

SECURITIES COMMISSION OF THE BAHAMAS



# Annual Report

2006





### MISSION STATEMENT

*To effectively oversee and regulate the activities of the securities and capital markets, to protect investors, while strengthening public and institutional confidence in the integrity of those markets.*

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## **BOARD MEMBERS**

AS AT DECEMBER 31, 2006

**CALVIN KNOWLES**

Chairman

**ALEXANDER RECKLEY**

Deputy Chairman

**BERNARD BONAMY**

Member

**ROGER BROWN**

Ex-Officio Member  
Registrar of Insurance Companies

**WENDY CRAIGG**

Ex-Officio Member  
Governor of the Central Bank

**TYRONE FITZGERALD**

Member

**JAMES GOMEZ**

Member

**EVE POITIER**

Member

**HILLARY DEVEAUX**

Ex-Officio Member  
Executive Director

**MEHELLE MARTINBOROUGH**

Secretary to the Board

## CHAIRMAN'S MESSAGE

In 2006, the Securities Commission of The Bahamas continued its efforts to regulate and develop the securities and capital markets and investment funds industry by effectively and efficiently adapting to the diverse and dynamic nature of the global financial system. These efforts can be seen through the steps taken by the Commission to strengthen the regulatory framework, namely through the approval of legislative amendments and the drafting and implementation of policies and guidelines.

During the period, the Commission made significant strides in addressing the needs of all industry stakeholders and participants, service providers and investors. While recognising that striking a balance between investor protection and free market movement is a difficult task, the Commission believes that its efforts to achieve this sometimes unattainable balance were met for 2006 through the:

- Approved reduction in the Securities Exchange Annual Registration Fee;
- Additions to the Prescribed Jurisdictions List;
- Approval of the Specific Mandate Alternative Regulatory Test (SMART) Fund Model 005;
- Adoption of the Interim Money Laundering and Counter Terrorist Financing Guidelines;
- Approval of the Bahamas International Stock Exchange's (BISX) 2006 Corporate Finance Initiatives; and
- Approval to amend BISX's Fee Schedule.

In addition to the legislative, policy and guideline development initiatives implemented in 2006, the Commission expanded its staff by eight persons to better facilitate the needs of the sector. Further, on May 25, 2006 Hillary Deveaux was confirmed as the Executive Director, effective as of December 1, 2002.

The Commission accepts that the efforts to ensure the continued growth of the industry must extend beyond its achievements of 2006, and to this end, has begun to focus on its goals for 2007.

The Commission will continue to pursue and engage in efforts that reflect the fundamental tenets upon which it was established.

A resounding and loud applause of thanks goes to the staff of the Commission whose efforts, commitment and hard work have allowed the Commission to boast of the achievements outlined in this report.

*Calvin Knowles*  
**Chairman**

## SECURITIES COMMISSION OF THE BAHAMAS AT A GLANCE

### VISION STATEMENT

A vibrant, competitive financial services sector that has sound regulatory practices and policies that promotes confidence.

### MANDATE

- ❖ Formulate principles to regulate and govern the investment funds, securities and capital markets;
- ❖ Maintain surveillance over investment funds, securities and capital markets, ensuring orderly, fair and equitable dealings;
- ❖ Create and promote conditions to ensure the orderly growth and development of the securities and capital markets; and
- ❖ Advise the Minister of developments regarding the investment funds, securities and capital markets.

### PURPOSE

To contribute to the growth and development of a financial services sector that is vibrant and competitive.

### STRUCTURE

A body corporate established in 1995 by the Securities Industry Act to regulate the securities and capital markets.

### GOVERNANCE

The membership of the Commission consists of a Chairman, a Deputy Chairman, and other members not to exceed seven. There are three Ex-Officio Members: The Governor of the Central Bank of the Bahamas, Registrar of Insurance Companies and the Executive Director of the Commission.

### STAFFING

48 full-time staff members as at December 31, 2006:

- |                                  |            |
|----------------------------------|------------|
| • Executive Department           | 10 members |
| • Office of Legal Counsel        | 6 members  |
| • Authorisations Department      | 6 members  |
| • Market Surveillance Department | 9 members  |
| • Inspections Department         | 3 members  |
| • Policy and Research Department | 3 members  |
| • Corporate Affairs Department   | 11 members |

## COMMISSION'S PROFILE

### FUNCTIONS OF THE COMMISSION

The Securities Commission of The Bahamas (the Commission), the regulatory body established to oversee the development and growth of the securities and capital markets, was established in 1995 by the Securities Board Act, 1995, which was later repealed by the Securities Industry Act, 1999.

The Commission conducts several activities to achieve its mandate and to protect the interest of the investing public. Some of those activities include:

- ❖ Reviewing prospectuses for financial and legal compliance;
- ❖ Processing applications for registration;
- ❖ Supervising and regulating the Exchange and market participants;
- ❖ Responding to complaints/inquiries from investors;
- ❖ Conducting investigations and other such matters; and
- ❖ Responding to and co-operating with other securities regulators.

### REGULATORY AMBIT

The Commission is responsible for supervising and regulating the capital markets and investment funds industry. Its supervisory and regulatory powers are derived from the governing provisions found within the Securities Industry Act, 1999 (SIA, 1999) and the Investment Funds Act, 2003 (IFA, 2003).

The SIA, 1999 is the primary legislation that establishes the framework for the continued development of the capital and securities markets and provides the Commission with the specific powers to regulate and supervise these markets. This legislation also governs the operation of securities exchanges, securities markets and market participants.

The IFA, 2003 governs the operation of the investment funds industry. Specifically, the legislation oversees Investment Fund Administrators and Investment Funds and their associated personnel that operate from or within The Bahamas.

### ROLE AND GOVERNANCE OF THE BOARD

Membership of the Commission consists of a Chairman, a Deputy Chairman, and other members not to exceed seven, all of whom serve at the discretion of the Minister of Finance. The Chairman holds office for a period of five years. The Deputy Chairman and other Commission members hold office for a period not to exceed four years. All Commission Members, including the Chairman, are eligible for re-appointment.

### BOARD COMMITTEES

Committees are established to assist the Commission in carrying out its prescribed functions. In 2006 there were a total of three Committees:

- (1) **Audit & Administrative Committee** – was established to advise and make recommendations to the Commission on all matters relating to corporate governance including internal financial controls, internal and external audit and compliance with financial reporting requirements.
- (2) **Legislative Committee** – was developed to assist the Commission and the Executive Director in the review of existing and proposed legislation as it pertains to the continued development of the securities and capital markets and the investment funds industry.
- (3) **Compensation Committee** – was created to assist in the development of the Commission's Interim Bonus Programme. In addition, the Compensation Committee was also charged with overseeing a review of the Commission's Salary Structure.

## DISCIPLINARY PROCEEDINGS OF THE BOARD

The Commission, as a part of its function to maintain the integrity of the capital markets, has the authority to conduct investigations and hearings. The Board carries out these functions via two statutory, standing bodies. In 2006, the bodies were as follows:

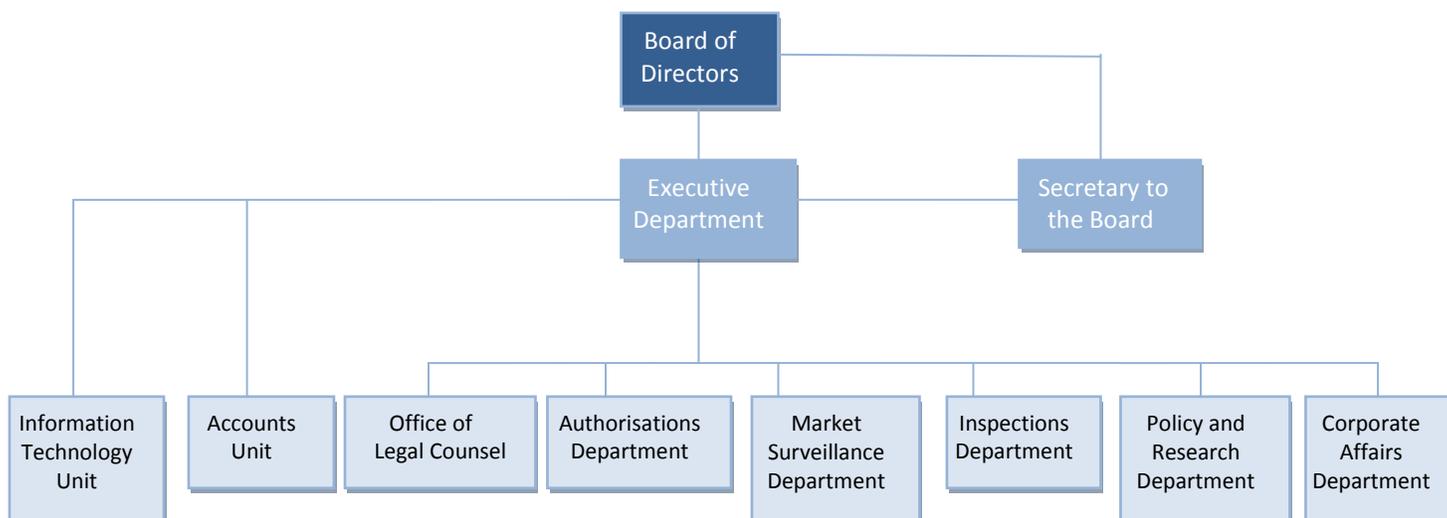
- (1) **Hearing Panel** – was established to preside over regulatory hearings and to determine disciplinary matters of the Commission. In carrying out its functions the Hearing Panel is empowered to impose various sanctions, remedies or other relief, as provided for in the governing legislations.
- (2) **Disciplinary Committee** – is established in law to assist the Commission and Executive Director in making recommendations, to the Commission, on the appropriate action to be taken as a result of an investigation.

## BOARD MEETINGS

During the period under review, the following meetings of the Board and its various Committees were held:-

- ❖ **Regular Meetings** – the Board met seven times and approved various matters presented by Management for its consideration. Matters included the approval of legislative and policy matters, such as the reduction in the Securities Exchange Annual Registration Fee, additions to the prescribed Jurisdictions List, approval of Specific Mandate Alternative Regulatory Test (SMART) Fund Model 005. In addition, the Board approved the licensing and registration of Broker-Dealers, Securities Investment Advisors, Investment Funds and Investment Fund Administrators.
- ❖ **Committee Meetings** – the Committees of the Commission met several times throughout the year to address the matters of the Commission.
- ❖ **The Round-Robin Process** – management utilised the round-robin process 16 times during the period under review to expedite approval of matters requiring urgent action.

## STRUCTURE OF THE COMMISSION



**Executive Department** – This Office is responsible for the day-to-day management of operations, technical and financial matters. The Office comprises the Executive Department, the Accounts Unit and the Information Technology Unit.

**Secretary to the Board** – The Secretary is responsible for managing Board Matters and provides technical and administrative support to the Board.

**Legal Counsel** – This department is responsible for providing legal advice to various departments of the Commission, assisting in the review of financial sector legislation, managing matters of international cooperation, and overseeing enforcement and disciplinary matters.

**Authorisations Department** – This department is responsible for the licensing and registration of market participants, as well as the review and registration of prospectuses for public offerings.

**Market Surveillance Department** – This department is responsible for the on-going monitoring and supervision of market participants and the local stock exchange, and reviewing proposals from the local stock exchange.

**Inspections Department** – This department is responsible for the supervision and on-site monitoring of market participants adherence to the rules and regulations.

**Policy and Research Department** – This department assists in the development of legislation, rules, policies and guidelines. It is also responsible for statistical reporting, investor education, content of the Commission’s website, public relations and the oversight of the Commission’s registry.

**Corporate Affairs Department** – This department oversees the daily management of the human and physical resources of the Commission by ensuring adequate manpower to facilitate the Commission’s mandate, as well as implementing and enforcing staff regulations.

## **MANAGEMENT TEAM**

AS AT DECEMBER 31, 2006

**HILLARY DEVEAUX**

Executive Director

**MECHELLE MARTINBOROUGH**

Office of Legal Counsel

**L. ALEXANDER ROBERTS**

Authorisations Department

**TREVOR BETHEL**

Market Surveillance Department

**CHRISTOPHER HANNA**

Inspections Department

**SALLY MOSS**

Policy and Research Department

**NADINE ALBURY - CHARLTON**

Corporate Affairs Department

**MONIQUE SANDS**

Accounts Unit

## CAPITAL MARKETS OVERVIEW & STATISTICAL SUMMARY

### FINANCIAL SECTOR OVERVIEW

The close of 2006 marked continued growth within the Bahamian economy, with an increase in Gross Domestic Product (GDP) by 3.4% to \$6.87 billion at the end of 2006. Tourism and financial services sectors remain as the leading contributors to the country's sustained development.

The financial services sector, which comprises banking and trust, investment funds, insurance, capital markets and credit union activity, contribute, on average, 15%-20%<sup>1</sup> of the GDP. While most of this relates to the contribution of banks and trust companies, the input of other financial services continues to grow. As the Central Bank of The Bahamas (Central Bank) noted, the success of the Bahamian financial sectors could be attributed to a comprehensive regulatory structure that seeks to implement international best practices, modern financial products and a skilled pool of professionals.

### CAPITAL MARKETS

The rate of growth of the BISX All Share Price Index slowed somewhat in 2006, appreciating by 24.1% to 1676.2 points, following a 30% expansion in 2005. Both share values and trade volume on BISX experienced a decline of 21.9%. In contrast, the performance of the broader Fidelity Capital Market Index (FINDEX), which captures over-the-counter trading, continued to strengthen, registering a 34.5% gain to 742.2 points after an increase of 28.5% in the corresponding period of 2005.

The withdrawal of Kerzner International Ltd. (KZL) from the exchange during the review period was note worthy. On August 20, 2006, Kerzner International Ltd. completed its "going-private" transaction cancelling all issued and outstanding shares and repurchasing them at a cash price of \$81.00 per share. Consequently, the Bahamian Dollar Receipts (BDRs) of KZL, which commenced trading on the Exchange in July 2004 at a ratio of ten BDRs for each KZL share, were repurchased at a price of \$8.09 per share, representing a capital appreciation of 57.4% over the initial \$5.14 listing price. At the end of 2006, the number of companies registered on BISX stood at 19.

A review of the historical snapshot of the industry statistics for licensees and registrants under the SIA, 1999 as at December 31, 2002-2006, (provided in table 1) showed that all constituent types - Broker Dealers Class I, Broker Dealers Class II and Security Investment Advisors have steadily increased their presence within the capital markets over the past five years. However, an increase in Security Investment Advisors slowed down after experiencing a 25% jump in 2005.

**Table 1 – Licensees and Registrants under the SIA, 1999**

Constitution Type	Dec. 31 2002	Dec. 31 2003	Dec. 31 2004	Dec. 31 2005	Dec. 31 2006
Broker-Dealer Class I	7	11	12	13	16
Broker-Dealer Class II	43	46	49	52	51
Securities Investment Advisors	27	30	32	40	42
Securities Exchange	1	1	1	1	1
<b>TOTAL</b>	<b>78</b>	<b>88</b>	<b>94</b>	<b>106</b>	<b>110</b>

<sup>1</sup> Taken from "Gross Economic Contribution of the Financial Sector in the Bahamas(2006)", Quarterly Economic Review, March 2007, Vol16, No. 1 Central Bank of The Bahamas

The chart below gives a side by side view of the number of active Broker Dealers and Securities Investment Advisors for the period of December 31, 2002 to December 31, 2006.

**Chart 1: Registrants under the SIA, 1999 - Comparative Figures 2002-2006**



### INVESTMENT FUNDS INDUSTRY

At the close of 2006 there were 725 active Investment Funds operating in or from The Bahamas. Although a 3.7% increase from the 699 funds in operation at the close of 2005, it was still considerably below the 2004 level. Correspondingly, the net asset value (NAV) appreciated by \$29.8 billion to \$205 billion. All investment fund categories, except for Standard Funds, experienced growth in the number of funds licensed or registered, during 2006. Standard Funds continued the decline observed since 2003, shrinking by 53.7% over the 2005 result. In contrast, the number of SMART Funds has increased since its introduction in 2004, appreciating by 39 Funds compared to 2005.

There was a net increase of two Investment Fund Administrators, which brought the total to 61. Of the 61 administrators 37 were classified as Unrestricted Investment Fund Administrators, 22 as Restricted Investment Fund Administrators and two as “Exempt” Investment Fund Administrators.

Table 2 below provides an historical overview of the investment funds industry from 2003-2006. For each year, the number of active funds per fund category,

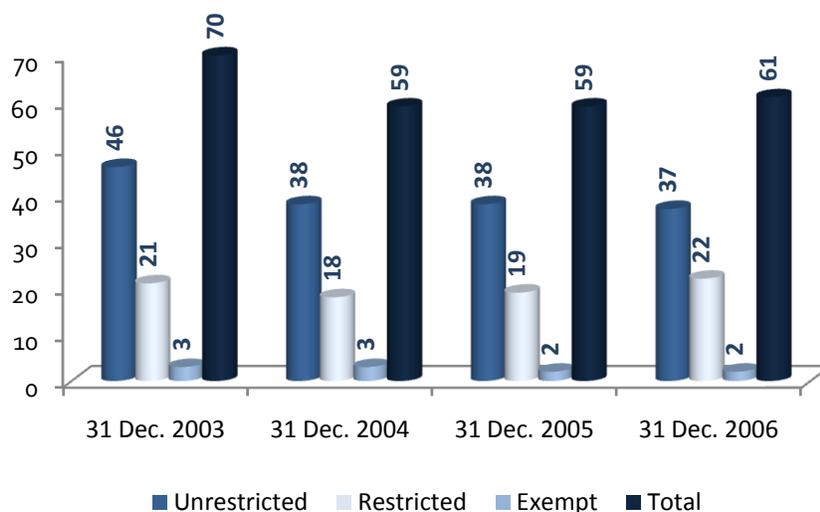
the total number of active investment funds, and the corresponding NAVs for the total number of funds are displayed. The investment funds industry has experienced stable and continued growth as evidenced by the continued appreciation of the NAVs.

**Table 2 –  
Growth of Investment Funds Industry  
Dec. 31, 2003 - Dec. 31, 2006**

FUND CATEGORY	DEC. 31 2003	DEC. 31 2004	DEC. 31 2005	DEC. 31 2006
Standard Funds	365	275	285	132
Professional Funds	150	337	242	298
Recognised Foreign Funds	198	151	84	171
SMART Funds	0	75	88	122
<b>TOTAL</b>	<b>713</b>	<b>838</b>	<b>699</b>	<b>723</b>
<b>NAV's (billions)</b>	<b>\$129.2</b>	<b>\$163.4</b>	<b>\$175.2</b>	<b>\$204.7</b>

The chart below provides an historical overview of Investment Fund Administrators from 2003-2006.

Chart 2 – Investment Fund Administrators 2003-2006



Companies licensed as **Unrestricted Investment Fund Administrators** have the authority, as charged by the Commission, via the IFA, 2003, to licence and oversee the operations of an unlimited number of investment funds.

Companies licensed as **Restricted Investment Fund Administrators** can provide investment fund administrator services **only to the Investment Funds** licensed or registered by the Commission. A restricted licence holder **does not** have the authority to independently licence an investment fund – licensing must be from the Commission.

Companies licensed as **Exempt Investment Fund Administrators** are authorised, by the Commission, to only provide investment fund administrator services to one specific investment fund – as identified by the Commission.

In 2006, the Commission approved a total of 204 applications. There was an increase in the number of applications approved for SMART Funds, Standard Funds and Recognised Foreign Funds. It should be noted that some applications may be considered in a period following the initial application date. For example, an application may have been pending, or under review by the Commission in 2006, which may have been carried over from 2005.

Table 3 – Approved Applications – Comparative Figures 2005 – 2006

CONSTITUENT TYPE		DEC. 31, 2005	DEC. 31, 2006
Broker Dealer	Class I	1	4
	Class II	2	3
Securities Investment Advisors		7	7
Investment Fund Administrators	Unrestricted	1	-
	Restricted	3	6
Standard Funds		6	12
Professional Funds		66	65
SMART Funds		22	31
Recognised Foreign Funds		59	76
<b>TOTAL</b>		<b>167</b>	<b>204</b>

## SUPERVISORY APPROACH

The Commission has adopted a two prong supervisory approach, which includes a rigorous and effective licensing process and a broad-based surveillance programme. This includes off-site and on-site monitoring. The approach is in line with the achievement of the Commission's supervisory goals, which include the maintenance of effective oversight, strengthening of market confidence, protection of investors, and facilitation of orderly growth and development of the jurisdiction.

### AUTHORISATIONS

The Authorisations Department is the first point of entry for the Commission's registrants and licensees. This department performs the critical function of protecting the reputation of the jurisdiction by assessing the bone fides of applicants. The unit administers the entry criteria set out in the SIA, 1999 and IFA, 2003 and ensures that participants and products fit the appropriate profile for the country. This includes an appraisal of fit and proper status, and an evaluation of financial strength and performance and an overall judgment on the suitability of the applicant.

### OFF-SITE SUPERVISION

Off-site Supervision is the primary function of the Market Surveillance Department. In performing this function, the department reviews reports, liaises with authorised firms and individuals and acts expeditiously on areas of regulatory concern to ensure proactive and effective oversight of the industry.

### ON-SITE SUPERVISION

On-site Supervision is undertaken by the Inspections Department. On-site Supervision takes the form of Routine Examinations or Inspections for Cause. A Routine Examination is scheduled based on the Commission's assessment of risk. An Inspection for Cause is conducted based upon some underlying reason such as a customer complaint or some credible information the Commission has been made aware of.

Inspections or examinations may involve a full scope review of the business or may focus on specific areas of concern, depending on the circumstances of the registrant/licensee and queries raised by the ongoing off-site monitoring process.

Table 4 provides an overview of the Routine Inspections and Inspections for Cause held from 2004 - 2006.

**Table 4 – On-site Supervision History 2004-2006**

Constitution Type	Dec. 31, 2004		Dec. 31, 2005		Dec. 31, 2006	
	Routine	Inspection for Cause	Routine	Inspection for Cause	Routine	Inspection for Cause
Broker-Dealer Class I	-	-	2	-	-	-
Broker-Dealer Class II	2	-	4	-	3	-
Securities Investment Advisors	7	-	5	-	5	-
Investment Fund Administrators	1	-	2	-	1	-
<b>TOTAL</b>	<b>10</b>		<b>13</b>		<b>9</b>	

## REGULATORY ACTIVITIES

### POLICY DEVELOPMENTS

In 2006, the Commission approved and implemented several policies, which include:-

#### (1) Commission Approved Reduction in Securities Exchange Annual Registration Fee

The Commission, in its February 2006 meeting, approved a decrease in the Securities Exchange Annual Registration Fee from \$25,000 to \$10,000. The approval by the Commission was in response to a request from the Bahamas International Stock Exchange (BISX) to have the Securities Exchange Annual Registration Fee reduced.

#### (2) Interim Money Laundering and Countering Terrorist Financing Guidelines

In July 2006, the *Interim Guidelines on the Prevention of Money Laundering and Countering of Terrorist Financing* replaced the existing Guidelines on Anti-Money Laundering issued by the Financial Intelligence Unit in 2001, with regard to Anti-Money Laundering and Know-Your-Customer (KYC) procedures.

The named guidelines issued by the Commission were drafted to provide general guidance to licensees and registrants on the standards required for compliance with the Financial Transaction Reporting Act, 2000 and the Financial Transaction Reporting Regulations, 2000.

#### (3) Approval of BISX's 2006 Corporate Finance Initiatives

The Bahamas International Stock Exchange, in its efforts to advance several corporate finance initiatives and collaborative efforts with the government, as outlined in the government's Capital Market Policy Statement, requested that the Commission approve:

- (i) Changes to BISX's capital structure;
- (ii) Amendments to BISX's Articles of Association; and

- (iii) A change in their rules to allow shareholders to transfer rights to each other.

Upon the Commission's review of BISX's requests regarding the named amendments, the Commission approved them at its February 2006 meeting.

#### (4) Approval to Amendments of BISX's Fee Schedules

The Commission, in October 2006, approved that BISX amend its Fee Schedule to facilitate the listing of government securities and the securities of governmental agencies.

BISX's request was based on the recommendations contained in the *Report of The Bahamas Stock Exchange Committee* that was approved by the Cabinet of the Commonwealth of The Bahamas and BISX Shareholders.

In considering the approval of the requests outlined above, the Commission noted that the desired fee amendments compared favourably with those presently being applied to equities listed on BISX.

The amendments to BISX fee schedule can be found in Table 5 below:

**Table 5 – Overview of BISX Fee Amendments**

DESCRIPTION	FEE
Government Securities	(1) Application Fee – a one - time \$2,500
	(2) Initial Listing Fee – to be removed
	(3) Annual Fee – 1.5 base points on the value of the offer
Transaction Price for Government Securities	(1) five basis points on the value of each complete buy or sell order matched per trading session.

## ENFORCEMENT MATTERS

In 2006, the Commission utilised several enforcement measures to protect investors from unfair and inappropriate securities and investment activities. Specifically, the Commission issued two public notices and two press releases and heard a total of five matters before the Disciplinary Committee.

### PUBLIC NOTICES

The public notices issued by the Commission in 2006 were:

- (1) **Dominion Investments (Nassau) Ltd.** – issued on March 6, 2006 and
- (2) **Williams Matthey Ltd. (WMAM)** – issued on April 7, 2006.

All public notices are posted and archived on the Commission's website.

### PRESS RELEASES

The press releases issued by the Commission in 2006 were:

- (1) **Dominion Investments (Nassau) Ltd.** – issued on February 26, 2006.
- (2) **Sterling ACS Ltd. and Howell W. Woltz & Vernice Woltz** – issued on April 26, 2006.

All press releases are posted and archived on the Commission's website.

### DISCIPLINARY COMMITTEE

Five matters were brought before the Disciplinary Committee during 2006. The Disciplinary Committee recommended that administrative action be taken on four of the matters and that the other be forwarded to the Office of the Attorney General.

## LEGISLATIVE UPDATES

In 2006, there were several legislative amendments and updates. Those updates include: additional countries added to the Prescribed Jurisdiction List and the approval of the SMART Fund Model 005.

### (1) Additions to Prescribed Jurisdiction List

Where a fund is incorporated or a fund appoints its investment advisor or manager in The Bahamas it is to be a Bahamas-Based Fund and is therefore, required to be licensed by the Commission. However, if a Bahamas-Based Fund is licensed in a jurisdiction prescribed by the Commission, it can be registered as a Recognised Foreign Fund and would thereby be subject to a lighter touch regulatory regime.

In October, 2006, the Commission approved the British Virgin Islands, Bermuda and the Channel Islands, Guernsey and Jersey, as prescribed jurisdictions based on a review of the named jurisdiction's regulatory regime and the

Commission being satisfied that it was comparable to that of The Bahamas.

### (2) Specific Mandate Alternative Regulatory Test (SMART) Fund Model 005

The Specific Mandate Alternative Regulatory Test (SMART) Fund was introduced as a new style of collective investment vehicle with the IFA, 2003. The SMART Fund is a flexible product that allows industry participants to provide clients with structuring solutions via a regulated vehicle. With the promulgation of the IFA, 2003 four SMART Fund Models were established.

In 2006, the Commission approved a fifth SMART Fund Model (SFM 005), a private structure for individuals or families limited to no more than five investors who

hold equity interests in the fund, and to whom a Professional Fund may be offered.

The SFM 005 requires the appointment of an administrator, but does not require the administrator

to be licensed by the Commission, with the additional provision that the administrator must be a financial institution as defined in the rule.

## INTERNATIONAL AND DOMESTIC COOPERATION

The Commission, recognises that in its efforts to ensure the continued development and growth of the securities and capital markets and investment funds industry, a combination of factors need to be present: a comprehensive regulatory regime; an educated and competent staff and the cooperation of international, regional and domestic regulatory bodies and groups.

Participation and membership in organisations such as the International Organization of Securities Commissions and the Council of Securities Regulators of the Americas (COSRA), allows the Commission to stay abreast of best practices implemented in international and regional securities and investment business sectors.

Continued dialogue has been maintained with our international partners through the Inter-American Regional Committee (IARC)/COSRA. In addition, the Commission is also a member of the Group of Financial Services Regulators (GFSR).

### ISOCO-IARC/COSRA

In September 1996, the Commission was granted membership in IOSCO, the international standards setter for the securities and capital markets. Its membership comprises 90% of the world's securities regulators and other similar regulatory agencies from countries throughout the world. The purpose of IOSCO is to enable members to exchange information with a view to developing the securities markets and improving their efficiency, to coordinate the enforcement of securities regulation internationally and to implement common standards.

At COSRA's annual meeting in Santiago, Chile in June 1997, the Commission was confirmed as a member. COSRA, formed in 1992, was created to provide a forum that promoted cooperation and communication amongst its members to enhance the efforts of each

country and to develop the growth of sound securities markets that are fair to all investors. Membership to COSRA is open to all securities regulatory authorities of North, South and Central America and the Caribbean and has a total of 31 members in 26 countries.

### CARIBBEAN GROUP OF SECURITIES REGULATORS

The Caribbean Group of Securities Regulators (CGSR) is an in-formal group of securities regulators; the CGSR was established to strengthen the regulatory framework for securities within the Caribbean. It gives the region a unified voice on the international stage and also gives the region greater standardisation and coordination of institutional structures. It facilitates the sharing of information, promotes regulatory capacity building and strengthens training in the region. In October of this year, The Bahamas hosted the Third Annual Conference for the Caribbean Group of Securities Regulators. The conference focused on addressing matters such as combating market abuse, corporate governance, enforcement, mergers and acquisitions and minority shareholders' interests, hedge funds regulation and the relaxation of exchange controls.

### GROUP OF FINANCIAL SERVICES REGULATORS

Since 2001, the Commission has been a member of the Group of Financial Services Regulators (GFSR), which is a domestic body comprising of the five regulators that oversee The Bahamas' financial services sector. This Group was established to focus on the harmonisation of the regulatory regime in the country. The regulators governing The Bahamas' financial services sector are:

- ❖ The Central Bank of The Bahamas;
- ❖ The Securities Commission of The Bahamas;
- ❖ The Registrar of Insurance Companies;

- ❖ The Compliance Commission; and
- ❖ The Inspector of the Financial and Corporate Service Providers.

In October 2002, the GFSR executed a Memorandum of Understanding (MoU), which formally provides for information sharing, inter-regulatory cooperation and

harmonisation of policies and practices between the listed regulators.

In 2005, a handbook that provides an overview of the regulatory information sharing framework in The Bahamas under its financial services legislation was drafted and issued by the GFSR.

## FINANCIAL SUMMARY

The Commission recorded an operating deficit of \$1.196 million for 2006, representing an increase of \$339,810 (40%) from \$856,197 in the previous year. Operating Income decreased by 3% to \$2.140 million from \$2.199 million in 2005, while operating expenses increased by 9% to \$3.336 million from \$3.055 million in 2005. The increase in operating expenses was due mainly to a \$175,318 (10%) increase in salaries and benefits combined with a 66.9% increase in professional fees of \$117,565, when compared to 2005.

The accumulated fund reserve position deteriorated by \$196,007, from a reserve of \$77,786 in 2005, to a deficit of \$118,221 in 2006. This was due to the \$339,810 increase in the operating deficit offset by a \$100,000 increase in the amount of government funding received during 2006 when compared to 2005.

The auditor's report again emphasised that the Commission will only be able to continue as a going concern by attaining profitable operations and/or with continued financial support from the government.

SECURITIES COMMISSION  
OF THE BAHAMAS

**FINANCIAL STATEMENTS**

**Year ended December 31, 2006**



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## **INDEPENDENT AUDITORS' REPORT**

To The Members of Securities Commission of The Bahamas

We have audited the accompanying financial statements of the Securities Commission of The Bahamas (“the Commission”) which comprise the balance sheet as at December 31, 2006, and the related statements of operations, accumulated operating deficit and reserve funds and cash flows for the year then ended, and a summary of significant accounting policies and other explanatory notes.

### *Management’s responsibility for the financial statements*

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Financial Reporting Standards. This responsibility includes: designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

### *Auditors’ Responsibility*

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with International Standards on Auditing. Those Standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on our judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, we consider internal controls relevant to the Commission’s preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission’s internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.



*Opinion*

In our opinion, the financial statements present fairly, in all material respects, the financial position of Securities Commission of The Bahamas as of December 31, 2006, and of its financial performance and cash flows for the year then ended in accordance with International Financial Reporting Standards.

*Emphasis of matter*

Without qualifying our opinion, we draw attention to note 11 to the financial statements. The Commission incurred an operating deficit for the year of \$1,196,007 (2005 – \$856,197) before Government funding of \$1,000,000 (2005 – \$900,000) and current liabilities exceeded current assets. As at December 31, 2006, the accumulated operating deficit and reserve funds had a net deficit of \$118,221 (2005 – net reserve of \$77,786). The Commission will only be able to continue as a going concern by attaining profitable operations and/or with continued financial support from the Government.

A handwritten signature in black ink, appearing to read 'KPMG' followed by a checkmark.

Nassau, Bahamas  
April 28, 2009

## SECURITIES COMMISSION OF THE BAHAMAS

### Balance Sheet

December 31, 2006, with corresponding figures for 2005  
(Expressed in Bahamian dollars)

	2006	2005
<b>Assets</b>		
Current assets:		
Cash at bank and on hand	\$ 7,520	24,145
Accounts receivable (note 4)	118,291	140,845
Deposits and prepaid expenses	10,728	37,572
	<u>136,539</u>	<u>202,562</u>
Equipment (note 6)	168,269	184,881
	<u>\$ 304,808</u>	<u>387,443</u>

### Liabilities and Accumulated Operating Deficit and Reserve Funds

Current liabilities:		
Bank overdraft (note 5)	\$ 30,787	38,873
Deferred revenue (note 7)	86,758	100,411
Accounts payable and accrued expenses (note 11)	305,484	170,373
	<u>423,029</u>	<u>309,657</u>
Accumulated Operating Deficit and Reserve Funds (note 8)	(118,221)	77,786
Commitments and contingencies (note 9)		
	<u>\$ 304,808</u>	<u>387,443</u>

See accompanying notes to financial statements.

These financial statements were approved for issue on behalf of the Members of the Board on  
April 28, 2009 by:


Chairman

Executive Director

**SECURITIES COMMISSION OF THE BAHAMAS**

## Statement of Operations

Year ended December 31, 2006, with corresponding figures for 2005  
(Expressed in Bahamian dollars)

	2006	2005
Operating income:		
Fee income:		
Investment funds:		
Registration and licence fees	\$ 564,137	564,730
Principal office fees	286,575	293,478
Application fees	104,150	96,275
Miscellaneous fees	–	10,532
Investment fund administrators:		
Licence fees	451,033	469,222
Application fees	16,000	11,000
Broker - dealer fees:		
Registration and licence fees	407,600	389,342
Application fees	22,200	21,800
Securities investment advisors:		
Registration and licence fees	46,583	45,311
Application fees	5,817	4,000
Associated person:		
Registration and licence fees	3,717	3,575
Application fees	575	350
Securities firms miscellaneous fees	–	12,450
Securities exchange registration and licence fees	25,000	25,000
Fees from public offerings	123,350	59,700
Penalty fees	38,600	7,551
Examination fees	7,225	11,290
Total fee income	2,102,562	2,025,606
Miscellaneous income (note 10)	37,354	166,894
Gain on sale of equipment	400	6,170
	2,140,316	2,198,670
Operating expenses:		
Salaries, wages and benefits (notes 10 & 12)	1,919,797	1,744,479
Rent for office and parking	311,472	343,542
Professional fees	293,321	175,756
Travel and entertainment (note 12)	233,073	246,489
Utility and property charges	156,175	134,321
Depreciation (note 6)	86,117	84,616
Office expenses	72,425	82,415
Telephone	59,758	48,363
Members' honoraria (note 12)	59,500	57,875
Training and seminars	56,743	56,133
Finance charges (note 5)	22,211	6,843
Advertising	17,603	19,398
Computer expenses	15,943	10,665
Membership and publications fees	13,836	12,847
Printing	6,950	16,807
Examination expenses	6,470	7,425
Sundry	4,929	6,893
	3,336,323	3,054,867
Operating deficit for the year	\$ (1,196,007)	(856,197)

See accompanying notes to financial statements.

## SECURITIES COMMISSION OF THE BAHAMAS

### Statement of Accumulated Operating Deficit and Reserve Funds

Year ended December 31, 2006, with corresponding figures for 2005

(Expressed in Bahamian dollars)

	Government Funding	Accumulated Operating Deficit	Total
Balance at December 31, 2004	\$ 5,009,443	(4,975,460)	33,983
Government funding	900,000	–	900,000
Operating deficit for the year	–	(856,197)	(856,197)
Balance at December 31, 2005	5,909,443	(5,831,657)	77,786
Government funding	1,000,000	–	1,000,000
Operating deficit for the year	–	(1,196,007)	(1,196,007)
Balance at December 31, 2006	\$ 6,909,443	(7,027,664)	(118,221)

See accompanying notes to financial statements.

**SECURITIES COMMISSION OF THE BAHAMAS**

## Statement of Cash Flows

Year ended December 31, 2006, with corresponding figures for 2005  
(Expressed in Bahamian dollars)

	2006	2005
<b>Cash flows from operating activities:</b>		
Operating deficit for the year	\$ (1,196,007)	(856,197)
Adjustments for:		
Depreciation	86,117	84,616
Bad debt expense	—	9
Gain on disposal of equipment	(400)	(6,170)
Cash used in operations before changes in operating assets and liabilities	(1,110,290)	(777,742)
Decrease/(increase) in accounts receivable	22,554	(8,553)
Decrease in deposits and prepaid expenses	26,844	66,597
(Decrease)/increase in deferred revenue	(13,653)	13,577
Increase/(decrease) in accounts payable and accrued expenses	135,111	(19,778)
Net cash used in operating activities	(939,434)	(725,899)
<b>Cash flows from investing activities:</b>		
Purchases of equipment (note 6)	(69,505)	(99,777)
Proceeds from disposal of equipment	400	6,170
Net cash used in investing activities	(69,105)	(93,607)
<b>Cash flows from financing activities:</b>		
Government funding	1,000,000	900,000
Net cash provided by financing activities	1,000,000	900,000
Net (decrease)/increase in cash and cash equivalents	(8,539)	80,494
Cash and cash equivalents, beginning of year	(14,728)	(95,222)
Cash and cash equivalents, end of year	\$ (23,267)	(14,728)
<b>Cash and cash equivalents are comprised:</b>		
Cash at bank and on hand	\$ 7,520	24,145
Bank overdraft	(30,787)	(38,873)
Cash and cash equivalents, end of year	\$ (23,267)	(14,728)

See accompanying notes to financial statements.

# SECURITIES COMMISSION OF THE BAHAMAS

## Notes to Financial Statements

Year ended December 31, 2006  
(Expressed in Bahamian dollars)

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### 1. General information

The Securities Commission of The Bahamas (“the Commission”) was established on June 20, 1995 under The Securities Board Act, 1995 of The Commonwealth of The Bahamas, which was repealed by Section 98 of the Securities Industry Act, 1999, on the renaming of the Commission. The principal place of business is located on the Third Floor, Charlotte House, Shirley and Charlotte Streets, P.O. Box N-8347, Nassau, Bahamas.

The primary function of the Commission is to monitor and regulate the securities market and the investment funds industry in The Bahamas.

Effective November 2000, licensed banks, trust companies and individuals that are engaged in various aspects of the securities business and that are in good standing with The Central Bank of The Bahamas, must also register with the Commission. As a result, the Commission also earns fee income from broker-dealers, securities investment advisors and associated persons.

The Commission is a body corporate having perpetual succession and a common seal, with the power to purchase, lease or otherwise acquire and hold and dispose of land and other property of whatever kind. The Commission may also sue or be sued in its corporate name.

### 2. Basis of preparation

#### *(a) Statement of compliance*

These financial statements are prepared in accordance with International Financial Reporting Standards (“IFRS”).

#### *(b) Functional and presentation currency*

The financial statements are presented in Bahamian dollars, the Commission’s functional and presentation currency.

#### *(c) Basis of measurement*

The financial statements are prepared on a historical cost basis.

#### *(d) Use of estimates and judgments*

The preparation of the financial statements in conformity with IFRS requires management to make judgments, estimates and assumptions that affect the application of accounting policies and the reported amounts of assets, liabilities, income and expenses and disclosure of contingent assets and liabilities at the date of the financial statements. Actual results could differ from those estimates.

The estimates and associated assumptions are based on historical experience and various other factors that are believed to be reasonable under the circumstances, and the results of which form the basis of making the judgments about carrying values of assets and liabilities that are not readily apparent from other sources.

**SECURITIES COMMISSION OF THE BAHAMAS**

Notes to Financial Statements

Year ended December 31, 2006

(Expressed in Bahamian dollars)

**2. Basis of preparation (continued)***(d) Use of estimates and judgments (continued)*

Estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognized in the period in which the estimates are revised if the revision affects only that period or in the period of the revision and future periods if the revision affects both current and future periods.

In particular, information about significant areas of estimation uncertainty and critical judgements in applying accounting policies that have the most significant effect on the amount recognized in the financial statements are described in note 3(b) and 3(d).

**3. Significant accounting policies**

The accounting policies have been applied by the Commission consistently and are consistent with those used in the previous year.

*(a) Equipment*

Equipment is stated at cost less accumulated depreciation and impairment losses.

Expenditure incurred in the replacement of equipment is capitalized. Other subsequent expenditure is capitalized only when it increases the future economic benefits embodied in the equipment. All other expenditure is recognized in the statement of operations as an expense as incurred.

Depreciation is charged to the statement of operations on a straight-line basis over the estimated useful lives of the equipment as follows:

Computer equipment	5 years
Furniture and fittings	5 years
Vehicles	5 years

A full year's depreciation charge is made in the year of purchase.

*(b) Impairment*

The carrying amounts of the Commission's assets are reviewed at each balance sheet date to determine whether there is any indication of impairment. If such indication exists, the asset's recoverable amount is estimated. An impairment loss is recognized whenever the carrying amount of an asset exceeds its recoverable amount. Impairment losses are recognized in the statement of operations.

An impairment loss in respect of a receivable is reversed if the subsequent increase in the recoverable amount can be related objectively to an event occurring after the impairment loss was recognized.

# SECURITIES COMMISSION OF THE BAHAMAS

## Notes to Financial Statements

Year ended December 31, 2006

(Expressed in Bahamian dollars)

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### 3. Significant accounting policies (continued)

*(b) Impairment (continued)*

An impairment loss in respect of equipment is reversed only to the extent that the asset's carrying amount does not exceed the carrying amount that would have been determined, net of depreciation, if no impairment loss had been recognized.

*(c) Operating leases*

Lease rentals relating to office spaces are recognised as an expense in the statement of operations on a straight-line basis over the lease term.

*(d) Accounts receivable and accounts payable*

Accounts receivable are stated at cost less provision for doubtful accounts and impairment.

Accounts payable is stated at cost.

*(e) Cash and cash equivalents*

Cash and cash equivalents represent petty cash, demand cash at bank less bank overdraft.

*(f) Government grants*

Government funding is accounted for when received and credited directly to the statement of accumulated operating deficit and reserve funds.

*(g) Income*

Fee income is accounted for when it becomes due.

*(h) Defined contribution pension plan*

Contributions to the Commission's defined contribution pension plan are recognized as an expense in the statement of operations as incurred.

*(i) IFRSs not yet effective*

The Commission has not applied the following IFRS that has been issued but is not yet effective. Other IFRSs that have been issued but are not yet effective have no significant impact on the Commission's operations or financial reporting.

IFRS 7 *Financial Instruments: Disclosures* requires disclosures about the significance of financial instruments for an entity's financial position and performance, and qualitative and quantitative disclosures on the nature and extent of risks. IFRS 7, which became mandatory for financial reporting periods commencing January 1, 2007, will require additional disclosures with respect to the Commission's financial instruments.

**SECURITIES COMMISSION OF THE BAHAMAS**

## Notes to Financial Statements

Year ended December 31, 2006  
(Expressed in Bahamian dollars)

**4. Accounts receivable**

	2006	2005
Investment funds and administrators	\$ 41,076	22,259
Broker-dealers, securities advisors and associated persons	50,386	103,056
Other receivables	26,829	15,530
	118,291	140,845
Less: allowance for doubtful accounts	—	—
	\$ 118,291	140,845

**5. Bank overdraft**

The Commission has a bank overdraft facility amounting to \$750,000 (2005 - \$750,000) and it bears interest at Bahamian Dollar Prime plus 1% per annum, which was 7% (2005 - 7%). The Government of the Bahamas issued a letter of comfort dated June 21, 2004 as security for the bank overdraft facility.

**6. Equipment**

	Computer equipment	Furniture & fittings	Vehicles	Total
Cost, December 31, 2005	\$ 388,042	319,646	59,940	767,628
Additions	31,052	38,453	—	69,505
Disposals	(16,918)	—	—	(16,918)
Cost, December 31, 2006	\$ 402,176	358,099	59,940	820,215
Accumulated depreciation, December 31, 2005	\$ 280,167	274,995	27,585	582,747
Charge for the year	49,396	24,733	11,988	86,117
Disposals	(16,918)	—	—	(16,918)
Accumulated depreciation, December 31, 2006	\$ 312,645	299,728	39,573	651,946
Net book value, December 31, 2006	\$ 89,531	58,371	20,367	168,269
Net book value, December 31, 2005	\$ 107,875	44,651	32,355	184,881

# SECURITIES COMMISSION OF THE BAHAMAS

## Notes to Financial Statements

Year ended December 31, 2006  
(Expressed in Bahamian dollars)

### 7. Deferred revenue

	2006	2005
Investment funds	\$ 54,050	54,731
Securities firms	32,708	45,680
	\$ 86,758	100,411

### 8. Reserve funds

The Commission may from time to time carry surplus funds to a reserve fund, or invest these funds in securities approved by the Minister of Finance ("the Minister"). Any such treatment must be with the prior consent of the Minister.

The reserve fund shall be established by the Commission, and the funds applied only for purposes of the Commission. The Minister, however, may direct the Commission on any matters concerning the establishment and management of the fund and movements to and from the fund. The Minister may also direct surplus or reserve funds to be paid into the Consolidated Fund of The Bahamas Public Treasury.

As the Commission incurred operating deficits in the current and prior year, there were no surplus funds available from operations.

### 9. Commitments and contingencies

(i) The Commission has leased office space under two lease agreements that were renewed on February 1, 2006 for a period of 3 years, with the option to renew them for a further 3 years. The annual lease payments will be determined at the time of renewal using a price index. The future minimum lease payments are as follows:

- Within one year \$ 284,648
- More than one year and less than five years 284,648

(ii) In the normal course of its business, the Commission is involved in various legal proceedings arising out of and incidental to its operations. Management of the Commission does not anticipate that the losses, if any, incurred as a result of these legal proceedings will materially affect the financial position of the Commission.

The Commission is the defendant in a legal action brought against it by a former employee. The Commission's attorneys have not quantified the amount of the claim and have advised that the plaintiff is not expected to succeed.

## SECURITIES COMMISSION OF THE BAHAMAS

### Notes to Financial Statements

Year ended December 31, 2006

(Expressed in Bahamian dollars)

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#### 10. Defined contribution pension plan

The Commission implemented a defined contribution pension plan on January 1, 1999 for all members of staff. Participation in the plan is mandatory and contributions by the Commission and the employees are 10% and 5% of employee salaries, respectively. The pension plan is administered by Colina Financial Advisors. Contributions to the plan by the Commission during the year amounted to \$126,402 (2005 - \$101,061) and are included in salaries, wages and benefits in the statement of operations.

During 2006 Colina Financial Advisors reimbursed the Commission \$54,796 (2005 - \$130,834) for the unvested portion of pension contributions made on behalf of individuals that ceased employment with the Commission, and is included in miscellaneous income in the statement of operations.

#### 11. Going concern

The accompanying financial statements have been prepared on the basis that the Commission will continue as a going concern. Notwithstanding the fact that:

- (a) the Commission experienced an operating deficit for the year of \$1,196,007 (2005 - \$856,197) before Government funding of \$1,000,000 (2005 - \$900,000);
- (b) the accumulated operating deficit and reserve funds had a net deficit of \$118,221 (2005 - net reserve of \$77,786); and
- (c) current liabilities exceeded current assets,

management considers the Commission to be a going concern based on its expectation that the Government of the Commonwealth of The Bahamas will continue to provide financial support as needed. The Commission will only be able to continue as a going concern by attaining profitable operations and/or with continued financial support from the Government of the Commonwealth of The Bahamas.

Subsequent to the year end the Commission received Government funding in the amount of \$1,500,000 and \$1,400,000 in respect of the financial years 2007 and 2008, respectively.

# SECURITIES COMMISSION OF THE BAHAMAS

## Notes to Financial Statements

Year ended December 31, 2006  
(Expressed in Bahamian dollars)

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### 12. Related party transactions and balances

#### *Honoraria to members*

Included in the statement of operations is \$59,500 (2005 - \$57,875) as honoraria to the members of the Board.

#### *Travel and entertainment*

Included in the statement of operations is \$82,281 (2005 - \$52,606) relating to travel and entertainment expense related to members of the board incurred in the conduct of Commission business.

#### *Executive remuneration and pension contributions*

Included in salaries, wages and benefits in the statement of operations is remuneration of \$636,403 (2005 - \$588,306) and pension contributions of \$25,667 (2005 - \$52,570) relating to key management personnel. Included in accounts payable and accrued expenses in the balance sheet is \$4,038 (2005 - \$11,250) accrued for key management personnel remunerations.

### 13. Financial instruments and associated risks

Management estimates that the fair values of financial assets and liabilities do not differ materially from their carrying values due to their short-term or liquid nature.

Credit risk is the risk that one party to a financial instrument will fail to discharge an obligation and cause the other party to incur a financial loss. The Commission is exposed to credit risk on accounts receivable and provides for amounts not considered to be collectible.









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