



# ANNUAL REPORT 2011

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# CHIEF EXECUTIVE'S OVERVIEW

After a year of considerable change and disruption, we have not only achieved some outstanding results in 2010/11, we have delivered them in a manner that better recognises the small and specialised nature of the Serious Fraud Office. We began the year by setting goals which centred on greater collaboration, heightened accountability and better public awareness of our role. At the end of the year, we can be very satisfied by the extent to which these goals have been met.

An early and continuing deluge of new cases tested our new structure and management team. Within the first six months, new investigations reached the number forecast for the entire year. By 30 June 2011, we had opened 70 percent more cases than anticipated. However, new operational processes, coupled with a strong focus on delivering results, ensured that both legacy cases and newer investigations were completed in a timely manner.

A large, and very public, part of SFO's work this year, and for the past three years, has been the investigations into failed finance companies. Managing both public expectations and resource demands of these cases has been challenging. Of the 13 finance companies investigated, seven of these cases were commenced in the past year. As at 30 June, three investigations were concluded without further action, six resulted in Crimes Act 1961 charges (two of which have already secured convictions), and four (which were all commenced within the last 12 months) are continuing. Two of the current cases, Hanover Finance and South Canterbury Finance, are among the largest and most complex cases in the history of the SFO.

Despite the public attention on finance companies, the scale and breadth of our work is much more than this. We have investigated foreign exchange traders, mining companies, property developers, mortgage brokers, tax advisors, technology companies, dairy companies, and employees of local councils and state-owned enterprises. We have laid charges for corruption, perverting the course of justice, secret commissions, theft, fraud and false accounting.

The 34 investigations commenced this year alone involved losses of over \$1 billion, affecting more than 85,000 persons. They ranged from the thousands of investors in various finance companies to owners of family businesses, through to New Zealanders as a whole, in their capacity as 'owners' of public entities.

In all, the past year has seen almost 1000 charges laid against 28 people. We secured 13 guilty pleas and a further seven convictions at trial.

While we have achieved a lot, we are acutely conscious that much of our success is both dependent on, and attributable to, co-operation and communication with the private sector, and the joint resources and skills of other public sector agencies.

In this regard, the introduction of staff secondments from the NZ Police to the SFO has personally been one of the highlights of the year. They have not only brought with them valuable skills and experience, they have helped foster a better understanding and stronger working relationship between Police and us. For the first time, Police and SFO have conducted joint investigations. This is an arrangement that will grow in the future. The relationship has been further strengthened by the development of a new Memorandum of Understanding (MOU) between the two agencies, which will be finalised in the new financial year.

The establishment of the Financial Markets Authority (FMA) has also been an important feature of the year. The development of an MOU between us will help ensure that we meet the common challenge of fostering greater investor confidence in New Zealand.

Our information sources are by no means confined to regulators and law enforcement agencies. During the year we received significantly more referrals and information from the private sector than in recent years. This is a testament to the value of the role they see the SFO playing in ensuring integrity in the financial markets.

# A confident business environment

## THE FIVE STAR GROUP

As with the Police, these relationships have been further strengthened by several short-to-medium term staff secondments to assist with major investigations.

Of the many external parties who support our work, our Panel Counsel warrants particular mention. Our ability to successfully investigate and prosecute major financial crimes is due in no small part to their collective wisdom and advice, and I remain indebted to them for their ongoing advice and assistance.

I also wish to acknowledge the support and co-operation of the Minister responsible for the SFO, and the team within her office.

Finally, while the support and goodwill from many outside the SFO is extremely heartening, it is our staff who are at the core of our successes. Their collective energy and abilities will ensure we continue to exceed public expectations, and I want to record my thanks to all of them for a truly outstanding year.



**Adam Feeley**  
Chief Executive and Director



It was the first custodial sentence given out in relation to a major finance company collapse – and it sent a strong message from the courts about the seriousness of white collar crime.

The convictions of Five Star Consumer Finance Limited directors Nicholas Kirk and Marcus MacDonald, also showed the SFO's determination to improve New Zealand's business environment in the wake of numerous finance company collapses.

"The SFO's strategy of focusing on larger-scale cases involving significant losses is helping to reassure the investing public that there is an effective law enforcement response to the financial sector fraud of recent years," Chief Executive Adam Feeley said in October 2010, when MacDonald pleaded guilty to the charges.

The Crimes Act 1961 charges related to the theft of \$50 million arising from Five Star Consumer Finance Limited operations, which went into receivership in August 2007.

Five Star traded as a finance company accepting deposits from the public and investing them in consumer and commercial lending.

The SFO investigation concentrated on transactions entered into between members of the Five Star group and entities related to or controlled by the directors.


SFO charged four persons arising from the collapse, alleging that the investments taken from investors were applied to other companies controlled by or related to the defendants, and were used for purposes not authorised by the trust deed under which they operated.

In December 2010, Nicholas Kirk and Marcus MacDonald pleaded guilty to the charges, and were sentenced to two years and eight months and two years and three months, respectively.

The remaining two defendants will stand trial on 18 June 2012.

# Foreword

In accordance with section 44(1) of the Public Finance Act 1989, I submit the following report on the operations of the Serious Fraud Office for the period 1 July 2010 to 30 June 2011. This includes the audited financial statements in Part 3 of this report.



**Adam Feeley**

Chief Executive and Director

## Role of the Serious Fraud Office

The Serious Fraud Office (SFO) was established as an operational department through the Serious Fraud Office Act 1990 (the Act), as a specialist law enforcement agency whose purpose is to detect, investigate and prosecute New Zealand's most serious and complex financial crimes. The work of the SFO contributes to the justice outcome of safer communities where there is reduced crime, and the economic outcome of increased confidence and participation in New Zealand's financial markets.

The Serious Fraud Office administers Vote: Serious Fraud, and the Minister responsible for the Serious Fraud Office is responsible for the financial performance.

## Independence of the Director

It is an important constitutional principle in New Zealand that decisions by law enforcement agencies on the investigation and prosecution of individuals should not be subject to political control or direction. Therefore, all the SFO's operational decisions are made without ministerial direction. Section 30 of the Act provides that *"in any matter relating to any decision to investigate any suspected case of serious or complex fraud, or to take proceedings relating to any such case or any offence against this Act, the Director shall not be responsible to the [responsible Minister], but shall act independently"*.

## Powers of the Serious Fraud Office

The complexity of financial crimes, and the sheer volume of documentary evidence associated with investigations, creates an enormous challenge for a law enforcement agency. For this reason, the SFO has particular statutory powers to compel the production of documents and to require witnesses or suspects to answer any question put to them. These powers, although coercive, are an essential tool in uncovering evidence of fraud but also ensure that any witness is relieved of any liability for otherwise unlawful disclosure of evidence. For this reason, by far the most frequent use of coercive powers is at the request of an otherwise willing witness.

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## **Part 1:**

# STRATEGIC CONTEXT AND KEY ACHIEVEMENTS

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# Strategic context

The impacts of the global financial crisis and the collapse of New Zealand's second-tier financial services sector have had significant impacts on the New Zealand economy and the living standards of New Zealanders from 2009. By early 2010, the economic recovery had begun. The Government's response, through the Budget announced in May 2010, has been to focus on the long-term objective of lifting New Zealand's growth rate and New Zealanders' living standards.<sup>1</sup>

The Serious Fraud Office identified, in its 2010-2013 Statement of Intent, the role it would play in contributing to the Government's priorities of long-term economic growth. This Annual Report undertakes not only to report on our key achievements, but also to articulate how these achievements have positively impacted on New Zealanders in terms of the economic and justice outcomes identified below.

<b>Economic focus</b>	→ <b>Increased confidence and participation in New Zealand's financial markets:</b> <i>To grow the New Zealand economy in order to deliver greater prosperity, security and opportunities for all New Zealanders.</i>
<b>Justice focus</b>	→ <b>Reduced occurrence, impact and harm of serious fraud and an increase in offenders being held to account:</b> <i>To build safer communities where individuals feel secure and that they live in a society where civil and democratic rights and obligations are upheld.</i>

1. Minister of Finance's Executive Summary Budget 2010 Speech, May 2010.

## CASE STUDY

# Charges laid

## CAPITAL + MERCHANT FINANCE

In December 2010, Crimes Act 1961 charges were laid against Capital + Merchant Finance's current and former company directors Neal Medhurst Nicholls and Wayne Leslie Douglas.

The charges relate to the alleged non-disclosure of related party lending totalling approximately \$14.5 million to a Palmerston North development known as 'The Hub Properties'.

The pair are due to appear for trial on those charges in February 2012.

In July 2011, further charges were laid against the directors, as well as Owen Francis Tallentire, another director of the company, relating to transactions involving just over \$28 million that occurred between 2004 and 2006.

The SFO alleges that these transactions were entered into in breach of the restrictions contained in the

company's trust deed, and resulted in trusts controlled by the accused receiving benefits totalling approximately \$15.9 million.

"Confidence in the integrity of our financial markets will not be restored unless New Zealand investors believe there have been thorough investigations and, where appropriate, serious criminal charges laid against those responsible for the collapse of the finance companies," General Manager Financial Markets and Corporate Fraud Simon McArley said at the time.

The Capital + Merchant group of companies called in the receivers in November 2007 owing some 7000 investors about \$167.1 million, and was put into liquidation in December 2009.

The SFO commenced the Capital + Merchant Finance investigation in March 2010 after receiving a complaint from the Capital + Merchant Finance receivers, Grant Thornton.



# Progress towards outcomes

Serious financial crime involving fraud, bribery and corruption has immediate and long-term impacts on New Zealanders.

In our 2010-2013 Statement of Intent we identified a series of indicators which we would use to monitor over the longer term to assess how our activities are impacting on the economic and justice outcomes.

## IMMEDIATE IMPACTS

The immediate impacts are the monetary losses suffered by victims of fraud. To measure our effectiveness in diminishing this impact, we have developed a series of timeliness and quality measures balancing projected volumes against budget across our key activities. Our achievement against these measures is detailed in Part 3 (Statement of Service Performance) of this Report. In achieving these measures we assume we will make an impact on the outcomes in the longer term.

## INDIRECT LONG-TERM IMPACTS

The indirect impacts of financial crime are the economic damage to investor confidence, economic sustainability and future growth, and the public costs of prevention, detection and prosecution. They are long-term in nature. We have identified that by doing our work effectively we can have an impact towards positive change in the economic and justice outcomes identified. Measuring our achievement directly is difficult. There are global and environment factors we do not have control over. Moreover, we are not the only agency contributing towards these outcomes.

## PROGRESS IN 2010/11

In 2010/11, measurement targets against indicators were identified and included in our 2011-2014 Statement of Intent. The primary measurement tools identified were global economic crimes surveys conducted by large chartered accounting firms, and New Zealand's ranking in the Capital Access Index, conducted by the Milken Institute<sup>2</sup> annually. In addition, we are developing an annual survey to measure perceptions of victims with regard to the effectiveness of our work.

## Perceptions of justice being served and confidence of individuals in the business environment are key to positive outcomes.

To this end, in 2010/11 we have focused on a strong communication strategy: communications directly through media and one-on-one briefing updates to victims and complainants, and indirectly through our website. We have raised the public profile of what the Serious Fraud Office does and have been more accessible to the media. Our website was refreshed to make it easier to read and to access information on the cases we are investigating and prosecuting.

The following sections including case studies, statistics and trending will further demonstrate how our work is impacting on perceptions of justice served and business confidence. Appendix 4 summarises progress against the indicators identified in our 2010-2013 Statement of Intent.

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2. Milken Institute is a non-partisan independent economic Think Tank based in the USA.

# A safe, just and corruption-free New Zealand

MALCOLM MASON

New Zealand has maintained the top international ranking for being one of the world's least corrupt nations for several years. So when a staff member of a state agency is abusing their position of power for personal gain, the Serious Fraud Office acts swiftly.

Malcolm David Mason worked for the Accident Compensation Corporation (ACC) as National Property Manager and was responsible for procuring premises for ACC, tendering for the development of these premises and negotiating lease terms between ACC and the relevant landlords.

In 2011, Mason pleaded guilty to passing details of ACC's intentions to a property developer with whom he had a personal friendship. Mason's influence meant the developer received the opportunity to develop the new building with the certainty of a long-term lease with ACC. Once the lease was secured, the developer sold the building for a significant profit and paid Mason \$160,000. The property developer has pleaded not guilty to charges of offering to pay a bribe and paying a bribe; proceedings are continuing.

In 2007, Mason was tasked again with finding another location for ACC offices. He engaged a real estate agent to assist in identifying a suitable site and negotiate a lease. In 2008, ACC entered into a lease for a site based on Mason's recommendations.

For his part in the process, the agent provided Mason with a trip to the 2008 Singapore Grand Prix, a gift which included flights and accommodation, valued at approximately \$9,000.

Mason also admitted to passing a confidential document listing all Government Departmental Security Officers to an associate involved in the business of installing security systems.

In February 2011, Mason pleaded guilty to two Crimes Act 1961 and one Secret Commissions Act 1910 charges relating to his corrupt activities. In March 2011, he was sentenced to 11 months home detention.

Commenting at the time of conviction, SFO Chief Executive Adam Feeley said, "New Zealand has a hard-earned reputation for very low levels of corruption, and that reputation needs to be protected by constant vigilance by government agencies, along with public co-operation in reporting untoward activities."

## Key achievements

It has been an extraordinarily busy year for all of the staff at the SFO. The results are some of the most significant in recent years. These successes have been achieved in a manner which better reflected our strategic operational direction: more frequent cross-agency collaboration, greater speed and more active communication to the public.

- The volume and scale of investigations undertaken during the year are possibly the largest since the market collapse which led to SFO's creation in 1990. Seven new finance company investigations were commenced: Belgrave Finance, Hanover Finance, South Canterbury Finance, Dominion Finance, Kiwi Finance, Mutual & Viaduct Finance and Rockforte Finance. Our investigations, however, cover a greater range than failed finance companies. During the year, we investigated allegations of insurance fraud, large-scale embezzlement, foreign exchange dealings, community funding, lottery funding and mining permit applications.
- While these investigations have demanded significant resources, we have also maintained a strong emphasis on delivering results. Charges were laid in a number of important cases including Five Star Finance, Capital + Merchant Finance, Aorangi Securities, B'On Financial Services and Malcolm Mason, a former senior property manager with the Accident Compensation Corporation.
- Guilty pleas or convictions at trial were obtained in respect of National Finance; Five Star Finance; former Green Acres franchisee, Keith Lapham; former Lion Foundation Chief Executive, David Conroy; former General Manager of Actives Charitable Trust, Robert Briggs; and former Chief Executive of Ngapuhi Iwi Social Services, Arapeta Hamilton.

# A technology scam

PHILIP JAMES WHITLEY

Success with this workload has not come at the cost of unacceptable delays, diminished quality or avoiding large-scale cases. On the contrary, the caseload has been complemented by an across-the-board improvement to our success measures.

**Timeliness:** Our goal is one of greater responsiveness to the expectations of victims, investors and the general public. Consistent with this goal, at the end of the financial year all current investigations were less than 12 months old, with an average age of 5.3 months.

**Quality:** The public must have confidence in the integrity of the work we do. To this end, our new quality assurance measures have ensured that a high conviction rate (100 percent) has been maintained.

**Scale and impact:** Our reputation must be based on dealing with the most serious and complex of financial crimes, and convictions for which the most serious sentences should be imposed. During the year, we have investigated cases with losses exceeding \$1 billion and affecting over 85,000 persons. Of the 17 cases sentenced this year, 11 resulted in imprisonment sentences ranging from two years and three months to five years and six months.

**Visibility:** Public awareness of our work has been critical to promoting public confidence in the integrity of the legal system and investor confidence in our financial markets. Our new communications strategy ensured that the media and public were regularly kept informed of our work via media releases and our new website. We have also presented at and participated in numerous conferences and other professional networks to ensure our role is well understood, and to promote communication with the SFO.

When former Nelson businessman Philip James Whitley made claims that his company, Near Zero, had invented and patented a revolutionary method of data compression, only those in the know could separate fact from fiction.

“We needed to first of all understand what data compression was all about before we could understand whether the software was doing what it promised to do,” says Investigating Lawyer Hillary Walker.

“We approached an expert in the field quite early on – the University of Canterbury’s Dr Tim Bell. He was of the opinion that Philip Whitley’s supposed development simply couldn’t exist.”

In 2006, Whitley formed Near Zero and another company, Synitro, to own and promote the technology. For two years he promoted the company through a number of presentations describing the technology as “a patented breakthrough invention, offering dramatically more efficient electronic data transmission and storage capability”.

Approximately 490 investors invested over \$5 million on the basis of the false statements.

On 2 July 2010, Philip James Whitley was convicted on two counts of making a false statement as a promoter, pursuant to section 242 of the Crimes Act 1961. He was sentenced in August 2010 to five years and three months imprisonment.

“It was a very important case for the Nelson region and also important for us to demonstrate that as an agency we need to fight major financial crimes throughout the country,” says Hillary Walker.

# Statistics and trending

This section summarises the activities we have undertaken over the past year against prior years, along with comparative performance data. These statistics not only illustrate the overall trends in the reporting of assessments, investigations and prosecutions of financial crime, but also more clearly demonstrate accountability in terms of operational performance. A workflow diagram in Appendix 3 outlines the SFO's decision-making processes, on which these statistics are based.

## PERFORMANCE OVERVIEW

In the 2010 Annual Report, it was noted that we had met our key timeliness standard only twice in 10 years. It was stressed that public confidence depends on demonstrating greater effectiveness and efficiency in our operations. In the past year we have placed far greater emphasis on timeliness, without compromising the integrity of a thorough investigation, or declining to take on a meritorious case.

The lift in operational performance is apparent from the results depicted through the following graphs and tables. A highlight for the year was the achievement of 34 new investigations, which was almost a 70 percent increase over what was forecast, with only a modest budget increase. Cases are now accorded priority and resources relative to their public importance and to the extent to which they deliver on the outcomes we are trying to achieve.

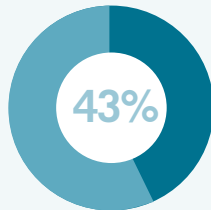
## Complaints

2009/10

NUMBER OF COMPLAINTS<sup>3</sup>

47

COMPLAINTS ASSESSED WITHIN TIME FRAMES

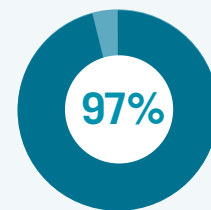


2010/11

NUMBER OF COMPLAINTS

440

COMPLAINTS ASSESSED WITHIN TIME FRAMES



## Investigations

2009/10

NUMBER OF INVESTIGATIONS COMMENCED

15 CASES

CONCLUDED WITHIN TIME FRAMES

18%

AVERAGE AGE OF INVESTIGATION (IN DAYS)

279

2010/11

NUMBER OF INVESTIGATIONS COMMENCED

34 CASES

CONCLUDED WITHIN TIME FRAMES

84%

AVERAGE AGE OF INVESTIGATION (IN DAYS)

174

## Prosecutions

2009/10

PROSECUTIONS COMMENCED

14

CONVICTIONS SECURED (BY CASE)<sup>4</sup>

13

CONVICTION RATE (CASE)

93%

2010/11

PROSECUTIONS COMMENCED

14

CONVICTIONS SECURED (BY CASE)<sup>4</sup>

16

CONVICTION RATE (CASE)

100%

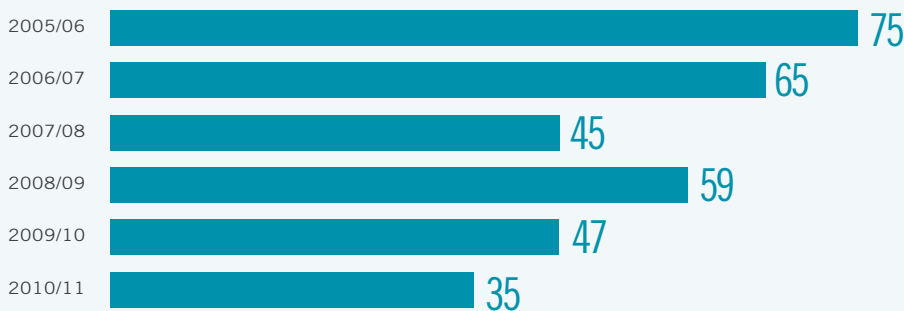
3. Prior to 2010/11, the SFO only maintained statistics for complaints assessed, but did not maintain complaint numbers.

4. A conviction success is measured as at least one conviction against one or more defendants in the same trial. In 2010/11, 20 of 21 defendants were convicted at trial, and in 2009/10, 14 of 16 defendants were convicted.

## COMPLAINTS AND ASSESSMENTS

The objective of the complaints and assessments stage is to ensure that complaints are prioritised quickly. A number of improvements to the complaints handling process were made during the year. Only those cases which give rise to a clear and reasonable suspicion of offending relevant to the Act and the criteria for assessment set by the SFO are fully assessed. Matters that clearly fall outside the mandate of the SFO, but raise other regulatory or law enforcement issues, are referred quickly to the relevant government agency. In contrast, the most serious matters are fast-tracked internally to assessment and, if appropriate, referred to an investigation team for a full investigation. The graph below illustrates that, while the number of complaints received is increasing, the number of cases warranting a full assessment is reducing.

### Cases assessed



COMPLAINTS ARE QUICKLY PRIORITISED TO ENSURE MAJOR ISSUES ARE FULLY ASSESSED, WHILE OTHER CASES ARE REFERRED TO RELEVANT AGENCIES.

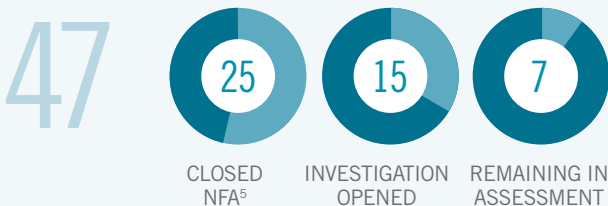


The cost-efficiency of the new streamlined processes is illustrated in the graph below, which shows the high percentage of assessed cases that proceeded to a full investigation. This means that resources were not devoted to cases for unnecessarily long periods when there was little prospect of them becoming full SFO investigations.

### Assessments

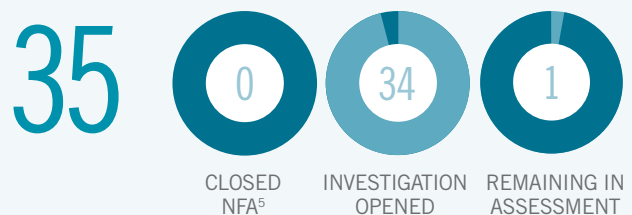
#### 2009/10

NUMBER OF ASSESSED CASES



#### 2010/11

NUMBER OF ASSESSED CASES



5. NFA – No Further Action.

## INVESTIGATIONS UNDER PARTS 1 AND 2 OF THE ACT

Part 1 of the Act provides the SFO with limited powers to carry out an investigation into the affairs of any person where the Director may suspect that the investigation may disclose serious or complex fraud. Part 2 of the Act provides the SFO with more extensive coercive powers to investigate matters where we have reasonable grounds to believe that an offence involving serious or complex fraud may have been committed.

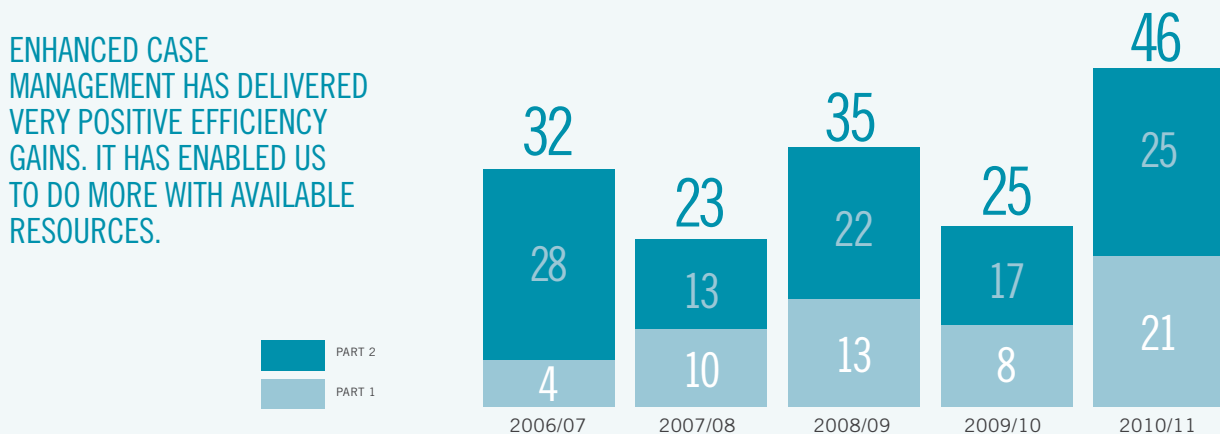
In order to significantly improve timeliness, we estimated that case volumes would need to be significantly reduced for 2010/11. This has been achieved. Enhanced case management techniques have delivered very positive efficiency gains. Earlier involvement of SFO prosecution counsel, more narrowly focusing on transactions which have the greater evidential likelihood of justifying charges, and closer management of staff resources have enabled us, in proportionate terms, to do more with the resources available. The net effect of dealing with fewer cases at any one point has been a significant increase in timeliness, while still being able to deal with a comparable number of cases in a given period.

### PART 1 VOLUMES

While Part 1 powers are more limited in their scope, they are intended to be used early in the law enforcement process. Using these powers more frequently and effectively can have two significant benefits. Firstly, as with any law enforcement process, delay can often result in evidence being destroyed or otherwise compromised. Accordingly, timely use of detection powers often enables the most compelling evidence to be secured. Secondly, as fraud is usually a crime which is committed repeatedly, the earlier we intervene in criminal offending the greater the potential for minimising the harm to the public.

Consequently, an important part of our law enforcement strategy is putting greater resources into ‘finding’ serious financial crime through the detection powers provided by Part 1, rather than simply responding to reported cases (typically from liquidators) where the prima facie evidence of offending is already quite apparent. This is not an easy goal to achieve, but more frequent use of Part 1 powers is an important step in this direction. The graph below illustrates how the past year has seen a significant increase in Part 1 investigations.

## Investigations commenced 2006/07 – 2010/11



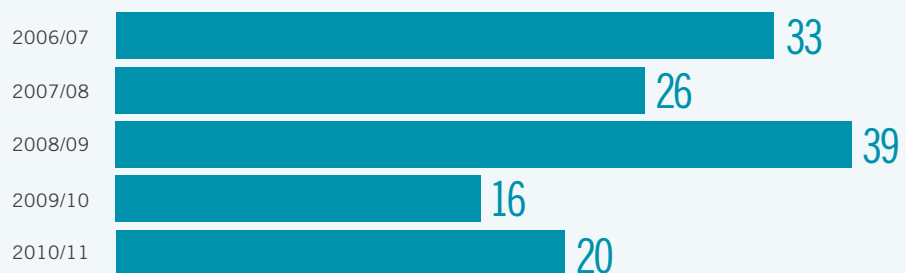


## PART 2 VOLUMES

While Part 1 investigations are increasing, the trend with Part 2 investigations is relatively static, albeit with an increase from last year. In our 2010-2013 Statement of Intent, we highlighted the need to investigate fewer cases at any point in time. This is reflected in the graph below, which outlines the total current investigations at hand as at 30 June 2011.

### Investigation cases at hand as at 30 June 2011

2010/11 SAW A CONCENTRATION OF RESOURCES ON INVESTIGATING THE MOST RELEVANT CASES.

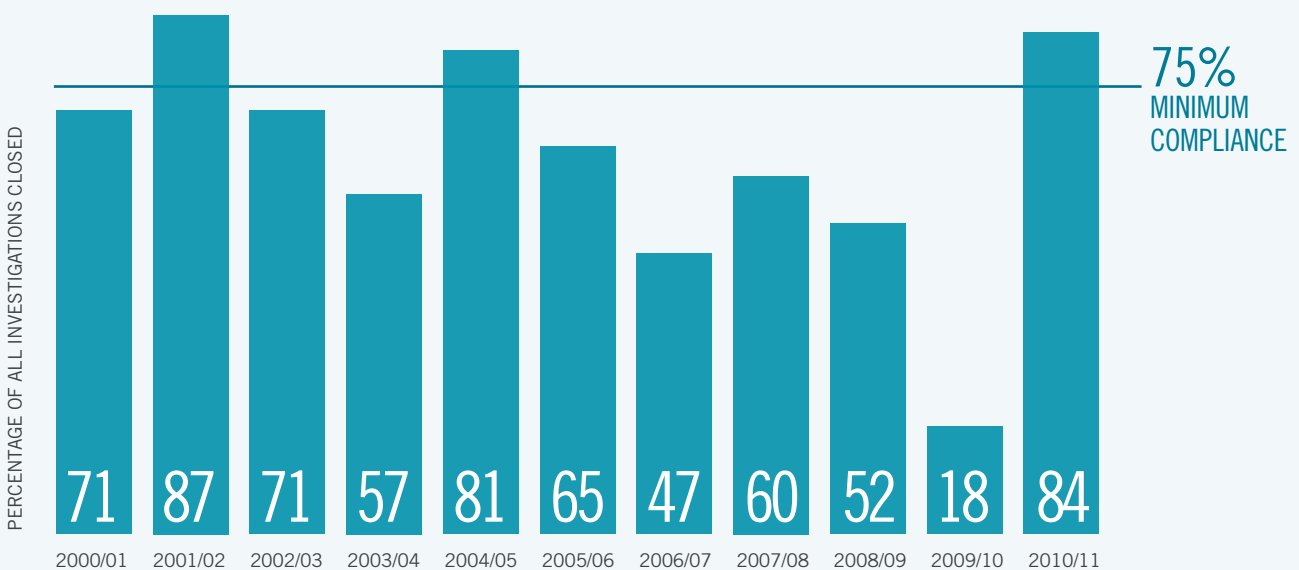


## TIMELINESS

Concluding several significantly aged investigations was an important part of the plan for the past year. With these cases now charged or discontinued, we are able to more readily respond to new investigations, while still keeping current cases on track. By undertaking this strategy, we exceeded our timeliness measure (84 percent, against a standard of 75 percent).

In addition, all current cases are now less than 12 months old, and the average age of cases under investigation reduced from 7.3 months at the start of the year to 5.3 months at 30 June 2011. This places us in a considerably better position to deliver further on timeliness improvements next year.

### Investigations concluded within 12 months



## PROSECUTIONS

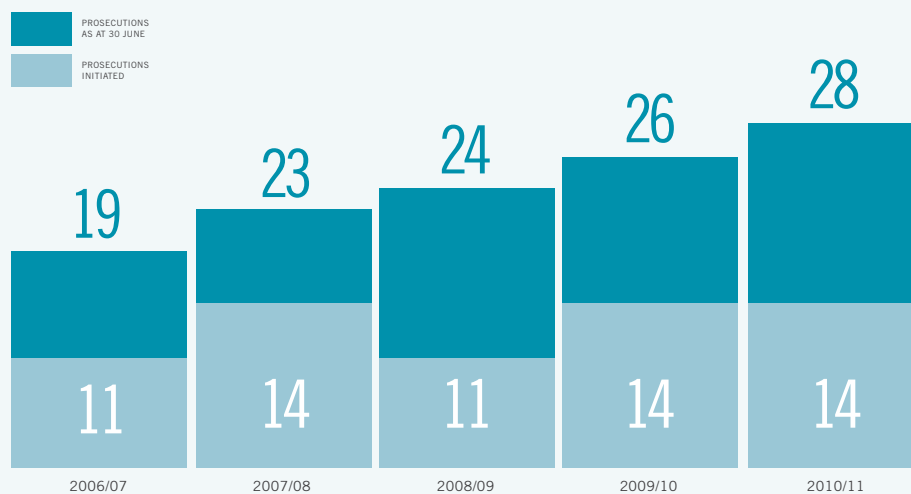
Our aim is that we achieve prosecutions which produce high conviction rates and secure sentences that act as strong deterrents to future offending.

A decision to prosecute cannot be taken lightly, no matter what the public view may be of a case. The Solicitor-General's Prosecution Guidelines set a stringent two-stage test for making a prosecution decision: the *Evidential Test* requires a determination whether there is credible and admissible evidence on which a jury could reasonably be expected to find an individual guilty beyond reasonable doubt; and the *Public Interest Test* requires an assessment of a wide range of factors to determine whether a prosecution is required in the public interest.

## VOLUMES

In the past year, we have laid significant charges in terms of both the alleged level of offending and the increased dollar value to which the charges relate. While the number of cases being charged remains steady, the total number of cases under prosecution is growing. This reflects the increasing time taken between laying charges and the matter coming to trial.

### Prosecutions commenced 2006/07 – 2010/11



# A “Ponzi-style” deception

KEITH VICTOR LAPHAM

For hundreds of new immigrants coming to New Zealand, the chance to start a new life was destroyed after being deceived by Auckland Green Acres Master franchisee Keith Lapham.

More than 200 people, mostly recent immigrants, paid Lapham for franchises with Green Acres on the basis of the false representations made by Lapham regarding guaranteed income.

Lapham was a Master Ironing Franchisee for Green Acres Franchise Group from March 2000 to December 2007. From about 2002, Green Acres agreed that Lapham would deal directly with commercial customers himself. It was his responsibility to pay the guaranteed income to the sub-franchisee and make any royalty or brand levy payments on their behalf to Green Acres.

But Lapham used the payments from new sub-franchisees, rather than any profits earned, to pay guaranteed income to other sub-franchisees in a continual cycle that relied on more and more people paying to join the scheme – a model that was doomed to fail. In total, the SFO alleged that Lapham fraudulently obtained more than \$3.8 million from the sub-franchisees and Green Acres.

“The case was significant because it helped protect New Zealand’s reputation as a good place to live and one where respect for the integrity of the legal system is maintained,” says Investigating Lawyer Hillary Walker.

Lapham pleaded guilty to the charges laid on 30 September 2010, but disputed the amount in question, claiming that he had obtained approximately \$1.5 million only.

“Those people have come here as new immigrants to contribute to the community and they’ve had that ripped from them, so instead of hitting the ground running they’ve been put way behind the eight ball,” Sentencing Judge Mark Perkins said at the time.

Lapham was sentenced to three years and eight months imprisonment.

## CONVICTION RATES

SFO has previously maintained a performance standard of securing a minimum conviction rate of 90 percent. While a high conviction rate is desirable, it is preferable to use quality assurance to measure the ‘right’ operational processes, as these, when achieved, should in turn deliver high-quality results.

Accordingly, in 2010/11, we initiated internal quality assurance reporting on a number of processes. These have included regular file reviews by managers and external prosecution counsel to ensure that the conduct of the investigations reflects both internal policies and the Solicitor-General’s Guidelines for commencing prosecutions.

Although the conviction rate is no longer used as a quality measure, the trend in conviction rates and sentencing will continue to be monitored to assess their impact on future financial crime. All 16 cases which were sentenced in 2010/11 secured convictions, with 20 of 21 defendants being convicted. This demonstrates that high standards are continuing to be maintained.

## SENTENCING

Sentencing is governed by the Sentencing Act 2002 and is at the discretion of the judge. Our role in this regard is to identify and prosecute the most serious financial crimes and, where convictions are obtained, present the clearest and most comprehensive information to assist a judge with sentencing.

Of the imprisonment sentences handed down this year, the average sentence was 3.25 years, with the most severe sentence being 5.5 years. As with any prosecution involving financial losses, these sentences do not provide material recompense for the losses suffered by the victims. However, they do provide an effective deterrent to white collar criminals, for whom imprisonment is a daunting prospect, and therefore provide a sense of justice to those defrauded.

# International comparison

At one level, international comparisons are fraught with risk. They do not take account of a range of potential differences in legislation, performance measures, operational processes, case types, cost structures or Government priorities. Conversely, if we do not seek to learn from others, we will not find opportunities for improvement.

Accordingly, while we resist the suggestion that one can readily benchmark our performance relative to another agency overseas, we see merit in observing and understanding other agencies' performance. In this regard, choosing a jurisdiction with a similar legal system and which has a comparable agency is essential. We have therefore chosen to regularly follow the progress of the UK Serious Fraud Office, which, over the past three years, has carried out significant changes to improve both its operational performance and public perception.

The table below illustrates comparative data, but does not attempt in any way to draw definitive conclusions about the two agencies. However, it does suggest that our overall performance compares very favourably relative to what is a very well-respected international law enforcement agency.

## Comparison with UK Serious Fraud Office

	UK SFO <sup>6</sup>	NZ SFO <sup>7</sup>
Budget	NZ\$77m	NZ\$7.5m
Staff	307	35
Investigations	55	34
Prosecutions	9	14
Conviction rate	91%	100%
Average sentence in months	31.8	40.3

6. Serious Fraud Office UK 2009/10 Annual Report.  
7. As at 30 June 2011.

# Cost-effectiveness

Cost-effectiveness is at the heart of the Government's priorities for the public service, but it is not just about reducing cost for cost's sake. Rather, there is a focus on using resources to increase productivity for more effective outcomes. This year, we achieved this not through reduced budgets, but with fundamental changes in the way that we function. This included: improving the criteria for initiating investigations, changing the way we manage our workflows and developing key relationships and communications with stakeholders and victims.

2010/11 was the year that we bedded in the recommendations from the organisational review completed in April 2010. The purpose of this review was to look at improved business processes to result in increased productivity and outcomes that would positively affect a greater number of New Zealanders.

One of the most significant actions that underpinned our ability to be more cost-effective was the establishment of team structures based on phases of activity in an open plan office. Teams were realigned, with staff grouped according to specific skills and expertise required at different phases of a case. To support the realignment to this team structure, we moved our staff to smaller premises in an open plan environment, which allowed for all team members to sit together with their manager.

Our 2010-2013 Statement of Intent identified specific areas we would focus on to develop the health of the organisation and our achievements here are addressed in Part 2 of this Annual Report. Specific cost-effectiveness actions were also identified and incorporated into our organisational development strategies. These were:

ACTIONS	PROGRESS
Increase collaboration to minimise duplication	Completed stakeholder relationship survey to identify expectations of all parties. Developed MOU with NZ Police.
Manage peaks of work through use of external expertise	Implemented secondment programme with NZ Police and short-term secondments with external accounting firms.
Improve use of technology to monitor and progress investigation	Implemented forensic accounting tools software and roll-out of office-wide laptops and mobile phones.
Refocus use of corporate services functions	Outsourced IT functions and streamlined financial management processes and accountability reporting. Used external expertise when needed at peak times only.

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## **Part 2:**

# ORGANISATIONAL CAPABILITY AND PERFORMANCE

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We seek to be one of the leading employers of forensic accounting, investigation and legal expertise in serious financial crime in New Zealand. We want to continually develop our staff with personal training and development and provide them with the right tools and infrastructure.

Over the past year, we have moved from an organisation going through significant change, to one which has bedded in cost-efficient and streamlined work processes. We have given strong direction to our staff through a performance management framework which clearly links their activities to the wider goals of the Serious Fraud Office, Government's priorities and outcomes impacting New Zealanders.

This section details the progress we have made in 2010/11 against our goals stated in the 2010-2013 Statement of Intent, to lift our organisational capability and performance, and thereby our overall efficiency and effectiveness.

## Investing in our people

By continually expanding the skills and knowledge of our staff, we will establish an organisational culture of high performance, success, teamwork and individual development that can respond to a rapidly changing business and political environment.

ACTIONS FOR 2010/11	PROGRESS
Implement a new training and development programme.	<b>Completed.</b> The programme will continue to roll out in 2011/12.
Implement a new recruitment programme that attracts the very best talent from leading private and public sector agencies.	<b>Completed.</b> The recruitment completed during the year has implemented the organisational review recommendations of 2009/10.
Implement a secondment programme which brings new skills and perspectives into the organisation and provides our staff with new career development opportunities.	<b>Completed.</b> A secondment programme has commenced with NZ Police, along with ad hoc secondments from the private sector. These, and other secondments, will be expanded in the coming years.
Implement a new performance management framework.	<b>Completed.</b> The new performance management framework more directly links staff performance with the goals of the SFO.



## LEADERSHIP

### STRATEGIC PLANNING

Development of the goals and strategy for the Serious Fraud Office began with staff workshops to gain their input into the draft Statement of Intent. The document was then finalised by the Chief Executive and the senior management team, for discussion with the Minister. The final Statement of Intent and performance measures for the year were discussed with staff, and aspects of the work programme and measures integrated into individual staff performance plans, providing staff with a strong focus on organisational and Government outcomes.

### SENIOR MANAGEMENT LEADERSHIP DEVELOPMENT

A leadership development training programme for senior managers was implemented in 2010/11 and focused on development areas specific to managers and their respective roles. This included specific coaching and a programme to develop their skills as a leadership team. In addition, the Chief Executive ensured that each member of the team was delegated additional responsibilities in his absence and that managers took collective accountability for achieving performance targets and managing risk across the SFO's activities. This two-pronged approach has built the leadership capability across the organisation, as well as ensuring effective succession planning.

## EMPLOYEE DEVELOPMENT

### TRAINING AND DEVELOPMENT

Our success is dependent on developing and retaining talented and motivated people. We have developed an individual training and development programme for each staff member, which is incorporated into their annual performance agreement. Staff have been encouraged to enhance both their knowledge and network by attending and presenting at relevant conferences and other forums.

External training courses have been developed with reference to the needs of the SFO, ensuring we dedicate the right resources to benefit the whole team. Secondments to or from SFO have offered another means of skills and experience development. We have established a formal secondment programme with NZ Police, which has already been a very positive experience for both the staff and agencies involved. We will look at extending this arrangement across other government agencies.

### PROMOTIONS

We are a small organisation with a flat organisational structure. With many experienced staff, it is a challenge to provide growth and promotion opportunities. As part of our organisational review, we have established new roles to provide technical and staff leadership opportunities as career development paths.

## **RECOGNITION AND REMUNERATION**

### **PERFORMANCE PLANNING AND APPRAISALS**

Improvements have been made this year to ensure that all staff performance measures are directly aligned with the SFO's Statement of Intent and the performance measures in the Information Supporting the Estimates. Staff were assessed against personal performance targets, as well as by their contribution towards office-wide targets and specific behaviour expectations. Feedback was sought internally and externally, as part of the appraisal process. The overall appraisal process sought not only to motivate individual staff with constructive feedback and clear direction, but to give all staff confidence in the consistency and transparency of the process.

### **REMUNERATION**

Significant work has been undertaken this year to ensure remuneration fairly reflects the relevant job markets and Government expectations. All positions were externally benchmarked and job-sized. Remuneration for roles was adjusted based on individual skills and performance, market data and overall budget.

## **RECRUITMENT, SELECTION AND INDUCTION**

### **RECRUITMENT AND SELECTION**

New recruitment processes are now in place, which focus on internal management, rather than external agencies. This approach not only provides cost savings, it develops the skills of managers with respect to recruitment and selection. The selection process is rigorous, recognising the critical importance in recruiting people who not only have the right skills, but are also a good 'fit' for the organisation.

### **INDUCTION**

A new induction programme was established which outlined operational practices, internal policies and a strategic perspective from the Chief Executive.

## **HEALTH AND SAFETY ENVIRONMENT**

We maintain a Health and Safety Committee to ensure the safety, health and wellbeing of our staff. The committee meets regularly to continually look for improvements. A significant part of the past year has been relocating to new premises, which has involved a full health and safety assessment.

## **FLEXIBLE WORK ARRANGEMENTS**

We are committed to providing staff with work opportunities which can balance the needs of the SFO with their family obligations. We have invested in new laptop technology, which allows flexible working options working remotely. We openly consider individual staff requests to work part-time or adjust their working hours to suit family arrangements.

## **PROTECTION AGAINST HARASSMENT AND BULLYING**

We support and promote the Public Sector Code of Conduct to all of our staff. We have a specific policy addressing the issues of workplace harassment and/or bullying and it clearly articulates how managers deal with unacceptable behaviours. Staff performance agreements deal specifically with organisational culture and assess staff performance against expected behaviours.

## Enhancing and expanding our relationships

We aim to be the lead law enforcement agency for serious and complex financial crime and offer our skills and resources across the public sector.

ACTIONS IN 2010/11	PROGRESS
Implement protocols with insolvency practitioners for case referrals.	<b>Completed.</b>
Implement policies for the disclosure of information and delegation of powers to private sector agencies.	<b>Commenced and ongoing.</b> Information is now more regularly disclosed, while still adhering to statutory obligations and established internal controls.
Implement programme of improved collaboration with regulators and law enforcement agencies investigating financial crimes.	<b>Ongoing.</b> The SFO is one of the main agencies responding to the recommended actions in the Ministry of Justice's strategy paper <i>Strengthening New Zealand's Resistance to Organised Crime</i> .

## Improving our tools and infrastructure

Our aim is to be better informed and have greater understanding of financial crime issues. Our software and supporting hardware infrastructure will support the complex nature of our work. We will be well-connected with law enforcement agencies and relevant private sector organisations.

ACTIONS IN 2010/11	PROGRESS
Complete a review of IT systems.	<b>Completed in April 2011.</b> IT systems and services have been outsourced.
Upgrade the computer forensic tools to increase our speed and capacity.	<b>Ongoing.</b> Forensic accounting tools software has been upgraded and additional technology purchased. We have promoted two internal staff to the role of forensic electronic investigator, which provided greater capacity to manage this work, as well as assisting with succession planning for this specialist activity.
Identify opportunities to develop information databases or share existing electronic information with other agencies.	<b>Ongoing.</b> The Government's <i>Strengthening New Zealand's Resistance to Organised Crime</i> strategy includes a report to Cabinet on this in August 2012.

## Streamlining our systems and processes

We aim to maintain efficient and cost-effective systems.

ACTIONS IN 2010/11	PROGRESS
Develop a 'cost per case' model, which can be used to better manage the timeliness and cost-effectiveness of cases.	<b>Ongoing.</b> Daily time recording software has been implemented, and costs are now coded to every case. Further work will be done in 2011/12 as the development of case management systems continues.
Implement an open plan working environment to improve communication across teams.	<b>Completed.</b> Relocation to new premises in March 2011 has resulted in open plan on a single floor.
Develop protocols with insolvency practitioners for case referrals.	<b>Completed.</b>

## Expanding our communication

We aim to be a responsive and effective communicator with regard to serious financial crime in New Zealand. This includes regular communication with complainants and victims of crime and a greater public awareness of the risks and impacts of serious financial crime.

ACTIONS IN 2010/11	PROGRESS
Review and enhance our communications strategy.	<b>Completed.</b> A survey and analysis of key Serious Fraud Office stakeholders was completed. A communication plan for each stakeholder which will ensure a consistent approach will be completed in early 2011/12. This will also have a focus on improved communications generally.
Ensure there is regular communication with complainants and victims as part of the case management procedures.	<b>Completed.</b> Public and media communications were integrated into all investigation plans and were reviewed quarterly.
Maintain the website with regular updates.	<b>Completed.</b> The website was comprehensively changed and updated.
Identify opportunities to run seminars with specific business sectors or industries to inform on the risks associated with fraud and other financial crimes.	<b>Ongoing.</b>

## Maintaining capital investment

The capital investment made in 2010/11 reflects the recommendations of the organisational review in 2010. A significant investment was made in relocating premises into an open plan environment to improve the team working dynamic. In addition, forensic accounting tools and other software were upgraded and purchased to improve the speed and thoroughness of investigations.

### Capital investment

	ACTUAL 2010/11 \$000	BUDGET 2010/11 \$000	ACTUAL 2009/10 \$000
Leasehold improvements	181	268	0
Information technology hardware	116	188	44
Software	106	76	9
Furniture and fittings	143	185	1
Office equipment	33	5	14
Motor vehicles	21	0	0
<b>TOTAL CAPITAL INVESTMENT</b>	<b>600</b>	<b>722</b>	<b>68</b>

## Managing our risks

Key external risks identified over the past year included:

- failure to respond quickly to a major incidence of fraud
- failure to align our investigative priorities with the wider enforcement priorities of the entire Justice Sector and Government
- failure to address cases that will have the biggest impacts.

Additional internal risks included:

- loss of productivity during the time when the SFO moved to new premises
- inability to hire skilled staff in a timely manner to meet increasing workload
- failure to sublet unoccupied premises
- failure of internal management systems
- failure of information technology systems.

We addressed these risks in a number of ways:

- work priorities were continually reassessed against our medium-term strategic direction
- arrangements with private sector organisations provided skilled staff on short-term secondment arrangements to meet peak workflows
- new quality assurance processes were implemented
- more comprehensive ministerial monthly reporting was put in place, addressing both current operational performance and achievement towards longer-term outcomes
- actively negotiated a building subletting arrangement
- engaged in more regular communication with key agencies through both formal (e.g. the Justice Sector Chief Executives Forum) and informal channels.

## Reputation and integrity

Given the nature of our work, it is essential people have confidence in our organisation. Our integrity, work quality and maintenance of confidentiality are managed through the following key areas.

### CONFIDENTIALITY OF INFORMATION

Individual employment agreements for new staff retain confidentiality provisions and all contractors engaged by the SFO sign a confidentiality agreement when they are engaged. The staff induction process further reinforces the need for confidentiality. Our IT system and file security system are robust and effective due to quality assurance measures in place. In addition, we have an extensive security system within our physical premises.

### ACCESSIBLE KNOWLEDGE

Our document management and records systems make institutional knowledge available to all staff. Our team structure also encourages regular and effective knowledge sharing.

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## **Part 3:**

# STATEMENT OF SERVICE PERFORMANCE

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# Statement of Responsibility

In accordance with sections 35 and 45C of the Public Finance Act 1989, I am responsible, as Chief Executive and Director of the Serious Fraud Office, for the preparation of the financial statements and statement of service performance, and the judgements made in the process of producing those statements.

I am responsible for establishing, and I have established, a system of internal control procedures that provide reasonable assurance as to the integrity and reliability of financial reporting. These systems have been maintained throughout the year.

In my opinion, the financial statements and statement of service performance fairly reflect the financial position and operations of the Serious Fraud Office for the year ended 30 June 2011.

Signed:



**Adam Feeley**  
Chief Executive and Director  
30 September 2011

Countersigned by:



**Victoria Currey**  
General Manager, Corporate Services  
30 September 2011

# Statement of Service Performance

## Vote Serious Fraud

### OUTPUT CLASS: INVESTIGATION AND PROSECUTION OF COMPLEX OR SERIOUS FRAUD

#### DESCRIPTION

This output expense provided for services of detection, investigation and prosecution of cases of suspected serious fraud offending brought to the attention of, or detected by, the Serious Fraud Office in order to impact on the outcomes of:

- reduced occurrence, impact and harm of serious financial crime and increase of perpetrators being held to account, whereby the interests of consumers and investors are protected; and
- greater public confidence in New Zealand capital markets domestically and internationally.

#### PERFORMANCE MEASURES AND STANDARDS

##### QUANTITY

ACTUAL 2010	PERFORMANCE MEASURE	TARGET 2011	ACTUAL 2011	COMMENT
New in 2010/11	Number of self-initiated inquiries.	5	10	<b>Target exceeded.</b> Improved communication with the private sector assisted with greater self-initiated detection work.
New in 2010/11	Number of complaints received.	200	440	<b>Target exceeded.</b> Greater public awareness of the role of the SFO, along with a difficult business environment, led to a significant increase in complaints to the SFO.
New in 2010/11	Number of complaints reviewed.	100	246	<b>Target exceeded.</b> Refer above.
15	Number of new cases where investigation commenced.	20	34	<b>Target exceeded.</b> The increased volume of complaints resulted in a greater number of investigations. Improved internal efficiencies ensured that additional volumes did not impact adversely on timeliness standards.
14	Number of cases brought to prosecution.	15	14	<b>Target not met.</b> Prosecutions have been substantially in line with forecast numbers, but priority was given throughout the year to progressing several large, publicly important investigations.
New in 2010/11	Number of OFCANZ <sup>8</sup> and proceeds of crime cases assisted with.	10	11	<b>Target met.</b>
New in 2010/11	Ratio of category A and B cases <sup>9</sup> investigated.	1:3	14:11	<b>Target met.</b>

8. OFCANZ – Organised and Financial Crime Agency of New Zealand (an operational unit of the Police).

9. Category A cases are those which either:  
 •investigate a fraud alleging \$10M losses or greater;  
 •investigate a fraud alleging 100 or more investors/victims; or  
 •involve bribery or corruption of a public official.  
 Category B cases are all other investigations.

ACTUAL 2010	PERFORMANCE MEASURE	TARGET 2011	ACTUAL 2011	COMMENT
New in 2010/11	Number of victims.	1000+	85,000+	<b>Target exceeded.</b> The unusually high number of victims is a consequence of the high level of finance company failures.
New in 2010/11	Total value of money defrauded.	\$50M+	Approximately \$1.01B	<b>Target exceeded.</b> The actual figure reflects the total value of losses investigated. The large dollar value is a result of finance company failures.

## TIMELINESS

There is no timeliness comparative data to 2009/10 as the performance measurement framework was restructured for 2010/11 to provide a more comprehensive approach to measuring outputs and their impact on the economic and justice outcomes identified.

PERFORMANCE MEASURE	STANDARD 2011	ACTUAL 2011	COMMENT
Time taken to establish an investigation strategy once an investigation is formally commenced.	Category A – 7 days; 90%	100% 18/18	<b>Standard met.</b>
	Category B – 14 days; 90%	94% 15/16	<b>Standard met.</b>
Time taken to progress an inquiry to Part 1 investigation status within targeted working days.	Category A – 14 days; 90%	100% 18/18	<b>Standard met.</b>
	Category B – 28 days; 90%	94% 15/16	<b>Standard met.</b>
Time taken to progress a Part 1 investigation to Part 2 investigation within targeted working days.	Category A – 3 months; 75%	75% 9/12	<b>Standard met.</b>
	Category B – 3 months; 75%	100% 9/9	<b>Standard met.</b>
Time taken to conclude an investigation from formal commencement within targeted working days.	Category A – 12 months; 75%	69% 9/13	<b>Standard not met.</b> A single delayed case resulted in the standard not being met by a small margin. Ensuring the integrity of a thorough investigation will occasionally result in minor timeliness delays.
	Category B – 9 months; 75%	100% 10/10	<b>Standard met.</b>
Frequency of communication to complainants, witnesses, victims and the public with regard to a specific investigation.	Category A – monthly; 90%	100%	<b>Standard met.</b>
	Category B – quarterly; 90%	100%	<b>Standard met.</b>

## QUALITY

There is no quality comparative data to 2009/10 as the performance measurement framework was restructured for 2010/11 to provide a more comprehensive approach to measuring outputs and their impact on the economic and justice outcomes identified.

PERFORMANCE MEASURE	STANDARD 2011	ACTUAL 2011	COMMENT
Frequency of quality assurance review on an active investigation file.	Category A – quarterly; 80%	89%	Standard met.
	Category B – quarterly; 50%	100%	Standard met.
Frequency of post-investigation review of a file.	Category A – 90%	94% 16/17	Standard met.
	Category B – 50%	92% 11/12	Standard met.
Frequency of Counsel agreement with charges proposed by Serious Fraud Office.	Category A – 90%	100%	Standard met.
	Category B – 90%	100%	Standard met.
Frequency of a custodial sentence being ordered where a conviction was obtained.	Category A – 90%	57% 4/7	Standard not met. While every attempt is made to take on the most serious investigations and lay the most serious charges, sentencing is always dependent on the application of Court rules and judicial discretion.
	Category B – 60%	70% 7/10	Standard met.

## STATEMENT OF COST OF SERVICES

	ACTUAL 2011 \$000	MAIN ESTIMATES 2011 \$000	SUPP ESTIMATES 2011 \$000	ACTUAL 2010 \$000
<b>REVENUE</b>				
Crown	10,861	7,360	10,860	6,571
Departments	162	101	194	100
Other	0	9	9	6
<b>TOTAL INCOME</b>	<b>11,023</b>	<b>7,470</b>	<b>11,063</b>	<b>6,677</b>
<b>TOTAL EXPENDITURE</b>	<b>10,703</b>	<b>7,470</b>	<b>11,063</b>	<b>7,302</b>
<b>NET SURPLUS/(DEFICIT)</b>	<b>320</b>	<b>0</b>	<b>0</b>	<b>(625)</b>

# Financial Statements

## STATEMENT OF COMPREHENSIVE INCOME

FOR THE YEAR ENDED 30 JUNE 2011

	NOTE	ACTUAL 2011 \$000	MAIN ESTIMATES 2011 \$000	SUPP ESTIMATES 2011 \$000	ACTUAL 2010 \$000
<b>INCOME</b>					
Crown		10,861	7,360	10,860	6,571
Other	2	162	110	203	100
Gains	3	0	0	0	6
<i>TOTAL INCOME</i>		11,023	7,470	11,063	6,677
<b>EXPENDITURE</b>					
Personnel costs	4	4,746	4,382	4,685	4,305
Depreciation/amortisation expense	9,10	167	356	202	197
Capital charge	5	20	125	36	76
Finance costs	6	43	0	0	0
Other operating expenses	7	5,727	2,607	6,140	2,724
<i>TOTAL EXPENDITURE</i>		10,703	7,470	11,063	7,302
<b>NET SURPLUS/(DEFICIT)</b>		<b>320</b>	<b>0</b>	<b>0</b>	<b>(625)</b>
<b>OTHER COMPREHENSIVE INCOME</b>		0	0	0	0
<b>TOTAL COMPREHENSIVE INCOME</b>		<b>320</b>	<b>0</b>	<b>0</b>	<b>(625)</b>

Explanations of significant variances against budget are detailed in note 20.  
The accompanying notes form part of these financial statements.

## STATEMENT OF FINANCIAL POSITION

AS AT 30 JUNE 2011

	NOTE	ACTUAL 2011 \$000	MAIN ESTIMATES 2011 \$000	SUPP ESTIMATES 2011 \$000	ACTUAL 2010 \$000
<b>ASSETS</b>					
<b>CURRENT ASSETS</b>					
Cash and cash equivalents		1,233	513	387	1,289
Debtors and other receivables	8	2,742	25	3,060	79
Prepayments		13	25	0	12
<i>TOTAL CURRENT ASSETS</i>		3,988	563	3,447	1,380
<b>NON-CURRENT ASSETS</b>					
Property, plant and equipment	9	626	698	1,095	642
Intangible assets	10	107	242	94	7
<i>TOTAL NON-CURRENT ASSETS</i>		733	940	1,189	649
<b>TOTAL ASSETS</b>		<b>4,721</b>	<b>1,503</b>	<b>4,636</b>	<b>2,029</b>
<b>LIABILITIES</b>					
<b>CURRENT LIABILITIES</b>					
Creditors and other payables	11	919	262	3,574	615
Return of operating surplus	12	0	0	0	0
Provisions	13	465	0	0	94
Employee entitlements	14	323	160	70	238
<i>TOTAL CURRENT LIABILITIES</i>		1,707	422	3,644	947
<b>NON-CURRENT LIABILITIES</b>					
Provisions	13	2,235	0	535	625
Employee entitlements	14	7	4	5	5
<i>TOTAL NON-CURRENT LIABILITIES</i>		2,242	4	540	630
<b>TOTAL LIABILITIES</b>		<b>3,949</b>	<b>426</b>	<b>4,184</b>	<b>1,577</b>
<b>NET ASSETS</b>		<b>772</b>	<b>1,077</b>	<b>452</b>	<b>452</b>
<b>TAXPAYERS' FUNDS</b>					
General funds		772	1,077	452	452
<b>TOTAL TAXPAYERS' FUNDS</b>		<b>772</b>	<b>1,077</b>	<b>452</b>	<b>452</b>

Explanations of significant variances against budget are detailed in note 20.  
The accompanying notes form part of these financial statements.

## STATEMENT OF CHANGES IN TAXPAYERS' FUNDS

FOR THE YEAR ENDED 30 JUNE 2011

	NOTE	ACTUAL 2011 \$000	MAIN ESTIMATES 2011 \$000	SUPP ESTIMATES 2011 \$000	ACTUAL 2010 \$000
<b>BALANCE AS AT 1 JULY</b>		452	1,077	452	1,077
Total comprehensive income		320	0	0	(625)
Return of operating surplus	12	0	0	0	0
<b>BALANCE AT 30 JUNE</b>		<b>772</b>	<b>1,077</b>	<b>452</b>	<b>452</b>

## STATEMENT OF CASH FLOWS

FOR THE YEAR ENDED 30 JUNE 2011

	NOTE	ACTUAL 2011 \$000	MAIN ESTIMATES 2011 \$000	SUPP ESTIMATES 2011 \$000	ACTUAL 2010 \$000
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>					
Receipts from Crown		8,141	7,360	8,140	6,571
Receipts from revenue other		200	101	203	81
Payments to suppliers		(3,217)	(2,974)	(4,066)	(2,202)
Payments to employees		(4,638)	(4,429)	(4,496)	(3,921)
Payments for capital charge		(20)	(125)	(18)	(76)
Goods and services tax (net)		(43)	0	56	55
<b>NET CASH FROM OPERATING ACTIVITIES</b>	15	<b>423</b>	<b>(67)</b>	<b>(181)</b>	<b>508</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>					
Receipts from sale of property, plant and equipment		4	9	0	12
Purchase of property, plant and equipment		(377)	(290)	(646)	(59)
Purchase of intangible assets		(106)	(240)	(75)	(9)
<b>NET CASH FROM INVESTING ACTIVITIES</b>		<b>(479)</b>	<b>(521)</b>	<b>(721)</b>	<b>(56)</b>
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>					
Return of operating surplus		0	(788)	0	(18)
<b>NET CASH FLOWS FROM FINANCING ACTIVITIES</b>		<b>0</b>	<b>(788)</b>	<b>0</b>	<b>(18)</b>
<b>NET INCREASE/(DECREASE) IN CASH</b>		<b>(56)</b>	<b>(1,376)</b>	<b>(902)</b>	<b>434</b>
Cash at beginning of the year		1,289	1,889	1,289	855
Cash at the end of the year		1,233	513	387	1,289

Explanations of significant variances against budget are detailed in note 20.

The accompanying notes form part of these financial statements.



The GST (net) component of operating activities reflects the net GST paid and received with the Inland Revenue Department (IRD). The GST (net) component has been presented on a net basis, as the gross amounts do not provide meaningful information for the financial statement purposes. During the period, the Serious Fraud Office has in 2011 acquired nil property, plant and equipment (2010: \$nil) by means of any finance lease.

## STATEMENT OF COMMITMENTS

AS AT 30 JUNE 2011

### CAPITAL COMMITMENTS

Capital commitments are the aggregate amount of capital expenditure contracted for the acquisition of property, plant and equipment and intangible assets that have not been paid for or recognised as a liability at 30 June 2011 (2010: \$nil).

### NON-CANCELLABLE OPERATING LEASE COMMITMENTS

The Serious Fraud Office leases property, plant and equipment in the normal course of its business. The primary lease relates to the current office accommodation at 21 Queen Street, Auckland, which expires on 31 March 2023, with no right of renewal. In addition, the SFO leases office accommodation at 120 Mayoral Drive, Auckland, which expires on 29 February 2016, with no right of renewal. The Serious Fraud Office vacated these premises in March 2011. The provision for the onerous portion of the lease has been made as at 30 June 2011. The SFO leases carparks with a rent review on 1 March 2014. Operating expenses and rates are also included, with an annual inflation rate of 2.5 percent applied. The premises and car parks have now been sublet. Refer to note 17 Events after the balance date in this regard.

	ACTUAL 2011 \$000	ACTUAL 2010 \$000
<b>NON-CANCELLABLE OPERATING LEASE COMMITMENTS</b>		
Not later than one year	705	580
Later than one year and not later than five years	3,470	2,361
Later than five years	3,322	401
<i>TOTAL NON-CANCELLABLE OPERATING LEASE COMMITMENTS</i>	7,497	3,342
<b>OTHER NON-CANCELLABLE COMMITMENTS</b>		
Not later than one year	12	15
Later than one year and not later than five years	0	0
Later than five years	0	0
<i>TOTAL NON-CANCELLABLE OTHER COMMITMENTS</i>	12	15
<b>TOTAL COMMITMENTS</b>	<b>7,509</b>	<b>3,357</b>

*The accompanying notes form part of these financial statements.*

## STATEMENT OF CONTINGENT LIABILITIES AND CONTINGENT ASSETS

AS AT 30 JUNE 2011

In respect of the 21 Queen Street leased premises, as at 30 June 2011, a full evaluation of the SFO's level of ownership of the leasehold improvements had not been completed by the landlord. A make-good provision will be made in 2011/12 once the evaluation has been completed and agreed, with the expiration of the lease on 31 March 2023.

The Serious Fraud Office has no other contingent liabilities or contingent assets as at 30 June 2011 (2010: \$nil).

## STATEMENT OF DEPARTMENTAL EXPENSES AND CAPITAL EXPENDITURE AGAINST APPROPRIATIONS

FOR THE YEAR ENDED 30 JUNE 2011

	ACTUAL 2011 \$000	APPROPRIATION VOTED 2011 \$000	ACTUAL 2010 \$000
<b>VOTE SERIOUS FRAUD</b>			
<b>APPROPRIATION FOR OUTPUT EXPENSES</b>			
Investigation and prosecution of complex or serious fraud	10,703	11,063	7,302
<b>TOTAL APPROPRIATIONS FOR OUTPUTS EXPENSES</b>	<b>10,703</b>	<b>11,063</b>	<b>7,302</b>
<b>DEPARTMENTAL CAPITAL EXPENDITURE</b>			
Serious Fraud Office – Capital Expenditure (PLA)	600	722	68
<b>TOTAL APPROPRIATION FOR CAPITAL EXPENDITURE</b>	<b>600</b>	<b>722</b>	<b>68</b>
<b>TOTAL</b>	<b>11,303</b>	<b>11,785</b>	<b>7,370</b>

## STATEMENT OF DEPARTMENTAL UNAPPROPRIATED EXPENDITURE AND CAPITAL

FOR THE YEAR ENDED 30 JUNE 2011

	ACTUAL EXPENDITURE 2011 \$000	APPROPRIATION VOTED 2011 \$000	UNAPPROPRIATED EXPENDITURE 2011 \$000	UNAPPROPRIATED EXPENDITURE 2010 \$000
<b>VOTE SERIOUS FRAUD</b>				
Investigation and prosecution of complex or serious fraud	10,703	11,063	0	620
<b>TOTAL APPROPRIATIONS FOR OUTPUT EXPENSES</b>	<b>10,703</b>	<b>11,063</b>	<b>0</b>	<b>620</b>

The Serious Fraud Office did not incur any output expense or capital expenditure in excess of appropriation, without appropriation or other authority, or outside the scope of appropriation in 2010/11, nor breach its departmental net asset schedule during the year.

*The accompanying notes form part of these financial statements.*

# Notes to Financial Statements

## 1 STATEMENT OF ACCOUNTING POLICIES FOR THE YEAR ENDED 30 JUNE 2011

### REPORTING ENTITY

The Serious Fraud Office is a government department as defined by section 2 of the Public Finance Act 1989 and is domiciled in New Zealand.

The primary objective of the Serious Fraud Office is to provide services to the public rather than making a financial return. Accordingly, the Serious Fraud Office has designated itself as a public benefit entity for the purposes of New Zealand equivalents to International Financial Reporting Standards (NZ IFRS).

The financial statements of the Serious Fraud Office are for the year ended 30 June 2011. The financial statements were authorised for issue by the Chief Executive of the Serious Fraud Office on 30 September 2011.

### BASIS OF PREPARATION

#### STATEMENT OF COMPLIANCE

The financial statements of the Serious Fraud Office have been prepared in accordance with the requirements of the Public Finance Act 1989, which includes the requirement to comply with New Zealand generally accepted accounting practice (NZ GAAP).

These financial statements have been prepared in accordance with, and comply with, NZ IFRS as appropriate for public benefit entities.

#### MEASUREMENT BASE

The financial statements have been prepared on a historical cost basis, except where modified by the revaluation of certain items of property, plant and equipment, and the measurement of equity investments and derivative financial instruments at fair value.

#### FUNCTIONAL AND PRESENTATION CURRENCY

The financial statements are presented in New Zealand dollars and all values are rounded to the nearest thousand dollars (\$000). The functional currency of the Serious Fraud Office is New Zealand dollars.

#### CHANGES IN ACCOUNTING POLICIES

There have been no changes in accounting policies during the financial year.

#### EARLY ADOPTION OF THE REVISED NZ IAS 24 RELATED PARTY DISCLOSURES

The Serious Fraud Office has early adopted NZ IAS 24 *Related Party Disclosures* (Revised 2009). The effect of early adopting the revised NZ IAS 24 is:

- more information is required to be disclosed about transactions between the Serious Fraud Office and entities controlled, jointly controlled, or significantly influenced by the Crown;
- commitments with related parties require disclosure; and
- information is required to be disclosed about any related party transactions with Ministers of the Crown with portfolio responsibility for the Serious Fraud Office. An exemption is provided from reporting transactions with other Ministers of the Crown.

## **STANDARDS, AMENDMENTS, AND INTERPRETATIONS ISSUED THAT ARE NOT YET EFFECTIVE AND HAVE NOT BEEN EARLY ADOPTED**

Standards, amendments and interpretations issued but not yet effective that have not been early adopted, and which are relevant to the Serious Fraud Office are:

- NZ IFRS 9 *Financial Instruments* will eventually replace NZ IAS 39 *Financial Instruments: Recognition and Measurement*. NZ IAS 39 is being replaced through the following three main phases: Phase 1 Classification and Measurement, Phase 2 Impairment Methodology and Phase 3 Hedge Accounting. Phase 1 has been completed and has been published in the new financial instrument standard NZ IFRS 9. NZ IFRS 9 uses a single approach to determine whether a financial asset is measured at amortised cost or fair value, replacing the many different rules in NZ IAS 39. The approach in NZ IFRS 9 is based on how an entity manages its financial assets (its business model) and the contractual cash flow characteristics of the financial assets. The financial liability requirements are the same as those of NZ IAS 39, except for when an entity elects to designate a financial liability at fair value through the surplus or deficit. The new standard is required to be adopted for the year ended 30 June 2014. The Serious Fraud Office has not yet assessed the effect of the new standard and expects it will not be early adopted.
- FRS-44 *New Zealand Additional Disclosures and Amendments to NZ IFRS to harmonise with IFRS and Australian Accounting Standards (Harmonisation Amendments)*. These were issued in May 2011 with the purpose of harmonising Australia and New Zealand's accounting standards with source IFRS and to eliminate many of the differences between the accounting standards in each jurisdiction. The amendments must first be adopted for the year ended 30 June 2012. The Serious Fraud Office has not yet assessed the effects of FRS-44 and the Harmonisation Amendments.

As the External Reporting Board is to decide on a new accounting standards framework for public benefit entities, it is expected that all new NZ IFRS and amendments to existing NZ IFRS with a mandatory effective date for annual reporting periods commencing on or after 1 January 2012 will not be applicable to public benefit entities. This means that the financial reporting requirements for public benefit entities are expected to be effectively frozen in the short term. Accordingly, no disclosure has been made about new or amended NZ IFRS that exclude public benefit entities from their scope.

## **SIGNIFICANT ACCOUNTING POLICIES**

The following accounting policies, which materially affect the measurement of comprehensive income and financial position, have been applied consistently.

### **REVENUE**

Revenue is measured at the fair value of consideration received or receivable.

#### **→ Revenue from the Crown**

Revenue earned from the supply of outputs to the Crown is recognised as revenue when earned. It is restricted in its use for the purpose of the Serious Fraud Office meeting its objectives as specified in the Statement of Intent and Main Estimates of Appropriations.

#### **→ Other income**

Revenue earned as funding received from the State Services Commission (as agent for the Crown) for the State Sector Retirement Savings Scheme and KiwiSaver employer contributions. In addition, any other revenue received from other organisations is recognised as revenue upon entitlement.

→ **Vested asset**

Where a physical asset is gifted to or acquired by the Serious Fraud Office for nil or nominal costs, the fair value of the asset received is recognised as income. Such assets are recognised as income when control of the asset is obtained.

**CAPITAL CHARGE**

The capital charge is a levy on the Crown's investment in the Serious Fraud Office and is recognised as an expense in the period to which the charge relates. The capital charge is not a borrowing cost in accordance with NZ IAS 23.

**LEASES**

→ **Finance leases**

The Serious Fraud Office does not enter into finance leases.

→ **Operating leases**

Leases that do not transfer substantially all the risks and rewards incidental to ownership of an asset to the Serious Fraud Office are classified as operating leases. Lease payments under an operating lease are recognised as an expense on a straight-line basis over the term of the lease in the statement of comprehensive income. Lease incentives received are recognised in the statement of comprehensive income over the lease term as an integral part of the total lease expense.

**CASH AND CASH EQUIVALENTS**

Cash and cash equivalents includes cash on hand and funds on deposit with banks with original maturities of three months or less and is measured at its face value.

**DEBTORS AND OTHER RECEIVABLES**

Debtors and other receivables are initially measured at fair value and subsequently measured at amortised cost using the effective interest method, less impairment charges.

**PROPERTY, PLANT AND EQUIPMENT**

Property, plant and equipment asset classes consist of leasehold improvements, computer equipment, office furniture, fixtures and fittings, office equipment and motor vehicles. Property, plant and equipment are shown at cost or valuation, less accumulated depreciation and impairment losses.

Individual assets, or groups of assets, are capitalised if their costs are greater than \$1,000 (excluding GST). The value of an individual asset that is less than \$1,000 (excluding GST) and is part of a group of similar assets is capitalised. All are recorded at historical cost.

Initial cost includes the purchase price and any costs directly attributable to bringing the asset to the location and condition required for its intended use.

Fixed assets are written down immediately if any impairment in the value of the asset causes its recoverable amount to fall below its carrying value.

→ **Additions**

The cost of an item of property, plant and equipment is recognised as an asset only when it is probable that the future economic benefits or service potential associated with the item will flow to the Serious Fraud Office and the cost of the item can be measured reliably. Where an asset is acquired at no cost, or for a nominal cost, it is recognised as income at fair value when control over the asset is obtained.

### → Disposals

Gains and losses on disposals are determined by comparing the proceeds with the carrying amount of the asset. Gains and losses on disposals are included in the statement of comprehensive income. The Serious Fraud Office does not hold assets which are revaluable in nature.

### → Subsequent costs

Costs incurred subsequent to the initial acquisition are capitalised only when it is probable that future economic benefits or service potential associated with the item will flow to the Serious Fraud Office and the cost of the item can be measured reliably. The costs of day-to-day servicing of property, plant and equipment are recognised in the statement of comprehensive income as they are incurred.

### → Depreciation

Depreciation is provided on a straight-line basis on all property, plant and equipment other than land, at rates that will write off the cost (or valuation) of the assets to their estimated residual values over their useful lives. The useful lives and associated depreciation rates of major classes of assets have been estimated as follows:

	USEFUL LIFE	DEPRECIATION RATE
Computer equipment	3 years	33%
Office furniture, fittings and equipment	5 years	20%
Motor vehicles	6-7 years	15%

Leasehold improvements (included within the office furniture, fittings and equipment category) are depreciated over the unexpired period of the lease or the estimated remaining useful lives of the improvements, whichever is shorter.

The residual value and useful life of an asset are reviewed, and adjusted if applicable, at the end of each financial year.

## INTANGIBLE ASSETS

### → Software acquisition and development

Acquired computer software licenses are capitalised on the basis of the cost incurred to acquire and bring to use the specific software. Software is capitalised if its cost is \$1,000 (excluding GST) or greater.

Costs that are directly associated with the development of software for internal use by the Serious Fraud Office are recognised as an intangible asset. Direct costs include the software development, employee costs and an appropriate portion of relevant overheads.

Staff training costs are recognised as an expense when incurred.

Costs associated with maintaining computer software are recognised as an expense when incurred.

Costs associated with the development and maintenance of the Serious Fraud Office's website are recognised as an expense when incurred.

### → Amortisation

The carrying value of an asset with a finite life is amortised on a straight-line basis over its useful life.

Amortisation begins when the asset is available for use, and ceases at the date that the asset is derecognised.

The amortisation charge for each period is recognised in the statement of comprehensive income.

The useful lives and associated amortisation rates of major classes of intangible assets have been estimated as follows:

	USEFUL LIFE	AMORTISATION RATE
Acquired computer software	3 years	33%
Developed computer software	3 years	33%

### IMPAIRMENT OF PROPERTY, PLANT, EQUIPMENT AND INTANGIBLE ASSETS

Intangible assets that have an indefinite useful life, or are not yet available for use, are tested annually for impairment.

Property, plant and equipment and intangible assets that have a finite useful life are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. An impairment loss is recognised for the amount by which the asset's carrying amount exceeds its recoverable amount. The recoverable amount is the higher of an asset's fair value less costs to sell and value in use.

Value in use is depreciated replacement cost for an asset where the future economic benefits or service potential of the asset are not primarily dependent on the asset's ability to generate net cash inflows and where the Serious Fraud Office would, if deprived of the asset, replace its remaining future economic benefits or service potential.

If an asset's carrying amount exceeds its recoverable amount, the asset is impaired and the carrying amount is written down to the recoverable amount. For revalued assets the impairment loss is recognised against the revaluation reserve for that class of asset. Where that results in a debit balance in the revaluation reserve, the balance is recognised in the statement of comprehensive income.

For assets not carried at a revalued amount, the total impairment loss is recognised in the statement of comprehensive income.

The reversal of an impairment loss on a revalued asset is credited to the revaluation reserve. However, to the extent that an impairment loss for that class of asset was previously recognised in the statement of comprehensive income, a reversal of the impairment loss is also recognised in the statement of comprehensive income.

For assets not carried at a revalued amount the reversal of an impairment loss is recognised in the statement of comprehensive income.

### CREDITORS AND OTHER PAYABLES

Creditors and other payables are initially measured at fair value and subsequently measured at amortised cost using the effective interest method.

### EMPLOYEE ENTITLEMENTS

#### → Short-term employee entitlements

Employee entitlements expected to be settled within 12 months of balance date are measured at nominal values based on accrued entitlements at current rates of pay.

These include salaries and wages accrued up to balance date, annual leave earned but not yet taken at balance date, retiring and long service leave entitlements expected to be settled within 12 months, and sick leave.

A liability for sick leave is recognised to the extent that absences in the coming year are expected to be greater than the sick leave entitlements earned in the coming year. The amount is calculated based on the unused sick leave entitlement that can be carried forward at balance date, to the extent that it will be used by staff to cover those future absences.

A liability and an expense is recognised for bonuses where the Serious Fraud Office has a contractual obligation or where there is a past practice that has created a constructive obligation.

### → Long-term employee entitlements

Employee benefits that are due to be settled beyond 12 months after the end of the reporting period in which the employee renders service, such as long service or retiring leave, are calculated on an actuarial basis. The calculation is based on:

- likely future entitlement accruing to staff, based on years of service, years to entitlement, the likelihood that staff will reach the point of entitlement and contractual entitlements information; and
- the present value of the estimated future cash flows.

Expected future payments are discounted using market yields on government bonds at balance date with terms to maturity that match, as closely as possible, the estimated future cash outflows for entitlements. The inflation factor is based on the expected long-term increase in remuneration for employees.

Sick leave, annual leave, vested long service leave and non-vested long service leave and retirement gratuities expected to be settled within 12 months of balance date are classified as a current liability. All other employee entitlements are classified as a non-current liability.

## **SUPERANNUATION SCHEMES**

### → Defined contribution schemes

Obligations for contributions to the State Sector Retirement Savings Scheme, KiwiSaver and the Government Superannuation Fund are accounted for as defined contribution schemes and are recognised as an expense in the statement of comprehensive income as incurred.

## **PROVISIONS**

A provision is recognised for future expenditure of uncertain amount or timing when there is a present obligation (either legal or constructive) as a result of a past event, it is probable that an outflow of future economic benefits will be required to settle the obligation and a reliable estimate can be made of the amount of the obligation.

Provisions are not recognised for future operating losses.

Provisions are measured at the present value of the expenditure expected to be required to settle the obligation using a pre-tax discount rate that reflects current market assessments of the time value of money and the risks specific to the obligation. The increase in the provision due to the passage of time is recognised as a finance cost.

## **TAXPAYERS' FUNDS**

Taxpayers' funds are the Crown's investment in the Serious Fraud Office and are measured as the difference between total assets and total liabilities.

## **COMMITMENTS**

Expenses yet to be incurred on non-cancellable contracts that have been entered into on or before balance date are disclosed as commitments to the extent that there are equally unperformed obligations.

Cancellable commitments that have penalty or exit costs explicit in the agreement on exercising that option to cancel are included in the statement of commitments at the value of that penalty or exit cost.



### **GOODS AND SERVICES TAX (GST)**

All items in the financial statements, including appropriation statements, are stated exclusive of GST, except for receivables and payables, which are stated on a GST inclusive basis. Where GST is not recoverable as input tax, then it is recognised as part of the related asset or expense.

The net amount of GST recoverable from, or payable to, the Internal Revenue Department (IRD) is included as part of receivables or payables in the statement of financial position.

The net GST paid to or received from IRD, including GST relating to investing and financing activities, is classified as an operating cash flow in the statement of cash flows.

Commitments and contingencies are disclosed exclusive of GST.

### **INCOME TAX**

Government departments are exempt from income tax as public authorities. Accordingly, no charge for income tax has been provided for.

### **BUDGET FIGURES**

The budget figures are those included in the Information Supporting the Estimates of Appropriation for the Government of New Zealand for the year ending 30 June 2011, which are consistent with the financial information in the Main Estimates. In addition, the financial statements also present the updated budget information from the Supplementary Estimates. The budget figures have been prepared in accordance with NZ GAAP, using accounting policies that are consistent with those adopted in preparing these financial statements.

### **STATEMENT OF COST ACCOUNTING POLICIES**

In 2010/11, the Serious Fraud Office had only one departmental output expense, *Investigation and prosecution of complex or serious fraud*, and therefore no cost allocation was required.

### **CRITICAL ACCOUNTING ESTIMATES AND ASSUMPTIONS**

In preparing these financial statements, estimates and assumptions have been made concerning the future. These estimates and assumptions may differ from the subsequent actual results. Estimates and assumptions are continually evaluated and are based on historical experience and other factors, including expectations of future events that are believed to be reasonable under the circumstances.

### **CRITICAL JUDGEMENTS IN APPLYING ACCOUNTING POLICIES**

Management has exercised the following critical judgements in applying accounting policies for the year ended 30 June 2011:

#### **→ Provisions**

In note 13, the Serious Fraud Office has exercised its judgement in application of determining the level of unutilised space in order to calculate an onerous lease provision and impairment of assets associated with the utilised office space.

## 2 REVENUE OTHER

	ACTUAL 2011 \$000	ACTUAL 2010 \$000
State Sector Retirement Savings Scheme subsidy	80	98
Other	82	2
<b>TOTAL REVENUE OTHER</b>	<b>162</b>	<b>100</b>

## 3 GAINS

	ACTUAL 2011 \$000	ACTUAL 2010 \$000
Net gain on disposal of property, plant and equipment	0	6
<b>TOTAL GAINS</b>	<b>0</b>	<b>6</b>

## 4 PERSONNEL COSTS

	ACTUAL 2011 \$000	ACTUAL 2010 \$000
Salaries and wages	4,368	3,993
Employer contributions to defined contribution plans	81	99
Increase/(decrease) in employee entitlements	77	(73)
Staff training and development	135	69
Fringe Benefit Tax	0	5
Other personnel costs	85	212
<b>TOTAL PERSONNEL COSTS</b>	<b>4,746</b>	<b>4,305</b>

Employer contributions to defined contribution plans include contributions to the State Sector Retirement Savings Scheme and KiwiSaver.

During the year ended 30 June 2011, no staff (2010: seven) received compensation and other benefits in relation to cessation, totalling \$nil in 2010/11 (2010: \$326,542).

## 5 CAPITAL CHARGE

A capital charge is paid to the Crown based on Taxpayers' Funds at 30 June and 31 December each year. The capital charge rate was 7.5% in 2010/11 (2010: 7.5%).

## 6 FINANCE COSTS

	ACTUAL 2011 \$000	ACTUAL 2010 \$000
Discount unwind on provisions (note 13)	43	0
<b>TOTAL FINANCE COSTS</b>	<b>43</b>	<b>0</b>

## 7 OTHER OPERATING EXPENSES

	ACTUAL 2011 \$000	ACTUAL 2010 \$000
Fees to auditor for financial audit	30	48
Rental and operating leasing expenses	427	467
Onerous lease and make-good provision	2,116	719
Other occupancy costs	137	74
Legal fees	427	207
Consultancy	139	68
Organisational review	0	197
Travel expenses	185	218
IT and telecommunications costs	440	329
Net loss on disposal of property, plant and equipment	0	1
Impairment expenses	326	0
Professional services	246	67
Specialist advice – case related	472	47
Other operating expenses	782	282
<b>TOTAL OTHER OPERATING EXPENSES</b>	<b>5,727</b>	<b>2,724</b>

## 8 DEBTORS AND OTHER RECEIVABLES

	ACTUAL 2011 \$000	ACTUAL 2010 \$000
Debtor Crown	2,720	0
Other receivables	22	79
<b>TOTAL DEBTORS AND OTHER RECEIVABLES</b>	<b>2,742</b>	<b>79</b>

The carrying value of debtors and other receivables approximates their fair value. As at 30 June 2011 and 30 June 2010, the debtors and other receivables were current.

## 9 PROPERTY, PLANT AND EQUIPMENT

	OFFICE FURNITURE, FIXTURES AND FITTINGS \$000	OFFICE EQUIPMENT \$000	COMPUTER EQUIPMENT \$000	MOTOR VEHICLES \$000	TOTAL \$000
<b>COST</b>					
Balance at 1 July 2009	1,224	462	405	73	2,164
Additions	1	14	44	0	59
Disposals	0	0	(7)	(37)	(44)
<b>BALANCE AT 30 JUNE 2010</b>	<b>1,225</b>	<b>476</b>	<b>442</b>	<b>36</b>	<b>2,179</b>
Balance at 1 July 2010	1,225	476	442	36	2,179
Additions	324	33	116	21	494
Disposals	(478)	0	0	(36)	(514)
<b>BALANCE AT 30 JUNE 2011</b>	<b>1,071</b>	<b>509</b>	<b>558</b>	<b>21</b>	<b>2,159</b>
<b>ACCUMULATED DEPRECIATION AND IMPAIRMENT LOSSES</b>					
Balance at 1 July 2009	635	351	362	24	1,372
Depreciation expense	113	34	37	9	193
Eliminate on disposal	0	0	(5)	(23)	(28)
<b>BALANCE AT 30 JUNE 2010</b>	<b>748</b>	<b>385</b>	<b>394</b>	<b>10</b>	<b>1,537</b>
Balance at 1 July 2010	748	385	394	10	1,537
Depreciation expense	92	33	32	4	161
Eliminate on disposal	(153)	0	0	(12)	(165)
<b>BALANCE AT 30 JUNE 2011</b>	<b>687</b>	<b>418</b>	<b>426</b>	<b>2</b>	<b>1,533</b>
<b>CARRYING AMOUNTS</b>					
At 1 July 2009	589	111	43	49	792
At 30 June and 1 July 2010	477	91	48	26	642
At 30 June 2011	384	91	132	19	626

The Serious Fraud Office does not own land or buildings.

The total amount of property, plant and equipment in the course of construction is \$nil in 2011 (2010: \$nil)

## 10 INTANGIBLE ASSETS

	ACQUIRED SOFTWARE \$000
<b>COST</b>	
Balance at 1 July 2009	131
Additions	9
<b>BALANCE AT 30 JUNE 2010</b>	<b>140</b>
Balance at 1 July 2010	140
Additions	106
<b>BALANCE AT 30 JUNE 2011</b>	<b>246</b>
<b>ACCUMULATED AMORTISATION AND IMPAIRMENT LOSSES</b>	
Balance at 1 July 2009	129
Amortisation expense	4
<b>BALANCE AT 30 JUNE 2010</b>	<b>133</b>
Balance at 1 July 2010	133
Amortisation expense	6
<b>BALANCE AT 30 JUNE 2011</b>	<b>139</b>
<b>CARRYING AMOUNTS</b>	
At 1 July 2009	2
At 30 June and 1 July 2010	7
At 30 June 2011	107

There are no restrictions over the title of the Serious Fraud Office's intangible assets, nor are any intangible assets pledged as securities for liabilities.

## 11 CREDITORS AND OTHER PAYABLES

	ACTUAL 2011 \$000	ACTUAL 2010 \$000
Creditors	0	(4)
Accrued expenses	679	469
GST payable	64	94
Other payables	176	56
<b>TOTAL CREDITORS AND OTHER PAYABLES</b>	<b>919</b>	<b>615</b>

Creditors and other payables are non-interest bearing and are normally settled on 30-day terms; therefore the carrying value of creditors and other payables approximates their fair value.

## 12 RETURN OF OPERATING SURPLUS

	ACTUAL 2011 \$000	ACTUAL 2010 \$000
Net surplus/(deficit)	320	(625)
Approval to retain net operating surplus	(320)	0
<b>TOTAL RETURN OF OPERATING SURPLUS</b>	<b>0</b>	<b>0</b>

An approval from the Minister of Finance has been given to retain the operating surplus for 2010/11.

## 13 PROVISIONS

	ACTUAL 2011 \$000	ACTUAL 2010 \$000
<b>CURRENT PORTION</b>		
Onerous contracts	465	94
<i>TOTAL CURRENT PORTION</i>	465	94
<b>NON-CURRENT PORTION</b>		
Lease make-good	250	250
Onerous contracts	1,985	375
<i>TOTAL NON-CURRENT PORTION</i>	2,235	625
<b>TOTAL PROVISIONS</b>	<b>2,700</b>	<b>719</b>

	LEASE MAKE-GOOD \$000	ONEROUS CONTRACTS \$000	TOTAL \$000
<b>BALANCE 1 JULY 2010</b>	250	469	719
Provisions made	0	2,159	2,159
Amounts used	0	(135)	(135)
Discount unwind – finance cost (note 6)	0	(43)	(43)
Unused amounts reversed	0	0	0
<b>BALANCE AT 30 JUNE 2011</b>	<b>250</b>	<b>2,450</b>	<b>2,700</b>

### Onerous contracts

The provision for onerous contracts arises from a non-cancellable lease where the unavoidable costs of meeting the lease contract exceed the economic benefits to be received from it. In 2009/10, certain activities were transferred to the NZ Police on a permanent basis, which resulted in the Serious Fraud Office reviewing its accommodation requirements. A percentage of the floor space was identified as unutilised and an onerous provision made. At 30 June 2011, the Serious Fraud Office has four years and eight months remaining on the lease.

On 7 March 2011, the Serious Fraud Office moved premises, vacating 120 Mayoral Drive, Auckland. As at 30 June 2011, it was in negotiation for subleasing arrangements. As no contract was in place at 30 June 2011, an onerous provision was recognised.

### Lease make-good

In respect of the 120 Mayoral Drive leased premises, the Serious Fraud Office is required at the expiry of the lease term to make good any damage caused to the premises and to remove any fixtures or fittings installed by the Serious Fraud Office. The lease expires on 29 February 2016 and therefore the timing of the expected cash outflow to make good the premises will be made at this time.

## 14 EMPLOYEE ENTITLEMENTS

	ACTUAL 2011 \$000	ACTUAL 2010 \$000
<b>CURRENT PORTION</b>		
Accrued salaries, performance pay, FBT and contributions to defined contribution plans	174	164
Annual leave	147	70
Long service leave	2	4
<i>TOTAL CURRENT PORTION</i>	323	238
<b>NON-CURRENT PORTION</b>		
Long service leave	7	5
<i>TOTAL NON-CURRENT PORTION</i>	7	5
<b>TOTAL EMPLOYEE ENTITLEMENTS</b>	<b>330</b>	<b>243</b>

The measurement of the long service obligation was based on a number of assumptions. An assessment of 30 staff employed as at 30 June 2011 was undertaken as to which staff would reach the long service criteria, given the recent restructure and the average turnover rate within the profession. One staff member had earned a portion of long service leave and this is reflected as the current portion. The non-current portion reflects the assessment that 29 staff had the probability of earning long service leave in the future. Due to the number of staff affected and relatively low length of service, discount rates and salary inflation factors were not incorporated into the calculation.

## 15 RECONCILIATION OF NET SURPLUS/(DEFICIT) TO NET CASH FLOW FROM OPERATING ACTIVITIES

	ACTUAL 2011 \$000	ACTUAL 2010 \$000
<b>NET SURPLUS/(DEFICIT)</b>	<b>320</b>	<b>(625)</b>
<b>ADD/(LESS) NON-CASH ITEMS:</b>		
Depreciation and amortisation expense	167	197
<i>TOTAL NON-CASH ITEMS</i>	167	197
<b>ADD/(LESS) ITEMS CLASSIFIED AS INVESTING OR FINANCING ACTIVITIES:</b>		
(Gains)/losses on disposal of property, plant and equipment	0	(6)
<b>ADD/(LESS) MOVEMENTS IN WORKING CAPITAL ITEMS:</b>		
(Inc)/dec in debtors and other receivables	(2,663)	(26)
(Inc)/dec in prepayments	(1)	41
Inc/(dec) in creditors and other payables <sup>10</sup>	212	266
Inc/(dec) in employee entitlements	87	(58)
Inc/(dec) in provisions	1,981	719
Inc/(dec) in retention of operating surplus	320	0
<i>NET MOVEMENT IN WORKING CAPITAL ITEMS</i>	(64)	942
<b>NET CASH FROM OPERATING ACTIVITIES</b>	<b>423</b>	<b>508</b>

## 16 RELATED PARTY TRANSACTIONS AND KEY MANAGEMENT PERSONNEL

All related party transactions have been entered into on an arm's length basis.

The Ministry is a wholly-owned entity of the Crown. The Government significantly influences the roles of the Ministry as well as being its major source of revenue.

### SIGNIFICANT TRANSACTIONS WITH GOVERNMENT-RELATED ENTITIES

The Serious Fraud Office has received funding from the Crown of \$10.861m (2010: \$6.571m) to provide services to the public for the year ended 30 June 2011.

### COLLECTIVELY, BUT NOT INDIVIDUALLY, SIGNIFICANT TRANSACTIONS WITH GOVERNMENT-RELATED ENTITIES

In conducting its activities, the Serious Fraud Office was required to pay various taxes and levies (such as GST, FBT, PAYE and ACC levies) to the Crown and entities related to the Crown. The payment of these taxes and levies, other than income tax, was based on the standard terms and conditions that apply to all tax and levy payers. The Serious Fraud Office is exempt from paying income tax. The Serious Fraud Office also purchases goods and services from entities controlled, significantly influenced, or jointly controlled by the Crown. Purchases from these government-related entities for the year ended 30 June 2011 totalled \$0.285m (2010: \$0.305m). These purchases included the purchase of electricity from Mercury Energy, air travel from Air New Zealand, legal services from the Crown Law Office, postal services from New Zealand Post, SEEmail from the Department of Internal Affairs, access to the electronic crime lab from NZ Customs Service, training from NZ Police and financial systems support from the State Services Commission.

10. Excludes accruals for fixed assets.



### Key management personnel compensation

	ACTUAL 2011 \$000	ACTUAL 2010 \$000
Salaries and other short-term employee benefits	1,092	776
Post-employment benefits	0	14
Termination benefits	0	180
<b>TOTAL KEY MANAGEMENT PERSONNEL COMPENSATION</b>	<b>1,092</b>	<b>970</b>

Key management personnel included the Serious Fraud Office's Chief Executive and five members of the Senior Management Team (2010: five members). These positions were General Manager Fraud Detection and Intelligence, General Manager Fraud and Corruption, General Manager Financial Markets and Corporate Fraud, General Manager Corporate Services and General Counsel.

## 17 EVENTS AFTER THE BALANCE DATE

After the balance date, the Serious Fraud Office entered into a non-cancellable sub-lease contract for a period of 4.6 years, ending 29 February 2016, in relation to the premises at 120 Mayoral Drive, Auckland. The annual rental under the agreement is \$429,000 (GST exclusive) per annum which will reduce the amount of the onerous lease provision in 2011/12 and beyond. The agreement is not included in the statement of commitments as it was entered into after balance date.

## 18 FINANCIAL INSTRUMENTS

### 18A FINANCIAL INSTRUMENT CATEGORIES

The carrying amounts of financial assets and financial liabilities in each of the NZ IAS 39 categories are as follows:

	ACTUAL 2011 \$000	ACTUAL 2010 \$000
<b>LOANS AND RECEIVABLES</b>		
Cash and cash equivalents	1,233	1,289
Debtors and other receivables (note 8)	2,742	79
<b>TOTAL LOANS AND RECEIVABLES</b>	<b>3,975</b>	<b>1,368</b>
<b>FINANCIAL LIABILITIES MEASURED AT AMORTISED COST</b>		
Creditors and other payables (note 11)	919	615

The Serious Fraud Office has a letter of credit facility with Westpac of \$100,000 in 2011 (2010: \$85,000) to allow for the payment of employee salaries by direct credit.

## 18B FINANCIAL INSTRUMENT RISKS

The Serious Fraud Office's activities expose it to a variety of financial instrument risks, including market risk, credit risk and liquidity risk. The Serious Fraud Office has a series of policies to manage the risks associated with financial instruments and seeks to minimise exposure from financial instruments. These policies do not allow any transactions that are speculative in nature to be entered into.

### MARKET RISK

#### → Currency risk

The Serious Fraud Office has no material exposure to currency risk, and its financial instruments are not interest rate sensitive.

#### → Interest rate risk

Under section 46 of the Public Finance Act 1989 the Serious Fraud Office cannot raise a loan without Ministerial approval, and no such loans have been raised. Accordingly, there is no interest rate exposure for funds borrowed.

### CREDIT RISK

Credit risk is the risk that a third party will default on its obligations to the Serious Fraud Office causing the Serious Fraud Office to incur a loss. In the normal course of business the Serious Fraud Office incurs credit risk from debtors, and bank deposits. The Serious Fraud Office is only permitted to deposit funds with Westpac, a registered bank with a high credit rating. For its debtors, the Serious Fraud Office has no concentrations of credit risk. The Serious Fraud Office maximum credit exposure for its financial instruments is represented by the total carrying amount of cash and bank deposits and debtors. There is no collateral held as security against these financial instruments.

### LIQUIDITY RISK

Liquidity risk is the risk that the Serious Fraud Office will encounter difficulty raising liquid funds to meet commitments as they fall due. In meeting its liquidity requirements, the Serious Fraud Office monitors its forecast cash requirements with expected cash drawdowns from the New Zealand Debt Management Office. The Serious Fraud Office maintains a target level of available cash to meet liquidity requirements.

The Serious Fraud Office has a credit card facility of \$71,500 as at 30 June 2011 (2010: \$36,500). This reflects the additional staff in the office and the full appointment of the senior management team in this year.

The table below shows the Serious Fraud Office's financial liabilities that will be settled based on the remaining period at balance date to contractual maturity date. The amounts disclosed are the contractual undiscounted cash flows. The liability for the repayment of surplus to the Crown is not a financial liability as defined by NZ IAS 32, as the obligation arises from statute.

	LESS THAN 6 MONTHS \$000	BETWEEN 6 MONTHS AND 1 YEAR \$000
<b>2010</b>		
Creditors and other payables (note 11)	615	0
<b>2011</b>		
Creditors and other payables (note 11)	919	0

## 19 CAPITAL MANAGEMENT

The Serious Fraud Office's capital is its equity (or taxpayers' funds), which comprises general funds. Equity is represented by net assets.

The Serious Fraud Office manages its revenues, expenses, assets, liabilities and general financial dealings prudently. The Serious Fraud Office's equity is largely a by-product of managing income, expenses, assets, liabilities and compliance with the Government Budget processes, Treasury Instructions and the Public Finance Act 1989.

The objective of managing the equity is to ensure that the Serious Fraud Office effectively achieves its goals and objectives for which it has been established, while remaining a going concern.

## 20 EXPLANATION OF MAJOR VARIANCES AGAINST BUDGET

For the purposes of this section major variances have been defined as variance of actual to the budgets provided in the Main Estimates at Budget 2010.

### STATEMENT OF COMPREHENSIVE INCOME

#### → Revenue Crown

Revenue Crown was greater than budgeted by \$3.501 million, primarily due to an increase in appropriation of \$2.72 million to recognise an onerous lease provision.

#### → Personnel costs

Personnel costs were greater than budgeted by \$364,000 due to additional staff to investigate up to 10 additional investigations. This increase was part of the \$780,000 increase in appropriation approved by Cabinet in February 2011, and included in the Supplementary Estimates.

#### → Other operating expenses

Other operating expenses were greater than budgeted by \$3.12 million due to the recognition of an onerous lease and additional external advice and technical support to investigate up to 10 additional investigations.

### STATEMENT OF FINANCIAL POSITION

#### → Cash and cash equivalent

Cash and other cash equivalents were greater than budgeted by \$720,000 due to a higher level of accrued expenses at 30 June, therefore less payments made and less capital expenditure realised during the year.

#### → Debtors and other receivables

Debtors and other receivables were greater than budgeted by \$2.717 million as the Serious Fraud Office has not drawn down all of the appropriation at year end. This is because cash is not required in 2010/11 to settle the onerous lease.

#### → Current liabilities

Current liabilities were greater than budgeted by \$1.284 million due to the increased level of accruals as at 30 June for operating expenses and capital purchases, and provision of the current portion of an onerous lease.

#### → Non-current liabilities – provisions

Non-current liabilities were greater than budgeted by \$2.238 million due to the provision made for the non-current portion of an onerous lease.

→ **Taxpayers' funds**

Taxpayers' funds were reduced in the Supplementary Estimates to reflect the deficit of \$625,000 at 30 June 2010 resulting from an onerous lease and make-good provisions. The taxpayers' funds at 30 June 2011 were greater than the Supplementary Estimates by \$320,000 due to an approval to retain the operating surplus for 2010/11.

**STATEMENT OF CASH FLOWS**

*Receipts from the Crown* was greater than budgeted by \$781,000 due to an additional appropriation received to investigate up to 10 additional investigations. Consequently, the *payment to suppliers* was greater than budgeted. *Payments to employees* was less than budgeted by \$757,000 as the budget assumed a full complement of staff employed for the full year. The reduced staff levels were partially offset by external contractors employed, which contributed to *payments to suppliers* exceeding budget.

# Independent Auditor's Report

## TO THE READERS OF SERIOUS FRAUD OFFICE'S FINANCIAL STATEMENTS AND STATEMENT OF SERVICE PERFORMANCE

FOR THE YEAR ENDED 30 JUNE 2011

The Auditor-General is the auditor of Serious Fraud Office (the SFO). The Auditor-General has appointed me, Karen Young, using the staff and resources of Audit New Zealand, to carry out the audit of the financial statements and the statement of service of the SFO on her behalf.

We have audited:

- the financial statements of the SFO on pages 32 to 54, that comprise the statement of financial position, statement of commitments, statement of contingent liabilities and contingent assets as at 30 June 2011, the statement of comprehensive income, statement of changes in taxpayers' funds, statement of departmental expenses and capital expenditure against appropriations, statement of departmental unappropriated expenditure and capital expenditure and statement of cash flows for the year ended on that date and the notes to the financial statements that include accounting policies and other explanatory information; and
- the statement of service performance of the SFO on pages 29 to 31.

### OPINION

In our opinion:

- the financial statements of the SFO on pages 32 to 54:
  - comply with generally accepted accounting practice in New Zealand; and
  - fairly reflect the SFO's:
    - financial position as at 30 June 2011;
    - financial performance and cash flows for the year ended on that date;
    - expenses and capital expenditure incurred against each appropriation administered by the SFO and each class of outputs included in each output expense appropriation for the year ended 30 June 2011; and
    - unappropriated expenses and capital expenditure for the year ended 30 June 2011.
- the statement of service performance of the SFO on pages 29 to 31:
  - complies with generally accepted accounting practice in New Zealand; and
  - fairly reflects for each class of outputs for the year ended 30 June 2011 the SFO's:
    - service performance compared with the forecasts in the statement of forecast service performance at the start of the financial year; and
    - actual revenue and output expenses compared with the forecasts in the statement of forecast service performance at the start of the financial year.

Our audit was completed on 30 September 2011. This is the date at which our opinion is expressed.

The basis of our opinion is explained below. In addition, we outline the responsibilities of the Chief Executive and our responsibilities, and we explain our independence.

## **BASIS OF OPINION**

We carried out our audit in accordance with the Auditor-General's Auditing Standards, which incorporate the International Standards on Auditing (New Zealand). Those standards require that we comply with ethical requirements and plan and carry out our audit to obtain reasonable assurance about whether the financial statements and the statement of service performance are free from material misstatement.

Material misstatements are differences or omissions of amounts and disclosures that would affect a reader's overall understanding of the financial statements and the statement of service performance. If we had found material misstatements that were not corrected, we would have referred to them in our opinion.

An audit involves carrying out procedures to obtain audit evidence about the amounts and disclosures in the financial statements and the statement of service performance. The procedures selected depend on our judgement, including our assessment of risks of material misstatement of the financial statements and the statement of service performance, whether due to fraud or error. In making those risk assessments, we consider internal control relevant to the SFO's preparation of the financial statements and the statement of service performance that fairly reflect the matters to which they relate. We consider internal control 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 SFO's internal control.

An audit also involves evaluating:

- the appropriateness of accounting policies used and whether they have been consistently applied;
- the reasonableness of the significant accounting estimates and judgements made by the Chief Executive;
- the adequacy of all disclosures in the financial statements and the statement of service performance; and
- the overall presentation of the financial statements and the statement of service performance.

We did not examine every transaction, nor do we guarantee complete accuracy of the financial statements and the statement of service performance. We have obtained all the information and explanations we have required and we believe we have obtained sufficient and appropriate audit evidence to provide a basis for our audit opinion.

## **RESPONSIBILITIES OF THE CHIEF EXECUTIVE**

The Chief Executive is responsible for preparing financial statements and a statement of service performance that:

- comply with generally accepted accounting practice in New Zealand;
- fairly reflect the SFO's financial position, financial performance, cash flows, expenses and capital expenditure incurred against each appropriation and its unappropriated expenses and capital expenditure; and
- fairly reflects its service performance.

The Chief Executive is also responsible for such internal control as is determined is necessary to enable the preparation of financial statements and a statement of service performance that are free from material misstatement, whether due to fraud or error.

The Chief Executive's responsibilities arise from the Public Finance Act 1989.

## RESPONSIBILITIES OF THE AUDITOR

We are responsible for expressing an independent opinion on the financial statements and the statement of service performance and reporting that opinion to you based on our audit. Our responsibility arises from section 15 of the Public Audit Act 2001 and the Public Finance Act 1989.

## INDEPENDENCE

When carrying out the audit, we followed the independence requirements of the Auditor-General, which incorporate the independence requirements of the New Zealand Institute of Chartered Accountants.

Other than the audit, we have no relationship with or interests in the SFO.

*Karen Young*

**Karen Young**

Audit New Zealand

On behalf of the Auditor-General

Wellington, New Zealand

## MATTERS RELATING TO THE ELECTRONIC PRESENTATION OF THE AUDITED FINANCIAL STATEMENTS AND STATEMENT OF SERVICE PERFORMANCE

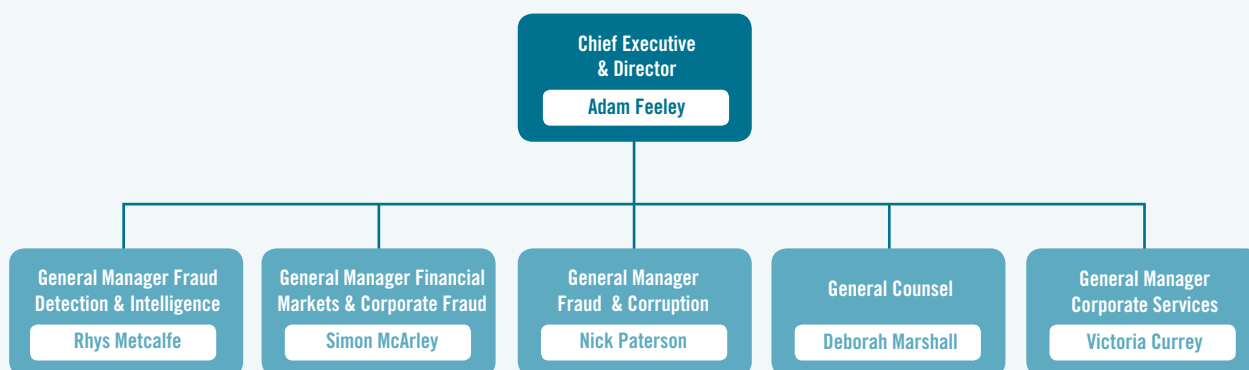
This audit report relates to the financial statements and statement of service performance of the Serious Fraud Office for the year ended 30 June 2011 included on the Serious Fraud Office's website. The Serious Fraud Office's Chief Executive is responsible for the maintenance and integrity of the Serious Fraud Office's website. We have not been engaged to report on the integrity of the Serious Fraud Office's website. We accept no responsibility for any changes that may have occurred to the financial statements and statement of service performance since they were initially presented on the website.

The audit report refers only to the financial statements and statement of service performance named above. It does not provide an opinion on any other information which may have been hyperlinked to or from the financial statements and statement of service performance. If readers of this report are concerned with the inherent risks arising from electronic data communication they should refer to the published hard copy of the audited financial statements and statement of service performance as well as the related audit report dated 30 September 2011 to confirm the information included in the audited financial statements and statement of service performance presented on this website.

Legislation in New Zealand governing the preparation and dissemination of financial information may differ from legislation in other jurisdictions.

# Appendix 1

## Organisational structure



### FINANCIAL MARKETS AND CORPORATE FRAUD

The Financial Markets and Corporate Fraud team has responsibility for cases involving public securities and other investment related frauds. In the past year, they have led the finance companies investigations, working alongside the Financial Markets Authority.

The team is led by Simon McArley, who, prior to joining the Serious Fraud Office in July 2010, has had more than 20 years' experience in banking and securities law, including roles at the Securities Commission and NZ Stock Exchange.

### CORPORATE SERVICES

As a small agency, SFO's corporate services comprise a mix of internal staff and outsourced functions. The focus of the Corporate Services team is ensuring that the office administration and support services are run with maximum efficiency to maintain the primarily operational nature of SFO's work.

The team is led by Victoria Currey, who has extensive experience in recruitment and human resource management across a number of industry sectors, including as the National Manager Human Resources at one of New Zealand's major law firms.

### FRAUD DETECTION AND INTELLIGENCE

The Fraud Detection and Intelligence team operates as SFO's 'front door' – handling daily complaints referred from the public, other government agencies, receivers and liquidators. The team assesses each case and determines

whether to recommend formally opening an investigation, or to refer the matter to other agencies. They also have lead responsibility for maintaining the network of fraud-related intelligence between the SFO and other law enforcement agencies.

The team is led by Rhys Metcalfe who has 20 years' experience as an investigator, with both the Police and the SFO.

### FRAUD AND CORRUPTION

The Fraud and Corruption team deals with a broad range of cases, as well as any bribery or corruption matters referred to the SFO as part of its Memorandum of Understanding with the Police. The nature of this team's work is such that it often works closely with Police on cases, whether by way of joint investigations or as an assisting agency.

This team is led by Nick Paterson, who was previously the Executive Director in charge of Ernst & Young's Fraud Investigation and Dispute Services team and has specialised in fraud and forensic investigations since the mid-1990s.

### GENERAL COUNSEL

This role of General Counsel is responsible for providing legal advice to the Director. Deborah Marshall first began work at the Serious Fraud Office as an investigator in 1991, just months after it was established. Now an experienced criminal prosecutor specialising in regulatory litigation and an expert in privacy and official information law, Deborah returned to the SFO in June 2010 in this new role. She provides a unique perspective to all aspects of the General Counsel's work.



# Appendix 2

## Staff demographics

As at 30 June 2011, the Serious Fraud Office had a core team of 34 full-time equivalent (FTE) staff, or 35 employees, against a budget of 40 FTEs.

### DEMOGRAPHIC MAKE-UP OF STAFF

	STAFF NUMBERS		PERCENTAGE	
	2011	2010	2011	2010
Male	19	14	54%	54%
Female	16	12	46%	46%
Māori/Pacific	1	–	3%	0%
Asian	2	1	6%	3%
European	32	25	91%	96%
Part-time	3	2	9%	8%
Full-time	32	24	91%	92%
<b>TOTAL STAFF</b>	<b>35</b>	<b>26</b>		

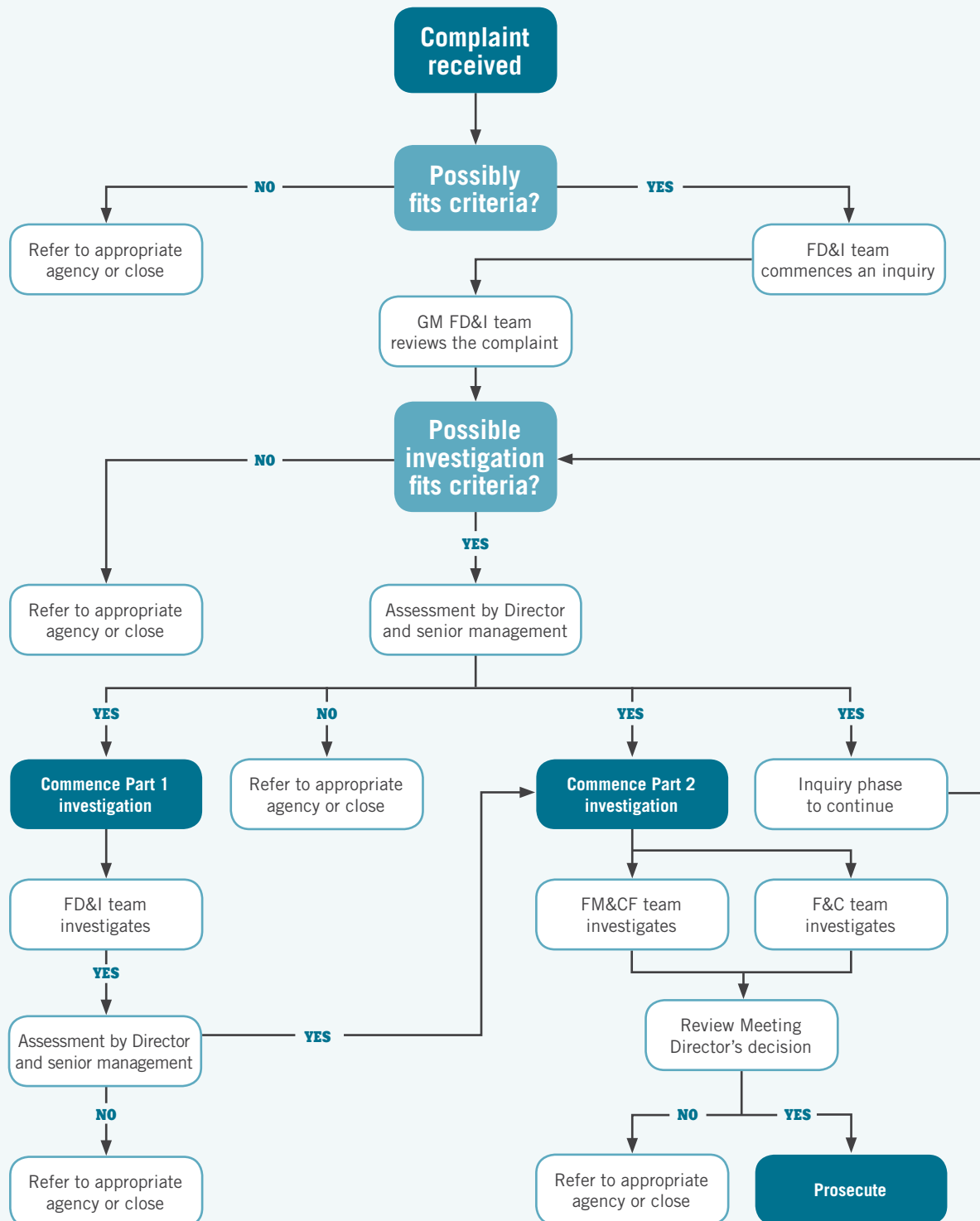
### MANAGEMENT AND NON-MANAGEMENT DIVERSITY

	2011	FT	PT	MĀORI/PACIFIC	ASIAN	EUROPEAN
<b>FEMALE</b>						
Management	2	1	1	–	–	2
Non-management	14	12	2	–	1	13
<b>TOTAL FEMALE</b>	<b>16</b>	<b>13</b>	<b>3</b>	<b>–</b>	<b>1</b>	<b>15</b>
<b>MALE</b>						
Management	4	4	–	–	–	4
Non-management	15	15	–	1	1	13
<b>TOTAL MALE</b>	<b>19</b>	<b>19</b>	<b>–</b>	<b>1</b>	<b>1</b>	<b>17</b>
<b>TOTAL STAFF</b>	<b>35</b>	<b>32</b>	<b>3</b>	<b>1</b>	<b>2</b>	<b>32</b>

# Appendix 3

## Business processes of the Serious Fraud Office

The Serious Fraud Office investigates complaints of fraud and brings them to a successful conclusion as quickly as circumstances allow. The following diagram illustrates the processes that make up this intervention.



FD&I – Fraud Detection and Intelligence team  
 FM&CF – Financial Markets and Corporate Fraud team  
 F&C – Fraud and Corruption team

# Appendix 4

## Impact indicators

The table below summarises progress against the indicators identified in our 2010-2013 Statement of Intent.

### SUMMARY OF IMPACT INDICATORS

OUTCOME: ECONOMIC DEVELOPMENT	
<b>Impact:</b> Improved quality of the regulatory environment.	<b>Progress</b>
<p><b>Indicator:</b> Improved international rankings for the effectiveness of our market regulation, which includes regulatory intervention and enforcement.</p> <p><b>Measured by:</b> Maintaining or improving New Zealand's OECD rankings for market regulation.</p>	The OECD is not maintaining rankings on market regulation as it would pertain to this desired impact. The focus in 2011/12 will be on business and investor confidence, rather than the quality of the regulatory environment.
<b>Impact:</b> Increased levels of domestic and foreign investment.	<b>Progress</b>
<p><b>Indicator:</b> Increased confidence in New Zealand as a place to do business, which necessarily includes confidence in the effectiveness of law enforcement.</p> <p><b>Measured by:</b> Increased confidence in New Zealand's capital markets as reflected in Ministry of Economic Development's business confidence surveys.</p>	The Ministry of Economic Development did not conduct any business confidence surveys. In 2011/12, this indicator has been replaced with monitoring the Global Economic Crime survey conducted by PricewaterhouseCoopers. The latest report, in 2009, reported that New Zealand had the eighth highest reported level of fraud across the 54 countries that took part, with 42 percent of respondents saying that they suffered from some form of economic crime in the preceding 12 months.
OUTCOME: JUSTICE	
<b>Impact:</b> Increased instances of white collar fraud crime offenders being held to account for their actions.	<b>Progress</b>
<p><b>Indicator:</b> Improved rankings for accessibility of capital, which depends on investors believing they will be protected from criminal behaviour.</p> <p><b>Measured by:</b> New Zealand's ranking for accessibility to capital is improved as measured in the Milken Institute Access Index.</p>	<p>New Zealand's ranking for accessibility to capital has steadily declined from 14th place in 2005 to a stable position of 18th out of 122 countries in 2008 and 2009. No further surveys have been completed. For 2011/12, this measurement tool is being applied to the economic outcome.</p> <p>In 2011/12, the indicator for this impact will be measured through a survey conducted by the SFO of victims of financial crime cases conducted.</p>
<b>Impact:</b> Increased collaboration of Justice Sector agencies with regard to investigation of complex or serious fraud cases.	<b>Progress</b>
<p><b>Indicator:</b> Increased awareness of, and responsiveness to, fraud prevention, which is a consequence of visible and timely enforcement.</p> <p><b>Measured by:</b> Surveys of businesses show an increasing awareness of, and responsiveness to, fraud prevention.</p>	No surveys were conducted with regard to businesses' awareness of and responsiveness to fraud prevention. A survey was completed of stakeholder expectations, which will form the basis of where to focus communication strategies in 2011/12.

# Appendix 5

## Serious Fraud Office Panel of Prosecutors as at 30 June 2011

Under section 48 of the Serious Fraud Office Act 1990 the Solicitor-General is required to appoint a panel of prosecutors for the prosecution of cases of serious or complex fraud brought by the Serious Fraud Office. Members of the panel are appointed for three-year terms. Appointments to the panel are made by the Solicitor-General after consultation with the Director of the Serious Fraud Office.

<b>Auckland</b>	Ross Burns John Billington QC Brian Dickey John Dixon Nick Flanagan Alan Galbraith QC Christine Gordon SC Mike Heron Simon Moore SC, Crown Solicitor Mike Ruffin Todd Simmonds
<b>Tauranga</b>	Paul Mabey QC
<b>Rotorua</b>	Fletcher Pilditch, Crown Solicitor
<b>Hamilton</b>	Phil Morgan QC
<b>Wellington</b>	Grant Burston, Crown Solicitor Colin Carruthers QC Dale La Hood Kristy McDonald QC Bruce Squire QC John Upton QC
<b>Christchurch</b>	Nick Davidson QC Brent Stanaway, Crown Solicitor Nicholas Till QC Mark Zarifeh
<b>Dunedin</b>	Robin Bates, Crown Solicitor Marie Grills Bill Wright

### PROFILE

## SIMON MOORE CROWN SOLICITOR PANEL COUNSEL

Auckland Crown Solicitor Simon Moore conducted his first fraud prosecution in the mid-1980s – five years before the Serious Fraud Office was established. This extensive experience and knowledge of prosecuting fraud has been utilised by the SFO since shortly after its inception, when Simon joined the panel of external prosecutors.

Since that time, Simon has worked with the SFO on a number of cases – both as a prosecutor and as an expert providing legal advice and opinions.

“Every prosecutor will have a different preference as to the way they want to be engaged. Some prosecutors want to be involved at the earliest possible point so that they get to have input very early on and can best understand how the case has progressed,” says Simon.

“I think it’s important to have some input at an early stage so that you have a degree of investment right from the beginning.”

Simon says the SFO’s current practice of seeking advice from the prosecutors panel about whether or not to take a case to trial makes good sense.

“That’s where the SFO has been really performing well – consulting external experts and agencies in any given area to provide advice to ensure the best decisions are made. That kind of outward thinking is really important for an agency of its kind.”

