All financial assets comprise basic financial instruments. These are recognised when the Commission becomes party to that instrument's contractual provisions at the relevant transaction price.

Fixed term deposits with a maturity of greater than three months are subsequently measured at amortised cost using the effective interest method. The carrying amount of these assets is considered to approximate their fair value.

All other investments are subsequently measured at each reporting date at fair value, with changes in fair value being recognised in surplus or deficit. The Commission invests either in listed investments or funds that trade daily, where there are quoted market prices available in active markets and where transactions occur at arm's length between appropriately knowledgeable counterparties. The prices used to revalue those instruments are quoted bid prices, which are multiplied by the number of securities of each instrument held by the Commission at the reporting date.

6. Net working capital

This section shows the assets and liabilities that the Commission generates through its day-to-day regulatory activities, including receivables, payables, cash, and provisions.

6.1. Receivables

	2021	2020
	£	£
Amounts falling due within one year		
Fee and penalty receivables	594,698	149,383
Less: Bad debt allowance for fee and penalty receivables	(114,849)	(54,186)
Other receivables	4,653	16,889
Prepayments	590,674	498,358
	1,075,176	610,444
Amounts falling due after more than one year		
Prepayments	28,264	102,209
	28,264	102,209
Total receivables	1,103,440	712,653

Receivables are measured at amortised cost using the effective interest method. The carrying amount of these assets approximates to their fair value.

The Commission assesses all fees and penalties receivable on an ongoing basis for recoverability. A significant proportion represents discretionary financial penalties issued by the Commission following its published enforcement process. These are assessed and, where appropriate, a bad debt allowance is raised in line with internal policies and the likely ability of the individuals or entities involved to settle their debts in part or full.

The debts for which a provision has been raised are reviewed regularly to ensure that all avenues are explored to obtain recovery.

6.2. Cash and cash equivalents

This comprises cash and short-term, fixed-rate bank deposits with a maturity date of three months or less that are readily convertible to known amounts of cash and which are subject to an insignificant risk of changes in value.

	2021	2020
	£	£
Fixed-term deposits and notice accounts	3,204,284	200,518
Cash at bank and in hand	998,145	563,527
Cash held with discretionary manager	401,240	452,092
Total cash and cash equivalents	4,603,669	1,216,137

The Commission had no borrowings as at the year-end (2020: £nil).

6.3. Payables

	2021	2020
	£	£
Amounts falling due within one year		
Payables and accruals	755,514	947,378
Fees received in advance	513,155	1,225,626
Total payables	1,268,669	2,173,004

Payables are measured at amortised cost using the effective interest method. The carrying amount of these liabilities are considered to approximate their fair value.

6.4. Provisions

The provision relates to the expected costs of reinstatement and redecoration obligations as part of the lease for the Commission's premises. The total value of lease obligation provisions was £544,557 (2020: £342,532), comprising:

	Reinstatement provision	Redecoration provision	Total
	£	£	£
At 1 January 2020	293,616	20,440	314,056
Amounts provided/(released) during the year	35,041	(6,565)	28,476
At 31 December 2020	328,657	13,875	342,532
Amounts provided during the year	204,663	(2,638)	202,025
At 31 December 2021	533,320	11,237	544,557

All amounts fall due after more than one year.

The reinstatement provision relates to the expected costs to return the Glategny Court office premises to their original condition on termination of the premises lease. The redecoration provision relates to the expected costs to redecorate the internal surfaces of the Glategny Court office premises every five years, from 2015, for the non-cancellable period of the lease.

These provisions are measured based on the Commission's best estimate of the amount to settle each obligation. The provisions at the reporting date have been determined based on the following guideline values:

- Reinstatement Provision: £700,000; and
- Redecoration Provision: £24,000.

In both cases, the provisions are adjusted annually based on movements in the rate of inflation and are accrued linearly over the non-cancellable lease period.

7. Other notes

This section includes other financial information that is required by accounting standards.

7.1. Contingent liabilities

The Commission is subject to a variety of claims that arise in the ordinary course of fulfilling its statutory functions. These may include litigation or appeals following investigations undertaken by the Commission, as part of the enforcement process published on its website. Provisions are only recognised because of past events where claims give rise to a present legal or constructive obligation, it is probable settlement will be required, and the value of that settlement can be reliably measured. No provisions were recognised for any claims as at 31 December 2021 (2020: £nil).

As described in note 3.4, the Commission provides an indemnity to key management personnel and Commission officers who carry out actions in line with their statutory duties. This indemnity was not called on during the year (2020: £nil).

7.2. Subsequent events

The Financial Statements were approved for issuance by the Commissioners on 29 April 2022. Subsequent events have been evaluated until 28 April 2022.

The following non-adjusting subsequent events have been noted:

- Since 31 December 2021, movements in the quoted prices of the Commission's financial assets resulted in their fair value decreasing by £246,187 as at 28 April 2022.

There have been no adjusting subsequent events to report.

7.3. Change in presentation of the financial statements

In preparing the Commission's Financial Statements this year changes have been made to the presentation of the primary statements and accompanying notes. These are reflected in all periods presented. There were no changes to the Commission's accounting policies, the current and previous years' total comprehensive surplus or deficit, or net assets because of these changes.

These presentation changes are intended to provide better information to Financial Statement users and so that the Financial Statements are more comparable with those of other entities applying FRS 102 and regulatory bodies.

COMMISSIONERS

Drs. Cees Schrauwers
Chairman of the Commission (until 30 December 2021)

Drs. Schrauwers is a Dutch economist with over forty years' experience in financial services. He has served as Managing Director of Aviva International, CGU Insurance and Commercial Union, covering both the general insurance and life sectors. He was instrumental in the implementation of the mergers with General Accident and Norwich Union which resulted in the creation of Aviva plc. Following the mergers he was appointed Managing Director of Aviva International, gaining valuable experience in dealing with regulators across the globe, including North America. Prior to this, he was a Partner with Coopers & Lybrand in charge of its insurance consultancy practice. He has served as Chairman of Drive Assist Holdings Limited, Senior Independent Director of Brit Insurance Holdings Plc. and Brit Syndicates Limited, Non-Executive Director of Canopius Holdings UK Limited and Canopius Managing Agents Limited, Director of Munich Re (UK) Plc and as Senior Independent Director of Record Plc for nine years. He also served as an Independent Director at the Scottish Widows Group and Chairman of EC3 Legal LLP. Drs. Schrauwers was appointed as a Commissioner in 2008 and Chairman in 2012. He was educated at the Vrije Universiteit Amsterdam and the Nautical College Den Helder. He lives with his wife near London.

Bob Moore
Vice-Chairman of the Commission (until 31 January 2021)

Bob Moore was appointed as a Commissioner in February 2012 and Vice-Chairman with effect from 2 February 2017; he stepped down as a Commissioner on 31 January 2021 on completion of his third term in office. He has spent over forty years in the financial services industry in Guernsey and internationally. From 1979 to 1997, he held positions in international banking and international private banking with the Lloyds Bank/Lloyds TSB group in South America, the United States, the United Kingdom and in Luxembourg. These included responsibility for Lloyds' international private banking operations in New York and in Luxembourg. From 1997 to 2011, he was jurisdictional Managing Director with responsibility for the Butterfield Group's operations in Guernsey, including banking, investment management, custody and fiduciary services. In June 2011, he was appointed to the position of Executive Vice-President and Head of Group Trust for the Butterfield Group and retired from that position in March 2020. He has also been a director of a number of other banks and investment funds.

Julian Winser
Chairman of the Commission (from 31 December 2021)

Julian was appointed as a Commissioner in May 2021 and became Chairman in December 2021. Mr Winser served in the military as an officer in the Royal Green Jackets and Army Air Corps. On leaving he spent ten years at Baring Asset Management in operations and investment management and subsequently 23 years at Schroders working in the investment market on behalf of private clients and institutions. Between 2005 and 2020, he was CEO of Schroders' offshore private client business based in Guernsey responsible for the Channel Islands, Gibraltar, Malta and Bermuda, while also being part of the team managing Cazenove Capital worldwide. He has been a Trustee of Youth Clubs UK, President of the Guernsey Chamber of Commerce and Chairman of the Guernsey Youth Commission. Currently, he is Chairman of the Guernsey Friends of DofE, and Chairman of Garenne, a privately owned construction group including RG Falla, AFM, GeoMarine, Granite Le Pelley and Rabeys, with businesses across Guernsey, Jersey and the UK. He is a CEDR trained mediator, and advisor to the Oxford Process, an international conflict resolution organisation.

Simon Howitt
Vice-Chairman (from February 2021)

Advocate Howitt was appointed as a Commissioner in June 2013. He has over thirty years' experience as an advocate and is a consultant at Babbé having previously been a Partner. He served as President of the Guernsey Chamber of Commerce between 2001 and 2003. Advocate Howitt has served on a number of States Committees including as a non-States member of the Legislation Select Committee and its successor, the Legislation Review Panel, since 2004, the share transfer duty working party and the Inheritance Law Review Committee. He was the Deputy Bâtonnier of the Guernsey Bar from 2012 to 2020 and is a current member of the Board of Examiners for the Guernsey Bar Examinations and a member of the Editorial Board of the Jersey and Guernsey Law Review.

Commissioners *(continued)*

Wendy Dorey
Commissioner

Wendy Dorey was appointed as a Commissioner in November 2015. She has spent over twenty years in the financial services industry in the UK, France and Guernsey. She is currently Director of Dorey Financial Modelling, an investment consulting firm, and a Non-Executive Director of Schroders (CI) Limited. She has multi-sector experience across investment, banking and pensions, occupying senior posts in business strategy, governance and marketing and distribution for a number of leading institutions in the City of London. During that period, she was responsible for external risk reporting to the Financial Services Authority and embedding new "Treating Customers Fairly" processes. She was also responsible for the launch and on-going promotion of the Guernsey-domiciled M&G Property Fund to the UK Market. A strong advocate of continuous learning, she assisted the Investment Management Association in developing a new investment management syllabus for Independent Financial Advisors and, in 2018, gained the Institute of Directors Certificate and Diploma in Company Direction. She was admitted as a Chartered Director and Fellow of the IoD in 2019, before becoming Chair of the IoD Guernsey Branch in 2021.

John Aspden
Commissioner

John Aspden is a senior finance professional with significant experience in investment and banking supervision in both the public and private sectors. He was Chief Executive of the Financial Supervision Commission in the Isle of Man from 1998 to 2015, where he was responsible for the regulation and supervision of all banking, securities and funds, trusts and companies, and money transmission activities. Prior to taking up his role at the Financial Supervision Commission in the Isle of Man, Mr Aspden held roles in the private sector including Managing Director of Matheson InvestNet Ltd, at the time Hong Kong's largest independent distributor of, and adviser on, collective investments for retail investors. Mr Aspden has also held the role of Deputy General Manager of the International Bank of Asia Ltd and has worked in banking supervision at the Bank of England and at the Office of the Commissioner of Banking in Hong Kong, now HKMA. Mr Aspden is also Chairman of the Group of International Finance Centre Supervisors and co-chairs the Basel Consultative Group, and was made an MBE for his work in financial services supervision.

Philip Middleton
Commissioner

Philip Middleton is a senior financial services strategist with significant recent experience in advising governments, central banks and financial institutions. Since 2014, he has carried out consulting and advisory work in central banking and financial services as a Director of Rifle House Capital Ltd. He is also Deputy Chairman of the Board of the Official Monetary and Financial Institutions Forum, a leading Central Banking think tank, where he also chairs the Digital Monetary Institute. He has had significant experience in the private sector, holding various roles within KPMG LLP, including Partner and European Head of Financial Services Strategy, and within Ernst & Young LLP, including Partner and Head of Central Banking, EMEIA.

Baroness Couttie
Commissioner

Philippa Couttie has held leadership roles over the past 30 years in the marketing, financial and political spheres. She has founded, built up and sold two businesses, been the Chief Executive of a subsidiary of a publicly quoted company, been a Director of Citigroup and Leader of Westminster City Council. She now sits in the House of Lords where she is a member of the EU Select Committee and the EU Services Select Committee. She is also a Non-Executive Director of Mitie where she chairs their Social Value board sub-committee and is a member of its Audit and Nomination Committees. Baroness Couttie brings skills and experience across a wide range of areas including strategy development and turn around, along with finance and the financial sector as well as understanding UK government thinking and policy development.

SENIOR OFFICERS OF THE COMMISSION

COMMISSIONERS

William Mason
Director General

Caroline Bradley & Alison Gavey
Co-Directors
Authorisations and Innovation Division

Gillian Browning
Director
Investment, Fiduciary and Pension Division

Fiona Crocker
Director
Financial Crime Division

Simon Gaudion
Director
Enforcement Division

Alice Joy
Commission Secretary

Katherine Jane
Director
Risk and Operations

Charisma Lyall
General Counsel

Jeremy Quick
Director
Banking and Insurance Division

STATISTICAL DATA

Investment

Figure 1. **Net asset values of Guernsey schemes under management at the year-end £bn**

Year	Closed-ended (£bn)	Open-ended (£bn)	Total (£bn)
2012	131	50	181
2013	136	42	178
2014	136	40	176
2015	140	39	179
2016	159	42	201
2017	166	43	209
2018	176	45	221
2019	181	46	227
2020	197	49	246
2021	249	55	304

Closed-ended
Open-ended
Total

Figure 2. **Total number of Guernsey investment funds at the year-end**

Year	Closed-ended	Open-ended	Total Guernsey
2012	618	222	840
2013	626	198	824
2014	636	176	812
2015	641	167	808
2016	650	157	807
2017	658	148	806
2018	665	148	813
2019	675	140	815
2020	693	136	829
2021	717	126	843

Closed-ended
Open-ended
Total Guernsey

Figure 3. **Total number of investment licensees at the year-end**

Year	
2012	644
2013	635
2014	622
2015	639
2016	644
2017	640
2018	663
2019	677
2020	686
2021	696

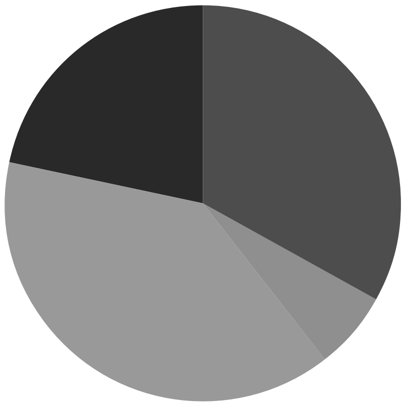
Under the Protection of Investors (Bailiwick of Guernsey) Law, 1987, and subsequently the Protection of Investors (Bailiwick of Guernsey) Law, 2020 investment funds (Figure 2.) are either Registered or Authorised; whereas the firms (Figure 3.) undertaking Controlled Investment Business are Licensed under the same law. There is no meaningful correlation to be drawn between the number of investment funds and the number of licensees in existence.

Figure 4. **Movements within period**

Type	Total as at 31 December 2020	Approved in year	Lost in year	Total as at 31 December 2021
Total of open-ended schemes	136	8	18	126
of which Authorised	117	4	15	106
of which Registered	19	4	3	20
of which Qualifying Investor Funds (QIFs)	21	0	4	17
Total of closed-ended schemes	693	73	49	717
of which Authorised	313	11	35	289
of which Registered	380	62	14	428
of which QIFs	152	11	16	147
Total of licensees	686	69	59	696

Fiduciary and Pension

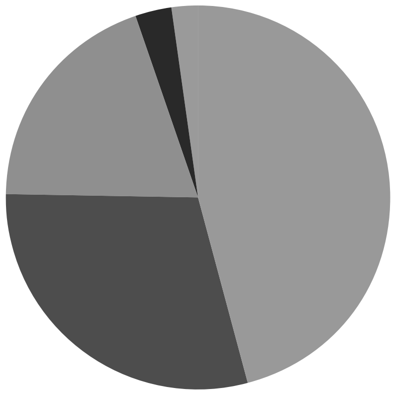
Figure 5. **Ownership of Fiduciary lead licensees as at 30 June 2021***



	2021	2020
International financial group	46	47
Lawyers and accountants	9	9
Privately owned – local	54	57
Privately owned – overseas	30	29

*Based on 139 entities holding a full fiduciary licence as at 30 June 2021.

Figure 6. **Staffing levels of licensees based on total number of staff carrying out regulated fiduciary activities as at 30 June 2021***



	2021	2020
Up to 10 staff	64	69
11 – 25 staff	41	38
26 – 50 staff	27	28
51 – 75 staff	4	6
More than 75 staff	3	1

*Based on the submission of an annual return by 139 licensees as at 30 June 2021.

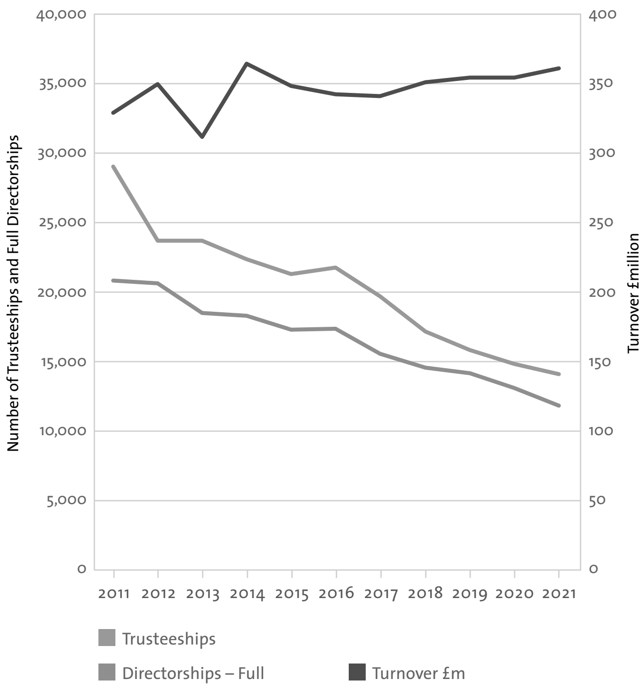
Figure 7. **Number of licensees in each turnover band based on fiduciary turnover for accounting periods falling in the year ended 30 June 2021***

Turnover band	
Up to £249,999	27
	25
	20
	21
	20
£250,000 to £1,000,000	43
	43
	49
	39
	43
£1,000,000 to £2,000,000	25
	21
	22
	27
	19
£2,000,000 to £4,000,000	25
	27
	26
	24
	25
£4,000,000 or over	27
	28
	31
	30
	32

*Based on licensees that have submitted audited financial statements. Financial statements may not have fallen due for recently licensed companies.

2017
2018
2019
2020
2021

Figure 8. **Number of Director and Trustee appointments for full fiduciaries at the year-end; aggregate turnover of full fiduciary licensees***



*Please note turnover records aggregate annual chargeable fees. It does not represent assets under trusteeship.

Insurance

Figure 9. **International insurers as at 31 December 2021**

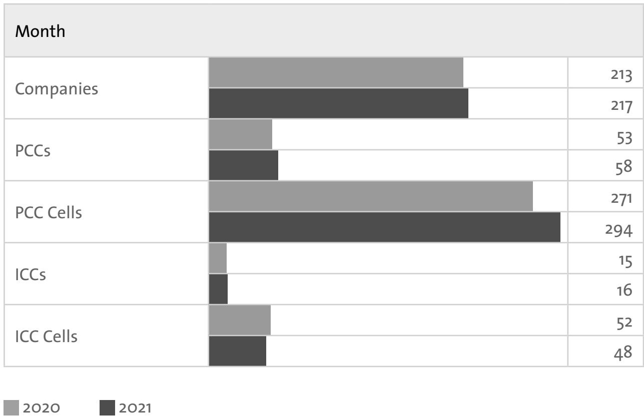


Figure 10. **International insurers – gross assets**

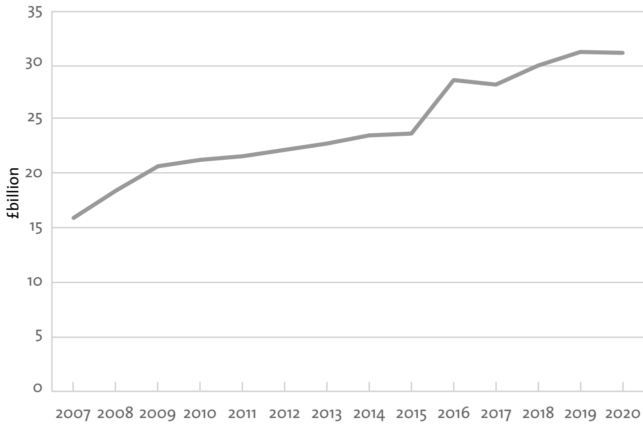


Figure 11. **International insurers – net assets**

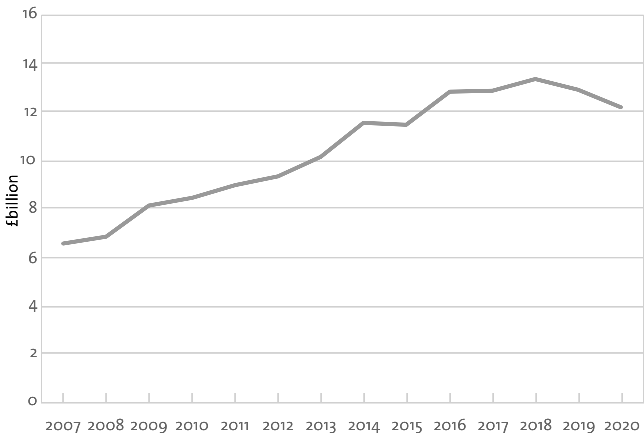
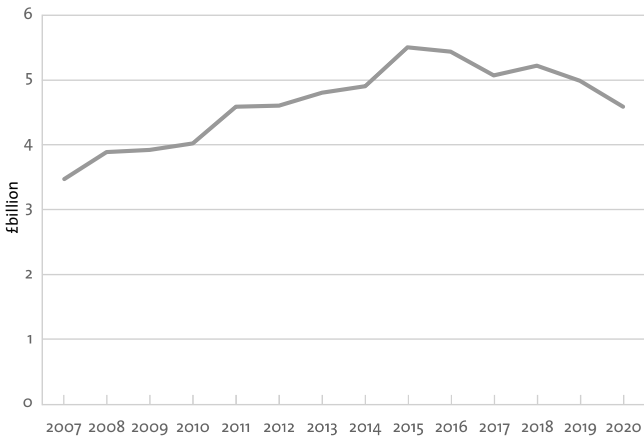


Figure 12. **International insurers – gross premium**



Banking

Figure 13. **Guernsey bank assets**

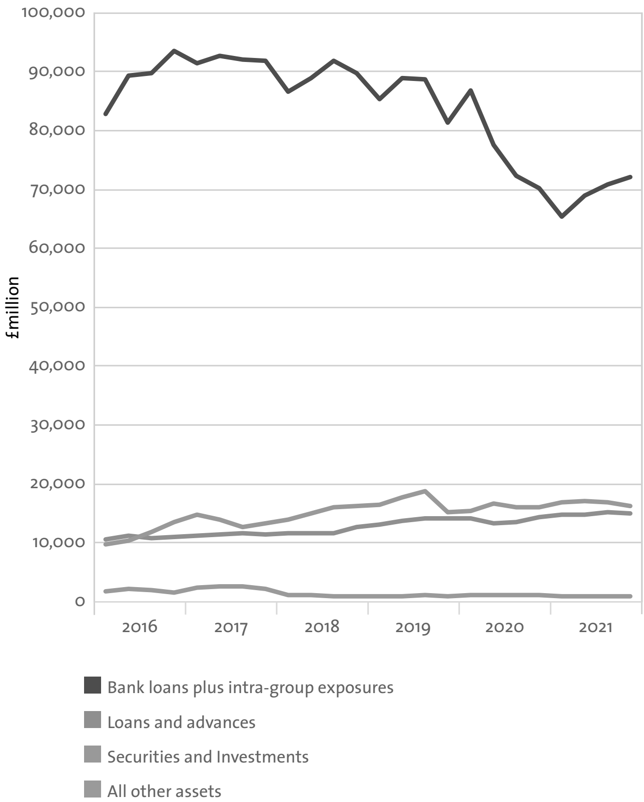
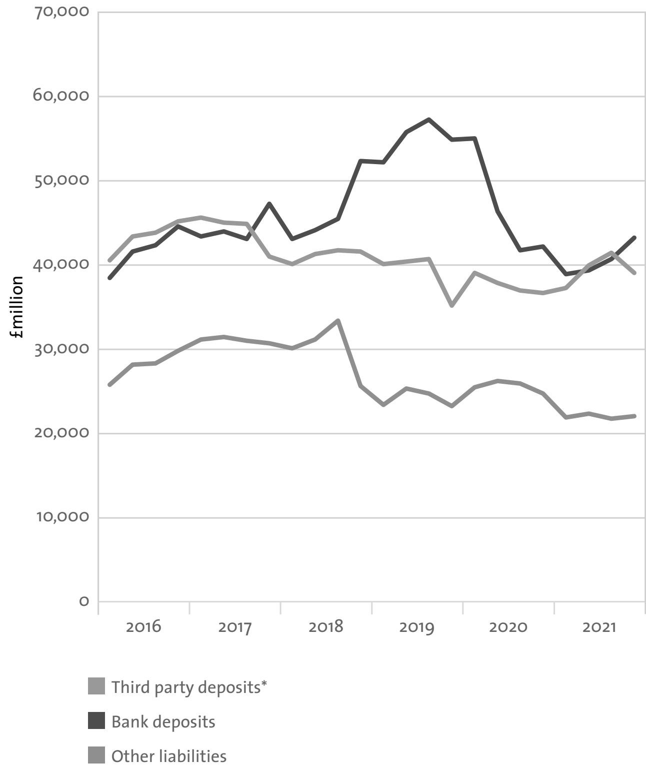


Figure 14. **Guernsey bank liabilities**



*Includes non-bank financial institutions

Figure 15. **Total applications by volume and type – 2019 to 2021 comparison**

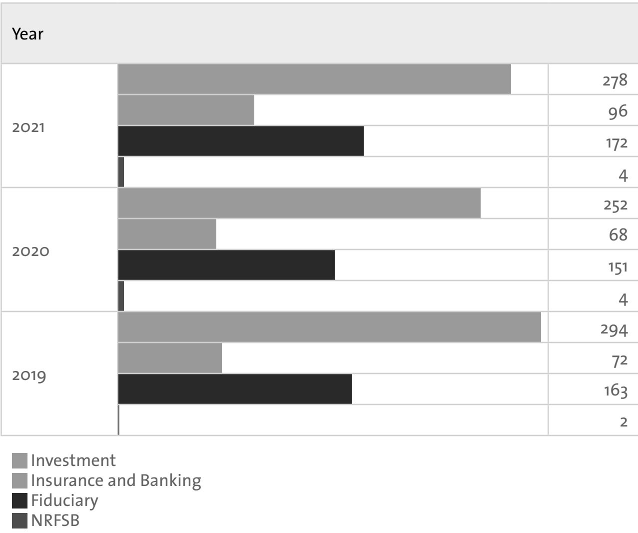
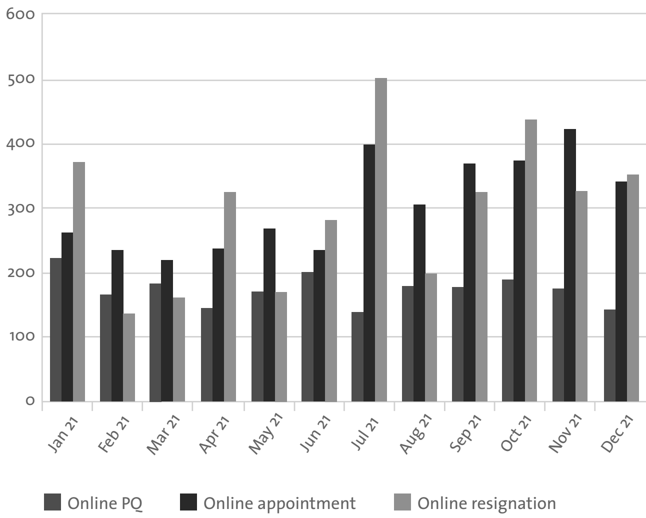


Figure 16. **Online Personal Questionnaire portal submissions 1 January to 31 December 2021**



Finance and Operations

Table 1. **Expenditure by functional area**

	2021	2020
	£'000	£'000
Authorisations	1,006	898
Enforcement	1,880	2,323
Risk	770	701
Supervisory and Policy Divisions	5,410	5,072
Internal Operational Support Functions	1,376	1,145
Overheads (incl. Premises, IT Expenses, Depreciation, and Three-Year Business Plan)	3,441	4,258
Total	**13,883**	**14,396**

Table 2. **Legal and professional fees**

	2021	2020
	£'000	£'000
Legal fees – enforcement	169	273
Legal fees – judicial and SDM process	188	841
Legal fees – advisory	42	11
Professional fees	182	134
Internal audit	10	38
Total	**591**	**1,298**

Table 3. **Number of staff by total remuneration**

Remuneration	2021	2020
£0 - £39,999	43	43
£40,000 - £79,999	51	53
£80,000 - £119,999	20	15
£120,000 - £159,999	3	5
£160,000 - £179,999	3	3
£180,000 and above	1	1
Total number of staff	**121**	**120**
Comprising:		
Permanent staff	118	114
Fixed-term staff	3	6
	121	**120**
Full time equivalent staff	**114.9**	**112.4**
FTE vacancies at year-end	8	5

Table 4. **Commissioners' fees**

	2021	2020
	£'000	£'000
Cees Schrauwers	45,000	45,000
Julian Winser	15,819	-
Robert Moore	9,000	27,000
Lord Flight	-	2,917
Richard Hobbs	-	35,000
Simon Howitt	27,000	27,000
Wendy Dorey	27,000	27,000
John Aspden	35,000	35,000
Philip Middleton	35,000	35,000
Baroness Couttie	35,000	35,000
Total	**228,819**	**268,917**

Functions, Structure and Corporate Governance and other Control Systems of the Commission

Functions of the Commission

The Financial Services Commission (Bailiwick of Guernsey) Law, 1987 as amended (the Commission Law) established the Commission with both general and statutory functions. The general functions include the taking of "such steps as the Commission considers necessary or expedient for the effective supervision of finance business in the Bailiwick". The statutory functions include those prescribed under or arising pursuant to the following regulatory laws, until 31 October 2021:-

- the Protection of Investors (Bailiwick of Guernsey) Law, 1987 as amended;
- the Banking Supervision (Bailiwick of Guernsey) Law, 1994 as amended;
- the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999;
- the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000 as amended;
- the Insurance Business (Bailiwick of Guernsey) Law, 2002 as amended;
- the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002 as amended; and
- the Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008;

and from 1 November 2021:-

- the Protection of Investors (Bailiwick of Guernsey) Law, 2020;
- the Banking Supervision (Bailiwick of Guernsey) Law, 2020;
- the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2020;
- the Financial Services Business (Enforcement Powers) (Bailiwick of Guernsey) Law, 2020

The Insurance Business (Bailiwick of Guernsey) Law 2002 and the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002 were also amended as at 1 November 2021 and continue to be in force. The Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008 and the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 also continue to be in force.

Relationship with the States

The Policy and Resources Committee of the States of Guernsey is responsible for the policy framework for financial regulation and the government's relationship with the Commission. The Commission Law states that the Commission shall issue its audited financial statements and the two reports, referred to later in this appendix, annually to the Policy and Resources Committee.

The Commission maintains regular dialogue with the States. During 2021, the Commission continued to engage with the Policy and Resources Committee, on matters of importance to the States and the Commission.

Outside of formal meetings and presentations, the Commissioners and Director General maintain regular contact with senior States Members.

The Commissioners

The activities of the Commission's executive are overseen by the Commissioners. The Commission Law provides that the Commissioners shall consist of a minimum of five members who are elected by the States from persons nominated by the Policy and Resources Committee and appearing to it to be persons having knowledge, qualifications or experience appropriate to the development and supervision of finance business in the Bailiwick. The Chairman is appointed for a period of three years from amongst the Commissioners and is elected by the States following nomination by the Policy and Resources Committee. The Vice-Chairman is appointed for a period of one year by the Commissioners. A Commissioner is appointed for a period not exceeding three years. A member whose term of office has come to an end is eligible for re-election. The Chairman and Vice-Chairman are also eligible for re-election to their positions. Commissioners must retire on reaching the age of 75 years.

The Commissioners during 2021 were Drs. Cees Schrauwers, Bob Moore, Simon Howitt, Wendy Dorey, John Aspden, Philip Middleton, Baroness Couttie and Julian Winser. A brief résumé for each Commissioner is provided on pages 58 and 59 of this report. Three Commissioners reside in Guernsey, with the remainder living in the UK.

Functions, Structure and Corporate Governance and other Control Systems of the Commission *(continued)*

There were 11 meetings of the Commissioners in 2021. The attendance was as follows: Drs. Cees Schrauwers 11, Simon Howitt 10, Wendy Dorey 11, John Aspden 11, Philip Middleton 11, Baroness Couttie 6 and Julian Winser 6. Prior to each meeting, Commissioners are provided, save in exceptional circumstances, with a full information pack to support the meeting's agenda.

An induction programme is in place for new Commissioners. The Commissioners periodically consider their roles, responsibilities and accountabilities. In addition, each year Commissioners undertake a board effectiveness review. Periodically, the review is undertaken by an external party with experience in this area.

The Commission Law also makes provision for the appointment of such officers and servants as are necessary for carrying out the Commission's functions and for the most senior officer to have the title of Director General.

Delegation of functions to executive staff

The Commissioners have delegated certain of their statutory functions to the executive staff of the Commission. These statutory functions are exercised by the executives both jointly and individually. All statutory functions of the Commission may be delegated to the executives except:-

- the power of the Commissioners to delegate functions;
- the Commissioners' duty to make an annual report on the Commission's activities during the previous year to the Policy and Resources Committee;
- any statutory functions which empower the Commission to petition for the winding-up of a body corporate.

Annual report and financial statements

The Commission must, as soon as possible in each year, make a report to the Policy and Resources Committee on its activities during the preceding year. The President of the Committee shall, as soon as possible, submit that report for consideration by the States.

The Commission Law also provides that the Commission shall:-

(a) keep proper accounts and proper records in relation to those accounts; and
(b) prepare, in respect of each year, a statement of accounts giving a true and fair view of the state of affairs of the Commission;

and that the accounts of the Commission shall be:-

(a) audited by auditors appointed by the States; and
(c) laid before the States.

The Commission includes a copy of its audited financial statements in the annual report to the Policy and Resources Committee, referred to above.

Report on internal control and corporate governance

Under the Commission Law, the Commission must also review in each year, by the appointment of appropriately qualified and independent professional persons or otherwise:-

(a) the adequacy and application of the Commission's systems of internal control;
(b) the selection and application of the Commission's accounting policies and accounting procedures;
(c) the effective, efficient and economical management of the Commission's assets and resources; and
(d) the Commission's compliance with such generally accepted principles of good corporate governance as it is reasonable to regard as being applicable to the Commission.

The Commissioners are required to satisfy themselves in connection with the conclusions of each review and provide the Policy and Resources Committee with confirmation in the annual report on the matters covered by it.

The Commissioners are responsible for overseeing the Commission's corporate governance regime and for monitoring the effectiveness of management's systems of internal control. These systems are subject to regular review by management and address the risks to which the Commission is exposed. The Commission has an ongoing process for identifying, evaluating and managing operational risks (including regulatory and financial risks).

One Commissioner - Drs. Cees Schrauwers - has served as Commissioner for longer than nine years. Drs. Schrauwers retired on 30 December 2021.

The Commission has robust policies and procedures in place to ensure that any conflicts of interest involving Commissioners or staff are managed effectively.

In accordance with the Commission Law, the Commissioners have reviewed the Commission's approach to risk management policies and processes. The report required by the law on internal control and corporate governance has been provided by the Commission to the Policy and Resources Committee.

Functions, Structure and Corporate Governance and other Control Systems of the Commission *(continued)*

Audit and Risk Committee

The Commission's Audit and Risk Committee comprised John Aspden (Chairman), Baroness Couttie and Wendy Dorey. The Committee covered oversight of the management of risk, reviewed corporate governance and the systems of internal control and reported routinely to meetings of the Commissioners as a whole. Meetings are attended by the Director General, the Director of Risk and Operations and the Deputy Director (IT & Finance) of Risk and Operations.

The Committee met three times in 2021. The attendance of the individual members at these meetings was as follows John Aspden three, Wendy Dorey three, and Baroness Couttie two. The Audit and Risk Committee has oversight for non-regulatory risk; regulatory risk is reviewed by the Board as a whole.

Remuneration Committee

The Remuneration Committee, which comprised Simon Howitt (Chairman), Philip Middleton and Julian Winser, is mandated to advise and assist the Commission in fulfilling appropriate governance in respect of remuneration policies, practices and structure.

The Committee has specific responsibility for proposing to the Board (1) the remuneration and reward of the senior executive and (2) the general policy for staff remuneration and benefits to ensure that all of our people are fairly rewarded for their individual contributions to the Commission. (The Policy and Resources Committee determines the level of Commissioners' fees).

Meetings are attended by the Director General and the Commission Secretary. The Committee met on two occasions in 2021. The attendance of the individual members at these meetings was as follows Simon Howitt two and Philip Middleton two. The Commission's former Chairman attended one of the meetings.

Nominations Committee

The Nominations Committee comprises Simon Howitt (Chairman), Philip Middleton and Julian Winser. The Committee is responsible for advising the Commissioners on succession planning for Commissioners and the Director General and on appointments to the other Committees.

Meetings are attended by the Director General and the Commission Secretary. The Committee met once in 2021. The meeting was attended by Simon Howitt, Philip Middleton and the Commission's former Chairman.

Investment Committee

The Investment Committee, which comprised Philip Middleton (Chairman), Simon Howitt and Baroness Couttie is mandated to advise the Commission in respect of its investment approach. Meetings are attended by the Director General, the Director of Risk and Operations and the Deputy Director (IT & Finance) of Risk and Operations. The Committee met twice during 2021. The attendance by individual members at these meetings was as follows Philip Middleton two, Simon Howitt two and Baroness Couttie one.

Review systems

The Commission has retained specialist internal and external expertise to monitor the Commission's non-regulatory internal audit standards to ensure that the Commission is up-to-date with current expectations.

During 2021, the Commission appointed an external party to undertake internal audits in the following areas:-

- budgetary controls and revenue;
- cyber security; and
- MONEYVAL preparation.

Other planned audits were delayed due to the pandemic. Internal assurance reviews were undertaken on our use of PRISM and the application of our risk-based supervisory approach.

The outcomes of the audits have been taken forward to the satisfaction of the Audit and Risk Committee and Commissioners.

The corporate governance standards of the Commission are regularly reviewed by Commissioners and it is satisfied that the Commission meets expectations in connection with internal audit and corporate governance.

During 2017, an assessment was undertaken of the Bailiwick's regulatory regime against current international standards. This was undertaken by Mr Ian Tower, a former IMF assessor who was contracted by the Commission. The principal conclusion was that several of the areas for improvement were progressed through the Revision of Laws project which concluded in 2021.

During 2018, an assessment was conducted by the International Association of Insurance Supervisors (IAIS) of the Bailiwick's insurance regulatory regime against current international standards. The results, published in June 2019, demonstrated a high degree of compliance. The Commission plans an Omnibus Insurance consultation in 2022 to take forward a number of the IAIS recommendations.

Sustainability Report

Greening the Commission

In 2020, the Commission amended its staff pension options to offer an additional green investment strategy. This has been well received, with 13.5% of pension-eligible staff selecting a green investment strategy option for their pension as at 31 December 2021. Staff make individual choices as to the investment strategy which best suits their needs.

In 2021, the Investment Committee reviewed the environmental credentials of the Commission's investment portfolio and decided to shift the equity portion into a more sustainable strategy.

As part of our approach to greening our operations, the Commission purchased two electric bicycles for use by staff travelling around the island on Commission business as a more eco-friendly form of transport.

In order to evolve towards being a net zero regulator, in 2019 the Commission agreed to invest in a piece of previously forested land in Angus, Scotland. Fencing and ground preparation work has been underway during 2021 to prepare the land for planting with more than 50,000 saplings in Spring 2022, with support from Scottish Forestry. As these trees grow, they start to act as an effective carbon sink. Other things being equal, they should help us evolve to become a carbon neutral organisation (in terms of direct emissions) by the middle of this decade.

Greenhouse Gas Emissions

The Commission's greenhouse gas emissions have fallen against a 2019 baseline for the following reasons:

- All non-essential travel stopped in March 2020 and there have been travel restrictions to some degree in place ever since. For the most part, our international cooperation efforts have been conducted remotely, which markedly reduced the level of business travel in 2020 and 2021.
- Electricity consumption has reduced due to lower office occupancy during the periods of lockdown.

	2019	2020	2021
Greenhouse Gas (CO^2e kg)			
Scope 1 – Gas	-	-	-
Scope 2 – Electricity[1]	112,352	16,659	14,209
Scope 3 – Business travel	74,181	20,981	2,255
Total	186,533	37,640	16,464

[1] Electricity emissions are calculated based on our consumption and on Guernsey Electricity figures on the carbon content of each kWh. This reduced markedly after the new cable between Guernsey and Jersey was connected in late 2019.

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