2023

Guernsey Financial Services Commission

ANNUAL REPORT AND FINANCIAL STATEMENTS

For the year ended 31st December 2023

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

Guernsey Financial Services Commission

Appendix

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

I am pleased that 2023 was a positively un-notable year for the Commission. Our mandate was quietly and properly fulfilled, our stakeholders were generally happy, our important MONEYVAL preparations have gone according to plan and the team has been stable.

While my introduction sounds excessively dull, and indeed boring, against the backdrop of a difficult and turbulent world it is absolutely what two of our key stakeholders, the States of Guernsey and the finance industry, wish us to deliver - stability, certainty and professionalism. While this is the calm external view, like the duck sitting still on the swiftly raging river, the paddles are churning underwater and unseen against the variable currents. These currents have included higher inflation and subsequent interest rates than those seen for 14 years, arguably an industry generation, combined with the increasing prevalence of 'disagreements resulting in either dispute and war' rather than the better 'argument, discussion and eventual compromise' that we used to see. Current disputes include those between Russia and Ukraine, and Israel and Hamas, with no one leading any meaningful peacemaking initiatives. It is interesting to note that some of our modern-day historians predict that this path is indicative of the last stage, quarter or corner of a democratic era which has led to less agreement and compromise. They expect fewer disputes to end in peaceful solutions and instead envisage the proliferation of the attitude of "if you are not my friend – you are my enemy". Additionally, in Guernsey we have seen continued high job vacancy rates relative to local staff availability, a continued lack of accommodation impacting on the island's ability to attract talent, and a lack of consensus as to how to develop the island's infrastructure to encourage economic growth. On a positive note, Guernsey should be pleased that its Court of Appeal overturned the original judgment of the Royal Court in the Guernsey Financial Services Commission v Domaille, Clarke & Harris. Should the original judgment have been left to stand, Guernsey's financial regulation, relative to most competitor jurisdictions, would have been seen as weak.

By the time that this Annual Report is published, the MONEYVAL team will have conducted its on-island inspection and we will be responding to their requests for further information and data and anticipating the publication of the report in early 2025. I am pleased with the work that has been carried out over the last few years in preparation for the inspection - the Commission has worked closely with Government and our finance industry to reinforce and demonstrate the Bailiwick's commitment to combatting financial crime. I am pleased particularly as the preparatory work can be seen by some as more transactional than the principal 'business as usual' mandate.

As we move forward, hopefully positively post-MONEYVAL, the Commission will be spending additional time looking at ways through which it can provide a more efficient and effective service to its stakeholders ensuring the most positive use of technology to work with the changing environment. If there continues to be a lack of staff availability in Guernsey we will be even more in need of the opportunity created by the advances in AI in the provision of proportionate regulation. The conference we co-hosted with Guernsey Finance in June demonstrated how Guernsey's nimbleness, robust legal framework and approach to regulation could enable the island's financial services industry to benefit from the opportunities posed by the rise of AI. We will continue to work with industry and government to support our proposition in this area.

Julian Winser
Chairman

HIGHLIGHTS

Authorisations and Innovation

600 Applications received

50 Director registrations

1 Virtual Asset Service Provider licensed

June conference brought industry together to learn about the opportunities and implications of AI

19,407 Submissions received through the Online Submissions Portal, including 15,463 returns

8,500 Online personal questionnaires, appointments and resignations assessed

Supervision

372 Risk mitigation programme actions set

301 Risk mitigation programme actions completed by firms

235 Full risk assessments and further engagements with firms

Policy

Lending, Credit and Finance law introducing consumer credit protection

Consulted with industry on plans to strengthen regulatory requirements around retail general insurers

Updated the Natural Capital Fund framework to reflect the agreement at COP15 on a new set of goals to halt and reverse nature loss by 2030

Provided significant input into the second National Risk Assessment of the Bailiwick

Worked with the Law Officers' Chambers to deliver policyholder preference for insurance customers

Introduced a framework for the regulation of virtual asset service providers

Technology

Designed a blueprint new Authorisations and Application Portal to digitise and streamline the applications process

Protected against more than 90,000 attacks or connections to our firewalls

Launched an online Director Registration Regime Portal, enabling individuals to submit notifications and returns electronically

DIRECTOR GENERAL'S STATEMENT

Looking to the Year Ahead

There are a very large number of elections ahead across the democratic world this year, including those in South Africa, India, Taiwan, the United States and, according to Mr Sunak, the United Kingdom. There are also elections in the EU for the European Parliament. The outcome of all these elections is necessarily uncertain and firms will wish to take into account the levels of uncertainty they create when considering the best interests of their customers and investors.

The impact of the ongoing conflict involving Hamas and other radical Islamic movements cannot be underestimated as what was appearing to be a more benign inflation outlook may be reversed by the partial closure of the Red Sea to commercial shipping, raising the costs of moving goods between Asia and Europe. Allied to this is the uncertain outcome of the ongoing Ukrainian war where both Western and Russian prestige are heavily engaged and where an outcome which favoured Russia would severely damage global confidence in the Western-led institutions which underpin the so called "rules led" international order on which many financial services firms rely directly or indirectly.

On the technology front, the practical adoption of generative AI is proceeding apace. This is likely to have significant implications for white collar clerical roles, some of which are highly likely to become obsolescent. Given that these are roles which Guernsey firms often outsource to other jurisdictions on cost grounds there is some reason to hope that the net employment and value impact of the use of such advanced AI by local firms may not be negative for either Guernsey employment or our exchequer. That said, there are clearly huge fraud risks associated with generative AI with voice replication and simultaneous translation technologies making advanced attempts to defraud those with wealth an order of magnitude easier than was previously the case. All those making significant payments within the financial services sector and particularly those managing assets for the wealthy need to ensure that they are familiar with the advanced AI techniques being used by organised crime and then work to ensure that they agree appropriate AI resistant protocols with their customers – no longer is recognising someone's accent and picture likely to be good proof that they are who they say they are.

In terms of the Commission's priorities for the next year, helping the Policy & Resources Committee and the Law Officers' Chambers manage the impending MONEYVAL inspection and follow up process is clearly at the top of our agenda. Having contributed significantly to the revised National Risk Assessment published in late December we have been working with industry and official sector counterparts in the first part of 2024 to help ensure everyone is familiar with the revision to risks contained within that assessment and with its enhanced scope, as it now covers proliferation financing.

Separately from MONEYVAL we are developing an enquiring discussion paper on how the Bailiwick's firms might best look to adapt to the International Organization of Securities Commissions (IOSCO) adopted requirements of the International Sustainability Standards Board. Sensible adoption of these standards will, we believe, become a "licence to operate" issue for Bailiwick firms with international clientele in due course but the methodologies, software and data sets required for low-cost adoption are still under development. In our discussion paper we will set out a number of options and modalities which the Bailiwick might usefully consider adopting and will listen carefully to feedback from all parts of industry as well as reviewing the actions to date of other leading international financial centres such as Singapore. In all that we do in this area we will seek to position the Bailiwick's financial services sector to make sure that it does not lose out in what we all hope will be a more nature and climate positive future. We will give weight to the continuing need to finance transition assets as well as dark green assets for several decades to come if the massive capital investments required to deliver something approximating to a global net zero are to have any chance of being achieved. Optimistic realism will be our watchwords as we play our part in this collective endeavour to make the Bailiwick a place from which profitable eco-friendly investments can be made.

We spent many months during 2023 developing a new technology blueprint for our authorisations processes. During 2024, we plan to build the technology based on this blueprint with a view to having a new digital shop window for our firms and potential applicants in early 2025. This is the most significant "front of house" technology project the Commission has undertaken in several years and it is one which we hope will deliver many benefits for the community who use our authorisations services as well as delivering considerable in-house processing efficiencies, helping the Bailiwick remain an attractive domicile for financial services firms.

Supervision

During 2023, the Commission focused on both prudential matters given the enhanced risks created by the global monetary tightening and on financial crime issues with sixty specialist financial crime division visits undertaken over the course of the year.

On the prudential front, we had to deal with both the fire sale of Credit Suisse and the idiosyncratic failure of GBG Insurance.

These were, respectively, examples of how a collapse in consumer confidence can destroy even a well-capitalised bank and of how a promising set of audited accounts can sometimes not provide a remotely accurate picture of a firm's financial health. Before we became aware of GBG's problems, we had already consulted on improvements to our regulatory framework for general retail insurers such as GBG. Having digested the feedback on our proposals we implemented a revised regime in February 2024.

Further to the above we have undertaken thematic work on, inter alia, cyber risks, on how Bailiwick firms handle Politically Exposed Persons, banking relationships, private equity leverage, liquidity risks in several sectors, banking and insurance credit risks and on financial crime risks across the banking, fund and fiduciary sectors. Given a very buoyant jobs market and the weight of policy implementation we have struggled to have fully staffed teams of experienced supervisors at all times in 2023. We have been forced to cut our coat to suit our cloth to a higher degree than we would wish but, through prioritising financial crime and prudential supervision, we have covered a great deal of ground, albeit doing less in other areas. Given all too frequent industry hiring of our staff, we have adapted ourselves to the realities of inflation and the employment market during the course of the year, taking measures to ensure that our key specialist staff are rewarded at something closer to market rates for their demanding and skilled roles.

Policy

2023 was a year of implementation with the Lending, Credit and Finance Law coming into full operation on 1st July. This repealed the sometimes confusing Non-Regulated Financial Services Business Law and introduced proportionate and internationally compliant financial crime regulation for, inter alia, the virtual asset service provider (crypto) sector whilst also modernising consumer credit regulation for the first time in ninety years.

Allied to this, a large amount of work was done in the somewhat involved area of exemptions. This, learning from the parallel work undertaken in Jersey, led to a director registration regime to ensure that all those working as directors in Guernsey are appropriately treated for the purposes of preventing money laundering, terrorist financing, and proliferation financing. We were particularly grateful to all those from industry who contributed to our consultations on this subject and hope that they find that the multi-faceted regime we have now implemented is both appropriately rigorous and proportionate – risk-based in the best sense of the term as well as being compliant with international expectations.

In the financial crime area, we also worked with the Law Officers' Chambers and the Policy & Resources Committee to refine our financial crime laws in what we believe is a sensible fashion - designed to keep them usable whilst also making sure that they measure up to ever-evolving Financial Action Task Force expectations.

We undertook a fulsome appraisal of how the Bailiwick complies with IOSCO standards for the investment and fund management sectors. These standards are subject to a near continuous process of evolution at an international level with many actors expecting internationally trading firms to comply with such standards as part of their licence to operate. Our several hundred page review of how we comply with the standards was positive about our current levels of observance and will help inform investment sector policy development.

Further to the commentary above on our new retail insurance regime, we also worked with the States and Law Officers' Chambers to implement insurance policyholder prioritisation and return the Commission's powers to set its own fees. These were major recommendations of the 2019 International Association of Insurance Supervisors (IAIS) review of Guernsey's insurance sector and we are pleased that the 2023 changes bring us into compliance with international expected norms, norms which are important for the Bailiwick's continued access to international markets.

Enforcement

2023 was a year which saw several of the Commission's enforcement decisions tested in the Royal Court. We had two clear successes at the Guernsey Court of Appeal during the year. Firstly, in the Robilliard matter, the Court of Appeal (August 2023) upheld the prior judgment of the Deputy Bailiff (2022) which had, in turn, upheld the prior decision of our Senior Decision Maker (Q1 2021). Secondly, we were relieved when the Guernsey Court of Appeal comprehensively overturned in January 2024 (the case having been heard in early December 2023) the judgment of the Royal Court in the Domaille et al matter given in April 2023. We felt that the Royal Court had erred in a number of instances in its reading of the law in its April 2023 judgment and were pleased that the Court of Appeal agreed that our reading of the law was correct in every instance. The Court of Appeal further confirmed its confidence in the fair processes we follow through an enforcement investigation and offered advice to the Royal Court as to its proper role as an appellate body in respect of our administrative decisions on enforcement matters. We do not like having to take enforcement action and we continue to use the tool sparingly, only turning to it when we feel there are no alternatives compatible with a sense of the natural justice we owe to the vast majority of law abiding firms in the Bailiwick and to the investors, consumers and victims of financial crime whom we seek to protect. That said, we need to know we can use it and that we have the means at our disposal to ensure all actors take the Bailiwick's laws seriously. The Court of Appeal verdicts have provided us with that assurance and all law abiding business people in the Bailiwick should be reassured that those judgments strongly support Guernsey being a safe and secure place where the rule of law is respected.

We have also continued to work closely with the Bailiwick's Financial Intelligence Unit and Economic and Financial Crime Bureau to make them aware of matters where we consider a criminal investigation might be justified. These cases are, fortunately, few and far between but it is important that the Bailiwick is understood to have a capability to deploy criminal as well as administrative sanctions when it is occasionally faced with white collar crime.

Our discretionary financial penalties are always determined on the basis of the seriousness of the law breaking. It is sometimes the case that discretionary financial penalties levied as a result of an enforcement action cannot be collected but when the Commission can reasonably collect penalties it will do so as it is right and proper for the polluter to pay. There is always a cyclical movement in the issuance and collection of fees but the c.£595,000 in cash received as a result of enforcement actions allowed us to raise annual fees on law abiding financial services firms by less than inflation.

Technology and People

We continued to develop our AI-enhanced Early Warning System throughout 2023. This multi-year programme has enhanced the Commission's visualisation and connection tracking abilities, facilitating better understanding of the smaller entities we supervise. We have now demonstrated this system to a number of regulatory counterparties overseas and hope that this specialist technology we have developed in Guernsey may be of use to the wider community of financial services regulators.

We have also continued our multi-year data project which is designed to help us better understand and use the data we hold, making us more efficient. This project will be a key component of our next three-year business plan.

As a mid-sized enterprise, we have experienced the change in everyday technology as most of the Microsoft systems on which we rely are now "cloud first" with the on-premises located versions often now delivering markedly inferior performance to that offered in the cloud. This reality for us, and for many other medium sized enterprises in the Bailiwick, has led us to move more of our day-to-day software operations into the cloud. In making these adjustments to maintain and enhance our productivity, we are always mindful of the security requirements surrounding the data we hold and seek to implement solutions which maximise security whilst maintaining the high levels of usability we require in order to be cost effective.

None of our technology would, whatever its merits, without the support of my skilled regulatory colleagues, deliver very much. Knowing this, we continue to work to deliver a good quality working environment for all our staff, one which allows everyone to develop whilst seeking to reward endeavour, verve and judgement with responsibility and advancement. The Commission is demographically well balanced with different generations bringing different perspectives, skills and experience to the workplace. We plan to continue to put considerable effort into training as to stand still in such a technologically fertile age as our own is to go backwards. We also believe that by being a learning and thinking organisation we normally avoid thoughtless bureaucratic solutions of the sort that can too often become an easy regulatory option if a holistic perspective is not adopted.

In all that we do, we seek to deliver on our statutory objectives and serve the economic interests of the inhabitants of the Bailiwick.

William Mason
Director General

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AUTHORISATIONS AND INNOVATION

Authorisations

We were heavily involved in two firsts for the Bailiwick in 2023 – the implementation of the Lending, Credit and Finance (LCF) Law on 1st July and the launch of the Director Registration regime on 1st November. Whilst working on both of these new regimes we also continued to review all 'business as usual' applications.

The hard work and preparation which had taken place in 2022 meant that the go-live date for the LCF regime was a seamless process on 1st July. In total, the Division, along with the Banking and Insurance Division, granted 57 licence applications and reviewed 68 discretionary exemption requests between 1st February and 30th June. The discounted application fee period from 1st February to 30th March encouraged early submission albeit that the majority of applications were submitted in the final week of March.

Having worked closely with colleagues from across the Commission, the implementation of the 'up to six' Director Registration regime was achieved with minimal impact on 'business as usual' activities. The process was undoubtedly smoothed by the outreach programme which had been undertaken prior to the effective date. Industry was appropriately engaged and as at 31st December 2023, 50 registrations had been processed by the Commission.

Predicting the volume and timings of application submissions during any year remains an inexact science due to external factors. Nevertheless, even when faced with a significant number of LCF submissions concentrated between February and July on top of the more routine authorisations requests, we maintained a robust risk-based approach to our reviews whilst still meeting required deadlines. We appreciate that maintaining appropriate turnaround times is a key feature of the Bailiwick's financial services offering, especially in an increasingly competitive market. The final two months of the year were notable for the particularly strong rates of submissions across all sectors. In total, 629 application submissions were made during the year. The sectoral breakdown of the 2023 submissions can be found in Statistical Data section of this report.

During the year, we continued to utilise Authorisation Review Panels (ARPs) for more esoteric or unusual submissions in order to bring in expertise from across the Commission and ensure consistent and proportionate decision-making. Whilst in 2023, we held 12 ARPs as compared to six in 2022, it is important to note that most applications achieve straight through review by the Division. The introduction of the LCF regime did bring to light some historic lending arrangements requiring remediation as well as a small number of entities which opted to cease carrying on activity prior to the regime going live.

The online Personal Questionnaire (PQ) Portal was once again busy with a total of 8,585 submissions made during the year: all of which are reviewed by the Division. Submission rates have been around this quantum for the last three years, for context there are currently approximately 5,500 individuals who hold supervised roles within the Bailiwick. During 2023, 19,407 (2022, 18,506) submissions were made via the Online Submissions Portal. These submissions comprised 15,463 (2022, 14,437) returns and 3,944 (2022, 4,069) notifications, which are dealt with by the relevant supervisory divisions.

Innovation

The Commission continues to encourage innovation and this year we licensed the first Virtual Asset Service Provider (VASP) which took advantage of the introduction of the Bailiwick's new regulatory regime, which complies with the Financial Action Task Force standards.

Early engagement with the Division in relation to novel or unusual proposals is encouraged as we are keen to work with potential applicants to help them understand the Bailiwick regulatory framework and how it may impact their operations. Our Innovation SoundBox provides an opportunity for frank and open discussion and a cooperative approach, including when applicants wish to use new technology such as Artificial Intelligence.

The Commission is currently working on an innovative project of its own as part of its third three-year business plan. The workstream is developing an Applications and Authorisations Portal (A&A Portal) which will act as the 'front of house' for the Commission. The A&A Portal will enable efficient creation, submission and assessment of regulatory applications, bringing benefits to both internal users (Commission staff) and external users (industry). The development of this new online portal system builds on technology and knowledge already within the Commission. We reached out to industry during the initial specification stage in 2023 to ensure that the development meets the requirements of all stakeholders. We will continue to do this as the project progresses through 2024 and early 2025.

Caroline Bradley & Alison Gavey
Co-Directors

BANKING AND LENDING

Supervision

The first quarter of 2023 saw the failure of two large banks; one in Switzerland and the other in the United States. At that time, there were fears that these events might be the harbingers of worse to come; prompted by a fall in the price of bonds due to interest rate increases, by lacklustre economic growth and by general uneasiness over liquidity. Doubts were also raised over the effectiveness of the regulatory approach to liquidity.

Nevertheless, whilst investment banks suffered from fewer corporate actions, the year turned out to be relatively benign for most banks; although the economic environment began to get tougher in the fourth quarter. The return of significant interest rate margins, and the low level of provisioning and defaults, meant that many banks saw a higher return on equity than in previous years. Meanwhile banks generally had little difficulty in meeting regulatory requirements around capital and liquidity.

Nevertheless, prompted by events in the first quarter, the Commission undertook an Internal Sector Review of all Guernsey banks, both branches and subsidiaries. Credit, liquidity and interest rate stress tests were applied to the latter. Other matters in scope included capital levels, the quality of collateralisation, the strength of the group to which the Guernsey bank belonged and sovereign risk.

As a matter of routine, the Commission undertook another Internal Sector Review on the purchase of insurance by Guernsey banks. The review found that banks generally bought a standard set of policies in coordination with their head offices. This result seemed reasonable and triggered no regulatory action.

Policy

With implementation of enhancements to Basel III still moving along slowly amongst the G20, there remained no immediate need in 2023 to undertake consultation on this subject in Guernsey. However, 2023 did see some discussion around the creation of a banking resolution regime in Guernsey. The Commission acts as the resolution authority under current legislation and continues to work with the States to advance the necessary legislation to modernise our resolution regime whilst minimising unnecessary bureaucratic overheads.

Risk Outlook

Although the economic environment remains relatively benign, Guernsey banks should consider the following risks in particular:

- financial crime and the need to allocate appropriate compliance resources to its mitigation, particularly given advances in cyber-enabled fraud technology;
- cybercrime and the need to get the right balance between protecting the firm and customers from cybercrime events on the one hand and enabling customers to conduct everyday business;
- a worsening in 2024 of the relatively benign conditions of 2023; and
- liquidity management given that retail deposits may have become more volatile as a result of technological advances.

Jeremy Quick
Director

Supervision

During 2023, we undertook 12 conduct and prudential onsite visits of which five were to fiduciaries and seven to investment firms. Additionally, we supported colleagues on financial crime focused visits. This firm-specific work was supported by our ongoing programme of thematic sectoral reviews and reactive work in response to, for example, key risks crystallising, changes of firm ownership and subsequent integration work.

A total of 180 investment and 81 fiduciary Risk Mitigation Programme (RMP) actions were created during the year. Financial crime risk, operational risk and governance risk account for the largest number of RMPs (over 78% across both sectors). The Commission continues to consider cyber risk as part of operational risk and reminds licensees of this ongoing threat.

Our external thematic review was triggered by a case relating to a former investment licensee (the company) whereby unclaimed redemption proceeds of around £4.5m belonging to over 1,000 investors remained in a client account of the company. Some of these investors have now come forward to claim their monies but, as the company has been struck off the Register of Companies, there was no party who could easily give instructions for the movement of these monies. The Commission, acting in the interests of the investors, applied to the Royal Court and an independent trustee was appointed to deal with the monies on 30th June 2023.

Our thematic review found that there are limited regulatory rules or guidance concerning unclaimed money, that industry was not dealing with unclaimed money in a consistent manner, and that at the point of surrender of a licence, registration or authorisation, it is important to determine which party will be holding any client money during the wind down process. Some of the Commission's internal processes around the surrender of a fund have been updated, and further guidance is planned following a consultation process in 2024.

We also undertook four internal sector reviews during the year as part of our supervisory programme. These are not published documents, but key messages are shared with industry via various existing communication channels, including this annual report.

The first explored leverage/debt funding, exposure and risks in Guernsey's Private Equity (PE) funds. PE represents a significant proportion of the Bailiwick's overall funds sector, with just under half of all funds self-identifying as PE funds. Overall, it was found that Bailiwick PE funds are not significantly leveraged, but levels of leverage use in connected, unregulated underlying portfolio companies and investor vehicles are opaque and may be significant which could, in itself, also present challenges and risks. It was found, however, that Bailiwick PE funds routinely use subscription line financing (i.e., a form of short term borrowing secured against undrawn investor commitments), but there is no trend showing increasing use or indications that this is used other than as a short term liquidity tool. No evidence was found that Guernsey PE funds are increasing their exposure to retail investors. The average PE fund has 50 investors with an average investment per investor of over £3m, but there may be indirect retail exposure, for example through pension funds.

The second internal sector review sought to better understand the liquidity risks associated with our open ended collective investment schemes that report a main investment activity as investment in real property. This work was driven by liquidity issues with analogous products in the UK in the latter half of 2022, as well as a limited number of instances in which open ended property funds in Guernsey had experienced liquidity issues. Our findings were broadly positive, a review of all 12 open ended property funds revealed a significant variety of both scheme structures and the types of properties invested in, equally it identified a range of approaches to managing exposure to real property. The majority of schemes did not appear to have any immediate concerns regarding the management of liquidity risk, and appeared to have sufficient measures in place to manage and mitigate future liquidity risks.

The third internal sector review explored the effectiveness of our policy to impose conditions on collective investment schemes failing to submit audited financial statements by the required deadline. Analysis of data found an average of 97.95% of schemes submitted their audited financial statements by the deadline date and less than 1% of schemes, each year, received a notice of intention to impose conditions (seven in total for 2023). Where conditions were imposed, we tested compliance and found they had been followed.

Our objective remains the protection of investors and, having reviewed our practice, we are comfortable supervisors are applying a considered approach consistent with this objective. We have taken the opportunity to update our website to clarify our approach in this area.

The final review for 2023 focused on fiduciary banking relationships, specifically exploring whether there may be an overreliance on a small number of banks (potentially off-island), and assessing the associated operational, credit and financial crime risk. We identified 27,337 fiduciary client money accounts, representing 1,805 relationships with 499 different bank branches and payment providers. The mean average number of banks/providers per licensee was 17, and the median 10. The Bailiwick's fiduciary sector continued to rely on Guernsey banks (70% of accounts), and the shift to non-banks appears to be very limited (as well as being incompatible with "The Fiduciary Rules and Guidance, 2021"). The use of banks in higher risk jurisdictions, those listed in Appendix I of the Handbook on Countering Financial Crime and Terrorist Financing is minimal (0.3% of accounts).

The reduction in the risk appetite of local banks was evidenced in our 2016 client money thematic and is a continuing theme today. Nevertheless, the fact that the fiduciary sector has continued to thrive whilst continuing to rely largely on banks in the Bailiwick suggests that the risk appetite of the fiduciary sector may also have reduced, perhaps driven by the banks. This would be consistent with the wider Commission experience since 2016, that the quality of AMLCFT standards and controls in the fiduciary sector have improved and risk appetite in general has reduced. We are looking to build on this internal review with the investment sector, with a view towards producing an external thematic review on client money covering both sectors by the end of 2024.

In our supervisory interaction with licensees this year, a continued theme across both sectors was the withdrawal of local owner-managers (many driven by retirement age) seeking an exit route, and the increasing presence of PE owners. This is a trend we tend to focus on during cross-jurisdictional supervisory colleges, as the groups involved operate across many different locations and being aligned with other regulators proves helpful.

Global international finance businesses, regularly with PE ownership, present the jurisdiction with a mixture of positives and negatives. Positives include that the acquiring firms are generally well-resourced and can draw on wider group resources. However, that wider group support should never stray into the realm of shadow directorships or assert such levels of pressure that result in the local regulated institution being starved of necessary investment. Additionally, integrating multiple licensees, under any ownership model, regularly brings challenges such as resource stretch, culture clashes, and data access/quality issues. For licensees already owned by leveraged PE firms, higher interest rates raise the potential for further adverse effects, such as more pressure for aggressive fee charging, cost reductions and dividends to facilitate higher financing costs.

Our research has identified that a small number of administrators remain responsible for providing the Commission with data that does not always meet necessary quality levels and may be indicative of an underlying issue with data and records held by certain firms. The provision of high quality and reliable information is not only essential to the Commission in carrying out its duties, but failures in this area could also indicate poor internal controls and substandard records that could impact the governance of a firm, the accurate reporting to customers or even contravene data legislation.

Policy

The International Organisation of Securities Commissions (IOSCO), of which the Commission is a member, is recognised as the global standard setter for investment sector regulation. It has 38 core principles of securities regulation, based around three objectives: protecting investors, ensuring that markets are fair, efficient and transparent, and reducing systemic risk.

Between 2022 and 2023, we conducted a detailed self-assessment against these principles to provide assurance that the current regulatory and supervisory framework is in line with international standards and to identify any gaps which may need to be filled. We previously undertook the exercise about a decade ago. Overall, we consider we have fully implemented 29 of the 38 principles. Addressing the gaps identified forms part of our 2024 policy work programme and fall in two main areas: Registered Fund Rules (primarily around required disclosures in the applicable Prospectus Rules) and our Exchange Rules.

As part of our MONEYVAL preparation, we consulted on, and enacted proposals to extend the scope of licensing exemptions available to directors under the Fiduciaries Law. A number of new exemptions were introduced including for acting as a director of certain companies connected to registered or authorised collective investment schemes, where the activities are supervised by a regulator which is a signatory to the IOSCO Multilateral Memorandum of Understanding, and for companies owned by the States of Guernsey. Thus, these directorships now fall outside the 'up to six directorships' exemption, and consequently did not form part of the Director Registration Regime (also introduced during 2023).

Our wider policy work has involved prioritising MONEYVAL-related research or preparation. This has included analysis of Private Trust Companies, Non-Profit Organisations administered by fiduciary licensees and certain types of lending exempted under the Lending, Credit and Finance Law by virtue of being administered by an investment or fiduciary licensee. Whilst we have continued to keep the fires of pension policy warm, we did not make as much progress as we had wished, although with a recent recruit we hope 2024 may be a better story on that front.

Finally, we value our regular interaction with all industry associations, and individuals who give up their time to provide us with feedback. From this engagement we have been able to develop some smaller policy tweaks that hopefully achieve the same (or better) regulatory outcome, but with a lower administrative burden for industry. For 2023, this involved updating some FAQs, providing timely feedback to policy interpretation questions, and an update to our surrendered funds policy.

Risk Outlook

The macroprudential environment remains challenging, with high headline global inflation and interest rates that have risen from historic lows. The investment, fiduciary and pension sectors in the Bailiwick remain healthy, however we cannot afford to be complacent and are not immune to global trends. We anticipate the continuation of restructuring activity in the year ahead and remain open to working with innovative businesses and funds.

Private equity funds rely to a large degree on bank/institutional borrowing as part of their business model and such reliance has increased in the recent extended period of low interest rates. While the overall levels of on-balance sheet leverage reported for Guernsey investment funds is not significant, there may be material amounts of debt which are not directly on the balance sheet of the funds, whether through associated funding vehicles or in underlying investment vehicles and portfolio companies. The current environment of higher interest rates may impact funds' ability to service existing debt or raise new borrowing and place pressure on valuations. Higher interest rates may also reduce the value of assets used as collateral, creating another possible area of stress.

The Commission is alive to the ever developing sustainable finance landscape. In terms of risk, we consider that the effects of climate change and biodiversity loss present an increasing risk to our firms both from a physical consideration, but also the impact on longer term investment returns (including costs associated with the transition to a lower carbon economy).

In terms of policy development, there is growing investor and market expectation that firms will make sustainability related disclosures. The standard set by the International Sustainability Standards Board, and endorsed by other key standard sectors such as IOSCO, is likely to be instrumental in this, and we are considering sensitively how this may impact Guernsey.

The Commission over the years has worked to support Guernsey's role as a centre for sustainable investment and finance. Equally, as regulators, we remain vigilant to the risk that Guernsey's reputation could be damaged through the misrepresentation of green credentials.

In addition to the more commonly considered 'mis-selling' aspects of greenwashing, we are also keeping under review other aspects including the provision of legal persons and legal arrangements to entities facilitating greenwashing.

AI is on all our minds. The potential applications for financial services businesses and regulators continue to grow; for example, its potential for fraud detection and prevention, and its ability to automate processing, identify patterns and trends, and analyse data to make decisions faster and potentially more accurate. However, firms, their controls and risk frameworks, and regulators also need to evolve in order to mitigate the associated risks. We need to stay alert and questioning to matters such as embedded biases, a lack of understanding of "black box" solutions and cyber vulnerability. AI is a true example of both an emerging opportunity and risk.

Finally, two perennial issues that have been relevant for all the annual reports I have drafted over the past decade the availability of banking services to the fiduciary and investment sectors and the supply of competent staff. My colleague, Jeremy Quick, touches further on the provision of banking services in his section of the annual report. We remain conscious that many businesses struggle to attract and retain sufficient quality staff to enable them to achieve their business strategy. There is no easy answer to either of these matters, we understand they are deeply frustrating, and we remain receptive to feedback and to exploring with a firm what is in the art of the possible, including cutting coats according to the cloth available.

Gillian Browning
Co-Deputy Director General

INSURANCE

Supervision

In global terms, the insurance market in 2023 remained hard with premium prices increasing; allied to better investment returns and losses relating to natural catastrophes returning to a long-term average. Against this, insurers had to combat higher claim costs and cost-of-living cutbacks by policyholders. It is too early to say which of these factors will be key for 2023 outcomes; but the prospects for life insurers, given the return to historic discount levels, are better than those for general insurers, especially motor insurers. Nevertheless, early fears that lapses, losses relating to catastrophes, and a quiescent global economy would adversely affect insurers have not been realised.

In terms of the local business environment, with a hard market continuing, captive business remains buoyant. However, there is little indication that better conditions around catastrophic losses are feeding though to a revival of the local re-insurance market.

In December 2023, GBG Insurance Limited (GBG) successfully applied to the Guernsey Royal Court for administration. The Court appointed three Teneo directors as Joint Administrators with the aim of maximising creditor value and supporting policyholders.

By way of background, the directors of GBG had approached the Commission in March 2023 to make the Commission aware that, despite the audited accounts showing the firm to be in good health, they had discovered that assets shown in the accounts representing many millions of pounds did not actually exist. Since that time, at several points, the prospects of the company being rescued looked reasonably good but, in the event, this was not to be.

The Commission has launched an investigation focussing on how the large hole in the firm's balance sheet developed and on why it was not identified more quickly by various parties whom the Commission would expect to have validated the accounting records and other relevant information. This is likely to be a complex and lengthy investigation.

The Commission continues to play a role at the International Association of Insurance Supervisors (IAIS); with senior staff participating in key committees and working groups. The Commission also continues to participate in peer-to-peer IAIS assessments on the Insurance Core Principles.

In the summer of 2023, the Commission, as Chair of the Group of Insurance Sector Supervisors (GIICS), organised a two-day AGM and seminar in London. This event was attended by 16 of the 19 members of GIICS. GIICS/IAIS also held regional training events in Gibraltar, the Cayman Islands and Auckland; these locations reflecting the global nature of GIICS membership.

In our participation in international standard-setting 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 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.

Policy

In June 2023, the Commission issued a consultation paper with the aim of strengthening regulatory requirements around retail general insurers. These proposed requirements relate to governance, financial standing, systems and controls and disclosure. A feedback paper, together with new rules and guidance, was produced in 2024.

Risk Outlook

The following general risks are key for 2024:

- increased claims costs due to embedded inflation;
- liquidity management in the face of the cost of living crisis; and
- the continuing financial crime risks associated with Guernsey general and life insurers operating cross-border.

Jeremy Quick
Director

FINANCIAL CRIME

Supervision

During 2023, we undertook onsite inspections to 60 firms, including inspections to 18 prescribed businesses as part of a detailed thematic review of their governance, risk and compliance frameworks.

During the course of the year, two firms were referred to the Enforcement Division for further investigation. This was for wide ranging deficiencies including sanctions risk management and for failing to meet the transitional provisions of the Handbook on Countering Financial Crime and Terrorist Financing for reviewing existing business relationships to ensure those relationships met the revised due diligence requirements, which were introduced in 2019.

We also used powers in the relevant supervisory laws to appoint skilled persons to oversee remediation programmes imposed on two firms to address significant deficiencies in their controls. The firms were obligated to pay for the appointment and whilst a firm may comment on the skilled person's draft report, the Commission owned the appointments, the process and the reports rather than the firms. The severity of the issues at these two firms warranted this approach as opposed to our more habitual approach of allowing a firm to appoint a third party with our agreement to undertake a review and to share that report with us.

The small number of firms for whom such robust supervisory responses were necessary helped validate a supervisory model that is weighted towards the Bailiwick's higher risk sectors, and which uses data, information and financial intelligence to help us identify the higher risk firms within those sectors, whilst also reflecting the professional approach taken by most firms towards ensuring their businesses comply.

We select topics for a thematic review on the basis of their relevance to the Bailiwick's risk profile. This suggests that the most likely criminal proceeds to be laundered through the jurisdiction are from bribery and corruption, fraud and tax evasion. In 2022 and 2023, we reviewed practices for managing the higher risks posed by foreign politically exposed person (PEP) relationships as this category of customer, without presumption of illegal activity by them, presents a higher risk of corruption compared to other customers. We inspected controls at 30 firms, predominantly banks and fiduciaries, during which we examined 170 PEP relationships.

We also took the opportunity to assess improvements made by these firms since the thematic review on sources of wealth and funds in 2019/20. The results showed that the controls to manage PEP risk were effective, with risk mitigation programmes imposed on just three of the 30 firms, though there was still room for improvement at a number of firms to ensure the risks relating to the PEP's wealth were fully assessed, understood and documented.

In September, six industry workshops were held to discuss the findings from the PEP report and the thematic report issued in January, following a review of the money laundering and terrorist financing business risk assessments of 104 firms from across all sectors. We also took the opportunity to provide a general update on the MONEYVAL evaluation. More than 400 people attended these workshops.

Policy

The following four key areas dominated the Commission's preparatory work in 2023 for 2024's MONEYVAL evaluation:

- working closely with government, the introduction of a registration regime for individuals who use the 'up to six directorship' exemption in the Fiduciaries Law;
- updating the Handbook in relation to requirements for an independent audit function and information requirements on virtual asset transfers;
- providing significant input into the second national risk assessment of the money laundering and terrorist financing risks to the Bailiwick and on its first proliferation financing national risk assessment; and
- continued refinement of the material being submitted to MONEYVAL to support both the technical and effectiveness elements of the evaluation.

Financial Crime *(continued)*

A Director Registration Regime became reality in a matter of months from being proposed in a government consultation in November 2022 to the establishment of the regime on 10th July 2023. As at 31st December 2023, there were 50 individuals who had registered. During that eight-month period, we met with many Bailiwick residents to discuss the proposals to ensure that the supervisory framework which emerged was pragmatic, proportionate and suitable for effectively managing the financial crime risks posed by individuals who cannot hold more than six directorships subject to registration or undertake any other regulated fiduciary activities which would qualify them for a personal fiduciary licence.

We received positive and supportive feedback from industry on proposed changes to the Handbook regarding rules and guidance for i) an independent audit function of a firm's AMLCFT controls, ii) information requirements on virtual asset transfers, iii) on business risk assessments and iv) additional information disclosure for trustees and partners. A final version of the Handbook was published on 10th July 2023.

The Bailiwick's second national risk assessment (NRA2) and first proliferation financing risk assessment were published by government on 29th December 2023. NRA2 reiterates that the Bailiwick's main money laundering risks remain the laundering of the proceeds of foreign criminality and in particular bribery and corruption, fraud and tax evasion. The analyses in both assessments were significantly enhanced by the additional data and information available to the authorities - in particular from the Commission's financial crime risk return and financial flows data. The assessments were also expanded by the provision of new material from the Commission in relation to collective investment schemes, higher risk countries, non-profit organisations administered by the fiduciary sector, private trust companies, and retirement solutions.

It was important to ensure the timely publication of the assessments to enable the authorities and private sector to take account of the updated conclusions and findings on risk in advance of MONEYVAL's assessment.

The second half of 2023 was devoted to preparing our submissions. The Commission was responsible for providing the analysis for nearly half of the Financial Action Task Force's 40 Recommendations against which the Bailiwick will be technically assessed, as well as providing the submissions for the immediate outcomes on the effectiveness of risk-based AMLCFT supervision and private sector application of AMLCFT measures and reporting suspicion.

We drew up a large number of case studies which showed how effective our supervision is which included keeping "bad actors" out of industry, how AMLCFT compliance within firms improved from supervisory activities and how we cooperate with domestic and foreign counterparts to deter financial crime. For the immediate outcome on the effectiveness of the private sector's AMLCFT measures, our evidence from supervision and firms' data enabled us to provide positive messages on the high level of private sector compliance with AMLCFT obligations, show that the majority of firms take a mature, professional approach towards managing their financial crime risks and make a significant investment in compliance.

Risk Outlook

This annual report will be issued after MONEYVAL's departure, but we must all ensure we maintain robust systems and controls for managing the money laundering, terrorist financing and proliferation financing risks in an increasingly violent world dominated by hostile state actors, private militia, organised crime and terrorist organisations.

Fiona Crocker
Director

CONDUCT

Supervision

During the year, the Commission conducted several onsite visits to members of the insurance industry as well as keeping in close contact with the Channel Islands Financial Ombudsman. No major generic conduct issues emerged.

In 2023, the Commission conducted an internal sector review on insurance intermediary sales staff training. This showed that the local industry, in general, had sound policies around staff training and that these policies were being implemented. The Commission also conducted several onsite reviews of banks. A common theme was the need for local banks to strengthen their compliance resource to mitigate financial crime.

As highlighted in last year's report, access to UK money service providers and e-money firms remained a subject of concern; not least to small businesses in the Bailiwick. Some people and businesses in the Bailiwick choose to access UK entities directly through reverse solicitation. Understandable as this may be, the Commission emphasised through its website that such entities were unregulated in Guernsey and that the principle of 'buyer beware' was particularly germane in these cases.

As in the UK, concern emerged in 2023 over the availability of business and personal bank accounts offered by the main UK banks. A periodic States review of the banking sector included this issue in its scope and it has also been the subject of follow-up by the Commission. These reviews will be completed in 2024.

Nevertheless, the Commission remains conscious of challenges such as the appetite of some banks to take on certain relationships, the long timescales quoted to open accounts and short timescales quoted to close accounts, and the increased cost of banking. So, in response to feedback from several sectors (not least fiduciaries), the Commission engaged with banks which were not felt to be being reasonable in terms of the length of time they were providing other financial services firms to move to alternative bankers. Ultimately, we cannot stop banks withdrawing or repricing some business lines; but we can work to ensure that they do so in an orderly way, and which does not adversely impact the stability of other firms' businesses.

Policy

In January 2023, the Commission issued its "Lending, Credit and Finance Rules and Guidance, 2023"; following consultation in 2022. These came into effect on 1st July 2023.

The Rules and Guidance apply to five new categories of licence. General regulatory requirements around corporate governance and anti-financial crime mitigation apply to all five categories. These were, broadly speaking, the sole requirements that apply to Financial Firm Businesses – an example being a money service provider. Further regulatory requirements around the treatment of retail borrowers apply to Credit Providers – with different expectations set around non-mortgage loans and mortgage loans. These set out, for example, expectations around the cooling-off period, the technical expertise needed to sell loans and the calculation of annual percentage rates. Credit Brokers have their own set of requirements; for example, around disclosure as to their credit providers. Financial Platforms and Intermediation Businesses (for example for crowdfunding) have requirements specifically relating to IT security. Finally non-generic requirements are set down for Virtual Asset Service Providers (VASPs); for example, limiting a Guernsey VASP from directly dealing with non-institutional investors. Each licence category has its own fee structure.

The overriding principles governing the above Rules and Guidance is the application in all cases of the Handbook on Countering Financial Crime and Terrorist Financing, the simplified copying out of UK conduct requirements to protect borrowers (subject to adaption where Guernsey's circumstances materially differ from that of the UK) and the need to support digital innovation.

Firms applied for either the relevant licence or an exemption during the first half of 2023; after which the Rules and Guidance came into effect. By the end of the calendar year, a total of 57 licences had been issued by the Commission. Throughout 2023, the Commission continued to have close communication with those concerned, either to provide comfort that no licensing was required or to help them through the application process.

In December 2023, the Commission issued a consultative paper on 'Disclosure Rules for Insurance Intermediaries'. This paper suggests that insurance intermediaries should disclose the nature of their relationship with the insurers with whom they deal. They should also disclose the basis on which they are remunerated. This change formalises a requirement in the existing codes of conduct for both financial advisers and authorised insurance representatives and represents good practice already in effect in industry. These disclosures should have a positive impact on client protection as it is important for clients to be aware of conflicts of interest in buying insurance through intermediaries. It is expected that the Rules, subject to any changes because of the consultation process, will be in place during 2024.

Risk Outlook

Firms should be prepared to deal with the following issues, in particular:

- financial crime; not least given the global nature of the Bailiwick's financial services sector;
- getting the right balance between protecting the firm and customers from fraud and cybercrime events on the one hand and enabling customers to conduct everyday business on the other; and
- implementation of Rules and Guidance around Lending, Credit and Finance.

Jeremy Quick
Director

CYBER SECURITY

Supervision

In 2023, the Commission conducted a thematic review of cyber security reporting. According to "The Cyber Security Rules and Guidance 2021", all licensees are required to report material cyber security events to the Commission. Some firms were doing this before 2021. The Commission considers each such report. It may take no action but, in some cases, may ask for further information until the event is closed off. The purpose of the thematic review was for the Commission to consider whether any general observations and learning points might usefully be made by considering these firm-specific reports in aggregate rather than separately.

There were no surprises in the types of cyber security events reported. These included, for example, compromised emails, employee actions (malicious or otherwise), phishing, and ransomware. Similarly, there were no surprises as to the failed controls; these being, for example, ineffective IT security systems, inappropriate access controls, or failure to observe policies. Few reports were made because of internal cyber security events – such as for example business interruption as a result of excessive down time at a group IT centre.

Each cyber security event resulted in mitigation action around that event and, in some cases, wider action by the firm to enhance the effectiveness of a particular control. These actions might range across the firm and involve HR and IT departments as well as both first and second lines of defence. Losses were usually assessed in terms of direct financial loss rather than any indirect loss (for example cost-to-fix). This meant that reported losses were usually minor. It was rare to consider reputational loss.

Several firms interpreted 'materiality' at a low level – for example, they might report a generic routine phishing attack. However, even if these reports are included, the overall level of reporting seemed relatively low. This left an impression of under-reporting.

Nevertheless, most reports were timely, well-written and showed a good awareness of the risk around cyber security. However, it was often difficult to assess the degree to which cyber events were reported to senior management. Testing and scenario analysis were similarly rarely mentioned; though this might simply reflect that these were not uppermost in the mind of the reporter at the time.

Policy

The Commission's 2021 Rules are based on the National Institute of Standards and Technology (NIST) Cyber Security Framework. The latter is currently being updated; with an emphasis on governance. The Commission will consider its own update thereafter.

Risk Outlook

Cyber Security remains towards the top of many licensees' risk agenda. Accordingly, licensees should:

- report material cyber-events to the Commission; noting that cyber security includes internal IT events;
- have in place appropriate strategies, policies and reporting mechanisms such that this risk is controlled by a firm's governing body;
- run appropriate scenarios around potential cyber security events; and
- run tests around cyber security events as part of the firm's Business Continuity Plan.

Jeremy Quick
Director

Cases reported

I will start with what has become the main talking point for enforcement over the last year, for reasons that have been well reported upon in the media. This was with regards to the Commission receiving criticism in the judgment of Domaille et al from the Royal Court. After careful consideration, the Commission decided that some of the reasoning and interpretation of the law contained in the judgment did not align with our own understanding of our statutory duties and powers, which had been endorsed by the Royal Court and Court of Appeal previously. The Commission felt that there were elements of the judgment that required us to appeal to the Court of Appeal to seek clarification on key legal points that are important, not only to the Commission but also to industry. The appeal was heard in December 2023 and has clarified a number of areas.

In finding in the Commission's favour on every ground of appeal and in overturning the earlier judgment of the Royal Court, the Court of Appeal found that the Royal Court exceeded the jurisdiction given to it by the Enforcement Powers Law. In explaining this finding, the Court of Appeal said that four features of the Bailiwick's regulatory regime should be given due consideration when enforcement matters are appealed in future:

i) the Commission is a specialist body composed of suitably qualified individuals;
ii) the regulatory functions it performs such as taking the necessary steps for effective supervision of finance business, maintaining confidence in that sector and countering financial crime are of the highest public importance;
iii) in performing these functions, the Commission is required to form evaluative judgements on matters like whether someone is 'fit and proper'; and
iv) the Enforcement Powers Law gives the Commission wide-ranging powers to make decisions about imposing a prohibition order and financial penalties.

We were pleased that the Court of Appeal noted that the Commission's enforcement procedures contain various control mechanisms to meet the requirements of natural justice and the rights conferred under the European Convention on Human Rights, concluding that "Each control mechanism and procedure was followed in this case…"

The Court of Appeal recognised the role that prohibition orders play in maintaining high standards of conduct in the financial services sector noting how the States of Deliberation gave the Commission these powers and had not narrowed their use to only cases where probity was lacking. For our part, we appreciate that they are severe sanctions which have a material impact on an individual and have no plans to use them more frequently than was the case prior to Domaille as a result of the Court of Appeal judgment. They are an important tool but one which we turn to only when we encounter serious failings.

In relation to the financial penalties that the Commission had imposed, the judgment recorded that the Commission had applied the financial penalties against the individuals based on a correct analysis of the legislation in place i.e. it had assessed whether the individuals met the minimum criteria for licensing at the time the analysis took place, which involved more than looking at particular incidents of alleged misconduct. Therefore, the Royal Court had erred in having regard to pre-2017 fining powers and its conclusions were "contrary to the plain wording of the statute." The Court of Appeal found that the Royal Court's approach to the imposition of financial penalties had been inconsistent with the recognition of separate corporate personality and with the provisions of the Enforcement Powers Law. The Court of Appeal recognised how damaging this approach could be as it could enable culpable individuals to contend that financial penalties should be placed on corporate entities only with a corresponding detrimental impact on the public interest.

The Court of Appeal provided guidance on what the role of the Royal Court is when it hears appeals of the Commission's enforcement decisions. The Court of Appeal set out that the express statutory wording of the Enforcement Powers Law is that the Royal Court is there to hear an appeal not to conduct a trial into the performance by the Commission of its investigative function or usurp the "expert, evaluative, regulatory decision-making function of the GFSC."

As the Bailiwick approaches the MONEYVAL evaluation, it was helpful that the Court of Appeal recognised the Bailiwick's commitment to preventing the abuse of its financial services sector and to upholding international standards on combatting AMLCFT. The Court of Appeal recognised that the Commission is well-placed to determine the question of whether any particular breaches actually harm or risk causing harm to the reputation of the Bailiwick.

The Commission has followed the instructions of the Court of Appeal and has appointed a new Senior Decision Maker to redetermine the matter.

Enforcement *(continued)*

In addition to this well documented case, there were other significant judgments handed down in 2023 by the Royal Court. These were with respect to Mr Kelham, X, Y & Z, and from the Court of Appeal with respect to Mr Robilliard. Contained within these judgments, were some clear messages from the courts with regards to the Commission's approach to enforcement. Firstly, with regards to the burden of proof: the Senior Decision Maker has to be satisfied that the facts of a case are established in order to impose the sanctions that the Enforcement Powers Law enables them to do. Secondly, a prohibition order can be made against an individual in cases where a lack of probity is not alleged. Thirdly, that the Commission is correct in its use of the new fining powers, that came into effect in November 2017. Lastly, but importantly, giving clarity over the Commission's disclosure obligations during an enforcement investigation. All of these areas that have been addressed should help guide, not only the Enforcement Division but also those that may find themselves under investigation as well as their legal representatives.

In the case of X, Y & Z , there were some recommendations made by the Royal Court with regards to disclosure, and in particular, where those under investigation are no longer working at the licensee and may have limited access to documents to aid their case. These comments have been taken on board and an updated Explanatory Note was released in early 2024 to reflect the Royal Court's perspective.

There are a further four matters in Court process, where we either await a hearing or await judgment to be handed down.

We have two further matters that are before Senior Decision Makers, and, including these, we had 10 matters that were under investigation at the end of 2023. In total we have had two new cases referred to us during the course of 2023, which is slightly down from 2022, which is a healthy sign. We recognise that industry is keen to learn from the outcomes of enforcement investigations. We know that firms will review our public statements to take any learnings from poor practice as a check against their own business and its operations. Nevertheless, as was the case in 2022, our reporting can be constrained should matters be appealed to the Royal Court and whilst we await the outcome of those appeals.

General

The number of referrals to the Enforcement Division for further investigation is slightly lower than in previous years. My colleagues in the supervisory divisions continue to deploy the suite of regulatory tools at their disposal to try to support firms to achieve compliance. Generally, it is only when firms refuse to engage with remedial work or where the behaviours and findings at the firm show the hallmarks of more serious transgressions that an enforcement referral is considered.

From an operational point of view, across all investigations there were four statutory notices served on individuals and licensees. There were also three interviews conducted during the year.

Our legal team, as well as providing us with support and advice throughout these matters, has also embarked on debt recovery in some cases that arise when those that have faced sanction try every available avenue not to pay the financial penalty that has been imposed. We have engaged lawyers and courts overseas in an effort to address these issues, where necessary.

In other areas, I continued in 2023 to represent the Commission on Committee 4 for the International Organisation of Securities Commissions (IOSCO). This affords the Commission the opportunity to learn about the approach to enforcement in other jurisdictions which acts as a useful assurance tool in assessing the Commission's enforcement toolkit and practices.

The Commission continues to act as an assessor for one jurisdiction which has applied to become a signatory to the IOSCO Enhanced Memorandum of Understanding, and this will continue into 2024.

By the time this report is released, the Enforcement Division will have embarked on a series of industry outreach events giving updates and case studies, which we have not previously been able to do due to matters being before the courts.

Simon Gaudion
Director

SENIOR DECISION MAKERS

The Panel of 'Senior Decision Makers' determine the outcome of the Commission's major enforcement cases. A Senior Decision Maker, sitting alone, hears those cases involving findings of serious regulatory shortcomings against a licensee and/or individual directors, and cases where such findings are contested.
The constitution of the Panel of Senior Decision Makers was supplemented in the course of this year with three new additions to ensure sufficient capacity. This was in light of a number of Panel members having notified us of court commitments which would prevent them from sitting as a Senior Decision Maker in 2024 and beyond.

At the year end, the Panel was as follows (in alphabetical order):

- Nicholas Davidson KC (England and Wales)
- Glen Davis KC (England and Wales)
- Russell Finch OBE, former Judge of the Royal Court (Guernsey)
- Catherine Gibaud KC (England and Wales)
- Saima Hanif KC (England and Wales)
- Kirsty Hood KC (Scotland)
- Ben Hubble KC (England and Wales)
- Richard Jones KC (England and Wales)
- Terence Mowschenson KC (England and Wales)
- Alison Potter (England and Wales)
- Alex Potts KC (England & Wales)

At the start of 2023, there was one live case before a Senior Decision Maker. This completed in March 2023.

Three cases before a Senior Decision-Maker commenced during 2023. Two commenced in January of which one completed in September 2023 and the other in January 2024. The other commenced in November 2023 and is ongoing.

The total number of cases dealt with by Senior Decision Makers since the inception of the Panel in 2014 is now 22.

An appeal in the case of Kelham was dismissed by the Deputy Bailiff on 18th April 2023 save in relation to certain aspects of the public statement which did not accurately reflect the decision (at paragraphs 268-9). An appeal in the case of Robilliard was dismissed by the Court of Appeal on 22nd August 2023.

As at 31st December 2023, there are currently five live appeals from decisions of Senior Decision Makers. One has been the subject of a decision by the Royal Court and is on appeal to the Court of Appeal. Four others await a decision by the Royal Court.

The annual training day for the Senior Decision Makers took place on 3rd and 4th July 2023 and was considered by the Panel to be very helpful. The agenda included issues of practice and procedure arising out of recent cases.

The Explanatory Note regarding "The Investigation and Decision-Making Process Relating to the Use of Enforcement Powers" dated September 2022 will be the subject of an update during 2024.

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

RISK AND FINANCIAL STABILITY

Risk

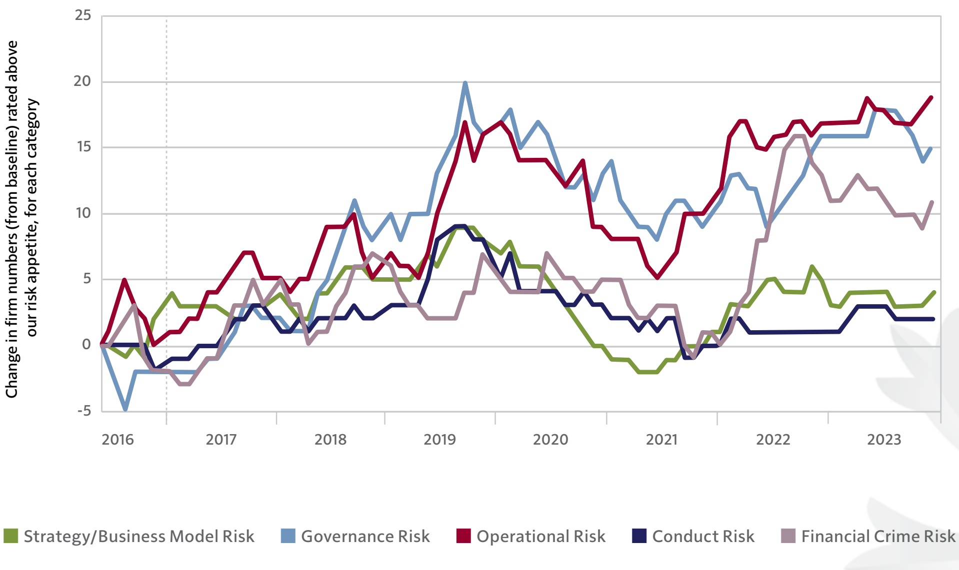
The role of the Risk Unit continues to be providing challenge to, assurance on and further development of our approach to risk-based supervision. In 2023, this meant reviewing whether our internal challenge process, holding a Risk Governance Panel following a supervisory visit, continues to provide an effective sense check to our supervisory teams and contributed to the Commission setting fair and effective Risk Mitigation Programmes (RMP).

As noted in previous years the Risk Unit is also instrumental in the deployment of updates to our supervisory systems. In 2023 this included the update to PRISM required to incorporate the recently authorised Lending, Credit and Finance firms. Work was also carried out to review and identify new Key Risk Indicators that would be helpful to our supervisory divisions.

During 2023, we carried out 23 Full Risk Assessment visits and over 212 further engagements with firms, including over 60 financial crime focused visits. From these visits, 372 RMP actions were assigned to firms during the year. These actions are created where a weakness identified at a firm results in the probability of the risk crystallising being unacceptably high. At the same time, 301 RMP actions were successfully closed by firms as they addressed the risks that the Commission has identified either in 2023 or earlier years.

As shown by the below figure, we continued to set RMP actions to mitigate a wide range of risk types with, as in previous years, a significant number targeted at operational, governance and financial crime risks. Whilst the RMP actions themselves may be discrete in nature, we continue to see a clear interdependency between the different risks that we identify at firms, such as poor governance leading to increased operational risk or a failure to implement sufficient financial crime controls. Throughout the year as part of our assurance events, or when publishing thematic reports, we have posed questions to firms to enable them to assess whether they have sufficient and effective systems and controls to mitigate these key risks. We continue to encourage all firms to review these question sets and assess what they need to do to improve their systems and controls.

We continue to receive and review a wide range of information on the firms we supervise from sources such as online returns, firm notifications, social media and the whistleblowing hotline. This information and data generated just over 8,000 alerts and from this we raised a total of 1,954 triages, to record the action the Commission has, or, where appropriate, has not taken. Such alerts and triages cover events from notification of breaches of legislation and rules to a firm reporting errors to the Commission or a need to follow up on an RMP action that has been set for a firm.



Financial Stability

Are you a Shark or a Jet? A Montague or a Capulet, a Swiftie or a Beyhive? Glass half full or glass half empty? Or more conventionally with respect to the global economy are you a dove or a hawk? It is probably the latter question that will give the greatest insight into how an individual might view the stability of the financial markets over the next year. Do you believe that inflation should be controlled at all costs and that further work is needed to meet the Bank of England's 2% target or that the recent inflationary trend is moving in the right direction and that central banks should start unwinding their monetary policy to provide relief in a cost of living crisis?

The Bailiwick faces the same risks that other jurisdictions do globally, but also individual challenges specific to island life – and whether you take a positive or negative outlook on how we may fare against these challenges perhaps indicates how full your glass is.

It is a sad fact that one of the main risks we are dealing with globally is the increasing number of conflicts that have arisen over the last three years. The conflict between Russia and Ukraine carries on relentlessly into its third year and following Hamas' attack on Israel in October 2023 we have seen an ongoing battle in the Gaza strip, bringing with it humanitarian costs. This has led to further destabilisation in the region, and the recent attacks by Houthi militants have caused significant disruption to shipping in the Red Sea. This came on top of the original supply shocks associated with the pandemic and Russia's initial invasion into Ukraine. These events have contributed to increased uncertainty in terms of trade and energy supply, adding to fiscal and monetary pressures on economies that are already struggling. As the world order overseen by the United States continues to erode, we may all, unfortunately, need to adjust to living with a greater level of uncertainty.

Following the pandemic and the financial support provided by various bodies globally, we have seen a prolonged period of high inflation resulting in heightened interest rates in an attempt to bring it under control. There are various indicators that suggest these higher rates are starting to bring overall inflation down, with inflation in the UK holding steady at around 4% since the end of 2023. Nonetheless, certain component parts of inflation continue to remain high, and the Bank of England is now expressing concern that with wages growing faster than inflation, a continued reduction to meet the Bank's 2% target will be difficult to achieve. A high interest rate environment will make the servicing or rollover of debt more challenging for firms. In the UK, this has led to a greater number of insolvencies in 2023. So far we have not experienced this in Guernsey but persistently higher rates may lead to further consolidation, especially amongst those firms which have debt to service.

Another global challenge is the development and impact of new technologies within financial services and the wider economy. A variety of market commentators have tried to explore what the impact of AI will have on the operation of businesses. Historically, technological developments have tended to lead to changing roles for blue collar workers but have not resulted in a material decrease in the number in employment. AI has the potential to materially impact most levels of work, increasing efficiency and productivity, whilst resulting in entirely different ways of working. We are already seeing this technology being explored in multiple industries including financial services but as yet it is not widespread. It will likely be several years before we see the full impact of its disruptive force and its potential.

Closer to home we continue to experience the ongoing pressures of the cost of living, housing pressures and workforce availability. Some of these could be considered positive challenges in that a shortage of housing and a lack of skilled and experienced staff for financial services highlights an industry seeking to grow, with the potential to help meet increasing costs of living and to be the foundation of the Bailiwick's future financial stability. It also reflects the fact that Guernsey, with its stable rule of law, political structures and robust regulation over a number of years remains an attractive and safe jurisdiction in a period of global uncertainty.

That said, this will only come to pass if solutions to these problems are identified and delivered in a timely manner to allow us to maintain our position as a competitive international finance sector. The recent announcement in the UK, proposing a new regime to support captive insurers and the reform of Solvency II and other financial services legislation, suggests that the UK is starting to distinguish its competitive position outside of the EU. Though we cannot compete in size against the UK we have other strengths to recommend us, such as our speed, flexibility and specialist firms which will allow us to complement the UK as it is looks to grow.

This was supported by the reaffirmation of our stable outlook by Standard and Poors at the start of 2024 and the positive affirmation of the equivalence of our data protection regulation by the EU. Whilst the number of applications received by the Commission slowed in 2023, the overall size of our firms (in terms of assets and income) did not reduce, highlighting the continued growth of our key sectors. Therefore our key challenge in 2024 remains a positive outcome from our MONEYVAL assessment to allow for our financial services industry to continue to take advantage of our strengths and to drive ongoing growth for the Bailiwick of Guernsey.

Katherine Jane
Co-Deputy Director General

THE COMMISSION'S THREE-YEAR BUSINESS PLAN

Over the last six years, the Commission has utilised its reserves to invest in projects that continue for more than a year. This includes the development of IT systems and infrastructure, policy work such as new laws or regulation and preparation for international assessments such as MONEYVAL. 2023 represented the last full year of our second three-year business plan ('3YBP') (2021-2024) and as such several projects were concluded, whilst a number continue into 2024 and our next 3YBP. Our third 3YBP (2024 - 2027) will naturally be heavily influenced by the outcome of the MONEYVAL assessment and additional work that may be required to address points raised by the evaluators.

Concluded Projects

During 2022, we reviewed and planned various updates to our website, which focused on improving the search functionality, user experience, accessibility and content management. The resulting updates were completed in the first half of 2023. A technical report noted improved performance against a set of pre-defined criteria and we have had comments from stakeholders that the website is more user-friendly.

Over the course of the last 3YBP, we contributed to the work undertaken by the States of Guernsey on developing trade agreements, alongside the UK, with several jurisdictions. Our project captured and analysed the data needed to identify key jurisdictions of interest and helped to support the Bailiwick's future participation in the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) free trade agreement.

The Lending, Credit and Finance Law came into full effect on 1st July 2023. Whilst we had completed the relevant system developments to allow firms to apply for authorisation at the start of 2023, further work was required to ensure that these new entities could be brought into the existing PRISM framework such that they could be supervised in accordance with our risk-based approach and that our website reflected the relevant information on these firms. This work was completed on time and enabled us to include these firms in our supervisory approach and display them on the website from day one of the new law.

MONEYVAL

This project was initiated with our first 3YBP in 2018 and has gathered pace as we approach the onsite element of the valuation in April 2024. We have enhanced our engagement with industry and completed a review of exemptions. This led to the creation in 2023 of a registration regime for individuals who utilise the 'up to six directorships' exemption. We developed a simple registration process for these individuals to register with the Commission and to submit information on their directorships. This helps us to understand the financial crime risks associated with these directorships.

We continued to update our internal policies and documentation to address any perceived gaps or weaknesses and utilised the information gathered from the Financial Crime Risk Return to update the Bailiwick's National Risk Assessment, which was published at the end of 2023. We made a significant contribution to the pre-evaluation questionnaires for the relevant Immediate Outcomes for MONEYVAL in Q4 2023. These inform the evaluators' initial assessment of the Bailiwick's AMLCFT framework. Our focus for 2024 will be in ensuring we accurately reflect all the work the Commission carries out on Anti-Money Laundering, Countering the Financing of Terrorism and Countering the Financing of Proliferation of Weapons of Mass Destruction supervision to the assessors.

Data

Like most organisations our IT systems and data storage have developed over time, with additional systems being added when needed. The data project has enabled us to take a step back and review our overall data strategy, including the capture, storage, retrieval, accuracy and analysis of our data and to consider the steps that need to be taken to ensure that the Commission receives accurate information in a timely manner.

During 2023, we built on the first part of the project, which focused on assessing and evaluating our IT infrastructure and the data stored within it via four working groups. We have now documented the data, functionality, and workflow requirements of supervisors across the Commission and considered different design proposals to replace our existing IT systems and how to prepare for a migration and transition to these. Our work has also been influenced by the fact that a significant number of providers are indicating they will not support an on-premises application of their systems for organisations the size of the Commission in the future, with all development of their systems focused on cloud-based applications. As such, the Commission needs to transition to a cloud-based operating environment, whilst maintaining security and protections of our data.

Much of our thinking regarding a potential structure has crystallised following our decision to develop a new Applications and Authorisations Portal, which should act as a foundation upon which we have the potential to build and replace parts of our legacy systems. This is one piece of the jigsaw however, and, alongside the new portal, we plan to undertake several workstreams under the data project during 2024 to improve the quality of the data that we hold, replace certain functional parts of our legacy systems and design and implement a new, scalable data repository that, in time, will improve our ability to store, retrieve and analyse data more efficiently than we currently do.

Augmented Intelligence

In July 2022, we deployed an initial version of an intelligent early warning system (EWS), focused on low impact entities that integrates with our existing PRISM system. During the following months, a focus group of supervisors were tasked with using it as part of their day-to-day supervision before providing feedback on their initial user experience. Following this, an enhanced second version of the EWS was deployed in December 2022, which was evaluated for its efficacy in 2023, enhanced further and then rolled out more widely across the Commission. During its first full year of operation, the EWS has either augmented supervisory awareness of worrisome low impact entities or alerted supervisors to entities that were potentially becoming problematic, through the analysis of certain risk characteristics and patterns of concern. Additionally, the system has also delivered efficiency savings, reducing the time taken for supervisors to review returns submitted to the Commission by licensees. Furthermore, through its advanced analytics and visualisations, supervisors have been able to interrogate entity related data to a greater depth and in a more intuitive manner than was previously possible, thus gaining richer insights on the firms that we supervise and their inter-connectedness. Internationally, the EWS has garnered significant interest from other regulatory authorities globally with several demonstrations of the system delivered throughout 2023.

Applications and Authorisations

During 2023, we spent a considerable amount of effort thinking about our current applications and authorisations process, re-imagining it and designing a new, digitalised system to facilitate our authorisation process, underpinned by modern technology. Throughout 2024, we plan to develop this system and create a new applications portal that will revolutionise the submission and authorisation process for applications. Currently, firms and applicants must download and complete a form before emailing it, along with attachments, to the Commission for assessment. This engenders a degree of inefficiency, with some applications being submitted to the Commission missing key documents, reducing the speed with which applications can be properly considered.

The new system, due to launch in early 2025, will enable firms and individuals wanting to do business in the Bailiwick to complete these forms online, with guardrails in place to improve the quality and completeness of submissions. The portal will support online collaboration and communication throughout the application process, between parties working together to draft an application before submission, and with the Commission post-submission. This will also increase the security around our application process, reducing the potential for individuals to pretend to be the Commission, as all communication will be via a secure portal. Four of the most used forms, including licence applications and change of control requests, should launch initially, before other application forms are added later in 2025. We hope that the new portal will deliver many benefits for the community who use our authorisations services as well as delivering considerable in-house processing efficiencies, helping the Bailiwick remain an attractive domicile for financial services firms.

Katherine Jane
Co-Deputy Director General

OPERATIONS REPORT

People

As at 31st December 2023, the Commission employed 130 permanent members of staff. Commissioners agreed to a slight increase in headcount in 2023 to support the Commission's preparations for the MONEYVAL evaluation in 2024. The HR team use a range of recruitment methods to identify and attract good quality staff and in 2023 the Commission targeted experienced hires, individuals looking to change career and those returning to the workplace following a career break. The HR team attended on-island careers fairs and off-island recruitment events such as events at the Universities of Cambridge and Southampton to promote the Commission's Graduate Development Programme with interested graduates looking to start careers in financial regulation. Five more graduates were selected to join the programme as we continue to grow our talent from entry level. Five further graduates were appointed to permanent analyst roles having completed the two-year training and development programme and rotations across two divisions.

The price of Guernsey property rentals has made it increasingly difficult for us to encourage new talent to the island. The Commission sublets four flats in St Peter Port to staff at graduate analyst, analyst and senior analyst levels as they continue to struggle to secure affordable accommodation in a competitive housing market.

The Commission's training and development opportunities are a key part of our employment package. During 2023, the HR team arranged over 130 internal training sessions including training on interview skills, report writing, business model analysis, cyber security, countering proliferation financing, countering terrorist financing and anti-money laundering. In addition to internal training, staff attended over 220 external training events (in-person or online) including training on financial markets, cryptocurrencies, business analysis, sustainable finance, corporate governance, anti-money laundering and countering terrorist financing as well as sector specific technical training and personal development training. Over 30 staff were supported to study towards professional qualifications such as the Chartered Financial Analyst Levels I-III, the Investment Management Certificate, the Institute of Directors Certificate in Company Direction, the Professional Certificate in Strategic Change Management and the International Compliance Association Advanced Certificate in Anti-Money Laundering.

We continued our internal secondment programme which allows staff to rotate to different divisions for a six-month period to learn and develop in a new team and expand their technical knowledge before returning to their original division. An external secondment to the Financial Conduct Authority was also organised.

The HR team regularly benchmark our benefits and internal policies to ensure they remain competitive and in line with appropriate legislation. The Commission's pension offerings were externally audited and the report confirmed we are well-prepared for the upcoming introduction of pension legislation. The Staff Handbook was updated as part of the annual review and staff and managers were given additional training on our Equal Opportunities Policy ahead of "The Prevention of Discrimination (Guernsey) Ordinance, 2022" coming into force in October 2023. We remain committed to appointment and promotion on merit in the Northcote Trevelyan tradition. We continue to make reasonable adjustments for our colleagues who have visible and non-visible disabilities to allow them to contribute fully to the Commission's mission.

Finally, planned improvements to the floorplate continued and the staff bathroom and shower facilities were modernised. An external audit was conducted on the facilities function which provided assurance that we continue to have appropriate and robust operational and health and safety policies and procedures in place.

Annabel Hitchon
Deputy Director

Financial Information

A significant and ongoing under-complement benefit alongside an unanticipated improvement in the performance of our investment portfolio led to the Commission recording surplus of just over £1m in 2023. Another contributing factor for this year's surplus, the same as in prior years, was higher than expected discretionary financial penalties.

Due to a continued demand for experienced individuals in the finance industry in Guernsey, despite our best efforts, we continued to see a high turnover in staff in 2023. This not only increased our overall training costs for the Commission, reflecting the need to train incoming staff and develop our existing staff, but it also meant a high number of days during the year where the Commission was not close to full staff complement. This led to a significant under-complement benefit for the year. We continue to develop our staff proposition in variety of manners with an aim to retain new staff alongside with our experienced staff. Despite the increased training costs, our staffing gaps ensured our people costs were materially under those that we forecast at the start of the year.

Whilst we saw lower discretionary financial penalties than 2022, at £603,000, they were still significantly higher than forecast both in terms of number and value. We also saw ongoing payments from discretionary penalties imposed in prior years meaning we received £595,000 in cash during 2023. Whilst receipts from discretionary penalties increased, this income is more than matched by legal and staffing costs incurred in ensuring that we operate a fair and robust enforcement process. These penalties continue to be cyclical in nature making them difficult to forecast, and the Commission does not wish to be in a position whereby it has to rely on future penalties to support the ongoing costs of the Commission. In line with the Commission's longstanding position of "polluter pays", we again used this additional income to discount what would otherwise have been an inflationary increase in our annual fees for 2024 for law-abiding licence holders. In 2023, we saw a significant increase to our bad debt allowances, up to £407,000, which reflects a balanced expectation where we believe payment of these penalties are uncertain. This does not mean that the Commission will not continue to pursue these debts but rather a prudent financial assessment of the likelihood of recovery.

In order to manage our funds prudently, to ensure that we can withstand unanticipated stresses and continue to deliver on our statutory objectives, the Commission holds a portion of funds as a precautionary buffer. This amount, reflecting six months' worth of operational expenses, alongside any surplus funds the Commission may have during the year are held in a variety of cash, deposits and marketable securities. The aim is to ensure that the Commission can benefit from increasing interest rates, whilst protecting the overall capital value of these assets. To be prudent, however, we do not budget for the market performance of these assets (aside from the ongoing interest payments) and in 2023, at the year end, we recognised a significant increase in these assets reflecting improved market performance and markedly increased interest rates. This represented a large portion of the comprehensive surplus reported by the Commission in 2023.

Whilst the overall reserves of the Commission have grown, we are aware of several external forces which will, or could, require further investment from the Commission over the next three years. One of these is the ongoing investment in our IT systems and data infrastructure as we transition from an on-premises system to one based in the cloud, whilst maintaining our security and performance controls. In 2023, the development of a new Authorisation and Application Portal was approved reflecting a significant financial investment by the Commission. This aims to provide a platform for the submission of applications electronically, in a safe and secure manner. We are also aware that following the outcome of the forthcoming MONEYVAL visit further investment may be required either on a short or long term basis. We are, taking into account our 3YBP (2024–2027) approved in early 2024, forecasting that we will use the bulk of our reserves over the six month buffer, over the next three years. We will continue to invest our assets in a sensible and controlled manner whilst aiming by 2027 to break even on a cash basis.

Looking ahead, we will determine what sort of a fee increase we request from industry in Autumn 2024, informed by the early indications as to the outcome of the MONEYVAL inspection due in April 2024.

Katherine Jane
Co-Deputy Director General

Information Technology

Whilst we continue to consider the Commission's approach towards emerging AI enabled systems and our approach to regulating such systems, the main aim of the Commission's established information systems are similar to those of parents in past centuries, for their children 'to be seen but not heard' and demonstrate how well behaved they are! With our "in-house" team we regard IT as a core competency of the Commission. This allows us to carry out our core role as a regulator efficiently all the while understanding, mitigating and reacting to any IT risks quickly and effectively. In a modern organisation, information technology (IT) is all pervasive but should run smoothly with minimal impact on the end users, even when things go wrong. On this basis, therefore the greatest compliment I can give to our IT teams is that 2023 was a quiet year. This, of course, belies all the work that has been completed or is ongoing by our IT team but perhaps gives the context in which to consider the rest of this report.

Operational Resilience

Unusually during 2023, we experienced two significant disruptions to our power supply at Glategny Court, which resulted in our systems going offline for a short period of time. The first, on 3rd January 2023, was an external event with a power cut overnight to much of St Peter Port that drained our uninterrupted power supply and caused our systems to be offline during the night. Our team ensured that our core systems were restored before 9am, though some ancillary services took longer to completely restore. The second disruption was a failure of the power supply to a network switch in our communication room – whilst this led to a cascade failure of our power infrastructure it was resolved within a matter of hours and occurred outside of core office hours so again had a limited impact on users. It is good to note that whilst issues will always occur, we demonstrated our ability to bring our systems back online in a smooth and timely manner with minimal impact on our staff or industry from these unexpected events. As we transition more fully to a cloud-based infrastructure, we continue to keep in mind what backup systems we need to have in place to prevent significant disruption to our internal and external systems.

On an ongoing basis we monitor the main elements of our public facing portals and website, such as the login page, for availability during normal working hours. In 2023, we had 100% uptime on our Online Submissions and Online PQ portals outside of planned maintenance windows. Whilst this is higher than we would expect in a normal year it demonstrates the availability and accessibility of our systems.

Cyber Security

Cyber is a risk that continues to increase, not just for the Commission, but for everyone. As more systems and processes move online there is an increasing number of criminals who look to exploit weaknesses both in systems and individuals to gain access to funds or personal and sensitive information. In 2023, the Commission again saw a significant number of attacks, both direct and indirect. During the year we saw over 90,000 attempts to exploit publicly known vulnerabilities of specific systems against the infrastructure the Commission runs. Whilst some of these will never succeed, as the Commission does not utilise the system with the vulnerability, it demonstrates the need to continually ensure our IT perimeter is monitored and reinforced.

To ensure that we continue to meet industry standards we have renewed our Cyber Essentials certification in 2023 and we continue to run planned phishing tests for staff, recognising that the material weakness in any system is quite likely to be the human link. We have a high level of staff reporting on these phishing tests, which is reassuring as it highlights that our staff take the protection of our systems and information seriously and they know that one staff report of an actual phishing attack can protect the whole Commission.

We continued to see instances of attacks where individuals pretend to be the Commission to access funds or information from members of the public or our licensees. These included the creation of a cloned copy of the Commission's website. We received multiple emails from Eastern European residents who had been told that the Commission could help them recover lost cryptocurrency. We identified several variations of the Commission's domain which had been used and we ensured these were taken down promptly. The second instance was when the email of a staff member had been copied, again with a slightly different domain to attempt to obtain information from our licensees. As the regulator for the Bailiwick, we continue to be a target or tool used by criminals to help persuade firms or individuals into giving access to their information. Whilst we will continue to identify and frustrate any indirect attacks that we identify, firms are encouraged to check that emails purporting to be sent from the Commission are using the correct domain, gfsc.gg, and if in any doubt of the legitimacy of an email or website to get in contact with us directly.

Projects

We have highlighted in previous years the intent of the Commission to move from an on-premises systems and services to a cloud-based operation and this continues with the migration of key parts of our system onto the cloud. These cloud-based systems enable us to access the stronger technical controls that are provided within the newer systems, along with increased security and capacity. Along with our data project mentioned elsewhere, we are continuing to identify how and when to transfer the remainder of our systems to the cloud.

In 2023, there were several projects that utilised a large amount of IT resource, the first being the implementation of the Lending, Credit and Finance Law in July 2023. This required significant development of our internal systems to allow for these firms to apply and be registered, but also to issue a first return to be completed once the firms has been licensed. This project was successfully delivered despite a very tight timeframe between the approval of the law and implementation.

In addition, at the end of 2022 it was identified that there was a need for individual directors, who had been utilising the 'up to six directorships' exemption, to be registered with the Commission. This required the creation of a simple registration system that resides alongside our current existing Personal Questionnaire Portal. Working with our Authorisations and Innovation Division and our Financial Crime Division our IT team delivered a registration system by July 2023, in readiness for the 1st October go-live date.

We continue to support several ongoing projects such as work being undertaken on a new Authorisations and Application Portal, and our data project which is looking to restructure our data and IT infrastructure to make it fit for the future. Both projects look to put the Commission in the best place possible to utilise current and future technologies and to ensure we can maintain our effectiveness and efficiency as a global regulator, of both prudential, conduct and financial crime risks.

Katherine Jane
Co-Deputy Director General

INDEPENDENT AUDITOR'S REPORT

Opinion

We have audited the financial statements of the Guernsey Financial Services Commission (the 'Commission') for the year ended 31st December 2023 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.

In our opinion, the accompanying financial statements:

- give a true and fair view of the financial position of the Commission as at 31st December 2023, and of its financial performance and its cash flows for the year then ended;
- are in accordance with United Kingdom Accounting Standards including Financial Reporting Standard 102: 'The Financial Reporting Standard applicable in the UK and Republic of Ireland' ('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 Company in accordance with the International Ethics Standards Board for Accountants' International Code of Ethics for Professional Accountants (including International Independence Standards) (IESBA Code), together with the ethical requirements that are relevant to our audit of the financial statements in Guernsey, and we have fulfilled our other ethical responsibilities in accordance with these requirements and the IESBA Code. 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 but does not include the financial statements and our auditor's report thereon.

Our opinion on the financial statements does not cover the other information and 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, 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 Commissioners for the financial statements

The Commissioners are responsible for the preparation of the financial statements which give a true and fair view in accordance with FRS 102, 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.

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.

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.

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

30th May 2024

STATEMENT OF COMPREHENSIVE INCOME

For the year ended 31st December 2023

Note		2023	2022
		£	£
	Regulatory income		
2.1.	Fee and financial penalty income	16,622,591	16,076,068
		16,622,591	16,076,068
	Operating expenses		
2.2.	Administrative and general expenses	(4,327,110)	(4,358,085)
3.1.	Staff expenses	(12,114,042)	(10,759,576)
		(16,441,152)	(15,117,661)
	Operating surplus	181,439	958,407
2.3.	Net finance income	827,244	(185,214)
2.4.	Grant income	-	13,530
	Total comprehensive surplus for the year	1,008,683	786,723

STATEMENT OF CHANGES IN EQUITY

	Retained surplus
	£
At 1st January 2022	13,884,933
Comprehensive surplus for the year	786,723
At 31st December 2022	14,671,656
Comprehensive surplus for the year	1,008,683
At 31st December 2023	15,680,339

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 31st December 2023

Note		2023	2022
		£	£
	Non-current assets		
4.1.	Intangible assets	600,083	1,127,233
4.2.	Property, plant and equipment	1,066,313	1,041,638
5.1.	Forestry assets	174,241	174,241
5.2.	Non-current financial assets	8,497,800	8,023,460
6.1.	Non-current receivables	112,161	22,906
		10,450,598	10,389,478
	Current assets		
5.2.	Current financial assets	3,773,510	3,766,269
6.1.	Current receivables	927,434	1,202,379
6.2.	Cash and cash equivalents	2,118,632	918,452
		6,819,576	5,887,100
	Total assets	17,270,174	16,276,578
	Current liabilities		
6.3.	Current payables	(771,552)	(847,310)
		(771,552)	(847,310)
	Non-current liabilities		
6.4.	Provisions	(818,283)	(757,612)
		(818,283)	(757,612)
	Net assets	15,680,339	14,671,656
	Equity		
	Retained surplus	15,680,339	14,671,656
	Total equity	15,680,339	14,671,656

The accompanying notes are an integral part of the Financial Statements.
The audited financial statements on pages 43 to 59 were approved by the Commissioners and signed on their behalf on 30th May 2024 by:

Julian Winser	John Aspden	William Mason
Chairman	**Vice-Chairman**	**Director General**

STATEMENT OF CASH FLOWS
For the year ended 31st December 2023

Note		2023	2022
		£	£
	Cash flows from operating activities		
	Total comprehensive surplus for the year	1,008,683	786,723
	Adjusted for non-cash items:		
4.1.	Amortisation	542,138	589,759
4.2.	Depreciation	186,174	210,830
4.1.	Loss on disposal or write-down of intangible assets	-	36,008
4.2.	Loss/(gain) on disposal or write-down of property, plant and equipment	-	(14)
2.3.	Net finance (cost)/income	(827,244)	185,214
	Movements in working capital:		
6.1.	Decrease/(Increase) in receivables	185,690	(121,844)
6.3.	Decrease in payables	(75,758)	(421,359)
6.4.	Increase in provisions	60,671	213,055
	Net cash from operating activities	1,080,354	1,478,372
	Cash flows from investing activities		
4.2.	Purchase of property, plant and equipment	(210,849)	(185,428)
4.1.	Software development expenditure	(14,988)	-
5.1.	Purchase of forestry assets	-	(34,820)
2.4	Grant towards purchase of forestry assets	-	13,530
	Net purchase of financial assets	(228,167)	(5,026,178)
	Net finance income received	571,786	66,376
	Net cash (used in)/from investing activities	117,782	(5,166,520)
	Increase/(decrease) in cash in the year	1,198,136	(3,688,148)
	Cash and cash equivalents at the start of the year	918,452	4,603,669
	Effect of foreign exchange rate changes	2,044	2,931
	Cash and cash equivalents at the end of the year	2,118,632	918,452

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 31st December 2023

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 £14,389,942 (2022: £12,708,181) that are readily realisable within three months in normal market conditions and liabilities of £1,589,835 (2022: £1,604,922).
- The Commission's projected income, expenditure, and cash flows for 2024 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 these scenarios 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.

1.7. 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 31st December 2023.

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.

	2023	2022
	£	£
Fee income		
Annual Fee Income	15,369,162	13,841,496
Application Fee Income	885,905	1,123,720
	16,255,067	14,965,216
Penalty income		
Administrative Penalty Income	173,625	134,000
Discretionary Penalty Income	603,000	1,150,310
	776,625	1,284,310
Change in Bad Debt Allowance	(406,991)	(143,473)
Bad Debts Written-Off in the Year, net of Recoveries	(2,110)	(29,985)
	16,622,591	16,076,068

NOTES TO THE FINANCIAL STATEMENTS *(continued)*
For the year ended 31st December 2023

The following table provides information about the nature of the major sources of regulatory income and their associated revenue 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 1st 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 1st 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 Commission Law. 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 gives 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:

	2023	2022
	£	£
Rent, rates and premises costs	1,121,848	1,119,395
Amortisation (see note 4.1)	542,138	589,759
Depreciation (see note 4.2)	186,174	210,830
Gain on disposal or write-down of property, plant and equipment (see note 4.2)	-	(14)
Loss on disposal or write-down of intangible assets (see note 4.1)	-	36,008
Changes in measurement of provisions (see note 6.4)	60,671	213,055
Legal expenses	462,746	421,936
Professional expenses	408,075	303,469
Auditor's remuneration	14,092	10,120
Other expenses	1,531,366	1,453,527
	4,327,110	4,358,085

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 62.

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

2.3. Net finance income/(costs)

	2023	2022
	£	£
Dividend and interest income	613,089	173,075
Bank and management charges	(68,886)	(67,377)
Net gains/(losses) on financial assets	283,041	(290,912)
	827,244	(185,214)

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 are determined as the difference between the sales proceeds and the carrying value of the asset at the commencement of the reporting period plus any additions in the period. Unrealised changes in fair value on revaluation are taken to surplus or deficit. Please refer to note 5.2 for information on the determination of fair value for financial assets.

2.4. Grant income

In 2022, the Commission received a grant of £13,530 from Scottish Forestry to provide financial support for the Commission's afforestation of its land in Scotland, as well as maintenance costs in connection with planted trees (refer to note 5.1). No further amounts are due under the grant agreement.

The Commission was obliged under the grant agreement to plant specified woodland on the land, which it did in 2022, as well as to undertake sustainable management of the afforested land. All costs incurred to satisfy these obligations were incurred in afforesting the land during 2022, so the Commission has applied the accruals method in recognising the grant income in 2022.

2.5. 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 £12,114,042 (2022: £10,759,576) comprising:

	2023	2022
	£	£
Wages and salaries	9,206,961	8,165,811
Social insurance, permanent health, and medical insurance costs	1,116,829	977,059
Pension costs	988,230	908,320
Recruitment and training costs	556,494	467,545
Commissioners' fees	245,528	240,841
	12,114,042	10,759,576

3.2. Post-employment benefits

A. Defined contribution scheme

The Commission recognised £136,098 (2022: £106,933) of expenses relating to the Commission's defined contribution scheme. Employer contributions are calculated at 12% of pensionable salary. Employee contributions are entirely voluntary. No contributions were outstanding at 31st December 2023 (2022: £nil).

B. Multi-member RATS

The Commission recognised £706,789 (2022: £598,260) of net expenses for employer contributions to the Commission's multi-member RATS. Employer contributions are calculated at 12% of pensionable salary. Employee contributions are entirely voluntary. No contributions were outstanding at 31st December 2023 (2022: £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 2023, including pension and social insurance, totalled £2,130,585 (2022: £2,114,724). 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 2023 of £62,272 (2022: £60,600).
- Commissioner Howitt's long-term partner is a member of the senior counsel at Walkers (Guernsey) LLP. The firm provided legal advice to the Commission during the year, for which it received fees during 2023 of £3,150 (2022: £9,036).
- 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 31st December 2023 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 1st January 2023	3,947,564
Additions	14,988
Disposals and Write-Offs	-
At 31st December 2023	3,962,552
Accumulated amortisation	
At 1st January 2023	(2,820,331)
Expense for the year	(542,138)
Disposals and write-offs	-
At 31st December 2023	(3,362,469)
Net carrying value	
At 31st December 2022	1,127,233
At 31st December 2023	600,083

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 asset's the 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 1st January 2023	1,496,458	560,098	879,272	2,935,828
Additions	81,411	-	129,438	210,849
Disposals and write-offs	-	(2,940)	(103,249)	(106,189)
At 31st December 2023	1,577,869	557,158	905,461	3,040,488
Accumulated depreciation				
At 1st January 2023	(787,524)	(367,962)	(738,704)	(1,894,190)
Expense for the year	(74,542)	(27,600)	(84,032)	(186,174)
Disposals and write-offs	-	2,940	103,249	106,189
At 31st December 2023	(862,066)	(392,622)	(719,487)	(1,974,175)
Net carrying value				
At 31st December 2022	708,934	192,136	140,568	1,041,638
At 31st December 2023	715,803	164,536	185,974	1,066,313

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. These include:

- its offices at Glategny Court, which are subject to a non-cancellable lease ending in 2034, and
- four flats, one leased for a 3-year term and three leased for 2-year terms, that are sub-let to staff who have relocated to Guernsey.

All 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	866,990
Between 2 and 5 years	2,809,789
More than 5 years	4,133,533
	7,810,312

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 1st January 2022	110,440	28,981	139,421
Additions	-	34,820	34,820
At 31st December 2022	110,440	63,801	174,241
Additions	-	-	-
At 31st December 2023	110,440	63,801	174,241

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 has been accounted for at historic cost.

Biological assets represent the cost of planted trees and the ground preparation work required to afforest the acquired land. These are initially recognised at cost and subsequently measured at cost less impairment, where applicable.

Valuations of investment property are to be performed by an independent expert valuer. The Commission is seeking to obtain a valuation for the 2024 reporting period. In the intervening period, the Commission has assessed whether the carrying value of the land approximates its fair value by reference to market evidence of transactions prices for similar properties, 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 1st January 2022	-	3,700,000	-	3,331,554	7,031,554
Net purchases/(disposals)	-	66,269	5,227,650	(292,055)	5,001,864
Net change in fair value	-	-	(12,262)	(231,427)	(243,689)
At 31st December 2022	-	3,766,269	5,215,388	2,808,072	11,789,729
Net purchases/(disposals)	-	7,241	300,771	(97,212)	210,800
Net change in fair value	-	-	165,323	105,458	270,781
At 31st December 2023	-	3,773,510	5,681,482	2,816,318	12,271,310

All financial assets comprise straight-forward 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 rate 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

	2023	2022
	£	£
Amounts falling due within one year		
Fee and penalty receivables	824,715	761,554
Less: Bad debt allowance for fee and penalty receivables	(665,313)	(258,321)
Other receivables	37,067	20,644
Prepayments	730,965	678,502
	927,434	1,202,379
Amounts falling due after more than one year		
Prepayments	112,161	22,906
	112,161	22,906
Total receivables	1,039,595	1,225,285

Receivables are measured at amortised cost using the effective interest rate 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 an allowance 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 are subject to an insignificant risk of changes in value.

	2023	2022
	£	£
Cash at bank and in hand	1,706,729	471,243
Cash held with discretionary manager	411,903	447,209
Total cash and cash equivalents	2,118,632	918,452

The Commission had no borrowings as at the year-end (2022: £nil).

6.3. Payables

	2023	2022
	£	£
Amounts falling due within one year		
Payables and accruals	744,799	816,498
Fees received in advance	26,753	30,812
Total payables	771,552	847,310

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

6.4. Provisions

The provisions relate 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 £818,283 (2022: £757,612), comprising:

	Reinstatement provision	Redecoration provision	Total
	£	£	£
At 1st January 2022	533,320	11,237	544,557
Amounts provided/(released) during the year	201,536	11,519	213,055
At 31st December 2022	734,856	22,756	757,612
Amounts provided during the year	49,237	11,434	60,671
At 31st December 2023	784,093	34,190	818,283

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.

The provisions at the reporting date have been determined based on the following guideline values:

- Reinstatement Provision: £1,150,000; and
- Redecoration Provision: £24,000.

The guideline value for the reinstatement provision is determined based on an assessment by an independent expert, undertaken every three years. The guideline value for the redecoration provision is based on the Commission's experience of the cost of such redecoration work. In the intervening period, the Commission assesses whether changes to the office premises and movements in the rate of inflation warrant adjustment to that value.

The value of the provisions is accrued over the non-cancellable lease period, taking into consideration the time value of money, where this is material.

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 31st December 2023 (2022: £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 (2022: £nil).

7.2. Subsequent events

The Financial Statements were approved for issuance by the Commissioners on 3rd May 2024. There have been no adjusting subsequent events to report. Subsequent events have been evaluated until the date of signing the Financial Statements.

The following non-adjusting subsequent events have been noted:

- Since 31st December 2023, movements in the quoted prices of the Commission's financial assets resulted in their fair value increasing by £98,323 as at 31st March 2024.
- In January 2024, the Court of Appeal handed down a judgment in the matter of the Commission's appeal against the decision from April 2023 regarding I. Domaille and I. Clarke and M. Hannis v Guernsey Financial Services Commission, wherein the original judgment handed down was overturned. As this matter is now reverting to a Senior Decision Maker, any amount of potential penalty income, or expenses, will not be known until the decision-making process has been completed, and as such have not been recognised in the Commission's Financial Statements.
- The Commission is aware that Julian Winser will retire at the end of his term of office.

There have been no adjusting subsequent events to report.

COMMISSIONERS

Julian Winser
Chairman of the Commission

Julian was appointed as a Commissioner in May 2021, and became Chairman in December 2021. Julian 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 a CEDR trained mediator, and advisor to the Oxford Process, an international conflict resolution organisation.

Wendy Dorey
Commissioner

Wendy was appointed as a Commissioner in November 2015. She has over 25 years' experience in the financial services industry in the UK, France and Guernsey. She is currently a Director of Dorey Financial Modelling, an investment consulting firm, and a Non-Executive Director of Schroders (CI) Limited, Weiss Korea Opportunity Fund Ltd and TwentyFour Select Monthly Income Fund 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 Guernsey IoD Committee from 2021 - 2023.

John Aspden
Vice-Chairman of the Commission (from February 2023)

John 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, John 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. John 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. John 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.

Simon Howitt
Commissioner

Simon was appointed as a Commissioner in June 2013. He has over 30 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. Simon 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 is a 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, and was Deputy Bâtonnier of the Guernsey Bar from 2012 to 2020.

Philip Middleton
Commissioner

Philip 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.

Oliver Henley
Commissioner (from August 2023)

Oliver is a longstanding member of the House of Lords. He is currently a member of the Joint Committee on Human Rights. He previously served as a Minister under four Prime Ministers, from Margaret Thatcher to Theresa May, in a range of departments including Social Security, Defence, and DEFRA and as a Minister of State at the Department of Education and the Home Office. His most recent ministerial position, from 2017 to 2019, was at the Department of Business, Energy and Industrial Strategy where, among other responsibilities, he covered regulatory reform and the Life Sciences Industrial Strategy.

Between 1997 and 2010 he served as Opposition Chief Whip in the Lords, and subsequently as opposition spokesman for Home Affairs and Justice.

Oliver was called to the Bar in 1977. He was an elected member of the County Council in his native Cumbria from 1986 to 1989, resigning on his appointment to the Government. He was appointed to the Privy Council in 2013.

Stuart King
Commissioner

Stuart is a non-executive director at Pension Corporation, the UK pension annuity specialist, and an independent consultant. Previously, Stuart was the Group Compliance Director at Aviva and a Managing Director at Promontory Financial Group - a consultancy specialising in strategy, risk and governance issues.

Earlier in his career, Stuart worked on a range of regulatory and public policy issues at the UK's Financial Services Authority (FSA) and, before that, at the Bank of England and IMF. During his time at the FSA, he was successively Head of UK Banks Regulation, Head of Retail Intelligence and Regulatory Themes and Head of Major Insurance Groups Regulation. He also led the re-launch of the FSA's "Treating Customers Fairly" initiative and the supervision of the large insurance groups during the global financial crisis. He was responsible for changes to the supervisory approach to insurance groups which were introduced following the crisis.

Stuart takes a keen interest in mental health issues, particularly among the young and other vulnerable groups. He is the Treasurer of a new community charity providing counselling services to rough sleepers and is also the Risk and Audit Trustee at a Multi Academy Trust.

SENIOR OFFICERS OF THE COMMISSION

COMMISSIONERS

William Mason
Director General

Gillian Browning
Co-Deputy Director General
(Investment, Fiduciary and Pension Division)

Katherine Jane
Co-Deputy Director General
(Risk and Operations)

Alice Joy
Commission Secretary

Simon Gaudion
Director
Enforcement Division

Fiona Crocker
Director
Financial Crime Division

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

Jeremy Quick
Director
Banking and Insurance Division

STATISTICAL DATA

Investment

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

Year		£bn
2014	Closed-ended	136
	Open-ended	40
	Total	176
2015	Closed-ended	140
	Open-ended	39
	Total	179
2016	Closed-ended	159
	Open-ended	42
	Total	201
2017	Closed-ended	166
	Open-ended	43
	Total	209
2018	Closed-ended	176
	Open-ended	45
	Total	221
2019	Closed-ended	181
	Open-ended	46
	Total	227
2020	Closed-ended	197
	Open-ended	49
	Total	246
2021	Closed-ended	249
	Open-ended	55
	Total	304
2022	Closed-ended	241
	Open-ended	51
	Total	292
2023	Closed-ended	240
	Open-ended	50
	Total	290

Closed-ended
Open-ended
Total

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

Year		
2014	Closed-ended	636
	Open-ended	176
	Total Guernsey	812
2015	Closed-ended	641
	Open-ended	167
	Total Guernsey	808
2016	Closed-ended	650
	Open-ended	157
	Total Guernsey	807
2017	Closed-ended	658
	Open-ended	148
	Total Guernsey	806
2018	Closed-ended	665
	Open-ended	148
	Total Guernsey	813
2019	Closed-ended	675
	Open-ended	140
	Total Guernsey	815
2020	Closed-ended	693
	Open-ended	136
	Total Guernsey	829
2021	Closed-ended	803
	Open-ended	143
	Total Guernsey	946
2022	Closed-ended	829
	Open-ended	139
	Total Guernsey	968
2023	Closed-ended	804
	Open-ended	137
	Total Guernsey	941

Closed-ended
Open-ended
Total Guernsey

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

Year	
2014	622
2015	639
2016	644
2017	640
2018	663
2019	677
2020	686
2021	696
2022	702
2023	694

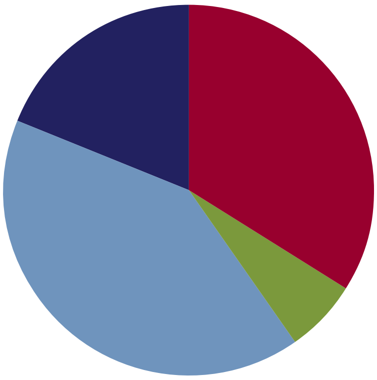
Under the Protection of Investors (Bailiwick of Guernsey) Law, 2020, investment funds (Figure 2.) are either Registered or Authorised; whereas the firms (Figure 3.) undertaking Controlled Investment Business are licensed under the same law. There is no meaningful correlation to be drawn between the number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

Figure 4. **Movements within period**

Type	Total as at 31st December 2022	Approved in year	Surrended in year	Total as at 31st December 2023
Total of open-ended schemes	139	9	11	137
of which Authorised	115	0	8	107
of which Registered	24	9	3	30
of which Qualifying Investor Funds (QIFs)	17	0	0	17
Total of closed-ended schemes	829	39	64	804
of which Authorised	348	1	35	314
of which Registered	481	38	29	490
of which QIFs	174	0	14	160
Total of licensees	702	32	40	694

Fiduciary and Pension

Figure 5. **Ownership of fiduciary licensees as at 30th June 2023***

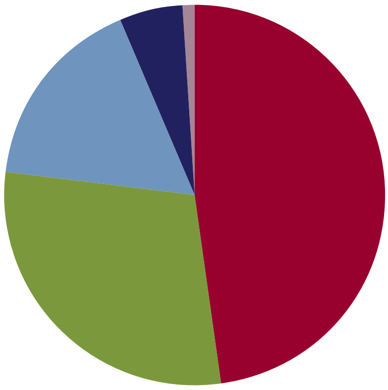


	2023	2022
International financial group	50	46
Lawyers and accountants	9	9
Privately owned – local	60	59
Privately owned – overseas	29	27
Total	148	144

NB excludes licensees in liquidation as at submission date for 2023 and 2022

*Based on the submission of an annual return by 148 licensees as at 30th June 2023

Figure 6. **Staffing levels of licensees based on total number of staff carrying out regulated fiduciary activities as at 30th June 2023***



	2023	2022
Up to 10 staff	77	69
11-25 staff	39	42
26-50 staff	22	24
51-75 staff	7	8
More than 75 staff	3	1
Total	148	144

NB excludes licensees in liquidation as at submission date for 2023 and 2022

*Based on the submission of an annual return by 148 licensees as at 30th June 2023

Pension and gratuity scheme membership and assets

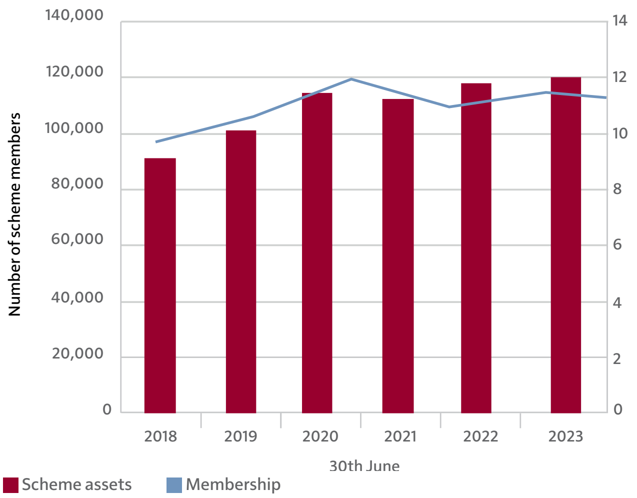
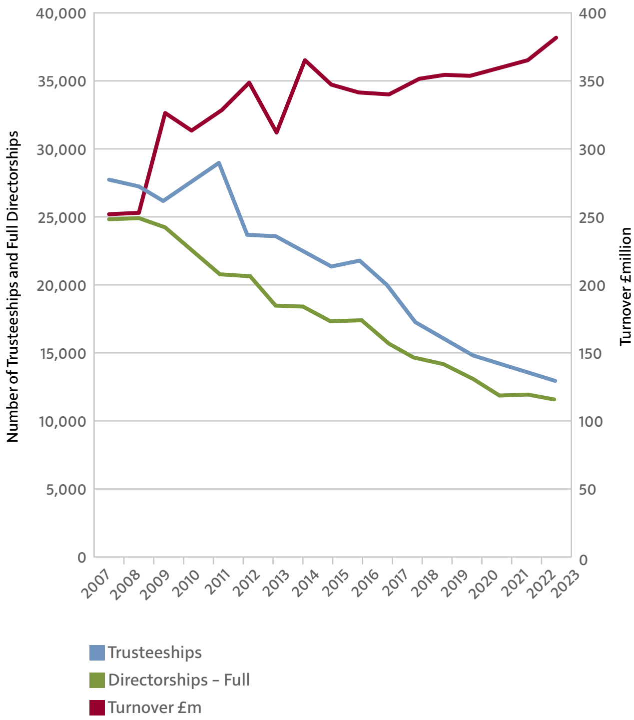


Figure 7. **Number of licensees in each turnover band based on fiduciary turnover for accounting periods falling in the year ended 30th June 2023***

Turnover band	2019	2020	2021	2022	2023
Up to £249,999	20	21	20	22	21
£250,000 to £1,000,000	49	39	43	42	47
£1,000,000 to £2,000,000	22	27	19	21	23
£2,000,000 to £4,000,000	26	24	25	29	24
£4,000,000 or over	31	30	32	30	34

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

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



Insurance

Figure 9. **International insurers as at 31st December 2023**

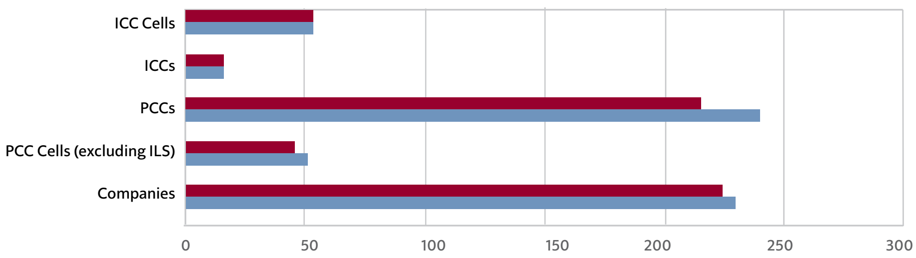


Figure 10. **International insurers - Gross Assets**

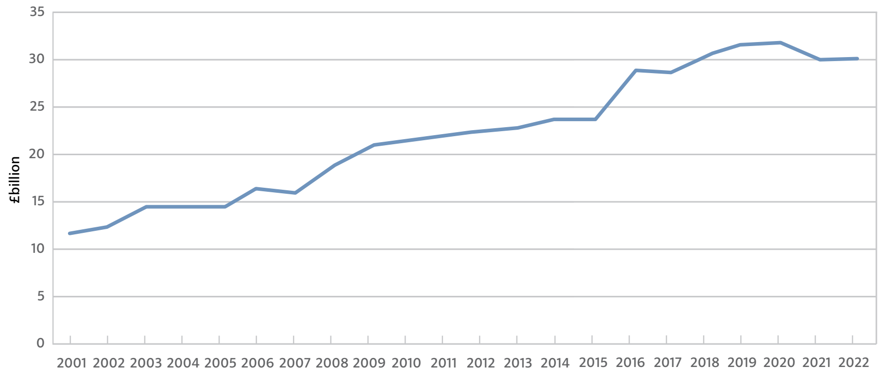


Figure 12. **International insurers - Gross Premium**

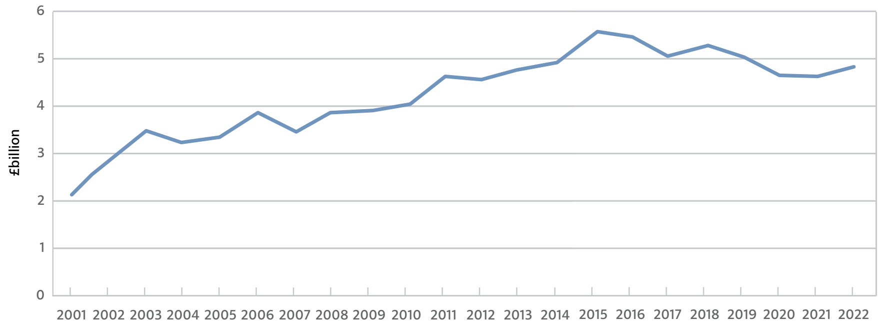
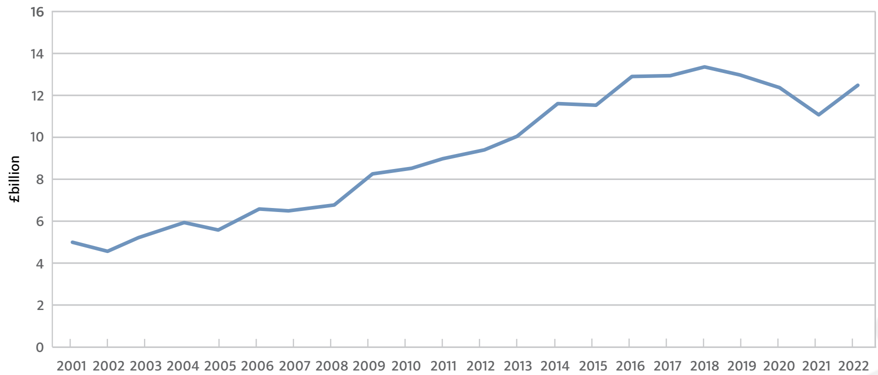


Figure 11. **International insurers - Net Worth**



Banking

Figure 13. **Guernsey bank assets**

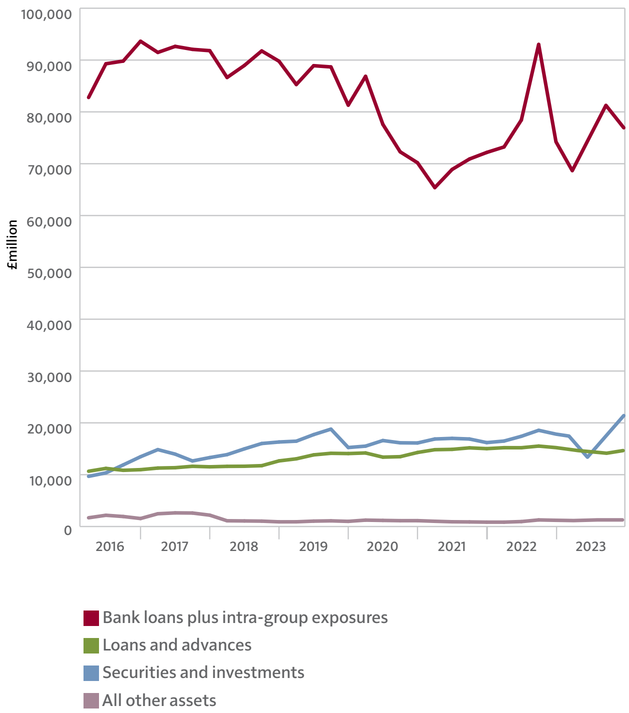


Figure 14. **Guernsey bank liabilities**

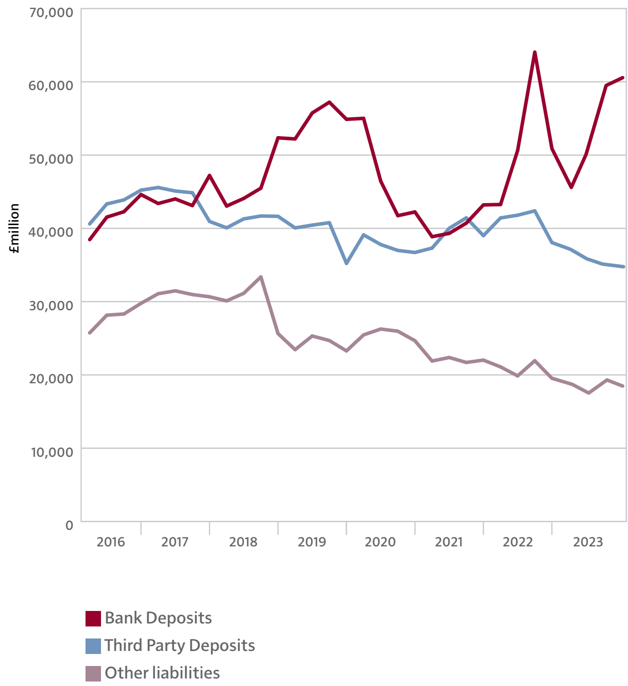


Figure 15. **Total applications by volume and type – 2019 to 2023 comparison**

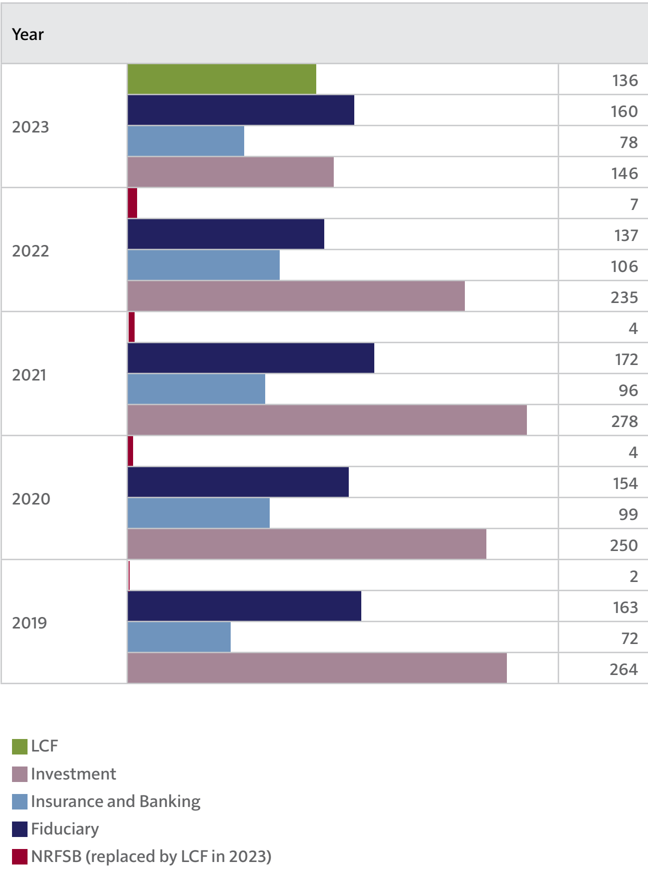
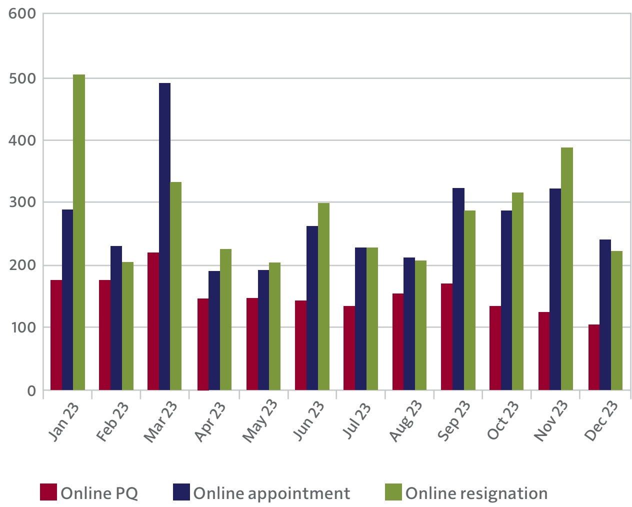


Figure 16. **Online Personal Questionnaire Portal submissions 2023**



Finance and Operations

Table 1. **Expenditure by functional area**

	2023	2022
	£'000s	£'000s
Authorisations	1,018	1,049
Enforcement	1,804	1,972
Risk	1,064	981
Supervisory and Policy Divisions	6,995	5,965
Internal Operational Support Functions	1,518	1,640
Overheads (incl. Premises, IT Expenses, Depreciation, and Three-Year Business Plan)	4,042	3,510
Total	**16,441**	**15,118**

Table 2. **Number of staff by total remuneration**

Annual Remuneration	As at 31st December 2023	As at 31st December 2022
£0 - £39,999	27	24
£40,000 - £79,999	78	75
£80,000 - £119,999	19	21
£120,000 - £159,999	3	5
£160,000 - £179,999	2	2
£180,000 and above	4	2
Total number of staff	**133**	**129**
Comprising:		
Permanent staff	130	126
Fixed-term staff	3	3
	133	**129**
Full Time Equivalent Staff	**124.9**	**122.4**
FTE Vacancies at Year-End	8	6

Table 3. **Legal and professional fees**

	2023	2022
	£'000s	£'000s
Legal Fees - Enforcement	41	98
Legal Fees – Judicial and SDM Process	397	299
Legal Fees – Advisory	25	25
Professional Fees	408	303
Internal Audit	48	40
Total	**919**	**765**

Table 4. **Commissioners' fees**

	2023	2022
Julian Winser	51,071	47,070
Simon Howitt	30,643	28,242
Wendy Dorey	30,643	28,242
John Aspden	39,722	36,610
Philip Middleton	39,722	36,610
Baroness Couttie	-	36,610
Stuart King	39,722	27,457
Lord Henley	14,005	-
Total	**245,528**	**240,841**

APPENDIX

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:

- the Protection of Investors (Bailiwick of Guernsey) Law, 2020 as amended;
- the Banking Supervision (Bailiwick of Guernsey) Law, 2020 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, 2020 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;
- the Financial Services Business (Enforcement Powers) (Bailiwick of Guernsey) Law, 2020; and
- the Lending, Credit and Finance (Bailiwick of Guernsey) Law, 2022.

Relationship with the States

The Policy & 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 & Resources Committee.

The Commission maintains regular dialogue with the States. During 2023, the Commission continued to engage with the Policy & 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 & 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 & 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 2023 were Julian Winser, Simon Howitt, Wendy Dorey, John Aspden, Philip Middleton, Stuart King and Oliver Henley. A brief résumé for each Commissioner is provided on pages 52 and 53 of this report. Three Commissioners live in Guernsey, with the remainder residing in the UK.

There were ten meetings of the Commissioners in 2023. The attendance was as follows: Julian Winser ten, Simon Howitt ten, John Aspden ten, Philip Middleton ten, Wendy Dorey ten, Stuart King ten and Oliver Henley four. 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 & Resources Committee; and
- 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 & 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
(b) laid before the States.

The Commission includes a copy of its audited financial statements in the annual report to the Policy & 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 & 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). Although not required to comply with the UK Corporate Governance Code, the Commission has regard to the guidance contained therein and complies wherever valid to do so.

One Commissioner - Simon Howitt - has served as Commissioner for longer than ten years. Simon Howitt initially took over a portion of an unexpired term. As at December 2023, he had served for ten years and six months. He retired in January 2024.

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 & Resources Committee.

Audit and Risk Committee

The Audit and Risk Committee continued to be chaired by John Aspden. Its other members were Wendy Dorey and Stuart King. 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 Co-Deputy Director General (Risk and Operations) and the Financial Controller.

The Committee met three times in 2023. The attendance of the individual members at these meetings was as follows: John Aspden three, Wendy Dorey three and Stuart King two. The Audit and Risk Committee has oversight for non-regulatory risk; regulatory risk is reviewed by the Board as a whole.

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

Remuneration and Nomination Committee

The Remuneration and Nomination Committee was chaired by Simon Howitt and comprised Philip Middleton and Wendy Dorey. The Committee 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 the remuneration and reward of the senior executives and 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 & Resources Committee determines the level of Commissioners' fees). The Committee is also 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 on two occasions in 2023 with Simon Howitt attending two meetings, Philip Middleton two and Wendy Dorey two.

Investment Committee

In 2023, the Investment Committee continued to be chaired by Philip Middleton. Its other members were John Aspden and Stuart King. The Committee is mandated to advise the Commission in respect of its investment approach. Meetings are attended by the Director General, the Co-Deputy Director General (Risk and Operations) and the Financial Controller. The Committee met twice during 2023 and the attendance of the individual members at these meetings was as follows: Philip Middleton two, John Aspden two and Stuart King 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 2023, the Commission appointed an external party to undertake internal audits in the following areas:-

- Financial Planning, Reporting and Controls;
- Facilities Management;
- Pension Administration; and
- Expenditure, Capital Expenditure and Payables.

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 they are satisfied that the Commission meets expectations in connection with internal audit and corporate governance.

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 consulted in 2023 to take forward a number of the IAIS recommendations.

SUSTAINABILITY REPORT

With support from Scottish Forestry, the Commission has invested in previously forested land in Scotland. More than 50,000 saplings were planted in 2022. These will act, once grown, as a carbon sink. The Commission offers a green pension option for its staff and has shifted its own investment strategy towards a more sustainable strategy. Electric bikes are available for staff for work purposes. In 2023, the Commission fulfilled, on time, all the pledges it made in conjunction with other regulators, at the time of COP26.

The Commission continues to participate in international fora with the aim of supporting the regulatory and financial community as it seeks to tackle climate change. Accordingly, the Commission is a member of the Task Force on Nature-related Financial Disclosures within the Network for Greening the Financial System. It also participates in the Sustainable Insurance Forum and the Climate Risk Steering Group of the International Association of Insurance Supervisors. In 2023, the Commission was represented at COP28 as part of the wider Bailiwick delegation, speaking at three events on how regulators may best facilitate sustainable investment.

The Commission has adopted a regulatory approach to facilitate green and natural capital funds, and a climate-friendly approach to life insurance. The Commission intends to publish a discussion paper to explore the extent to which the Bailiwick should adopt the new International Sustainability Standards Board Sustainability Disclosure Standards now that IOSCO has adopted them, making them de facto, an international regulatory standard of the sort habitually followed by most regulators.

Greenhouse Gas Emissions

During 2024, the Commission had its methods of greenhouse gas emissions reporting reviewed by a third party.

	2020	2021	2022	2023
Greenhouse Gas (CO_2e kg)				
Scope 1 – Gas	-	-	-	-
Scope 2 – Electricity	16,659	14,209	18,181	16,395
Scope 3 – Business travel	20,981	2,255	79,644	161,621

For some of the international standard setting bodies, 2023 was the first year post-Covid of a return to a full schedule of in-person meetings, which is reflected in our Scope 3 figures above. Attendance at these physical meetings after three years of mostly virtual participation assists the Commission in ensuring that Guernsey is regarded as a credible contributor to international regulatory policy with trade not blocked informally or formally by large country regulators. Further, at these fora, the Commission works to try to ensure that the international standards which are developed are sensible for small jurisdictions and open rather than hostile to free trade.

CONTACT US

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