



**Financial Services Commission**  
Mauritius

Annual Report 2008

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**Financial Services Commission  
Mauritius**

**Annual Report**  
for the year 1 July 2007 to 30 June 2008

**In carrying its mission, the Financial Services Commission aims to:**

- promote the development, fairness, efficiency and transparency of financial institutions and capital markets in Mauritius;
- suppress crime and malpractices so as to provide protection to members of the public investing in non bank financial products;
- ensure the soundness and stability of the financial system in Mauritius for the benefit of the economy.



## Chairman of the Board



**Mr Said Laloo**  
Chairman

Mr. Laloo has worked at directorate Level in the Finance Departments of the African Development Bank, from 1981 to 1990. Prior to this, he served a long career in the Ministry of Finance and was Chief Accountant from 1971 to 1981. He had previously worked at the Government Audit Department for 16 years.

Mr Laloo was the Director of the National Investment Trust from 1994 to 2005 and held the post of Chairman from 2003 to 2004. He has also served as Chairman of the National Housing Development Corporation from 1993 to 2000, and as Director of the State Investment Corporation from 1994 to 2004.

Mr Laloo is a fellow member of the Association of Chartered Certified Accountants.



## Members of the Board



**Mr Satyajit Boolell**  
Vice Chairman

Mr Boolell was admitted to the Mauritian Bar in 1985 and joined the Attorney General's Office the following year. He was subsequently appointed Parliamentary Counsel in 2003, post which he occupies to date. Mr Boolell holds a postgraduate law degree in Finance and Banking from Kings College, University of London. He is also lecturer at the Council of Legal Education and a member of the Law Reform Commission.

Mr Boolell has represented the Government at various international conferences, expert meetings and negotiations. He has appeared for the Government before the Judicial Committee of the Privy Council on a number of occasions.

Mr Chellapermal is Director, Financial Policy Analysis at the Ministry of Finance and Economic Empowerment.

After working in the private sector for 6 years, Mr. Chellapermal joined the Ministry of Finance in 1983, where he has been involved in various projects relating to the financial services sector including the setting up of the Stock Exchange. Mr Chellapermal also assisted in the review of company legislation and the regulatory framework governing international business. He has also served on various committees, including the Company Law Advisory Committee and the Mauritius Accounting and Auditing Standards Committee. Mr Chellapermal is a member of the Association of Chartered Certified Accountants since 1980.



**Radhakrishna Chellapermal**

## Members of the Board



**Sanjay Gopaul**

Mr Gopaul is an economist and a graduate of the London School of Economics. He is the lead partner in DCDM E&M, an independent economic and management consultancy firm, part of the De Chazal Du Mée organisation. Before joining the private sector in 1999, he conducted research on export market development and foreign direct investment for the Mauritius Export Development and Investment Authority. He now practices as a management consultant and works almost exclusively in sub-Saharan Africa. Mr Gopaul advises governments and public sector institutions on privatisation, public sector reform and organisational restructuring. He is also widely solicited by the private sector for advice on corporate strategy and new business ventures.

After graduating from Oxford University in Engineering and Computing Science, Mr Lew Kew Lin set up one of the first BPO companies in Mauritius in 1990, specialising in Desktop Publishing for export. He is presently the Managing director of the local branch of the French-based Diadeis Group. He was formerly the Chairperson of the Mauritius Institute Advisory Council and of the Board of the Export Processing Zone Development Authority. He has also served on various boards and committees, including the National Computer Board, the Board of Governors of the University of Technology, Mauritius as well as the Board of a private bank.



**Oliver Lew Kew Lin**

## Members of the Board



**Raj Makoond**

Mr Makoond is the Executive Director of the Joint Economic Council (JEC). He is also a member of the Board of Investment and of the Empowerment Programme. He is Director of the European Centre for Development Policy Management (ECDPM) and member of the Mauritius Negotiating Team on WTO matters as well as ACP-EU relations.

Mr Makoond has served as the Deputy-Secretary General of the Mauritius Chamber of Commerce & Industry from 1990 to 1993. From 1976 to 1990, he was economist and senior economist at the Ministry of Economic Planning & Development and was seconded to the Ministry of Commerce and Deputy Prime Minister's Office and Ministry of Tourism. He was also board member of Enterprise Mauritius from 2004 to 2007.

Mr Makoond holds a BA in Economics and an MSc in Tourism Planning.

Ms Philips is a practicing Attorney since 1995 and holds a *Maîtrise en droit*. She has previously worked in the banking sector as in-house lawyer for the BNPI Group. She specialises in company law, commercial law, bankruptcy law, insurance, financial services and banking, as well as civil law.

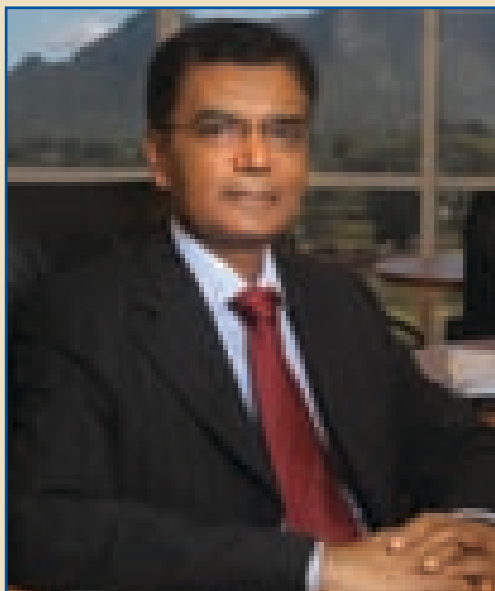
Ms Philips is currently Chairperson of the American Chamber of Commerce-Mauritius.



**Mary Anne Philips**



## Chief Executive



**Mr Milan J. N. Meetarbhan**  
Chief Executive

Mr Meetarbhan has long been associated with the development of the financial services sector in Mauritius.

Having acted as legal adviser to the Ministry of Finance from 1986 to 1990, he was involved in the setting up of the Stock Exchange of Mauritius. Subsequently, he was appointed as a member of the Stock Exchange Commission.

He also served as the Chairperson of the Financial Services Consultative Committee, set up by the Government in 1997 to review a comprehensive set of legislations relating to the financial services sector.

Mr Meetarbhan was called to the Bar at the Middle Temple in London. He also obtained a Doctorate in International Law from the Sorbonne in Paris.

As a legal consultant, he has been actively engaged in the global business sector since 1994. He has advised a number of international corporations operating in the sector and has also served as a director on the boards of several companies and funds.

He previously occupied the post of Senior Policy Adviser to the Prime Minister from 1995 to 1998 and served as Chairperson of Mauritius Telecom from 1998 to 2000.

Formerly Associate Professor of Law and Head of the Law Department at the University of Mauritius, Mr Meetarbhan was conferred the title of Honorary Fellow in Law by the University of Mauritius in October 2007.

## Chairman's Statement

The Financial intermediation sector in Mauritius has grown by 7.5% in 2007<sup>1</sup>. The Financial Services Commission has been striving towards the consolidation of a flexible regulatory environment for financial services other than banking. The existing framework, based on international norms and best practices, has reinforced the position of Mauritius as a sound jurisdiction in line with the Commission's statutory functions to contribute to the development of sectors it regulates.

According to the National Accounts Estimates, it is forecast that the contribution of the Financial intermediation sector to the Mauritian GDP will be around 10.6 % by the end of 2008<sup>1</sup>. As a result of the strategic decisions made at macroeconomic level, the financial sector remained strong in face of international competitive environment. This momentum should be maintained.

During the period under review, the world economy experienced a downward turn following several years of healthy growth. The US sub-prime mortgage crisis and its consequences on the rest of the international markets have led to rethinking the importance and role of regulation in the global financial sector. In Mauritius, as a result of strategic decisions made at macroeconomic level, the financial services sector has shown strong resilience to international economic challenges.

During the year under review, the Financial Services Commission has taken several measures towards a more effective regulation of the financial services sector. Major regulatory changes have been brought to enhance our legislative framework in 2007. The enactment of the Financial Services Act 2007 aims at contributing to the development of the sector while safeguarding the integrity of our financial market.

*“In an ever increasingly competitive international environment, I believe that industry operators should come up with innovative products and services in order to diversify the range of financial services available to clients and to compete on a level-playing field with other jurisdictions.”*

<sup>1</sup>Source: National Accounts Estimates June 2008 Issue

## Chairman's Statement

It is undoubtedly a crucial component of competitiveness for attracting international financial businesses and value-added activities to Mauritius, as it paves the way for consolidating our reputation of transparency and good governance.

The setting up of the Global Board of Trade in Mauritius also comes at the right moment. The exchange will allow Mauritius to play a more prominent role in international finance and forge the required synergies between the export of commodities, financial and business services and create a more active domestic capital market.

The FSC has continued to work closely with all stakeholders to ensure that high quality services are provided with a view to maintain the good repute of Mauritius as an attractive hub for financial services.

In an ever increasingly competitive international environment, I believe that industry operators should come up with innovative products and services in order to diversify the range of financial services available to clients and to compete on a level-playing field with other jurisdictions.

The Board of the Commission has, over the period under review, continued to exercise its duties within an efficient institutional framework, which favours transparency, good governance and a strong sense of vision, to spearhead the development of the financial services sector other than banking in Mauritius.

Let me convey my sincere thanks to the Vice-Chairman and to the members of the Board, as well as to the Chief Executive and his staff, for responding positively to the challenges faced by the financial services sector over the previous year. I am confident that the relentless work which the team has started will continue to bear fruits in the years to come.



**Said Lalloo**

*Chairman*

## Chief Executive's Statement

The year under review has been an eventful one for the Commission. It has been one of intense legislative activity. It was a year when the Commission had to resort to serious regulatory action. It was also the year during which the Commission acquired new premises and moved out of Port Louis.

### New legislative framework

A whole new legislative framework for the financial services sector came into force on 28 September 2007. The FSC assisted in the drafting of the new Financial Services Bill and the Bills amending the Insurance Act 2005 and the Securities Act 2005, which were all adopted by the National Assembly on 24 July 2007. The FSC was also very much involved with the drafting of Regulations and Rules made under the new Acts.

We have, after consultations with the industry, issued circulars and guidelines explaining upfront how the Commission proposes to apply the new rules so that service providers and investors know what to expect. We also agreed to requests from the industry to support workshops and training initiatives to promote better understanding of the new legal framework.

The new rules drafted and published during this period include new solvency rules for insurance companies and the first ever comprehensive legal framework for Collective Investment Schemes and for insurance brokers.

The Commission also adopted during the same period the first codified list of all licenses, registrations and authorisations issued or granted by the FSC. The new Licensing Rules provide a specific code for each licence/registration/authorisation, the appropriate requirements and the relevant fees. The Financial Services Act had already introduced a common licensing and regulatory framework for all financial services coming under the purview of the Commission. This framework, however, distinguishes between service providers and investors only applying for a Global Business Licence. However a Global Business Company providing financial services will be governed by the regime applicable to service providers.

*“ We have also continued the process of organisational changes to make the move from sectoral regulation to integrated regulation a reality by getting various functional and sectoral units within the Commission to work together and adopt a more integrated approach, to financial services.”*



## Chief Executive's Statement

The Financial Services Act introduced a new conceptual approach to Global Business. Henceforth, the common regime applicable to all resident corporations (companies, sociétés, trusts or other entities governed by Mauritian law) provides that corporations conducting business outside Mauritius may apply for a Global Business Licence. Thus, for certain regulatory and fiscal purposes there are two regimes for Mauritian resident corporations: one for those conducting business in Mauritius and the other for those conducting business outside Mauritius.

The Commission has explained that in determining if the company is conducting business outside Mauritius, it will apply the Ultimate Purpose Test. If the ultimate purpose of the company is to invest in a country outside Mauritius or provide a service outside Mauritius, the company which is controlled and managed in Mauritius, carries out its main banking transactions in Mauritius, employs staff in Mauritius and conducts other activities in Mauritius in connection with its ultimate purpose, will qualify for a Global Business Licence.

The revised legal framework also provides that all applications for a Global Business Licence must be made through a Management Company and that Category 1 Global Business Companies must be administered by Management Companies. The Commission has made rules providing for charges with respect to late payment of Global Business Licences which will lapse if fees remain unpaid for a year. The rules also provide for reinstatement of the lapsed licences in certain circumstances.

The Financial Services Act has, for the first time provided that all industry associations and other entities in any of the sectors regulated by the Commission may apply for designation as Self Regulatory Organisations. The Commission would then delegate some of its supervisory functions to the SRO.

The Commission has during the year under review initiated a Refocusing exercise aimed at ensuring that in addition to its operational functions, the Commission also enhances its developmental role. A Policy and Development Committee and sectoral caucuses have been set up to enable all members of staff to contribute to the development of the financial services sector.

We have also continued the process of organisational changes to make the move from sectoral regulation to integrated regulation a reality by getting various functional and sectoral units within the Commission to work together and adopt a more integrated approach to financial services. We have also set up Specialised teams for Collective Investment Schemes and for Pensions to prepare for expected developments in the fund industry and pension regulation.

At the same time we improved administrative, financial and procurement procedures and reinforced the role and functions of the Internal Auditor. To strengthen capacity, the Commission conducted an international recruitment exercise as a result of which an Adviser on Insurance matters and a new Head of Capital Markets were appointed.

## Chief Executive's Statement

### Regulatory Action

The FSC has a developmental role but it is also a law enforcement agency. It has a statutory duty to enforce the law.

The FSC, as other regulators across the world, is called upon to take disciplinary or regulatory measures as and when required. Of course, a regulator does not do so lightly. It may engage in constructive dialogue with a licensee to urge remedial action failing which the regulator must be prepared to take regulatory action.

During the financial year 2007/2008, the Commission has had to take regulatory action in a number of cases. These include the suspension of an insurance licence and initiating winding up proceedings which led to the appointment of a Provisional Liquidator and termination of the licence of that insurer; the appointment (for the first time) of a Conservator for another insurance company; proceedings against a leasing company operating without a licence and requiring a shareholder to divest shares in an insurance company acquired in breach of the law.

### FSC House

In spite of the very heavy schedule during the year under review, the Board and the staff of the Commission have also had to handle a number of legal, technical and logistic issues in relation to the purchase of a new building and the move to Ebene. It was in the long term interests of the Commission to have a building of its own not only because this would make more economic sense but also because it would enable us to meet

specific requirements of an independent regulator. The establishment of FSC House will no doubt remain a milestone in the history of the Commission.

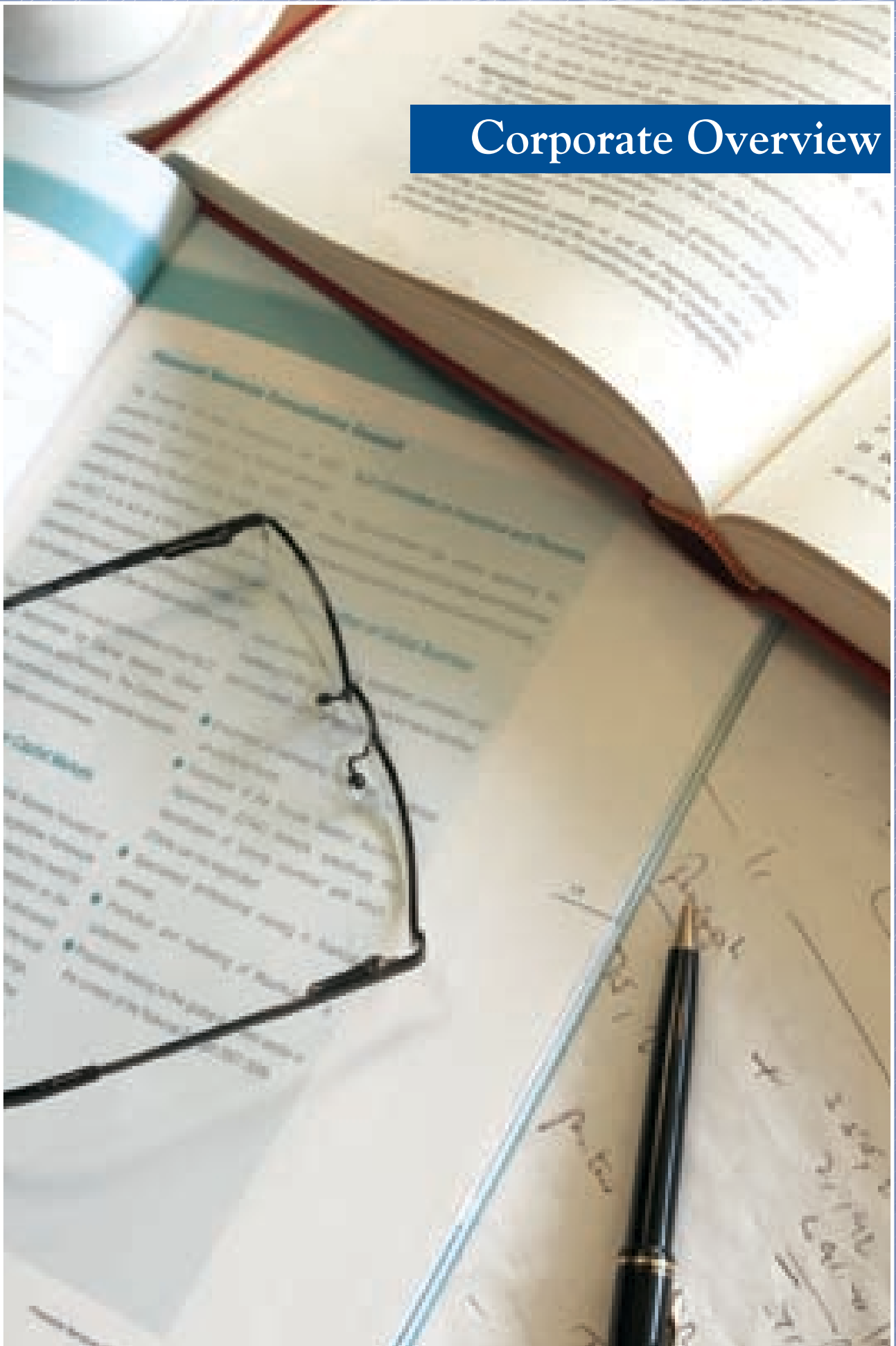
The last financial year saw significant overall growth in the sectors regulated by the Commission. However, the talent crunch in the financial services sector continues to be a matter of concern for the industry and the regulator. Maintaining and enhancing the competitiveness of the jurisdiction is another major challenge. Product diversification and quality of services are also major priority areas that will have to be addressed. The collaborative effort of the public and private sectors to promote the Mauritian International Financial Centre need to be pursued with vigour.

The financial year 2007/2008 has been a momentous one for the Commission: a new legal framework, a new fee structure, new premises – all in the same year. Indeed it was the year when the FSC further consolidated its capacity to operate in an effective and independent manner to fulfill its statutory objectives. This would not have been possible without the valuable support of the Chairman and members of the Board and a dedicated team of staff members who have proved most enterprising during this eventful year. My thanks go to all of them and to the industry representatives who have continued to provide constructive support and cooperation.



**J.N. Meetarbhan**  
Chief Executive

# Corporate Overview



## Corporate Overview

### About FSC

#### 1. About FSC

The Financial Services Commission (FSC) is the integrated regulator for global business and the financial services sector other than banking in Mauritius. The FSC was established in 2001 and operates under the Financial Services Act 2007 to license, regulate, monitor and supervise the conduct of business activities in these sectors.

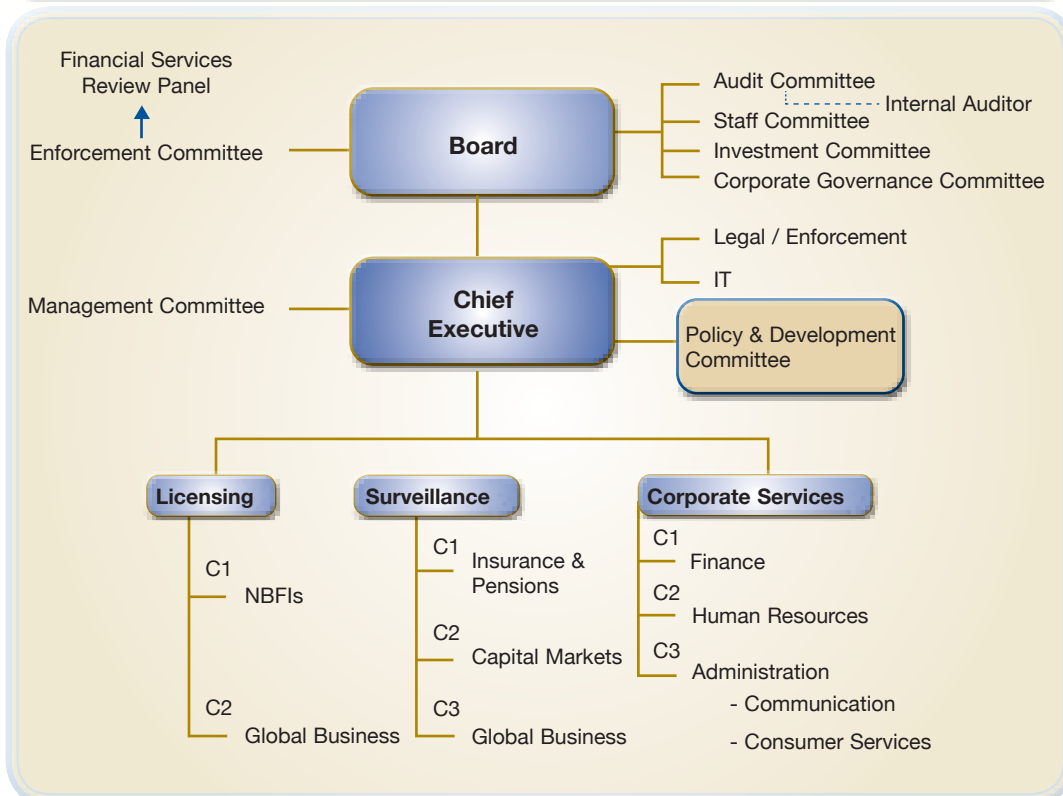
The main objective of the FSC is to foster a sound economic environment

conducive to promoting business and safeguarding the integrity of Mauritius as an International Financial Centre (IFC) of repute.

The FSC operates within a broad and flexible regulatory framework which has been consolidated by the coming into force of a new Financial Services Act, Securities Act, Insurance Act, as well as Rules and Regulations issued during the year under review.

The organisational structure of the FSC is as follows:

**Chart 1: FSC Organisational Structure**





## Corporate Overview

### Enhancing the Institutional Framework and Building on Human Capital

#### 1.2 Enhancing the Institutional Framework and Building on Human Capital

##### Refocusing Operations

One of the statutory objectives of the FSC is to work on new avenues for developing the financial services sector and take full advantage of new opportunities for achieving economic sustainability.

The main focus of the FSC over the years has been to ensure orderly administration and sound business practices in the non-bank financial services industry. The year 2008 has been a landmark one for the FSC. During the year under review, the FSC carried out a self assessment exercise in respect of the delivery of its statutory objectives. Retreats and brainstorming sessions were organised providing staff with the opportunity to reflect on operations, research areas and systems following which a two-fold strategy was adopted: (i) consolidation of operational functions and (ii) enhancing the developmental role of the FSC.

This was followed by a workshop specifically on "Refocusing Operations". An enhanced institutional framework was consequently devised and a Policy and Development Committee (PDC) was set up to provide opportunities to all staff to contribute to the developmental role

of the FSC. The PDC consists of a Main Committee and three sectoral caucuses and is assisted by full-time staff.

A CIS Specialised Team was also created to assist on operational and technical issues related to the supervision of collective investment schemes and the development of this industry in Mauritius. The new structures brought about the appropriate platform for the FSC to interact with the industry and the government on major policy issues.

##### Attracting People with Industry Experience

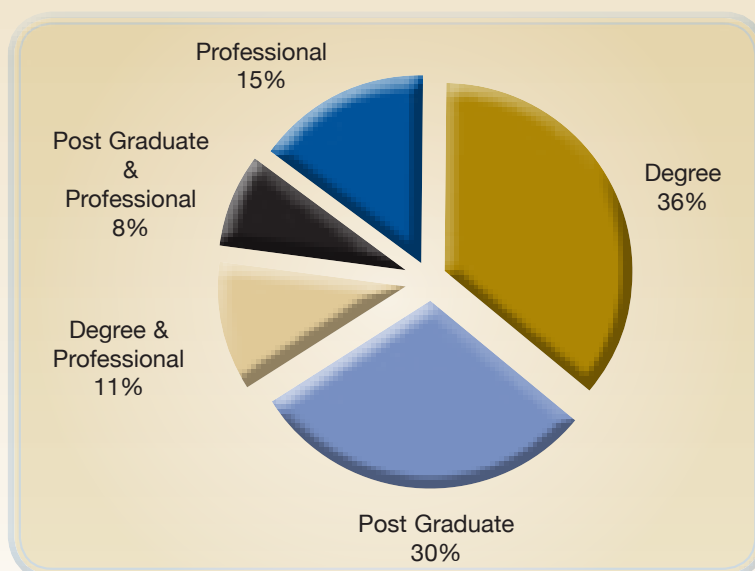
During the period under review, the FSC has focused its recruitment strategy on reinforcing mainly its Insurance & Pensions and Legal & Enforcement teams. 17 new staff members joined the FSC, out of whom 7 have a legal background and 4 an actuarial background. An expatriate adviser on insurance matters with long regulatory experience was recruited to assist in the implementation of the revised Insurance Act and in the formulation of rules and guidelines.

As at 30 June 2008, the FSC had a total workforce of 127 staff members. The following chart shows the qualification profile of the graduates and professional staff at the FSC.

## Corporate Overview

### Enhancing the Institutional Framework and Building on Human Capital

**Chart 2: Breakdown of Qualification Profile**



### Strengthening Capabilities

Our success as an effective regulator and supervisor of the non-banking financial services sector fundamentally depends on the quality of our human resource base. Committed and capable staff, possessing the right skills and attitudes, is critical to ensure the successful delivery of our statutory objectives.

The FSC has continued in its sustained effort to invest heavily in learning and development during the past year. Staff have benefited from local training as well as overseas exposure. Furthermore, in order to promote the concept of self-help learning, a series of in-house workshops, seminars and training sessions have been organised.

### Enhancing Knowledge

The Knowledge Management (KM) initiative has now gathered momentum following the KM awareness campaign undertaken during the last year. A road map has been elaborated for the implementation of KM. The Licensing Directorate has been earmarked as the focus group for piloting the project. A knowledge audit has been conducted to assess the knowledge gap. Strategies are now being worked out for the capture, documentation and sharing of explicit as well as tacit knowledge.

## Corporate Overview

### **Financial Services Consultative Council (FSCC)**

Further to the establishment of the FSCC in 2006, the FSC participated in its sub-committees set up sector-wise for Capital Markets, Global Business and Insurance. The FSC also provided administrative and secretarial supports to the sub-committees.

#### **Sub-Committee on Capital Markets**

The FSCC Sub-Committee on Capital Markets provided its contribution to the Securities Amendment Act 2005. The Sub-Committee also studied the avenues to strengthen the capital markets industry and encourage more companies to be listed on the Stock Exchange of Mauritius.

#### **Sub-Committee on Global Business**

The FSCC Sub-Committee on Global Business met four times during the year under review. To further consolidate the regulatory framework and enhance the business friendly environment, the Sub-

Committee submitted proposals for several amendments to be brought to the legal, regulatory and fiscal Global Business framework. These proposals were submitted to the Ministry of Finance and other relevant authorities for consideration.

The Sub-Committee also made contributions to the Financial Services (Consolidated Licensing and Fees) Rules 2008, the proposed Solvency legislation and the introduction of the PRIMA legislation.

#### **Sub-Committee on Insurance**

The FSCC Sub-Committee on Insurance held six meetings during the year 2007/2008. The Sub-Committee reviewed the general state of the industry and held discussions on the new legal framework as well as strategic issues affecting the Insurance sector. Proposals were made for amendments to the Mauritian Civil Code, Brokers Regulations, standardisation of policy wordings, payment of premium in advance and insurance of Mauritian Assets overseas.





## Promoting Efficient and Sustainable Markets



## Promoting Efficient and Sustainable Markets

### I. Enhancing the Regulatory Framework

## I Enhancing the Regulatory Framework

### 2.1 The Financial Services Act 2007

The Financial Services Act 2007 ('the FSA') came into operation on 28 September 2007, repealing the Financial Services Development Act 2001 and the Financial Services Development (Amendment) Act 2005. The FSA streamlines and consolidates the regulatory framework for Financial Institutions and Financial Service Providers other than Banks. The Act has introduced new provisions in line with international best practices on fit and proper requirements, appointment of controllers, officers and beneficial owners.

The FSA has also introduced a new conceptual approach to Global Business. The FSA clearly specifies the regime applicable to Financial Services and Global Business while making a distinction between service providers and investors. The definition of Global Business has also been revised in the new legislation. Henceforth, any Mauritian corporation conducting business outside Mauritius will qualify for a Global Business Licence. In determining whether an applicant qualifies for a Global Business Licence, the FSC will apply the Ultimate Purpose Test, that is, whether the ultimate purpose of the company is an investment or providing a service outside Mauritius. This new approach does not limit the scope of work being conducted in Mauritius in connection with the ultimate purpose of the company. In fact, the measures introduced by the FSA aim at encouraging global business companies to have more substance in Mauritius.

#### New Definition of Global Business

A resident corporation which proposes to conduct business outside Mauritius may apply to the FSC for a Category 1 Global Business Licence or a Category 2 Global Business Licence (section 71 (1) of the FSA refers).

## Promoting Efficient and Sustainable Markets

### I. Enhancing the Regulatory Framework

The FSA does not provide for any restriction on the range of business activities that may be conducted by GBC 1's provided the relevant licences, authorisations, approvals or registrations are obtained. By allowing a larger scope of work to be conducted in Mauritius by a GBC 1, the FSA enhances substance and promotes value-addition.

Furthermore, this legislation has extended the legal provisions for Self-Regulatory Organisations (SROs) to all sectors under the purview of the FSC. The FSC can thus delegate certain supervisory and regulatory powers to the SROs. In this respect, industry associations may be declared or designated as SROs to assist in the supervision and regulation of a particular sector.

The new legislation has also strengthened the powers of the FSC to ensure an effective supervision of its licensees. The scope of the inspection and investigative powers has thus been widened while

new provisions with regards to injunctive relief, freezing of assets and enforceable undertakings have been added. Moreover, the FSA has put in place a proper enforcement regime with the setting up of an Enforcement Committee, and a Financial Services Review Panel which will act independently from the FSC.

### 2.2 The Insurance Act 2005

The period under review has been eventful for the insurance sector. The Insurance Act 2005 (IA), the Insurance (Long Term Insurance Business Solvency) Rules 2007, the Insurance (General Insurance Business Solvency) Rules 2007, the Insurance (Statutory Reinsurer) Rules 2007, the Insurance (Returns) Rules 2007 and the Insurance Regulations 2007 were promulgated on 28 September 2007. Two Guidelines - the Stress Test Guideline for Long Term Insurers and the Guideline on Contingency Plan were also issued.

## Promoting Efficient and Sustainable Markets

### I. Enhancing the Regulatory Framework

#### Main Transitional Provisions

- An existing insurer carrying on both long term and general insurance businesses has by 01 January 2011 to segregate its insurance businesses.
- Any significant shareholder of an existing insurer is deemed to have obtained the authorisation of the FSC under section 27 of the Act.
- An existing insurer not maintaining the solvency margin has by 01 January 2011 to satisfy the FSC that it has an appropriate contingency plan structured on an annual basis or as the FSC may determine.

The main objective of the IA is to enhance the regulatory and supervisory frameworks for the insurance industry and to provide greater protection to policyholders. The IA has incorporated the standards and principles of the IAIS and included specific regulatory and supervisory issues such as segregation of general business from long term business, solvency and minimum capital requirements, licensing of insurance brokers and agents, corporate governance, control on shareholding of insurers and whistle blowing provisions applicable to officers of insurers, actuaries and auditors. The Act also contains transitional provisions on several issues such as segregation of insurance business, significant shareholders of existing insurers and solvency requirements.

#### Solvency Rules

The Insurance (Long Term Insurance Business Solvency) Rules 2007 and the Insurance (General Insurance Business Solvency) Rules 2007 were issued, after extensive consultation with the industry. The solvency rules outline inter alia:

- the capital framework, using a risk-based formula, for determining the minimum capital requirement;
- the investment concentration limits; and
- the method for valuing assets.

The Guidelines on Stress Test Requirements for Long Term Insurers require these insurers to maintain additional capital to protect their solvency against unexpected adverse shocks, in such a way that the excess of assets over liabilities are sufficient to meet their ongoing liabilities.



## Promoting Efficient and Sustainable Markets

### I. Enhancing the Regulatory Framework

Where the solvency margin of an insurer is less than that required to be maintained, the insurer must immediately inform the FSC and submit a contingency plan that will ensure its compliance with the solvency requirements. Several meetings were held with insurers to provide clarification on the application of the solvency rules and the contingency plan.

#### Guidelines on Contingency Plan

During the year under review, the FSC worked on guidelines to provide a broad structure for the contingency plan. The Guidelines are meant to provide the minimum standards for the contingency plans. As part of its collaborative strategy with all stakeholders, the FSC invited comments from insurers before issuing the guidelines in March 2008.

#### Insurance Brokers Rules

Insurance Intermediaries play an important role in the insurance market. A well defined framework was therefore required to regulate these intermediaries.

During the year under review, the FSC worked on a set of rules for insurance brokers. These rules were circulated to all industry stakeholders for consultation. The Insurance (Insurance Brokers) Rules 2008 were published in the Government Gazette on 14 June 2008.

The rules reinforce the independence of Insurance Brokers and provide for certain restrictions on ownership and significant interest in brokerage firms.

Recent events in the insurance sector over the past year have highlighted

the need for more transparency and consolidation of policyholders' protection. The FSC has introduced in the Insurance (Insurance Brokers) Rules, provisions for the separation of accounts for premium collected by Insurance Brokers. They are now required to keep their funds and premium received in separate accounts for each category of insurance business. Moreover, registers for remuneration of the Insurance Brokers and Broker's fees are to be maintained and returns should be submitted to the FSC.

### 2.3 The Securities Act 2005

The Securities Act 2005 ('SA'), which came into force on 28 September 2007, replaces the previous Stock Exchange Act 1988, and is based on standards recommended by the IOSCO. The main objective of the new Act is to ensure a fair, efficient and transparent securities market and to strike a right balance between the protection of investors and the interests of the securities market in general.

The new Act provides a wider definition of securities and also caters for new categories of licensees such as investment dealers, investment advisers and their representatives. The SA also provides for authorisation of Collective Investment Schemes and closed-end funds as well as licensing provisions for CIS managers and custodians. The SA contains transitional provisions applying in particular to existing stockbrokers, authorised mutual funds and unit trust schemes as well as managers of such schemes.

## Promoting Efficient and Sustainable Markets

### I. Enhancing the Regulatory Framework

#### Main Transitional Provisions

- A person previously licensed as a stockbroker or dealer's representative has a period of one year as from the commencement of the Securities Act to apply for a licence as an investment dealer or representative of an investment dealer.
- Authorised mutual funds and unit trust schemes have a period of five years as from the commencement of the Act to seek an authorisation, whilst the Manager of a unit trust scheme should apply within three years for a licence as a CIS Manager.
- Any company holding a Category 1 Global Business Licence and conducting either the business of an investment adviser or investment dealer has 3 months before the expiry of the one-year period as from the commencement of the Act to apply for a licence as investment adviser or investment dealer, as the case may be.

The Securities Act 2005 also introduced the concept of Reporting Issuers. These issuers, as defined under Section 86 of the Act, include entities that have more than 100 shareholders or are listed on the Stock Exchange of Mauritius. The Securities (Disclosure Obligations of Reporting Issuers) Rules 2007 provide for reporting obligations of Reporting Issuers and aim at giving additional disclosures to shareholders to enable them to make informed decisions.

#### New Collective Investment Scheme Regulations

The coming into force of the SA has strengthened the regulatory framework for the investment business sector. This structure has subsequently been consolidated through the Securities (Collective Investment Schemes and Closed-end Funds) Regulations 2008. These Regulations have been drafted in consultation with stakeholders of the industry and were published in the Government Gazette on 10 May 2008 and deemed to have come into force as from 28 September 2007.

The Securities (Collective Investment Schemes and Closed-end Funds) Regulations 2008 also provide for the sound conduct and operation of Collective Investment Schemes (CIS), closed-end funds and their functionaries. To promote or operate a CIS or a closed-end fund in Mauritius, the entity has to be authorised or recognised by the FSC. The activities of the functionaries, namely the CIS Manager, Custodian and CIS Administrator are also subject to a licence or approval from the FSC.

## Promoting Efficient and Sustainable Markets

### I. Enhancing the Regulatory Framework

The SA and the Regulations provide the legal framework within which a CIS can be constituted as well as the requirements relating to price, offer of documents or prospectus. They also provide for reporting and other disclosures, investment practices and restrictions amongst other best practices. The new law also provides for investors having specific objectives and possessing specialised knowledge of markets. Professional CIS, Specialised CIS and Expert Fund are available to those investors.

As far as functionaries are concerned, this framework also defines the criteria for eligibility to a licence or approval, their activities and responsibilities with respect to the CIS or Closed-end fund they service, as well as the investors and the market in general.

#### 2.4 Pensions Bill

A draft Private Occupational Pension Scheme Bill which provides for a regulatory and supervisory framework for private occupational pension schemes including sponsoring employers and

pension scheme managers has been prepared by the FSC during the year under review.

The objective of the draft Bill is to ensure the protection of the members and beneficiaries of private occupational pension schemes and the soundness of the schemes.

The proposed legislation is aiming inter alia at:

- i) achieving and ensuring the orderly growth of a well-developed private occupational pensions industry in Mauritius;
- ii) promoting confidence in the private occupational pensions industry; and
- iii) maintaining a fair, safe, stable and efficient Private Occupational Pension industry for the benefit of Pension Scheme Members.

The Ministry of Finance has started consultations on the new Bill.

## Promoting Efficient and Sustainable Markets

### I. Enhancing the Regulatory Framework

#### 2.5 New Licensing Framework

##### The Codified List

For the first time, the FSC has included in the Rules an exhaustive codified list of all services and activities which require a licence, authorisation, approval or registration from the FSC.

Each licensable activity or service has been allocated a code from which the prospective applicants will be able to ascertain the relevant licence, legal provisions, licensing requirements and fees applicable to the particular business they propose to conduct.

Since the coming into force of the new Acts, the FSC has issued a number of regulations, rules and guidelines. The objective of the Financial Services (Consolidated Licensing and Fees) Rules 2008 (the Rules) is to complement the licensing framework for all licensees. These Rules came into operation on 22 March 2008.

The new licensing framework aims at reinforcing FSC's business friendly approach to regulation by streamlining the licensing process within a well defined and consolidated framework. The Rules provide for, inter alia, a clear set of licensing criteria and requirements for investors, financial institutions and service providers.

The FSC has also introduced a new fee structure under the Rules. This was done following consultations with industry representatives.



## Promoting Efficient and Sustainable Markets

### II. Improving our Business Capability and Effectiveness

## II Improving our Business Capability and Effectiveness

### 2.6 Risk Based Supervision

In the last financial year, the FSC has taken important steps to adopt a risk-based supervision approach.

The proposed new risk-based supervision framework has two primary objectives namely, to focus supervisory resources on risks that have the greatest potential to undermine the FSC's regulatory objectives, and to enable the FSC to detect and take action against emerging trends or circumstances that could become sources of risk in the future if not checked.

The proposed development and implementation of the risk-based supervision system at the FSC is in two main phases:

- *Consulting Phase* comprising of project initiation, identification of risk governance parameters, building a scoring methodology for risk assessment, construction of a risk governance index and implementation of a logical data model;
- *Technology Implementation Phase* comprising of implementation of the necessary technology infrastructure and implementation of the risk-based supervision system.

At the end of the year under review, the Consulting Phase had been completed and the project had reached the last stage of the Technology Implementation Phase. The supplier has designed and developed a software application that allows online data collection of financial data from licensees and provides for the risk assessment, impact assessment, score analysis and supervisory bucket of rated supervised entities. The proposed infrastructure would technically allow licensees to submit data online to the FSC and thus provide necessary input to the risk-based supervision framework.

The most important purpose of an effective risk-based supervision system is to assist the FSC in its supervisory task and to identify individual entities and sectoral priorities within its overall regulated entities. These are critical inputs to the FSC's planning for, acquisition of, and allocation of supervisory resources.

### 2.7 Joint Co-ordination Committee: FSC and BOM

To enhance the efficiency of the financial system and respond to the challenges of the financial services sector, the FSC and the Bank of Mauritius (BOM) have signed a *Protocole D'Accord* in July 2007. It provides for the setting up of a Joint FSC/BOM Co-ordination Committee for the establishment of a co-operation platform between the two institutions so as to maintain a stable financial system in Mauritius.

## Promoting Efficient and Sustainable Markets

### II. Improving our Business Capability and Effectiveness

The main purpose of the *Protocole D'Accord* is to expand on the scope of the Memorandum of Understanding (MOU) signed between the two institutions in December 2002.

It further provides for both parties to agree on the extent of their responsibilities and on harmonisation of their policies with respect to financial institutions under their regulation. The MOU also provides for a quick response to threats to financial stability and information sharing between the two institutions.

The first meeting of the Joint FSC/BOM Co-ordination Committee was held in August 2007 and there were seven subsequent meetings of the Committee during the year under review. Two Sub-Committees were set up, namely the Licensing & Regulatory Sub-Committee and the Supervision Sub-Committee. The main areas of discussion were on harmonisation of policies relating to Prevention of Money Laundering and supervisory avenues for co-operation. The Joint Co-ordination Committee has also considered brokerage fees applicable to treasury bills, recommendations on the recent Financial Sector Assessment Programme report as well as Islamic financing for banking and non-banking activities.

## 2.8 Financial Services Assessment Programme (FSAP)

### Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT)

Further to the voluntarily requested assessment conducted in 2002-2003 in the joint IMF-World Bank Assessment Programme, the Mauritian Government requested in 2007 an update on its financial sector to build on the last FSAP report. This programme was designed to assist the government in assessing the financial sector's strengths, weaknesses and vulnerabilities to macroeconomic shocks, as well as the contribution of the financial system to economic growth and development.

From 24 September to 9 October 2007, a joint team of the IMF and the World Bank, including an Observer from the Eastern and Southern Africa AML Group (ESAAMLG), visited Mauritius to conduct an assessment of the AML/CFT regime. During their mission, the FSAP team had several discussions with the BOM, the FSC, the Financial Intelligence Unit, the Independent Commission Against Corruption, the Police Force, the State Law Office, the Prime Minister's Office, the Registrar of Companies, the Registrar of Associations, Law Practitioners, Management Companies and several other stakeholders.

## Promoting Efficient and Sustainable Markets

### II. Improving our Business Capability and Effectiveness

The assessment was based on the Forty Recommendations 2003 and the Nine Special Recommendations on Terrorist Financing 2001 of the Financial Action Task Force (FATF). It was prepared using the revised AML/CFT assessment Methodology 2004, as updated in February 2007.

The FSAP team reviewed the institutional framework, the relevant AML/CFT laws, regulations and guidelines in place to deter and sanction money laundering and the financing of terrorism through financial institutions. The assessors also examined the implementation and effectiveness of the existing framework.

Finally, the Report was presented and endorsed at the plenary meeting of ESAAMLG in March 2008. It was formally approved and adopted by the ESAAMLG Council of Ministers on 22 August 2008. The Report provides a summary of the AML/CFT framework in place in Mauritius at the time of the mission or shortly thereafter. It describes and analyses measures in place rates Mauritius's levels of compliance with the FATF 40+9 recommendations and provides recommendations for the strengthening of the system.

The FSAP team recognised the significant steps that have been taken by Mauritian authorities in recent years to enhance the AML/CFT framework and the level of the commitment of the relevant authorities to fight money laundering and terrorist financing. The mission found that some institutions falling under the purview of the FSC had sound AML/CFT measures in place, while some others were either partially compliant with the Codes or were not subject to the Codes. The foregoing did not detract the mission from recognising the significant efforts made by the FSC to conduct on-site inspections and to encourage a culture of AML/CFT compliance among institutions in the years prior to the mission.

The presence of the FSAP team coincided with the coming into force of the Financial Services Act 2007. The team was assured that the FSA will further strengthen and enforce the AML/CFT framework since it has brought about a much wider spectrum of powers to the FSC for applying sanctions as well as explicit provisions for on-site inspections.

## Promoting Efficient and Sustainable Markets

### II. Improving our Business Capability and Effectiveness

#### 2.9 Consumer Protection and Education

The statutory functions of the FSC set out under Section 6 of the Financial Services Act 2007 include protection of consumers of financial services.

In this respect, the FSC has, during the year under review, taken various regulatory actions set out in this Annual Report to safeguard consumer interests.

##### Consumer Complaints

Following the new complaints handling procedures prescribed by the Commission in 2007, there has been a fall in the number of complaints relating to the insurance sector received at the Commission.

During the period under review, around 90 % of complaints received concerned motor insurance, 5% related to life insurance and the remaining 5% was in connection with Fire, Travel and Medical insurance.

In accordance with the new complaints procedures, the Commission processed those complaints where the complainants were not satisfied with the outcome of complaints already filed with the Complaints Coordinators appointed by insurance companies.

The grounds for complaints made to the Commission were generally as follows:

- Non compliance with guidelines i.e. insurers had not forwarded the final response to the complainant within the prescribed time limit of 30 working days
- Explanations given by the insurer for delaying payment was unreasonable & vague
- Dispute on liability, non-settlement of claim.

##### Consumer Education

During the period under review, the Commission initiated a number of consumer education projects which would be implemented as from the beginning of 2009.



## Market Overview: Insurance



## 3.1 Insurance

### 3.1.1 Licensing

Under the new regulatory framework new types of activities have been introduced that are required to be licensed or registered by the FSC. These include:

- a) professional reinsurer carrying on solely reinsurance business;
- b) insurance manager which manages insurance business from outside Mauritius;
- c) individual insurance agents; and
- d) claims professionals to investigate into the cause and circumstances of a loss and to ascertain the quantum of the loss for the purpose of processing claims on a general insurance policy.

Under the transitional provisions of the new Insurance Act 2005, all existing insurance intermediaries were required to apply for a licence or registration under the new Act before 31 December 2007. In this respect, the FSC has licensed/registered a number of applications for Insurance Brokers, Agents and Salespersons.

## Market Overview

### Insurance

Table 1 below shows the number of intermediaries that the FSC has licensed/registered since the coming into operation of the Insurance Act 2005 up to the end of June 2008.

**Table 1: Breakdown of Insurance Intermediaries**

Type of Insurance Intermediaries	No. of Licensees
Insurance Agents	169
Insurance Brokers	22
Insurance Salespersons	816

### 3.1.2 Surveillance

#### 3.1.2.1 Off-Site Supervision

Off-site supervision involves the examination of statutory returns, audited financial statements, actuarial valuation reports and reinsurance treaties. Under the new regulatory framework, off-site monitoring has been extended to cover the issue of approvals and authorisations by the FSC in various areas. These include appointment of actuaries, auditors and officers, allowing insurers to carry on reinsurance business and extending the time limit for filing of returns on such conditions as the FSC may determine.

As part of its off-site supervisory function, the FSC also monitors and reviews the solvency returns submitted by insurance companies and contingency plans where required.

#### 3.1.2.2 Inspection

A first cycle of inspection of all insurance companies was completed in November 2007.

This exercise enabled the FSC to have a proper risk assessment of the domestic industry and helped in the identification of important policy issues.

During the period under review, the FSC carried out a thematic inspection on complaints handling across the industry. The aim of this exercise was to examine the extent of compliance with the requirements of the guidelines on complaints handling by insurers, issued in October 2006. Remedial actions proposed by the FSC were implemented by the insurers concerned.

As part of its on-site supervisory function, the FSC has started to review the methodology for the on-site inspection of its insurers to be in line with the new risk-based supervisory framework. The FSC is also working on an inspection programme for insurance professionals.

### 3.1.3 Regulatory Actions

#### Administrator / Provisional Liquidator

The FSC suspended the registration of a composite insurer, Rainbow Insurance Company Ltd, in September 2007, and appointed an Administrator in relation to the whole business of the insurer.

In December 2007, following a petition for winding-up of the insurer lodged by the FSC, the Court appointed a provisional liquidator in respect of the insurer. The licence of the insurer was consequently terminated.

#### Conservator

The FSC appointed a conservator in June 2008 with respect to one composite insurer, Ceylincostella Insurance Company Limited. The Conservator was required to take charge of the business of this insurer and entrusted with certain specific duties, such as establishing a proper system of claims provisioning, assessing the solvency requirements, preparing a contingency plan and assessing the need for any immediate capital injection.

### 3.1.4 Market Trends

#### Domestic Market Review<sup>1</sup>

Gross premium of the domestic insurance industry for the year under review amounted to Rs. 11.6 billion, representing an increase of 10.8% over the previous year figure. Total assets of insurers climbed to Rs 61.7 billion for the year under review, from Rs. 50.7 billion the previous year, growing by 21.6%.

#### General Business

During the year under review, there were 14 companies<sup>2</sup> operating in the general insurance sector. Gross premium grew by 7.4% from Rs. 3.6 billion in 2006 to reach Rs. 3.9 billion in 2007. Net premium, on the other hand, grew from Rs. 1.9 billion to reach Rs. 2.1 billion, representing an increase of 12.2% during the period 2006/2007.

The total number of policies in force during the year was 363,510. Motor policies grew from 239,811 in 2006 to reach 245,885 in 2007, while there were 123,264 non-motor policies in 2006 and 117,625 in 2007.

Overall retention by general insurers was 53.9% in 2007, compared to 51.6% last year. While gross claims increased by 9.5% from Rs. 1.8 billion in 2006 to Rs. 1.9 billion in 2007; net claims grew by 3.1% to reach Rs. 1.3 billion in 2007. Gross claims ratio of the industry for the year under review rose to 49.8%, from 48.8% last year, while net claims ratio improved from 68.8% to 62.7% in 2007.

The general insurance sector remains concentrated with six insurers which control more than 80% of the market, in terms of gross premium. The assets of these six insurers represent almost 85% of total assets of the general insurers.

<sup>1</sup> Figures for the domestic insurance sector relate to reporting years ending in 2007.

<sup>2</sup> A provisional liquidator was appointed by Court for one insurer. Another insurer re-started doing general insurance business.



## Market Overview

### Insurance

#### Long Term Business

Thirteen companies operating in the long term insurance segment generated total gross premium of Rs. 7.7 billion for the year under review which represents an increase of 12.6% from the previous year. Net premium grew by almost the same rate to reach Rs. 7.5 billion in 2007 from 6.7 billion the previous year. The retention of long term insurers remains high at almost 97%, roughly same as the previous year. The number of long term policies increased by 5.4%, from 333,251 in 2006 to 351,180 in 2007, out of which more than 85% are life policies.

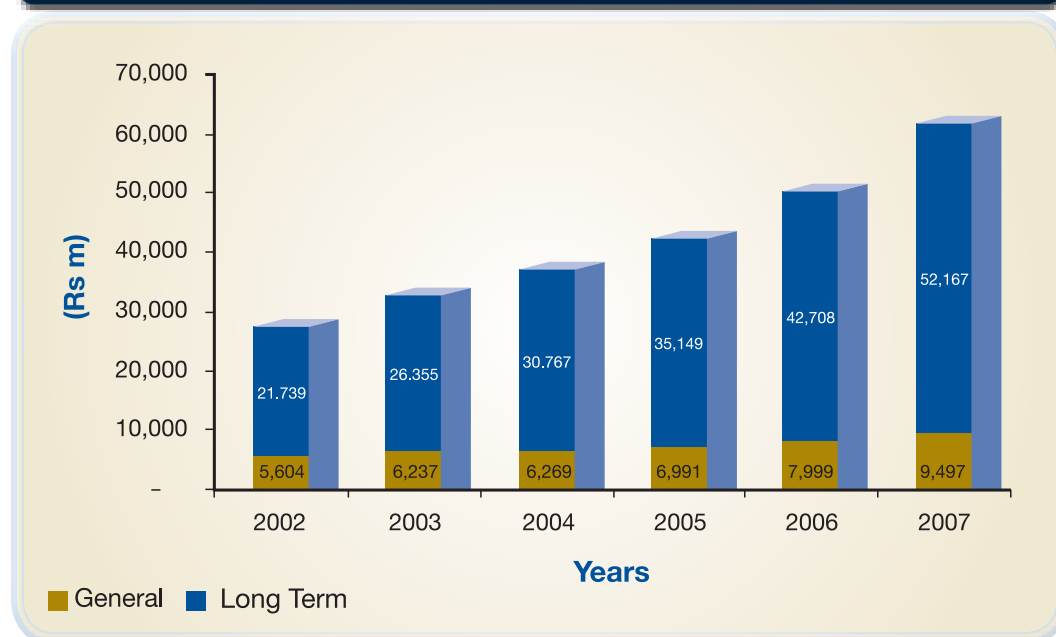
Total assets of long term insurers reached Rs. 52.2 billion for the year under review,

as compared to Rs. 42.7 billion last year, thus representing a rise of 22.2%. Good underwriting results and a strong capital market were the main drivers of this increase.

The long term insurance market is even more concentrated than the general insurance sector. Only three long term insurers generate more than 82% of the total gross premium and more than 80% of the total assets. The four smallest insurers, taken together, generate less than 1% of total gross premium.

The graphs below provide a snapshot of the evolution of total assets and gross premiums of general and long-term insurers over the last 6 years.

**Chart 3: Total Assets of General and Long-Term Insurers**

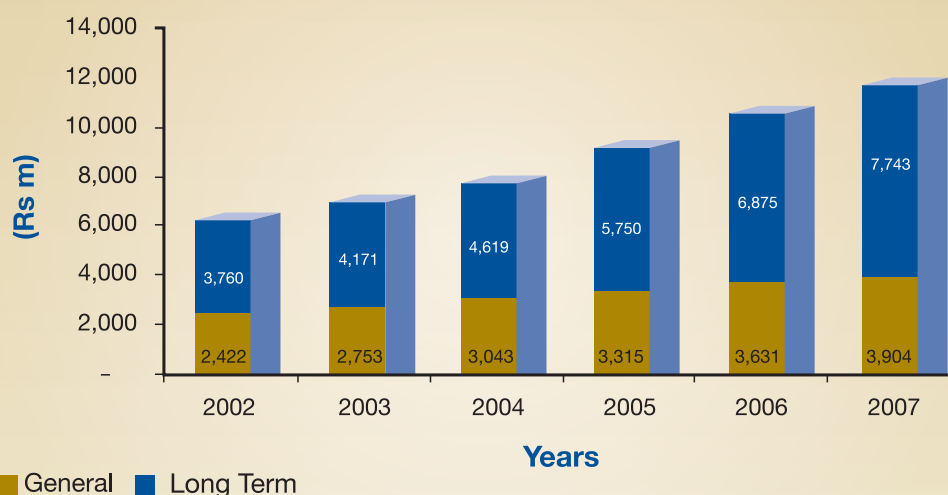


Source: Statutory Returns

## Market Overview

### Insurance

**Chart 4: Gross Premiums of General and Long-Term Insurers**



Source: Statutory Returns

### International Trends<sup>3</sup>

In 2007, the life insurance market grew by 5.4% whereas the non-life market was marked by a slow growth of 0.7%, resulting in an overall 3.3% of total premium growth worldwide, in real terms.

Global premium income climbed to USD 4,061 billion (USD 2,393 billion for life insurance and USD 1,668 billion for non-life insurance business).

Life insurance continued to expand during the period under review, especially in the industrialised countries, with the exception of Japan and Continental Europe. Sales of retirements and other wealth accumulation products spurred growth in the industrialised

countries. Life insurance in the emerging markets was fuelled by strong economic performance and catch-up potential.

Non-life premium growth continued to follow divergent trends in the industrialised and emerging markets. While premium volume decreased in the industrialised markets, growth slowed marginally in the emerging markets. Downward pressure on premium rates continued. However, technical results were favourable and profitability remained sound.

Africa contributed 1.6% to the world market share for life insurance and 0.9% for non-life insurance. Life insurance premiums grew by 3.4% in 2007, whereas non-life premiums increased by 0.6%.

<sup>3</sup>Source: SwissRe Sigma (No.3/2008)

## Market Overview: Pensions



## 3.2 Pensions

### 3.2.1 Domestic Overview

Pensions and other retirement provisions in Mauritius are diverse. As per the World's Bank's latest classification, the Mauritian pensions system consists of 4 main pillars:

- a. "Zero Pillar": It is a non-contributory system that provides a minimum level of protection. In Mauritius, it is known as the Basic Retirement Pension system.
- b. "First Pillar": It is a mandatory contributory system linked to earnings. In Mauritius, it is the National Pension Fund.
- c. "Second Pillar": It is a mandatory system that works essentially as an individual savings account. In Mauritius, it is the National Savings Fund.
- d. "Third Pillar": They are arrangements which are varied, flexible and discretionary in nature. The private occupational pension schemes and personal pension plans fall under this category.

The FSC focuses on the third pillar i.e. on private occupational pension funds. Mauritius has a long tradition of voluntary occupational pension schemes. They consist of either defined benefit (DB) or defined contributions (DC) plans established by private companies to provide pensions for their employees.

There have been some recent developments in the Mauritian pensions industry, namely the conversion of DB schemes into DC schemes. Also, new occupational pension schemes, which are being established, tend to be mostly DC schemes.

### 3.2.2 International Overview<sup>4</sup>

The total value of global pension assets under management amounted to USD 26.0 trillion at end 2006. Steady growth in assets has been based on expansion in funding, aided by pension reform and a recovery in equity markets. Three countries account for 77% of global pension assets. They are the US (61%), UK (11%) and Canada (5%).

<sup>4</sup>Source: Pension Reform 2008 on [www.ifsl.org.uk](http://www.ifsl.org.uk)