

THE INVESTOR COMPENSATION COMPANY LIMITED

## Annual Report Year Ended 31 July 2011



## **Mission Statement**

The Investor Compensation Company Limited aims to operate a financially sound scheme so that it is in a position to pay, in a prompt manner, statutory levels of compensation to eligible clients of failed investment firms.

#### In doing this, we will:

- Ensure that claims for compensation are dealt with promptly.
- Operate a cost effective method for the collection of contributions which is fair to all investment firms.
- Maintain an open and positive relationship with the contributors and claimants with whom we deal.

#### In fulfilling our mission we are guided by the following values:

- We take seriously our responsibility to the Investor Compensation Scheme's claimants and contributors.
- We work in a consultative and co-operative manner with our contributors, with the Central Bank of Ireland and with the Department of Finance.
- We operate with integrity and transparency.
- We work efficiently and effectively.

Details on the Investor Compensation Scheme are contained in Appendix 1.

The

Investor

Compensation

Company

Limited

Annual Report Year Ended

31 July 2011

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## **DIRECTORS AND OTHER INFORMATION**

Directors	Jim Bardon Daniel Coveney Inge Clissmann Terry Hardiman Brian Healy Dermott Jewell Paul O'Donovan Frank O'Dwyer Eimer O'Rourke Ciaran Phelan Gina Quin Mark Redmond	(Chairperson) (Deputy Chairperson) (Re-appointed on 1 August 2011) (Re-appointed on 1 August 2011)	
Secretary	Anne Troy		
Registered Office	Central Bank of Ireland, Spencer Dock, North Wall Quay, Dublin 1.		
Auditors	PricewaterhouseCoopers, Chartered Accountants, One Spencer Dock, North Wall Quay, Dublin 1.		
Bankers	Bank of Ireland, 2 College Green, Dublin 2.		
Solicitors	William Fry Solicito Fitzwilton House, Wilton Place, Dublin 2.	rs,	

## Registered No 293240

## **The Board of Directors** *All members serve as non-executive directors*



#### Jim Bardon (Chairperson)

Director General of the Irish Bankers' Federation from 1988 to 2004. Former Chairman of the Executive Committee of the European Banking Federation, and the Consumer Affairs Committee of the European Banking Federation. Former Secretary of the Council of the Financial Services Ombudsman and the Credit Institutions Ombudsman of Ireland Limited. Former member of the Member Services Committee of the IDA, Company Law Review Group, Small Business and Services Forum, Consultative Industry Panel of the Financial Regulator and Executive Committee of the European Banking Federation.



**Daniel Coveney** (Deputy Chairperson) Former Company Secretary of AIB Capital Markets plc and AIB Finance Ltd. A fellow of the Institute of Chartered Accountants in Ireland and a fellow of the Institute of Bankers. Holder of a BA in Economics.



Inge Clissmann

Senior Counsel in private practice at the Irish Bar. Chairperson, Civil Service Disciplinary Appeals Board. Chairperson, Staff Panel of Trinity College Dublin. Deputy Chairperson, Irish Financial Services Appeals Tribunal. Former Chairperson of the Family Lawyers' Association and of the Consumer Association of Ireland. Former Director, Free Legal Advice Centre. Former Member, European Consumer Law Group, Advertising Standards the Authority and the Garda Complaints Appeals Board.



#### **Terry Hardiman**

A fellow of the Life Insurance Association and a member of the Million Dollar Round Table, an Association of Financial Professionals. A practicing Insurance Broker and a past Chairman of the Professional Insurance Brokers Association (PIBA).



**Brian Healy** 

Director of Traded Markets, Development, Operations, Irish Stock Exchange. Chairman of the Euroclear Group plc cross-market Irish Market Advisory Committee dealing with development and harmonisation issues for equity and fixed income. Previously worked with Arthur Andersen. A fellow of the Institute of Chartered Accountants in Ireland and of the Chartered Institute of Securities and Investment. He is also an Accredited Mediator.



#### Dermott Jewell

Chief Executive of the Consumers' Association of Ireland. Current representations include Chairperson Financial Services Ombudsman Council, Chairperson European Consumer Centre, Chairperson Governing Board Irish Food Quality Certification, Member Consumer Advisory Group of the Central Bank of Ireland, Member Bórd Bia Quality Assurance Board and Irish Representative alternate of the European Consumer Consultative Group (ECCG) of DG Sanco.



Paul O'Donovan Independent consultant operating across all sectors of the Financial Services Industry working with regulatory bodies, representative bodies and service providers. Formerly a Senior Consultant with Accenture (Andersen Consulting, Arthur Andersen & Co.) and a founder Director of Prospectus Strategy Consultants. Established O'Donovan Associates in 1994.



Frank O'Dwyer Chief Executive of the Irish Association of Investment Managers whose members manage assets of over €200 billion on behalf of Irish and international clients. A fellow of the Institute of Chartered Accountants in Ireland, he has been Finance Director of a number of companies and was an adviser at the Department of Finance. A director of the Irish Takeover Panel.



#### **Eimer O'Rourke**

Head of Retail Banking, Irish Banking Federation. A member of the Industry Consultative Panel to the Financial Regulator, the Department of Finance's Money Laundering Steering Committee, the Executive Committee of the European Mortgage Federation and the National Payments Implementation Programme. Director of the Dormant Accounts Board.



**Ciaran Phelan** 

Ciaran is currently Chief Executive of the Irish Brokers Association. He has over 25 years experience in the Life Assurance Industry having worked in various senior management roles. He also spent a number of years in the telecommunications industry. He holds a BA in Management.



**Gina Quin** Chief Executive, Dublin Chamber of Commerce, the representative and networking organisation of business in the Greater Dublin Region. A Member of the Board of ESB Networks. Previously CEO of Gandon Enterprises, the commercial division of the Rehab Group.



**Mark Redmond** Former Director with PricewaterhouseCoopers, now Chief Executive of the Irish Taxation Institute. A fellow of the Irish Taxation Institute.

## **Board Committees**

The Board has set up two standing committees, a Funding Committee and an Audit Committee. The current membership of these committees is as follows:

#### **Funding Committee**

Daniel Coveney (Committee chairperson) Terry Hardiman Brian Healy Frank O'Dwyer Eimer O'Rourke Ciaran Phelan

#### Audit Committee

Brian Healy (Committee chairperson) Dermott Jewell Mark Redmond Frank O'Dwyer (Alternate member)

### **Attendance at Board and Committee Meetings**

	Board	Funding Committee	Audit Committee
Number of meetings held	9	4	4
Jim Bardon	9	N/a	N/a
Daniel Coveney	9	4	N/a
Inge Clissmann	4	N/a	N/a
Terry Hardiman	8	3	N/a
Brian Healy	8	4	4
Dermott Jewell	6	N/a	4
Paul O'Donovan	8	N/a	N/a
Frank O'Dwyer	8	4	N/a
Eimer O'Rourke	6	2	N/a
Ciaran Phelan	9	2	N/a
Gina Quin	9	N/a	N/a
Mark Redmond	7	N/a	4

## **CHAIRPERSON'S STATEMENT**

#### Jim Bardon

I am pleased to present the Annual Report for the thirteenth year of operations, which is my sixth Chairperson's report, for the year ended 31 July 2011.

## Overview

The year ended 31 July 2011 is the tenth consecutive year in which there have been no new failures of investment firms giving rise to fresh claims for compensation from the Investor Compensation Scheme (Scheme). However, since the end of the year, Custom House Capital Limited has been put into liquidation and we expect that it will give rise to claims for compensation. We are working with Kieran Wallace of KPMG, appointed by the High Court on 21 October as Liquidator and Administrator to Custom House Capital Limited, to establish what our total liability is likely to be. However, the Administrator is in the very early stages of his work and it is not yet possible to establish a reliable estimate of the total cost of claims.

It is welcome, therefore, that we have had much needed time to build up more adequate reserves to pay future compensation. Our reserve balances at year-end stood at just over  $\in$ 21m for Fund A and  $\in$ 17.7m for Fund B. In addition, we have a standby credit facility of  $\in$ 50m in place and have a layer of insurance cover for both funds, which was recently renewed. When the Board receives a reliable estimate of the total cost of claims, the Board will consider, in the context of our funding cascade (set out in the Funding Document of June 2010) what action may be needed to ensure that the Investor Compensation Company Limited (the Company) remains adequately funded.

Following a consultation with our contributors and other relevant stakeholders in 2009/10, we published revised Funding Arrangements for the period August 2010 to end July 2013. Contributors paid at the new rates in the year to July 2011. While the rates were increased for most categories (firms with income at or below  $\in$ 60,000 were charged a somewhat reduced rate) income was somewhat less than we had expected. This is attributable both to a reduction in the numbers of contributors, especially in the tied agents sector and to declining numbers of clients or declining income in many firms. Under the new funding arrangements we have reverted to charging on a pro-rata basis. This means that

businesses setting up in the middle of our funding year – or, indeed, those unfortunately having to close during the year – pay only a proportion of the annual contribution.

The Board reviewed the Strategy of the Company during the year, noting that a number of goals had been achieved and that it was timely to consider new goals. In particular, the Board considered that a review and identification of risks should be more formally recognised as an important activity for the Company. Accordingly, we have decided to carry out a formal review of our Strategy once a year and to add consideration of the risks facing the Company as a standing item on the agenda for each Board meeting.

The Company engaged with the Department of Finance, the Central Bank and other investor compensation schemes throughout the year concerning the proposal from the EU Commission to amend the Investor Compensation Directive. The Commission's proposals seek to improve aspects of the scheme for claimants and to ensure that the funding of schemes throughout the EU is conducted on a comparable and fair basis.

The Company's primary purpose is to pay compensation promptly when claims arise. In order to be able to do this, we need to have a compensation fund that is of sufficient size to pay as required. Compensation costs can be high. The failure of Morrogh Stockbrokers, a relatively small firm, cost the Company almost  $\in$ 8m. We now have  $\in$ 21m to compensate eligible investors should an investment firm fail and  $\in$ 17m should a retail intermediary fail. We have sought, however, to ensure that we have other supports so that we can pay eligible investors promptly, in case a failure or a number of failures were to require more than the existing funds. I am pleased to say that in October 2010, we arranged Excess of Loss insurance to provide a further level of cover in such an eventuality, which was recently renewed for the year to September 2012.

Our information technology infrastructure is subject to regular review and update and has improved the effectiveness and efficiency of the Scheme and provides the Company with a robust technology platform for the future. This year, we have developed an on-line payment facility that has been operational from August 2011. In addition, we have moved to improve the recoverability of our systems through an off-site recovery location so that we can continue to work with a very short interruption even if unforeseen circumstances prevent our access to our offices or systems.

## **C**ompensation Claims

The Company has continued to pay claims as speedily as possible and well within the statutory three month period. Once claims are made by investors, they are certified by the Administrator. This is a technical process which can take a significant time to complete. However, once claims are certified, most are paid within two weeks of certification. 99% of the Morrogh claims have now been certified and the Company is committed to continuing to work with the Administrator to have the very small number of remaining claims certified as soon as possible. All MMI claims have now been certified and the Company now awaits the outcome of its subrogated claim from the liquidation process.

## Staffing and Operations

The Board and I recognise the excellent work of the Chief Operations Officer and her team and appreciate their commitment and dedication. The team have made further progress this year in ensuring that turnover of staff may occur with minimal effect on efficiency. Thanks to the efforts of all the staff, contributors and claimants are dealt with in an efficient and sensitive manner by the Company.

The working relationship with the Central Bank continues to operate in an effective manner. In particular, this year, their Internal Audit Unit conducted an audit of the Company, the report identified no material issues. We look forward to the continued support and cooperation of the Central Bank to progress matters of mutual interest and to their commitment to providing the Company with the staff and services which are necessary for the efficient discharge of our functions and statutory duties.

The Board of the Company attaches considerable importance to operating the company in the most efficient manner possible. The Company is operated by a team of seven people who carry out all the functions including collecting in excess of  $\in$ 5m per year from over 5,000 contributors and managing reserves in excess of  $\in$ 38m. We have sought to reduce costs where possible whether by negotiating reduced costs or by achieving greater efficiencies.

## Financial Results Summary as at 31 July 2011

INCOME and EXPENDITURE SUMMARY	Fund A	Fund B	Total
	€	€	€
Income from annual contributions	3,484,780	1,722,631	5,207,411
Interest Income	231,037	200,143	431,180
Compensation (costs/provisions) and write-backs	(31,045)	-	(31,045)
(Administration expenses/bad debts/provisions for bad debts)	(735,292)	(586,347)	(1,321,639)
Surplus for Year	2,949,480	1,336,427	4,285,907

BALANCE SHEET SUMMARY	Fund A	Fund B	Total
BALANCE SHEET SUMMART	€	€	€
Cash at bank	21,927,131	17,757,097	39,684,228
Fixed assets	18,282	18,282	36,564
Debtors	124,954	73,254	198,208
Creditors	(159,930)	(152,714)	(312,644)
Provision for liabilities and charges	(882,876)	(9,996)	(892,872)
Share capital	(2)	(2)	(4)
Fund Reserves	21,027,559	17,685,921	38,713,480

## **B**oard Retirements and Appointments

Six directors retired by rotation on 31 July 2011, and were reappointed to the Board. Further details are provided on page 7.

The Board, in September of 2010, also decided to designate Mr Paul O'Donovan as the senior independent director in fulfilment of the relevant recommendations of the Corporate Governance Code and the Higgs Guidance. Mr O'Donovan was re-appointed by the Board in this capacity for a further period of three years ending 31 July 2014.

Finally, I would like to thank all my fellow Board Directors for the time, expertise and commitment which they bring to the business of the Board and its Committees. Their support and guidance has been invaluable.

28 November 2011

## **OPERATING REPORT**



The Company's primary role is to ensure that, in accordance with the Investor Compensation Act, 1998 (Act), investors have access to compensation in a timely fashion. The Company also strives to provide a value for money service to all its stakeholders.

Anne Troy Chief Operations Officer

I am pleased to present the thirteenth Operating Report for the year ended 31 July 2011.

## Overview

Since the end of the year, as the Chairman has noted, Custom House Capital Limited has been put into liquidation and we expect that as a result, compensation may be payable to investors in the next year or so. For the reasons outlined in Note 8 to the Accounts, the final resolution of this case could take a considerable period.

The Company has been involved with a number of significant activities during the year, the details of which are outlined on page 24. In a challenging environment for the firms contributing to the Scheme, income from contributions decreased to  $\in$ 5.2 million while cash at bank increased by over  $\notin$ 4 million to exceed  $\notin$ 39.6 million. The successful implementation of new IT systems last year, which were necessary to support the Company's operational and strategic objectives, began to deliver operational gains in a number of areas, particularly in the collections and investments processes.

The EU Commission published a draft Directive amending the existing Investor Compensation Directive in June 2010. Throughout the year ended July 2011, the EU Council and the EU Parliament have given detailed consideration to the Commission's proposals. The Company has provided information to the Department of Finance on request regarding the proposals in the Directive. The Company has also participated in meetings and discussions of the European group of Investor Compensation Schemes and has engaged with other Compensation Schemes on this and other issues of mutual interest.

The Board reviewed the Strategy of the Company during the year noting that a number of goals had been achieved and that it was timely to consider new goals. As the Chairman has pointed out in his Statement above, the Board considered that review and identification of risks should be more formally recognised as an important activity for the Company and the Board. Our strategy is developed to serve our purpose which is to operate a financially sound scheme so that we can pay compensation to clients of failed investment firms. To ensure realisation of our strategy, we identify specific goals and set them out in a programme of work which we will undertake. The Company, in common with the Central Bank, has adopted the Balanced Score Card as a means of recording the work programme and reviewing progress in carrying it out. Every quarter the Board will formally review progress towards meeting our goals. The Board will also review our strategy once every year to ensure that it continues to meet our purpose.

During the year under review, we successfully pursued negotiations through our insurance brokers to secure insurance to cover the Company in the event of losses arising that exceeded our reserves. It provides cover should claims from one failure or a number of failures exceed  $\leq 15m$ . Cover will be provided for claims up to a maximum of  $\leq 50m$  in the case of Fund A firms and up to a maximum of  $\leq 10m$  for Fund B firms. The difference in the cover available for Fund A and Fund B is warranted, given the difference in business models of the firms contributing to these Funds. The premium charged for Fund B is proportionately less than that for Fund A. This will be reflected in the distribution of costs between the two Funds. As the Chairman has reported, the Excess of Loss Insurance has been renewed recently for the year ended September 2012.

## Funding of the Scheme

The Company relies on contributions from authorised investment firms and registered insurance intermediaries in order to fund the Scheme. There were 222 Fund A contributors (2010: 240) and 5,233 Fund B contributors (2010: 5,728).

	Fund A Fund B		Total
	€	€	€
Year ended 31 July 2011	3,484,780	1,722,631	5,207,411
Year ended 31 July 2010	3,591,062	2,206,080	5,797,142

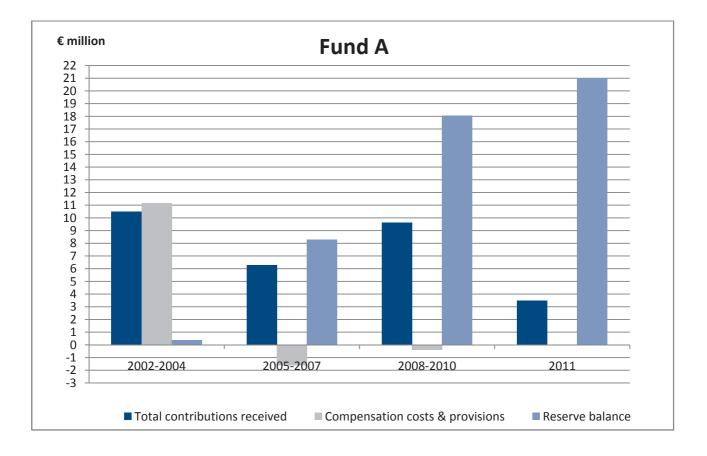
Annual contributions received were as follows:

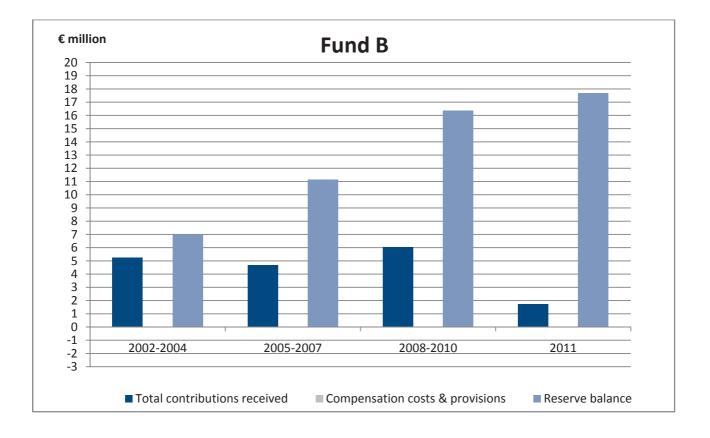
The decrease in Fund A contributions arises primarily due to the reduced number of firms contributing to the fund despite the year-on-year contribution rate increase as agreed in the three yearly Funding Arrangements which cover the period August 2010 to July 2013. The decrease in Fund B contributions arises due to a number of factors, primarily from a decrease in the number of firms contributing, particularly Tied Agents of Insurance Undertakings. Furthermore, the introduction of a pro-rata contribution on 1 August 2010 along with some changes to Level 1 & 2 contribution rates for Fund B firms, lowering the income band ranges and reducing the contribution rates from  $\in$ 300 to  $\notin$ 250 and from  $\notin$ 350 to  $\notin$ 300 respectively impacted contributions. These changes were introduced to accommodate either new businesses setting up or to provide existing businesses, with relatively modest turnover, with a slightly reduced rate of contribution compared with the previous minimum rate.

Despite the decreased contribution income, Fund A reserves continued to grow and this year these now stand at €21,027,559 (2010: €18,078,079).

Fund B reserves stood at €17,685,921 at the year-end (2010: €16,349,494).

The following tables demonstrate, for each of the funds, the scale of contributions received over the past ten years and how much of these funds have either been absorbed by claims or accumulated in reserves.





## **C**ontributions Outstanding

We remain grateful to the vast majority of contributors who have co-operated with the Company in ensuring that contributions are paid in a timely manner. At 31 July 2011, contributions were outstanding, beyond payment terms, from 1 Fund A contributor (2010: 3) and 425 Fund B contributors (2010: 450). The decrease in the number of firms with contributions outstanding at the year end is due primarily to better IT systems being in place for following-up on unpaid accounts. The Company is dedicated to ensuring that all firms comply with their obligations and utilises all available methods to ensure this is achieved, including, but not limited to:

- Applying interest to unpaid contributions,
- Reporting firms, whose contributions are outstanding, to the Central Bank for failing to comply with their obligations under the Act.
- Taking legal action to recover unpaid debts.

The Central Bank has the power to require firms to suspend the carrying on of business in cases of non-compliance. Firms contributing to Fund B have the facility to pay contributions by direct debit and the numbers taking up this option continue to increase year on year. The Company continually examines the feasibility of alternative payment arrangements for contributors in an effort to ensure the highest possible rates of compliance from contributors and to this end introduced an on-line payments system with effect from 1 August 2011. Details on debtors are set out in Note 5.

## Management of Funds

The Company's cash reserves have grown significantly over the past few years and we adopt a rigorous approach to our management of these funds. Our primary concern is to ensure that we place funds with secure institutions. Our secondary concern is to ensure that we maximise our return on these funds. During the year ended 31 July 2011, the Company earned deposit interest of  $\leq$ 424,733 (2010:  $\leq$ 295,539). The Company benefitted from marginally higher interest rates available from some institutions despite the depressed interest rate market; this was the main reason for the increased interest rate returns.

## Payment of Compensation

No new failures of investment firms arose in the year ended 31 July 2011. Since the incorporation of the Company in 1998, three determinations have been made under the Act. These resulted in claims for compensation being made on the Scheme. One of these, relating to Andrew Casey trading as Andrew Casey Life & Pensions, an insurance intermediary covered by Fund B, was made in October 1999. The other two determinations relate to stockbrokers covered by Fund A, Money Markets International Stockbrokers Limited and W&R Morrogh Stockbrokers.

Under the Act, where the Company has paid compensation to a claimant, the Company becomes subrogated to the rights of that claimant in the liquidation proceedings for the amount of the compensation paid. This means that the Company steps into the shoes of the claimant in the liquidation proceedings and, after compensating the claimant, is entitled to the payment of a distribution, if any, from the liquidation. To date, the Company has received no reimbursements from any of the three cases and is closely monitoring any developments in each case. Any actionable claim by the Company arising from its subrogated position is the subject of careful review by the Company with a view to reimbursing the Company in respect of compensation paid.

# Andrew Casey trading as Andrew Casey Life & Pensions – date of determination 15 October 1999

Total compensation payments in this case involved a relatively modest amount of money  $(\in 20,000)$  which has been paid under the Scheme.

# Money Markets International Stockbrokers Limited (MMI) – date of determination 19 February 1999

Since 1999, 313 claims have been received as a result of the liquidation of MMI. All 313 claims have been dealt with and compensation payments amounting to €774,422 have been made. The Company has submitted its subrogated claim to the Liquidator of MMI in respect of compensation paid to claimants and awaits the final outcome of the liquidation process.

#### W&R Morrogh Stockbrokers (Morrogh) – date of determination 18 June 2001

#### <u>Claims</u>

Some 2,632 claims for compensation were received by the Company following the failure of Morrogh. Due to the complex nature of the remaining claims, the Administrator certified no claims during the year under review. The Company ensured that where claims were certified by the Administrator, that compensation was paid to claimants well within the three months allowed under the Act (average time taken was less than two weeks). To date, 2,606 or 99% of claims (2010: 2,606 or 99%) have been dealt with in part or in full and compensation payments amounting to €7.55 million have been made.

#### Compensation payable

With the passage of time, the total estimate of compensation payable by the Company in this case has become more certain and therefore remains unchanged at  $\in$ 8.05 million. This has been fully provided for in prior year accounts. All provisions are estimates which are prepared with assistance from the Administrator.

#### Administrator Costs

A provision of  $\in$ 732,000 was made in prior year accounts for the Administrator's costs arising from the Morrogh case. Approximately  $\in$ 391,000 of the Administrator's costs have already been paid.

The Company will continue to work closely with the Administrator to ensure that the remaining claims are certified and paid as soon as possible.

## Administration Expenses

The Company is very mindful of its duty to provide value for money to its stakeholders and there is a high focus on achieving value and on containing costs. As shown in the summary tables on page 23, the overall administration expenses / bad debts and provisions have increased from  $\in$ 1,208,417 in 2010 to  $\in$ 1,321,639 in 2011, i.e. an increase of  $\in$ 113,222 or 9%. The most significant change year on year arises due to the placement of the Excess of Loss Insurance policy for the first time on 1 October 2010 at a cost of  $\in$ 304,442, the details of which are set out above. More details are provided on administration expenses in Note 2 on page 42.

Bad debts written off decreased quite significantly, by €66,096 or 24% from €273,870 to €207,774. This decrease arises despite an exceptional charge of €102,923 relating to 142 Fund B contributors where the contributions remained outstanding for in excess of twelve months. The majority of those 142 firms have either ceased trading or are uncontactable but have not been removed from the Central Bank of Ireland's register. In each of these cases, the debt had been provided for in prior years and that provision has now been released to the Income and Expenditure account, hence the decrease in the bad debt provision of €105,936 year on year. Unfortunately, it is not always possible or cost effective to the Scheme as a whole to continue to pursue some outstanding contributions where the firm/individual is no longer conducting business and has neglected to wind-up the business in an orderly manner. In addition to the processes outlined under the "Contributions Outstanding" section on page 20 whereby the Company pursues all outstanding contributions rigorously and through a number of stages, the Company has engaged with Central Bank of Ireland to remedy issues of non payment by firms/individuals.

	Fund A	Fund B	Total
Year ended 31 July 2011	€	€	€
Bad debts written-off	14,410	193,364	207,774
Increase/(decrease) in provision	4,474	(110,410)	(105,936)
Excess of Loss Insurance costs	264,713	39,729	304,442
Other administration expenses	451,695	463,664	915,359
	735,292	586,347	1,321,639

Apportionment of Administration costs / bad debts and provisions:

Apportionment of Administration costs / bad debts and provisions:

	Fund A	Fund B	Total
Year ended 31 July 2010	€	€	€
Bad debts written-off	-	273,870	273,870
(Decrease)/increase in provision	(7,534)	51,860	44,326
Excess of Loss Insurance costs	-	-	-
Other administration expenses	435,560	454,661	890,221
	428,026	780,391	1,208,417

Due to the much greater numbers of contributors in Fund B, a proportionately higher amount of administrative time relates to collecting contributions from Fund B member firms. The time which each staff member spends on tasks associated with each of the Funds is tracked, on a weekly basis. The Audit Committee reviewed the bases used for the allocation of costs between the Funds and concluded that the bases<sup>1</sup> used for cost allocation were rigorous and fair.

## Organisation

In accordance with Section 20 of the Act, staff on secondment from the Central Bank perform the administrative functions of the Company. A significant programme of work was undertaken during the year.

The main areas of work were:

- progressing the Company's strategic goals, including:
  - implementing revised Funding Arrangements effective 1 August 2010,
  - in conjunction with our stakeholders, submitting draft legislative amendments to implement pre-determined rules for the distribution of clients' assets,
  - responding to the EU Commission's request for information on issues affecting the Investor Compensation Directive, and,
  - reviewing our investment management objectives to ensure that we are appropriately managing the Scheme's reserves and achieving good returns for the Scheme,
- continued upgrading of our Information Technology Systems, including more robust Business Recovery arrangements,
- ongoing implementation of the Company's investment policy,
- servicing of the Board and of Board Committee meetings,
- implementation of the recommendations arising from the Internal Audit of the Company's operations, and,
- the programme of work associated with the suite of policies and procedures developed by the Company to ensure compliance with the highest standards of corporate governance.

<sup>&</sup>lt;sup>1</sup> Costs, which are directly attributable to a particular Fund, are allocated to that Fund. Costs, which are directly related to the number of firms contributing to each Fund, are allocated on that basis. Commitment fees associated with commercial borrowing arrangements are allocated 2/3rds to Fund A and 1/3rd to Fund B. Other costs are allocated equally between the Funds.

The Company experienced staff turnover at the year end, primarily due to transfer opportunities within the Central Bank. As the Chairman has said, in his statement, we have sought to ensure that our systems and procedures are documented so that a change in staff does not materially affect the efficient operation of the Company. I consider that our resources, systems and procedures have dealt effectively with the issues as they have arisen and the executive team continue to recommend ways of improving the efficiency and sustainability of the Company's operations.

## Strategic Plan

As outlined earlier, the Company formally reviewed and updated its strategic plan for the five years ending 31 July 2016.

Our plan, which we review regularly and update annually, sets out the Company's objectives, specifies the strategies and policies for achieving these objectives and outlines the programme of work which we will undertake to ensure that we are meeting our strategic goals. Progress in achieving our strategic goals is closely monitored by the Board on a quarterly basis using the Company's Balanced Score Card.

Finally, I wish to express my thanks to the Board of Directors for their guidance and support and also to the other members of the executive team for their professionalism and for their continued hard work and co-operation in ensuring the smooth and efficient functioning of the Scheme's operations.

28 November 2011

## **DIRECTORS' REPORT**

The Directors present their report and audited financial statements for the year ended 31 July 2011.

## **P**rincipal Activity and Review of the Business

The principal activities are:

- The establishment and maintenance of arrangements for the payment of compensation to clients of investment firms in accordance with the Act.
- □ The management of funds out of which payments or expenses are made in accordance with the Act.

Details of the operation of the Company and the likely future developments are contained within the Chairperson's Statement and the Operating Report on pages 11 to 25.

While this was the tenth consecutive year in which there have been no new failures of investment firms giving rise to fresh claims for compensation, the Directors are aware of the difficulties and challenges which the ongoing turbulence in the financial markets pose for investment firms.

Fund A reserves now stand at  $\in$ 21,027,559. No claims for compensation were certified during the year by the Administrators of active cases. The growth in the Fund B reserve was in line with expectations and reserves now stand at  $\in$ 17,685,921.

## Results

The Company generated an operating surplus of  $\in$ 4,285,907 (2010: Surplus of  $\in$ 4,900,060). The main reasons for the decrease year on year are a decrease of  $\in$ 589,731 in contribution income, an increase in interest income of  $\in$ 121,575, a decrease of  $\in$ 105,936 in the provision for bad and doubtful debts, a decrease of  $\in$ 66,096 in bad debts, and an increase in administration expenses of  $\in$ 329,580 which primarily related to the cost of placing an Excess of Loss insurance policy. In accordance with the Articles of Association, no dividend is payable by the Company.

## **P**rincipal Risks and Uncertainties

The principal risk to which the Company is exposed is the risk that there would be insufficient funds available to the Scheme to pay compensation arising from future failure(s).

## **F**inancial Risk

The Company is exposed to financial risk and uncertainty through its financial assets and financial liabilities. The most important components of this risk and uncertainty are credit, interest rate, liquidity and currency risks and compensation uncertainty.

#### Credit Risk

Credit risk is the risk that a counterparty will be unable to pay amounts in full when they fall due. The main area where the Company is exposed to credit risk is through institutional deposits.

On an ongoing basis, the Company manages this risk inter alia through its Investment Policy by placing limits on its exposure to any single counterparty. Counterparties are selected based on a combination of their participation in State Guarantee Schemes and also their credit ratings which are continuously monitored.

This is an area of heightened risk for the Company given the on-going turbulence in global financial markets and the Board and Executive have taken a series of measures to mitigate this risk to the greatest extent possible.

#### Interest Rate Risk

Interest rate risk is the risk that the Company might not obtain the best available deposit interest rates. The main area where the Company is exposed to interest rate risk is through institutional deposits.

The Company manages this risk through its Investment Policy by firstly selecting the counterparties with a State Guarantee and/or appropriate credit rating criteria, and, thereafter, those institutions that offer the highest interest rates.

### Liquidity Risk

Liquidity risk is the risk that cash may not be available to pay obligations when due. The risk of cash not being available could arise due to unexpected levels of demand being placed on a particular fund at a given time. In the event of a failure, the Company is obliged to pay compensation within three months of the date of certification by the Administrator. For that reason, a significant proportion of funds are normally placed on deposit for periods not exceeding three months. In addition, a standby credit facility of €50m is in place. The conclusion of an Excess of Loss Insurance contract for this year further mitigates this risk. Furthermore, the EU Directive, under which the scheme is established, states that the cost of financing investor compensation must, in principle, be borne by investment firms. The Directive also states that the financing capacities of such schemes must be in proportion to their liabilities. This requirement must not, however, jeopardize the stability of the financial system of the Member State concerned.

The Board carries out regular reviews (at least every three years) of the arrangements which are in place to fund the Scheme. This review includes setting targets for reserve fund balances and seeking support for funding arrangements from all stakeholders, including investment firms, the Central Bank and the Department of Finance, to ensure that the Scheme can meet its future funding requirements. The Company monitors the achievement of these targets using various reporting procedures.

#### Currency Risk

Currency risk is the risk of incurring financial losses due to adverse movements in foreign exchange rates.

The Company has no exposure to currency risk in the technical sense as all financial transactions are denominated in Euro.

#### **Compensation Uncertainty**

Compensation uncertainty is the uncertainty associated with estimating the final value of compensation payable in advance of the Administrator certifying all outstanding claims.

The Company addresses this uncertainty through detailed review of calculations underlying estimates and through the receipt of regular updates from an Administrator regarding progress on the certification of claims and any issues affecting the certification of outstanding claims.

## Statement of Directors' Responsibilities

## **F**inancial Statements

The Directors are responsible for preparing the Annual Report and the financial statements in accordance with applicable Irish law and Generally Accepted Accounting Practice in Ireland including the accounting standards issued by the Accounting Standards Board and published by The Institute of Chartered Accountants in Ireland.

Irish company law requires the Directors to prepare financial statements for each financial year which give a true and fair view of the state of affairs of the Company and of the surplus or deficit of the Company for the year. In preparing those financial statements, the Directors are required to:

- select suitable accounting policies and then apply them consistently;
- make judgements and estimates that are reasonable and prudent;
- prepare the financial statements on the going concern basis unless it is inappropriate to presume that the Company will continue in business.

The Directors confirm that they have complied with the above requirements in preparing the financial statements.

The Directors are responsible for keeping proper accounting records which disclose with reasonable accuracy at any time the financial position of the Company and enable them to ensure that the financial statements are prepared in accordance with accounting standards generally accepted in Ireland and with Irish statute comprising the Companies Acts, 1963 to 2009. They are also responsible for safeguarding the assets of the Company and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

The Act requires the Directors to keep all proper and usual accounts of all monies paid into the fund or funds maintained by the Company and all disbursements from such fund or funds including an income and expenditure account and a balance sheet. The Directors have appointed appropriate accounting personnel in order to ensure that those requirements are met. The Directors consider that, in preparing the financial statements on pages 37 to 52, appropriate accounting policies have been used and consistently applied and reasonable and prudent judgements and estimates have been made.

The Directors have ensured that proper accounting records are kept in accordance with Section 202 of the Companies Act, 1990, by employing appropriately qualified personnel and by maintaining appropriate computerised accounting systems. The books of account are located at the Company's registered office at Spencer Dock, North Wall Quay, Dublin 1.

## Going Concern

The financial statements are prepared on the going concern basis as the Board, after making appropriate enquiries, is satisfied that the Company has adequate resources to continue in operational existence for the foreseeable future.

## **C**orporate Governance

The Chairperson and Deputy Chairperson are appointed on a non-executive basis by the Governor of the Central Bank. The remaining ten Directors are also non-executive Board members. Five of these Directors are prescribed by the Minister for Finance on the basis that they represent the interest of clients of investment firms while the remaining five Directors are nominated by bodies which are prescribed by the Minister for Finance on the basis that they represent the financial services industry. The Board, having obtained the approval of the Governor of the Central Bank and the Minister for Finance, has introduced a standard three year term of appointment for Directors (with a system of rotation) with Directors being eligible for re-appointment at the end of each term.

### Compliance with the Corporate Governance Code

The Board remains committed to maintaining the highest standards and support the principles of corporate governance outlined in the Corporate Governance Code adopted by the Irish and London Stock Exchanges and effective for reporting years beginning on or after 29 June 2010. While the Company is not obliged to comply with the Corporate Governance Code, it has reviewed the principles and provisions

of that Code and the Directors confirm that the Company has complied throughout the accounting period with the main aspects that are appropriate to the Company.

The Board is responsible for the leadership and control of the Company. There is a formal schedule of matters specifically reserved to the Board for consideration and decision. This includes approval of strategic plans for the Company, matters relating to the maintenance of the Scheme's funds, approval of the financial statements, the annual budget and acquisitions and disposals of assets. The roles of Chairperson and Chief Operations Officer are not combined. The Chief Operations Officer is accountable to the Board for all authority delegated to executive management.

The Board has also delegated some of its responsibilities to Committees of the Board. The Directors, in the furtherance of their duties, may seek independent professional advice, as required, at the expense of the Company. New Directors are provided with extensive briefing materials on the Company and its operations and the Chairman and Chief Operations Officer are available to brief members as required. Details of remuneration paid to the Directors are set out on page 42. There were 9 full meetings of the Board during the year. Details of Directors' attendance at those meetings are set out in the table on page 10. The Chairperson sets the agenda for each meeting in consultation with the Chief Operations Officer. Copies of Board papers are circulated to Directors in advance of meetings. Under the Act:

- Director nominations to the Board of the Company are at the discretion of the Minister for Finance;
- The Governor of the Central Bank appoints the Chairperson and Deputy Chairperson;
- The Central Bank is the supervisory authority for the Company.

In addition to an annual review undertaken by the Company Chairperson and Deputy Chairperson with the Governor of the Central Bank and Deputy Governor (Financial Regulation) at the Central Bank, the Board undertakes an annual evaluation of its own performance, using the 'Performance Evaluation Guidance' set out in the *Higgs Report*, as a formal agenda item at a scheduled Board Meeting. Formal evaluation of the performance of individual Directors during the year is conducted jointly by the Chairperson and Deputy Chairperson. Evaluation of the performance of the Deputy Chairperson is conducted jointly by the Chairperson and the Chairman of the Audit Committee. Led by the Chairman of the Audit

Committee, evaluation of the performance of the Chairperson is conducted by all Board Members without the Chairperson present. The objective of these evaluations is to identify any scope for improvement and, in the case of individual evaluations, to determine whether each director continues to contribute effectively and demonstrate commitment to the role. The individual Director performance evaluation process is based on the principles outlined in the Higgs Report and the findings are reported to the Board as part of the Board evaluation process for consideration and action as required.

#### Internal Control

The Board has overall responsibility for the Company's system of internal control and for monitoring its effectiveness. Such a system is designed to manage rather than eliminate the risk of failure to achieve business objectives and can provide only reasonable, and not absolute, assurance against material misstatement or loss.

In order to discharge that responsibility in a manner which ensures compliance with laws and regulations, the Board has established an organisational structure with:

- Clearly documented operating and reporting procedures;
- Clear lines of responsibility, segregation of duties and delegated authority;
- Identification of risks in the risk register and ongoing assessment and monitoring of those risks and the arrangements for managing them;
- Clear authorisation limits;
- Regular monitoring of performance against plans and targets.

The Audit Committee regularly reviews the effectiveness of the system of internal control and confirms that necessary actions are taken to remedy any significant failings or weaknesses identified.

#### Compliance with the Turnbull Guidance

The Directors confirm that the Company's ongoing process for identifying, evaluating and managing its significant risks is in accordance with the Turnbull guidance<sup>2</sup>. The process has been in place throughout the accounting period and up to the date of approval of the Annual Report and financial statements and is regularly reviewed by the Board.

<sup>&</sup>lt;sup>2</sup> Internal Control: Revised Guidance for Directors on the Combined Code, published in October 2005.

## Committees

The Board has established two permanent committees to assist in the execution of its responsibilities. These are the Funding Committee and the Audit Committee. Ad hoc committees are formed from time to time to deal with specific matters. During the year ended 31 July 2011, no such ad hoc committees were established.

Each of the permanent committees has terms of reference under which authority is delegated to them by the Board. Minutes of all Committee meetings are circulated to Committee members and the Chairman of each Committee reports to the Board on all significant issues considered by the Committee. The current membership of each Committee is set out on page 10. Attendance at Committee meetings held during the year is set out in the table on page 10.

#### **Audit Committee**

The Audit Committee met on four occasions during the year. The main role and responsibilities of the Audit Committee are set out in written terms of reference and include:

- Monitoring the integrity of the financial statements,
- Making recommendations to the Board in relation to the appointment, re-appointment and removal of the Company's external auditors including agreeing remuneration and terms of engagement,
- Overseeing the Internal Audit process,
- Evaluating the performance of the external auditors including their independence, objectivity and effectiveness,
- Facilitating a process for "whistleblowing",
- Reviewing the Investment Policy and Procedures,
- Reviewing the effectiveness of the Company's internal financial control and risk management process and its process for monitoring compliance with laws and regulations affecting financial reporting.

#### **Funding Committee**

The Funding Committee is required to meet a minimum of three times per year. During the year, the Committee met four times. The Committee's responsibilities include:

- Assisting the Board with establishing and maintaining a fund or funds out of which payments shall be made in accordance with the Act,
- Reviewing the collection of contributions and proposed bad debt write-offs,
- Reviewing the estimates of compensation payable as provided by Administrators,
- Assisting the Board with formulation of policies which affect the funding and operations of the Company.

## **C**ompany Secretary

The appointment and removal of the Company Secretary is a matter for the Board. All Directors have access to the advice and services of the Company Secretary who is responsible to the Board for ensuring that Board procedures are complied with.

## **D**irectors and Transactions Involving Directors

The Directors of the Company are listed on page 7. All Directors serve as non-executive Directors.

There were no contracts in relation to the business of the Company in which the Directors had any interest, as defined by the Companies Act, 1990, at any time during the year ended 31 July 2011.

## **Subsequent Events**

The Directors are aware that on 21 October 2011, a liquidator was appointed to Custom House Capital Limited and expect that this will give rise to claims for compensation. The Directors note that the official liquidator, who has also been appointed as the Administrator for the purposes of the Act, will be required to provide the Company with an estimate of the total compensation payable. This is a technical exercise which is likely to take a number of months. As recorded under Note 8, the Directors are disclosing a contingent liability.

There were no other material events since the year end.

## Auditors

The auditors, PricewaterhouseCoopers, continue in office in accordance with Section 160(2) of the Companies Act, 1963.

Signed on behalf of the Board:



## Independent Auditors' Report to the members of the

## **Investor Compensation Company Limited**

We have audited the financial statements on pages 37 to 52. These financial statements have been prepared under the accounting policies set out in the statement of accounting policies on pages 40 and 41.

## **R**espective Responsibilities of Directors and Auditors

The directors' responsibilities for preparing the directors' report and the financial statements in accordance with applicable Irish law and accounting standards issued by the Accounting Standards Board and published by the Institute of Chartered Accountants in Ireland (generally accepted accounting practice in Ireland) are set out in the statement of directors' responsibilities on pages 29 and 30.

Our responsibility is to audit the financial statements in accordance with relevant legal and regulatory requirements and International Standards on Auditing (UK and Ireland). This report, including the opinion, has been prepared for and only for the company's members as a body in accordance with Section 193 of the Companies Act, 1990 and for no other purpose. We do not, in giving this opinion, accept or assume responsibility for any other purpose or to any other person to whom this report is shown or into whose hands it may come, save where expressly agreed by our prior consent in writing.

We report to you our opinion as to whether the financial statements give a true and fair view, in accordance with generally accepted accounting practice in Ireland, and are properly prepared in accordance with Irish statute comprising the Companies Acts, 1963 to 2009. We state whether we have obtained all the information and explanations we consider necessary for the purposes of our audit and whether the financial statements are in agreement with the books of account. We also report to you our opinion as to:

- whether the company has kept proper books of account;
- whether the directors' report is consistent with the financial statements; and
- whether at the balance sheet date there existed a financial situation which may require the company to convene an extraordinary general meeting; such a financial situation may exist if the net assets of the company, as stated in the balance sheet, are not more than half of its called-up share capital.

We also report to you if, in our opinion, any information specified by law regarding directors' remuneration and directors' transactions is not disclosed and, where practicable, include such information in our report.

We read the directors' report and consider the implications for our report if we become aware of any apparent misstatements within it.

## **B**asis of Audit Opinion

We conducted our audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures in the financial statements. It also includes an assessment of the significant estimates and judgments made by the directors in the preparation of the financial statements, and of whether the accounting policies are appropriate to the company's circumstances, consistently applied and adequately disclosed.

We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or other irregularity or error. In forming our opinion we also evaluated the overall adequacy of the presentation of information in the financial statements.

# Opinion

In our opinion the financial statements:

- give a true and fair view, in accordance with generally accepted accounting practice in Ireland, of the state of the company's affairs as at 31 July 2011 and of the surplus for the year then ended; and
- have been properly prepared in accordance with the requirements of the Companies Acts, 1963 to 2009.

We have obtained all the information and explanations we consider necessary for the purposes of our audit. In our opinion proper books of account have been kept by the company. The financial statements are in agreement with the books of account.

In our opinion the information given in the directors' report on pages 26 to 34 is consistent with the financial statements.

The net assets of the company as stated in the balance sheet on page 38 are more than half of the amount of its called-up share capital and, in our opinion, on that basis there did not exist at 31 July 2011 a financial situation which, under Section 40(1) of the Companies (Amendment) Act, 1983 would require the convening of an extraordinary general meeting of the company.

# Emphasis of matter – significant uncertainty related to Custom House Capital Limited

In forming our opinion, which is not qualified, we have considered the adequacy of the disclosures made in Note 8 to the financial statements concerning the payments to eligible investors arising from the liquidation of Custom House Capital Limited. The amount of such payments that will ultimately be paid by the Investor Compensation Company Limited Fund A is subject to significant uncertainty and the ultimate cost will be dependent on many factors including those set out in Note 8. John Bligh

for and on behalf of PricewaterhouseCoopers Chartered Accountants and Statutory Audit Firm Dublin 30 November 2011 inancial Statements

#### Income and expenditure account for the year ended 31 July 2011

			2011 €		2010 €
INCOME	Notes		_		-
Contributions			5,207,411		5,797,142
Interest Income			431,180 <b>5,638,591</b>	-	309,605 6,106,747
EXPENDITURE				-	0,100,141
Compensation costs and provisions/release					
Claims provision release	7	-		35,699	
Claims – 3 <sup>rd</sup> party costs		(31,045)		(33,969)	
			(31,045)		1,730
Administration expenses	2		(1,321,639)		(1,208,417)
TOTAL EXPENDITURE			(1,352,684)		(1,206,687)
SURPLUS ON ORDINARY ACTIVITIES	1		4,285,907		4,900,060
Opening Surplus			34,427,573		29,527,513
Surplus at 31 July			38,713,480		34,427,573
ALLOCATED BETWEEN FUNDS AS FOLLOWS:					
FUND A	3		21,027,559		18,078,079
FUND B	3		17,685,921		16,349,494
		-	38,713,480	-	34,427,573

The Company had no recognised gains and losses in the year to 31 July 2011 other than those dealt with in the income and expenditure account. There have been no movements in the reserves of the Company other than the surplus for the year. The accompanying notes form an integral part of the financial statements. All activities arise from continuing operations.

The financial statements were approved by the Board of Directors on 28 November 2011 and were signed on its behalf by:

J. Bardon / \_\_\_\_\_\_) B. Healy Brian Charley )

DIRECTORS

## Balance sheet as at 31 July 2011

	Notes	2011 €	2010 €
NET ASSETS EMPLOYED:		e	e
FIXED ASSETS			
Tangible assets	4	36,564	86,352
CURRENT ASSETS			
Debtors and accrued income	5(a)	198,208	80,325
Cash at bank and on deposit	13(ii)	39,684,228	35,680,555
		39,882,436	35,760,880
<b>CREDITORS:</b> (Amounts falling due within one year)	6	(312,644)	(520,713)
NET CURRENT ASSETS		39,569,792	35,240,167
TOTAL ASSETS LESS CURRENT LIABILITIES		39,606,356	35,326,519
PROVISION FOR LIABILITIES AND CHARGES	7	(892,872)	(898,942)
NET ASSETS		38,713,484	34,427,577
FINANCED BY:			
Called-up share capital	9	4	4
Funds	3	38,713,480	34,427,573
	11	38,713,484	34,427,577

The accompanying notes form an integral part of the financial statements.

The financial statements were approved by the Board of Directors on 28 November 2011 and were signed on its behalf by:



ICCL Annual Report 31 July 2011

## Cash flow statement for the year ended 31 July 2011

NET CASH INFLOW FROM	Notes	2011 €	2010 €
OPERATING ACTIVITIES	13(i)	4,004,750	5,095,235
CAPITAL EXPENDITURE AND FINANCIAL INVESTMENT			
Payments to acquire tangible fixed assets	4	(1,077)	(16,537)
INCREASE IN CASH	13(iii)	4,003,673	5,078,698

# **S**TATEMENT OF ACCOUNTING POLICIES

The following accounting policies, together with applicable Accounting Standards in Ireland, have been applied in the preparation of the financial statements.

# **B**asis of Preparation

The financial statements have been prepared in accordance with Irish statute comprising the Companies Acts, 1963 to 2009 and in accordance with accounting standards generally accepted in Ireland in preparing financial statements giving a true and fair view which are those published by the Institute of Chartered Accountants in Ireland and issued by the Accounting Standards Board.

# **Accounting Convention**

The financial statements have been prepared in accordance with the historical cost convention.

# Contributions

Contributions from authorised investment firms are recognised on an accruals basis as income in the period to which the amount levied relates.

Contributions outstanding at the Company's year-end are recognised as debtors and appropriate provision is made for bad and doubtful debts.

# **C**ompensation Costs

Compensation costs, including associated third party costs which have not already been invoiced at year-end, are recognised at the time that the Company becomes aware of an event having occurred which will give rise to a default and when a reliable estimate can be made of the amount of the compensation costs to be paid. The Company will normally become aware of a default on the presentation of a bankruptcy petition, the appointment of a liquidator or receiver or examiner, the convening of a meeting of creditors or a similar event. These events, inter alia, may lead to a determination by the Central Bank in accordance with the Act.

Recoveries from subrogation are recognised when receipt is certain.

# Administration Expenses

Administration expenses include all costs which are not compensation costs and include costs relating to the ongoing management of the Company, including movement in provision for bad or doubtful debts and bad debts written off in the period under review.

# **Fixed Assets**

The capitalised cost of fixed assets is their purchase cost together with any incidental expenses of acquisition.

Depreciation is provided on bases and rates which are estimated to reduce the assets to their realisable values by the end of their expected useful lives. The bases and rates are stated below:

Computer software and equipment : 33<sup>1</sup>/<sub>3</sub>% straight line

# Funds

In accordance with the provisions of the Act, the Company has established two separate Funds in respect of the various categories of investment firms.

otes to the financial statements for the year ended 31 July 2011

#### **1. SURPLUS ON ORDINARY ACTIVITIES**

The surplus on ordinary activities is stated after charging:

	2011 €	2010 €
Directors' fees	132,750	132,749
Depreciation	50,865	46,561
Auditors' remuneration (ex-VAT)	8,500	8,500

The Company's staff is sourced under a secondment arrangement with the Central Bank of Ireland which also provides other administrative services to the Company.

The current Chairperson and Deputy Chairperson were remunerated €31,500 (2010: €31,500) and €15,750 (2010: €15,750) respectively on a pro-rata basis during the year. The other directors were remunerated at the rate of €8,550 per annum (2010: €8,550), also on a pro-rata basis.

#### 2. ADMINISTRATION EXPENSES ANALYSIS

	2011 €		2010 €
Personnel costs*	515,637		464,644
Directors' fees & expenses	134,656		136,430
Excess of Loss Insurance costs	304,442		-
Other administration overheads	214,201		242,586
Bad debts written off	207,774		273,870
(Decrease)/Increase in provision for bad and doubtful debts	(105,936)		44,326
Depreciation	50,865		46,561
	1,321,639	_	1,208,417

\*Personnel costs are included in the charge for administrative services by the Central Bank of Ireland.

	Fund A	Fund B	2011 Total	Fund A	Fund B	2010 Total
Contributions	€ 3,484,780	€ 1,722,631	€ 5,207,411	€ 3,591,062	€ 2,206,080	€ 5,797,142
Interest income Compensation (costs)/recoveries:	231,037	200,143	431,180	159, 195	150,410	309,605
Claims provision release Claims – 3 <sup>rd</sup> party costs	- (31,045)	1 1	- (31,045)	35,699 (33,969)	1 1	35,699 (33,969)
Administration expenses: Bad Debts (written off)/recovered	(14,410)	(193,364)	(207,774)		(273,870)	(273,870)
(Increase//decrease in provision for bad and doubtful debts Other administration expenses	(4,474) (716,408)	110,410 (503,393)	105,936 (1,219,801)	7,534 (435,560)	(51,860) (454,661)	(44,326) (890,221)
Surplus for year	2,949,480	1,336,427	4,285,907	3,323,961	1,576,099	4,900,060
Surplus at 1 August	18,078,079	16,349,494	34,427,573	14,754,118	14,773,395	29,527,513
Surplus at 31 July	21,027,559	17,685,921	38,713,480	18,078,079	16,349,494	34,427,573
Represented by:						
Cash at bank	21,927,131	17,757,097	39,684,228	19,165,942	16,514,613	35,680,555
Fixed assets	18,282	18,282	36,564	43,176	43,176	86,352
Debtors	124,954	73,254	198,208	33,600	46,725	80,325
Creditors	(159,930)	(152,714)	(312,644)	(275,691)	(245,022)	(520,713)
Provision for liabilities and charges	(882,876)	(9,996)	(892,872)	(888,946)	(9,996)	(898,942)
	(7)	(7)	(4)	(7)	(7)	(4)
Total	21,027,559	17,685,921	38,713,480	18,078,079	16,349,494	34,427,573

The income and expenditure is allocated between Funds as follows:

contributing to each Fund, are allocated on that basis. Commitment fees associated with commercial borrowing arrangements are allocated 2/3rds to Fund A and 1/3rd to Fund B. Other costs are allocated equally between the Funds. Costs, which are directly attributable to a particular Fund, are allocated to that Fund. Costs, which are directly related to the number of firms

FUNDS

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#### **4. TANGIBLE ASSETS**

Computer Software and Equipment

Cost:	2011 €	2010 €
At 1 August Additions Disposals	155,727 1,077 -	139,190 16,537 -
At 31 July	156,804	155,727
Depreciation:		
At 1 August On Disposals Charge for year	69,375 - 50,865	22,814 - 46,561
At 31 July	120,240	69,375
Net book value:		
At 31 July	36,564	86,352

#### 5. DEBTORS AND ACCRUED INCOME

	2011	2010
(a) Debtors and Accrued Income:	€	€
Debtors (after provision for bad and doubtful debts) Accrued income & Prepayments	6,552 191,656	30,445 49,880
	198,208	80,325
	€	€
(b) Bad debts written-off during the year:	207,774	273,870
(c) Movement in respect of the provision for bad and doubtful debts:	€	€
Opening provision for bad & doubtful debts	260,282	215,956
Closing provision for bad & doubtful debts	154,346	260,282
(Decrease)/Increase in provision	(105,936)	44,326

#### **6. CREDITORS**

	2011 €	2010 €
Compensation costs Central Bank of Ireland Directors' fees and expenses Prepaid contributions Other	14,593 223,614 11,862 7,104 55,471	14,593 215,634 12,442 99,818 178,226
	312,644	520,713

#### 7. PROVISION FOR LIABILITIES AND CHARGES

(a) Money Markets International Stockbrokers Limited (Fund A)

Claims for compensation have been made by clients of Money Markets International Stockbrokers Limited (MMI) and all compensation claims were certified and paid at 31 July 2011. Provision has been made in respect of estimated third party costs, which represent the costs of the Administrator and directly attributable legal costs of the Company and the Administrator based upon an estimate of these costs to the completion of the Administration process. At 31 July 2011, the provision for costs in respect of MMI is approximately  $\leq 48k$ .

#### (b) Andrew Casey trading as Andrew Casey Life & Pensions (Fund B)

Claims for compensation have been made by clients of Andrew Casey trading as Andrew Casey Life & Pensions (Andrew Casey) and certain compensation payments have been made. Provision has been made in respect of estimated compensation where the claims have been received by the Administrator but have yet to be certified. At 31 July 2011, the provision for claims yet to be certified is approximately  $\in$ 9k. Provision has also been made in respect of third party costs, which represent the costs of the Administrator, and, also directly attributable legal costs of the Administrator based upon an estimate of these costs to the completion of the Administration process. At 31 July 2011, the provision for costs in respect of Andrew Casey is approximately  $\in$ 1k.

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#### (c) W&R Morrogh Stockbrokers (Fund A)

Claims for compensation have been made by clients of W&R Morrogh Stockbrokers. Provision has been made in respect of compensation claims which have yet to be certified by the Administrator.

In this case, a provision for compensation payments totalling €8.05 million was made to 31 July 2010. On the basis of estimates received from the Administrator, the Board kept the provision for claims unchanged at 31 July 2011, the provision stood at €8.05 million, of which €7.55 million had been paid.

Provision of €758k has also been made in respect of the costs of the Administrator and legal advisors for completion of the Administration process, of which €424k has already been paid. At 31 July 2011, the provision for costs in respect of W&R Morrogh is approximately €334k.

	Fund A Claims	Fund B Claims	Total Claims	3 <sup>rd</sup> Party Costs (Funds A & B)	Total
	€	€	€	€	€
Opening provision at 1 August 2009	540,000	9,142	549,142	488,305	1,037,447
(Decrease) / Increase in provision	(35,699)	-	(35,699)	33,969	(1,730)
Payments during the year	(4,301)	-	(4,301)	(132,474)	(136,775)
Provision at 31 July 2010 and at 1 August 2010	500,000	9,142	509,142	389,800	898,942
Increase in provision	-	-	-	31,045	31,045
Payments during the year	-	-	-	(37,115)	(37,115)
Closing Provision at 31 July 2011	500,000	9,142	509,142	383,730	892,872

#### 8. CONTINGENT LIABILITY

#### **Custom House Capital Limited**

The Company exists to provide compensation to clients of an investment firm in certain circumstances, including where the Courts have ruled the firm is unable to meet its obligations. Custom House Capital Limited (CHC) is a Fund A investment firm authorised under the European Communities (Markets in Financial Instruments) Regulations 2007, in respect of which the High Court made such a ruling on 21 October 2011. On the same date a liquidator was appointed to CHC. He was also appointed as Administrator for the purposes of the 1998 Investor Compensation Act.

The matters giving rise to the High Court ruling appear to have arisen over a number of years prior to the company's year end of 31 July 2011.

Based on their review of the High Court ruling and the Inspector's Report, the directors believe it is more likely than not that the Company will pay compensation to eligible investors. However, they do not believe it is possible, as at the date of approval of these financial statements, to make a reliable estimate of the amount of compensation, because the extent of compensation payable by the company will depend, amongst other factors, on the following uncertainties:

- the number of clients that meet the definition of an "eligible investor",
- the extent to which the losses suffered by "eligible investors" are deemed compensatable,
- the extent of losses suffered by eligible investors (which in many instances will depend on the performance of an underlying investment product),
- the nature, and extent of discretion, of the mandates which investors had given to CHC,
- whether the losses are derived from regulated or unregulated investment products,
- whether the liquidator has access to records enabling him to reconcile records and establish clients positions,
- reliable information about the distribution of compensatable losses amongst eligible investors. i.e. a small number of large losses may give rise to lower compensation than a large number of small losses, and
- the financial position of CHC itself.

CHC managed significant client funds and investments. However, the specific issues which the Court appointed Inspectors identified and which led to the appointment of a liquidator to CHC on 21 October 2011 were:

- The "improper transfer" (as described in the Inspectors' Report) of approximately €56 million of client holdings with the majority of this money representing transfers from cash and liquid instruments to syndicated property investments.
- CHC issued guarantees, which it may not be able to make good on, in respect of the performance of investments in the "Mezzanine Bond Fund" which is invested in property structures as at 31 March 2011 the crystallisation of these guarantees would give rise to a liability of €10.4 million in respect of capital and would appear to give rise to €5.1 million in respect of interest, though the actual liability would be dependent on the performance of the underlying property structures.
- The Inspectors also noted in their report that 'a comprehensive review of all material and reconciliation of all items would not be possible within an acceptable timeframe for completing their report. The Inspectors have therefore sought to identify and quantity the major issues of concern with respect to CHC's handling of the investments of its clients and the financial standing of CHC itself.'

The Inspectors' report, which is dated 19 October 2011, is available in a redacted version on the website of the Central Bank of Ireland.

The compensation payable by the company to any one eligible investor is limited to the lesser of 90% of an eligible investor's compensatable loss or  $\leq 20,000$ . The Company issued approximately 2,600 claim application forms to clients of CHC on 4 November 2011 and requested that these be returned ideally by 25 November 2011, though no later than the statutory deadline of 23 March 2012. The Company believes this number of clients contains duplication and that the actual number of clients is closer to the number mentioned in the Inspector's report of 1,500. Based on this number the maximum compensation payable is not expected to exceed approximately  $\leq 30$  million although it is thought unlikely that all investors are either eligible or compensatable to the maximum amount.

The net compensation payable by the Company is expected to be limited by an insurance policy which provides cover for claims in excess of  $\leq$ 15 million up to a maximum of  $\leq$ 50 million in the case of Fund A claims.

The Official Liquidator, Administrator and the Court appointed Inspectors have advised the Company that they are unable to provide to the Company an estimate of the compensatable loss which the Company may be required to pay to eligible investors. The Inspector's report notes that 'The inspectors have been advised and consider that it would take significant experienced resources several months to resolve all individual client positions. It should also be noted that a full reconciliation may prove difficult if not impossible where a proper documentation and a proper cash trail cannot be confidently established. As a detailed reconciliation ...is undertaken, other issues may arise.

Until such time as the claim forms have been returned to the Company and assessed by the Administrator, the Company does not believe it is possible to make a reliable estimate of the amount of compensation which will be payable by the Company. The certification process is dependent on the detail and accuracy of the records of CHC which may take a considerable time to establish, particularly in view of the Court appointed Inspector's observations regarding the quality of CHC's records. Once claims are certified by the Administrator, compensation payments are payable within three months.

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Certification and payment of compensatable losses to many of the remaining claimants is anticipated in the coming year.

Total compensation payable by the Company is now estimated at €8.05 million, of which €7.55 million has already been certified and paid. The balance has been provided for in the Company's Financial Statements to 31 July 2011.

#### 9. SHARE CAPITAL

	2011 €	2010 €
Authorised:	C C	C C
10 Ordinary shares of €1.25 each	13	13
Issued and fully paid:		
3 Ordinary shares of €1.25 each	4	4

The Investor Compensation Company Limited is a company limited by guarantee and having a share capital. There are three shareholders, the Central Bank of Ireland, the Irish Stock Exchange and the Irish Association of Investment Managers. The limit of guarantee to be paid by each shareholder in the event of the Company being wound up is  $\leq 6.00$ .

On 2 December 2002, by a special resolution of the shareholders, the authorised share capital of the Company was changed to  $\leq 12.50$  and the ordinary shares were renominalised with a par value of  $\leq 1.25$  each. The amount equal to the reduction in nominal value of the allotted share capital was transferred to a capital conversion redemption fund. The capital conversion redemption fund has not been disclosed on the face of the balance sheet or in the notes to the financial statements as it is not deemed material.

#### **10. TAXATION**

The Company is exempt from Corporation Tax and Deposit Interest Retention Tax.

#### **11. MOVEMENTS IN TOTAL FUNDS**

	Share Capital attributable to Shareholders	Attributable to Funds	Total
	€	€	€
At 1 August 2010	4	34,427,573	34,427,577
Surplus for the year	-	4,285,907	4,285,907
At 31 July 2011	4	38,713,480	38,713,484

#### **12. RELATED PARTIES**

The following transactions took place between the Company and its related party, the Central Bank of Ireland:

	2011 €	2010 €
Administration costs chargeable to the Company		
by the Central Bank of Ireland for services provided	581,061	522,934

Other than the payment of directors' fees and expenses as disclosed in Note 2, there have been no transactions in the year to 31 July 2011 between the Company and its directors.

#### **13. CASH FLOW NOTES**

(i) Reconciliation of surplus on ordinary activities to net cash inflow from operating activities	2011 €	2010 €
Surplus on ordinary activities	4,285,907	4,900,060
Depreciation	50,865	46,561
Loss on disposal of fixed assets	-	-
(Increase) / Decrease in debtors	(117,883)	38,276
(Decrease) / Increase in creditors and provisions for liabilities and charges	(214,139)	110,338
	4,004,750	5,095,235
(ii) Analysis of net funds		
Cash at bank	39,684,228	35,680,555
(iii) Reconciliation of net cash flow to movement in net funds		
Net Funds at 1 August	35,680,555	30,601,857
Increase in cash in the year	4,003,673	5,078,698
Net Funds at 31 July	39,684,228	35,680,555

# hat is the Investor Compensation Scheme

## ntroduction

Instances may arise in the financial services industry where a firm is unable, due to its financial circumstances, to return to investors their investment instruments and/or their money. In the past, investors could do very little to recover their assets and people have suffered losses.

The establishment of an investor compensation scheme in 1998 provides a mechanism whereby private investors may be entitled to compensation from the Investor Compensation Company Limited (ICCL).

## Background

In March 1997, the European Council adopted a Directive in relation to the establishment of investor compensation schemes in Member States. The purpose of the Investor Compensation Directive is to provide a minimum level of protection for investors in circumstances where fraud or insolvency results in the inability of an investment firm to return investment instruments or money to investors. The Investor Compensation Directive lays down certain basic requirements for investor compensation schemes in order to provide a harmonised minimum level of investor protection across the Community. It is left to each individual Member State to implement an appropriate scheme and to determine the most appropriate way of organising and financing such schemes.

In Ireland, the Directive was transposed into Irish law on 1 August 1998 through the introduction of the Investor Compensation Act, 1998.

# The Investor Compensation Act, 1998 (the Act)

Under the Act, the ICCL was established as a company limited by guarantee and having a share capital.

A principal objective of the ICCL is the putting in place of arrangements (e.g. funding and payment procedures) to ensure that eligible clients of a failed firm receive compensation, within the parameters set down in the Act, as quickly as possible.

# Shareholders

The ICCL's three shareholders are:

- the Central Bank of Ireland,
- the Irish Stock Exchange, and
- the Irish Association of Investment Managers.

The structure adopted in Ireland (i.e. the establishment of a specialist company to put compensation arrangements in place) is one which has also been used in some other Member States of the European Union.

# The Board of Directors

The number of directors of the ICCL is prescribed by the Minister for Finance. The Chairperson and Deputy Chairperson of the Board are appointed by the Governor of the Central Bank of Ireland. The ten other directors represent either the interests of consumers (5) or the interests of the financial services industry (5) and are prescribed by the Minister for Finance.

# Scope of the Scheme

The Investor Compensation Directive applies to all authorised investment firms (including Credit Institutions authorised to provide investment services). In addition to transposing the Directive into Irish Law, the Act also provides for compensation arrangements to apply to a large number of authorised investment firms which were not covered by the Directive. This reflected the Government's view that eligible investors who dealt with investment firms should be entitled to some degree of financial compensation if an authorised firm failed and investors lost assets.

Following a consultation process in early 1999 with relevant bodies in the financial sector and various investment firms, the ICCL decided on the establishment of two Funds for the following categories of membership:

#### Fund A

- Investment Firms authorised under the European Communities (Markets in Financial Instruments) Regulations 2007
- Investment Firms authorised under Section 10 of the Investment Intermediaries Act, 1995 that are not exempt under Section 2(5) of the Investor Compensation Act, 1998
- Stockbrokers authorised under the European Communities (Markets in Financial Instruments) Regulations 2007
- Credit Institutions authorised to provide investment business services
- Certain certified persons who provide investment business services, which are similar to services provided by Fund A firms, in a manner which is incidental to their main professional activities

 UCITS management companies, authorised to undertake Individual Portfolio Management Services<sup>3</sup>

#### Fund B

- Authorised Advisors authorised under the Investment Intermediaries Act, 1995
- Multi Agency Intermediaries authorised under the Investment Intermediaries Act, 1995
- Insurance Intermediaries required to register with the Central Bank of Ireland under the European Communities (Insurance Mediation) Regulations 2005
- Certain certified persons who provide investment business services, which are similar to services provided by Fund B firms, in a manner which is incidental to their main professional activities

## How is the ICCL Funded?

The Scheme is funded by contributions from firms authorised to conduct investment services and insurance mediation. The method for calculating the contributions payable was decided following five extensive consultation processes with firms and industry representative groups (1999, 2001, 2004, 2007 and 2010).

## **C**ontribution Rates

Current contribution rates vary depending on the membership category and are based either on the number of eligible clients of the firm or on the firm's income from investment and insurance business.

# When is Compensation Payable?

The Scheme will pay compensation where an authorised firm is unable, due to its financial circumstances, to return money or investment instruments owed to a client. Investors will be compensated if they are eligible investors and have dealt with a firm that has been authorised to conduct business. The Scheme will not pay compensation where a loss arises as a result of poor advice or where the value of a client's investment declines because of market or other economic forces.

# Process for Paying Compensation

The ICCL can only begin the process of making compensation payments to eligible investors once it has been advised by the Central Bank of Ireland that an authorised firm has either:

<sup>&</sup>lt;sup>3</sup> Individual Portfolio Management Services refers to the management of portfolios of investments and discretionary portfolio management services as well as non-core services such as investment advice, safekeeping and administration services.

- a) been the subject of a court ruling which prevents the firm returning money or investment instruments to clients, or
- b) been the subject of a determination by the Central Bank of Ireland that the firm is unable to meet its obligations arising from claims by clients.

Subsequently, the ICCL will write to all known eligible clients of the failed firm advising them of their right to make a claim for compensation. It will also place notices in the national newspapers and/or in Iris Oifigiúil seeking claims from investors.

Validation of claims and certification of the amount of compensation payable to claimants is carried out by an 'Administrator'. An Administrator will be either:

- the Court-appointed liquidator to the firm as a result of a proposal made by the Central Bank of Ireland with the agreement of the ICCL, or
- a person appointed by the Central Bank of Ireland with the agreement of the ICCL.

Investors will be given at least five months from the date of the court ruling or determination by the Central Bank of Ireland to make a claim. Once a claim has been certified by the Administrator, the ICCL will make payments as quickly as possible and is obliged to do so within three months of the date of certification.

## **C**ompensation Limits

The amount of compensation payable to each eligible investor is limited to 90 per cent of the amount lost subject to a maximum payout of €20,000. This amount reflects the obligations imposed under the Investor Compensation Directive and is generally consistent with the levels of payment available in most other Member States of the European Union.

## **R**elationship with Claimants

The ICCL aims to actively assist eligible investors and particularly those affected by the failure of a firm. It aims to deal in a cooperative and sensitive way with investors and to provide assistance to all those who contact the ICCL. The level of these enquiries can be significant particularly at the time of a failure of a firm. The ICCL has published an information booklet which provides useful information to investors. This is available by accessing the publications section in the ICCL's website or by contacting the ICCL directly (contact details are available at the back of this publication).

# Relationship with the

## **Central Bank of Ireland**

The Central Bank of Ireland is the supervisory authority for the purpose of the Act. Accordingly, certain actions undertaken by the ICCL can only be carried out with the approval of the Central Bank of Ireland.

These include:

- the establishment of any fund
- the raising of finance, or borrowing of any money
- amending the Memorandum and Articles of Association

Certain other matters, pertinent to the operation of the compensation scheme, require a process of consultation between the ICCL and the Central Bank of Ireland.

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