



**FINANCIAL SUPERVISORY COMMISSION  
COOK ISLANDS**

**STATEMENT OF CORPORATE INTENT**

**2017-18**

## **Financial Supervisory Commission**

### **Statement of Corporate Intent: 2017-18**

#### **Introduction**

The Financial Supervisory Commission Act 2003 was established on 3 June 2003 by determination of the Queen's Representative through Order in Executive Council.

The Board of the Commission comprises:

Raymond Newnham, Chairman  
Fletcher Melvin  
Geoffrey Stoddart  
Madeilene Sword  
Gaye Whitta

This Statement of Intent is issued by the Commission for the purposes of section 27 of the Financial Supervisory Commission Act 2003. It covers the year 1 July 2017 to 30 June 2018 and as required by section 27 comments, insofar as is practicable, on the next financial year to 30 June 2019 and beyond.

#### **Objectives of the Commission**

The objectives of the Commission are:

- To supervise licensed financial institutions to determine whether they are in sound financial condition and are complying with their governing legislative and supervisory requirements;
- To advance and administer a supervisory framework which complies with internationally accepted standards and promotes the adoption of policies and procedures designed to control and manage risk;
- Through the supervision of licensed financial institutions, to promote financial stability and sound business practice and to assist the Cook Islands Government to prevent the use of licensed financial institutions for financial crime, money laundering, financing terrorism and proliferation;
- To assist the financial sector to develop through establishing and maintaining an internationally credible regulatory and supervisory regime;
- To operate the Registries of International Companies, International Trusts, International Partnerships, Limited Liability Companies and Foundations to a professional standard;
- To facilitate the prevention, detection, investigation and prosecution of money laundering, the financing of terrorism, proliferation and other serious offences in the Cook Islands;

- To co-ordinate the implementation of the Cook Islands anti-money laundering and countering the financing of terrorism and proliferation (AML/CFT) regime; and
- To facilitate the collection, analysis and dissemination of financial intelligence relating to suspicious financial activity to the appropriate domestic and international authorities.

The Commission is the licensing authority of “licensed financial institutions” and will monitor the performance of the licensees against those standards imposed by the legislation which the Commission administers.

“Licensed financial institutions” are banks licensed pursuant to the Banking Act 2011, trustee companies licensed pursuant to the Trustee Companies Act 2014, insurers licensed pursuant to the Insurance Act 2008, captive insurance entities licensed pursuant to the Captive Insurance Act 2013 and money changing and remittance businesses licensed pursuant to the Money Changing and Remittance Businesses Act 2009.

The Commission will administer the following enactments:

- Banking Act 2011
- Captive Insurance Act 2013
- Currency Declaration Act 2016
- Digital Registers Act 2011
- Financial Intelligence Unit Act 2015
- Financial Supervisory Commission Act 2003
- Financial Transactions Reporting Act 2004
- Foundations Act 2012
- Insurance Act 2008
- International Companies Act 1981-82
- International Partnerships Act 1984
- International Trusts Act 1984
- Limited Liability Companies Act 2008
- Money Changing and Remittance Businesses Act 2009
- Trustee Companies Act 2014

Along with the above statutes, it is anticipated that the Commission will be administering a new Financial Transactions Reporting Act by the commencement of the 2017/18 financial year; at the time of writing this Statement of Corporate Intent the FTR Bill 2017 has been approved by Cabinet and awaits tabling in Parliament.

At the request of industry, the Commission will also oversee technical amendments to the Foundations Act 2012 and the International Trusts Act 1984 in 2017/18. A comprehensive review of the Insurance Act 2008, during the coming year, will determine whether amending the current statute or introducing a new act is the best way forward to address the various anomalies with the current insurance legislation.

The Commission is required to make recommendations to the Minister of Finance for legislative, administrative or other action which will facilitate the objectives of the Commission in developing and regulating the integrity of licensed financial institutions.

Government's policy in relation to the Commission is to promote and support the Commission in its objectives and functions as an independent institution. On the basis of the importance of maintaining this independence, Cabinet has approved the Commission to be excluded from the project centralising Government agencies in one building, which is scheduled for the next two to three years.

Government has established the Commission with independent funding so that the Commission is free from annual appropriation. The Commission is funded direct from the financial industry via annual licence fees and international entity registry fees.

Government has also established the Commission as free from Government direction in regards to the performance of its functions and duties.

The Commission will continue to act as a good employer, as that term is defined in the Public Service Act 2009.

These objectives will apply for the year commencing 1 July 2017 and for the foreseeable years to follow.

### **Nature and scope of activity to be undertaken during the year commencing 1 July 2017**

The Commission will undertake all such activities in this section on a timely and proper basis.

#### **a) Supervision and Regulation**

A risk based, targeted focus, onsite inspection will be conducted on each bank licensed in the Cook Islands during the year to 30 June 2018.

The Commission will continue to place emphasis on comprehensive offsite supervision through the review of quarterly data and annual audited financial statements, as a risk based approach continues to be embedded into supervision of all licensed institutions, particularly in respect to the banking sector.

Compliance reviews of the financial transactions reporting regime will be an ongoing activity during the year. Attention will continue to be directed towards those licensees, designated non-financial businesses and professions and registered entities, which are deemed higher risk.

An onsite examination of each licensed Cook Islands based insurance provider will be conducted to determine ongoing compliance with the Insurance Act 2008, Insurance Regulations 2009 and the Insurance Code 2010.

Similarly, an onsite review, to the administering Trustee Company, will be undertaken for every Captive Insurance licensee. These visits will be scheduled to coincide with the timing of board meetings held in the Cook Islands by those licensees.

The Commission will continue to conduct offsite analysis of licensed insurance intermediaries, and build upon relations with the home regulators, to maintain an appropriate level of supervision of these licensees.

Following on from the inaugural onsite supervision visits to all licensed Trustee Companies in 2015/16, the Commission will continue to review the operations of these licensees. As in previous years, a targeted approach will be applied focusing on areas of their operations that are considered higher risk. The 2017/18 focus will be on intermediary arrangements, IT security, corporate conduct and advertising. It is anticipated that the focus for future years will be in line with international best practice for transparency, including that of beneficial ownership.

Full implementation of the Managed Trustee Company (MTC) Guidelines will be applied to any MTC licence application received and subsequent MTC approved licensee.

## **b) Financial Intelligence Unit (FIU)**

The Commission's staff will carry out the functions and responsibilities of the FIU upon delegation by the Head of the FIU. This includes the regulation and conduct of compliance examinations for all registered Reporting Institutions in the Cook Islands as required by the Financial Transactions Reporting Act 2004 and further enhanced upon in the FTR Bill 2017.

The Commission will, through the FIU, continue to perform its intelligence gathering function and the evaluation of reporting institutions for compliance through its examination processes. The two roles are distinct but complementary. The intelligence function includes the receipt, analysis, dissemination and, where appropriate, referral to law enforcement for investigation. The compliance function includes powers to examine and the enforcement of compliance through sanctions and penalties.

The Commission, through the FIU, will be empowered to investigate and prosecute offences committed under the Financial Intelligence Unit Act 2015, and in due course the Financial Transactions Reporting Bill 2017.

The Head of the FIU will continue to participate at the Asia Pacific Group (APG) Annual Plenary Meeting and, where relevant, the APG Typologies Workshop.

The Commission, via the FIU, will implement the new Currency Declaration Act 2016 policies and procedures regarding the seizure of undeclared or false declaration of currencies at the border, including policies and procedures for the implementation of the administrative fine system for non-compliant matters under the FTRA.

The FIU will continue to apply the legislation in respect to restraint, forfeiture or proceedings against any recoverable money under the recent Financial Intelligence Unit Act 2015.

The Commission, through the FIU, will continue to coordinate with key national stakeholders in maintaining the national money laundering and terrorism financing risk assessment for the Cook Islands.

The Commission, through the FIU, will continue to actively participate in other National Committees including the AML/CFT Coordinating Committee, Combined Law Agency Group, Anti-Corruption Committee and the Cook Islands National Intelligence Taskforce.

The Commission will continue to enhance the handling of intelligence through the electronic filing system for financial institutions reporting to the FIU.

### **c) Registry of International Entities**

The FSC Registry will continue to fully utilise exception reporting capabilities to ensure focussed review of new and ongoing registrations throughout 2017/18 and future periods.

Throughout the year, the Commission will continue to administer the legislation for which the Commission is responsible, including the registration and renewal of international companies, international trusts, international partnerships, limited liability companies and foundations.

Recognising the pending need for a central register capturing beneficial ownership details, along with the intention to move the foundations register online, a funding provider will be sought to enable the proposed online registry upgrade to proceed.

### **d) International and Domestic Liaison**

The Commission will participate in the plenary meeting of the APG on Anti-Money Laundering and the Head of FIU will represent the Commission at the annual Egmont meeting. The Commission will continue to strive to improve the AML/CFT regime in the Cook Islands in preparation for the Mutual Evaluation, scheduled to be undertaken in the latter part of 2017.

The Mutual Evaluation represents a significant challenge to the jurisdiction as a whole and appropriate resources will continue to be allocated to ensure the Commission and FIU address all their identified areas of vulnerability, as measured against international best practice, in as timely a manner as possible.

The Commission will liaise with the Australian Prudential Regulation Authority (APRA) and the Bank of Papua New Guinea (BPNG), as home regulators, of the Cook Islands branches of ANZ and Bank South Pacific, respectively. In addition, the Commission will build on the opportunities arising from hosting APRA, to assist with the onsite inspection of BCI, in April 2017.

The Bank of Papua New Guinea have accepted the Commission's invitation to host the Bank South Pacific Supervisory College in the Cook Islands in August 2017, the opportunity to host the senior staff of BSP's home regulator will be invaluable to building further on the home/host regulator relationship.

Likewise, in 2017/18 relationships will continue to be developed with home supervisors of insurance licensees, in particular the Reserve Bank of New Zealand.

As in previous years, the Commission will participate as an active member of the Group of International Finance Centre Supervisors (GIFCS) and will be represented at the annual and half yearly meetings of the group. The Commission will utilise the Multilateral Memorandum of Understanding between members to maximise sharing with, and obtaining of, information from other member regulatory bodies.

The Commission was admitted, as a full member, to the Group of International Insurance Centre Supervisors (GIICS) in June 2016. The Commission will actively partake in GIICS telephone conference calls throughout 2017/18 and will be represented at the annual meeting of GIICS in June 2018 and continue to do so going forward.

Technical assistance will continue to be sought from the Pacific Financial Technical Assistance Centre (PFTAC), the International Monetary Fund, APRA through its Pacific Governance Support Programme and the Financial Stability Institute. However, the focus during 2017/18, and 2018/19, will be on the bi-annual PFTAC mission visits which are scheduled to coincide with two bank onsite reviews. The PFTAC visits will provide technical assistance in respect to enhancing some aspects of the Banking Act 2011, Banking Prudential Statements and bank quarterly returns.

The Commission will host the Association of Financial Supervisors of Pacific Countries (AFSPC) for their one week Annual Meeting in August 2017 at the Edgewater Resort and Spa. This regional forum is overseen by PFTAC and will see financial regulators from twelve jurisdictions across the Pacific participating.

The Commission will liaise with the Financial Services Development Authority (FSDA) to assist, where possible, with the development of the Cook Islands international financial centre. This may require the participation of the Commissioner in representing the strength of the regulatory environment of the Cook Islands at some international fora. The FSDA have requested the Commissioner and the Head of the FIU attend an Asia Roadshow in October 2017.

The Commission will review any proposals for legislative change that may be put forward in promoting the financial industry in the Cook Islands, against the desire to ensure no compromise of the continuing advancement in the standard of financial regulation.

The Commission will continue to liaise with industry, via the Trustee Companies Association (TCA) and the Bankers Association, in respect to issues facing the respective licensees.

#### **e) Legislation**

The Commission will report on a periodic basis to the Minister of Finance on the legislation administered by the Commission and advise the Minister on any amendments recommended by the Commission, generally to enhance the performance of the Commission and the achievement of its objectives.

It is anticipated that legislation will be enacted in 2017/18 to bring the Cook Islands National Superannuation Fund (CINSF), and any other superannuation funds established in the Cook Islands, under the regulatory control of the Commission. If this occurs the Commission will undertake an onsite inspection of the CINSF to determine compliance with the legislation and international best practice in respect to operational risks faced by the fund.

#### **f) Miscellaneous**

The Commission will continue to evaluate its governance procedures and look for opportunities to benchmark against other regional and international organisations.

The Commission will promote its website and ensure the currency and accuracy of the information provided therein to improve transparency of the supervisory regime in the Cook Islands.

The Commission will seek to maximise the efficiencies available by fully embedding the new Document Management System into all facets of the organisation.

The Commission's disaster risk management plan, developed in 2015/16, will be reviewed to ensure compliance is maintained with international best practice.

Underpinning the Commission's activities for the year will be constant attention to the training of staff and strengthening the Commission's capacity and ability to perform its tasks. Continued focus will be given to strengthening supervisory skills and capacity in respect to Trustee Companies and Insurance licensees, specifically captive insurers.

Upskilling of staff, across the Commission, by attending structured training programmes, participation in APRA joint reviews and attendance at international workshops will be encouraged.

Four in-country formal training opportunities have already been committed to for 2017/18 including two visits by the PFTAC mission team, the 2017 Bank South Pacific supervisory college and an AFSPC three day workshop, following the two day annual meeting. Two further visits by the PFTAC mission team are scheduled for 2018/19.

### **Nature and scope of activity to be undertaken during the year commencing 1 July 2018**

The Commission will continue to fulfil its duty to administer legislation for which it is responsible.

Responsibilities of the Commission have grown progressively and are expected to continue to grow, thus it is anticipated that the activities listed below will require continued focus in future years. In particular, but without limiting the extent of the Commission's duties to be performed in the coming years, the Commission will:

- (a) Undertake the prudential supervision of the banking business of all banks holding banking licences to carry on banking business in the Cook Islands;
- (b) Undertake the prudential supervision of insurers holding licences to conduct insurance business in the Cook Islands;
- (c) Undertake supervision of insurance intermediaries licensed to conduct general insurance business in the Cook Islands;
- (d) Undertake supervision of money changing and remittance businesses licensed to conduct money changing and remittance business in the Cook Islands;
- (e) Undertake supervision of trustee companies licensed to conduct trustee business in the Cook Islands;
- (f) Undertake supervision of captive insurance businesses licensed to conduct captive insurance business in the Cook Islands;
- (g) Encourage and promote licensed financial institutions to carry out sound practices in relation to prudential matters;

- (h) Investigate and review the performance by licensed financial institutions and designated non-financial businesses and professions of their obligations pursuant to Parts 2 & 3 of the Financial Transactions Reporting Act 2004, or its replacement legislation if enacted;
- (i) Undertake licensing and approvals of superannuation funds, if draft legislation is enacted, and consequent prudential supervision;
- (j) Consider and analyse, in a timely manner, all completed applications submitted to the Commission for a licence, registration or authorisation pursuant to any enactment the Commission administers;
- (k) Efficiently oversee the requirements for registration and renewal of registration of international companies, international trusts, international partnerships, limited liability companies and foundations;
- (l) Investigate and prosecute matters under the Financial Intelligence Unit Act 2015, the Currency Declaration Act 2016 and the Financial Transactions Reporting Bill 2017; once the legislation is enacted;
- (m) Perform airport or seaport duties for the purpose of enforcing the Currency Declaration Act 2016;
- (n) Effectively implement the recommendations identified in the 2017 Cook Islands Mutual Evaluation Report; and
- (o) Efficiently attend to any other matters brought before the Commission.

The Commission will continue to enhance the capacity and ability of the Commission to perform its obligations and achieve its objectives by continuing professional development of staff and proper resourcing of the Commission.

The Commission will also continue to report to the Minister of Finance on the suitability of the legislation administered by the Commission.

### **Performance Targets for the years commencing 1 July 2017 and thereafter**

The Commission will seek to achieve the following targets:

- (1) To conduct, as often as deemed necessary, an onsite examination of all banks, insurers, trustee companies, captive insurers and money changing and remittance businesses licensed to carry out business in the Cook Islands. Risk based supervision will assist to determine the level of regulatory oversight applied to licensed institutions.
- (2) To undertake offsite reviews of all data supplied by banks, insurers and trustee companies on a regular basis.

- (3) To administer new applications for the licence of a financial institution on a timely basis with all applications for new licences being determined within the prescribed timeframe upon the receipt of the completed application.
- (4) To conduct, in each year, compliance reviews of all licensed financial institutions and designated non-financial businesses and professions in respect of the financial transactions reporting regime.
- (5) To annually review the operation of each trustee company against the 'Trust and Corporate Service Providers Statement of Best Practice' issued by the GIFCS; and the Trustee Companies Act 2014.
- (6) To administer registration and renewal of registration of international companies, international trusts, international partnerships, limited liability companies and foundations efficiently, accurately and without delay.
- (7) To keep under on-going review legislation administered by the Commission with a view to recommending amendments where the legislation needs to reflect changes in the global financial environment, including best international supervisory and regulatory practice.
- (8) To enhance the skills of supervisory staff, principally by use of technical training provided by the Pacific Financial Technical Assistance Centre, the International Monetary Fund, the Australian Prudential Regulation Authority, the Financial Stability Institute and other technical assistance programmes including short term training with the Reserve Bank of New Zealand.
- (9) To maintain a structured programme for upskilling all staff of the Commission throughout the year.
- (10) To report to the Minister of Finance on the legislation administered by the Commission by 30 September each year.
- (11) To undertake enforcement action where necessary to achieve the Commission's objectives.
- (12) To coordinate and conduct a tri-annual National Risk Assessment for the Cook Islands.
- (13) To develop policies, procedures and guidelines to administering the Financial Transactions Reporting Bill 2017; and on an annual basis review those policies and guidelines in line with any changing circumstances or amending legislation.
- (14) To effectively administer and enforce the Financial Intelligence Unit Act 2015, the Financial Transactions Reporting Bill (2016) and the Currency Declaration Bill (2016).

(15) To coordinate the implementation of recommendations arising from the Cook Islands 2017 Mutual Evaluation.

(16) To efficiently attend to all other obligations, under the legislation which the Commission has responsibility to administer.

### **The Financial Resources required to achieve the Performance Targets**

The economic and operational climate within which this jurisdiction, like all small international financial centres, operates remains subject to ongoing pressure to enhance disclosures and increased reporting in line with international best practice. As compliance measures have become more burdensome growth has reduced. Accordingly, the estimates below are prudently based on the assumption that there will be nil net growth in the industry during the 2017/18 financial year.

#### **Expenditure**

The estimated expenditure of the Commission for the year ended 30 June 2018 is as follows:

<b>PERSONNEL</b>	<b>\$</b>	<b>\$</b>
Salaries (incl Superannuation)	752,600	
Staff Training, travel and expenses	25,000	
		<b>777,600</b>
<b>BOARD</b>		
Fees	84,000	
Expenses	6,200	
		<b>90,200</b>
<b>COMMISSIONER</b>		
Contractual Expenses	2,500	
Entertainment	1,500	
Travel	15,000	
		<b>19,000</b>
<b>DEPUTY COMMISSIONER</b>		
Contractual Expenses	500	
Travel	10,000	
		<b>10,500</b>
<b>HEAD OF THE FIU</b>		
Contractual Expenses	1,200	
Travel	10,000	
		<b>11,200</b>
<b>OPERATING EXPENSES</b>		
Audit Fee	3,000	
Advertising & Promotion	2,400	
Bank Fees	1,500	
Cleaning	5,600	
Communications	7,800	

Computer Costs	12,000	
Conferences & Workshops	12,000	
Depreciation (Fixed Assets)	18,000	
Amortisation (Software)	45,840	
Electricity	14,400	
Expensed Equipment	4,000	
General Expenses	3,600	
Insurance	4,500	
Maintenance	3,000	
Motor Vehicle Expenses	4,800	
Mutual Evaluation Costs	8,000	
Office Rental	30,000	
Office Supplies	5,400	
Online Registry operating expenses	39,600	
Operation Costs	15,000	
Professional Services	10,000	
Subscriptions	26,500	
		<b>276,940</b>
<b>TOTAL EXPENDITURE</b>		<b>1,185,440</b>
Levy on Intl. Trusts payable to the Crown		<b>262,014</b>
<b>TOTAL OUTGOINGS</b>		<b>1,447,454</b>

## Revenue

The financial resources available to the Commission to carry out its undertaking and to achieve its performance targets are:

(a) All licence, registration and miscellaneous fees payable under the following enactments:

Banking Act 2011  
 Captive Insurance Act 2013  
 Foundations Act 2012  
 Insurance Act 2008  
 International Companies Act 1981-82  
 International Partnerships Act 1984  
 International Trusts Act 1984  
 Limited Liability Companies Act 2008  
 Money-changers and Remittance Businesses Act 2009  
 Trustee Companies Act 2014

The estimated fees from these sources for the year 1 July 2017 to 30 June 2018 are \$1,389,297 (net of VAT).

Although all amounts are in New Zealand dollars; registry fees payable to the Commission are denominated in US dollars and income is therefore subject to

currency exchange fluctuations. The rate of \$0.76 was used to prepare these figures.

These estimates are based on the number of international companies, trusts, limited liability companies and foundations remaining equal to 2016/17 registry numbers.

A further amount of miscellaneous operating revenue and interest totalling \$77,485 is also expected to be generated.

**The estimated revenue is as follows:**

<b>REVENUE</b>	<b>\$</b>
Bank Licences	55,391
Insurance Licences	19,085
Trustee Company Licences	31,652
Foundations	15,789
International Companies	361,430
International Trusts	812,243
Limited Liability Companies	93,707
Miscellaneous Revenue	77,485
<b>TOTAL REVENUE</b>	<b>1,466,782</b>

The Commission anticipates collecting an amount of \$262,014 from registration and renewal fees for International Trusts, to assist to fund the Financial Services Development Authority.

In accordance with section 24(2) of the Financial Supervisory Commission Act 2003, excess funds will be paid to the Cook Islands Government. It is anticipated that the Commission will not be in a position to return any excess to government during the 2017/18 financial year.

**For the year ended 30 June 2019 income and expenditure is projected as follows:**

	<b>\$</b>	<b>\$</b>
<b>REVENUE*</b>		<b>1,466,782</b>
<b>EXPENDITURE</b>		
Personnel expenses including Board	840,800	
Operating expenses including Depreciation	344,640	
		<b>(1,185,440)</b>
Levy on Int. Trusts payable to the Crown		<b>(262,014)</b>
<b>EXCESS</b>		<b>19,329</b>

\*The exchange rate used for this calculation is US\$0.76; NZ\$1.00.

### **The costs, if any, to the Commission in applying Government's policies.**

In applying the government's accounting policies the Commission will incur amortisation expense of \$42,081 in relation to the online registry software for the year ended 30 June 2018. This intangible asset was obtained at no direct cost to the Commission, via funding from the New Zealand Aid programme, but is required to be amortised in line with government policy.

### **The Accounting Policies of the Commission**

The General Accounting Policies of the Commission for the year ended 30 June 2018, and for the subsequent financial years, will be as follows:

#### **Basis of Preparation of Accounts**

(i) Reporting Entity

The financial statements are for the Financial Supervisory Commission, which is considered to be an agency of the Crown. The Financial Supervisory Commission carries out services as mandated under the Financial Supervisory Commission Act 2003.

(ii) Statement of Compliance

The financial statements are prepared in accordance with the Ministry of Finance and Economic Management Act 1995-96 and with the International Public Sector Accounting Standards issued by the International Public Sector Accounting Standards Board.

(iii) Measurement Base

The financial statements will be prepared on a going concern basis and the accounting policies will be applied consistently throughout the period.

The Significant Accounting Policies of the Commission will not change from the 2016/17 financial year. The detailed policies form part of the annual audited Financial Statements and may be viewed in full in the Commission's Annual Report. The Financial Statements of the Commission are audited by the Cook Islands Audit Office and the Annual Report is published on the Commission's website ([www.fsc.gov.ck](http://www.fsc.gov.ck)) following submission to the Minister of Finance before 30 September each year.

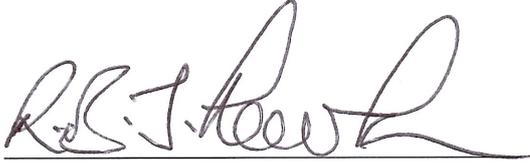
#### **Other Matters as agreed between the Minister of Finance and the Commission.**

No additional matters have been agreed between the Minister of Finance and the Commission for inclusion in this Statement of Intent for the year 1 July 2017 to 30 June 2018, this may change following completion of the Cook Islands Mutual Evaluation.

At this time it is difficult to determine whether any additional matters will be agreed upon between the Minister of Finance and the Commission for the

inclusion in the Statement of Intent to be issued by the Commission for the financial year commencing 1 July 2018, through to 30 June 2019.

Dated at Rarotonga this 24th day of March 2017.

A handwritten signature in black ink, appearing to read 'R. Newnham', written over a horizontal line.

**Raymond Newnham**  
**Chairman**  
**Financial Supervisory Commission**