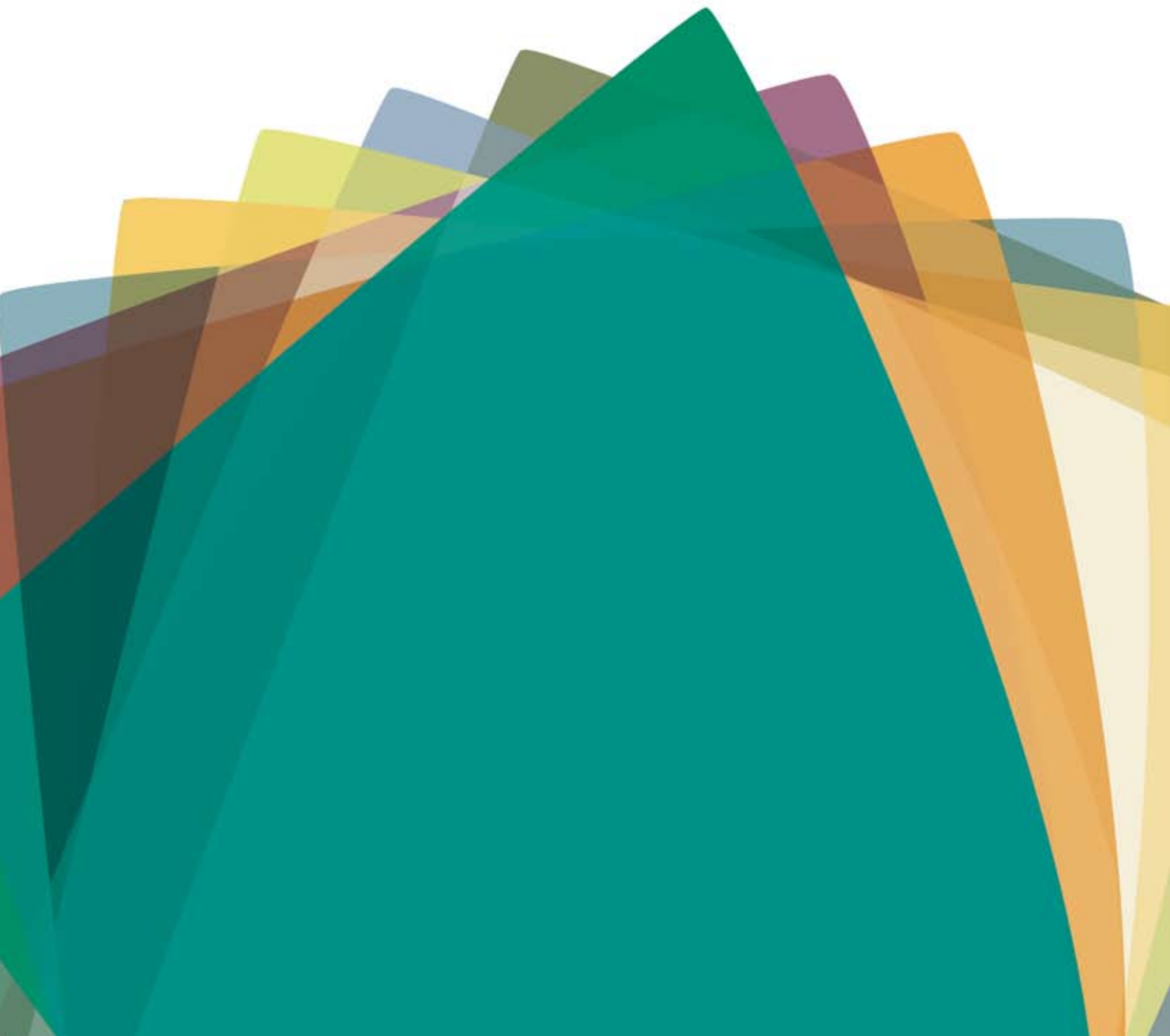




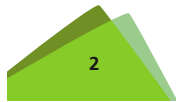
FINANCIAL REGULATOR
Rialtóir Airgeadais

Annual Report of the Financial Regulator 2008



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Introduction

Our Annual Report for 2008 is set against a background of unprecedented worldwide financial and economic difficulties and of the need for change. This turmoil and the resulting financial and regulatory challenges impacted to a very significant extent on the way in which we sought to fulfil our mandate in 2008.

The Report for 2008 is primarily a document of record. It describes not only our response to the turmoil in financial markets but also the day-to-day work of financial regulation. The following chapters elaborate on the work undertaken during 2008 in respect of each of our areas of responsibility. The report also sets out how the Irish Financial Services Regulatory Authority (Financial Regulator) performed its functions and exercised its powers over the year. The Annual Reports of the Consumer Director and the Registrar of Credit Unions to the Authority are included in this Annual Report. The Annual Reports required under the Unit Trust Act 1990, Consumer Credit Act 1995, Prospectus Regulations 2005 and Market Abuse Regulations 2005 are also incorporated.

The information relating to corporate governance and our system of internal financial controls, required to comply with the various legislative codes and regulations, is contained in Chapter 5 – Corporate Governance. The 2008 Financial Review of the Financial Regulator is included in Chapter 6.

Chairman's Statement



Jim Farrell, Chairman

2008 was a year of unprecedented turmoil in global financial markets, which made the task of the Financial Regulator particularly challenging. In common with other regulators we are, in doing our job, informed by the assessments of both international and domestic economic developments. The unprecedented exceptional scale and rapidity of the decline in the economic environment throughout the world made the task of economic forecasting extremely difficult and, in turn, resulted in regulators everywhere being behind the curve in taking sufficient pre-emptive action. While economic forecasts varied in their assessments, it is fair to say that almost without exception the severity and rapidity of the downturn, both in Ireland and internationally, far exceeded their forecasts.

Our strategic approach to regulation was framed in a much more benign environment. However, in response to accelerating credit growth, we had taken steps in the period 2004 to 2007 to slow bank lending. In particular, in 2006 and again in 2007, and in close co-operation at all stages with the Central Bank because of the systemic aspects, we called in the Chief Executives of the major banking institutions and emphasised to them our concerns about the property market. During 2006, the CBFSAI had undertaken a round of stress testing which indicated the shock absorption capacity of the financial system remained strong. But, as concerns still existed in 2006, we increased the capital requirements on high loan to value mortgages, combined later with an increase to 150% weighting from 100% weighting on exposures to speculative real estate and higher capital requirements on residential investment properties. These steps are detailed in the Authority's Analysis of the Financial Crisis. They are also referenced in the Prudential Director's and Consumer Director's Reports. The measures were taken in response to concerns being expressed at that time about the likelihood of problems in the property market. We had earlier (2007) introduced a demanding new liquidity regime for the banks.

The OECD¹ commended these initiatives taken to contain the financial risks facing the economy. Indeed, it was argued that the fact that we had the power only to impose the requirements on our domestic banks put them at a competitive disadvantage to foreign banks operating here. With the benefit of hindsight, our measures were insufficient given the severity of the recession that has emerged. In particular, our reliance on the boards and management of credit institutions, as part of our principles based regulation, to meet their corporate governance and risk management responsibilities was misplaced. However, it is arguable whether any regulator, acting unilaterally in an economy focused on growth and fostering competition, could have materially mitigated the property bubble. This would have required a concerted effort by all the stakeholders in the economy. These are important lessons for the future.

The turmoil in global financial markets can be traced back to early 2007 with problems emerging in capital markets due to losses on securities linked to US sub-prime mortgages. Since that time, the severe deterioration in the US sub-prime market and the ensuing global liquidity shortage has resulted in serious problems in international banks such as Northern Rock, Bear Stearns, Fannie Mae and Freddie Mac. Throughout 2007 and 2008 the availability of funding on the international inter-bank and wholesale markets tightened.

¹ OECD (2008) OECD Economic Surveys, Ireland, April.

In mid September 2008 the environment deteriorated further and significantly with the collapse of Lehman Brothers. Interbank markets froze, restricting funding to the very short end of the market. Irish banks were affected because of their reliance on international markets to provide funds to meet the strong domestic demand for credit. In the run up to the Government decision to guarantee Irish credit institutions, we engaged in intensive discussions with the Central Bank and the Department of Finance. Dialogue on these systemic issues had begun in 2007 with the establishment of the Domestic Standing Group, composed of ourselves, the Central Bank and the Department of Finance.

On 30 September 2008, the Irish Government became the first in the EU to guarantee all bank deposits, announcing that it had entered agreements with the seven² major credit institutions to guarantee all deposits, covered bonds, senior debt and dated subordinated debt. It is noteworthy that the OECD has reported that 22 other countries have subsequently guaranteed bank loans or debt.³ The Government also decided to increase the statutory limit for the deposit guarantee scheme for banks and building societies from €20,000 to €100,000 per depositor per institution and also included credit unions in this arrangement for a like amount.

Since September 2008, in response to events at home and abroad, we have set about changing the way we regulate to take a more intensive and hands-on approach to the institutions benefiting from the State guarantee. This involved not only reassigning staff to the prudential areas but also recruiting specialists to enhance our skills. We have increased the reporting obligations on credit institutions both in terms of the frequency and amount of information that is provided. Also, as part of this more intensive supervisory process, we attend from time to time certain management meetings in the institutions which include credit, treasury, audit and Board meetings. This greatly assists in getting a better insight into the regulatory issues facing institutions, in particular, the strength of their corporate governance. We have also tightened reporting of governance issues through regular meetings with the heads of risk and compliance at the various institutions and now obtain more timely submission of information on issues raised by internal and external auditors. Under the Government Guarantee Scheme, we report regularly to the Minister for Finance on the credit institutions' compliance with the Scheme.


A number of issues have arisen which have resulted in formal investigations, as follows:

- 1) Directors' loans at Anglo Irish Bank;
- 2) Directors' loans in other institutions;
- 3) Anglo Irish Bank and Irish Life & Permanent: Circular transactions; and
- 4) Unwinding of Contracts for Difference position in Anglo Irish Bank.

A substantial investigation is ongoing in relation to item 1) and we are liaising with the Office of the Director of Corporate Enforcement on this investigation. We have published a report on item 2). We have brought matters arising from the investigations on items 3) and 4) to the attention of the appropriate authorities including the Gardaí, the Office of the Director of Corporate Enforcement and the Irish Auditing and Accounting Supervisory Authority. We continue to cooperate with these bodies in relation to their enquiries. Other potential regulatory breaches are being investigated by the Financial Regulator.

² *Allied Irish Bank, Anglo Irish Bank, Bank of Ireland, EBS Building Society, Irish Life and Permanent, Irish Nationwide Building Society and Postbank Ireland.*

³ *Furceri, D. and Mourougane, A (2009), "Financial Crises: Past lessons and Policy Implications", OECD Economics Department Working Paper, 668.*



In addition, a sub-committee of the Authority examined the regulatory response to the directors' loans issues at Anglo. More detail on this is set out in Box 1.3.

In February 2009, in light of the crisis, an EU High Level Group published its recommendations on the reforms needed for financial supervision in Europe (known as the de Larosière Report). De Larosière recommended, inter alia, that capital adequacy and liquidity requirements be improved, that corporate governance standards be enhanced, and that EU regulatory structures be strengthened especially to improve early identification of systemic risks. We welcome the recommendations which, if implemented, should strengthen coordinated supervision and contribute to achieving the overall aim of a robust financial system.

In early 2008, we had already commissioned consultants to advise on improving our processes and procedures to regulate more effectively in a changing environment. We received their report in February 2009. The report represents a solid basis for a significant change agenda. The consultants reported that our consumer protection function is considered to be the leading model on which many international regulators have now based their own approaches. Notwithstanding this, they recommend that improvements could be made to a range of systems, practices and internal organisation structures. We have started to implement these recommendations. Since then, the Government announced plans to restructure the system of financial regulation. These changes will facilitate a more streamlined approach to prudential supervision. Legislation is expected later in the year and in the meantime we are working with the Department of Finance and Central Bank to move quickly to the new regulatory regime.

With regard to the consumer element of our mandate we face a number of major challenges, and recognise that this is a very difficult time for consumers in the face of the economic downturn and increase in unemployment. It is essential that depositors and borrowers can continue to have confidence in their banking system so that they can carry on their normal business. We will continue to work with all stakeholders to restore confidence in the financial system. In February 2009, we introduced two statutory codes of conduct to aid this process, one to ensure that consumers falling into arrears with their mortgages are treated fairly and in a transparent manner and the other relating to lending to small and medium sized enterprises. We will follow up on the implementation of these in the year ahead.

There is a general consensus that the credit union legislation needs to be modernised. We are working with the Department of Finance to bring this about and we believe the matter needs to be prioritised to enable us to put in place an appropriate prudential supervisory regime.

2008 has been a particularly difficult year, not only for the Financial Regulator, but also for all stakeholders in the economy. In turn, this has led to criticism by a range of commentators of the manner in which we have carried out our remit. Much of this criticism has been constructive and our reaction has been to learn from it and to introduce new practices and procedures in response. It is also important to acknowledge that 2008 has been an extremely difficult year for many countries throughout the world. While much has been learnt during 2008, much has also been achieved. In particular, a switch from principles based regulation which has proved inadequate here and abroad and, the commencement of a process to restructure the organisation fundamentally and build up the skill base is being implemented.

The financial services industry in Ireland comprises almost 15,000 financial service providers employing over 60,000 people and accounting for 28 percent of Gross Value Added⁴. As regulator of this large component of our economy our role is of critical importance. The actions which we have set about taking will, I have no doubt, bring lasting benefits to the industry and the economy as a whole.

I would like to thank all those who have worked so hard within the Financial Regulator as well as those who have supported our work throughout the year. In particular, I would like to thank the Minister for Finance and his officials, members of the Authority for their exceptional contribution, our staff who have had a particularly demanding year, the Governor of the Central Bank for his support and the Central Bank staff. I also wish to acknowledge the contribution of the Consultative Consumer and Industry Panels. Patrick Neary retired as Chief Executive in 2009 after 37 years public service; I would like to take this opportunity to thank Pat, on behalf of the Authority, for the contribution he made over the years and to wish him a happy retirement.

2009 is the year in which we will consolidate and build on the regulatory changes initiated in 2008. The actions we are taking are very much in line with the Government's plans to restructure financial regulation. Ireland is not unique in this regard as, almost without exception, financial regulation has been, and continues to be, strengthened internationally in response to the financial crisis. Our goal is to be at the forefront of implementing regulatory changes in line with best international practice, to restore confidence in financial regulation in Ireland and build on the lessons learned from past events. It has to be stated, however, that the task of building confidence in any financial system does not rest exclusively with the Financial Regulator. All stakeholders, and in particular the financial institutions themselves, have a key role. Boards and management of those institutions must now ask serious questions of themselves regarding how they conduct their businesses under such headings as governance, risk management, capital allocation, compensation incentives and the long-term strategic direction of their businesses.



Jim Farrell
Chairman

⁴ *Gross Value Added is GDP in current prices, minus taxes and plus subsidies. GDP (Gross Domestic Product), in current prices, captures the total value of final goods and services produced in an economy in a given year.*

Authority's Analysis of the Financial Crisis and the Future Direction of Regulation

This section details the principal causes of the international financial crisis⁵. The actions taken by the Financial Regulator to dampen the property bubble in Ireland are outlined, together with the changes which are being made to improve the effectiveness of the regulatory system. In retrospect, it is clear that the actions we took were insufficient and were not taken early enough. We took what we considered to be proportionate actions to mitigate the risks in the system and clearly this was not enough particularly in the light of the unanticipated speed and severity of the worldwide crisis that emerged.

Cause of International Crisis

The international financial crisis in 2007 began when a moderate correction of house prices in the United States triggered an increase in mortgage debt delinquencies and the failure of a number of financial institutions holding mortgage-backed securities. While international liquidity tightened, Ireland largely avoided the effects of this phase of the crisis as Irish credit institutions had minimal exposure to these structured products. However, from September 2008 onwards, the crisis intensified significantly with a succession of failures of financial institutions, notably the US investment bank, Lehman Brothers, resulting in the collapse of bond and loan markets and the cost of unsecured 'overnight interbank borrowing' becoming prohibitive. This second phase of the crisis has had a major impact on Ireland and has resulted in the Government taking a number of initiatives to stabilise the financial markets.

The NES⁶ considers that the current economic crisis facing Ireland arises from:

- An international credit crisis and world recession caused by structural weaknesses globally;
- A property bubble which Irish credit institutions and a regulatory system did not prevent; and
- Declining competitiveness as a consequence of the prolonged boom.

The de Larosière report⁷ cites the following causes for the international financial crisis:

- Ample liquidity and low interest rates have been the major underlying factor behind the present crisis. Financial innovation amplified and accelerated the consequences of excess liquidity and rapid credit expansion. This incentivised investors to seek higher yields. Complex instruments increased leverage and led to a mis-pricing of risk;
- Failures in the assessment of risk, both by credit institutions and by those who regulated and supervised them. This led to a corresponding underestimation of the capital that credit institutions should hold;
- The checks and balances of corporate governance also failed. Many boards and senior management of credit institutions seriously underestimated the risks they were running. Remuneration and incentive schemes within financial institutions contributed to excessive risk-taking by rewarding short-term expansion of the volume of (risky) trades rather than the long-term profitability of investments;

⁵ This section does not deal with the declining competitiveness issue as it is not within the remit of the Financial Regulator.

⁶ National Economic and Social Council (2009) "Ireland's Five-Part Crisis: An Integrated National Response" Report no. 118, March 2009, page 18.

⁷ De Larosière and others, (2009) "The High Level Group on Financial Supervision in the EU", pages 7-12.

- Credit Rating Agencies lowered the perception of credit risk by giving AAA ratings to the senior tranches of structured financial products like Collateralised Debt Obligations, the same rating they gave to standard government and corporate bonds. They also underestimated the credit default risks of instruments collateralised by sub-prime mortgages largely as a result of flaws in their rating methodologies; and
- None of the pressures referred to above were contained by any EU regulatory or supervisory policy or practice. Some long-standing policies such as the definition of capital requirements for banks placed too much reliance on both the risk management capabilities of the banks themselves and on the adequacy of credit ratings. One of the mistakes made was that insufficient attention was given to the liquidity of markets. In addition, too much attention was paid to each individual credit institution and too little to the impact of general developments on sectors or markets as a whole. These problems occurred in very many markets and countries, and aggregated together contributed substantially to the developing problems.

As noted above, Irish banks have been significantly affected by these events. While they had negligible exposure to the problems created in the first phase of the crisis (the sub-prime crisis), they had in recent years become more reliant on the Euro area and international capital markets for funding to meet the increasing private sector demand for credit. Thus when liquidity dried up following the failure of Lehman Brothers, Irish credit institutions found themselves severely exposed.

Causes of the Property Bubble in Ireland

Since late 2003, the annual rate of increase in total loans to the private sector followed a general upward trend before peaking in February 2006 at 30.9 percent⁸. In the summer of 2006, the ESRI⁹ forecast that strong economic growth would continue with GNP forecast to grow by 5.6 per cent in 2006 and 5.1 per cent in 2007. This growth in the demand for credit from the private sector arose mainly from the construction industry and property acquisition, leading ultimately to the development of a property bubble. The expansion of the property sector was driven by a number of factors which increased demand:

- There was strong economic growth in the 10 year period 1995-2004, with real GDP growth of 93 percent. This was about four times the increase in the average growth in GDP in the EU for the same period;
- The proportion of the population in the 25 to 44 age groups increased from 35 percent in 1990 to 45 percent in 2005. This was as a result of the baby boom in Ireland between 1965 and 1979, the impact of returning emigrants which peaked around 2000, and until 2007 increasing numbers of immigrants, the majority of whom fell into this age grouping. This is the age group in which expenditure is expected to exceed income and therefore the age at which borrowing is likely to occur;
- Interest rates in the Euro area were at very low levels, with rates falling to 2 percent in the period June 2003 to December 2005, at a time when the annual inflation rate was between 2 and 3 percent;

⁸ CBFSAI *Financial Stability Report 2007*, page 28.

⁹ ESRI (2006) *Quarterly Economic Commentary*. www.esri.ie/news_events/press_releases_archive/2006.

- There were significant tax incentives for property investment. These included mortgage interest tax relief and a large number of property-based tax incentive schemes. Relatively low personal tax rates (at 20 and 41 percent) also encouraged property acquisition; and
- The ready availability of credit, facilitated by a range of financial liberalisation measures during the 1980s and 1990s, encouraged borrowing. Product innovation also contributed through interest only mortgages, 100 percent mortgages, equity withdrawal, re-mortgaging and mortgages with longer terms (up to 35 years in some cases).

It should be noted that prior to the second phase of the financial crisis occurring in September 2008, most economic commentators were forecasting that economic growth would continue, albeit at a more moderate level. For example:

- In early 2007, the EU¹⁰ stated that the Irish economy was expected to continue growing at a high rate of around 5 percent in 2007 and to decelerate to 4 percent in 2008. While the report suggested that robust growth would continue over the short-term, it stated that risks to this outlook persisted. In particular, the high reliance on recent output and employment growth in the construction sector, coupled with the significant increases in household indebtedness, were noteworthy risks over the medium-term; and
- In the summer of 2007, the ESRI¹¹ stated that it was becoming clear that 2006 would represent a peak in terms of the recent experience of economic growth. They forecast that the slowdown would be moderate, with GNP growing by 4.8 percent in 2007 and 3.7 percent in 2008.

Actions Taken by Financial Regulator to Address Emerging Risks

We were acutely aware of the increasing risks facing the financial sector. This was specifically recognised in our 2006 Strategic Plan¹² where we highlighted the growth in credit and the increased level of indebtedness in a low interest rate environment as the major domestic risk factors. The global imbalances, the uncertain outlook for world economic activity, the evolution of oil prices and the dollar were also identified as the major international risks. In light of these concerns, we took a number of strategic actions aimed at maintaining the soundness and safety of credit institutions against the background of growing exposure to funding in the wholesale markets and strong increases in lending for property, even though some commentators, as stated above, were still predicting continued economic growth. These actions included:

Prudential Actions

- New requirements for credit loss provisioning, including requirements for credit risk management were introduced in October 2005. The purpose of these requirements was to ensure that credit institutions managed their credit risk appropriately and that appropriate levels of provisions were made for impairments and uncollectable amounts written off. The rules included not only qualitative requirements on credit risk management and impairment provisioning, but also quantitative criteria and reporting guidelines for impairment provisioning.

¹⁰ EU (2007) *Economic Forecast, Spring*, page 59.

¹¹ ESRI (2007) *Quarterly Economic Commentary*. w www.esri.ie/news_events/press_releases_archive/2007.

¹² Financial Regulator (2005) *Strategic Plan 2006*, page 5.

- With the increasing prevalence of high Loan to Value (LTV) mortgages, including 100 percent mortgages which were first launched in Ireland in 2005, we introduced more onerous capital requirements in advance of the Capital Requirements Directive coming into effect. From 1 May 2006, the risk weighting of Irish residential mortgages was amended. Mortgages with an LTV ratio in excess of 80 percent now required a 100 percent risk weighting for the portion of the loan that exceeded the 80 percent threshold. Before this development a 50 percent risk weight applied. This resulted in credit institutions having to set aside additional capital in respect of these loans.
- New liquidity requirements were introduced in June 2006 (becoming effective July 2007, before the start of the international crisis) based on a maturity mismatch approach. This resulted in credit institutions being required to analyse their cash flows under various headings and to allocate them into pre-determined time bands depending when cash was due to be paid in or out.
- The EU Capital Requirements Directive, which was implemented on 1 January 2007 and became fully effective on 1 January 2008, introduced a new capital adequacy regime for banks. The Directive gives supervisors some flexibility through national discretions to tailor the capital requirements to reflect their national circumstances. We used these discretions to introduce a more stringent capital regime than the Directive, aimed at supporting the measures already introduced here in respect of property transactions. This was designed to counter the growing exposure of Irish banks to that sector, as follows¹³:
 - Where a credit institution had retail owner occupied residential exposures with an LTV ratio of greater than 75 percent it was required to apply a risk weight of 75 per cent to the part of the exposure exceeding the 75 per cent LTV ratio. The Directive provides for a possible 35 per cent risk weight;
 - The risk weighting imposed by us for exposures to properties that are not occupied by borrowers ranges from 75 per cent, for retail exposures, to 100 per cent for non-retail exposures. The Directive provides for a possible 35 per cent risk weight. The Directive also provided discretion to allow a 50 percent risk weighting to exposures secured on commercial real estate. We did not take up this discretion and a full weighting of 100 percent applies. Table 1 sets out these changes in requirement and compares our implementation with that mandated in the Directive; and

Table 1 – Restrictions of Residential Loan/Value Ratios

	2006	2007 and 2008
1. Minimum Risk Weighting of residential mortgages in EU directives	50%	35%
2. Risk Weighting of residential mortgages imposed on Financial Institutions in Ireland	Residential mortgages that exceed 80 percent LTV attracted risk weights of 100% for portion of mortgage in excess of 80% at inception of loan	35%-100% ¹⁴

¹³ With effect from January 2008 we introduced Interim Capital Requirements, linked to the Basel 1 framework, in order to restrict any possible capital releases pending completion of the CRD ('Basel 2') Supervisory Review and Evaluation Process. In the case of banks which use the CRD Internal Ratings Based Approach and for which we are the consolidated supervisor, we have introduced capital floors super-equivalent to the CRD.

¹⁴ We decided not to avail of an option under the CRD to risk weight all residential mortgages at 35%. Under our implementation of the CRD, loans with a LTV not higher than 75% attract a 35% risk weight. The amount of a loan above 75% LTV attract a risk weight of 75% if the exposure is classified a retail exposure under the CRD or a 100% risk weight if not. Residential mortgages on properties that are not owner-occupied (e.g. residential investment properties) attract a risk weight of 75% if exposure is classified as retail under the CRD or 100% risk weight if not.

- The Directive allowed us to decide that exposures, associated with particularly high risks such as investments in venture capital firms and private equity investments, be assigned a risk weight of 150 percent. We applied this discretion to speculative commercial real estate, as we determined it to be a high-risk category. We were the only regulator in the EU to use this provision in relation to commercial real estate. Table 2 below sets the changes in requirements, together with our implementation and that of other EU regulators.

Table 2 – Capital Requirement Level Required on Speculative Commercial Real Estate		
	2006	2007 and 2008
1. Minimum capital requirements as specified in EU directives	100%	50%-100% ¹⁵
2. Minimum capital requirements imposed on credit institutions in Ireland	100%	100%
3. Discretion to apply increased capital requirements	100%	150% ¹⁶
4. Capital Requirements imposed by Ireland	100%	150%
5. Application of above requirements in other EU Member States	100%	50%-100 %
		In relation to the use of 150% risk weight, while other member states may have availed of this discretion for other types of exposure we are not aware that any did so in respect of speculative real estate.

Consumer Actions

- The Consumer Protection Code introduced by the Financial Regulator became effective in July 2007. One of the key objectives of the code is to address aggressive lending by financial institutions in the face of increasing levels of personal debt being taken on. The Code is designed, not only to protect consumers, but also to clearly set out the standards we expect financial institutions to meet when dealing with consumers. The measures included:
 - Institutions must act fairly and in the best interests of their customer;
 - The obligation to obtain sufficient information about the applicant to be in a position to provide the most suitable product;
 - The obligation on a mortgage provider to have sight of an original valuation before the drawdown of funds;
 - The prohibition on offers of pre-approved credit facilities;
 - In relation to lending, the Code requires that an institution must ensure that, at the time a loan is approved, the borrower is in a position to make the required repayments;

¹⁵ Under the Standardised Approach of the CRD exposures fully secured by commercial real estate carry a risk weight of 100 percent with a national discretion available to apply a lower risk weight if certain criteria are met.

¹⁶ The CRD provided an option to risk weight certain high-risk exposures at 150% and the Financial Regulator applied this to speculative commercial real estate.

- All loans offered to customers must be suitable for the individual customer – this would include an assessment of affordability. Furthermore, the institution must be able to demonstrate after the event that the loan it offered was, in fact, suitable at that time on the basis of the borrower's circumstances;
 - Offers to consolidate several loans into one must contain information on the extra cost involved;
 - Offering pre-approved unsolicited credit is banned; and
 - Unsolicited increases in credit card limits are also banned.
- Since the Financial Regulator was established in 2003, debt has been, and continues to be, the focus of many of our consumer campaigns. Consumers have been advised to examine if they can afford to borrow, to make sure that they consider all options, to assess the overall cost of debt and take measures to reduce debt. In 2006 we intensified this campaign by:
- Publishing a new guide to Mortgages (February 2006);
 - Warning of the risks and the cost of re-mortgaging (March 2006);
 - Warnings on the risks of equity release; and
 - Urging consumers to pay off the debts with their matured Special Saving Incentive Accounts (May 2006).

International Commentary

The actions described above were commended by the OECD¹⁷ as recently as April 2008, where it stated that we “had clearly identified strong credit growth and rising indebtedness as major systemic vulnerabilities.” The OECD referred, in particular, to the implementation of a new Consumer Protection Code, which limits the scope for predatory lending practices, and the introduction of a forward-looking liquidity regime just before the international financial market turmoil struck. The regulatory action to reduce risks by increasing the risk-weighting for high loan-to-value mortgages for owner-occupiers and speculative commercial real estate lending was also praised.

Actions Taken by Government to Restore Financial Stability in Ireland

The actions referred to above and taken on both the Prudential and Consumer fronts were framed against the background of international and domestic economic forecasts which grossly underestimated the scale and rapidity of the downturn in the international and domestic economic environment. Therefore the actions taken were not sufficient to head off the domestic financial crisis that arose. While more robust actions might have mitigated the impact of the crisis in Ireland it is unlikely that any action, however severe, taken by the Financial Regulator in isolation would have substantially reduced the scale of the problems.

Few, if any, foresaw the immense scale of the financial crisis that was precipitated by the failure/serious difficulties of US financial institutions: Bear Stearns (March 2008), Freddie Mac, Fannie Mae and Lehman Brothers (September 2008). These resulted in the collapse of bond and loan markets and the cost of unsecured ‘overnight interbank borrowing’ dramatically increased.¹⁸ Even though we had implemented

¹⁷ OECD (2008) *OECD Economic Surveys, Ireland, April*, page 13.

¹⁸ Furceri, D. and Mourougane, A, (2009), “Financial Crises: Past lessons and Policy Implications”, *OECD Economics Department Working Paper number 668*, page 7.

measures to modernise liquidity risk management, banks found it increasingly difficult to source funding. In order to bring stability to the financial system, the Government has taken four major initiatives to address the impact that the international financial crisis has had in Ireland:

- In September 2008, the deposits of the seven major banks were guaranteed, including covered bonds, senior debt, and dated subordinated debt;
- In January 2009, Anglo Irish Bank was taken into public ownership;
- In February 2009, the Government agreed to inject Core Tier 1 capital into Allied Irish Bank and Bank of Ireland. In May 2009 it also agreed to inject capital into Anglo Irish Bank; and
- In April 2009, it was announced that a National Asset Management Agency (NAMA) is to be established to address the issue of asset quality in the banking system.

The Government has also announced that the role of the Central Bank of Ireland will be reformed to place it at the centre of financial supervision and financial stability oversight. This will result in the full integration of the prudential supervision of individual financial institutions with that of the financial system as a whole.

Regulatory Reform

Since the onset of the crisis in 2007, the international financial community has been developing proposals to improve the regulatory system. In this regard, developments at EU level are the most appropriate to Ireland. The initial response by the EU to the adverse credit development in late 2007 focused on how transparency in the market, risk management by firms and prudential rules could be improved. In this regard, a number of refinements have been proposed by the European Commission to the Capital Requirements Directive (CRD). These include changes in respect of large exposures, cross border supervision, crisis management arrangements, hybrid capital and risk management for securitised products. However, the principal response to the financial crisis was published earlier this year and is currently under consideration at EU level. The de Larosière report¹⁹ recommends:

- Better identification of systemic risks across the system;
- Closer supervision on an EU-wide basis;
- Stronger capital requirements;
- Supervision of credit rating agencies;
- Amendment of accounting rules;
- Clear rules and enforcement powers;
- Better compensation mechanisms; and
- Better crisis resolution mechanisms.


The recommendations were endorsed by the EU Commission in its communication to the Spring European Council (Heads of State) of March 2009. Discussions in the EU Council (Heads of State), Ecofin (Economic and Finance Ministers) and the European Parliament, as well as a public consultation, have demonstrated a broad consensus about the need for reform and the objectives to be achieved in line with the de Larosière Group's recommendations and the EU Commission's proposals for its follow up. More details on the recommendations of de Larosière Group are included in Table 3.

¹⁹ De Larosière and others (2009) "EU High Level Group on Financial Supervision in the EU", pages 13-37.

Table 3 – Principal recommendations of the de Larosière report on Financial Supervision

- A fundamental review of the Basel II rules, with a view to gradually increasing minimum capital requirements, encouraging capital buffers and tightening liquidity management.
- A common definition of regulatory capital should be adopted.
- Credit Rating Agencies should be supervised and the use of ratings in financial regulations should be significantly reduced over time.
- Accounting rules (such as the mark-to-market principle) need to be examined so that they do not promote procyclical behaviour or discourage long-term investment.
- The Solvency II Directive should be adopted for insurance undertakings.
- Supervisors in all Member States must have sufficient powers, including sanctions, to ensure the compliance of financial institutions with the applicable rules.
- It is necessary to extend regulation to all firms or entities (such as hedge funds) conducting financial activities of a potentially systemic nature, even if they have no direct dealings with the public at large.
- Over-the-counter derivatives should be simplified and standardised. At least one well-capitalised central clearing house for credit default swaps is needed in the EU.
- Common rules for investment funds in the EU need to be developed.
- In order to tackle the current absence of a truly harmonised set of core rules in the EU, inconsistent transposition and application of legislation should be avoided.
- Compensation incentives in financial institutions must be better aligned with shareholder interests and long-term firm-wide profitability.
- The risk management function within financial institutions must be made independent and responsible for effective, independent stress testing.
- There is a need for a coherent and workable regulatory framework for crisis management in the EU.
- Deposit Guarantee Schemes in the EU should be harmonised and preferably be pre-funded by the private sector.
- In view of the absence of EU-level mechanisms for financing cross-border crisis resolution efforts, Member States should agree on more detailed criteria for burden sharing.
- Strengthen EU regulatory structures, by creating (1) European Systemic Risk Board to decide on macro prudential policy and provide early risk warning to EU supervisors, and (2) European System of Financial Supervision, composed of EU wide banking, insurance and securities authorities, who would:
 - Co-ordinate the work of national supervisors;
 - Arbitrate between national supervisors in supervisory colleges in cases of disagreement on supervisory issues regarding cross border financial institutions;
 - Take steps to harmonise national regulatory rules and move towards a common European rulebook; and
 - Directly supervise certain pan-European institutions which are regulated at EU level, such as Credit Rating agencies.

A number of matters regarding strengthening EU financial supervision have since been addressed at Ecofin. It is anticipated that the European Commission will develop legislative proposals by early autumn 2009 with the new EU institutions expected to be fully in place during the course of 2010.



It is also recognised that the regulatory approach that had been adopted in Ireland needs to be enhanced. Following the Government decision to guarantee the deposits of seven credit institutions (covered institutions), we adopted a more intensive system of supervision. This more intensive approach to the prudential supervision of covered institutions places an increased focus on business models, strategies and risks. It includes a comparative analysis of firm performance. We now seek more detailed information on key risks facing covered institutions and meet the Chief Executives regularly to discuss the risks. For covered institutions we have supervisory staff located on site. Our staff attend, on a sample basis credit, treasury, audit, board and other meetings to assess the strength of corporate governance of the institutions. We have also tightened reporting of governance issues through regular meetings with the heads of risk at the credit institutions and more timely submission of information on issues raised by internal and external audit. We are also proposing to introduce rules that require banks and building societies to disclose in their audited annual financial statements details of loans made to directors or connected persons. In line with the de Larosière recommendations we are also using our enforcement powers to achieve encourage overall compliance and to act as a deterrent to poor controls and risk management.

To enable us to undertake this more intense form of supervision, not only are we recruiting additional staff but we also are securing the services of staff with specialist prudential skills, particularly those with more highly specialised market expertise.

Conclusion

The current turmoil in the international financial markets is unique in that a series of crises occurred over a two year period, namely the freezing of credit and liquidity, bank failures and the bursting of property bubbles, not only here but also in other countries. International co-operation and co-ordination is now high on the world agenda and actions are being taken in a number of countries to restore stability to financial markets. In the EU, financial supervision is being strengthened along the lines recommended by de Larosière Group, while in Ireland, the Government is also taking steps to restore stability to the financial system and improve the regulatory structure.

In retrospect, it is clear that the actions we took were insufficient and were not taken early enough. We took what we considered to be proportionate actions to mitigate the risks in the system. Clearly this was not enough as the scale and rapidity of the crisis (which was exacerbated by events such as the Lehman's collapse) greatly exceeded forecasts. A more intensive form of regulation is now required and is already in place in the covered institutions. We are also working with the Government and EU with regard to their plans for further improvements to regulation in the future.

Key Actions in 2008

While dealing with the impact of the crisis has been our top priority throughout 2008, we undertook a number of other initiatives and activities, the principal ones of which are outlined below, to discharge our statutory functions.

Prudential Supervision Actions

- Continued close co-operation with the Central Bank, Department of Finance and international authorities in the face of the worsening international financial crisis;
- The establishment of a new supervisory unit to monitor intensively compliance with the objectives of the Government Guarantee Scheme;
- Active participation in discussions on need to recapitalise the banks;
- Active participation in discussions on significant amendments to the Capital Requirements Directive (CRD) and other measures necessitated in EU and internationally arising from the financial crisis;
- Launch of major investigations of directors' loans in Anglo Irish Bank and of Financial Regulator's handling of matter;
- New regulatory regime for reinsurance companies in place;
- Survey of insurance companies conducted to assess solvency and asset composition in light of international financial market turmoil;
- Establishment of a dedicated Anti-Money Laundering Unit;
- Draft Guidance Note for Credit Unions on Matters relating to Accounting for Investments and Distribution Policy;
- Significant preparatory work completed for a new EU wide regulatory regime for insurance companies;
- Implementation of the governance and control requirements of the MiFID;
- Introduction of ban on short selling in Irish financial shares;
- Inspection conducted of the operations of the Irish Stock Exchange under the market abuse, prospectus and transparency delegation agreements;

Consumer Protection Actions

- Introduction of regulatory regime for retail credit and home reversion firms and a consumer protection code for clients of moneylenders;
- Introduction of a voluntary consumer protection code for credit union members;
- Actions taken, including administrative sanctions, against financial service providers who did not comply with regulatory requirements;
- Helped over 43,000 consumers who contacted us with personal finance queries;
- Enhancement of www.itsyourmoney.ie, with number of visitors increasing by 54% on 2007; and
- Completion of 8 consumer focused themed inspections.

Key Challenges in 2009

We remain on high alert with regard to the prudential supervision of regulated financial service providers against the background of continuing if lessened market turmoil internationally and the changing regulatory landscape. Some specific challenges include:

- Continuing to intensify our supervision of the credit institutions covered by the Government Guarantee Scheme and aligning our supervisory work programme to their business models and associated risks;
- Contributing to the developing European legislative and regulatory agenda;
- Evaluating the effectiveness of our regulatory approach in the context of EU and international developments;
- Reviewing risk issues, and evaluating our risk rating system and our inspections framework;
- Integrating prudential supervision into the new Central Banking structure;
- Implementing the key recommendations arising from the Report on the Review of our Business Processes;
- Monitoring of investment firms in light of prevailing market conditions;
- Preparation for the more complex approach to supervision embodied in the Solvency II Directive;
- Adapting to the changing financial environment and the impact this will have on the credit union sector;
- Developing the share trading monitoring system;
- Continuing to assist consumers in answering their personal finance queries and developing appropriate information for consumers in the changing financial environment; and
- Protecting consumers in changed financial circumstances through monitoring and enforcing compliance with consumer protection requirements.

CHAPTER 1

PRUDENTIAL REGULATION



CHAPTER 1

Prudential Regulation



*Con Horan,
Prudential Director*

Prudential Director's Statement

It is almost two years since the exceptional turmoil in global financial markets began. The strains in the system which were in existence since mid 2007, intensified considerably in late 2008 following the failure of Lehman Brothers. Uncertainty about banks, asset portfolios, falling prices across a variety of asset classes and the weak global economic outlook continue to impact on confidence in the sector and as a consequence, continue to impact on the normal operation of interbank and wholesale money market operations which are integral to the system of banking.

The financial strength of Irish banks has been severely impacted by the recent turmoil with very significant losses being experienced in property portfolios in particular. Regulatory measures introduced in response to the accelerating credit growth, including capital increases in respect of high loan to value residential lending and speculative real estate lending, have not proven sufficient to address the scale and rapidity of the economic decline which has occurred. In order to bring stability to the system, the Government has taken four major initiatives to address the impact that the international financial crisis is having in Ireland:

- In September 2008, the deposits, and certain other liabilities, of the seven major banks were guaranteed, including covered bonds, senior debt and dated subordinated debt;
- In January 2009, Anglo Irish Bank was taken into public ownership;
- In February 2009, the Government agreed to inject Core Tier 1 capital into Allied Irish Bank and Bank of Ireland; and
- In April 2009, it was announced that a National Asset Management Agency is to be established to address the issue of asset quality in the banking system.

Since the Government Guarantee was put in place in September 2008 we have intensified our supervision of banks which are now under far more scrutiny than ever before. We have applied extra resources and recruited additional risk experts and now have an ongoing on-site presence in the covered institutions.

We have increased substantially the information being received from credit institutions over the last few months. The traditional regulatory focus from a prudential point of view was monthly and quarterly information on solvency as well as weekly information on liquidity. All such solvency information is now being received monthly, with liquidity information daily. We also attend, on a sample basis, credit, treasury, audit and other meetings to assess the strength of corporate governance and we gather information presented at such committees to obtain early warning indicators on trends in solvency and liquidity. We have also tightened reporting of governance issues through regular meetings with the heads of risk at the credit institutions and more timely submission of information on issues raised by internal and external audit. Our monitoring process is also based on submissions by the guaranteed institutions of annual business plans which make commitments in terms of certain key metrics. A key focus is on regularising the receipt, review and escalation as appropriate of such information and we are engaged with the institutions in ensuring the timeliness and quality of such information.

The Minister for Finance's announcement earlier this year on the Government's plans for reforming regulation is welcome. The decision reflects international trends by creating structures that will facilitate much closer interaction between financial stability analysis and prudential regulation. This interaction is designed to lead to the development of clear action points to address future risk.

At an international level the structure of regulation is being reviewed and the EU contribution to the international debate on the reform of the financial supervision system (the de Larosière report) provides a good framework for Europe to move forward. The report recommends that:

- Capital adequacy and liquidity requirements be improved. The Basel system, which had been the most significant regulatory development in decades and which was intended to align regulatory capital requirements more closely with the underlying risks, was found not to have achieved this aim and in fact may have contributed in some ways to the problems which have emerged;
- Corporate governance standards be enhanced to ensure that boards and management react decisively to emerging risks;
- Regulatory and supervisory coverage should follow the principle of economic substance not legal form;
- Credit rating agencies should be subject to registration and supervision; and
- EU regulatory structures be strengthened.

The following sections provide detailed information on the performance of our functions during 2008.



Con Horan
Prudential Director

BANKING SUPERVISION

Significant Events

- Introduction of the Government Guarantee Scheme.
- Establishment of a new supervisory unit to monitor compliance with the objectives of the Scheme and application of existing regulatory requirements to credit institutions covered by the Scheme.
- Significant amendments to the Capital Requirements Directive (CRD) proposed, including review of hybrid capital adjustments, large exposures and liquidity requirements.
- Introduction of a new supervisory electronic reporting framework as part of the implementation of the CRD.
- Additional reporting requirements introduced in respect of non-performing assets.

Market Turmoil and Liquidity Crisis

The turmoil in global financial markets can be traced back to early 2007, originating in the US sub-prime market.

Market uncertainty deepened further in mid-September 2008 with the collapse of Lehman Brothers. The markets, which had already been working at a fraction of their capacity, froze. This severely curtailed inter-bank and international wholesale term funding in the banking sector.

On 30 September, the Minister for Finance announced that the Government had decided to put in place, with immediate effect, a guarantee arrangement to safeguard all deposits (retail, commercial, institutional and interbank), covered bonds, senior debt and dated subordinated debt (lower tier II), with the following banks: Allied Irish Bank, Bank of Ireland, Anglo Irish Bank, Irish Life and Permanent, Irish Nationwide Building Society, the Educational Building Society and Postbank Ireland. The Government's objective in taking this decisive action was to maintain financial stability for the benefit of depositors and businesses in the best interests of the Irish economy.

This announcement was made following advice from the Governor of the Central Bank and the Financial Regulator on the impact of the international market turmoil on the Irish banking system. The guarantee is being provided at a charge to the institutions concerned and is subject to specific terms and conditions so that the taxpayers' interest can be protected. The guarantee covers all existing aforementioned facilities with these institutions and any similar facilities issued from midnight on 29 September 2008, and will expire not later than midnight on 28 September 2010. The government proposes a new guarantee scheme to replace the existing scheme which will be called a guarantee of certain eligible instruments scheme ('EIG'). The scheme will last at least 5 years from when the legislation is passed. In contrast to the existing scheme, it allows for issuance of unguaranteed debt and the taking of un-guaranteed deposits and therefore will not provide a blanket coverage for all debt securities.

The Government announced in the April 2009 supplementary budget that it intends to put a State guarantee in place for the future issuance of debt securities with a maturity of up to five years.

In September 2008, the Government also announced an increase to the maximum amount covered under the Deposit Protection Scheme to €100,000. This action was taken to further reassure depositors and prevent outflows of funds from Irish credit institutions, including credit unions. We are assisting with the development of legislation to give effect to the details of the Government announcement and the new EU Deposit Guarantee Directive, which was transposed into law at end-June 2009.

Government Guarantee Scheme

Under the legislation introducing the Government Guarantee Scheme, we have a number of specific new responsibilities, which must be carried out in consultation with the Minister for Finance. These are to impose conditions regulating the commercial conduct of a covered institution's business, having regard to capital ratios, market share and balance sheet growth, in order to minimise any potential competitive distortion that may otherwise arise and to avoid any abuse of the guarantee.

As part of our remit we:

- Require Compliance Certificates provided by a covered institution to be audited by an independent auditor;
- Require specific reports, to monitor compliance with the terms and conditions of the scheme;
- Submit reports as necessary to the Minister for Finance on the compliance by covered institutions with the terms and conditions of the scheme; and
- Monitor the operation of the scheme and report regularly to the Minister for Finance.

To meet these responsibilities, we have set up a new supervisory department whose role is to monitor compliance by the credit institutions with the objectives of the scheme and to continue to apply all existing regulatory requirements for credit institutions covered by the Guarantee. We recruited senior supervisory staff with banking experience and have placed some of them on-site in the covered institutions to monitor their activities.

In early December 2008, business plans were submitted to us by the covered institutions to demonstrate how they plan to operate in a manner consistent with the terms and conditions of the scheme. We met with the senior executives of each institution to discuss these plans and challenged assumptions made where we considered plans to be unrealistic or overly aggressive.

We have now intensified our supervision of the covered institutions which are under far more scrutiny than ever before. We have an ongoing on-site presence and monitor the internal operations by attending a selection of internal committee meetings (including Audit, Credit and Risk). We have also increased the reporting obligations on the institutions both in terms of frequency and the amount of information that is provided. Our focus is on the key risks and challenges facing the institutions, particularly, how effective their corporate governance structures are and how they are managing their funding positions and their loan books. We have also engaged more intensively with the boards and senior management of each of the institutions. Arising from this process the business plans were updated reflecting our engagement and changing economic circumstances.

Reporting

The Financial Regulator reports to the Minister on all the aspects provided for in the Credit Institutions (Financial Support) Scheme 2008. The reporting requirements include:

- End monthly reports (with effect from September 2008) on the level of covered liabilities of each covered institution (weekly liquidity reports for each covered institution);
- Confirmation that each covered institution continues to meet minimum regulatory solvency standards on a material basis; and
- Confirmation that aggregate growth of balance sheet volume complies with the requirements of the Scheme and that the provisions on dated subordinated debt are being complied with.

Box 1.1 – Prudential actions taken by the Financial Regulator to address the financial crisis

In response to accelerating credit growth, we had taken steps in the period 2004 to 2007 to slow bank lending. Our steps included the following:

- In October 2005, new requirements for credit loss provisioning, including requirements for credit risk management, were introduced;
- In May 2006, we increased capital requirements on high loan-to-value mortgages;
- In June 2006, we introduced new liquidity requirements that came into effect in mid-2007; and
- In January 2007, a stringent approach to property-related requirements under the Capital Requirements Directive was introduced, with 150% risk weighting from the previous 100% weighting on exposures to speculative real estate and high capital requirements on residential investment properties.

These measures recognised concerns that were being expressed, at that time, about problems that could emerge in the property market and which, in the event, were accentuated by the unexpected speed and severity of the international crisis.

Box 1.2 – Special investigations being undertaken by the Financial Regulator

A number of issues have arisen in financial institutions which resulted in formal investigations:

1. Anglo Irish Bank and Irish Life & Permanent: Circular transactions.
2. Unwinding of Contracts for Difference position in Anglo Irish Bank shares and comparison of information gathered in this investigation with information previously provided to us.

We have brought matters arising from both these investigations to the attention of the appropriate authorities including the Gardaí, the Office of the Director of Corporate Enforcement and the Irish Auditing and Accounting Supervisory Authority. We continue to cooperate with these bodies in relation to their enquiries.

Other potential regulatory breaches are being investigated by the Financial Regulator.

3. Anglo Irish Bank – The objective of our investigation is:
 - To ascertain details of all loans provided by Anglo to current and former directors and connected parties;
 - To consider if individuals within the bank were key to the provision and management of the directors and related party loans; and
 - To identify potential breaches of our requirements, other regulations and Anglo Irish Bank's own internal governance and policies.
4. A report into our investigation into Directors loans in six of the covered credit institutions for the period December 2005 to December 2008 was published in March 2009. Its main findings were:
 - No evidence was found in the six covered institutions of the removal or reduction of loans at the year-end to avoid disclosure in the financial statements;
 - None of their directors' loans were impaired, in arrears or otherwise non-performing for the period 31 December 2005 to 31 December 2008;
 - All of the directors' loans reviewed were in compliance with the limit of 2% of own funds; and
 - There were some inaccuracies in disclosures in financial statements in most of the institutions examined, because of weaknesses in the procedures and controls for the preparation of the disclosures of directors' loans.

This information has been brought to the attention of the ODCE.

Box 1.3 – Review of director’s loans at Anglo Irish Bank and our regulatory response

On 20 December 2008 the Authority established a committee of members to undertake an urgent review of directors’ loans at Anglo Irish Bank and the regulatory response. The report was delivered to the Authority on 9 January 2009. The committee was asked to look at two issues within the organisation: (1) when the information about these loans was obtained by the organisation, and (2) how the information was communicated and followed up by way of response. It did not include an examination of any other issues relating to Anglo Irish Bank, which are the subject of a separate and ongoing investigation. Box 1.2 refers.

The Authority is subject to strict obligations of confidentiality under legislation and has been legally advised that it may not publish the committee’s report. In the interests of transparency and the public interest the essence of the report was published, and is available on our website www.financialregulator.ie.

On the issue of directors’ loans in Anglo Irish Bank, the committee concluded that there was a breakdown in terms of internal communications and process and in the regulatory follow-up and response of the organisation. This resulted in a failure to take appropriate and timely actions in relation to what was a serious matter and to escalate the matter to the Authority.

The committee noted:

- That it had been greatly impressed by the quality, dedication, commitment and strong work ethic as well as the integrity of the officials with whom they engaged;
- The pressures that the staff had faced since the onset of the crisis in the global financial system in August 2007;
- Issues with staffing requirements; and
- That the adequacy of existing resources would need to be kept under review particularly where modification of the approach to regulation and more intensive supervision would require more staff.

The committee recommended that:

- The review of our strategic regulatory approach in the light of developments in 2007 and 2008 should be advanced as quickly as possible;
- The staffing requirements for the organisation should be reviewed on the basis of both the strategy review and also of the outcome of the work being undertaken by external consultants for the Authority;
- Internal communication and escalation procedures and procedural manuals should be reviewed taking account of the lessons to be learned from this report;
- Filing and document management and tracking arrangements should be improved;
- The review instigated by the Authority to determine the treatment of directors’ loans in all institutions covered by the Government Guarantee Scheme should be completed at an early date (published on 3 March 2009 – Box 1.2 refers);
- Loans to directors should be examined in greater detail; and
- Arrangements should be made to ensure more effective monitoring of the more important prudential returns, including those for loans to directors, with on-line submission and built-in data validation and checking processes.

We have already commenced implementing these recommendations.

Capital Requirements

Revised Capital Regime

The Capital Requirements Directive (CRD) was implemented on 1 January 2007 and became fully effective on 1 January 2008.

The CRD implemented the Basel II²⁰ framework which sought to create an international standard with respect to risk and capital management requirements. This involved a very significant shift in the regulatory approach to risk and capital requirements. The new framework introduced a revised regulatory capital calculation regime and new requirements with regard to internal governance arrangements and risk management systems and controls. It applies to all credit institutions and investment firms within the EU.

The revised capital adequacy framework is based upon three pillars. Pillar 1 (minimum regulatory capital) updates the framework of minimum capital requirements. Pillar 2 (supervisory review) requires institutions to assess their own capital needs and to consider the adequacy of their internal governance and risk management arrangements. This is then subject to supervisory review and evaluation. Pillar 3 (market discipline) requires institutions to disclose to the market certain qualitative and quantitative information about Pillars 1 and 2.

However, primarily as a result of the market turbulence, the EU proposed significant amendments to the CRD in October 2008:

- Elements of the CRD that recognised further work would be required at the time of its adoption. Specifically, these relate to the proposed amendments on hybrids (capital instruments which have both debt and equity characteristics) and large exposures (the regulatory regime which tries to limit a bank's exposure to any one client or group of connected clients); and
- Amendments that have been prompted as a direct result of the current financial turmoil. These amendments relate to: (1) The treatment of hybrid capital instruments and large exposures in light of market developments, (2) waivers for co-operative bank networks, (3) supervisory arrangements, (4) securitisation, (5) liquidity and (6) technical amendments. The revisions were agreed on 6 May 2009, to be adopted by 31 October 2009, for implementation by 31 December 2010.

Electronic Reporting

As part of our implementation of CRD, we introduced a new supervisory reporting framework with submissions via a web-based electronic reporting platform. The new reporting framework (COREP and FINREP), which follows guidelines on an EU-wide CRD common reporting framework developed by the Committee of European Banking Supervisors (CEBS), replaces the Prudential Return. The COREP return deals with the capital solvency ratio of the institution. The FINREP return collects relevant financial data including balance sheet and income statement data. These returns are important supervisory tools for us in our off-site supervision and monitoring of credit institutions.

²⁰ Basel II sets out recommendations on banking laws and regulations issued by the Basel Committee on Banking Supervision.

All credit institutions were required to report using the on-line system and COREP and FINREP framework from March 2008 and all credit institutions have complied with this requirement since then.

CRD Supervisory Review and Evaluation Process

We carried out extensive work during the year in relation to the Internal Capital Adequacy Assessment Process (ICAAP) for credit institutions and the Supervisory Review Evaluation Process (SREP). SREP assesses the risk profile of an institution using a variety of sources (including statistical desk-based analysis, on-site visits and routine dialogue with the institutions as part of prudential supervision). These provide the foundation for the evaluation of the institution's entire risk profile (i.e. not just market and credit risk) to enable us to apply prudential measures over a period of time.

Additional Reporting on Non-Performing Assets

In addition to the regular quarterly reporting on large exposures and in order to facilitate a broader assessment of the quality of credit exposures, supplemental information on non-performing assets was requested from credit institutions from September 2008 onwards. These additional reporting requirements include analyses of loan accounts in arrears (60 days and 90 days past due) according to category; quarterly movements in loan account arrears; geographical breakdowns and information relating to property related arrears.

Box 1.4 – Review of risk management and internal controls following Société Générale

Following the events in Société Générale, which resulted in significant trading losses as a result of the actions of a trader, in April 2008 we required all credit institutions to provide (i) confirmation that they had conducted a review of the adequacy of their operational risk framework having due consideration to the control issues identified by us, and (ii) an outline of the institution's plan for any remedial measures should the review identify any control issues or areas that needed strengthening.

While no significant control weaknesses were identified, improvement in certain internal controls was warranted and this was followed-up bilaterally with the institutions in question.

General Information Relating to Credit Institutions

There were 25 on-site inspections and 88 formal review meetings with authorised credit institutions in 2008. The number of inspections conducted was 25 per cent more than scheduled reflecting the increased difficulties in the Irish banking sector during 2008. In addition, authorised officers are on-site to monitor the internal operations by attending internal committee meetings (including Audit, Credit and Risk) in the Guaranteed Credit Institutions. Regular collection and analysis of financial information also assists in the monitoring of the key areas of liquidity and capital adequacy including weekly liquidity reports from credit institutions, monthly summary prudential ratios on solvency, liquidity and own-funds from credit institutions, quarterly large exposures returns and monthly mortgage statistical data from the main mortgage lenders. From October 2008, daily liquidity reports were received from the Guaranteed Credit Institutions.

INSURANCE SUPERVISION

Significant Events

- Survey of insurance companies conducted to assess solvency and asset composition in light of international financial market turmoil.
- Establishment of new regulatory regime for reinsurance companies.
- Commencement of electronic reporting system for life insurance, non-life insurance and reinsurance companies.
- Active participation in EU Solvency II project on a new system for the regulation and supervision of insurance companies.

Survey of Irish Insurance Market

As a result of the uncertainty and turbulence experienced in world markets towards the end of 2008 and, in particular, the financial services sector, a survey was conducted of insurance companies to ascertain their solvency position and composition of their assets as at 30 September 2008. The primary aim of the survey was to give us a more comprehensive and up-to-date understanding of the financial position of the insurance firms we regulate than would have been provided under the normal reporting cycle. Attention focused on bank exposures, the level of holdings in equities and corporate debt, as well as firms' solvency positions. The survey also requested information on exposures to, and effects of, the problems at Lehman Brothers Holding Inc. and American International Group Inc and their related entities.

Since the survey was carried out, we have introduced a new electronic reporting framework. Under this framework, which has been implemented on a phased basis since late 2008, all insurance companies are required to submit quarterly returns. This will provide more timely and up-to-date information and enhance the prudential oversight of these companies.

Responses were received from 59 life and 137 non-life companies and the key findings to the survey indicated that they all remain well capitalised, even though a moderate downward trend in solvency was apparent.

New Regulatory Regime for Reinsurance Companies

2008 was the first full year of the new regulatory regime for reinsurance following the transposition of the EU Directive on Reinsurance into Irish law through S.I. No 380 of 2006 – the European Communities (Reinsurance) Regulations. A full set of annual regulatory returns was submitted by over 110 authorised reinsurers in 2008. Based upon the annual returns received, 90% of authorised reinsurers maintained a solvency ratio in excess of 150% of the required minimum solvency margin²¹, with approximately 60%

²¹ The minimum solvency requirement for reinsurance firms is the higher of the Minimum Guarantee Fund of €3 million (Captives (€1 million)) or the amount as calculated under the Solvency I Directives (based on level of premium or claims).

at a solvency ratio in excess of 200%. The weighted (by total assets of authorised reinsurers, excluding Special Purpose Reinsurance Vehicles (SPRVs)) average solvency ratio reported in annual regulatory returns for the reinsurance sector in Ireland was in excess of 350%.

During 2008, we issued a number of directions to a small number of authorised reinsurers. These directions included a requirement on one authorised reinsurer to cease entering new reinsurance contracts and a limitation on two authorised reinsurers in the disposal of certain assets.

In 2008, the global reinsurance market was affected by a combination of increased insured losses, with catastrophic insured losses estimated at US\$50bn, and significant investment losses. Capital within the global reinsurance market is estimated to have decreased by approximately 20% through 2008, primarily as a result of investment losses. As a result, market commentators are currently reporting that underwriting discipline is being maintained with reinsurance prices stabilising and, in some cases, increasing. We continue to closely monitor the sector in Ireland in partnership with other regulators and in the context of the global environment in which reinsurers operate.

Electronic Reporting for Insurance and Reinsurance Companies

During 2008, work commenced on an Electronic Reporting System to enable Non-Life insurance, Life insurance and Reinsurance companies to submit their regulatory data electronically. The initial insurance phase launched in 2008 dealt with the submission of quarterly accounts for Life companies commencing with 30 September 2008 data. Prior to that launch, a number of workshops were held with the companies explaining the operation of the system and similar workshops have been scheduled for Non-Life companies in 2009. When complete, the project will allow all insurance companies to submit their quarterly and annual returns to us on a common reporting platform.

Data received passes through specified validating criteria and only when correct are they automatically uploaded to internal systems. The new reporting framework will facilitate us in monitoring compliance by insurance companies with all prudential ratios and to monitor financial performance and key indicators in a more timely manner.

Work will continue on this project in 2009 with a view to having all quarterly and annual returns submitted electronically.

Insurance Statistical Review published

The Insurance Statistical Review 2007, containing detailed statistics and market data on the insurance industry in Ireland, was published on 1 September 2008. The review is based on regulatory returns provided to us by insurance companies. It provides a detailed picture of the Irish insurance industry for all market participants, consumers, and other interested parties.

EU Solvency II Directive

The purpose of this Directive is to introduce a new system for the regulation and supervision of insurance companies. It includes risk based quantitative capital requirements, qualitative requirements, supervisory practices and disclosure.

During 2008, we participated actively in the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS) and its working groups in developing the project. This work covered the development of responses to calls for advice from the European Commission and the development of regular quantitative impact studies.

We have also been particularly active in the discussions on group supervision and the approach to the treatment of equity risk in CEIOPS.

We provided extensive support to the Department of Finance for their participation in the European Insurance and Occupational Pensions Committee (EIOPC). The area of group supervision is of particular interest to Ireland due to the structure whereby a significant proportion of the insurers operating in this jurisdiction are part of larger groups.

The four CEIOPS working groups in which we participated are the Financial Requirements Expert Group, the Internal Models Expert Group, the Internal Governance, Supervisory Review and Reporting Expert Group, and the Insurance Group Supervision Committee.

Financial Requirements Expert Group

This Expert Group takes over the mandate of the former Pillar I Expert Group with the exclusion of internal model related matters. The tasks of the Expert Group are:

- To conduct preparatory work on the standard requirements of financial resources and adequacy of technical provisions for life and non-life insurance business, in line with the design of the Solvency II prudential system; and
- To prepare and execute Quantitative Impact Studies necessary to calibrate the Pillar I standards and assess their impact.

During 2008, the fourth Quantitative Impact Study (QIS 4) was carried out across Europe. We were actively involved in the development of QIS 4, which examined the impact of the current proposals on insurers' solvency positions and was carried out between April and June 2008. We conducted a number of industry workshops for potential QIS 4 participants, spoke at a number of conferences and also communicated directly with companies in attempts to ensure good Irish participation in the exercise. Irish participation in QIS 4 showed a large increase over the previous QIS, with 65 full submissions compared to 39 for QIS 3.

A country report summarising findings from the Irish market's contributions to QIS 4 has also been issued to the industry. High-level findings are:

- The vast majority of companies could meet the Solvency II capital requirements without raising additional capital (92% of participants cover Standard Capital Requirement (SCR) and 98% cover Minimum Capital Requirement); and
- The vast majority of life companies see an increase in their surplus capital (i.e. excess of eligible capital after solvency requirement has been met) under QIS 4 relative to Solvency I, with other undertakings tending to see a fall.

Internal Models Expert Group

The main task of this Expert Group is to conduct preparatory work on the general and specific provisions for the design, review and approval of full and partial internal models for the calculation of the SCR at solo and group level in line with the design of the Solvency II prudential system and with the aim to ensure a level playing field between firms and to guarantee equal protection of policyholders across Europe.

Internal Governance, Supervisory Review and Reporting Expert group

In the course of 2008, we assisted this group in preparing three issues papers²² intended to clarify certain aspects of the supervisory regime being proposed under Solvency II and to seek feedback from stakeholders so as to assist with further consideration of the topics involved. A broad explanation of the papers is as follows:

- Issues Paper on Own Risk and Solvency Assessment – establishes a broad framework for the assessment of inherent risks in the business so as to determine the overall solvency needs to cover those risks;
- Issues Paper on Supervisory Review Process and Undertakings' Reporting Requirements – to aid the process of assessing and monitoring risks to policyholders so that supervisory actions and efforts can be prioritised; and
- Issues Paper on Implementing Measures on System of Governance – contains the first draft of the proposed System of Governance for insurance and reinsurance undertakings.

The Insurance Groups Supervision Committee (IGSC)

We helped develop advice on measures to facilitate the effective supervision of insurance groups under Solvency II which was submitted to the EU Commission in May 2008. In May 2008 the IGSC prepared the CEIOPS response to the European Commission's call for advice on measures to facilitate the effective supervision of insurance groups under Solvency II. The IGSC continues to work in relation to co-operation, coordination and information exchange between regulatory authorities of insurance groups.

²² These papers are available on the CEIOPS website, www.ceiops.eu.

INVESTMENT SERVICE PROVIDERS SUPERVISION

Significant Events

- Implementation of electronic reporting for some financial information received from MiFID firms.
- Implementation of MiFID client asset requirements.
- Review of documentation relating to Fit and Proper process conducted.
- Enhancement of contact and reporting mechanisms.
- Additional staff for inspection teams.

Electronic Reporting for MiFID Firms

Electronic Reporting of the Capital Adequacy Return (CAD) of MiFID²³ firms was successfully introduced in 2008, with the first set of reports received in April. The transition also required the provision of new and more detailed content. We worked with the firms, including introductory workshops, to ensure a successful transition to the new system. It is planned to extend electronic reporting in 2009 to other financial information, at present received in hard copy from the 150 MiFID firms. This will facilitate more sophisticated analysis and scrutiny of the financial information received.

MiFID Client Asset Requirements

During 2008, we placed significant focus on compliance with the new client money rules, the Client Asset Requirements (CAR), published in 2007 which have been updated to reflect the provisions of the MiFID. The CAR are designed to ensure segregation of client assets from the firm's assets and clear identification of ownership of client assets, so that, in the event of a firm having to close, the appropriate assets will be available for distribution to clients.

We established an industry workshop programme to provide a forum for contact and discussion with regulated entities. The first workshop was held in June 2008 and its focus was the Client Asset Requirements. In addition, we assisted the Accountancy Bodies in the update of their Miscellaneous Technical Statement for Audit of Compliance with the Client Asset Requirements.

Review of Fit and Proper Process

Over the course of the year, our Fit and Proper process for the review of proposed applicants to positions within regulated entities, namely the Individual Questionnaire (IQ) and Instructions Paper were reviewed. The purpose of this review was primarily to improve the clarity of the IQ and to include some minor changes to the information requested. Revised versions of both documents were published in December 2008.

²³ *The Markets in Financial Instruments Directive (MiFID) provides an extensive and comprehensive framework for regulation of investment firms including stockbrokers.*

Enhancement of Contact and Reporting Mechanisms

In early 2008, in light of the volatility of markets, we continued to maintain close contact with fund service providers to ensure early warning of any issues arising in that sector. In August 2008, as the investment climate deteriorated, we improved our reporting mechanisms to provide for monthly receipt of certain financial data from MiFID firms.

Additional staff for Inspection Teams

During 2008, we allocated additional staff resources to be assigned to our inspection teams. In addition to regular inspections, the teams carried out two themed inspections of a number of financial service providers which in 2008 focused on compliance with elements of the Client Asset Requirements and on the fiduciary responsibilities for entities authorised to act as trustee/custodians to funds.

MARKETS SUPERVISION

Significant Events

- Inspection of the operations of the Irish Stock Exchange under the market abuse, prospectus and transparency delegation agreements conducted.
- Input into the development of primary legislation by the Department of Finance for the establishment of a disclosure regime for contracts for differences.
- Introduction of Short Selling Rules.
- Continued development of our transaction monitoring capacity.
- Publication of a number of Guidance Notes and amended Prospectus Rules.

Transaction Reporting²⁴

In 2007, when we initiated transaction reporting, our focus was on putting in place systems to enable us to receive transaction reports from investment firms and transmit transaction reporting data to other European regulators. This was the first step towards building a transaction monitoring system which would allow regulators to supervise all trading of regulated securities by investment firms. In 2008, our aim was to develop our transaction reporting and monitoring functions sufficiently so that the current delegation to the Irish Stock Exchange of market abuse monitoring could be ended.²⁵

Further work has, therefore, been undertaken in 2008 to develop our transaction monitoring capacity. This additional functionality is currently in the middle of development and is not yet fully operational due to the complexity and scale of market trading activity and the lack of any reliable international standards for the monitoring of market trading. Under current information technology plans, the initial monitoring systems to analyse transaction reporting data will not be fully available until end-2009. Even then, a further phase of testing and review will be needed prior to satisfying ourselves that the analytical tools in the system are effective.

Five additional staff were assigned to this area during the year and trained in the use of our systems. As part of this work, two members of staff were seconded to the Irish Stock Exchange to learn how trading in financial instruments is currently monitored and investigated there. We plan to arrange the secondment of at least one staff member to another securities regulator in 2009 to work in their market monitoring area.

We also spent a significant amount of time during 2008 working with reporting investment firms and with other European regulators to improve the quality and broaden the range of data we receive. This work is on-going and will be a major focus for some years to come if transaction reporting systems are to become a significant safeguard against market abuse. Both the quality and scope of the data and the effectiveness of the exchange of data between regulators will need to improve significantly.

²⁴ This section of the annual report and the following section concerning market abuse investigations are provided to the Minister for Enterprise, Trade & Employment and are published in fulfilment of our reporting obligations under Regulation 54 of the Market Abuse (Directive 2003/6/EC) Regulations 2005.

²⁵ Our inspection of the conduct of the delegation by the ISE is reported on in the section titled 'Prospectus Review'.

Since November 2007, we have been using live market data in our test system, as part of our training and development work for building the market monitoring system. We have also been exchanging such data with other CESR members. Table 1.1 below summarises the amount of transaction reports involved.

Table 1.1 – Performance of Functions under the MiFID Regulations		
	2007*	2008
Transaction reports received from entities located in Ireland	2,358,215	12,328,901
Transaction reports sent to other competent authorities via TREM**	1,733,873	8,636,365
Transaction reports received from other competent authorities via TREM**	839,002	6,649,884
* Transaction reporting obligations only became effective from 1 November 2007		
** Transaction Reporting Exchange Mechanism		

Market Abuse

Continued progress was made in 2008 in training a team to take over market abuse investigation work from the Irish Stock Exchange. Three additional staff were assigned to this team during the year. While the day-to-day investigation of suspicious transactions continues to be delegated to the Irish Stock Exchange, our staff have directly investigated selected issues to build up resources, experience and procedures. These investigations have highlighted some of the issues which are known to make market abuse cases difficult to investigate.

One case, which was closed after a full investigation including extensive interviews and international work, highlighted the limitation of the current legal definition of market manipulation.

Another case centered on examining procedures within a company, whose shares are admitted to trading on the Irish Stock Exchange, for handling inside information. This case highlighted the desirability of such companies maintaining clearly documented systems and controls and proper records in respect of their procedures for identifying whether information in their possession is inside information and whether changes in their circumstances would give rise to situations where an announcement to the market should be made. In this case, no breaches of the law were found, but we wrote to the Chairman and Chief Executive of the company at the conclusion of the investigation highlighting areas of potential improvement in their approach.

A third case, which found no evidence of market abuse having occurred during the period under examination, did highlight the desirability of investment firms, particularly stockbrokers, having adequate systems and controls for supervising staff handling market rumours so that individual staff members, while keeping clients informed of developments, do not inadvertently or carelessly circulate or exaggerate unlikely rumours.

During 2008, we also defended a case taken against us by Ryanair seeking, among other things, disclosure as to whether or not we had carried out or were carrying out an investigation of certain matters involving Aer Lingus. We defended our policy of not commenting on whether or not there was an ongoing investigation or publishing the conclusions of closed investigations where there were not exceptional

circumstances justifying such publication. In his ruling in our favour, Justice Kelly²⁶ concluded that the Financial Regulator in regulating markets "...is involved in an extremely sensitive area of economic life... The question of publicity in the enforcement process undertaken by the respondent (i.e. the Financial Regulator) is also of great importance and sensitivity in the context of the market. Publicity undoubtedly may play a role, but neither the Regulations²⁷ nor the 2005 Act²⁸ require publication of a decision to investigate or not to investigate.....publication is only envisaged after an adverse assessment if the case results in the imposition of certain sanctions....". We continue to be committed to accounting fully for how we do our work. However, the Judge's comments, we believe, vindicate our approach of not naming persons or firms who have been or are being investigated. Should any investigation lead to the imposition of a market abuse administrative sanction (other than a private caution) or a court conviction, our approach is that the name of the person or firm involved should be made public.

Table 1.2 below summarises the work of the investigations team during the period.

Table 1.2 – Performance of Functions under the Market Abuse Regulations		
	2007	2008
Enquiries initiated regarding possible contraventions	15	15
Suspicious Transaction Reports submitted to the Financial Regulator by persons professionally arranging transactions	1	1
Suspicious Transaction Reports submitted to the Financial Regulator by other EU Competent Authorities.	4	6
Suspicious Transaction Reports transmitted by the Financial Regulator to EU Competent Authorities.	1	1
Assistance rendered to other EU Competent Authorities	23	26
Stabilisation notifications submitted to the Financial Regulator	8	1
Settlement Agreements (concluded)	1	1

In 2009, we plan to develop our market abuse team's skills further, while continuing to rely on the Irish Stock Exchange for day-to-day work on investigations. As we develop our skills in this new area of regulation, it is likely that we will consider seeking changes in the law to enhance the regulatory framework.

Impact of the Financial Crisis on Market Monitoring Work

Notwithstanding what has been achieved in 2008, we did not meet our targets in 2008 for development of the teams to conduct supervision of securities trading and to conduct market abuse investigations. One of the main reasons for that was that we were repeatedly diverted to looking into matters related to the financial crisis. This was an issue for both the Transaction Reporting Team and the Market Abuse Investigations Team.

²⁶ *The High Court Commercial [2008 No. 49 J.R.] between Ryanair Holdings plc (Applicant) and Irish Financial Services Regulatory Authority (Respondent) and by Order of the High Court Aer Lingus plc (Notice Party).*

²⁷ *Market Abuse (Directive 2003/6/EC) Regulations 2005.*

²⁸ *Investment Funds, Companies and Miscellaneous Provisions Act 2005.*

During 2008, we analysed a number of matters related to the financial crisis. This involved monitoring and investigating trading in bank shares or related matters. While it is not practical to be conclusive about the market as a whole given the complexity of trading activity, overall, the patterns we observed suggested trading which was consistent with real and legitimate concern among investors about the deteriorating position of financial sector shares rather than any attempts to illegally manipulate the market.

On 18 September 2008, we introduced rules relating to the short selling of Irish bank shares as it was deemed appropriate to do so to ensure the orderly conduct of the market in this exceptional period. We were among the first European regulators to do this, but many others subsequently put similar rules in place. In 2009, we will continue to monitor the appropriateness of maintaining the rules as currently structured. Where practical, we will coordinate our approach internationally to ensure the most effective regulation across borders.

Prospectus Review²⁹

The bulk of our daily work in this area involves the supervision of the delegation agreement with the Irish Stock Exchange for carrying out the early stages of the Prospectus Review process and the final decisions to approve Prospectus documents. See the relevant statistics in Table 1.3 below.

Table 1.3 – Performance of Functions under the Prospectus Regulations		
	2007	2008
Number of documents approved	3,116	1,611
Number of documents/notifications published	5,417	3,531
Passport certificates prepared	405	262
Inward passporting notifications processed	431	527
Number of Issuers whose securities were suspended from trading by the ISE at the request of the Financial Regulator	0	8
The difference between the number of documents that have been approved to date and the number of documents that have been published on our website relates to (i) Final Terms, Final Offer Price and Amount of Securities Announcements and Annual Information Reports (which do not require approval) that have been filed with us and published on our website and (ii) notifications in respect of prospectuses which have been approved by the Competent Authority of another Member State and which are then passported into Ireland and do not require the approval of the Financial Regulator.		

The fall-off in volumes is directly related to the decline in the use of securitisations since the Autumn of 2007. Additional available resources arising from these developments have been applied to our work on the Transparency Directive.

²⁹ This section of the annual report concerning prospectus review is provided to the Minister for Enterprise, Trade & Employment and is published in fulfilment of our reporting obligations under Regulation 108 of the Prospectus (Directive 2003/71/EC) Regulations 2005.

During the year, with the assistance of consultants on systems and procedures, we undertook a detailed inspection of the operations of the Irish Stock Exchange under the market abuse, prospectus and transparency delegation agreements we have in place with them. While the review found no instances of non-compliance by the Irish Stock Exchange with the terms of the delegation agreements, a number of recommendations were made. We will work closely with the Irish Stock Exchange in 2009 to follow up on these recommendations.

We also published a number of Guidance Notes and amended Prospectus Rules on our website during the year.

Impact of the Financial Crisis on Prospectus Review Work

Notwithstanding the financial crisis, we continued to meet the bulk of our delivery targets in the prospectus review area, with the significant exception of our work on developing a new approach to prospectus review to replace our current delegated review model. Early in 2008, we completed the review, initiated in 2007 with the assistance of consultants, of the options for changing the way prospectus documents are reviewed in Ireland. Progress in finalising a preferred option has been delayed due to the engagement of key stakeholders in dealing with issues arising from the financial crisis. To manage the impact of this unavoidable delay, we have identified a number of project critical tasks including the secondment of two members of staff to the Irish Stock Exchange.

Another impact of the crisis, is that at end-September 2008, in the wake of the Lehmans collapse, the Government issued a State guarantee on the bulk of domestic bank debt. The issuance of the guarantee created a category of debt which did not fit naturally into the Prospectus Directive framework. After extensive consultation with industry, the Irish Banking Federation and the Department of Finance, and having taken legal advice, we promptly issued a Guidance Note setting out recommendations in respect of prospectus disclosures relating to the issuance of debt instruments by institutions falling within the scope of the Credit Institutions (Financial Support) Scheme 2008. This Guidance Note provided the certainty required for issuers in the immediate aftermath of the issuance of the guarantee. Once a coordinated European analysis by us and other regulators had been completed of all the relevant State guarantee schemes across Europe, this Guidance Note was superseded by the publication of European guidance by the Committee of European Securities Regulators ('CESR') in December 2008. We actively monitor compliance with this CESR guidance.

Transparency Directive³⁰

The bulk of our daily work in this area involves the supervision of the delegation agreement with the Irish Stock Exchange for monitoring the disclosure of periodic and ongoing information by issuers and the disclosure of major shareholdings and voting rights.³¹ See the relevant statistics in Table 1.4 below.

Table 1.4 – Performance of Functions under the Transparency Regulations*		
	2007**	2008
Number of annual financial reports received by the ISE	0	62
Number of half-yearly financial reports received by the ISE	22	87
Number of interim management statements received by the ISE	31	153
Number of major shareholding notifications received by the ISE	302	688
Number of Issuers whose securities were suspended from trading by the ISE at the request of the Financial Regulator	1	25

* The Financial Regulator is the designated central competent authority for the purposes of the Regulations, except for the purposes of Article 24(4)(h) of the Transparency Directive in respect of which the Irish Auditing & Accounting Standards Authority (IAASA) has been appointed the relevant competent authority.

** Covers the period from the implementation date of the Regulations on 13 June 2007 to 31 December 2007.

During 2008, we worked closely with the Department of Finance in the development of primary legislation to provide for the establishment of a disclosure regime for contracts for differences (CFDs), which currently do not need to be disclosed to the market unless they explicitly give a right to acquire, or give access to, voting rights. This initiative will significantly enhance market transparency surrounding trading in such instruments. We will continue to work with the Department of Finance in drafting Regulations to give effect to this primary legislation which was enacted in March 2009. We also completed a legal review of our procedure for suspending securities from trading. We see market transparency as critical to effective market functioning. We therefore regard this as an area where additional resources could bring substantial additional benefits to investors and the market.

Markets Governance

We continue to work with the Irish Stock Exchange (including meeting in excess of 20 times) and with other market trading facilities authorised under the EC (Markets in Financial Instruments Directive) Regulations, 2007 to ensure that they achieve and maintain appropriate rules and standards for providing fair and transparent trading facilities. In that regard, we are examining a range of issues which we hope to finalise during 2009. We have, during 2008, considered a number of changes to trading rules and have issued a guidance note on applications to establish a Multilateral Trading Facility under these Regulations.

³⁰ This section of the annual report is provided to the Minister for Enterprise, Trade & Employment and is published in fulfilment of our reporting obligations under Regulation 77(1) of the Transparency (Directive 2004/109/EC) Regulations 2007.

³¹ Our inspection of the conduct of the delegation by the ISE is reported on in the section titled 'Prospectus Review'.

FINANCIAL INSTITUTIONS AND FUNDS AUTHORISATIONS

Significant Events

- Revision of UCITS Notices and related Guidance Notes concerning eligible assets for investment.
- Proposal for a directive amending UCITS Directive adopted by European Commission.
- Assumed responsibility for the authorisation and supervision of retail credit firms and home reversion firms.

Collective Investment Schemes

UCITS (Undertakings for Collective Investment in Transferable Securities) are investment funds authorised under the provisions of the European Communities (UCITS) Regulations 2003. UCITS must be open-ended, i.e. they provide liquidity for investors at least twice a month and are open for retail participation.

In April 2008, we revised our UCITS Notices and related Guidance Notes with regard to eligible assets for investment by UCITS. We also amended our UCITS and Non-UCITS Series of Notices with regard to techniques and instruments, including repurchase/reverse repurchase agreements and stock lending, for the purposes of efficient portfolio management.

We amended a Guidance Note on the use of financial derivative instruments by UCITS in October to provide clarity on the use of Value at Risk ("VaR")³² as applied using the advanced risk measurement approach to market risk for UCITS. The Guidance Note now applies an absolute VaR limit of 20% of Net Asset Value (NAV) subject to a 99% confidence level and a minimum holding period of 20 days. This technical clarification allows flexibility in the quantitative parameters used while ensuring that existing limits to market risk are not compromised.

Amendments to the authorisation process which applies to Qualifying Investor Funds were introduced in July which necessitated revisions to Guidance Note 1/07 and the NU Series of Notices. A Qualifying Investor Fund (QIF) is a category of non-UCITS investment fund we authorise for which there are no investment and borrowing restrictions. QIFs have a minimum subscription requirement of €250,000 and investment is restricted to qualifying investors who must meet minimum net worth requirements and certify that they are aware of the risks involved and the fact that they may lose the entire sum invested.

We issued a new Guidance Note on investment in money market instruments along with setting out our requirements for the valuation of money market funds, i.e. the specific use of amortised costs. The majority of Irish authorised money market funds value their assets using amortised costs and the new Guidance Note addressed certain weaknesses that existed, introduced monthly stress testing analysis and provided clarity with respect to the use of amortised costs.

³² VaR is a single, summary, statistical measure of possible portfolio losses due to "normal" market movements and is a simple way to describe the magnitude of likely losses in a portfolio calculated using parameters such as confidence level and holding period.

UCITS IV

The European Commission adopted a proposal for a directive containing amendments to the UCITS Directive on 16 July 2008. The objective is to introduce the following measures to a recast consolidated UCITS Directive:

- Management Company Passport – provide a passport for management companies, under which a management company located in one Member State within the EU could establish a UCITS in another Member State;
- Notification Procedures for Cross-Border Marketing of UCITS – introduce significant changes to the existing procedure including moving to a regulator-to-regulator notification process in a considerably shorter timeframe;
- Mergers – allow for the merger of UCITS on a cross border basis subject to certain conditions;
- Master Feeder Structures – permit master feeder structures by providing that a UCITS can invest all of its assets in another UCITS;
- Key Information Document – replace the existing simplified prospectus with a key information document written in plain language and apply a harmonised approach to disclosure of past performance, risk/reward indicators and charges; and
- Improve supervisory co-operation mechanisms.

The European Parliament agreed the Directive proposals in January 2009. Work in relation to the development of necessary implementation measures (Level 2) has now commenced and we will actively participate on all relevant working groups.

Anti-Money Laundering

We have assisted the Department of Justice, Equality and Law Reform and the Department of Finance with their ongoing work to transpose the Third Anti-Money Laundering Directive.

We have established a dedicated Anti-Money Laundering (AML) Unit to:

- Raise awareness of Money Laundering risk among all regulated financial service providers;
- Work with industry on developing guidance notes for Credit and Financial Institutions;
- Manage communications with the Money Laundering Intelligence Unit of an Garda Síochána;
- Enhance and continually update AML-related content on our website; and
- Participate in the work programmes and regular meetings of the Financial Action Task Force, the CEBS, CESR, CEIOPS Anti-Money Laundering Task Force and the EU Committee on the Prevention of Money Laundering and Terrorist Financing.

Retail Credit firms and Home Reversion firms

From 1 February 2008, we became the body responsible for the authorisation and supervision of retail credit firms and home reversion firms.

A retail credit firm is a firm that provides credit (in the form of cash loans) directly to individuals, or a firm that has been prescribed as a "credit institution" under the Consumer Credit Act, 1995, as amended.

A home reversion scheme is where a consumer agrees to sell a share of his/her home in return for a set price. The consumer does not borrow against the value of his/her home but instead sells a share of his/her home. The home reversion company will receive the relevant share of the sale of the home when the consumer moves out of his/her home or dies.

Conscious of the fact that our consumer protection rules do not apply to all lenders, we sought to regulate these firms and legislation was introduced in order to ensure that where consumers are dealing with such firms that the firms would be operating in compliance with the Consumer Protection Code.

Our role is to ensure that these firms comply with Anti-Money Laundering and Fitness and Probity Requirements in addition to the provisions of the Consumer Protection Code and the Minimum Competency Requirements.

Insurance Mediation Regulations

We worked closely with the Department of Finance to update the Insurance Mediation Regulations, 2005. The amended regulations became effective from 30 June 2008. Work is still ongoing in relation to producing revised European Communities (Insurance Mediation) Regulations. We are actively involved in this process.

Details of Financial Service Providers – Authorisations, Supervised Entities, Inspections and Reviews and Returns Processed

Table 1.5 – Number of Authorisations Granted in 2007 and 2008		
	2007	2008
Credit Institutions	5	3
Life Insurance Companies	1	5
Non Life Insurance Companies	5	3
Reinsurance Companies	3	8
Investment Business Firms	15	11
Retail Intermediaries		
• Multi Agency Intermediaries	100	67
• Authorised Advisers	15	21
• Insurance/Reinsurance Intermediaries	1,743	1,990
Mortgage Intermediaries authorisations granted/renewed	1,173	274
Collective Investment Schemes (including sub funds)	1,082	612
Fund Service Providers	18	14
Credit Unions	0	0
Money Transmitters & Bureaux de Change	4	2
Moneylenders ³³	51	52
Stock Exchange/Market Operators	1	0
Moneybrokers	0	0
Retail Credit Firms	0	7
Home Reversion Firms	0	2
Total	4,216	3,071

Table 1.5 above outlines the number of financial service providers and funds authorised during 2008. Regarding the drop in Mortgage Intermediaries authorisations, we now grant authorisations to the majority of these for a period of five or ten years, rather than for a one-year period as was previously the case. Also, in relation to the figures for Collective Investment Schemes (including sub funds) the net asset value of Irish authorised collective investment schemes at 31 December 2008 was €647.1 billion compared to €806.4 billion at end 2007. The funds (including sub-funds) authorisation figure for 2007 was particularly high due to the creation of a high level of sub-funds by existing funds.

³³ Subject to annual renewal of licence.

Table 1.6 – Total Number of Regulated Financial Service Providers		
	2007	2008
Credit Institutions (including branches of overseas credit institutions)	82	81
Life Insurance Companies	54	60
Non Life Insurance Companies	134	136
Reinsurance Companies	116	121
Investment Firms (MIFID)/Investment Business Firms	150	156
Retail Intermediaries		
• Multi Agency Intermediaries	2,041	2,048
• Authorised Advisers	429	435
• Insurance/Reinsurance Intermediaries	2,507	4,019
Mortgage Intermediaries authorisations granted/renewed	1,893	2,073
Collective Investment Schemes (including sub funds)	4,780	5,025
Fund Service Providers	228	232
Credit Unions	422	419
Money Transmitters and Bureaux de Change	23	25
Moneylenders ³⁴	51	52
Stock Exchange/Market Operators	1	1
Futures and Options Exchange	1	-
Moneybrokers	6	5
Retail Credit Firms	0	7
Home Reversion Firms	0	2
Total	12,918	14,897

In relation to Table 1.7 below and the figures contained therein, the stresses in financial markets led to an increased focus on areas of greatest risk and to disruptions to planned activity. In addition, recruitment of specialist resources did not progress as expected and this had a negative impact in certain areas.

³⁴ Subject to annual renewal of licence.

Table 1.7 – Number of On-Site Inspections and Review Meetings			
	Actual 2007	Target 2008	Actual 2008
Overall Total	449	402	368
Banks and Building Societies			
Inspections	15	20	25
Review Meetings	86	37	88
Total	101	57	113
Insurance			
Inspections	11	30	17
Review Meetings	138	155	131
Total	149	185	148
Exchanges			
Review Meetings	2	-	-
Total	2	-	-
Other Financial Service Providers			
Total Inspections	33	50	35
Total Review Meetings ³⁵	164	110	72
Total	197	160	107
Of which			
Investment/Stockbroking firms			
Inspections	9		16
Review meetings	85		46
Fund Service Providers			
Inspections	17		8
Review meetings	76		26
Retail Intermediaries			
Inspections	7		11
Review meetings	2		-
Bureaux de Change			
Meetings	1		-

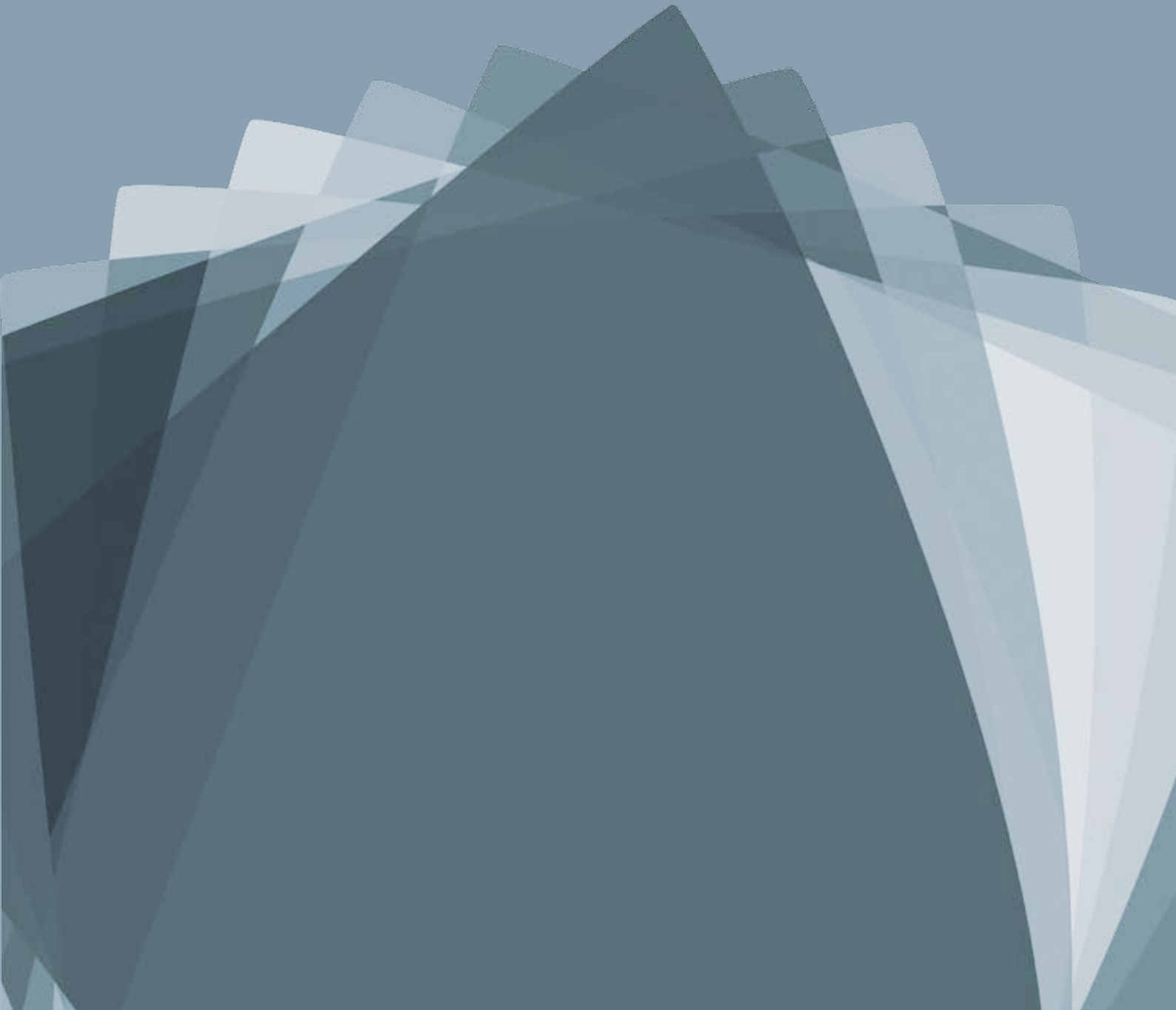
³⁵ This figure does not include Other Supervisory Meetings, of which there were 84 in 2008

Table 1.8 – Number of returns from Financial Service Providers received in 2008		
	2007	2008
Banks and Building Societies		
Weekly Returns	1,173	2,647
Monthly Returns	470	156
Quarterly Returns	622	1,423
Total Half Yearly	N/A	48
Annual Returns (Audited Accounts)	47	52
Insurance		
Audited Annual Returns		
• Non Life	132	131
• Life	53	55
• Reinsurance	N/A	114
Quarterly Returns		
• Non Life	236	257
• Life	104	119
• Reinsurance	N/A	45
Investment/Stockbroking Firms		
• Weekly	480	500
• Monthly	271	224
• Quarterly	421	407
• Semi-Annual	35	44
• Annual Audited Accounts	134	137
Fund Service Providers		
• Quarterly	21	-
• Semi-Annual	73	131
• Annual Audited Accounts	76	145
Retail Intermediaries		
• Annual	1,132	1,030
Exchanges		
• Monthly	24	13
• Annual Audited Accounts	2	1
Funds		
Monthly Net Asset Value (NAV) Returns	52,498	19,442 ³⁶
Annual and Interim Accounts	6,980	8,953
Total	64,984	36,074

³⁶ With effect from 1 April 2008, the Central Bank (Statistics Department) took over the processing of Monthly NAV Returns.

CHAPTER 2

PROMOTING A STABLE CREDIT UNION SECTOR



CHAPTER 2

Promoting a Stable Credit Union Sector



*Brendan Logue,
Registrar of Credit Unions*

Registrar of Credit Unions' Statement

Review of 2008

Much has changed in the financial services sector, and in the economy generally over the last year. Most providers of financial services have experienced considerable stress as a result of the global turmoil and credit unions have not escaped its effects. Accordingly, there are a number of particular issues that are posing serious challenges for the credit union sector. A key focus of our work over the last year has been in identifying these challenges and working with credit unions, both individually and collectively, to address them. The primary focus of our work continues to be maintenance of the safety and security of members' savings and the protection of savers' interests takes precedence over all other considerations in our regulatory activities.

Total assets of the credit union sector amounted to €14.2 billion as at 31 December 2008. The particular challenges we identified relate to the two main assets of credit unions, namely, investments and loans, with consequent impacts on other aspects of credit union business, in particular, liquidity, surplus and dividends. Accordingly, these matters were the focus of much of our work and allocation of staff resources during 2008.

Credit unions held €6.4 billion of members' funds in the form of investments as at 31 December 2008. We were concerned that credit unions had adopted varying accounting treatments in valuing their investments, in the recognition of income accruing and the distribution of such income. Accordingly, we issued a *Guidance Note on Matters relating to Accounting for Investments and Distribution Policy*, the purpose of which is to remind credit unions of the need to ensure that the accounting treatment which they adopt for investments complies with the relevant requirements of the Credit Union Act, 1997, that their distribution policy is appropriate and prudent for the particular circumstances of their credit union and losses on investments in the current financial environment.

Credit unions loans to members amounted to €7.3 billion as at 31 December 2008. We monitored the lending area against the background of tightening of the availability of credit generally and the difficult economic circumstances prevailing. In particular, we focussed on the type of lending being undertaken by credit unions, trends in arrears and the level and adequacy of bad debt provisions. We required credit unions to take the necessary actions to address issues arising in each of these areas.

In relation to the credit union year-end 30 September 2008, we worked with individual credit unions to ensure that the level of proposed distributions struck an appropriate balance between the need to reward savers and borrowers and the equally important need to maintain credit union solvency and liquidity. More generally, we have been investigating a number of potential mechanisms which might be put in place to enhance the availability of liquidity to credit unions.

In September 2008, the government announced its intention to extend the Deposit Guarantee Scheme to credit unions and increase the limit to 100 per cent of each member's savings up to a maximum of €100,000. This decision by the Government to take this action has changed for the better the environment in which credit union members save.

We continue to place emphasis on the need for regular and open communication with credit unions and their representative associations. During 2008, we continued our interaction with individual credit unions through inspections and meetings and we also had regular contact with the other credit union stakeholders.

Outlook for 2009

In order to ensure the survival and wellbeing of the credit union movement, significant changes will be needed in the manner in which credit unions operate and control their businesses, particularly in the areas of lending and investment practices. It is also clear that changes will need to happen to the way credit unions and the movement generally are governed. We are working with the Department of Finance to have a process started to bring this about, in consultation with key stakeholders.

While the credit union sector has suffered many challenges in recent years, it is now vital to look forward in order to anticipate the threats arising in 2009 and beyond. Credit unions should prepare themselves for a difficult year ahead in managing their affairs. Pressures will continue in the investment and lending areas resulting in a continuing decline in profitability which will impact on the ability of certain credit unions to pay dividends to their members at year-end. Credit unions need to adopt a much more prudent approach to their management of both of these key assets. Liquidity remains of prime importance and the focus must be to ensure that at individual credit union level adequate liquid resources are always available for operational purposes. Lending criteria must be based on carefully researched criteria and on the ability and commitment of borrowers to repay loans. Strict cost control must also be implemented.

All of the above challenges will provide the key focus and direction of our supervisory work during 2009. Where we deem it necessary to strengthen liquidity positions in individual credit unions, we will place restrictions on the level of lending that can be undertaken. We will also require independent loan book reviews in cases where we are of the view that the boards of such credit unions have failed to deal with the management of arrears and provisions in a prudent manner.

Conclusion

Our primary focus will remain the protection of members' interests, particularly those of savers. This requires prudent governance and appropriate risk management by the boards and management of each credit union.

We welcome the announcement by the Minister of a review of the credit union sector and will endeavour to ensure that this review is broad-ranging and looks at all areas of importance to credit union members. In the meantime, urgent measures such as those relating to a liquidity support mechanism for credit unions must be progressed in the interest of protecting members of credit unions. We are committed to working with all sector stakeholders to ensure that this objective is met.



Brendan Logue
Registrar of Credit Unions

Investments

Total assets of the credit union sector amounted to €14.2 billion as at 31 December 2008. Of this amount, about €6.4 billion, representing 45 per cent of total assets, are held as investments. Significant losses were incurred in products such as perpetual bonds, the central treasury management funds and equity-based products. These losses were closely monitored throughout 2008 with a view to projecting their impact on the year-end results of individual credit unions so as to identify, at an early stage, those that would have difficulties in paying dividends.

We have noted that in recent years credit unions have adopted varying accounting treatments in valuing their investments, in the recognition of income accruing and the distribution of such income. Consequently, we felt it necessary to clarify the accounting position by the issuance of a draft Guidance Note in July 2008. Following pre-consultation with the accountancy profession on the relevant issues, we issued a draft *Guidance Note on Matters relating to Accounting for Investments and Distribution Policy*. The purpose of the Guidance Note is to remind credit unions of the need to ensure that the accounting treatment, which they adopt for investments, complies with the relevant requirements of the Credit Union Act, 1997, and that their distribution policy is appropriate and prudent for the particular circumstances of their credit union. The draft Guidance Note, which was the subject of consultation with credit union sector stakeholders, was finalised and issued in April 2009.

In addition, during 2008, as part of our ongoing supervision of credit unions, a series of themed inspections were carried out, focusing on the investment portfolios and compliance by credit unions with the *Guidance Note on Investments* which we issued in October 2006. Where credit unions were found to be in breach of the Guidance Note and/or the Trustee Authorised Investment Order 1998 (as amended), these breaches were followed up with the individual credit unions and appropriate corrective action taken. Such action included restricting the investment of surplus funds to short-term deposit accounts in authorised credit institutions.

Lending

Total loans to members amounted to €7.3 billion as at 31 December 2008, representing just over 50 per cent of the combined assets of the credit union sector. This represents an increase of about 6 per cent over the previous year. We have been monitoring the lending area with a view to ensuring that credit unions are aware of the need to lend in a prudent manner and that adequate provision is made for bad debts. Arising from the tightening of the availability of credit generally and because of the difficult economic circumstances now prevailing, we have required credit unions to introduce enhanced scrutiny of all new loan applications. We have also warned credit unions that lending for commercial property, project finance or main line business activity is not the business of credit unions and this type of lending should not be undertaken.

We monitored the trends in arrears closely during the year, based on the data reported to us on the Prudential Returns submitted by credit unions. Our analysis of this data shows that arrears have increased during 2008. We wrote to 133 credit unions where high levels of arrears and/or rescheduling of loans were identified, requesting explanations for these high levels of arrears and the provisioning and write-off policies of the credit union. Work is ongoing in this regard with credit unions to ensure that they take appropriate actions to address these trends. Where we consider it warranted, we have requested credit unions to have independent loan book reviews undertaken in order to establish the adequacy of their bad debt provision and ascertain whether any additional provisions and/or bad debt write-offs are required.

Section 35 (2) of the Credit Union Act, 1997, sets out the limits that credit unions must comply with in respect of the total amount of loans advanced for periods exceeding 5 years and 10 years. We monitor compliance with Section 35 (2) through analysis of the Prudential Return. In 2008, based on the Prudential Return figures reported to us, we wrote to all credit unions that reported a breach of this section of the Act requesting details on how they intended to rectify the breach and bring the credit union back into compliance with the Act. Arising from this follow-up, 90 credit unions were instructed to stop advancing any new loans for periods in excess of five years until they return to compliance with the limits set out in the Act. Compliance with this instruction is being monitored on an ongoing basis through the Prudential Return.

Rescheduling of Members' Loans

While we have no objection to rescheduling of loans where appropriate, we are very anxious to ensure that there is transparency, accuracy and compliance with the Credit Union Act, 1997 in the way in which this is reflected in the accounts of credit unions. We recognise that there may be a need, in some instances, for rescheduling of loans to take place to accommodate borrowers in financial difficulties. However, this should be accomplished by renegotiating the repayment instalment as is prudent and the terms of the original loan should not be altered in the books and records of the credit union. This will provide transparency of the true level of loan arrears and produce the appropriate provisions for bad and doubtful debts needed to reflect the deterioration of the quality of the loan book.

Credit Union Year-End: Annual Accounts and Dividends

In October 2008, we issued a circular to all credit unions regarding the payment of dividends in respect of the year-ended 30 September 2008. The circular highlighted the provisions of Section 30 of the Act, which sets out the requirements in relation to "Dividends on Shares". Credit unions which were not in a position to pay a dividend in accordance with these provisions were requested to contact the Registrar's office to discuss the matter prior to finalising their accounts.

Following the issue of the circular we had contact with 101 credit unions with regard to their proposed 2008 year-end dividends and interest rebates. We worked with them to strike an appropriate balance between the need to reward savers and borrowers and the equally important need to maintain and enhance credit union solvency. We took account of the trading position, level of liquidity, arrears and rescheduling in considering each case. In most cases, we were able to strike the appropriate balance for the year-end distributions with the boards of each credit union. Arising from our work in this area, 76 credit unions reduced the level of their proposed dividend/interest rebate and an additional €20 million was retained in reserves of the relevant credit unions as a result.

In our contacts with credit unions at the year-end, we also sought to ensure compliance by their boards with the provisions in respect of the preparation of their accounts contained in Section 110 of the Act. Members are entitled to have the accounts of their credit union presented in a clear and transparent fashion and in a way that reflects the governing principle of prudence contained in the Act. In particular, and in the light of the current economic situation, we stressed the need to ensure that provisions and reserves were increased as appropriate to the specific circumstances in each credit union. We also stressed the need for auditors of credit unions to be mindful of the requirements of the Act when certifying that the accounts show a true and fair view of the financial affairs of the credit union.

Liquidity

We closely monitored the liquidity positions in credit unions during 2008. While the consolidated position for the movement might be considered adequate for the moment, there are an increasing number of individual credit unions experiencing liquidity stress that require enhanced monitoring. This liquidity stress arises from a combination of factors including increasing arrears on members' loans, increased savings withdrawals and increased lending to members. Accordingly, we have required certain credit unions to report key indicators of lending and liquidity to us on a monthly basis and on a more frequent basis as considered necessary. We issued a circular to all credit unions in January 2009 requiring them to install a system of lending limits for their credit committees, bearing in mind the availability of liquid resources. We have also required all credit unions to tighten their credit assessment procedures and to give priority to holding surplus funds in short-term deposit accounts in credit institutions that are statutorily guaranteed.

While there are some liquidity support solutions in place at an individual credit union level, such as bank and inter credit union borrowing, these solutions are limited and usually expensive. We believe that credit unions need the support of an appropriate and reliable liquidity support facility in order to be in a position to deal with a more extensive liquidity crisis should this arise. Since early 2008, we have been investigating a number of potential mechanisms which might be put in place to enhance the availability of liquidity to credit unions. Discussions with all the credit union stakeholders, the Central Bank and the Department of Finance are continuing in this regard.

Savings Protection

The issue of savings protection arrangements for credit unions, which has been a matter of discussion with the Irish League of Credit Unions (the League) for some years, was substantially changed when, in September 2008, the Government announced its intention to extend the Deposit Guarantee Scheme to credit unions and increase the limit to 100 per cent of each member's savings up to a maximum of €100,000. The decision by the Government to take this action has changed, for the better, the environment in which credit union members save.

In light of this announcement on the extension of the Deposit Guarantee Scheme, the role of the League's Savings Protection Scheme (SPS) will now have to be reviewed, as the primary original function of the scheme was to provide member compensation. We support the concept of a stabilisation scheme or schemes for credit unions. However, we believe that if a stabilisation scheme is to be approved by us it should operate in an independent and transparently funded fashion, be clear as to the rules under which support could be accessed by credit unions and be regulated by us. We are participating actively in consultations recently initiated by the Department of Finance on draft legislative provisions.

Other Prudential Work

All 418 active credit unions submit a web-based Prudential Return and an Annual Return, to us. The Prudential Return is firmly established as part of each credit union's ongoing reporting requirements. This regular submission and analysis of key financial information is one of the primary methods we use to inform our supervision process. We monitor compliance with reporting requirements in credit unions closely and credit unions with a poor record of compliance are subject to increased regulatory oversight. Table 2.1 summarises details of the number of returns received and analysed.

	2007	2008
Number of Credit Unions	422	419
Prudential Return	1,483	1,479
Annual Return	425	420
Total	1,908	1,899

The first themed inspections of the Prudential Return, since the implementation of the web-based system in 2006, were undertaken during 2008. The purpose of these inspections was to identify issues credit unions commonly encounter in the preparation, completion and submission of the Prudential Return and to increase awareness of the importance of the accuracy of the information submitted to us. These inspections, and our ongoing analysis of all credit unions, highlighted a number of common inaccuracies in the reporting of information in the Prudential Return. Arising from our findings, further guidance on the submission of the Prudential Return was issued to all credit unions during October.

Along with the key information provided to us by the Prudential Return, our ongoing inspection programme is a key element of our supervisory process. During 2008, we conducted inspections in 44 credit unions (including Investment and Prudential Return themed inspections) and held meetings with 41 credit unions. Table 2.2 summarises the number and type of interactions with individual credit unions during 2008.

Type	Actual 2007	Target 2008	Actual 2008
Total Inspections	52	40	44
<i>Of which</i>			
Arrears and Provisioning Inspections	30		-
Prudential Return Inspections	-		11
Investment Inspections	-		30
General Inspections	9		1
Special/Unscheduled Inspections	13		2
Total Meetings	52	20	41
<i>Of which</i>			
Review Meetings	39		13
Other Meetings	13		28
Dealing with Year-end Issues	-	-	101
Total Interactions	104	60	186

Additional Services & Longer Term Lending Approvals

During 2008, we approved a number of applications by credit unions to provide additional services. We also approved increased longer term lending limits for a number of credit unions that have the appropriate safeguards and controls in place to support the scale and complexity of the credit union's lending. Table 2.3 summarises details of additional services, long-term lending approvals issued and notifications received.

Approval	2007	2008
Additional Services – Mortgages	16	22
Additional Services – Life & Pensions	7	7
Additional Services – PRSAs	41	46
Longer Term Lending Approvals	18	28
Total	82	103

Minimum Reserve Requirements

All credit unions began reporting their Minimum Reserve Requirement to the Central Bank in October 2008. In January 2009, credit unions that have a deposit requirement placed their deposit with the Central Bank. Under this system, credit unions are required to hold a deposit with the Central Bank based on 2 per cent of each credit union's liabilities (shares and deposits) subject to a minimum threshold for such liabilities of €100,000. This requirement has resulted in a total amount in the region of €190 million being deposited by credit unions with the Central Bank. Currently, the minimum reserve requirement information is provided to the Central Bank on a paper-based form on a quarterly basis. The online reporting system that credit unions currently use to submit the Prudential Return to the Registrar's Office is being updated so that credit unions will be able to submit the Prudential and Minimum Reserve Returns online simultaneously.

Communications

We continue to place emphasis on the need for regular and open communication with credit unions and their representative associations. In this regard, during the year we were in regular contact with the Irish League of Credit Unions, the Credit Union Development Association, the Credit Union Managers Association, the National Supervisors Forum and the Credit Union Technology Suppliers Forum. These contacts took the form of meetings, presentations, conferences and seminars. Table 2.4 summarises the formal meetings held with the credit union representative bodies.

Association/Group	2007	2008
Irish League of Credit Unions (ILCU)	20	16
Credit Union Development Association (CUDA)	5	7
National Supervisors Forum (NSF)	3	3
Credit Union Managers Association (CUMA)	2	5
Credit Union Advisory Committee (CUAC)	4	5
Total	34	36

We keep all credit unions fully informed of regulatory developments through our Newsletter, “RCU News” which we published in July and December. In addition, we update our website with relevant publications including Guidance Notes, Application Forms and speeches made by the Registrar.



Pictured at a visit by representatives of the credit union movement in September 2008 was the Albanian Delegation with members of RCU staff.

CHAPTER 3

CONSUMER PROTECTION



CHAPTER 3

Consumer Protection



Mary O'Dea,
Consumer Director

Consumer Director's Statement

Protecting consumers and ensuring that they had the information they needed to make good decisions about their personal finances became more important than ever during 2008. Over the course of the year, as the international financial crisis deepened and the Irish economy deteriorated, the Consumer Directorate of the Financial Regulator moved from a normal working mode to crisis mode. Calls and queries to the Consumer Directorate from worried consumers increased significantly, additional statutory codes of conduct were developed and issued to provide protection for consumers who borrow from licensed moneylenders (issued December 2008) and consumers with mortgage arrears (issued February 2009). We also intensified our activity in the area of monitoring and enforcing compliance with our statutory codes.

Throughout 2008, we continued to provide consumers with the information they needed to make the most appropriate decisions about their own finances. In addition to the financial information we have provided regularly, which has included cost surveys comparing the financial products and information on the costs, risks and benefits of a range of financial products, we added more information on savings and investments, budget planning and money management, loans, credit and mortgages in response to the needs of consumers in a difficult economic environment.

Our website, www.itsyourmoney.ie proved invaluable in allowing us to respond quickly to consumers with the information they needed in a rapidly changing environment. The website was particularly important in communicating with consumers in the run up to the introduction of the Government Guarantee Scheme when consumers were worried about the security of their savings in bank deposits, and in giving consumers details of the Scheme when it was announced in September 2008. The number of visitors to our website rose by 54 per cent in 2008 to 679,299.

We intensified our monitoring and enforcement activity during 2008. This included carrying out a number of themed inspections to monitor compliance with the statutory Consumer Protection Code we introduced in August 2006 (fully operational by mid-2007). Areas examined through themed inspections included mortgage intermediaries and arrears and repossession practices at credit institutions. The outcome of the latter inspection was the development of the new Code of Conduct on Mortgage Arrears referred to above. Other activities included taking over the authorisation and supervision of retail credit firms and home reversion (equity release) firms, mystery shopping in the areas of foreign exchange charges and money transmission, enforcement actions up to and including disqualifying individuals from operating in an area of financial activity and monitoring advertisements for financial products and services.

We have learned lessons from the unprecedented financial turmoil of 2008. Our system of regulation – largely principles based – was not robust enough to ensure sound risk management and proper governance at all of the financial institutions we regulated in an environment that fostered rapid economic growth and competition. As a result, we have changed the way we now regulate and have adopted a more intensive approach as described in the Chairman's statement.

As Consumer Director, I welcomed the Government plan to restructure the regulatory model to address current weaknesses and make financial regulation more effective. The fusing of responsibility for micro prudential (individual institutions) and macro prudential (issues for the system) supervision into one organisation will help to ensure a better regulatory outcome.

It is critical that the new structure captures all the activities that pose risks for consumers of financial services. Effective prudential regulation is important for consumers in ensuring that their savings and investments are secure. Effective consumer protection also requires that consumers have legal protections, such as standards for sales practices, suitability requirements and disclosure rules that are provided through our statutory codes of conduct and receive consistent and useful information to help them to participate in the market. For this reason, it is essential that the new model should include a clear regulatory mandate, statutory backing, and the powers and budget to operate effectively for consumers. This is especially important in the new environment where a necessary focus on prudential issues could have the unplanned and unwelcome side effect of reducing the focus on the other important aspects of consumer protection.

In a period of unprecedented turmoil on international markets, we remain clearly focused on protecting consumers of financial products and services. Reflecting the deterioration in our economy and the increase in the numbers of people who have lost their jobs or had their work hours or wages reduced, more consumers now have financial concerns up to and including difficulties repaying the mortgage on their family home. Our new Code of Conduct on Mortgage Arrears is aimed at helping to protect people who have fallen into arrears on their homes and we are providing practical, useful information on our website to help consumers. As Consumer Director, I am fully committed to doing all that is possible within my remit to help consumers through this current crisis.



Mary O'Dea
Consumer Director

Consumer Protection Framework

Our Consumer Protection Code ("Code") was first introduced in August 2006 and, for the first time in Ireland, provided a set of general principles and detailed rules to be complied with by all financial service providers in their dealings with consumers. In addition, Minimum Competency Requirements ("Requirements") are in place which introduce a basic competency framework that is designed to establish minimum standards for financial service providers. Both the Code and the Requirements came into full effect on 1 July 2007.

During 2008, the consumer protection framework was further enhanced.

Box 3.1 – Case Study

Property Finance: During the year, a number of property companies announced incentives to assist house purchasers finance their deposits to purchase properties in certain developments. In view of this, we reminded mortgage lenders of the provisions of the Code that are applicable when assessing mortgage suitability, in particular, affordability. We highlighted our view that all debt or deferred consideration owed by a consumer must be considered by regulated mortgage lenders when assessing the overall affordability of a mortgage product.

Box 3.2 – Consumer actions taken by the Financial Regulator to address the financial crisis

In response to accelerating credit growth, we had taken steps in the period 2004 to 2007 to slow bank lending. Our steps included the following:

- In 2004, consumers were warned about the risk of debt, including warnings about re-financing personal debts into mortgages; and
- In August 2006, we introduced the consumer protection code to tackle aggressive lending by requiring credit institutions to assess whether the loan was suitable and that consumers could afford to repay it. This became fully operational in mid 2007.

The Consumer Protection Code for Licensed Moneylenders

The Consumer Protection Code for Licensed Moneylenders ("ML Code") was issued in December 2008 and is legally binding on this business. The introduction of this Code means that moneylenders are subject to the same provisions as other credit providers, insofar as they are relevant, which will result in greater consumer protection in this sector. The General Principles of the Code came into effect on 1 January 2009, with the remainder of the Code coming into effect in the last quarter of 2009.

We undertook a number of extensive projects during 2008 relating to the moneylending industry, which resulted in:

- Increasing transparency in relation to the costs associated with loans from moneylenders. Moneylenders' licences now contain information on all products offered by them. Consumers can compare the costs of credit of products that they are interested in by comparing product details as per each moneylender's licence;
- Enhancement of the annual licensing process for moneylenders. The Financial Regulator reviewed the cost of credit charged by moneylenders in general and also the fairness of the terms and conditions attached to moneylending agreements. Our review of all the terms and conditions offered by licensed moneylenders will enhance the licensing process as consideration of the legality and fairness of proposed terms and conditions will become more efficient; and

- Review of the format and content of the public register for moneylenders. This will increase the transparency of the types of loans, and the associated costs, offered by licensed moneylenders. The new focus is on cost per €100 borrowed and the total cost of the loan (as opposed to APR).

Credit Union Consumer Protection Framework

We stated in our Strategic Plan 2008-2010 that we would consult with the credit union movement on an appropriate consumer protection framework for their members, in respect of their core services (savings and loans). This framework would take into consideration the special structure and voluntary ethos of the credit union movement.

In March 2008, we published a consultation paper on a Voluntary Consumer Protection Code for Credit Unions. We sought initial views on the content of the proposed code by 30 June 2008. Twenty seven submissions were received and posted to our website. During April and May 2008, we held roadshows countrywide allowing credit unions an opportunity to address any concerns they had with the implementation of this code. Meetings were held throughout 2008 with various credit union representatives to consult on the introduction of this voluntary code.

In December 2008, we published a second consultation paper on Savings and Loans – Our Voluntary Standards. This paper set out a revised proposal for the code, which took into account the views expressed by interested parties in response to the first consultation. The closing date for submissions was 30 January 2009 and 16 submissions were received. All submissions received are currently under review and it is anticipated that the code will be published early in Quarter 3 2009.

Code of Conduct on Mortgage Arrears and Statutory Code of Conduct for Business Lending to Small and Medium Enterprises

During 2008, we developed the statutory Code of Conduct on Mortgage Arrears and the statutory Code of Conduct for Business Lending to Small and Medium Enterprises³⁷.

The necessity for the introduction of Codes on Mortgage Arrears and Business Lending was announced in the Government's Announcement on Recapitalisation on 21 December 2008. We commenced work on the Codes shortly thereafter and the final versions were introduced in February 2009.

The purpose of the Business Lending Code is to facilitate access to credit for sustainable and productive business propositions, to promote fairness and transparency in the treatment of small and medium enterprises by regulated entities and to ensure that regulated entities endeavour to assist borrowers in arrears to meet their obligations or otherwise deal with the situation in an orderly and appropriate manner.

As outlined in Chapter 1, we assumed responsibility for retail credit firms and home reversion firms during 2008. The expansion of our mandate to these types of firms provides further protection for consumers as such firms are now required to comply with the Consumer Protection Code. They are also required, as necessary, to comply with the Code of Conduct on Mortgage Arrears and/or the Code of Conduct for Business Lending to Small and Medium Enterprises.

³⁷ These Codes were published on 13 February 2009 and came into effect on 27 February 2009 and 13 March 2009, respectively.

Review of the Intermediary Market

We completed a Review of the Intermediary Market in 2008. This review covered two main areas: intermediary categorisation (insurance and mortgage) and transparency for the consumer (insurance only). As part of this review, a joint Financial Regulator/Industry Working Group was established to discuss the issues in detail and suggest recommendations.

The report of the Working Group was published on 10 December 2008 and sets out a number of recommendations that the Working Group believes will result in significant improvements for consumers. These recommendations include:

- New criteria to be used by intermediaries when they use the terms 'broker' and 'independent';
- The ending of the practice whereby insurance companies terminate appointments with intermediaries based solely on target levels of new business;
- New disclosure requirements in relation to services provided;
- Obligation on non-life insurance intermediaries to provide remuneration details on request³⁸; and
- Legislative changes to simplify the operation of the intermediary market.

Most of the recommendations in the report will be implemented through our statutory Code during the Code Review. The recommendations that relate to legislative amendments have been sent to the Department of Finance and the Advisory Forum on Financial Legislation.



Pictured at the High Level Forum on the Review of the Intermediary Market Project in October 2008 were members of the working group.

³⁸ Currently, under the Life Assurance (Provision of Information) Regulations, 2001, life assurance remuneration details must be disclosed.

Monitoring and Enforcing Compliance

We use themed inspections as a tool for monitoring compliance with all our consumer protection requirements. Themes are identified from a number of sources, including consumer complaints and queries, issues arising from previous inspections and market intelligence. The findings from the themed inspections are communicated to the industry concerned, specific issues are followed up with individual firms and overall general findings are published on our website.

Details in relation to themed consumer focussed inspections undertaken in 2008 are outlined below.

Table 3.1 – Consumer Focused Inspections			
	2007 Activity	2008 Target	2008 Activity
Number of Themes	5	8	8
Number of Inspections	100	-	290
Number of Review meetings	45	-	72
Details of 2008 Activity on Consumer Focused Inspections			
Themes (On-site & Off-site)	Entity Type	Number Inspected/Examined	
Review of product types offered by Moneylenders	Moneylender	45	
Potential conflict of interests of Mortgage Intermediaries providing property services	Mortgage Intermediary	91	
Travel Insurance	General Insurance	14	
Client Categorisation	MiFID	7	
Complaints Handling	Credit Institutions	15	
Unit Linked Whole of Life Review	Life Assurance	7	
Arrears & Repossessions Procedures	Credit Institutions & Specialist Lenders	24	
Review of sale of ISTC bonds	Various	24	
Total Themes: 8			
Total Entities included in themes		227	
Other Inspections (On-Site)	Various	24	
Mystery Shopping Exercises:			
• Foreign Exchange Providers		9	
• Money Transfers		30	
Total Inspections		290	
Off-site review meetings	Various	72	
Overall Total		362	

Themes (On-Site & Off Site)

(i) Review of product types offered by the moneylending industry

The focus of this inspection was to gather and analyse information on all product types offered by moneylenders. For the purposes of comparing the costs of credit attached to these products, the products have been split into four categories. The categories best describe the type of service offered by the firm, thereby enabling consumers to make like-with-like comparisons. The categories are:

- Home Collection (moneylenders who offer a home collection service);
- Remote (moneylenders who do not offer a home collection service);
- Retail (includes moneylenders that advance goods/vouchers on credit); and
- Other (includes moneylenders that offer running accounts, for example).

Following on from this review, moneylenders' licences now contain information on all products offered by the relevant moneylender. Consumers can now compare the costs of credit of products that they are interested in by comparing product details as per each moneylender's licence.

(ii) Potential conflicts of interest where mortgage intermediaries provide property services

The findings from this inspection showed that most intermediaries had a policy of trying to avoid potential conflict and had procedures in place for dealing with a situation where such a potential conflict arose. It was discovered that a number of intermediaries did not differentiate between services which were regulated by the Financial Regulator and those which were not, leading to the potential for confusion for their customers. Firms were reminded of the relevant provisions of the Code in this regard.

(iii) Travel insurance claims for loss or damage to personal items

Following this inspection, we informed insurers that we considered it unreasonable to expect travel insurance claimants to have to produce receipts or other proof of purchase in all cases, especially where the item being claimed for is of low value or not bought immediately prior to the claim being made. We indicated to insurers that they should take a balanced and fair view before deciding whether or not to require claimants to produce receipts or other proof of purchase and we have requested insurers to clearly identify in their terms and conditions the circumstances in which receipts or proof of purchase may be required.

(iv) Client categorisation

The MiFID Regulations set out a three-tier categorisation system classifying customers as retail clients, professional clients or eligible counterparties. We completed an inspection of client categorisation, the purpose of which was to ensure that clients of MiFID firms are correctly categorised and receive the appropriate level of regulatory protection. Overall, there was a high level of compliance.

(v) Complaints handling

Procedures around the handling, investigation and resolution of consumer complaints are fundamental to consumer protection, both in terms of how consumers are dealt with and also how information obtained through complaints is used to improve procedures, information and service.

During 2008, we undertook an inspection to assess if credit institutions' complaints handling procedures complied with the Code requirements, and also how credit institutions were using the information and intelligence from complaints in their organisation. Overall, the examination found that credit institutions had procedures and controls in place to deal with complaints to comply with the Code requirements, a significant improvement compared to 2004 when the matter was last examined.

(vi) Annual reviews and sales of Unit Linked Whole of Life Policies

This inspection involved a review of the annual review process for Unit Linked Whole of Life policies and the current sales practices relating to these products. In our communication to industry, firms were told to ensure that reviews were done on time and where reviews were late, that firms ensure policyholders were not placed in a worse financial position than if the policy review had occurred when it was due. Firms were also reminded of the need to ensure that the key issues specific to these policies, such as the periodic review feature, are highlighted by their sales staff at the point of sale.

(vii) Arrears and repossessions

We published the findings of our inspection of procedures for handling arrears and repossessions across credit institutions and other mortgage lenders. The inspection found that mortgage lenders generally have procedures in place for handling arrears and repossessions, which clearly state that the repossession of a residential property is a last resort. Feedback was issued to all regulated mortgage lenders setting out best practices identified.

(viii) Review of sale of ISTC bonds

We undertook an inspection of the firms, within our remit that sold ISTC bonds to form a view as to whether the sales had been in compliance with the relevant regulatory requirements. Twenty-four on-site inspections were completed. We are now considering the appropriate next steps for each of the inspected firms. In certain cases, further regulatory action may be taken. An investigation was commenced because of the entire loss of funds suffered by investors in these products from the high profile collapse of ISTC. The Financial Services Ombudsman has also received complaints on the sale of these bonds and we have received information from his office.

Other inspections (on-site)/Off-site review meetings

During 2008, we continued our programme of on-site consumer focused inspections and off-site review meetings with financial service providers. In order to monitor the level of compliance with statutory and regulatory requirements, the inspections and review meetings were held with mortgage intermediaries, multi-agency intermediaries, insurance undertakings, credit institutions and moneylenders. Any matters arising were highlighted in a post-inspection letter recommending the necessary corrective action to be implemented.

Mystery Shopping

Mystery shopping is one of the regulatory tools that we use as it allows us to step directly into the shoes of the consumer to examine their experience of dealing with a financial service provider and assist us in our ongoing supervisory work. We have used mystery shopping as a tool both on its own and in conjunction with our themed inspection approach.

(i) Foreign Exchange Mystery Shop

We conducted a nationwide mystery shop of foreign exchange charges being imposed by credit institutions and bureau de change on consumers for retail foreign exchange transactions. The purpose of the mystery shop was to ascertain if these providers of foreign exchange facilities imposed these charges in accordance with relevant legislation.

A total of 100 outlets of 9 foreign exchange providers (5 credit institutions and 4 bureaux de change) were visited. The mystery shop focussed primarily on the costs imposed by these financial service providers on consumers when converting euro denominations to Sterling and US Dollars and conversely when converting these currencies to Euro. Overall the findings showed a high level of compliance among foreign exchange providers.

(ii) Money Transmission Mystery Shop

A mystery shop exercise was carried out in respect of money transmission businesses to ascertain if money transmission businesses were imposing charges in accordance with the relevant legislation and to assess the transparency of charges imposed. Thirty money transfers were undertaken to 12 countries by real consumers (primarily individuals recruited who originally were from these countries).

The findings showed that while money transmission businesses were compliant with their approved charges, some issues arose regarding the transparency of such charges. These related to the disclosure of charges on printed material and websites and inadequate provision of information to the customer. Where issues were identified, we followed them up with the relevant institution.

Advertising

We continue to actively monitor the media for advertisements of financial services and products to ensure that they comply with regulatory requirements. On 23 July 2008, we wrote to all regulated entities regarding the following:

- Key information not to be included in small print;
- Font size;
- Introductory/promotional rates;
- Definition of an advertisement/websites; and
- Control and checks for monitoring advertising requirements.

In the course of our monitoring, issues were identified, which required further clarification and must be taken into account during the preparation and sign-off of advertisements. The number of issues investigated during 2008 is set out in Table 3.2

Table 3.2 – Advertising Issues Investigated		
Source	Number of Issues ³⁹	
	2007	2008
Financial Regulator Monitoring	76	103
Complaints	57	74
Total	133	177

In 2008, we allocated additional resources to allow wider monitoring of advertisements. We expanded our focus beyond print advertisements to other types of advertising e.g. websites. In June 2008, a Direction was issued to a firm under Section 135 of the Consumer Credit Act, 1995. The Direction was to withdraw from circulation or broadcast all advertisements, in any form whatsoever, in relation to the sale of mortgages that include any examples of repayment amounts. This Direction was repealed in October 2008 as the firm undertook to comply with the requirements of the Direction.

Table 3.3 sets out the outcome of the issues investigated:

Table 3.3 – Outcome of Advertising Issues Investigated ⁴⁰		
Advertisement Amended	Advert Withdrawn	No Action Required
115	11	35

Box 3.3 – Advertising Case Study

During the course of the year, a Life Assurance Company printed a series of newspaper advertisements to promote its past pension fund performance. The advertisement contained graphical statistics of pension fund performances from a range of different Life Assurance Companies. Comparisons used did not compare all similar type funds. Chapter 7(15) of the Consumer Protection Code provides that advertisements must be presented in a fair and balanced way and not omit anything material to the comparison or contrast. Following our intervention, the advertisement was amended to reflect only similar type funds performances.

³⁹ Anecdotal evidence suggests that both the industry and the consumer are more aware of the Consumer Protection Code and the Financial Regulator's powers, and this explains the increase in the number of complaints between 2007 and 2008.

⁴⁰ The total number of advertising issues investigated (Table 3.2) and the total for outcome of advertising issues investigated (Table 3.3) differ because in some instances more than one complaint about the same issue was received and in other cases issues were identified through internal monitoring as well as through external complaints.

Switching

We continue to monitor the implementation of the Irish Banking Federation (IBF) voluntary codes of practice on switching accounts for individual customers and business customers, through mystery-shopping exercises and from enquiries to our consumer Helpline. The voluntary code for switching for individual customers became operational on 31 January 2005 and the voluntary code for switching for business customers was fully implemented in June 2006. The numbers of customers switching accounts has now risen to **over 58,000** approximately for personal customers and **over 2,000** approximately for business customers.

Box 3.4 – Case Study

Switching Tracker Mortgages: 2008 saw a number of interest rate cuts implemented by the European Central Bank. In view of this, we warned lenders that they must act in the best interest of consumers when providing advice on switching from a tracker mortgage to a fixed or variable rate mortgage. We also reminded lenders that they could not recommend such a switch unless they were able to demonstrate how the new product would be more suitable for a consumer.

Bank Charges

The Consumer Credit Act, 1995, requires financial service providers (credit institutions, bureaux de change and money transmission businesses) to notify us of any proposal to introduce new or increased charges, for certain financial services.

In 2008, we issued letters of direction on foot of 35 notifications from credit institutions, bureaux de change and money transmission businesses. The submissions received from these financial service providers ranged from an individual charge, charges in respect of new products launched and entire suites of charges for credit institutions. We are required under the legislation to consider each notification using a range of criteria, which include the commercial justification, impact on the relevant consumers and on competition in the sector. Of the 35 notifications, 18 were approved in full, 16 were partially rejected and 1 was rejected.

Consumer Information

The fulfilment of our statutory role of increasing awareness among consumers of the costs, risks and benefits of financial products and services continued during 2008. We provided information to consumers on a wide range of topics and through a number of channels including our consumer Helpline, our personal finance website www.itsyourmoney.ie, our Information Centre, and at various exhibitions and information seminars.

Producing Information Resources

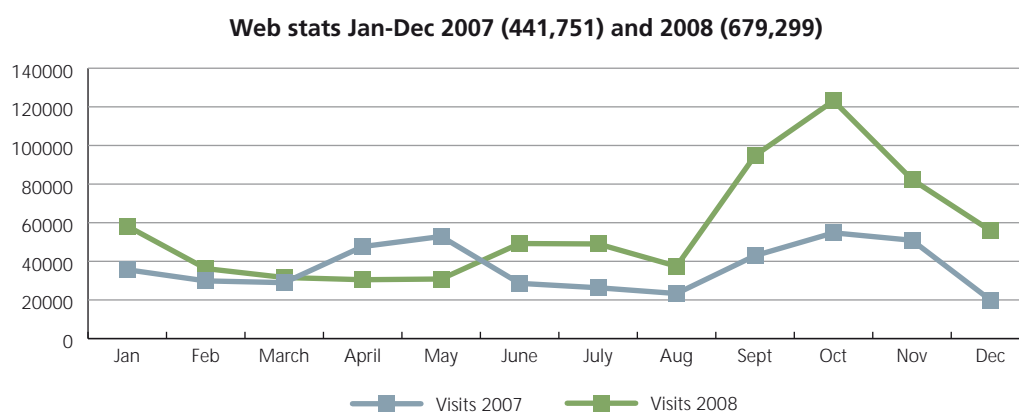
Overall, 2008 saw a shift in the types of information consumers were looking for, as outlined in Table 3.4 below. This shift, as would be expected, related to market related events in the latter part of 2008. Our personal finance website continues to be the most popular channel of communication with consumers. Visits to online content are now higher than downloads and requests for publications in hardcopy format.

Table 3.4 – Most Popular Information Resources Accessed

Information Resources – Top Five Web Items Viewed		
Features on itsyourmoney.ie	Cost Comparisons	Publications
Savings and Investments 164,254	Lump Sum Deposit 67,334	Savings and Investments Made Easy 6,293
Budget Planner 107,288	Credit Cards 38,552	Managing Your Money 4,478
Compensation Schemes 93,833	Regular Savings Accounts 32,359	Pensions Made Easy 1,937
Mortgages 89,670	Personal Current Account 25,958	Getting Financial Advice 1,906
Personal Loans and Credit 63,329	Personal Loan 25,622	Mortgages 1,781

Itsyourmoney.ie

The number of visitors to the website rose by 54% in 2008, as outlined in the chart below. This increase reflects a significant change in the level of our interaction with consumers through the site. We have over 16,000 subscribers to our monthly e-newsletter, regular respondents to our online poll and we gain frequent feedback from consumers and stakeholders with suggestions for information campaigns that we might run.



The months with the highest numbers of visits coincided with:

- Market related events (e.g. announcement of the Government Guarantee Scheme, changes to the deposit protection scheme, interest rate changes);
- Popular features (e.g. money management, jargon explained); and

- Publicised events and advertising (e.g. launch of deposit account cost comparison, Consumer Director interviews, public awareness advertising campaign to promote our site, launch of free access to our site in local libraries).

The campaign for the launch of *www.itsyourmoney.ie* won an award for 'Best Consumer Campaign on Financial Services' from the European Commission in March 2008. The campaign was also a finalist for the 2008 Public Relations Institute of Ireland Award for Excellence in Public Relations.

In 2008, *www.itsyourmoney.ie* won the e-Government award at the Irish Internet Associations Net Visionary Awards. It was also shortlisted for a Golden Spider Award, under the category for Best Financial Services Website and was a finalist for the Best Non-Commercial Website at the Digital Media Awards.

Our publications continue to be an important source of information for consumers and many of these were revised in 2008. A new publication on 'Managing your money' was introduced and has proved very popular with consumers.

Public Information Campaigns of Topical Interest

We ran a number of topical public awareness campaigns throughout 2008 integrating advertising, marketing and publicity activity and using online opportunities including the ability to receive news alerts by e-mail, e-newsletters and online polls.

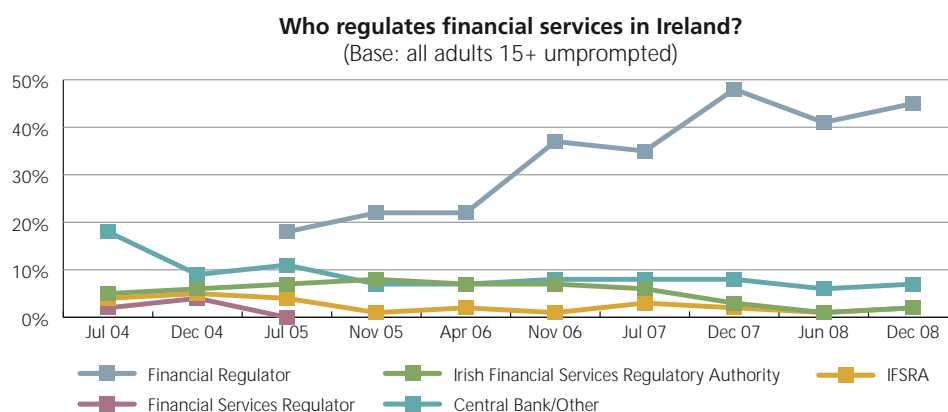
As well as general cost comparisons and publication launches, we addressed specific topics in our consumer information campaigns throughout the year:

- Budgeting and general money management;
- Buying a car (related personal finance issues);
- Compensation schemes;
- Complaints procedures;
- Credit card management and review of charges;
- Credit crunch jargon explained;
- Debt consolidation;
- Deposit protection;
- Discounts on financial products;
- Holiday loans, travel insurance and money management abroad;
- Interest rate changes/pass through;
- Payment protection insurance;
- Provisions within the Consumer Protection Code;
- Recession proofing your finances; and
- Scams/fraud.

We developed a new television advertisement to promote our personal finance information role. The advertisement ran over a seven-week period from September 2008.

Researching Issues and Awareness Levels

Awareness levels about our organisation showed a decline in the first half of the year, which coincided with a reduction in our television advertising while our new advertisement was being developed.



Answering Consumer Queries

During 2008, we dealt with over 43,000 direct contacts from consumers seeking personal financial information. The breakdown by channel is contained in Table 3.5 below. We met with consumers at 5 exhibitions and we gave 28 information seminars at various venues countrywide. We forwarded 103 written consumer complaints against individual financial institutions directly to the Financial Services Ombudsman in 2008, in accordance with section 57BX of the Central Bank Act 1942, as amended.

Heightened consumer concerns, particularly in relation to deposit protection and the Government Guarantee Scheme, in September and October led to an increase in contacts.

Channel	2007	2008
Helpline 1890 77 77 77	29,279	30,024
Direct Calls	1,753	3,889
Information Centre visits	5,527	3,977
Emails	3,211	3,115
Letters	542	567
Attendees at Information Seminars	1,275	1,675
Sub Total	41,587	43,247
Publication Requests	169,843	113,773 ⁴¹
Sub Total	211,430	157,020
Website visits	441,751 ⁴²	679,299
Total	653,181	836,319

⁴¹ Up to September 2007, requests for cost comparisons were reported in this figure. After that date they were migrated on line and our strategy is to promote access to them through www.itsyourmoney.ie.

⁴² The 2007 website visits figure was revised to exclude 'spiders' (international search sites that visit www.itsyourmoney.ie).

Table 3.6 – Location of Consumer Regional Information Visits and Special Events	
COUNTY	2008
Clare	1
Cork	7
Dublin	15
Galway	3
Kerry	1
Kildare	2
Kilkenny	1
Mayo	1
Tipperary	2
Total	33

Advocacy and Education

Advocacy

In addition to our prudential role relating to money laundering issues, we continued our involvement with the Department of Finance Money Laundering Steering Committee, raising access and financial inclusion issues. During 2008, we met with a number of consumer interest groups to discuss issues in relation to financial services. In September 2008, the Consumer Director launched a new publication from Inclusion Ireland⁴³ called “ Making Decisions About Money” .

As part of our advocacy role, we were involved in drawing up some of the conditions in the Government Guarantee and the bank recapitalisation schemes, in particular the promotion of financial inclusion under the “Corporate Social Responsibility” section in relation to basic bank accounts and financial education.

Financial Education – International Engagement

During 2008, we participated in two international conferences on financial education. The objective of the first was to facilitate international dialogue, share experiences and research, and discuss recent advances. The objective of the second conference was to promote international co-operation by bringing together regulators from various countries to share best practices and common areas of concern in the fields of financial capability and consumer protection.

In 2008, a senior member of staff was appointed to the European Commission’s Expert Group on Financial Education. This group is composed of financial education practitioners selected in a personal capacity from some Member States. The aim of the group is to promote exchange of ideas, experiences and best practices and to advise the Commission on its policy-making in the area of financial education.

⁴³ Inclusion Ireland is a national voluntary organisation working to promote the rights of people with an intellectual disability in Ireland.

National Steering Group for Financial Education⁴⁴

We continued our work with the National Steering Group for Financial Education to progress the development of a strategy for financial education. The report of this Group is expected to be published by June 2009. A significant development in this area is the creation of a competency framework for personal finance that will facilitate the development of resource materials by educators and programme developers in formal and informal settings. We hope that the creation of a fund for financial education, as provided for in the recapitalisation scheme will contribute to the further development of financial education in Ireland.

Education Resources for Schools

In conjunction with the Money Advice and Budgeting Service (MABS), we completed a pilot Transition Year resource 'Get Smart with your Money' relating to budgeting and money management, involving 12 schools in Galway and Dublin. Following evaluation, the resource was advertised to Transition Year coordinators and teachers nationwide. In conjunction with MABS staff, we provided in-service training to 60 teachers who have brought more than 2,300 students in contact with the resource, which includes a teacher manual and student learner journals, amongst other features.

We supported a Leaving Certificate Applied Social Education module, 'Taking Charge', in more than 200 classrooms. The support materials consisted of a teacher manual and student worksheets.



Pictured at the launch of the 'Get Smart with your Money' programme for transition year students in September 2008 were Anne Marie O'Connor, Business Manager, MABS, Mary Hanafin, TD, Minister for Social and Family Affairs, Fiona Ward, Department of Social and Family Affairs and Mary O'Dea, Consumer Director, the Financial Regulator.

⁴⁴ The Group consists of a range of stakeholders from both the education, financial services and advocacy areas.

Competition

The Consumer Director is statutorily mandated to report on the extent to which competition exists among providers of financial services.

While concerns over the stability of the financial sector took centre stage over the course of 2008, some definite trends were seen in relation to competition in the banking market. Many banks withdrew tracker mortgage products but there was evidence of increased competition in the deposit market with credit institutions offering attractive rates to secure cash deposits.

Measures of Competition

As in previous years we have calculated five-firm concentration ratios and Herfindahl-Hirschman (HH) indices to measure industry concentration (and by inference, the degree of market power exercised by the largest firms in key segments of the banking and insurance industries). These are set out in Appendix 2 as part of our statutory requirement for monitoring competition.

Market Issues

Private Motor Insurance Statistics

We published the Private Motor Insurance Statistics for 2006 in July 2008. The data shows that claim costs for that year settled quicker and at a lower cost. Premium income continued to decline for all market segments with income falling by 7 per cent for comprehensive cover and by 6 per cent for third party fire and theft cover.

Accident frequency increased marginally from 6.7 accidents per 100 policies in 2005 to 7 in 2006 for comprehensive cover and from 4.9 to 5.2 for third party fire and theft. The results continue to suggest that the Injuries Board⁴⁵, which had its first full year of operation in 2005, had a beneficial impact on the legal component of insurers' claim costs and on the speed of settlements.

⁴⁵ The Consumer Director Mary O'Dea is an ex-officio member of the Injuries Board.

CHAPTER 4

ORGANISATIONAL MATTERS



CHAPTER 4

Organisational Matters

Changing Economic and Regulatory Environment

The turmoil in the global financial markets, which accelerated throughout 2008, has altered the global economic landscape and regulatory environment in which we operate. The scale and impact of the turmoil is unprecedented, and this, coupled with the deterioration in the economy and in the value of property portfolios, has impacted greatly on Irish banks. Various measures have been taken to curtail the effect on Irish banks, such as increasing the reporting obligations of credit institutions, the introduction of the Government Guarantee Scheme and provision of capital to banks by the Government.

The turmoil also highlighted weaknesses in the principles based supervision regime, which we, and other countries, had adopted. We have now moved to a more intensive approach to supervision and have tightened the reporting of governance issues through regular meetings with credit institutions. The regulatory environment going forward will continue to change significantly. The proposed enhanced regulatory structure announced recently by the Government, developments at EU and international level and an internally commissioned report on our processes and procedures, will contribute to a more enhanced, effective and robust regulatory system. We are planning a reassessment of our regulatory approach during 2009 that will take into account all of the above developments.

Progress on Stated Strategic Actions

Appendix 1 provides details of the progress we have made in delivering our stated strategic actions.

Enhancement of Operational Efficiency and Cost Effectiveness

In early 2008, we commissioned consultants to undertake a systematic review of our business processes as part of our commitment to enhancing our operational efficiency and cost effectiveness. Field work for the report was carried out in the first half of 2008. The consultants carried out a benchmarking study against comparator financial regulators and other similar businesses, assessed opportunities for outsourcing and undertook a strategic review of the current activity profile, organisational structure, resource utilisation and risk management models used by the Financial Regulator.

The review report identified efficiencies in the Financial Regulator, up to and including some of which represent 'best in class'. The report recognised the consumer protection areas as a leading model on which a number of international financial regulators base their own approaches, as well as the need to address improvements in efficiency in other areas.

The review report recommended:

- Significant change to the existing structure of the organisation;
- Implementation of an effective information processing and management framework to more effectively support the management and production of information;
- Standardisation, streamlining and improvement of current processes to facilitate consistency, efficiency and higher levels of activity and output;
- Increased focus on specialisation to ensure that the limited specialised resources of the Financial Regulator are more closely aligned to the delivery of its mandate; and

- Reallocation of resources with a specific focus on reducing the level of support activities undertaken by staff and redirection of resources to prudential and consumer frontline activities.

Whilst the review predated some of the recent developments in the financial sector, it represents the basis for a significant change agenda in conjunction with the structural changes planned by the Government. In the new financial environment, the Authority will implement appropriate recommendations in parallel with our ongoing work of intensifying prudential regulation. It is clear that the ongoing financial crisis necessitates more intensive supervision and resources have already been redeployed to ensure this is the case.

EU and International Co-ordination

During 2008, we participated actively at both the European and wider international levels. At EU level we submitted views on a number of regulatory proposals including proposed amendments to the capital regime for banks and investment firms, proposals for a radical overhaul of the prudential regime applying to insurers, Solvency II, UCITS and the regulation of credit rating agencies. In addition, we co-operated with supervisors across Europe in relation to the supervision of individual institutions as well as preparing policy responses to the financial crisis.

We supported the following measures in our response to the European Commission's consultation on amending its decisions establishing the Level 3⁴⁶ European Committees of Supervisors:

- Better mechanisms for the effective exchange of information between supervisory authorities including colleges of supervisors;
- Streamlining reporting requirements;
- The development of a common EU supervisory culture through tools such as secondments, conferences and common training;
- Recognition of joint Level 3 Committee work in the decisions establishing the Lamfalussy committees;
- The Joint Committee on Financial Conglomerates as the forum for preparing joint technical advice to the Commission on draft implementing measures in the field of financial conglomerates;
- The possibility for the Committees to use qualified majority voting together with comply or explain (with consensus being the first port of call);
- Submission of the annual work programmes of the Committees of Supervisors to the Council, Parliament and Commission for information;
- Establishment of a Level 3 expert group on financial stability; and
- Existing initiatives on risk analysis and responsiveness through Ecofin⁴⁷ together with the International Financial Stability Forum initiatives.

⁴⁶ Level 3 of the Lamfalussy Framework refers to the European Committees of Supervisors i.e. CEBS, CESR & CEIOPS.

⁴⁷ European Council of Finance Ministers.

Throughout 2008, we continued to actively participate, strategically at senior management level and technically at working level, on the European Committees of Supervisors – the Committee of European Securities Regulators (CESR), the Committee of European Banking Supervisors (CEBS), the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS) and the Joint Committee on Financial Conglomerates (JCFC).

To support consistent interpretation and implementation of European financial services legislation, we advised relevant Government Departments and responded directly to Commission consultations. Our work on European Committees was increasingly impacted by the unfolding of the financial crisis. In addition to the sector specific work of each of the Committees of Supervisors, work was carried out on strengthening the application of Level 3 guidelines, recommendations and standards, monitoring of accounting and auditing developments, co-operation in crisis situations including co-operation with third country supervisors and developing tools and working procedures (e.g. developing mechanisms for common training and staff exchanges).

Over 2008, our work on CEBS focused on the provision of regulatory advice (e.g. on amendments to the Capital Requirements Directive (CRD)) and other externally driven work e.g. on liquidity risk, large exposures, national discretions, analysis of the effects of the CRD in the economic cycle, supervisory reporting, transparency of securitisation activities and structured products under the CRD, operational risk and CRD implementation issues.

A major focus of our work with fellow securities regulators in CESR was (and will continue to be) on improving the quality of transaction reports and on broadening the range of data from entities located in Ireland and from other competent authorities via the Transaction Reporting Exchange Mechanism (TREM). We have participated in assessing supervisory powers and practices under MiFID in Europe and in reviewing Member States' powers under the Transparency Directive.

During 2008, our work on CEIOPS, focused on developing the Solvency II project. This included advising the Commission and the development of impact studies, discussions on group supervision and the approach to the treatment of equity risk in CEIOPS. Consequently we provided extensive support to the Department of Finance for their participation in the European Insurance and Occupational Pensions Committee (EIOPC).

We also participated in efforts to move towards closer supervisory co-operation and convergence through our membership of the European Committees of Supervisors. In November, as Chair of the JCFC, we hosted a cross-sectoral training initiative focusing on the supervision of risk concentrations and intra-group transactions.

We contributed to the development of EU Retail Financial Services including active involvement in the European debate on mortgage credit. We shared our views on the European Commission White Paper on the Integration of EU Mortgage Credit Markets with the Joint Oireachtas Committee on European Affairs in 2008. In this regard we:

- Supported consumer protection measures in the White Paper relating to early repayment, the provision of advice and the standardised information sheet given to prospective borrowers;
- Welcomed the Commission's preparation of an impact assessment on the policy options in the White Paper and the opportunity for Member States to continue their involvement in the process; and

- Agreed with the Commission's assessment that improving the quality and comparability of information is necessary to enable consumers to shop around in the European market for the most appropriate mortgage product.

Throughout 2008, we continued to develop awareness among our stakeholders on EU and International developments, for example through presentations to consumer and industry representatives on our Consultative Panels. The November 2008 issue of Regulatory Connection contained a comprehensive list of ongoing and upcoming initiatives.

Mindful of our role in helping consumers to make informed financial decisions, and given the extent to which regulation is shaped by the European institutions, the Authority met with EU Commissioner for Consumer Protection, Meglena Kuneva and her delegation on 2 October 2008 as part of her visit to Dublin. The meeting provided us with further opportunity to engage with the EU and to promote the importance of clear and independent information for consumers.



Pictured at the meeting with EU Commissioner for Consumer Protection, Ms Meglena Kuneva, as part of her visit to Dublin in October 2008 are the Chairman of the Financial Regulator Mr Jim Farrell (far right), Consumer Director, Mary O'Dea (second from left), former EU Commissioner David Byrne (second from right) and Helen Kearns, Commission Spokesperson for Consumer Affairs (far left).

EU Regulation

Table 4.1 lists the main EU Directives/Proposals in whose development we have been involved and their current status.

Table 4.1 – New Regulatory Legislation	
Directive/Proposal	Status
Directive on Credit Agreements for Consumers	Expected implementation date 11 June 2010.
Payment Services Directive	Expected implementation date 13 November 2009.
Revisions to the Capital Requirements Directive (2006/48/EC & 2006/49/EC)	Agreed on 6 May 2009, to be adopted by 31 October 2009 and for national implementation by 31 December 2010.
Deposit Guarantee Directive	Implemented June 2009.
Assessment of Acquisitions in the Financial Sector Directive (2007/36/EC)	Implemented June 2009.
Amending E-money Directive	Due 2009.
UCITS IV	Expected Implementation Date 1 July 2011.
Solvency II Directive	Publication is expected in October 2009. National implementation is due 31 October 2012.

We continue to contribute to other international fora with the development and coordination of regulatory policy. The effective regulation of the financial services industry requires very close international collaboration in the light of the problems that have emerged in the current crisis. Table 4.2 outlines the number of EU and International Committee meetings attended. In addition, bilateral meetings with other international regulatory bodies were held as necessary.

Table 4.2 – Participation at EU and other International Committees		
Committee	Number of Meetings Attended by Financial Regulator Staff	
	2007	2008
EU		
Committee of European Banking Supervisors (CEBS) and other EU Banking committees	58	54
European Banking Committee	4	4
Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS) and other EU Insurance committees	12	25
Committee of European Securities Regulators (CESR) and other EU Securities committees	51	65
Financial Action Task Force on Money Laundering, Anti-Money Laundering Task Force and other EU Money Laundering committees	12	11
EU Consumer Protection	8	0
European Central Bank	8	1
Other EU	3	28
International		
International Association of Insurance Supervisors	4	1
International Organisation of Securities Commissions	5	4
World Council of Credit Unions	1	1
Other	5	3
Total	171	197

Memoranda of Association

During 2008, Memoranda of Understanding with both the Pensions Board and with the Irish Auditing and Accounting Supervisory Authority were agreed.

We also entered into a Memorandum of Understanding with the China Securities Regulatory Commission and the China Banking Regulatory Commission in October 2008, which will enable Irish domiciled investment funds to be distributed in China.

An amendment to the Memorandum of Understanding between the Director of Corporate Enforcement and the Irish Financial Services Regulatory Authority was entered into in the course of 2008.



Pictured at the signing of the Memoranda of Understanding in October 2008 with the Chinese regulatory authority in the presence of An Taoiseach, Brian Cowen TD, were Chairman of the Financial Regulator Jim Farrell and representatives of the Chinese regulatory authority.

Enforcement Actions

Under the Central Bank and Financial Services Authority of Ireland Act, 2004, the Financial Regulator has powers to impose sanctions for prescribed contraventions of legislation or regulatory rules. In 2005, we established an Administrative Sanctions Procedure to provide a framework for our new enforcement powers and to ensure these powers are used in a fair and balanced way. We use our enforcement measures strategically to support our ongoing supervisory functions. Enforcement actions available to us range from refusing an application for authorisation, revocation or suspension of an existing authorisation, directing a financial services provider to suspend undertaking particular tasks to imposing fines for prescribed contraventions of legislation or regulatory rules.

Matters which raise specific compliance issues are addressed directly with the firm. We have power to impose sanctions on firms in respect of breaches of requirements where they are of a sufficiently serious or repetitive nature. The legislation provides that, at any time up to the conclusion of an administrative sanctions inquiry, we may enter into a binding settlement agreement with a firm and/or a person concerned in its management to resolve the matter. Where the firm and/or person enters into such an agreement early in the pursuit of a sanctions case, the terms of the settlement will reflect the savings in time, resources and money that would result.

Table 4.3 below outlines actions taken in 2008:

Table 4.3 – Regulatory Actions taken in 2008		
Type	Number of Actions	
	2007	2008
Administrative Sanction Settlement Agreements.	4	9
Markets Sanctions Settlement Agreement	1	1
Warning notices issued regarding unauthorised activity.	1	5
Issue of post inspection or other regulatory finding to be corrected.	143	85
Authorisation/Licence/Registration refused.	1	2
Direction/requirement imposed against credit unions that are in breach of Section 35(2) of the Credit Union Act ⁴⁸ .	0	90
Direction/requirement imposed under other legislation.	13	108 ⁴⁹
Appointment of independent auditor/inspector required.	9	6
Advertising issues investigated.	133	177
Warning Letters under Consumer Credit Act.	51	19 ⁵⁰
Sub Total	356	502
Disclosure of information to other enforcement authorities.	23	6
Total	379	508

Sanctions related to Consumer Protection issues

During 2008, we entered into six settlement agreements relating to consumer protection issues with regulated entities under our Administrative Sanctions Procedures. In relation to five of these, the most significant issues which arose in one or more of these cases related to:

- Failure to disclose information required under the Consumer Protection Code when selling optional extra benefits on motor insurance policies;
- Failure to comply with requirements in respect of Premium Handling;
- Breaches of the Consumer Protection Code, which resulted in customers being overcharged;

⁴⁸ This refers to actions taken against credit unions that are in breach of Section 35(2) of the Credit Union Act ("the Act") in relation to their long-term lending.

⁴⁹ The increase in this figure is primarily due to the increase in the number of directions issued under the Transparency (Directive 2004/109/EC) Regulations 2007 (the Regulations) (79 in total) and under the Prospectus Directive (8 in total). The 79 Directions imposed under the Transparency Directive can only be issued for a period of 10 days at a time and, therefore, a new Direction must be issued every 10 days. For example, if an issuer failed to publish their annual financial report within the required timeframe specified in the Regulations the Financial Regulator would issue a Direction to the Irish Stock Exchange requesting it to suspend trading in the issuer's securities for a period of 10 days pending publication of the annual financial report. If the issuer was suspended for a period of 30 days this would be based on 3 Directions issued by the Financial Regulator. Adjusted for the re-issue of Directions previously issued, the number of Directions issued pursuant to the Regulations falls from 79 to 27.

⁵⁰ The need to issue warning notices decreased in 2008 due to intensive monitoring in 2007.

- Failure to provide clients with a “ Terms of Business” document;
- Failure to record sufficient information before providing services to clients;
- Failure to issue statements of suitability;
- Failure to issue receipts under section 30 of the Investment Intermediaries Act, 1995, to clients; and
- Failure to act professionally and with due regard for the market.

Sanctions relating to Prudential Supervision Issues

In 2008, we entered into three settlement agreements relating to prudential supervision issues with regulated entities under our Administrative Sanctions Procedures. The most important issues which arose in one or more of these cases are summarised below:

- Failure to have adequate control systems to ensure compliance with Client Money Requirements;
- Failure to develop and maintain systems to monitor and control credit risk;
- The provision of incomplete and inaccurate information to the Financial Regulator as part of the application for authorisation; and
- Contraventions of obligations under the Insurance Acts and Regulations, including failure to notify the Financial Regulator prior to providing loans to related companies.

The Administrative Sanctions imposed included disqualification of individuals, fines and reprimands. Information on the individual settlements is available on our website www.financialregulator.ie

Industry Funding Levy

The 2008 industry funding levy notices were issued on 31 July 2008. We operate a clearly defined policy for providing for levy debts outstanding as at year-end and have made significant improvements in the debt collection process. Although there was a 9 per cent increase in the level of levies issued in 2008 over those issued in 2007, a major debt collection exercise undertaken in the last quarter of 2008 resulted in a 1 per cent reduction in the level of levies outstanding as at end 2008 compared with end 2007.

In addition, under the provisions of the Central Bank Act 1942 (Section 33J) Regulations 2008 a supplemental levy amounting to €3.405 million was imposed on credit institutions covered by the Credit Institutions (Financial Support) Scheme 2008 to recoup 100 per cent of certain additional costs associated with the review of the financial and capital position of the credit institutions covered by the Credit Institutions (Financial Support) Scheme 2008.

Oireachtas and EU Hearings

During 2008, we appeared before five Oireachtas Committee meetings on Economic Regulatory Affairs and Finance and Public Service. Senior executives and staff also participated in external conferences and made presentations to industry and consumer groups on a range of regulatory issues.

Committee	Date	Subject	Attendees
Joint Committee on Finance and Public Service	30 Jan 2008	Financial Regulation and ongoing market turbulence	Patrick Neary, former Chief Executive (joint appearance with Governor of the Central Bank)
Dáil Committee of Public Accounts	22 May 2008	Response to Value for Money Audit by Auditor and Comptroller General	Patrick Neary, former Chief Executive, Mary O'Dea, Consumer Director and Bernie Mooney, formerly Deputy Head of Planning and Finance Dept
Joint Committee on European Affairs	23 Jul 2008	EU related work of the Financial Regulator	Mary O'Dea Consumer Director, Colette Drinan, Deputy Head Consumer Protection Dept, Breda Cassidy, EU and Internal Coordinator
Joint Committee on Economic Regulatory Affairs (2 appearances)	29 Apr 2008 14 Oct 2008	Government Guarantee and Financial Crisis, update on regulatory developments and the organisation	Patrick Neary, former Chief Executive, Mary O'Dea, Consumer Director, Con Horan, Prudential Director, Mary Burke, Head of Banking Supervision and Mary Sheehy Assistant Director General, Central Bank

Staffing

Permanent staff numbers increased further by 25.5 (7.4%) to reach 369 at end-December 2008. This compares with an approved complement for 2008 of 380. We are working with Human Resources Department of the Central Bank & Financial Services Authority of Ireland to fill the remaining vacancies.

The allocation of staff to departments is shown in Table 4.5. This allocation was further altered in 2009.

Staff turnover in the Financial Regulator is low compared with turnover rates in the financial services industry. In 2008, turnover of permanent staff in the Financial Regulator was 6.1% compared to 19.5%⁵¹ for the financial services industry generally.

⁵¹ 2007 comparative as 2008 figure is not yet available.

Department	Actual Staff 2007	Approved Complement 2008	Actual Staff 2008
Senior Management	3	3	3
Registrar of Credit Unions	21	20.5	19
Legal and Enforcement	11	13	11
Consumer Directorate			
Consumer Information	32	32	31
Consumer Protection and Codes	48	56	56
Planning and Finance Department	18.5	17.5	20.5
Prudential Directorate			
Banking Supervision – department restructured to form two departments in 2008	48	47.5	
• Domestic Credit Institutions		30 ⁵²	15
• International Credit Institutions ⁵³			39
Insurance Supervision	33	43	39
Financial Institutions and Funds Authorisation	67.5	68	70
Investment Service Providers Supervision	46	44	45
Markets Supervision	15.5	25.5	20.5
Overall Total	343.5	400	369

Training & Development

We attach great importance to developing an adaptable, flexible, efficient and effective organisation with highly motivated and skilled staff. Following a review of our technical training requirements, we developed a curriculum-based training programme. The new framework involves focused technical training combined with broader interpersonal training that is necessary to equip our staff with the appropriate level of knowledge, skills and motivation to succeed in a demanding regulatory environment.

⁵² Increase in staff was effective from 1 November 2009.

⁵³ Banking Supervision Department was re-organised and became International Credit Institutions on 1 November 2008.

	2007	2008
Staff who hold professional qualification (i.e. certificates, diplomas, degrees, post graduate qualifications)	319	334
Of which, qualifications held are at degree level or higher ⁵⁴	263	282
Staff pursuing professional qualifications	23	46
Staff pursuing technical certificates	100	44
Total training hours	6,722	6,427
Training Hours per full time equivalent	19.4	18

Staff Exchanges

A number of secondments took place in 2008 which involved Financial Regulator staff gaining knowledge and expertise externally and also external staff working in the Financial Regulator bringing their external experience to the organisation. A number of secondments to the Financial Regulator also took place, outlined in Table 4.7 below.

No. of Staff	Dept	Secondment to	Duration
4	Markets Supervision	Irish Stock Exchange	3 months
1	Registry of Credit Unions	Australian Prudential Regulatory Authority	7 months
1	Planning & Finance	Industry	7 months
1	Consumer Protection Codes	Australian Securities & Investments Commission	6 months
		Secondment from	
1	Consumer Protection Codes & Banking Supervision	Australian Prudential Regulation Authority	1 year
1	Banking Supervision	Deutsche Bundesbank	1 month

Media Relations

During 2008, a total of 951 queries were handled and 99 interviews were undertaken with 81 news items and press releases published on our website. There was a marked increase in media queries and information requests in 2008 as a result of the financial turbulence. Media interest in the organisation remains high since the implementation of the Government Guarantee Scheme with queries from both domestic and international news media.

Domestic and international regulatory policy initiatives and announcements were explained in three issues of our industry publication, Regulatory Connection and two issues of the credit union newsletter,

⁵⁴ Includes degrees in Commerce, Economics, Law and Arts.

RCU News.

Table 4.8 – Media Contact		
Category	2007	2008
Media Queries Handled	727	951
Media Interviews	102	99
Press Releases/News items published	49	81
Total	878	1131

Official Languages Act

The Official Languages Act requires public sector bodies to ensure better availability and a higher standard of public services through Irish. Throughout the course of 2008, we have made good progress in fulfilling our commitments. Many of our services are now available in Irish including our consumer helpline, consumer publications and certain press releases. Irish language training is also being provided in-house to staff.

Building Relationships with Stakeholders

We value our relationships with our stakeholders and we endeavour to be open and accessible to any stakeholder wishing to meet us. During the year senior executives met with representative bodies, other regulators, members of the media and financial service providers. The meetings involved are detailed below.

Table 4.9 – Meetings with Stakeholders		
Meetings involving the Chief Executive, Consumer and Prudential Directors	2007	2008
Financial Service Providers	94	138
Representative Bodies (Consumer and Industry)	113	70
Government and other Regulators	39	52
Consultative Consumer & Industry Panels	13	8
IFSC Clearing House Group	3	5
Total	262	273
Of which Conferences	11	10

CHAPTER 5

CORPORATE GOVERNANCE



CHAPTER 5

Corporate Governance

AUTHORITY MEMBERSHIP

Organisation Development

Governance

The decision making power of the Financial Regulator lies generally with the members of the Authority which comprises the Chairman, Chief Executive, Consumer Director and seven other non-executive members appointed by the Minister for Finance after consultation with the Minister for Enterprise, Trade and Employment.

As at 31 December 2008 the members of the Authority were as follows:

Name	Position	Date Appointed as Member
Jim Farrell	Chairman ⁵⁵	May 2003
Alan Ashe	Non Executive Member	May 2003
Gerard Danaher	Non Executive Member	May 2003
John Dunne	Non Executive Member	May 2003
Alan Gray	Non Executive Member	December 2006
Tony Grimes	Non Executive Member	April 2008 ⁵⁶
Patrick Neary	Chief Executive	February 2006
Mary O'Dea	Consumer Director	May 2008 ⁵⁷
Deirdre Purcell	Non Executive Member	May 2003
Dermot Quigley	Non Executive Member	May 2003
Other Attendees:		
Con Horan	Prudential Director	
Martin Moloney	Secretary	

The Chairman, Chief Executive and Consumer Director were each appointed for a term of 5 years.

Brian Patterson retired as Chairman of the Authority in April 2008. Jim Farrell was appointed as his successor in May 2008. Mary O'Dea was re-appointed as Consumer Director in May 2008 for a further term of 5 years.

The non-executive members of the Authority are appointed by the Minister for Finance and may hold office for an indefinite period, subject to a maximum of 15 years. Two of the appointed members must retire on, or before, the fifth anniversary of the establishment of the Financial Regulator, and on, or before, every subsequent anniversary. The retiring members are eligible for reappointment subject to the 15 year limitation. Mr Tony Grimes was appointed as a non-executive member of the Authority in April 2008.

⁵⁵ Jim Farrell was appointed as Chairman in May 2008.

⁵⁶ Tony Grimes, Director General of the Central Bank was appointed to the Authority in April 2008.

⁵⁷ Mary O'Dea was appointed initially in May 2003. This is her second term of office.

The Chairman, Chief Executive and five non-executive Authority members (Gerard Danaher, John Dunne, Alan Gray, Tony Grimes and Deirdre Purcell) are also members of the CBFSAI Board.

CORPORATE GOVERNANCE COMPLIANCE

Authority Procedures

The Authority meets on a monthly basis with the exception of August. In 2008, the Authority held 20 meetings.⁵⁸ The Chairman decides the Agenda for Authority meetings after consultation with the Chief Executive and the Secretary. Members are free to suggest items for inclusion. The quorum for a meeting of the Authority is a majority of the members. The Chairperson may exercise a casting vote. The Secretary maintains minutes of Authority meetings.

In February 2008, the Authority agreed Rules for the Retirement of Authority Members by Rotation.

Members of the Authority are provided with a handbook to assist them in carrying out their functions. This handbook was revised in 2008.

Delegation of Powers

The Authority has delegated specific responsibilities to two Authority committees.

(i) Audit and Risk Management Committee

The role of the Committee is to review and advise the Authority on internal audit and efficiency matters, risk management policies and the Statement of Income and Expenditure. The members of the Committee are Alan Ashe (Chair), Gerard Danaher and Deirdre Purcell.

(ii) Budget and Remuneration Committee

The key responsibilities of this Committee are to examine and make recommendations to the Authority on the annual manpower and budgetary requirements of the Authority including levies on industry; to monitor significant changes in expenditure in the course of the year; to examine and advise the Authority on the remuneration of Officers of the Authority. The members of the Committee are Dermot Quigley (Chair), Alan Ashe and Deirdre Purcell.

The Authority has also delegated certain operational powers and responsibilities associated with the day-to-day running of the Authority to the Chief Executive. In addition, in accordance with Section 33 S of the Central Bank Act, 1942 (as inserted by the 2003 Act) the Authority has delegated certain responsibilities and powers to the Consumer Director. Under Section 33 AA of the Central Bank Act, 1942, the Registrar of Credit Unions carries out the functions of the Authority in relation to the Credit Union Act, 1997, under arrangements set out in the 1942 Act.

⁵⁸ Four of these meetings occurred over two-day periods.

Remuneration

Total remuneration paid to the Chairman, Jim Farrell, for service as Chairman and member, during the year ended 31 December 2008 was €40,833. Total remuneration paid to Brian Patterson for service as Chairman during the period January to April 2008 was €17,500. Total remuneration paid to the Chief Executive for service during the year ended 31 December 2008 was €291,901. The Chief Executive volunteered to take a 10% reduction of salary commencing November 2008. Superannuation benefits attaching to the Chief Executive's salary are in accordance with the terms of the Central Bank Superannuation Scheme which provides for member contributions and benefits on the same basis as in the Civil Service Superannuation Scheme.

Total fees paid to other members of the Authority in the year ended 31 December 2008 amounted to €128,334.

Ethics in Public Office Act 1995 and Standards in Public Office Act 2001

In accordance with the Ethics in Public Office Act, 1995, (as amended) and the Standards in Public Office Act, 2001, (as amended), Members of the Authority furnish their statements of interest to the Secretary of the Authority and to the Standards in Public Office Commission. In addition, staff of the Financial Regulator holding designated positions comply with both Acts.

Authority Code of Conduct

In January 2004, the Authority adopted a Code of Conduct for Members which records the standards of conduct and integrity expected of each member in the performance of his or her functions as a member of the Authority.

The Authority has also adopted its own internal Code of Conduct for Disclosure of Interests. This Code places certain obligations on the members of the Authority to advise the Secretary to the Authority of business interests. The Code also sets out the procedures to be followed should a material conflict of interest arise.

Staff Code of Conduct

Staff employed by the CBFSAI are assigned to the Financial Regulator in accordance with Section 6E of the Central Bank Act, 1942. The CBFSAI has a written code of conduct which applies to staff working in the Financial Regulator.

Procurement Procedures

The Financial Regulator has adopted the approach to purchasing applied generally in the CBFSAI and which the Board of the CBFSAI has approved. Procurement procedures in relation to assets did not arise.



Jim Farrell
Chairman

Statement on the System of Internal Financial Controls

On behalf of the Authority, I acknowledge the Authority's responsibility for ensuring that the Financial Regulator maintains effective systems of internal financial control and reviewing their effectiveness on an ongoing basis. Board level committee structures have been designed to ensure that the Board of the CBFSAI and the Authority work closely together to ensure that their respective obligations in relation to the control of expenditure and the management of operational risk are managed within a consistent and complete framework.

The systems of control in place provide reasonable, but not absolute, assurance of the maintenance of proper financial records and the reliability of the financial information provided and published. In essence, these systems are designed to manage rather than eliminate inherent financial risks. The systems of control include:

- A clearly defined organisation structure with specified authorisation limits and reporting requirements to senior management and the Authority;
- Appropriate terms of reference for the Authority and management committees with responsibility for core policy areas; and
- A comprehensive financial and budgeting management information system which incorporates:
 - approval of annual plan and detailed expenditure budgets by the Authority;
 - regular reporting to the Authority on financial and budgetary performance; and
 - detailed policies and procedures relating to financial controls of the CBFSAI.

An operational risk framework has been developed for the whole organisation. Each business area is responsible for the management of risk and the implementation of appropriate controls and procedures aimed at minimising and monitoring such risks. An Operational Risk Committee, comprising senior management of the CBFSAI, including the Financial Regulator, has responsibility for the oversight of the management of operational risk. A review of operational risk was undertaken in 2008 and considered on behalf of the Authority by the Audit and Risk Management Committee. This review will take place on a regular basis. To assist departments in the ongoing assessment of risk, an operational risk database has been developed.

In the context of operational risk, a committee was established by the Authority to undertake an urgent review of directors' loans at Anglo Irish and the related regulatory response. The Committee concluded in the report that there was a breakdown in terms of internal communications and process and in the regulatory follow-up and response of the Organisation. Moreover, a review of existing internal communication and escalation procedures and procedural manuals was recommended while it was also suggested that document management and tracking arrangements be improved.

Our Audit and Risk Management Sub-Committee advises the Authority on the control and reporting arising from the exercise of the statutory functions of the Authority. The Chief Executive of the Financial Regulator and the Chairman of the Sub-Committee receive regular reports from the Head of Internal Audit. The Chairman of the Audit and Risk Management Sub-Committee reports to the Authority on a regular basis on significant matters arising from the work of the Committee.



Jim Farrell
Chairman

CHAPTER 6

FINANCIAL REVIEW



Financial Review of the Financial Regulator

Year ended 31 December 2008

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6.1 Introduction

The Financial Regulator has systems in place for preparing the annual estimate of income and expenditure in accordance with legislative requirements and for the monitoring and reporting on actual expenditure on a regular basis. Our annual statement of estimated income and expenditure for 2008 was submitted to the Minister for Finance on 31 October 2007 in accordance with the legislative requirements.

The Financial Regulator is responsible for keeping books and records that properly record and explain the Financial Regulator's transactions. We assisted the CBFSAI in the preparation of its statement of accounts and have decided to publish the further statement of our income and expenditure.

6.2 Commentary on Income

The funding levy raised €27.9 million from industry in 2008. In line with our stated policy we aim to maintain the levy at approximately 50 per cent of our budget with the balance of the total annual costs being provided by the CBFSAI in accordance with Section 33(L) of the Central Bank Act, 1942 (as inserted by Section 26 of the Central Bank and Financial Services Authority of Ireland Act, 2003). In 2008, the CBFSAI, with the approval of the Minister for Finance, bore the full cost of certain securities market supervision activities carried out within the Financial Regulator. These costs totalling €2.8 million were excluded from the Net Industry Funding levies issued in 2008.

The Regulations, detailing the levy amounts payable for 2008, were signed by the Chief Executive on 22 July 2008 and became law on 29 July 2008. The 2008 levy calculations were based on an allocation of the Financial Regulator's 2008 budget, the methodology of which was subjected to an independent review by Deloitte & Touche; no issues arose from this review.

In addition, under the provisions of the Central Bank Act 1942 (Section 33J) Regulations 2008, a supplemental levy was imposed on credit institutions covered by the Credit Institutions (Financial Support) Scheme 2008 to recoup 100 per cent of certain additional costs associated with the review of the financial and capital position of the credit institutions covered by the Scheme.

Overall, there was a high level of compliance with the Regulations in 2008 with the majority of regulated financial service providers paying the levy on a timely basis. An amount of €29,000 has been charged to the Income & Expenditure Account in 2008 to cover amounts written-off during the year and the provision for outstanding levies as at year end of €378,000. See also Note 1 on Page 103.

6.3 Commentary on Expenditure

Total expenditure for the year ended 31 December 2008, which comprises direct and indirect costs, amounted to €58.2 million. This compares with a budgeted figure for the year of €55.8 million. Table 1 below analyses total expenditure of the Prudential and Consumer Directorates and the Office of the Registrar of Credit Unions.

Table 1 – Analysis of Expenditure by Directorate				
	Prudential Directorate	Consumer Directorate	Registrar of Credit Unions	Total
	€'000	€'000	€'000	€'000
Salaries/PRSI	15,318	6,108	1,625	23,051
Pension	2,175	867	231	3,273
Staff Expenses	17,493	6,975	1,856	26,324
Non-Pay Operating Expense	5,146	3,745	139	9,030
Total Direct Expenses	22,639	10,720	1,995	35,354
Financial Regulator Support Departments (1)	5,363	1,474	448	7,285
Shared Services (2)	9,808	4,748	955	15,511
Total Direct Expenses and Shared Services	37,810	16,942	3,398	58,150

Financial Regulator direct costs which cannot be directly allocated to a directorate (e.g. Financial Regulator support costs such as Legal, Planning and Finance etc) have been determined by the application of a cost allocation methodology, which has been reviewed by independent external consultants.

The process of allocating budgeted costs to each directorate takes into account the direct costs (pay, pension and non-pay) of each directorate.

(1) This represents direct costs of Financial Regulator support departments of €4.845 million, together with €2.440 million of the shared services costs for services received from the CBFSAI which have been allocated to the support departments of the Financial Regulator.

(2) This represents the amount of shared services costs allocated directly to the three divisions. Total shared services costs for services received from the CBFSAI amounted to €17.952 million; the balance of €2.441 million has been allocated to Financial Regulator support departments - see note 1 above.

Total expenditure for the year ended 31 December 2008 exceeded the budget by €2.4 million due mainly to the cost of unanticipated expenditure of the order of €3.8 million in professional fees arising from the review of credit institutions covered by the Credit Institutions (Financial Support) Scheme 2008. This was offset to a certain extent by factors such as

- Lower than anticipated level of legal advice sought from external legal advisers;
- Decision taken, following a cost benefit analysis, not to outsource the Financial Regulator's levy invoicing and collection processes;
- Lower than anticipated participation in training courses and seminars due to other work priorities;
- Lower than anticipated attendance at meetings and seminars abroad combined with lower than anticipated costs associated with conduct of off-site reviews and inspections outside the Greater Dublin area again due to other work priorities; and
- Decision taken to curtail advertising in the latter part of the year and to defer/cancel other work in relation to consumer guides.

6.4 Commentary on Shortfall

The shortfall in income attributable to industry is mainly due to the fact that, while a supplemental levy amounting to €3.405 million was raised from the credit institutions covered by the Credit Institutions (Financial Support) Scheme 2008, there was a shortfall in the level of income raised from industry due to the following factors:

- Establishment of provision for outstanding levies as at 31 December 2008 (see Note 1);
- Amendments to levy notices to take account of revocations of authorisations during the course of 2008 and amendments to tariff data; and
- Establishment of provision for repayments to revoked entities (see Note 2)

The 2009 levy calculation has been adjusted to take account of the shortfall in income as compared with expenditure for the year ended 31 December 2008.

6.5 Statement of Income and Expenditure and Independent Accountants' Report of Deloitte & Touche

The following section sets out the Statement of Income and Expenditure for the Financial Regulator for the year ended 31 December 2008.

ACCOUNTING POLICIES

(a) Form of Presentation of Income and Expenditure Account

The Financial Regulator is a constituent part of the CBFSAI. It does not have either assets or liabilities of its own and accordingly it is not considered appropriate to produce either a balance sheet or cash flow statement.

The Statement of Income and Expenditure has been prepared (i) on the historical cost basis of accounting and (ii) in accordance with accounting standards generally accepted in Ireland in so far as they are applicable to the structure of the Financial Regulator. Accounting standards generally accepted in Ireland in preparing accounts giving a true and fair view are those published by the Institute of Chartered Accountants in Ireland and issued by the Accounting Standards Board.

The accounting unit is the euro.

(b) Income Recognition

The accruals concept in accounting for income and expenses has been adopted.

(c) Superannuation

The employment contracts of staff appointed by the Financial Regulator are with the CBFSAI. Under the CBFSAI's superannuation scheme permanent staff obtain the same superannuation benefits as established civil servants. Up to 30 September 2008 the CBFSAI paid these benefits out of current income as they fell due. On 1 October 2008 a funded pension scheme was established and an amount was transferred to the fund to purchase pension fund assets. All future benefits will be paid out of this fund. The CBFSAI discloses the cost of providing benefits in accordance with Financial Reporting Standard ("FRS") 17 "Retirement Benefits". See also Accounting Policy (d) and Note 34 of the Statement of Accounts of the Central Bank and Financial Services Authority of Ireland for the year ended 31 December 2008.

(d) Monetary Penalties Special Suspense

From time to time the Financial Regulator may be involved in legal action or special investigations which could involve the Authority in significant costs. It is not possible to anticipate when such cases may arise or the resulting level of costs. Accordingly, the Authority considers it prudent to ensure that adequate resources are available and to spread such costs over a number of years. Monetary penalties received in 2008 have, therefore, been transferred from the Income Expenditure Account to this Special Suspense Account.

Irish Financial Services Regulatory Authority

Statement of Income and Expenditure for the year ended 31 December 2008

	Note	2008 €'000	2007 €'000
Industry Funding			
Credit Institutions		12,288	8,174
Insurance Undertakings		5,683	4,707
Intermediaries		2,287	2,071
Securities and Investment Firms		1,945	1,653
Collective Investment Schemes and Service Providers		4,215	4,318
Credit Unions		1,435	1,417
Moneylenders		162	187
Approved Professional Bodies		11	22
Exchanges		148	168
Bureau de Change/Money Transmitters		49	40
Total Funding		28,223	22,757
Less Provision/Write-offs	1	29	448
Less Provision for repayments to revoked entities	2	250	-
Monetary Penalties	3	-	-
Net Industry Funding	1	27,944	22,309
Excess of Income over Expenditure c/f from prior year		599	2,193
Subvention from Central Bank and Financial Services Authority of Ireland	4	29,090	25,375
		57,633	49,877
Other Income	5	1,732	3,329
Total Income		59,365	53,206
Direct Expenses	6	40,198	33,651
Shared Services	7	17,952	15,627
		58,150	49,278
Other Expenses	5	1,732	3,329
Total Expenses		59,882	52,607
(Shortfall)/Excess of Income over Expenditure Carried Forward	8	(517)	599

NOTES TO THE STATEMENT OF INCOME AND EXPENDITURE

Note 1 : Net Industry Funding and Provisioning

Net Industry Funding income is included in the Statement of Accounts of the CBFSAI under Other Income. This figure comprises income from levies imposed upon the above industry categories (net of appeals and adjustments) under the Central Bank Act, 1942 (Sections 33J and 33K), Regulations 2004 (as amended by the 2008 Regulations) and other income in respect of fees and charges. An amount of €29,000 in respect of provision/write-offs has been offset against total funding income to arrive at Net Industry Funding. Outstanding levy amounts are being pursued as part of the ongoing debt recovery process.

The provision/write-offs are as follows:

	2008 €000	2007 €000
Opening Provision for Unpaid Levy Notices	396	186
Less: Write-Offs 2004 Levy	-	82
Less: Write-Offs 2005 Levy	-	148
Less: Write-Offs 2006 Levy	25	8
Less: Write-Offs 2007 Levy	22	-
Less: Write-Offs 2008 Levy	-	-
Add: Charge to Income & Expenditure Account - Provision/Amounts Written Off	29	448
Closing Provision for Unpaid Levy Notices	378	396

Note 2 : Provision for repayments to revoked entities

As part of a broad consideration of funding issues undertaken in 2007 and 2008, the Financial Regulator noted that the Annual Funding Regulations were stated as applying to "regulated" entities. Accordingly, an entity whose authorisation was revoked during the period prior to the date on which the Regulations came into force could have reasonably argued that it was not subject to the levy for the year in question, on the basis that it ceased to be a regulated entity on the date on which its authorisation was revoked. In the interests of fairness and transparency, the Financial Regulator will be writing to affected entities to invite any entity, which believes that it may be due such a pro-rata repayment in relation to the year in which their authorisation was revoked, to apply to have their case considered. Interest will be applied to any such repayments and the amount of the provision represents management's best estimate of any such repayments.

Note 3 : Monetary Penalties

	2008 €'000	2007 €'000
Monetary Penalties Imposed	3,700	-
Transfer to Suspense Account	(3,700)	-
Included in Income & Expenditure Statement	-	-

Monetary penalties imposed represents monies payable to the Financial Regulator in 2008 by financial services providers following the conclusion of Settlement Agreements with financial services providers in relation to breaches of regulatory requirements. The amount of €3.7 million is held in suspense, with the proposal that it be utilised to meet costs which may arise in relation to legal action or special investigations.

Note 4 : Subvention from Central Bank and Financial Services Authority of Ireland

By agreement with the Minister for Finance in September 2006, over the three-year period 2007-2009 approximately 50 per cent of the total costs of the Financial Regulator has been met by the imposition of levies on the industry. The balance of the total annual costs is provided by the CBFSAI in accordance with Section 33(L) of the Central Bank Act, 1942 (as inserted by Section 26 of the Central Bank and Financial Services Authority of Ireland Act, 2003). In 2008, the CBFSAI, with the approval of the Minister for Finance, bore the full cost of certain securities market supervision activities carried out within the Financial Regulator. These costs totalling €2.8 million were excluded from the Net Industry Funding levies issued to the industry in 2008. Under the provisions of the Central Bank Act 1942 (Section 33J) Regulations 2008 a supplemental levy was imposed on credit institutions covered by the Credit Institutions (Financial Support) Scheme 2008 to recoup 100 per cent of certain additional costs associated with the review of the financial and capital position of the credit institutions covered by that Scheme.

Note 5 : Other Income/Other Expenses

In 2008 the Irish Stock Exchange collected €1.7 million in fees payable to the Financial Regulator in accordance with Regulation 109 of the Prospectus (Directive 2003/71/EC) Regulations, 2005 and Regulation 78 of the Transparency (Directive 2004/109/EC) Regulations, 2007. In accordance with Part 17(h) of the Prospectus Directive and Market Abuse Directive, delegation agreements entered into by the Financial Regulator with the Irish Stock Exchange, the Financial Regulator confirmed to the Irish Stock Exchange that it could retain the sum of €1.7 million to put towards the costs that it had incurred in undertaking the delegated functions under the delegation agreements.

Note 6 : Direct Expenses

Direct expenses (excluding the pension provision of €3.7 million) are included in the Statement of Accounts of the CBFSAI as set out in Note 34 to those accounts.

	2008 €'000	2007 €'000
Salaries/Allowances	24,483	22,231
PRSI	1,798	1,573
	26,281	23,804
Pension Provision	3,732	3,380
Staff Expenses	30,013	27,184
Training, Recruitment & Other Staff Costs	425	477
Equipment, Stationery and Requisites	422	449
Business Travel	795	775
Publishing & Media Relations	2,604	2,833
Professional Fees	5,776	1,749
Miscellaneous	163	184
Non-Pay Operating Expenses	10,185	6,467
Direct Expenses	40,198	33,651

- (i) Total fees paid to Members of the Financial Regulator in respect of 2008 were €198,334 (2007: €175,000).
- (ii) Auditors' fees payable to Deloitte & Touche in respect of the examination of the Statement of Income and Expenditure of the Financial Regulator amounted to €6,655 (2007: €6,655).
- (iii) The pension provision represents the estimated actuarial pension costs of the CBFSAI in respect of Financial Regulator staff serving in 2008. This provision does not form part of the CBFSAI's expenses for 2008.

Note 7 : Shared Services

Shared services (excluding the pension provision of €1.3 million) are included in the Statement of Accounts of the CBFSAI as set out in Note 8 to those accounts.

The Financial Regulator receives various services including premises, human resources administration, accounting, internal audit, statistical and information technology services from the CBFSAI. The cost of these services in 2008 was €18.0 million (2007: €15.6 million).

The costs involved have been determined by the application of a cost allocation methodology which has previously been reviewed by independent external consultants. Allocation is based on well-recognised industry practice including occupied floor space, PC numbers and headcount (staff numbers) as appropriate. The main components of the above costs are as follows:

	2008 €'000	2007 €'000
Corporate Services incl. Premises	8,802	7,576
Information Technology Services	3,172	2,848
Human Resources	2,577	2,242
Other Services	3,401	2,961
Total	17,952	15,627

Other services explained

Other services include accounting and other administrative services (2008: €1.9 million; 2007: €1.4 million), statistical services (2008: €0.2 million; 2007: €0.4 million) and estimated actuarial pensions costs (2008: €1.3 million; 2007: €1.1 million) in respect of Central Bank staff engaged in the provision of services to the Financial Regulator.

Note 8 : (Shortfall)/Excess of Income as compared with Expenditure

This represents the shortfall in the amount of levies collected from industry in 2008 as compared with the 2008 funding requirement. The 2008 funding requirement is the total of Direct Expenses and Shared Services (€58.2 million) expenditure less the subvention from the CBFSAI. The shortfall of income as compared with expenditure has been carried forward and the calculation of the amount of industry levies for 2009 has been adjusted to take account of this shortfall.

Note 9 : Superannuation Liabilities

Superannuation liabilities of all staff employed by the CBFSAI are dealt with in Note 34 of the Statement of Accounts of the CBFSAI for the year ended 31 December 2008.

Note 10 : Post-Balance Sheet Events

There were no post-balance sheet adjusting events.

Note 11 : Approval of Accounts

The Members of the Authority approved the Statement of Income and Expenditure on 25 June 2008.

INDEPENDENT AUDITOR'S STATEMENT TO THE MEMBERS OF THE IRISH FINANCIAL SERVICES REGULATORY AUTHORITY ("THE FINANCIAL REGULATOR")

We have examined the Statement of Income and Expenditure set out in Section 6.5 of the Financial Regulator's Annual Report for the year ended 31 December 2008.

Respective Responsibilities of Members and Auditors

The Members are responsible for preparing the Statement of Income and Expenditure. Our responsibility is to report to you our opinion on the consistency of the Statement of Income and Expenditure within the Annual Report with the Statement of Income and Expenditure for the Financial Regulator disclosed in the Notes to the Accounts of the full Statement of Accounts of the Central Bank and Financial Services Authority of Ireland for the year ended 31 December 2008. We also read the other information contained in the Annual Report and consider the implications for our report if we become aware of any apparent misstatements or material inconsistencies with the Statement of Income and Expenditure.

This statement, including the opinion, has been prepared for and only for the Financial Regulator's members as a body and for no other purpose. We do not, in giving this opinion, accept or assume responsibility for any other purpose or to any other person to whom this statement is shown or in to whose hands it may come save where expressly agreed by our prior consent in writing.

Basis of Opinion

We conducted our work in accordance with Bulletin 1999/6 "The auditors' statement on the summary financial statement" issued by the Auditing Practices Board.

Opinion

In our opinion the Statement of Income and Expenditure is consistent with the Statement of Income and Expenditure for the Financial Regulator disclosed in the Notes to the Accounts of the full Statement of Accounts of the Central Bank and Financial Services Authority of Ireland for the year ended 31 December 2008.

Deloitte & Touche
Chartered Accountants & Registered Auditors
Dublin
30 June 2009

6.6 Review of Cost Allocation Model used by the Financial Regulator

This section contains an overview of the work carried out by Deloitte & Touche on the allocation of Financial Regulator 2008 costs (Outturn) to industry sectors.

This independent report is contained in section 6.7.

Review of Financial Regulator's 2008 Model

Section 33J of the 2003 Act empowers the Chief Executive of the Financial Regulator, with the agreement of the other members of the Authority, to make regulations prescribing levies to be paid by regulated entities to the Financial Regulator.

Under the current levy arrangements, the amounts levied by the Financial Regulator are set by reference to the relevant budgeted costs attributable to each industry category. These costs are determined using a Model developed by the Financial Regulator in conjunction with external consultants (the "Financial Regulator's Model"). The Financial Regulator's Model takes into account the activities involved in supervising each industry category and, in the case of costs which cannot be directly allocated to an industry category, a basis considered appropriate by the Financial Regulator has been used to allocate such costs.

In 2008 Deloitte & Touche were appointed independent reporting accountants to form an independent opinion on the logical integrity, internal consistency and arithmetical accuracy of the formulae, algorithms and calculations contained within the Financial Regulator's Model employed by the Financial Regulator to allocate costs to industry categories and on the application of the Financial Regulator's Model to 2008 actual costs (the "Financial Regulator's 2008 Actual Model") and to report that opinion to the Members of the Authority. A copy of their report, dated 30 June 2009, to the Members of the Authority is included in section 6.7.

6.7 Statement of Allocation of Financial Regulator Actual Costs to Industry Sectors

1. Introduction

Section 33J of the Central Bank Act, 1942 ('the Act') as inserted by Section 26 of the Central Bank and Financial Services Authority of Ireland Act, 2003 empowers the Chief Executive of the Irish Financial Services Regulatory Authority ("Financial Regulator"), with the agreement of the other members of the Irish Financial Services Regulatory Authority, to make regulations prescribing levies to be paid by regulated entities to the Financial Regulator.

Each year the Financial Regulator sets the levy by reference to the allocation applicable to industry categories of the Financial Regulator's actual outturn costs for the previous year and the budgeted cost for the forthcoming year.

The 2008 budget model has been re-run using actual costs for 2008 in order to determine the 'actual' costs – i.e the 'Outturn'. Note 3 below sets out the allocation of budgeted and actual costs for the year ended 31 December 2008.

The Outturn was subject to independent assessment by reporting accountants Deloitte & Touche. Their report is set out in sub-section 4 below.

2. Notes to the Statement of allocation of actual costs for the year ended 31 December 2008.

Method of allocation

In setting the annual funding requirement any surplus or deficit from the previous year is offset against the budgeted costs. The resultant amount is allocated across industry categories. There are a total of 12 industry categories. The process of allocating costs to each industry category takes into account the activities involved in supervising each industry category. In the case of costs which cannot be directly allocated to an industry category a basis considered appropriate by the Financial Regulator has been used to allocate such costs.

3. Statement of Allocation of Costs for the year to 31 December 2008

Industry Category		Budget Allocated Costs €'000	Actual Allocated Costs €'000
A	Credit Institutions	9,330	13,131
B	Insurance Undertakings	5,837	5,378
C	Intermediaries	2,445	2,445
D	Securities and Investment Firms	2,004	2,010
E	Collective Investment Schemes ("CIS") and Providers to CIS	4,396	4,253
F	Credit Unions ⁵⁹	1,862	1,435
G	Moneylenders	185	172
H	Approved Professional Bodies	13	13
I	Exchanges	169	160
J	Bureau de Change/Money Transmitters	63	63
Total		26,304	29,060

(Category I, Exchanges – includes Approved Exchanges authorised under the Stock Exchange Act, 1995).

The actual allocated costs detailed above were the result of the application of the actual costs for 2008 to the cost allocation model as described in sub-section 2 above. These amounts, together with other information such as amounts actually collected in 2008, were then used to determine the surplus arising for each industry sector in 2008 which was offset against the 2008 levy amount to be collected.

⁵⁹ This represents the credit union funding contribution for 2008 which has been capped at 0.01 per cent of total assets

4. Independent Report by Deloitte & Touche

The Members of the Irish Financial Services Financial Regulatory Authority ("the Financial Regulator") PO Box 9138 College Green Dublin 2

30 June 2009

Dear Sir/Madam,

INDEPENDENT ACCOUNTANT'S REPORT TO THE MEMBERS OF THE FINANCIAL REGULATOR IN CONNECTION WITH THE OUTTURN REVIEW

We have examined the allocation of actual costs within the Financial Regulator to each of the industry categories for the purpose of calculating levies payable by regulated entities to the Financial Regulator for the year ending 31 December 2008 – "the Outturn". The Outturn has been prepared in accordance with the descriptions provided by the Financial Regulator's management to us for each of the cost centres involved in regulating financial services entities, providing services to these cost centres.

Our report is made solely to the members of the Financial Regulator in accordance with the terms of our engagement letter, dated 16 January 2009. Our work has been undertaken so that we might state to them those matters we are required to state to them in this 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 Financial Regulator for our work, for our report or for the opinions we have formed.

Respective responsibilities of the Financial Regulator and Deloitte & Touche

The Financial Regulator is responsible for the preparation of the Outturn in accordance with the bases set out in the preparation note. It is our responsibility to form an independent opinion, based on our examination, on the Outturn and to report our opinion to you. Therefore we are responsible for selective testing of the allocation of actual costs as outlined below.

Work performed

We conducted our work in accordance with the terms of our engagement letter. Our work included a review of evidence relevant to the Outturn. Our work excluded audit procedures and is substantially less in scope than an audit performed in accordance with Auditing Standards and therefore provides a lower level of assurance than an audit.

Our review consisted principally of the performance of the following procedures:

- We agreed the total population of costs in the Outturn to the Financial Regulator's management accounts for the year ended 31 December 2008 (subject to any audit adjustments thereto) presented for, and subject to, audit.
- We agreed the total population of costs to the accounts of the full Statement of Accounts of the Central Bank and Financial Services Authority of Ireland for the year ended 31 December 2008.
- We verified that the actual costs, and only those costs, for each of the cost centres included in the budgeted model have been included in the Outturn.

- We verified that the allocation metrics used in the Outturn for each of the cost centres to be allocated are consistent with those used in the budgeted model and have been applied correctly.
- We verified the “standing data”, used to determine the allocation metrics and used to perform the allocation of costs to industry categories, to supporting material provided by departments independent of the Financial Regulator.
- We checked the logical integrity, the consistency and arithmetic accuracy of the formulae, algorithms and calculations in the Outturn with those in the budgeted model.

Conclusion

Based on our examination, as outlined above ;

- in our opinion the Outturn has been prepared in a manner that is consistent with the budgeted model;
- nothing came to our attention that would indicate that the Outturn has been prepared on a basis that is inconsistent with the budgeted model and/or the operations of the Financial Regulator; and
- we are not aware of any material modifications that should be made to the Outturn.

Deloitte & Touche
Chartered Accountants & Registered Auditors
Dublin
30 June 2009

APPENDICES



APPENDIX 1 – Strategic Plan 2008 Progress on Stated Strategic Actions

HLG 1: We will set and monitor standards for financial service providers in dealing with their customers.

1.1: Seek to ensure that financial service providers act fairly.

Actions	Target/Indicator	Progress
Monitor and enforce compliance with the Consumer Protection Code.	<p>Target for inspections/mystery shopping exercises: 8 themed inspections/mystery shopping exercises across the various industry sectors in 2008.</p> <p>Publication of findings to promote compliance across industry.</p>	<p>8 Themed Inspections completed. 2 Mystery shops completed.</p> <p>General conclusions of inspections published.</p>
Monitor and enforce compliance with advertising requirements.	Number of complaints investigated.	177 complaints investigated.
Continue to process notifications received in respect of bank charges under the Consumer Credit Act.	Number of notifications processed.	35 notifications processed.
Monitor and enforce compliance with Markets in Financial Instruments Regulations.	Issues identified and addressed.	Client categorisation themed inspection completed (included in above themes). General findings published.
Review the Interim Code of Practice for Moneylenders	Updated Code of Conduct for Moneylenders by December 2008.	Moneylenders code issued in December 2008.

1.2: Take initiatives to improve the transparency of the market.

Actions	Target/Indicator	Progress
Identify the banking and insurance products where greater transparency is needed.	<p>Market/consumer research complete</p> <p>Initiatives to improve transparency identified</p>	<p>Research completed.</p> <p>Initiatives aimed at improving the transparency and presentation of information provided to consumers regarding the fees and charges on personal current accounts have been identified</p>

1.2: Take initiatives to improve the transparency of the market. (continued)

Actions	Target/Indicator	Progress
Review the Life Assurance Disclosure of Information Regulations.	Recommendations to be issued by December 2008.	Ongoing.
Identify a standard method or formula that may be used to calculate a reduction in the total cost of credit in the event that a loan is redeemed early in accordance with Section 52 of the Consumer Credit Act.	To be completed by June 2008	Completed.
Undertake a review of the intermediaries market.	Proposals prepared by September 2008.	Joint Financial Regulator/Industry Working Group Report issued in December 2008.
Consult credit unions on an appropriate consumer protection framework for their members, in respect of their core business.	Draft Code finalised by December 2008.	Two consultation papers issued. Ongoing discussions during 2008. Final code expected to be published in Quarter 3, 2009.

1.3: Monitor the provision of financial services and report on competition.

Actions	Target/Indicator	Progress
Monitor effectiveness of switching codes for retail customers and SMEs.	The number of customers switching.	Themed inspection conducted November 2008. Level of switching as at end 2008: Personal – over 58,000 Business – over 2,000
Report on the extent to which competition exists among financial service providers in so far as it affects consumers.	Report published annually.	See Chapter 3 and Appendix 2.
Continue to work closely with the Competition Authority in relation to competition in financial services.	Regular informal contacts and at least 2 meetings per year.	One official liaison meeting held in 2008 and regular informal contacts throughout 2008.
Examine and address recommendations made to us by the Competition Authority and other agencies and reports.	Implementation status reviewed. Reports provided to external agencies as required.	Recommendations considered as part of policy formulation process.

1.3: Monitor the provision of financial services and report on competition. (continued)

Actions	Target/Indicator	Progress
Continue to foster access to financial services through consultation and advocacy by working with relevant agencies and Government Departments.	Access to financial services on the regulatory and legal agenda. Regular meetings with interest groups.	Discussed in the context of money laundering policy. " Making Decisions about Money" launched in association with Inclusion Ireland. Initiatives relating to basic bank accounts and financial education included in bank recapitalisation scheme.

HLG2: We will set and monitor standards for the running of sound financial service providers and fair markets.

Strategies

2.1: Continue to refine the authorisation process for financial service providers.

Actions	Target/Indicator	Progress
Authorise funds, credit institutions, intermediaries (retail and non retail), mortgage intermediaries, insurance companies, fund service providers, E-money institutions, money transmitters and bureaux de change.	Applications processed in accordance with Stakeholder Protocol.	Applications processed in accordance with Stakeholder Protocol.
Review and update licensing standards for banks.	Updated standards to be introduced in 2008.	Ongoing.
Begin authorisation of non-deposit taking lenders.	Arrangement to be introduced in 2008.	Authorisation commenced in February 2008.
Incorporate the provisions of the new Anti-Money Laundering Guidance Notes into the authorisation process.	Authorisation process updated by September 2008.	Delayed as legislation has not yet been transposed – expected Autumn 2009.

2.2: Implement our programme of prudential supervision.

Actions	Target/Indicator	Progress
Monitor and enforce compliance with prudential standards.	Targets for Inspections and Review meetings:	
	Banking	
	20 On-site inspections per year.	25 On-site inspections (including themed inspections) undertaken.
	37 Review meetings per year.	88 review meetings held.
	Insurance and Reinsurance:	
	30 On-site inspections per year.	17 inspections undertaken.
	155 Review meetings per year.	131 review meetings held.
	Investment Service Providers:	
	50 On-site inspections per year.	35 inspections undertaken.
	110 Review meetings per year.	72 review meetings held 84 other meetings held.
Apply the new Fitness and Probity framework.	Applications processed in accordance with Stakeholder Protocol.	Revised Fit & Proper framework issued December 2008. Targets for processing applications in Stakeholder Protocol met.
Refine our risk-based approach to supervision.	Highest risk entities identified and resources deployed accordingly.	Available resources re-allocated as necessary. Resource allocation under continuous review.
Co-operate with international regulators fully.	Regular bilateral meetings with other Regulators.	Bilateral meetings held as necessary.
	Number of Memoranda of Understanding agreed, as necessary, with non EU Regulators.	MOU with China Securities Regulatory Commission and the China Banking Regulatory Commission signed in October 2008.

2.2: Implement our programme of prudential supervision. (continued)

Actions	Target/Indicator	Progress
Implement the new law on prevention of money laundering and terrorist financing	Input to the FATF Bi-Annual Report completed by June 2008	Completed.
	New operating model implemented by June 2008 Input to the FATF Bi-Annual Report completed by June 2008	Implementation of new model delayed due to legislation not transposed yet – expected Autumn 2009. Preparatory work undertaken.
	Assistance provided in the development of guidance notes.	
	Target for Inspections: 1 themed inspection per year. A proportion of general on site inspections to have anti-money laundering focus. Target to be set by June 2008	Delayed pending transposition of legislation.
	Enhanced anti-money laundering supervisory process in place by December 2008.	Delayed pending transposition of legislation.
Assist the Central Bank to discharge its responsibilities relating to the overall stability of the financial system.	Close co-operation and sharing of information as agreed in the Memorandum of Understanding.	Very close co-operation in 2008 in light of market turmoil. Joint meetings of Board and Authority.

Sector Specific Actions:

Actions	Target/Indicator	Progress
Banking:		
Manage changeover to new Capital Requirements regime in collaboration with industry.	Supervisory Disclosures reviewed on a half yearly basis.	Review completed.
	Queries processed in accordance with Stakeholder Protocol targets.	119 external queries on new regime processed.
	Enhanced electronic reporting framework in place by April 2008.	Upgrades to the electronic reporting platform completed.
Review and update Administrative Notices as required, arising from market and legislative changes.	Notices comprehensively address developments in the banking market.	Ongoing.

2.2: Implement our programme of prudential supervision. (continued)

Actions	Target/Indicator	Progress
Insurance:		
Develop and implement a runoff scheme for reinsurers not falling within the new regulatory regime.	Runoff of identified reinsurance firms completed by June 2008.	Ongoing.
Develop and implement the regulatory regime for reinsurers.	Ongoing compliance with new regulatory framework monitored.	Implemented.
Investment Service Providers:		
Manage changeover to new Capital Requirements regime for investment firms.	Queries processed in accordance with Stakeholder Protocol targets. Enhanced electronic framework operational by April 2008.	All queries & requests for assistance processed. Electronic framework enhanced April 2008.
Manage changeover to new Markets in Financial Instruments regime for investment firms.	Queries processed in accordance with Stakeholder Protocol targets.	All queries and requests for assistance processed. Industry workshop held re client asset requirements.
Implement findings from Review of Minimum Activity requirements for collective investment schemes.	Findings implemented by June 2008.	Not implemented in 2008 – awaiting EU legislative developments.
Conduct a review of fund administrators operating in Ireland to ascertain the impact that market developments are having on their Irish and non-Irish fund business.	Review completed by March 2008.	Review completed Quarter 1 2008.
Funds:		
Implement provisions of further funds legislation.	Notices and Guidance Notes to be updated by March 2008.	Notices updated in April and July 2008.
Authorised Securities Markets:		
Develop the regulatory regime for securities markets.	Guidance issued on what is involved in establishing a multi lateral trading facility in Ireland by October 2008.	Guidance Note issued December 2008.

2.3: Promote an efficient and fair securities market.

Actions	Target/Indicator	Progress
Develop systems and procedures to monitor transactions and detect market abuse.	Agent reporting capacity established by October 2008.	Deferred until later phase of system development under current IT plans.
	Market Monitoring Information Technology system in place by November 2008.	Implementation of full functionality delayed. New target – 2010.
	Data Interchange arrangements with the competent authorities of other EU Member States finalised by November 2008.	November deadline met except in respect of certain reference data – revised CESR deadline June 2009.
	Build team with expertise to monitor transaction reports by December 2008.	Revised overall target 2010.
Develop further systems and procedures to ensure the efficiency of the prospectus regulatory regime.	Monitor compliance with first year's operation of the Stakeholder Protocol and deal with issues arising by September 2008.	Targets in Stakeholder Protocol met.
Agree plan for ending current delegation arrangement with the Irish Stock Exchange and putting in place long-term prospectus review arrangements.	Begin the implementation of the transition plan worked out in 2007.	Progress delayed due to policy concerns and impact of financial crisis. However, project critical tasks identified and work in each key area initiated.

2.4: Promote a financially stable credit union sector that operates in a transparent and fair manner and safeguards its members' funds.

Actions	Target/Indicator	Progress
Continue to enhance our supervisory oversight by more focused off-site analysis and on-site inspections.	40 On-site inspections per year. 20 Reviews meetings per year.	44 inspections. 41 credit union meetings. 101 dividend reviews. 420 annual returns received and analysed. 1,479 prudential returns received and analysed.

2.4: Promote a financially stable credit union sector that operates in a transparent and fair manner and safeguards its members' funds. (continued)

Actions	Target/Indicator	Progress
Issue guidance notes to ensure compliance by credit unions with their legal and regulatory obligations.	Guidance notes to be issued on Accounting in Credit Unions – 2008	Draft Guidance Note for Credit Unions on Matters Relating to Accounting for Investments and Distribution Policy issued July 2008.
Participate in discussions on appropriate savings protection for credit unions.	Revised proposals brought forward for approval.	Ongoing consultative meetings with ILCU and Department of Finance. Credit unions included in Deposit Guarantee Scheme September 2008.
Facilitate, where appropriate, the expansion of the range of services provided by credit unions.	Proposals to be evaluated and responded to.	6 additional services applications approved. 10 longer term lending applications approved.
Participate in the modernisation of the organisational structures and technology of credit unions.	Extent of modernisation.	Ongoing discussions on modernisation.

2.5: Support the development of domestic legislation and implement EU regulations and international standards.

Actions	Target/Indicator	Progress
Assist Government with the development of new or amended legislation: <ul style="list-style-type: none"> • Consolidation and simplification of financial services legislation. • Review of Credit Union legislation. 	Legislation informed by Better Regulation principles. Assistance provided in accordance with Government's timetable.	Actively participated in the Advisory Forum on Consolidation of Financial Services Legislation and relevant working groups.

2.5: Support the development of domestic legislation and implement EU regulations and international standards. (continued)

Actions	Target/Indicator	Progress
Influence the development of EU Directives and policies: <ul style="list-style-type: none"> • Credit Agreements for Consumers. • Insurance Guarantee Scheme. • Insurance Mediation (review of). • Large Exposures. • Liquidity. • Mortgage credit. • Own Funds. • Solvency II. • Lamfalussy Legislative process. 	Number of meetings attended, including participation in the work of CEBS, CEIOPS and CESR.	197 Meetings attended. (See Table 4.2 in Chapter 4)
Assist Government with the transposition of EU Directives: <ul style="list-style-type: none"> • Prevention of Money Laundering and Terrorist Financing. • Funds. • Solvency II. 	Timely and comprehensive policy advice provided.	Assistance provided to relevant Government departments.
Assist EU with post implementation issues (e.g. guidance and harmonisation) relating to Directives and Policies: <ul style="list-style-type: none"> • Capital Requirements. • Markets in Financial Instruments. • Prevention of Money Laundering and Terrorist Financing. • Solvency II 	Number of meetings attended. Guidance notices issued.	Assistance provided to relevant authorities.
Assist with the development of the EU response to adverse credit market developments.	Assistance provided in accordance with EU timetable.	Participated as necessary in all relevant EU committees and initiatives.

HLG3: We will provide relevant information to consumers.

Strategies

3.1: Provide consumers with clear and appropriate information about the costs, risks and benefits of financial products and services.

Actions	Target/Indicator	Progress
Provide information on financial products to consumers through a number of channels including: lo-call help line, website, Information Centre, external visits, answering written queries and proactive distribution of publications and information packs to key outlets.	Number of consumer contacts (calls, written queries, visitors to the consumer website and to Information Centre, and external visits).	Full details in Table 3.5 in Chapter 3.
	Numbers of publications distributed.	113,773.
	Queries processed in accordance with Stakeholder Protocol targets.	Responses to all queries met in line with Stakeholder Protocol targets except for some slippage during September/October.
	Partnership with key consumer information intermediaries developed by December 2008.	Arrangements made with Library Council to provide free access to www.itsyourmoney.ie in public libraries. Relationship with MABS developed further.
Promote the availability of our information resources by targeted advertising and promotional activity nationwide.	Level of awareness about us and our consumer information role as measured by periodic surveys – at least two in 2008.	Surveys completed. See Chapter 3 for details.
Develop co-ordinated publicity and marketing campaigns on topical matters of interest to consumers (e.g. elements of the Consumer Protection Code, budgeting/ managing your money, switching).	Outcome of campaign evaluations including qualitative analysis of media coverage/consumer response generated.	Topical public awareness campaigns undertaken throughout 2008.
	Publications, website content and media activity to raise awareness levels.	
Continue to conduct and develop online surveys.	Existing surveys maintained and new surveys conducted. Level of demand for surveys.	All surveys maintained and new survey "Regular Saver" added to the range. On-line cost comparison surveys accessed 260,000 times.

3.1: Provide consumers with clear and appropriate information about the costs, risks and benefits of financial products and services. (continued)

Actions	Target/Indicator	Progress
Comply with the requirements of the Official Languages Act and our commitments under the Scheme as agreed with the Department of Community, Rural and Gaeltacht Affairs.	Extent to which we achieve targets set out in Scheme under Official Languages Act.	Relevant Scheme targets are being met relating to provision of information in Irish through our signage, our helpline, our publications and www.itsyourmoney.ie .
Promote awareness of our consumer protection role and generate demand for consumer 'rights' information.	Expanded information on "Your rights" on our website by June 2008.	Completed. Information on compensation schemes updated in September 2008.
Issue warning notices regarding financial service providers who are not authorised.	Number of warning notices published.	5 warning notices published regarding 8 unauthorised firms.
Consider information needs of specific target audiences.	Needs analysis and policy issues considered by end-2008. Relevant information developed and provided by 2009.	Needs analysis completed. No further action required.

3.2: Undertake consumer research to monitor consumer awareness levels of our consumer information function and assess the financial capability of consumers.

Actions	Target/Indicator	Progress
Conduct regular research to track awareness of the Financial Regulator, to test advertising recall and to measure effectiveness of campaigns.	At least two quantitative surveys per year.	Surveys carried out as scheduled.
Evaluate the quality of our information resources and channels.	Review of publications and evaluation of website, Information Centre, consumer helpline and advertising completed by December 2008.	Review of publications and website completed. Revisions and amendments underway. Evaluation of Information Centre completed. Advertising campaign evaluated during development stage.
Undertake in-depth, face-to-face research to measure the financial capability of consumers to assist us in broadening our knowledge of consumer behaviour, attitudes and needs.	Report to be completed by June 2008. Information and services continue to be effective.	Final report published in March 2009.

3.3: Develop financial capability among target consumer audiences.

Actions	Target/Indicator	Progress
<p>Work in partnership with other agencies and bodies in the education system to develop education programmes.</p> <ul style="list-style-type: none"> Resource pack for Leaving Certificate Applied (LCA), Social Education, rolled out. Transition year (TY) module developed in partnership with MABS and pilot project evaluated. 	<p>Programmes completed for specified target groups.</p> <p>Rolled out by December 2008.</p> <p>Developed by June 2008.</p>	<p>Module called "Taking Charge" rolled out in over 200 LCA classrooms during 2008.</p> <p>TY resource rolled out to over 2,300 students during 2008.</p>
<p>Co-ordinate the work of the National Steering Group for financial education based on international practice.</p> <ul style="list-style-type: none"> Develop and agree final strategy for the Group. Discuss and agree funding model for the work of the Group. Finalise work of current working groups. Establish further groups with clear work plans as required. 	<p>Six meetings per year arranged.</p> <p>Strategy Report published in 2008.</p> <p>Funding model agreed by June 2008.</p> <p>Working Groups work finalised March 2008.</p> <p>Established (as needed) in the period March to December 2008.</p>	<p>Three full Group meetings, one half-day workshop and a number of bi-lateral meetings held.</p> <p>Report progressed and expected to be published by June 2009.</p> <p>Funding for future financial education included in the recent Government recapitalisation scheme for credit institutions.</p> <p>Completed on schedule.</p> <p>Drafting sub-group established for Steering Group report.</p>
<p>Develop links with education stakeholders/partners.</p>	<p>Maintain a comprehensive education contact list and develop relationships through National Steering Group, its working groups and education projects.</p>	<p>Maintained as part of ongoing work. FAS joined the Steering Group during the year.</p>

3.4: Maintain good working relationships with Ombudsman schemes and other agencies.

Actions	Target/Indicator	Progress
Continue to assist consumers who wish to make a complaint and forward any complaints received to the Financial Services Ombudsman.	Complaints referred to the Financial Services Ombudsman without delay.	103 complaints referred to the Financial Services Ombudsman in 2008.
Develop our working relationships with the Financial Services and Pensions Ombudsmen.	Good working relationship, with efficient handling of consumer issues.	Meetings held with Financial Services and Pensions Ombudsmen. Exchange of information took place as necessary.
Monitor the ongoing operation of the Memorandum of Understanding we have with the Financial Services Ombudsman and the Pensions Ombudsman.	Memorandum continues to address developments which affect consumers of financial services.	Ongoing.
Develop our working relationship with the National Consumer Agency.	Completion of co-operation agreement by December 2008.	Proposed co-operation agreement drafted.

HLG4: Our regulatory approach will facilitate innovation and competitiveness.

Strategy

4.1: Foster competitiveness and innovation through the adoption of international best practice and the Government's Better Regulation principles.

Actions	Target/Indicator	Progress
Undertake a programme of Best Practice Reviews.	Best Practice Reviews completed: <ul style="list-style-type: none"> • Credit Unions – 2008. • Internal legal services – 2008. 	Deferred due to organisation review being undertaken.
Implement our commitments in the Government's strategy 'Building on Success' for future development of the international financial services industry in Ireland.	Recommendations implemented by 2008.	All relevant recommendations implemented in 2008.

4.1: Foster competitiveness and innovation through the adoption of international best practice and the Government's Better Regulation principles. (continued)

Actions	Target/Indicator	Progress
Implement the applicable recommendations of the Financial Action Task Force's Mutual Evaluation of the Prevention of Money Laundering and Terrorist Financing.	Recommendations implemented by 2008.	Implementation of the FATF recommendations will be complete upon transposition of new EU legislation. Transposition scheduled for Autumn 2009.
Conduct Regulatory Impact Analyses (RIAs) on significant regulatory initiatives (except where this has been done by the EU or a Government Department).	Numbers of RIAs undertaken.	None undertaken in 2008.
Undertake public consultations on significant new regulatory requirements to be introduced.		4 consultation papers issued.
Invite the Consultative Panels to identify and prioritise regulatory requirements that they believe are unnecessary (and open to amendment by the Financial Regulator).	A prioritised programme of review of those requirements undertaken by June 2008.	Completed. Industry Panel submitted Research Report in June 2008.

HLG5: We will maximise our operational efficiency and cost effectiveness.

Strategies

5.1: Improve our organisation to be more efficient and adaptable.

Actions	Target/Indicator	Progress
Review of our allocation of resources.	Allocation of resources in line with changing business needs and strategic plan reviewed bi-annually.	Ongoing.

5.1: Improve our organisation to be more efficient and adaptable. (continued)

Actions	Target/Indicator	Progress
Undertake Business Process Reviews.	<p>Benchmarking of key processes and associated costs with other regulators and comparative businesses undertaken.</p> <p>High-level review of Business Processes completed by June 2008.</p> <p>Action plan developed to implement improvements, outsource non-core activities and eliminate redundant processes by December 2008.</p> <p>Sector Specific Business Process Reviews undertaken:</p> <ul style="list-style-type: none"> • Insurance – 2008. • Investment Service Providers – 2008. • Administrative Sanctions – 2008. 	Business Process Review (Mazars) Report completed February 2009. Authority sub-committee established to progress implementation of report.
Facilitate a programme of internal audits.	<p>Audit programme agreed by January 2008.</p> <p>Audits completed and action plan developed to address their recommendations.</p>	<p>Audit programme agreed.</p> <p>Assisted as necessary with all internal audits conducted. Plans agreed for implementation of any recommendations.</p>
Collect funding levy.	<p>Levy notices issued by April 2008 with the aim of issuing notices in March in subsequent years.</p> <p>Levy collection process outsourced by March 2008.</p>	<p>Levy Notices issued in July 2008.</p> <p>Following cost-benefit analysis, policy decision taken not to outsource collection process as financial benefits of outsourcing are marginal.</p>
Establish in conjunction with the Central Bank a partnership structure to promote internal dialogue and consultation with staff on key issues in the process of change and improvement.	<p>Internal communications programme implemented.</p> <p>Following completion of current pay and benchmarking exercise, a formal partnership model will be pursued.</p>	Staff Management forum re-established in early 2008. This will provide a platform for a more structured partnership model to be adopted in 2009.

Actions	Target/Indicator	Progress
Plan for future accommodation needs.	Additional accommodation leased and fitted out for CBFSAI staff by June 2008. Longer term accommodation needs assessed by June 2008.	Additional accommodation leased in Spencer Dock. Design, fit out and occupation of space completed Jan 2009. Review of long-term accommodation requirements – Dec 2009.
Enhance our capability for project management.	Training of key staff organised annually.	2 project management training courses organised with 21 attendees.
Implement Action Plan to address findings of the C&AG's Value for Money report.	Action plan implemented by December 2008.	Critical items in Action Plan addressed. Remaining items under active management.
Provide legal advice to supervisory departments.	Client relationship management meeting with user departments at least annually.	Meetings held with most user departments.

5.2: Have a highly motivated and well trained workforce and continually develop the skills necessary to oversee the internationally competing financial services industry.

Actions	Target/Indicator	Progress
Attract and retain skilled and enthusiastic staff.	Recruitment programme implemented. Specialist staff recruited from open competition. Review of policy on graduate recruitment and development. Increased use of graduate recruitment fairs as a recruitment tool.	8 external competitions held during 2008. 39 staff recruited externally. Graduate Development Programme introduced. HRD attended careers fairs throughout Ireland and over 450 applications received.

5.2: Have a highly motivated and well trained workforce and continually develop the skills necessary to oversee the internationally competing financial services industry. (continued)

Actions	Target/Indicator	Progress
Develop skills and expertise of our staff.	<p>Average annual training hours per full time equivalent staff member.</p> <p>Training targets agreed.</p> <p>New modular approach to training to be developed by December 2008.</p> <p>Continued roll out of new management development programme.</p> <p>Internal competitions and mobility policy implemented.</p> <p>Existing staff encouraged to further their professional training.</p>	<p>10.5 average training hours per full time equivalent staff member.</p> <p>2008 Training schedules implemented based on Training Needs Analysis.</p> <p>Curriculum training programme developed and approved. Implementation and rollout in development.</p> <p>New management development programme attended by majority of the management team in 2008. Remainder commenced programme in 2009.</p> <p>39 staff promoted and placed in Financial Regulator departments, 25 staff transferred between Financial Regulator departments, 11 staff transferred from Central Bank into the Financial Regulator.</p> <p>Ongoing support under the Academic & Professional Training Scheme (APTS). 90 staff pursuing further study.</p>
Enhance our Performance Management system to align with our competency framework and strategic goals.	Implementation of enhanced performance management system commenced in 2008.	Enhanced system to be implemented in 2009.
Organise staff exchanges with other financial regulators.	<p>Staff target agreed by February 2008.</p> <p>Increased number of staff seconded compared to previous year.</p>	Eight secondments undertaken.
Consider feasibility of industry proposal for secondments of Financial Regulator staff to industry.	<p>Industry proposal examined.</p> <p>Increased number of staff seconded compared to previous year.</p>	One secondment undertaken.

5.3: Use technology based solutions to improve operations and processes.

Actions	Target/Indicator	Progress
Examine how we can maximise the use of information technology.	Action plan developed to implement recommendations of Business Process Review by December 2008. Supervision system enhanced.	Incorporated in overall review of organisation by Mazars.
Enhance our websites <i>www.financialregulator.ie</i> and <i>www.itsyourmoney.ie</i> as key communications tools.	Corporate website upgraded by June 2008. Websites recognised as a valuable information resource.	Corporate website re-design completed and launched February 2009. <i>www.itsyourmoney.ie</i> subject to continuous enhancement.
Develop and enhance Electronic Reporting by financial service providers.	Electronic reporting extended to a number of supervisory departments during 2008. Elimination of manual data entry where possible.	A number of electronic reporting projects completed or well progressed in 2008.
Implement funding changes for annual levy.	New levy categories established, where appropriate.	Completed.

5.4: Meet high standards of public accountability.

Actions	Target/Indicator	Progress
Prepare Strategic Plan, Annual Report and annual estimate of income and expenditure.	Published in accordance with legislative deadlines. Further improvements to performance reporting, budgetary process and consultation.	Annual Report submitted to Minister for Finance and published – April 2008. In light of market turmoil and regulatory developments, 2009 Strategic Plan to be amalgamated with 2010 Plan. Budget submitted to Minister for Finance by 31 October 2008. A revised allocation of the split in funding as between Industry and the subvention was submitted in early March 2009.

5.4: Meet high standards of public accountability. (continued)

Actions	Target/Indicator	Progress
Put in place a comprehensive set of indicators of progress (including financial indicators).	<p>Research completed by December 2008.</p> <p>Indicators to be developed.</p> <p>Results of the Consultative Industry Panel's 'Industry Survey' and the Performance Review prepared by the Consultative Consumer Panel taken into account.</p>	<p>Preliminary work undertaken in 2008 and not completed due to onset of financial crisis.</p> <p>To be included as part of strategic review of organisation.</p>
Report to Oireachtas Committees.	<p>Number of meetings attended.</p> <p>Information provided in a timely manner.</p>	5 Oireachtas committees attended.
Examine and address recommendations made to us by Joint Oireachtas Committees.	Recommendations inform our strategic plan.	Recommendations considered as part of policy review process.
Provide the Office of the Comptroller and Auditor General with the information required to perform its functions.	Information provided in a timely manner.	Information provided as required.
Use available enforcement tools in a fair and proportionate manner.	<p>Number and type of regulatory actions.</p> <p>Fair enforcement process.</p>	Concluded 10 settlement agreements (including 1 concerning market abuse).

5.5: Enhance relations with our key stakeholders.

Actions	Target/Indicator	Progress
Maintain a good working relationship with the Consultative Consumer and Industry Panels.	Suggestions evaluated and responded to.	Attendance by staff and senior executives at Panel meetings as required.
Maintain a good working relationship with the Credit Union Advisory Committee.	Advice evaluated and responded to.	Meetings and discussions held with the Credit Union Advisory Committee on a regular basis.
Maintain a good working relationship with the representative bodies of the financial services industry, credit unions, consumer and community groups.	Number of meetings with the sector.	Senior executives held 273 meetings (incl. 10 conferences) with stakeholders.
Implement a corporate communications strategy, with particular focus on broader stakeholder communications.	Publish 4 issues of Regulatory Connection and 2 issues of RCU News per year. Qualitative analysis of media campaigns – mid-2008.	3 issues of Regulatory Connection published. 2 issues of RCU News published. Completed October 2008.
Support education in financial services compliance.	Participation in appropriate education and training fora.	Participated in relevant seminars and conferences, as appropriate.
Review operation of the first year's operation of the Stakeholder Protocol for our principal interactions with industry and consumers.	Review of Protocol to be completed by September 2008. Complaints mechanism established by July 2008.	Central monitoring (and review) of Protocol suspended in 2008 to await electronic solution for the collation of statistics.

APPENDIX 2

Measures of Competition

Measures of Competition

As in previous years we have calculated five-firm concentration ratios and Herfindahl-Hirschman (HH) indices to measure industry concentration (and by inference, the degree of market power exercised by the largest firms in key segments of the insurance and banking industries)⁶⁰.

The significance of both concentration ratios and HH indices is that a low ratio or index may be indicative of many market participants and therefore limited opportunity to exercise market power. Conversely, high ratios and indices may be indicative of a concentrated market in which price rises may be easier to sustain.

The five-firm concentration ratio measures the percentage of total market share held by the five largest firms. Concentration ratios can fall into low, medium, and high concentration.

Low Concentration: A concentration ratio of 0 to 50 percent is commonly interpreted as a competitive industry with many market participants, resulting in limited opportunities to exercise market power.

Medium Concentration: A concentration ratio of 50 to 80 percent is considered an industry with medium concentration displaying modest levels of competition.

High Concentration: An industry with a concentration ratio of 80 to 100 percent is commonly viewed as a highly concentrated, uncompetitive market in which price rises may be easier to sustain.

Herfindahl-Hirschman Indices (HHI) are calculated by squaring the market share of each participant in a market and then summing the results. The higher the HH number, the more concentrated is market power. Increases in the index occur as the number of competitors in a market decreases and/or the disparity in size between firms increases. Markets in which the HHI is between 1000 and 1800 points are considered to be moderately concentrated, and those in which the HHI is in excess of 1800 points are considered to be concentrated.

Five Firm Concentration Ratios in Key Segments in the Insurance Industry

	2001	2002	2003	2004	2005	2006	2007
Motor Insurance	76.96	73.99	80.60	81.92	81.42	81.65	82.30
Property Insurance	80.21	79.46	77.52	78.86	76.95	80.18	81.77
Liability Insurance	65.96	62.68	64.38	65.26	66.69	72.08	71.04
Life Insurance	61.33	69.92	71.50	74.61	77.94	79.10	81.97

Source: Calculations based on figures quoted in the Insurance Annual Reports 2001-2002 and Insurance Statistical Reviews 2003-2007. As at the date of publication, data for 2008 is not available.

⁶⁰ It is important to recognise that the measures we have used may understate the true level of concentration within sub sections of the market.

Herfindahl-Hirschman Indices in Key Segments in the Insurance Industry

	2001	2002	2003	2004	2005	2006	2007
Motor Insurance	1,671.05	1,474.12	1,681.77	1,658.87	1,532.29	1,549.51	1,562.96
Property Insurance	1,658.69	1,593.03	1,521.99	1,546.03	1,503.01	1,546.00	1,582.24
Liability Insurance	1,134.84	1,104.54	1,098.20	1,097.23	1,133.91	1,233.21	1,236.43
Life Insurance	1,008.69	1,369.90	1,433.25	1,869.26	1,814.89	1,866.56	2,143.29

Source: Calculations based on figures quoted in the Insurance Annual Reports 2001-2002 and Insurance Statistical Reviews 2003-2007. As at the date of publication, data for 2008 is not available.

Looking specifically at trends between 2005 to 2007, the motor and property insurance markets saw slight increases in the HH indices, which could indicate an increase in the market share of the dominant firms. The increase in the concentration ratios provides further evidence for this assertion.

Following a corporate restructure during 2006 in the liability market, there is a slight decrease in the five firm concentration ratios for 2007, with the HH index having a similar figure to the previous year.

There is a slight increase of almost 3 per cent in the five firm concentration ratios and an increase of 277 points in the life insurance market. This follows a similar trend since 2005 with the market becoming increasingly concentrated.

Five Firm Concentration Ratios in Key Segments in the Banking Industry

	2001	2002	2003	2004	2005	2006	2007	2008
Credit Cards	-	91.47	92.19	92.86	92.75	93.08	90.94	89.30
Terms/Revolving Loans	75.28	74.39	75.32	74.35	76.52	82.03	85.13	87.25
Residential Mortgages	74.18	73.84	73.00	68.44	66.47	66.33	68.00	68.16
Current Accounts	86.92	90.03	88.88	90.92	93.29	90.56	92.35	90.23

Figures for credit cards are not available for 2001.

Herfindahl-Hirschman Indices in Key Segments in the Banking Industry⁶¹

	2001	2002	2003	2004	2005	2006	2007	2008
Credit Cards	2,744.31	2,488.47	2,410.81	2,327.84	2,286.24	2,332.03	2,236.67	2,144.29
Terms/Revolving Loans	1,375.40	1,331.23	1,380.05	1,469.03	1,512.27	1,674.01	1,842.67	1,906.51
Residential Mortgages ⁶⁰	1,288.56	1,271.75	1,253.96	1,151.12	1,123.72	1,132.21	1,191.60	1,200.00
Current Accounts	2,516.95	2,728.80	2,654.71	2,760.01	2,899.87	2,598.98	2,603.11	2,507.53

⁶¹ Residential mortgages adjusted for securitisations

Although the credit card market continues to be concentrated, 2008 saw a small increase in competition with a 1.64 per cent reduction in the five firm concentration ratios and a drop of almost 93 points in the HH index.

The term/revolving loan market showed an increase of 2 per cent in the five-firm concentration ratio and an increase of 64 points in the HH index revealing an increasingly concentrated market.

In the residential mortgage market, there was a slight increase in its concentration from the previous year. The market maintains moderate concentration.

The current account market saw a 2 per cent reduction in concentration and a drop of almost 100 points in the HH index. However, this market still remains highly concentrated.

