

Feb/March/April 2019

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An abstract digital cityscape composed of numerous glowing, translucent cubes and rectangular frames. These shapes are interconnected by a network of bright, glowing lines, creating a complex, three-dimensional grid that resembles a data structure or a futuristic urban environment. The overall color palette is dominated by deep blues and purples, with bright white and yellow highlights from the glowing elements. A prominent, bright white light source is visible in the center, casting a strong glow across the scene.

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eToro granted blockchain licence



eToroX, the digital asset subsidiary of global investment platform eToro, has been granted a Distributed Ledger Technology (DLT) licence from the Gibraltar Financial Services Commission (GFSC).

After completing a rigorous application process, eToroX is now fully licenced to store and transmit value belonging to others using blockchain technology in Gibraltar.

Gibraltar's Minister for commerce, Albert Isola, commented:

"We remain committed to providing a road to market for blockchain based companies that successfully work through the licence application process with the GFSC. eToroX joins Coinfloor, Covesting, the Gibraltar Blockchain Exchange, and Huobi as a licenced DLT operator within Gibraltar."

eToroX was created in 2018 by eToro, the global multi-asset investment platform with over 10 million registered users.

STM Fiscalis produce a Gibraltar property tax guide

With the demand for Gibraltar residential lettings continuing to increase, STM Fiscalis Limited are pleased to announce that they have produced a property tax guide for landlords resident in Gibraltar or elsewhere.

In an increasingly international world, property owners often live in a different country to where their investment property is located, which can make meeting tax compliance obligations even more challenging.

The high demand for rentals in Gibraltar leads to attractive rental yields, which may be one of the many reasons why owners decide to rent out property.



GFIU launches new system for SAR

The Gibraltar Financial Intelligence Unit (GFIU) launched in January an online reporting system for Suspicious Activity Reports (SAR).

The system named Themis consists of two separate parts – an online portal for use by Money Laundering Reporting Officers (MLROs) and a system visible only to the GFIU. The portal is accessible to any MLRO to which the GFIU have granted access.

An MLRO can represent one or more organisations and all MLROs for an organisation can see all of the information relating to their own organisation, including that created by other MLROs. When the SAR is submitted it will be automatically transferred to the internal system and an acknowledgement of receipt is automatically sent.

Once the SAR is received, the GFIU's officers will carry out the processing in the internal system and an analysis of the information, which may require allocation to law enforcement agencies or foreign financial intelligence units.

First mobile operator in Spain to offer a service in English

The Gibtelecom Group and Zinnia Telecomunicaciones have launched a new mobile operator in Spain, that will target British expatriates and other English speakers. A market that is estimated to comprise of 1.5 million people.

Lobster, offers a tailor-made tariff plans service that is based on "English, easy and effortless," so that customers will be able to enjoy a service and experience "like home."

Managing Director, Gabriel Miguez, commented: "Lobster, will meet the needs of expatriates customers who are currently underserved when it comes to mobile services in Spain. We're excited to announce our competitive and easy to understand tariff plans and service, which of course is completely in English."



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Principles Based Regulation - Raising the Glass Ceiling on the Blockchain Industry



**By Nick Cowan, CEO,
Gibraltar Blockchain
Exchange (GBX)**

Despite the downturn in the cryptocurrency market, the global blockchain landscape continues to build momentum, illustrated by the surging jobs market, the stream of high profile education offerings, and a range of government departments across the world pursuing applications of the technology. For too long, however, clear regulation has been the missing piece of the puzzle – placing a glass ceiling over the industry as a whole, stifling the progress of potentially landmark projects, and dissuading others from pursuing decentralised innovation.

As the wider blockchain ecosystem continues to evolve at a fast pace, the importance of regulation has never been more pronounced. The full promise of the blockchain industry will be delivered with a principles-based regulatory framework in place, providing much-

needed guidance for companies entering the market. This would help them effectively plan and develop the projects that give expression to the spirit of decentralisation at the heart of this movement.

So what are the arguments for principles-based regulation?

For all of the successes within the blockchain eco-system, there have been failures. Failures that perhaps could have been avoided if the right regulatory framework was in place to guide companies through challenging times, or prevent premature projects from entering the market. Between the start and midpoint of 2018, over 1,000 crypto projects ceased operations, a remarkable figure that highlights the volatility of the space, but perhaps more importantly, underlines the need for

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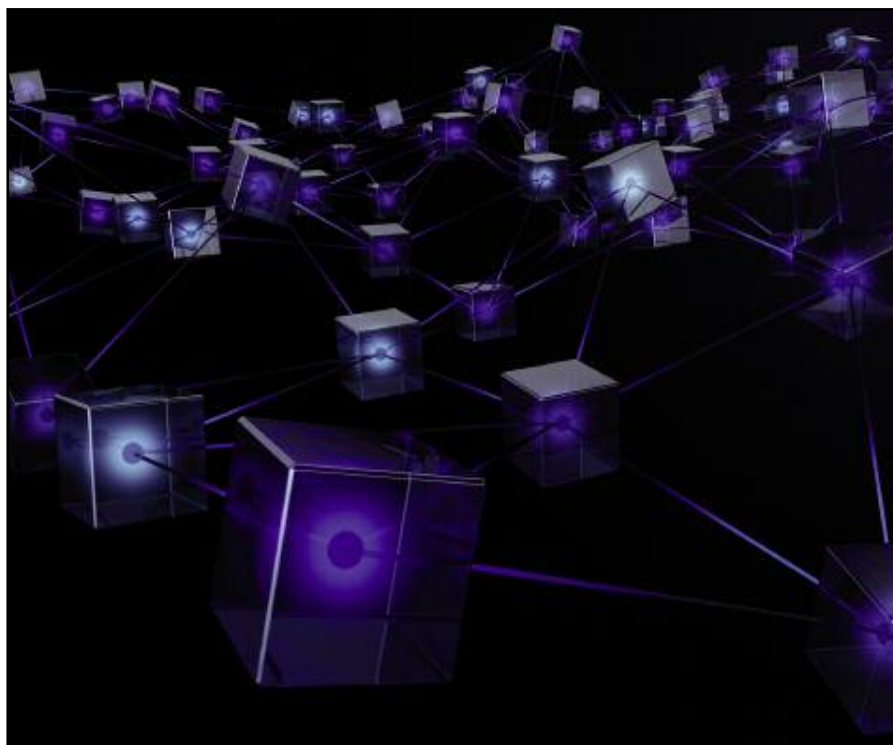


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strong leadership around regulation.

A principles-based approach to regulation has helped the blockchain landscape develop in Gibraltar. The country is showcasing the benefits of creating a sensible and sustainable cryptocurrency and blockchain regulatory environment. In January of this year, Gibraltar became the first

advantages of a supportive and flexible regulatory framework, after becoming the world's first stock exchange that also owns and operates a regulated cryptocurrency exchange. There are around 170 stock exchanges worldwide.

Policymakers in the jurisdiction have highlighted the importance of legislation that is robust, but also sensibly flexible,

As the wider blockchain ecosystem continues to evolve at a fast pace, the importance of regulation has never been more pronounced

jurisdiction to introduce a purpose built DLT regulatory framework and subsequently, the Gibraltar Financial Services Commission (GFSC) granted Distributed Ledger Technology (DLT) licences to a number of companies that use DLT.

The progressive nature of this regulatory approach has enabled a wide variety of projects to flourish. The GSX Group has experienced first hand the

nurturing the innovative efforts of the country's flagship platforms and budding projects. The cohesion between government and industry, melded together by a shared vision for mainstream decentralisation, has helped position Gibraltar as one of the world's most advanced blockchain and crypto friendly jurisdictions. The efforts of the government are being rewarded in the form of an influx of blockchain projects

attracted to the jurisdiction's supportive environment.

The introduction of the regulatory framework in January has opened the country's doors to companies utilising blockchain and DLT, giving them the opportunity to apply for a license from the GFSC. This wave of momentum comes at a time when world leaders appear to be stepping up efforts to build foundations for a comprehensive regulatory framework. The notion of developing international standards to regulate cryptocurrencies, as outlined at the G20 meeting in Buenos Aires, is another step in the right direction for the blockchain and crypto space. Similarly, while speaking at a recent fintech conference in Singapore, Head of the International Monetary Fund Christine Lagarde encouraged governments across the globe to consider developing their own cryptocurrencies – a strong vote of confidence for the prospect of cryptocurrencies ascending into mainstream society.

Clear regulation

Whatever shape regulation takes, it is imperative that its implementation is not rushed. Clear regulation will help reassure a new swathe of participants who have been hesitant to enter the market and instil a sense of confidence among investors around the credibility and security of the space. Gibraltar as a jurisdiction can showcase a framework that revolves around the needs of industry, raising the glass ceiling and helping the blockchain space develop with boundless energy.

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Whatever happens, bright future seen for financial services & eGaming



Photo: Stephen Bell, www.sballphotography.com

Gibraltar is “better prepared for a hard Brexit on 29 March than Britain”, but largely is “ambivalent” to whatever results from negotiations with the EU, according to the local gaming and financial services sectors, Ray Spencer reports

That situation could even give the jurisdiction an opportunity “to advise the UK on how to do more with less” when facing a potentially reduced workforce following immigration controls, Gibraltar business leaders heard at a KPMG ‘Round Table’ event, organised in association with *Gibraltar International Magazine*.

The Brexit discussion was held in late November at the Sunborn Hotel, so there was at that stage no clear indication of what the outcome would be for the jurisdiction that has formed part of the EU since 1973 through its relationship with the UK.

Given that 92% of financial services passporting business is delivered into the UK,

Gibraltar’s Minister for Commerce, Albert Isola, told a crowded audience: “Of critical importance for Gibraltar and its economy is the fact that we have certainty that all Gibraltar financial services firms engaged in cross-border activity into the UK will continue to be able to passport their services and/or their rights to freedom of establishment into the UK after 29 March on a seamless basis, regardless of whether there is a hard or soft Brexit.”

As Mark Essex, KPMG’s UK director and international ‘go-to’ expert, advising clients on Brexit matters, concluded: “Being very close to a much larger market is obviously very good news for Gibraltar.

“The trouble is – depending on which economic forecast you look at – it [the UK] isn’t

Brexit panel members (from left) Shaun Cawdery (Reds Sands), Peter Taylor (GFSC), Jon Tricker (KPMG), Elicia Bravo Garcia (Lottoland) and Mark Essex (KPMG UK)

showing growth of 8-10% a year like Gibraltar is. You are going to have to capture more market share, rather than relying on Britain to grow. It’s a matter of what happens to the UK market and where you can best exploit your niche.”

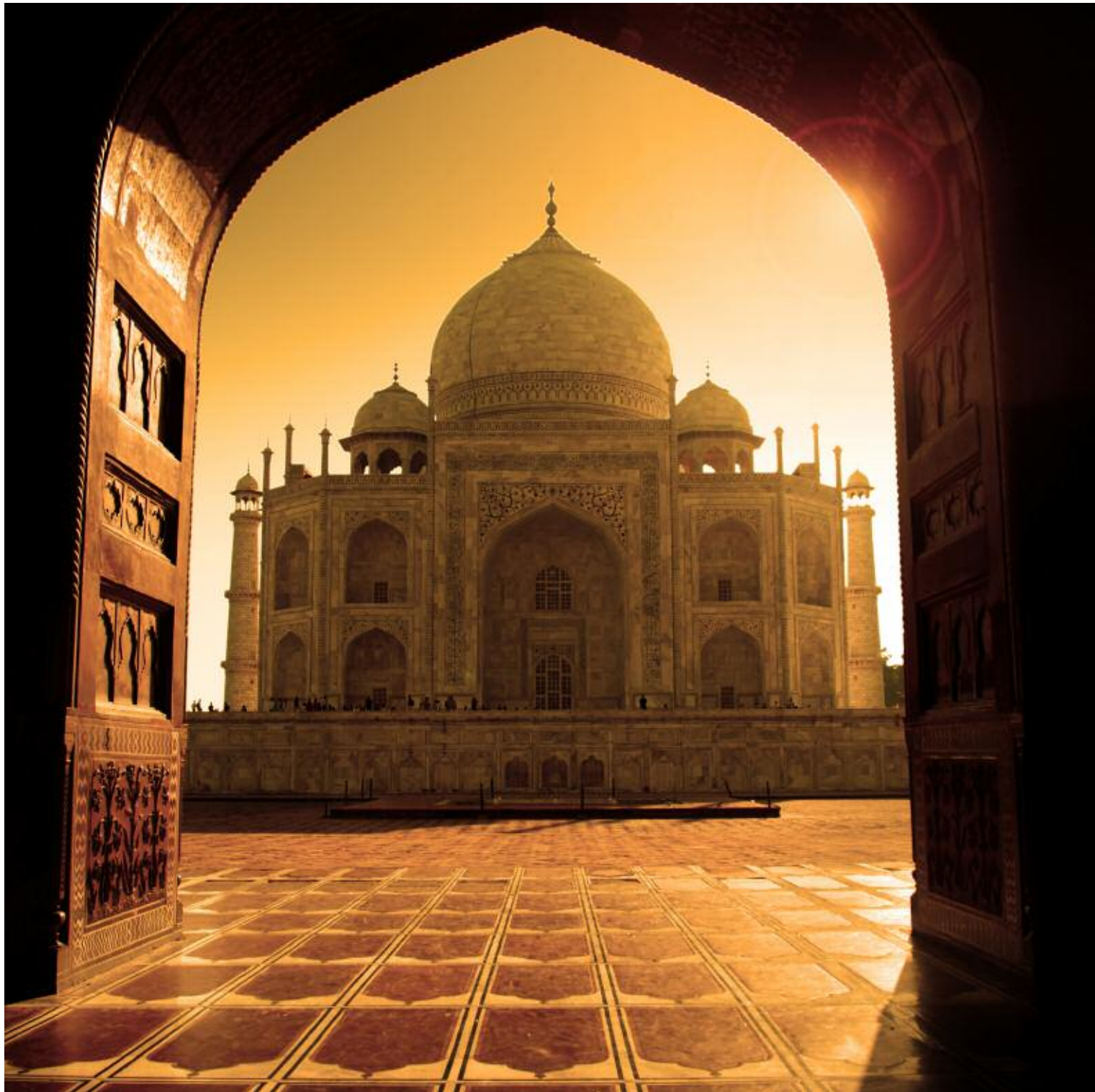
Essex added: “If you are in a position where in any scenario you are resilient from a GDP point of view, that’s a pretty good place to be.”

Isola confirmed there was now “certainty and choice for EU and EEA firms that may be fearful of a hard Brexit, on the basis that they can choose Gibraltar as an alternative to setting up a subsidiary in London. We have already seen interest along these lines, particularly in the insurance sector.

Practical outcomes

“Regardless of the Brexit outcome, Gibraltar and the UK have a continued, guaranteed access and reciprocal single market in financial services

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in all areas of passporting, such as banking, investment services, eMoney and insurance, including Lloyds of London," he assured.

The focus of the meeting was on maximising practical outcomes from what Chief Minister Fabian Picardo has called "a special relationship" with the UK and exploring the long-term new business potential.

As Gibraltar Financial Services Commission (GFSC) head of policy, Peter Taylor, noted: "We have close contact with UK regulators – the PRA, the FCA; it's a very close relationship. While the UK is facing far more uncertainty, the impact on Gibraltar is much less,

whichever way the votes go, because we stick with the UK; also if the UK has a transitional agreement, so too do we. All indicators are that there is continuing strong interest in Gibraltar as a jurisdiction for financial services, so from that point of view the future looks very good."

Assisting growth

Asked by Jon Tricker, managing director of KPMG Gibraltar, whether the

perceived benefits of freedom

of services in the UK was good for local businesses, Shaun Cawdery, a director of Red Sands Insurance Group, which provides general and life assurance into the UK and Eastern Europe, accepted his industry sector had assurances that access would continue after 2020 – [the proposed end of a transitional period when a mechanism to ensure continued alignment of regulatory outcomes will be agreed]. While it remained "one of the uncertainties, in a very uncertain world, it is one of the understandings that will significantly assist growth of the industry here", he acknowledged.

However, Cawdery said a Bank of England report suggesting "the UK is ready for a hard Brexit, but the EU side is not", put "a lot of pressure on those licensees facing Europe!"

The first steps had been taken by a joint UK / Gibraltar commission to review insurance supervision, Minister Isola revealed, given that the sector was Gibraltar's most significant cross border activity, with total gross written premiums of some £4.5bn. That translated into a 23% market share of UK motor-related business, he said.

A passporting regime was not relevant for the world-leading Gibraltar online gaming companies, Minister Isola pointed out, but assurances had been given that local firms would continue to be recognised post-Brexit under the UK Gaming Act. "We are the only jurisdiction in the world outside of the UK that has this guarantee", he said and the Gibraltar gambling commission had entered into a Memorandum of Understanding with its UK counterpart to bring "much closer co-operation in terms of policy – a significant result".

However, Gibraltarian Elicia Bravo Garcia,

confirmed.

Concern surfaced over the day-to-day running of gaming businesses; fluidity at the border with Spain could impact on operations. "It's probably the most important factor for gaming operators to have assurance there – it is far more important than passporting rights", Garcia observed.

"Without a doubt one of the advantages of Gibraltar is that it's very agile and being a smaller jurisdiction, events are more manageable," she determined. Gibraltar was focused on a few key industries and "people here are better prepared."

Cawdery declared: "I still worry about the border – a lot comes in that way. We will not have dissimilar problems to those of UK with Dover and Calais. If there were closure of our border [with Spain] we would have issues with produce and people going backwards and forwards", he reasoned.

Border optimism

[More than 12,000 people cross the frontier daily for work, around half being Spanish: two thirds of the

3,500 Gibraltar gaming employees live in Spain.]

"There's an argument that we have been here 40 years ago with the border not open [under Spain's General Franco], Cawdery declared, "but obviously, we have a much greater economy now and a more diverse range of activities, so it's very different this time."

It was impossible to know whether the border would become more difficult, Garcia observed, "Unlike France, which may not have the same interest in maintaining fluidity [with UK], here with Spain there is a case for a more positive view, so I am relatively optimistic, albeit it remains the greatest concern from the gambling sector perspective," she pronounced.

Asked by everyone how Brexit will affect Gibraltar, Garcia worried: "Even if it seems that it will not have a huge impact on us, that's not the way people from outside of Gibraltar or Europe see it and that tarnishes our reputation."

Julian Camble of STM Fidecs, a pensions administrator, pointed out that he, like other cross border workers had experienced "a pay cut as a result of currency changes", and questioned what would happen if Britain



who returned to the jurisdiction from the UK in 2016 as chief strategy officer for Lottoland in part to deal with regulatory matters, especially around Brexit, reflected: "All operators with Gibraltar licenses have had to gain separate UK licenses to reach UK residents and therefore have a direct relationship with the UK Gaming Regulator".

Better placed

Nevertheless, "we welcome the increased relationship between the two regulators, because I think there is a lot we can learn on both sides." She considered the Gibraltar regulator, "given the size of this jurisdiction, to be "better placed than the UK regulator to having on-going dialogue with market participants."

The gaming sector also planned for a hard Brexit and Gibraltar was in a better position for the future, Garcia concluded; most operators had contingency plans. Several EU jurisdictions already required separate licenses – Spain, France, UK and Ireland, were examples. "So although it's not an easy process, it's not an excessively arduous process either", she

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What you should expect from your financial adviser

By Daniel Pitaluga, Senior Associate, Abacus

It's no secret that dealing with financial matters such as investments, life assurance or retirement planning, can be complex. Just getting to grips with the language used can be challenging enough. With national governments and financial regulators constantly changing the legal and regulatory frameworks for financial services, professional advice is essential in every aspect of financial planning. It is crucial that you choose an adviser you can trust and is capable of delivering your goals and objectives.

Your adviser should be both qualified and regulated in the field you are seeking advice. You should expect to receive the most suitable recommendation and possible financial solution, personalised to your circumstances.

Listed below are some guidelines that should be considered when seeking financial advice:

Qualifications & Regulation

You should always seek advice from a professional who is qualified to the National Vocational Qualifications Framework (NVQF) level 4 and above. These qualifications require rigorous study, are testament that the individual has taken the time, and made the sacrifice to reach the enhanced standard that many regulators require. The Gibraltar regulator, Gibraltar Financial Services Commission – (GFSC) does not impose this requirement but does stipulate that every license holder is responsible to ensure any employees are suitably qualified and that they impose controls to ensure this remains the case. You are within your rights to ask an adviser to show evidence of their qualifications.

It is also imperative that the adviser's company you decide to engage with is authorised and regulated by a recognised regulatory body. This assures you that the company meets the rigorous regulatory requirements set by its regulator to become licensed. In becoming licensed, the company has undertaken to comply with all directives and regulations issued by its home state regulator and those issued by other regulators in other

countries where the license holder may be authorised to conduct business. Such directives and regulations are generally designed to uphold the highest standards of integrity and consumer protection and firms can be heavily penalised (and have their licenses revoked) for non-compliance.

Appropriate advice

An adviser can only provide appropriate, personalised advice, once he/she has obtained detailed information about your personal and financial circumstances as well as understanding what your objectives are. You should provide your adviser with as much information as possible and provide him/her with appropriate letters of authority in order that they can request details of any information that you may be missing on any existing financial products, where necessary. The correct diagnosis can be provided only once the information has been analysed. If an adviser attempts to provide you with recommendations without going through this process, you should ask them why. At best, they are working blindly and that may not lead to the best possible results.

Cost transparency

One of the main prejudices the public has with financial advisers is that they never really know how much they are paying or whether they are paying too much, or what is a fair and reasonable charge. It is not unusual for financial advisers to be remunerated on a commission basis and receive this commission payment from an insurance company, to then claim their advice is free. If you hear this claim, it should ring a very big alarm bell. You are fully entitled to ask how your adviser is being paid for his/her work and how much they are going to receive. Commissions paid by product providers, are ultimately funded by you as the client (and not by the insurance company as some advisers would have you believe) from your lump sum investment or regular premiums. These commissions are usually funded by way of additional charges to then product your purchase and can be as high as 8%! You should always request a full breakdown of all fees involved in the process including those of your adviser, and any third party product/service

providers. When a financial adviser makes a product recommendation, he should always provide you with a product illustration before you commit to proceeding with the application.

Simplicity

An adviser's aim should be to make the whole process of receiving advice as simple as possible. It would be unethical and unscrupulous for an adviser to recommend a solution to a client without them knowing exactly what they are getting himself or herself into. One of the main aspects of this simplification process is breaking down unnecessarily complicated jargon into terms understood by people who are not financial professionals. If you don't understand something, make your adviser explain it in simple terms. They should have no issue in doing so. It is in their interest as much as yours because it should ensure a happy customer and no surprises which in turns fosters a trusted relationship

Professionalism, trust and integrity

One of the most important (if not the most important) aspects of the customer-adviser relationship is trust. However, trust is only earned over time and should not simply be granted because of the adviser's position in the relationship. A trusted adviser will always act in your best interests, even if this means advising a client against a certain course of action for which the adviser could be remunerated. A good adviser should be willing to prove to you, by his/her manner and performance, that they always have your best interests in mind.

Keeping in touch

It goes without saying that a good adviser will be committed to provide a first class service and aim to obtain the best possible results at all times. The adviser should make this a long-term commitment. Circumstances and plans change which are likely to lead to changes to financial plans. A review of your arrangements should be undertaken at least annually.

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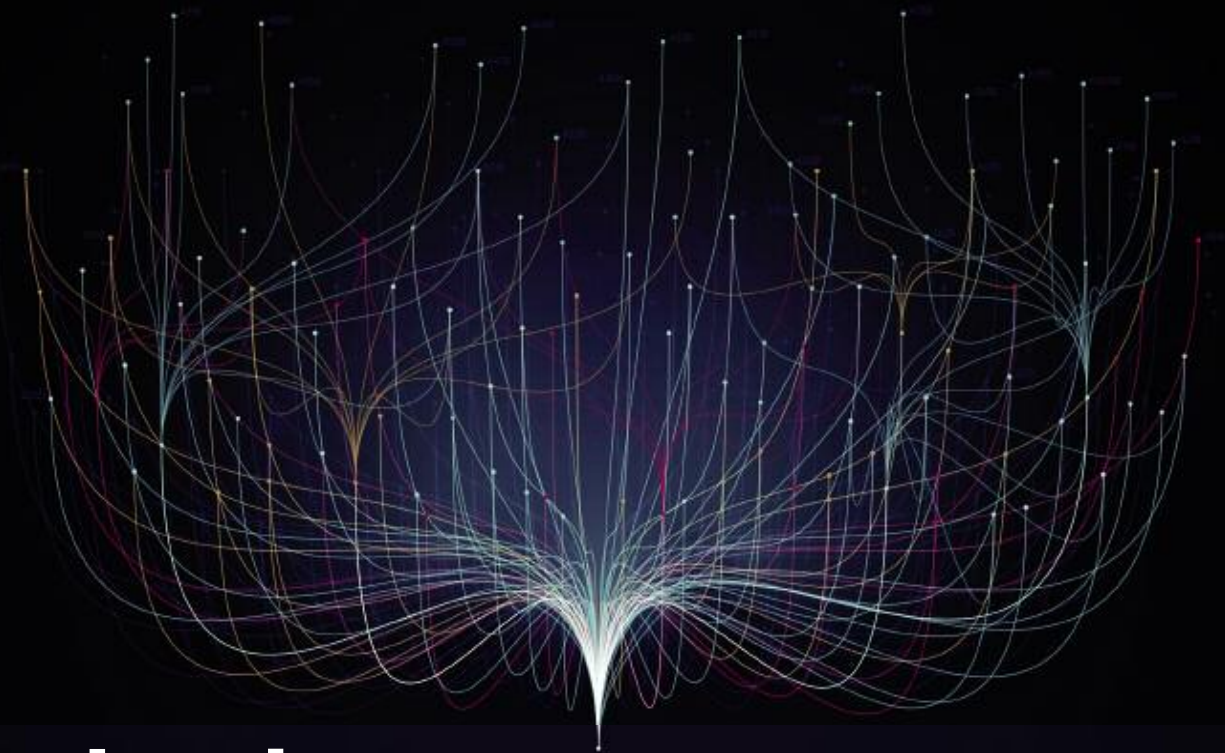
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A database - essential for business

For over 18 years Piranha have been developing database driven web-based solutions for all types of local and international businesses, Managing Director, Julian Byrne, reports on the latest technology

The use of a correctly structured database is essential for the survival and success of a business in the current market. Technological advances provide useful tools for the improvement of internal management, the optimisation of resources and the increase of sales. In addition, these databases are ever more accessible to the budgets of small and medium-sized businesses.

Customisation

Nowadays many companies operate in both local and international markets at the same time. Due mainly to the advances in the digital era, the rise in e-commerce and the disappearance of barriers towards international commerce, the expansion of markets out of the local environment has never been

simpler. The search for standardisation in business processes whilst maintaining brand identity has been a constant concern for companies as they grow. That said, there is a rising trend toward the customisation of what's on offer depending on the tastes and preferences of clients, because although the companies operate in open and globalised markets, they also compete in local markets.

The personalisation of products and services to the specific tastes of the clients is becoming a key factor for the success of a business in the 21st Century. A very good example of this movement is McDonalds restaurants. McDonalds is without doubt the global leader in the fast food restaurant sector. Its restaurants can be found in over 100 countries around the world, with their

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brandname and business model being well-known worldwide.

Even though for many McDonalds is a clear example of the standardisation of processes, brand and product image, the company has learnt how to customise its offering during its global expansion in relation to its intended market. An example of this is the McCurry in India, McKebab in Israel, McBaguette in France or the Greek Mc etc., just a few among various dozens of recipes adapted to local tastes. The management of information, in this case of the flavours and textures preferred by McDonalds clients, is essential for the success of the fast food chain.

Databases as a solution

Technology giants such as Amazon, Facebook or Google are examples of companies that have succeeded through the collection, study and effective use of data that is shared with them by clients. These sorts of business practices have been called the analysis and use of 'Big Data'. A detailed database which is well-structured adds value to a company offering and increases the degree of sales conversion.

What does this mean to a small/medium sized business?

All written and archived documentation can and should be digitalised. Client

contact data, budgets, sales, projects or tasks, dates and times, income, costs, etc is data that all companies handle but few are digitalising. If this data was compiled in one place, its analysis and use could add value to processes and services.

Many companies are content with their corporate website or continue using Excel databases and obsolete

desktop software without online access. The main reason for which companies like Amazon know perfectly when, how and to who they should show their products, is because they program their databases so that they can optimise the final result. The question that the business person is probably making at this point is if the technology is really accessible to a small and medium-sized business. The response is loud and clear – it all starts with a change in the way that business is conceived and information is managed.

To transform and improve your business:

1. Plan Bring together all the written documentation from Excel, Word, PDF formats that you share with all your contacts in the company. This could be employees, providers, clients, etc.

2. Look for help Concentrate on what you know how to do, most probably in the business activity of your company. Look for a company with understanding and verifiable experience in web systems and database management. They can facilitate the resources and will help you to structure and make the most of the collected data.

3. Create Get that company to build you a customised database driven, web-based solution that does everything you need.

4. Be disciplined The process might take time to process internally. The team must become familiar with feeding the new internal system, which requires discipline.

5. Be more effective As the database grows, start to analyse and optimise internal processes. Let

The personalisation of products and services to the specific tastes of the clients is becoming a key factor for the success of a business in the 21st Century

algorithms carry out repetitive tasks and concentrate your time and energy on improving your business.

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The Anti Tax Avoidance Directive



What is it, how has it been implemented in Gibraltar and will it survive Brexit?
Francis McGowan, PwC, discovers

The Anti Tax Avoidance Directive (ATAD) is a direct result of the work of the OECD's Base Erosion and Profit Shifting (BEPS) Action Plan. ATAD aims to eradicate loopholes created by differences between national tax policies in the EU. To do this ATAD seeks to facilitate convergence of the differing national tax policies relating to anti-avoidance measures and abusive tax practices within the EU. The measures covered in ATAD relate to deductions for interest costs, hybrid mismatches, exit taxes, controlled foreign companies (CFCs) and a general anti-abuse rule (GAAR).

ATAD legislates on tax avoidance measures in the field of direct taxation across the Member States of the EU. This is an unprecedented step by the EU because direct taxation is generally a matter of national competence as it

relates to the fiscal sovereignty of Member States.

Background

The Anti Tax Avoidance Directive was presented in January 2016 by the European Commission and adopted by the European Council later the same year as the "Council Directive (EU) 2016/1164 of July 2016" (the ATAD Directive).

Article 11 of the ATAD Directive provides that Member States are required to adopt and publish the necessary national laws to comply with the Directive by 31 December 2018 and these national measures must apply from 1 January 2019.

Gibraltar transposed the ATAD Directive into domestic law on 20 December 2018 with the Income Tax 2010 (Amendment No.3) Regulations 2018 (the Gibraltar ATAD Regulations).

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In accordance with the ATAD Directive, the Gibraltar ATAD Regulations came into effect on 1 January 2019.

The Anti Abuse Measures

The following sections provide a broad summary of the measures relating to the ATAD Directive and how they have been implemented in Gibraltar law:

1. The Interest Limitation Rule

The Interest Limitation Rule is in place to discourage artificial debt arrangements whose objective is to reduce taxes in Gibraltar.

Generally, under the Gibraltar Tax Act 2010 (the Act), interest expenses are tax deductible when the expense relates to a loan incurred by a company to fund its working capital, or a loan to fund trading assets.

The Interest Limitation Rule provides additional criteria when considering the deductibility of interest in relation to exceeding interest expenses. Exceeding interest expenses are the amount of

deductible interest expense which exceeds the taxable interest revenue of an assessable Gibraltar resident company (a Gibco). The Interest Limitation Rule applies to entities in consolidated groups. The rule provides that exceeding interest expenses are deductible up to 30% of the Gibco's earnings before interest, tax, depreciation and amortization (EBITDA). There is also a safe harbour clause allowing exceeding interest expenses deductions up to €3million (for the group as a whole) irrespective of the EBITDA.

The Gibraltar Government has availed itself of the derogation in the ATAD Directive and therefore does not apply the Interest Limitation Rules in the following circumstances:

- 1.** To standalone companies (i.e. not part of a group);
- 2.** To financial undertakings (e.g. banks, insurance companies etc.);
- 3.** On loans that were concluded before 17 June 2016 which have not since been modified; and
- 4.** On loans to fund a long-term public infrastructure project.

2. The Controlled Foreign Company Rule (the CFC Rule)

This is the first CFC legislation to be introduced in Gibraltar. The objective of the CFC Rule is to limit the artificial use of entities in low tax jurisdictions owned directly or indirectly by Gibcos whose use has the objective of avoidance of paying Gibraltar tax.

The main characteristics of the CFC Rule is that it will attribute the undistributed profits of an entity held by a Gibco to the Gibco if:

- a)** the Gibco either has: 50% of the voting rights; has 50% of the capital; or is entitled to receive more than 50% of the profits of the CFC; and
- b)** if the actual tax paid on the profits by the CFC is less than 50% of the tax that would have been paid on the same income in Gibraltar; and

c) if the undistributed income arose from non-genuine arrangements whose essential purpose is to gain a tax advantage.

The CFC Rule does not apply to CFCs where the annual accounting profits do not exceed €750,000 and the non-trading income does not exceed €75,000; or the accounting profits amount to no more than 10% of its operating costs.

3. Hybrid Mismatch

This rule applies to associated enterprises. There is no requirement to find a tax avoidance purpose but there must be a different legal classification of the financial instrument or the entity by the two jurisdictions in which the entities are resident for tax purposes.

A Hybrid Mismatch arises in two situations:

- When a payment, expense or loss is allowed as a deduction for tax purposes in one EU Member State and the same payment, expense or loss is then allowed as a deduction in a second Member State of the EU (Double Deduction)

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or ● When a tax deduction is allowed for a payment in one EU Member State but the corresponding income is not recognised for tax purposes when received by an entity in another Member State of the EU (Deduction without Inclusion).

The result of the rule is that if there is a Double Deduction, the deduction of the payment will only be given where Gibraltar is the source of the payment. In cases of a Deduction without Inclusion – the deduction of such a payment will not be allowed by the Gibco.

4.Exit Tax

The Gibraltar ATAD Regulations do not implement Exit Taxation rules as the Gibraltar Government has chosen to adopt rules relating to this at a later date (by no later than 31 December 2019 in accordance with the ATAD Directive).

5.General Anti-Abuse Rule (GAAR)

Section 40 and Schedule 4 of the Act is already in line with the GAAR found in the ATAD Directive. Therefore, no further changes will be introduced relating to GAAR in Gibraltar law.

Implications of Brexit on the ATAD Directive

A political agreement was reached on the ATAD Directive by all of the Member States of the EU – including the UK – a matter of days before the UK voted to leave the EU on 23 June 2016. The ATAD Directive was implemented into domestic Gibraltar law just 3 months before the Brexit deadline of 29 March 2019. The Gibraltar ATAD Regulations will therefore remain Gibraltar law after Brexit unless they are repealed or modified by legislation.

It is difficult to predict with certainty

what impact Brexit will have on Gibraltar's continuing application of the ATAD Directive. Gibraltar will have to wait and see what the Withdrawal Agreement between the United Kingdom and the EU will look like. This will dictate Gibraltar's new relationship with the EU and reveal to what extent Gibraltar can amend legislation derived from EU law. It is our view that due to the Gibraltar Government's commitment to the OECD's BEPS Action Plan, it is likely that the Gibraltar ATAD Regulations will survive Brexit.

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crashed out of the EU.

Essex reported that KPMG's chief economist thought 10% depreciation was likely. "Clearly, if there is no deal the Euro will fall against the dollar as well, so the relative position is not as stark between Sterling and the Euro and the dollar. But it's likely to be a bumpy road."

The effect of currency fluctuations was often overlooked, Lottoland's Garcia observed. "A lot of people find Gibraltar attractive, because we have Spain and the quality of life there is far greater. In the past we have had to consider what we might do if that quality is no longer as accessible. It's a factor that a 'no deal' vote could trigger and that would be a significant issue for us".

Productivity advise

Essex foresaw a gain for Gibraltar. "Productivity, automation, artificial intelligence and coping with people who don't want to work is going to be the biggest economic and intellectual challenge for Britain over the next 10 years, and if it comes to having to do more with less resources, you [Gibraltar] are going to become an expert in that

and it will present an opportunity to advise the UK on how to deal with its tightening labour market. Gibraltar becomes the expert on productivity".

Cawdery fretted that the UK focus had been on The Customs Union, of which Gibraltar is not part. "The border is the big issue - mobility of people. We still struggle to attract and retain people to come to Gibraltar - finding people is one of our biggest issues - and if there is a closed border, it will only get harder."

Until recently he had been confident about the potential for trade deals and writing insurance risks in the US, South Africa, Australia, or in other Commonwealth countries. "What has dampened my enthusiasm is the BoE report which showed the projected benefit is very, very small," he declared. "That being said, 'very small' in UK terms, could have a big impact on Gibraltar's economy," Cawdery conceded.

Gibraltar legislation for the Brexit-related 'Temporary Permissions' regime covers non-UK firms wanting to carry on business and deems those firms authorised for a period of time, during which they can apply for compliant authorisation, or wind down operations,

mirroring the UK approach. There are over 3,000 firms that can passport into Gibraltar from non-UK jurisdictions, but the GFSC doesn't yet know how many are operating in Gibraltar.

Gateway opportunity

Taylor professed, "as much as we didn't want Brexit, there are opportunities from European firms looking at Gibraltar as a gateway into the UK. As a regulator, we see a great deal of opportunity."

Danny Gibson, founder and chief executive of CGICE, a company specialising in the EU insurance of security and defects, questioned how regulators might deal with companies that "don't pay out on claims in Europe" post-Brexit legislation was not in place to allow insurers to do so.

"We appreciate that for insurance companies it is fraught - on the one hand they should carry on paying claims, but on the other hand, the legal right to do so may not be there," the GFSC's Taylor said. Negotiations were in progress across the EU, and he observed: "It's a brave regulator anywhere that stops insurance companies paying claims".



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