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**Brexit concerns
cause businesses to pause**

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Being seen to do right

Mossack Fonseca, the south American law firm at the centre of worldwide attention following publication of millions of documents that lift the veil on previously secret overseas investments - the so-called Panama Papers - has operated a small branch office in Gibraltar for more than a decade.

It has been advocating greater use of foundations as a substitute for trusts, the tax efficient vehicles at the cornerstone of Gibraltar's financial services heritage. Displaying a degree of transparency, the number of foundations is publicly available in Panama, unlike for trusts administered in Gibraltar, or elsewhere in the world, points out Nick Poole, the Jersey-based managing director of the local business.

Worldwide concern has focused on numerous jurisdictions offering facilities to form and, in some cases, operate shell companies that hide the ownership of investments often, it seems, without robust checks on, or concern for, how the money was obtained! It's been attractive to drug dealers, organised crime syndicates and fraudsters - as well as perfectly legal, above board, individuals. The name of the game for all, however, is total secrecy.

British Overseas Territories (OTs) have been widely described as tax havens and their actions called into question. There has been only passing mention of Gibraltar. The trouble is that simply by being an OT may prompt a 'guilt' by association impression, and that could set back all Gibraltar has done to establish itself as an attractive, fully compliant, on-shore finance centre.

Unlike the other OTs and Crown Dependencies, Gibraltar is part of the EU and has led the way in adoption of a myriad of tax information exchange treaties - 135 with 80 countries - and in adoption of OECD and EU anti money laundering practices.

Gibraltar committed to early formation of a central Register of Beneficial Ownership, which but for uncertainty over the mechanics of the EU anti-money laundering Directive that requires implementation by mid-2017, would have been operational in January. The actual launch is imminent, although Gibraltar law already requires all financial entities retain a list of beneficial owners to be produced on demand for law enforcement or tax authority enquiries.

Continued substantial financial backing for the Financial Services Regulator, demonstrates the government's determination to see the jurisdiction regarded as welcoming and safe, with high standards of licensing and enforcement.

In June, The Rock's residents will vote in the referendum to keep the UK in the EU to protect their free movement and business model that has seen the economy grow around 10% pa for each of several years now.

Being out of the EU would hit hard. Gibraltar could, for example, find it nigh impossible to maintain much of its eGaming, financial services and tourism and hospitality business if the border was shut, as Spain has threatened in event of Brexit. Gibraltar's airport receives an increasing number of flights and passengers, growth fuelled mostly by holidaymakers wanting to cross into Spain. Block, or severely restrict the border and demand will reduce along with airlines' commitment to the number and frequency of flights.

Even extensive disruption by the Spanish at the border makes business difficult given that 12,000 people now daily cross the isthmus to work, spurred by expanding e-gaming operations, construction activity, hospitality and finance centre employment.

Gibraltarians will be hoping they remain part of the EU and their key business sectors are unaffected by the turmoil around them.

Ray Spencer

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Within the European Union Single Market

Brexit concerns cause businesses to pause

Overwhelmingly, Gibraltar's 23,300 residents eligible to vote, will almost certainly opt to stay in the European Union when on 23 June they become the only people outside of the UK that will have an automatic right to vote in the referendum on whether Britain should remain in the EU

Contingency plans are already being made by businesses in the event of a 'No' vote (Brexit), while other firms are holding back on decisions to invest in the territory given the uncertainty surrounding the UK government's ability to negotiate continued access to the single market.

The lodestar is to secure EU 'passporting' rights for the financial services and gaming sectors that make up nearly half of Gibraltar's £1.7bn economy.



Chief Minister Fabian Picardo at the May 2015 launch of the Brussels office with his deputy, Dr Joseph Garcia, who is Minister for European Affairs

However, the most worrying aspect of Brexit for the British Overseas Territory, is the "very real" potential for Spain to disrupt the free flow of people and goods on which Gibraltar depends at the shared border, if the European Commission was not monitoring the situation; that would be "a disaster", Chief Minister Fabian Picardo, wrote in a Times newspaper article.

"Fluidity at the border with Spain is a lifeline for people and commerce, not just for Gibraltarians, but also for 7,000 Spanish workers and many businessmen on both sides of the fence," he said in the March article after the caretaker Spanish Foreign Minister, José

Manuel García-Margallo, told a national radio programme that if there was Brexit "we'll be talking about Gibraltar the very next day."

In a briefing document, the British government warned that there was "no certainty" the border would remain open post any vote for Brexit.

Snr García-Margallo, a member of the Partido Popular party that ruled until Spain's inconclusive general election in December (and which still has to be resolved this summer), has previously threatened to use the border as a lever to force discussions with the UK on joint sovereignty of Gibraltar.

Don't think about it

A 'No' vote in the UK referendum would mean Gibraltar also leaving the EU, because The Rock's 'membership' is by virtue of UK membership, as the sponsoring State since 1973.

A UK exit from the EU "doesn't bear thinking about" and would hit La Linea, the Spanish town immediately over the border, hard, the town's mayor Juan Franco, said during a recent official visit to Gibraltar.

"When Gibraltar sneezes, La Linea catches a cold," Sr Franco said. "So if Gibraltar catches pneumonia, things could get quite complicated. In that sense, I don't even want to dwell on the prospect of Brexit."

Gibraltar's four largest legal firms – Hassans, Triay & Triay, ISOLAS and TSN, have all joined a legal group formed by the Britain Better in Europe campaign.

Is this the place to be?

Michael Castiel, a senior partner at Hassans specialising in international tax, corporate and business law, remarked: "All partners feel that if push comes to shove, we would be better staying in the EU – despite the issues and difficulties of being in the EU. There is no doubt that for us to be excluded from the Single Market would be devastating for the economy."

Castiel, who regularly advises major US, Canadian and European multi-nationals on structures and cross-border transactions, revealed: "We are getting a lot of comments from people unsure if Gibraltar is the place to be in the event of Brexit. Business leaders and directors are questioning the effect and many are doing nothing at this stage, because of the uncertainty prior to the vote."

Even for existing Gibraltar businesses – in insurance, finance and gaming - Castiel suggested: "It may not be that they would leave immediately in the event of Brexit, but, there would be a gradual decrease in the business done here and, as an economy, we would be at risk."

"Even with a benign government in Spain, businesses and external investment would have cause to reconsider whether Gibraltar is a place they want to be," he asserted.

Stephen Reyes, chairman of Gibraltar's Finance Centre Council (GFCC) and chief executive of accountants, Deloitte, emphasised: "In the event of Brexit, companies will not have to react immediately, given that it will take up to two years for the UK to negotiate new terms with the EU, but they will need to plan in the intervening period up to the referendum on how Brexit will affect them and whether they can continue to carry out their business whilst the UK negotiates access to the EU."

Mitigating factor

He doubts that Brexit would happen, "but if it does it will have a very significant impact on our finance centre. There is a mitigating factor in that about 80% of our business is UK-facing and so long as we can continue with access to the UK market the immediate impact may not be catastrophic."

"However, our future growth will then depend on whether the UK includes Gibraltar financial services in any system they manage to negotiate outside of the EU".

The GFCC, which represents all of the jurisdiction's professional bodies, met in April to formulate a view on Brexit and any action to take, but Reyes felt: "On our own, for a small economy like Gibraltar, it will be difficult if not impossible to negotiate our own access agreements separate to the UK. The record on UK support for our inclusion in key agreements in the past has not been good, but this time we see the relationship between the UK and Gibraltar being excellent and the UK being more supportive of our situation, at least according to government."



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“So Brexit need not be immediately a catastrophe, but certainly it will stifle the finance centre’s future,” he concluded.

Concern has been expressed too that property prices and property development may be vulnerable as a result, with anecdotal reports of a slow down in new transactions.

The long-awaited Gibraltar World Trade Center (GWTC) 7-storey office development



Last summer Gibraltar House in Brussels became the jurisdiction’s second full overseas representative office reflecting EU impact on the economy

next to Ocean Village is planned to open in late September and the project’s marketing and business manager, Pete Burgess, was emphatic: “Only a couple of companies have asked whether there can be a break clause in the event of Brexit.

Little impact seen

“The issue has had very little impact on our development, in part because we tied up contracts earlier.” Some 80% of the 15,000 m² space at GWTC is under contract or with reservation agreements, including 2,000m² for four or five companies new to Gibraltar. Burgess declared: “The biggest issue we face just now is how to accommodate all the other people who have expressed an interest in taking space if they then decide to go ahead.”

Squarestone, a London-based developer, had been expected to start work more than a year ago on a proposed 225-bedroom Marriott Hotel and an adjacent 7,600m² office block near to Gibraltar’s town centre. The project is “not dead, just a victim of Brexit”, explained spokesman, Jeremy Nicholls. “Investors are waiting on the outcome, as many others are”!

The Gibraltar government has briefed the UK House of Commons Foreign Affairs Committee on the consequences of the referendum and sought help to gain “clarity” as to how the UK will ensure that Gibraltar’s rights are protected in the event of Brexit. Chief Minister Picardo has also lobbied Europe Minister David Lidington, to get a Whitehall ban on ministers and officials discussing anything other than winning the referendum.

Gibraltar’s Deputy Chief Minister, Dr Joseph Garcia who is also Minister for European Affairs, hosted a two-day visit by several assistants to Members of the European Parliament (MEPs) to explain Gibraltar’s issues concerning the frontier, taxation, financial services and aviation that could be made worse in the event of Brexit.

The Spanish government has repeatedly described The Rock as a tax haven even though “Gibraltar has embraced the challenge of compliance with EU regulations and directives”, including those concerning tax information exchange and anti-money laundering, and Spain has also sought to exclude the territory from EU aviation policy.

DTA network needed

Castiel pointed out: “Gibraltar has enjoyed passporting in financial services throughout the EU, including to the UK, but if there is Brexit we will need a network of Double Taxation Agreements (DTAs) and bilateral agreements, because if a country is not a member of the EU as such, we will need those treaties to mitigate the effect and gain entry to markets.” Gibraltar has no DTAs, although the government has for more than a year said the first is imminent.

Franco Ostuni, general manager of the 127-bedroom Caleta Hotel on The Rock’s East side, pointed out: “The insecurity Gibraltar is currently experiencing due to the uncertainty of EU membership should stress the fact that other sectors of Gibraltar’s economy - currently so meaningful to our prosperity - can be volatile and depend on factors often outside of our control. Tourism is one of the few industries in Gibraltar’s economy that offers the opposite scenario and could provide sufficient wealth to Gibraltar should other sectors diminish.” [See ‘a true destination’, p 18]

Around 60% of UK motor policies are provided by Gibraltar-based companies and are unlikely to be affected by Brexit, because a UK bilateral agreement with Gibraltar “that for the purposes of EU rights in insurance,

banking and financial services, Gibraltar would be treated as if it was a separate member state to the UK”, Hassans partner, Nigel Feetham explains in a Brexit briefing note.

“The prevailing view is that the UK would continue with the existing bilateral trading relationship with Gibraltar” by extending the current rights of Gibraltar insurers to continue to write UK business, but outside of the existing EU framework”, he declares.

However, those Gibraltar and UK insurance companies or captive that do EU (non-UK) business - say, writing German and French risks - would no longer have a right to passport services into the EU, says Feetham, who was involved in advising on the practical implementation of the EU passport in Gibraltar around 1997 (when the current arrangements were put in place).

No application slowdown for licences

There has been no slowdown in the number of applications for licences from the Gibraltar Financial Service Commission; since April last year ten have been for insurance entities - four new to the jurisdiction and the others for extensions to their activities. Moneycorp applied for a banking licence to provide consumers and corporate customers with multi currency deposit accounts and foreign exchange currency business by telephone and on-line, which launched in April.

Some members of the All-party parliamentary group for Gibraltar in London are understood to back the ‘No’ campaign, including the present chairman, Conservative MP Jack Lopresti. The Grassroots Out (GO) campaign made a two-day visit to the Rock in April, and held a public rally in Casemates Square.

The government says it has “the deepest respect for the democratic rights of all people in Britain and Gibraltar to vote as they see fit”, but nevertheless feels there still needs to be “clarity as to the rights the British Government will protect and defend for Gibraltar” during the 2-year post vote period of negotiations with the EU.

Picardo has also emphasised that Gibraltar in any event will still have an international airport and a port with the largest ship bunkering operation in the Mediterranean, with plans to add Liquid Natural Gas (LNG) to its ship refueling arsenal.

Ray Spencer



Supporting the eGaming industry, from the Summit to the Cave

KPMG's international eGaming team will once again be gathering in Gibraltar for their annual Summit with operators, regulators, and service providers to the gaming sector. The event will take place on Thursday 21 April on the Sunborn and is once again being generously supported by local businesses and the Government of Gibraltar, who welcomed overseas delegates to a gala dinner in St Michael's Cave in 2015.

If you would like to know more about our event on 21 April, to read the report from our last eGaming Summit in November 2015, or to understand more about the services KPMG's experienced local eGaming team provides across the audit, tax and advisory sphere, please contact us at eGaming@kpmg.gi or **20048600**.



Insurance Sector Challenges in 2016

By Steve Quinn,
Chief Executive
Officer, Quest
Insurance
Management
(Gibraltar) Limited



When I was given the opportunity to submit an article to *Gibraltar International* last year I listed several issues as representing current developments and challenges to the insurance sector including Solvency II, ratings being obtained by local insurers, local operations and representation, Part VII Transfers and ILS opportunities.

Unsurprisingly a year later little has changed. A review of those issues follows

I have never known any topic to dominate both business and social conversations as much as Brexit appears to at the moment

but there is of course one new entrant that has usurped all others in the last few months. It is interesting to see that the article I wrote just under a year ago, around the time of the last UK General Election did not reflect the public mood of Brexit as being a major issue at the time.

How the times have changed!

Brexit

It would be impossible to write an article that focuses on challenges to our industry without starting with the elephant in the room. I have never known any topic to dominate both business and social conversations as much as Brexit appears to at the moment. Trying to distil the facts as they are known at the time of late March/April, the key issues to be aware of if the

Referendum votes "Out" are as follows:

- A UK exit from the European Union would mean a Gibraltar exit as well.
- Gibraltar insurers passporting into the UK currently should be broadly unaffected as arrangements in place between the UK and Gibraltar are not strictly reliant on EU law. It should reasonably be expected that the UK will continue to respect the bilateral trading relationship with Gibraltar.
- For the rest of Europe the situation is less straightforward. Technically the transition out period should be two years, but withdrawal requires agreement from the European Parliament.

The view is that it will most likely take considerably longer than this for the UK to finally exit the EU, but any extension to the two year period requires unanimous EU member state approval. During this transition period all EU rights should remain. The UK would need to negotiate a new trading arrangement with the European bloc, and

without offering any political statement whatsoever, this could take several years (Canada, for example, took roughly seven years from 2007 to negotiate a trade deal with the EU), possibly beyond the transition period.

So in summary how will Gibraltar's insurance industry be affected by Brexit should this occur? The answer to this is technically probably not greatly, as over 90% of Gibraltar insurance business is conducted with the UK and should be unaffected. Of course there are, however, several currently unanswerable questions that could hugely impact the wider situation, such as:

- What will be the impact of Brexit on the EU economy?
- What will be the impact of Brexit on the UK economy?

- What will be the impact of Brexit on the Gibraltar economy (especially gaming)?
- What will happen at the Gibraltar border in a post-Brexit world?

No answers to any of those questions offered here, I'm afraid, as they really are all unknown at the moment.

Turning to other key current issues...

Solvency II

We should probably stop referring to Solvency II as Solvency II now as it really should be Business As Usual. As of 1st January (2016), we are in the brave (?) new world and the market appears to have satisfactorily handled this change.

There were a small handful of insurers that chose to go into run off in 2014 and 2015 but by and large the overwhelming majority have passed into 2016 without the need for Transitional Arrangements from the Financial Services Commission (FSC).

The key over the next few months will be for regulators and regulated alike to become familiar with the changed requirements, to reach agreement on those areas which are open to interpretation, and perhaps a goal for 2017 and beyond will be to not refer to "Solvency II" for too much longer.

Local Operations

When commenting last year I suggested that amongst other consequences one of the implications of the advent of Solvency II may be the requirement for insurers to go further to show their presence in Gibraltar. I still believe this to be the case and it is important that the FSC understands fully what work is undertaken locally.

Some insurers operate with significant local teams, some with smaller ones and the majority via insurance managers. Just because an insurance company has representation from an insurance manager does not necessarily mean that there is little work being undertaken locally, and indeed I am aware of self managed companies locally that could be viewed as being little more than representative offices rather than fully functioning insurance companies. It is not entirely clear at the present time what the regulator will require from new and presumably existing insurers in terms of local presence.

Other challenges that the regulator and the industry locally share jointly relates to

Continued page 27



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Making a judgment on cases for expansion to maintain progress

Worldwide tax transparency measures are causing a slow down in Gibraltar's traditional legal work, prompting firms to consider other areas to demonstrate professional excellence, writes Ray Spencer

The Gibraltar legal profession has historically been fed work from its close association with the trust and company management industry or the fiduciary business that helped give birth to the finance centre. It remains a significant part of Gibraltar legal work generally.

The legal profession is involved in the establishment of the trust and company structure below the trust at the onset and then, following disputes between the beneficiaries as between themselves or with their trustees, the legal profession is involved in litigation that ensues.



Restored Coat of Arms above Gibraltar Supreme Court No. 2.

“This type of work has kept the legal profession busy for many years”, points out Melo Triay, great grandson of the founder of Triay & Triay (T&T). “But with the advent of FATCA (US and Europe wide) and the OECD Common Reporting Standard (CRS), [obligatory international initiatives designed to develop a single global standard for the automatic exchange of information between tax authorities] and the transparency that these standards bring could well result in less use of the fiduciary industry in Gibraltar, and with that goes the litigation that followed”, he notes.

CRS began in January and the first reporting will be from the end of this year. “It’s too early to tell whether these measures will adversely affect the trust and company industry, although the money appears to

suggest that it will,” Triay, immediate past chairman of the Bar Council, declares.

Overcoming threats

The legal profession in Gibraltar is used to changes that could hit business - introduction of the 4th and 7th EU Directive on Company Accounts and the repeal of the exempt company tax regime – and Triay says, “in both cases Gibraltar has not been affected; thus these new changes although threatening, will be overcome”.

There’s no doubt the number of lawyers locally has continued to blossom. There are 300 or more people providing legal services in Gibraltar; 216 are lawyers – solicitors and barristers – listed in a fused profession by the Gibraltar Courts Service and the Bar Council has some 170 subscribing members.

Keith Azopardi, Bar Council chairman for the past year and one of four QCs at Triay, Stagnetto, Neish, Azopardi, explains: “In the 1980’s there were a tenth of the lawyers practicing here today; 60% of the economy then was defence driven, but today it accounts for 2-3% of Gross Domestic Product.

“Today there is not only private practice; we now also have dozens of corporate in-house lawyers in gaming and financial services for example – maybe 20-30 people.”

Government spending more

The government has become a big employer of lawyers. “In 2011 it was 18, but now the number of our lawyers in four years has just about doubled to reach 35”, Gilbert Licudi QC, Gibraltar’s Minister for Justice, notes. The cost grew from £1m in 2011 to £2.8m now from higher fee scales, as well as more lawyers.

Reasons cited include more employed in the Crown Prosecution & Litigation Office – advisory work in relation to government, apart from criminal prosecution work. “The number of lawyers in international legislation has grown significantly, because of our EU [legislation] obligations and arising from treaties and bi-lateral arrangements for mutual legal assistance, for example.

“We normally engage local firms and

sometimes specialist counsel. Last year there were some important pieces of legislation – the new Companies Act and European [insurance] legislation such as Solvency II; a lot has been EU driven”, he said.

Government spending on external fees last year at almost £600,000 was double that in both 2011 and 2012. Of the eight external law firms engaged last year, Hassans – Gibraltar’s largest firm with 84 lawyers and 8 QCs – captured 45% of this work, and 82% of the £289,000 billed by five firms in 2014!

Overall, Hassans reports its business grew 3.7% in 2015 and expects the same in 2016, significantly less than, for example, the 10% growth claim of ISOLAS law firm. Marcus Killick, ISOLAS chief executive, reasons: “Litigation was one of the areas with very strong growth previously, but now it has lessened. These cycles of work are not unusual.

“Company and trust business is seeing a decline, partially because new international requirements mean more exposure of clients’ affairs ... and this has increased costs; also as tax regimes have changed, tax mitigation opportunities have declined.”

Targeting UK and Europe

Gibraltar firm, Ramparts Law, has seen quite spectacular business growth: in 2012 Peter Howitt made the unusual step of leaving BwinParty, the giant Gibraltar-based gaming concern where he was in-house counsel, and started on his own; today there are 18 staff, 13 being lawyers.

Ramparts was profitable from day one, reports Howitt, who set up Gibraltar’s only limited company (rather than partnership) law practice. Ramparts has also become the only Gibraltar firm to open in its own name a UK law office, where he and two others work from Manchester, a strong centre for eCommerce, digital companies and crowd funding. The aim is to establish a mini-European chain that could include offices elsewhere in England, Amsterdam and Stockholm.

Hassans, ISOLAS and T&T all have long-established offices in nearby Spain, largely servicing the ex-pat community.

Aaron Carpenter, a Ramparts director



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in Gibraltar and specialist in eGaming and eCommerce, was poached last year from GoCompare, the comparison website where he had set up a in-house legal team in Cardiff. “We are very different to other local firms: the company is very international, and we have expanded from abroad with a team having worked both in private practice and - unusually for law firms - also from various in-house roles, which gives us people with direct experience of the corporate field.

“Very few of our clients confine their business to Gibraltar and all are cross-border, so we aim to have offices wherever we can serve them better,” he reveals.

Emma Azopardi specialises in private client and family office business and joined



Outsourcing provision:
Emma Azopardi,
Ramparts Law

Ramparts a year ago from Hassans where she worked for a decade (the last two years as a partner) and where her father is a senior partner. High Net Worth Individuals (HNWIs) relocating, maybe establishing a business in Gibraltar, or as part of an international business with a Gibraltar presence, are

proving lucrative.

Fees pressure

“There is a general downward pressure on fees, but we don’t seem to be feeling that; we’d rather be more competitive on fees and work in partnership with our clients. Often we provide an outsourcing facility for companies that also might be considering establishing an in-house legal team”, she explains.

Triay also believes Gibraltar is becoming the jurisdiction of choice for HNWIs. “Some choose Gibraltar for tax reasons, others because of the intrusive impact that measures like FATCA and CRS have in their home state; so good things also come out of the new measures!”

He’s adamant. “Gibraltar needs to develop itself as centre of excellence in another field; we have done this in the gaming world, we are also achieving international recognition in the insurance field, and we now need to concentrate on a new field. Whether this is arbitration or another form of dispute resolution is something that only time will tell.”

Killick maintains: “A significant amount of our business is international and emanates from elsewhere by recommendation. The best way to develop

legal business is by leveraging individual contacts in other jurisdictions and speaking at conferences, for example.”

But as he points out: “We have to be responsive to the needs of clients in the Gibraltar financial services centre and development of the commercial areas. We are seeing potential for growth in the Insurance Linked Securities (ILS) space, as well as a busy pipeline of work in respect of listings on the Gibraltar Stock Exchange.”

Planning for change

ISOLAS, Gibraltar’s oldest law firm dating from 1892 and now with 25 lawyers, also is driving the agenda in development of a crowdfunding solution for Gibraltar. Killick says: “Fintech in general, represents a significant opportunity.

“What would be bad for Gibraltar, would be having firms in these and other new areas wanting to come here, but not having appropriate or knowledgeable professional services available. As law firms, we therefore have to anticipate and plan for these,” he warns.

Hassans last year recruited from top tier UK law firms, including lawyers and consultants from Linklaters and accountants, PWC, and Javier Chincotta, Managing Partner, explains: “We endeavour to recruit home grown talent where possible, and we have plenty of it, but equally, when we do need to extend our recruitment overseas, for a specialist in a particular area of work or industry, we are fortunate in that Hassans and Gibraltar itself aren’t difficult ‘sells’ to potential recruits.”

As an example, Mark Okes-Voysey, an ex-PwC partner based in Europe, was recruited to provide international business consultancy services to both the firm and its clients and from April he took over as chief executive of Hassans’ fiduciary arm, Line Group.

Gibraltar’s Financial Services Commission has spent a year trying to recruit locally without success for its new Director of Legal, Enforcement and Policy, but has just appointed an experienced regulatory lawyer, Peter Taylor, who moves in July from Director of Access to Legislation at New Zealand’s Parliamentary Counsel Office and Chief Legal Advisor to

the New Zealand Customs Service.

Another development in the jurisdiction’s quest to be seen as a centre of excellence is provision of statutory regulation of the legal sector, something that many regard as long overdue. The Bar Council has worked on the framework for over six years and in 2012 its 170 individual members agreed to a potential fee rise from £50-£70 to £1,000-£1,500 a year to meet the regulatory cost.

Lawyers from abroad – mostly QCs from the UK – as well as some 25-30 of those who arrive to appear in cases each year would also need first to register with the Bar Council. As Azopardi asserts: “I am in favour of people coming in and pitting their wits against local advocates, but there are areas where it is being done too frequently – and in my opinion, unnecessarily.”

Regulation in prospect

Minister Licudi, who is considering the Bar Council’s proposals, says he is “close to broad agreement with the profession.” Azopardi hopes for legislation before the year-end and sees it being made compulsory for all lawyers to become Bar members, swelling membership to around 300.

However, Licudi cautions that that particular aspect is still subject to negotiation, but emphasises: “All lawyers [including those working in-house or for government] need to be regulated and, therefore, will need to be registered with the statutory body and have a practicing certificate. The Bar Council represents the lawyers, but the independent statutory body is the regulator, much as, for example, there is a Bankers’ Association and a separate Financial Services Regulator. We are not talking about self regulation.”



Transparency has lessened litigation: Melo Triay of Triay & Triay

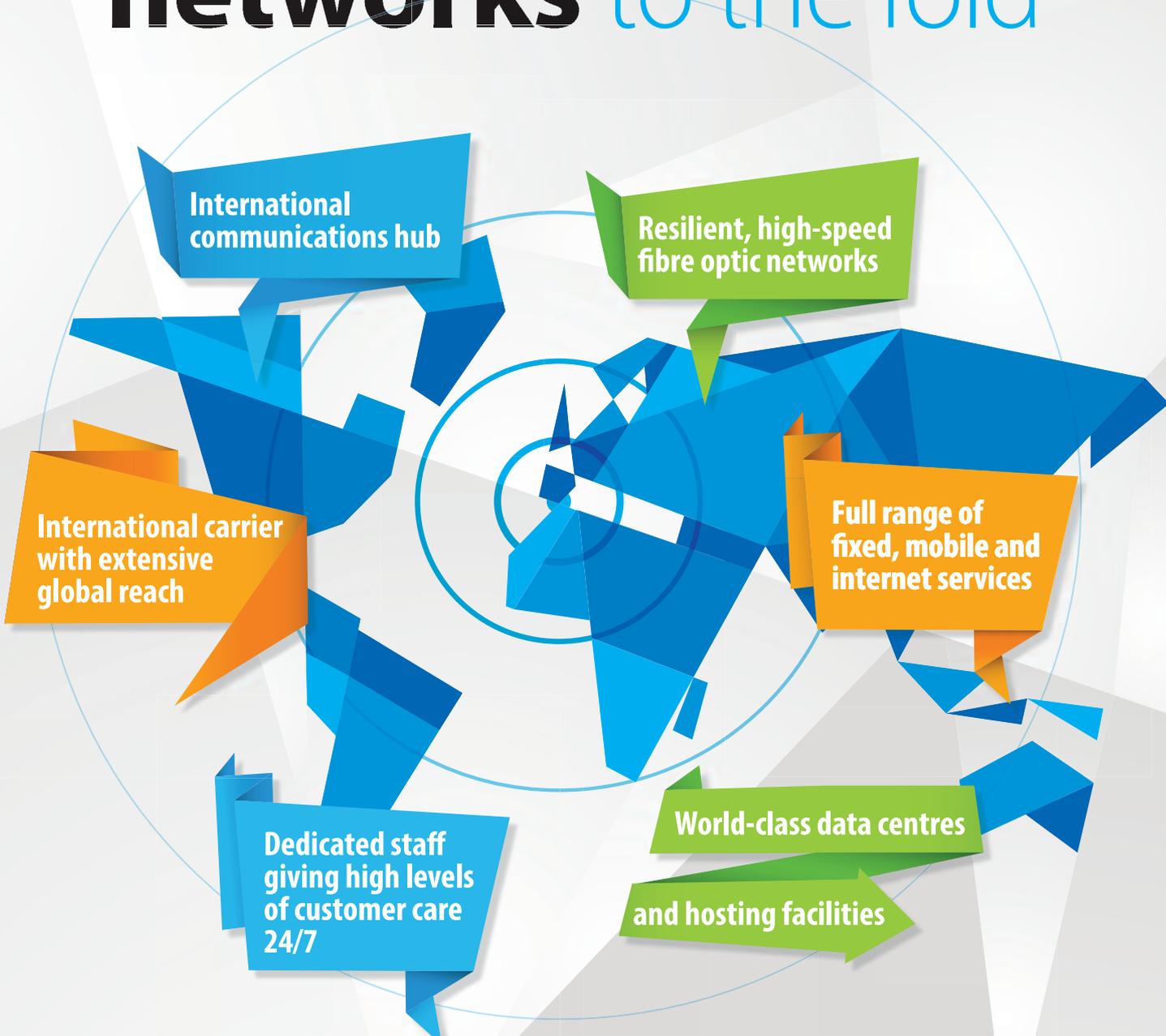
Nor has it been decided whether the planned Legal Services Act will include a consumer compensation fund, with Azopardi arguing instead that “it is more equitable and less costly for lawyers to review the level of their Professional Indemnity cover to reflect the scale of activity and the risk level based on the type of cases handled”.

Killick, who until 2014 was Gibraltar’s financial services regulator and previously

Continued page 28

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Government pledges more to remain competitive

Gibraltar's financial services sector is to have the cost of regulation subsidised by government at a cost of around £3m over the next four years amid concerns that the jurisdiction might otherwise appear uncompetitive

In a surprise move, Chief Minister Fabian Picardo revealed in April that following a year-long widespread consultation with the territory's 480 regulated financial entities and intermediaries, the government is to more than double its planned contribution to the Financial Services Commission (FSC) over the four years to 2019-20.

He told a meeting of industry professionals: "There is a significant cost to regulation, which in a small jurisdiction like ours, can be challenging to meet. Our regulatory burdens are the same as they are for France, Germany or the United Kingdom."

The Government has "invested heavily" in the sector that accounts for around a fifth of the economy to soften the financial burden of regulation, but had planned to reduce the £1m contribution it made in 2015-16 to become only £600,000 (around 10 % of the FSC operating budget) in the current 2016-17 year. Thereafter there would have been no subsidy.

Now the State will maintain a £1m contribution and instead of having a 10% across the board increase in fees for licensees in 2017-18, "serious and significant adjustments" have been made to limit the industry's share to £5m, and in each of the following 3 years it will rise by no more than 4% overall with the government making up the difference.

"We aim to reflect the fixed cost of regulation, which has increased a lot as a result of the financial crises", explained Samantha Barrass, FSC chief executive. "In Gibraltar we regulate more sectors than any other of our comparators – Malta [with an operating budget of €12m], Jersey, Guernsey, Luxembourg and Ireland."

The FSC regulates 12 sectors in all, including insurance, funds, trust and company service providers, consumer credit

and mortgage providers, occupational pension schemes, as well as the Gibraltar Stock Exchange.

"Frankly, we are a combination of the UK's Financial Reporting Council, Financial Conduct Authority, Prudential Regulation Authority (PRA) and the Pensions regulator all rolled into one and we have to implement all of the same Directives and Directives from the EU", Mrs Barrass explained.



Gibraltar regulates 12 sectors - more than others, says Samantha Barrass, Financial Services Commission chief executive

She added: "The FSC has the widest remit and the highest number of sectors to regulate and supervise." Changes to the way of charging for FSC services was "to achieve a fair and transparent fee-setting policy" when the historic approach to raising fees meant "some sectors were more than meeting their regulatory costs and others were not", as well as making sure that regulatory fees were generally more capable of reflecting the costs of regulation.

Fees up and down

The significantly changed fee structure supports a £6m FSC operating budget that has not altered this year, and is projected to go up by 1% a year. The level of fee increase varies significantly between sectors; funds and some trust and company service providers for example, see lower than expected contributions.

However, "a large insurance company - that would probably pay £7-800,000 to the PRA in the UK, and possibly up to €1.5m to the Irish regulator - will have seen its previ-

ous FSC bill of only say, £33,000 increase quite a lot and there are some licensees now paying 500-600% more, but for the very largest ones it represents a semi-insignificant amount compared to the size of the business", Mrs Barrass reported.

"There has also been very little disagreement on the underlying methodology that should form the basis of the fee calculations, and little dispute over the level of operating costs of the FSC." Feedback from the industry has resulted in reduced cost for 'passporting' services throughout the EU, a cornerstone of Gibraltar's promotional message to attract new firms and inward investment from Switzerland, South Africa and Asia in particular.

Some 118 firms have a total of 1,048 'passports' from Gibraltar into other jurisdictions and "in general the level of oversight supervision activity substantially increases where cross border activity is concerned". A further 39 passports are in support of an overseas branch, also to be supervised.

Potential to dete

The government was anxious to see financial services remain competitive. "The industry has highlighted that there is the danger that higher regulatory costs may lead to the movement of financial activity to jurisdictions with what is perceived as more competitive regulatory fees, and that in addition this could deter potential new business," a FSC report declares.

Part of the FSC remit is to protect consumers and safeguard the reputation of Gibraltar, whilst supporting "the safe growth of the industry". Picardo pointed to a new Innovate & Create team that the FSC said provides "a single point of contact for people with new ideas or products in financial services".

Promising further consultation, Picardo told business professionals: "We are on course to deliver an entirely new set of Financial Services legislation in the coming 12 months, which we believe will make doing business in Gibraltar easier, not just for the firms, but of course for the Regulator too."

Support for financial services is being strengthened at a time when the possibility for Gibraltar to leave the EU, as the result of a successful Brexit vote in June, would leave the territory struggling to maintain growth. (See News, P6)

Ray Spencer

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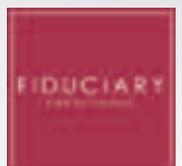


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Planning to become a 'true' destination

More tourists, more hotel bedrooms, more cruise liners calling and more aircraft landing all go to show that Gibraltar is proving an attractive destination, according to the government. But not everyone agrees

In all, The Rock received 12m visitors last year, with the vast majority – 10m+ crossing the border and showing an upward trend again, according to official statistics, after well-publicised long frontier queues in 2014 caused by Spanish action.

However, Lucienne Mosquera, managing partner of Gibraltar-based Hospitality Business Development, believes the number of 'true tourists' is closer to 1m a year, and opportunities to develop the sector's contribution to the economy – presently estimated to be about 20% - are being missed.



Camp Bay, Gibraltar

That's also the view of Franco Ostuni, general manager of the 127-bed, 4-star Caleta Hotel on Gibraltar's east side. "The reality is in fact that the alternating of various Governments and government ministers in the last 15 years has not produced a vision or a strategy for the industry; our tourism strategy today is the same as it was 15 years ago with the exception of event led tourism, which has been developed with success," he said.

It's a point well-made according to Samantha Sacramento, Tourism Minister, who told Gibraltar International: "A strategy is a cornerstone, so I am happy to report that for the first time we are working on

developing a short, a medium and a long term strategy."

Annual business plans are being required of the Tourist Board; the medium term plan will cover five years and a longer term view to 2026 and beyond – "I have said specifically, I don't want it to be a party political thing", she declared. Tourism partners - hotels and business organisations locally, tour operators cruise companies and airlines – have been asked to submit their ideas.

Ostuni, who has been at the Caleta for 17 years and previously with leading hotel chains in France, Germany and the UK, said: "Hoteliers are not responsible for developing a destination or generating growth; generally hoteliers focus on trying to achieve the largest market share available to the destination.

"Personally, I feel that we [hoteliers] are not qualified, nor do we have the independency and the market knowledge of trends to formulate such strategy; I don't think anybody has in Gibraltar."

He called for professional market analysis - an individual or a body with specific skills, a proven track record and "the freedom and independence that cannot be provided within Gibraltar. The tourism marketing budget [of £1m] has been the same during all my time in Gibraltar, 1999 to date; if we do the maths the budget is worth half of what it used to be."

Outsourcing possible

Sacramento declared: "If we see that [submissions] are limited then I don't object to outsourcing it to somebody else, but I want to be satisfied that we have done the job internally first "to take tourism to the next level."

As for the budget, she stated: "It doesn't necessarily need to be more to get further. It just needs to make sure we spend it on the things we have planned to prioritize for this year."

Gibraltar in recent years, according to Ostuni, has seen the corporate market "becoming more and more sophisticated, requesting better products and facilities. The leisure market on the contrary, has become very price driven."

The number of people staying overnight locally has fallen almost 5% in the decade to 2014 and although Ostuni suspected 2015 will have seen some growth overall, it is "certainly not enough to sustain a 50% increase in the bedroom stock" to reach 515.

The €125m Sunborn yacht hotel at Ocean Village marina added 189 rooms when it opened in 2014 and whilst "technically in the 5-star deluxe market, the reality is that it's competing in the core 4 star market at 4 star prices ... and has not grown the market" that for years had been shared locally by the Rock, Elliott and Caleta hotels, says Ostuni, who was chairman of the now defunct Gibraltar Hoteliers Association, that may now be revived.

Capturing corporates

Not so, says Sunborn marketing manager, Dylan Trenando, who revealed: "We have captured a lot of the corporate market with 80% of that business coming from the UK both in terms of bedroom bookings and conference facilities, and the balance locally.

"I agree Gibraltar has not been in the 5-star market previously and although it has been very difficult to attract people at 5 star prices, that is where we are at now. Whereas the 4-star hotels are charging £95-120 per night, we are in the £150-200 bracket, without breakfast!"

Formerly marketing manager for Gibraltar's oldest hotel, the 84-room Rock Hotel built in 1932, Trenando joined Sunborn in 2014. He claimed the floating hotel had "opened up the market; in 2015 we achieved an average 60% occupancy on our 189 rooms and from forward bookings we expect to see a 20% increase in 2016."

Statistics for 2015 hotel occupancy and other aspects of tourism are not available until summer, but Ostuni pointed out: "In 2014 occupancy for Gibraltar Hotels was 59.9% overall. The Caleta Hotel occupancy in 2015 was 15% down on the previous year as a result of increased competition, something that we were prepared for and budgeted accordingly."

The Rock claimed room take-up last year was "good, and the first three months of this year were above expectations". Charles Danino, general manager, said a £3m revamp of the iconic hotel completed last year saw no loss in business with prospects "very encouraging, particularly given the increase in flights to Gibraltar."

In all, there were 444,000 airline passengers last year and Gibraltar's Tourist



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Authority anticipates 500,000 in 2016 aided by a one third jump in the number of scheduled landings from eight routes to the airport and a 41% rise in seat availability.

More staying power

The problem however, is seen as encouraging some of the estimated 60% or more people who use the airport as a gateway to southern Spain, to visit The Rock, whilst specifically attracting others to make it their intended destination.

Minister Sacramento told Parliament in June: "Room occupancy and sleeper occupancy may have fallen marginally, but ... supply has grown faster than demand, though

we are confident that this will catch up." Guest nights offered were the highest since 1992 with the average stay rising to 4 nights – the highest since 1994 – and number of tourists staying overnight up by 8%.

New publicity giving details of upcoming Gibraltar

popular and classical cultural events will entice air passengers to return across the Spanish border to the Rock, plus details of tourist attractions. Social media is to be deployed widely, encouraging people to use the hashtag #VisitGibraltar and create a strong following to promote Gibraltar on Facebook, tweet, retweet, instagram etc, during their stay and their participation in local activities.

In the last four years £3m has been spent on improvements to main attractions, particularly the Upper Rock, which has circa 800,000 visitors annually to see the famous apes, St Michael's Cave, Siege Tunnels and other sites. Another £2m has gone into

opening up walkways in the nature reserve and creating a high-level suspension bridge and an innovative glass walkway that opens this spring.

The greatest volume of visitors is daily across the border from Spain and includes up to 12,000

workers; latest employment surveys show 1,500 have jobs in hotels and restaurants, a third being part-time, and most being Spanish and British ex-pats, with Gibraltarians accounting for very few.

Understanding business

Turning visitors into tourists who appreciate

more than just advantageous prices for fuel, tobacco, food and retail shops is a bigger task and potentially a very rewarding one, suggested Dutch-born Mosquera, who started her business six months ago after a decade working for Gibraltar's Anglo Hispano Company, where she observed the local hospitality business.

"Tourism is like running a company – there needs to be understanding of the target market - who they are, where they are and their needs - and a strategy for developing the entire product – the experience from beginning to end – as part of a business plan", she argued.

There are some 150 restaurants, spurred in recent years by the development of Ocean Village, the upmarket marina, office and residential development. However, according to Mosquera, Gibraltar restaurants are "operating on razor thin margins – at or near breakeven. Tourists may have a nice shopping experience – it would be nice if there were more than the usual high street names, one that is quirky and maybe marketing more of the streets", Mosquera, a member of the Institute of Hospitality, suggested.

Competing for breaks

But key is defining Gibraltar as a quality, must-see destination. There is general consensus that Gibraltar needs to compete with other short break destinations in the Mediterranean, such as Malta and Cyprus, by promoting its unique position and history, as well as encouraging event-led tourism – the recent Backgammon tournament following an annual international chess tournament, held at the Caleta Hotel, are examples. Music and food festivals are proving popular also.

Sacramento noted: "We have more tour operators [10 are listed] from the UK than ever before offering holiday stays, more hotels and more flights." The feedback when we meet with [operators] quarterly is that the more airline seats that are available to Gibraltar, and the more hotel bedrooms available to meet their needs, in terms of leisure, the better."

Gibraltar now has fewer hotel bedrooms than 25 years ago, in part because poor returns have not encouraged investment. "Revenue and yields have not increased compared to other destinations, the very expensive airfares often force hotels to sacrifice margins in order to be competitive", Ostuni pointed out.

Nevertheless, the Caleta Hotel has a £45m plan to reduce its 4 star bedroom availability and diversify into 5 star boutique and serviced apartments with work starting late next year.

Ostuni reported development starting in April of the 120-bed Holiday Inn Express near to the airport to provide a

limited service, internationally branded product. It will be the first hotel to be built in Gibraltar for almost half a century. I cannot think of any tourist destination in the Mediterranean with an airport and a port that in this period has not increased bedroom stock", Ostuni observed.

The Port has experienced a strong revival. In 2015

it ranked 28th out of 74 in terms of passenger movements at MedCruise member ports and classified third in terms of countries that last year experienced an increase in the number of port calls - up 12.7% to reach 204. This year 91 ships have booked to berth at Gibraltar on 227 occasions, at times bringing 6,000 passengers in a single day: but only 60% on average go ashore and most for less than half a day.

Seeing is believing

Although coach tours are mainly used, many people choose to walk around the Rock. "People will see what we have improved and as we add innovations they can add those to their itinerary as well. What we want obviously is to entice them to call for longer and tell their friends," Sacramento enthused.

Two turn-around cruises at Gibraltar this year "means that people will have to arrive in Gibraltar - probably by air - they are here for a full day and then they leave the following day. So it means they will be based in Gibraltar for quite a substantial period before the vessel leaves", she added.

To improve standards, Gibraltar University has initiated a School of Hospitality and established a Tourism and Hospitality advisory group to identify areas for action.

Ostuni maintained: "Tourism should have a far more significant input into the local economy. It will probably be fair to say that discounting eGaming and financial services, 30% or 40% of natural Gibraltarians earn their living directly or indirectly from tourism: sadly many do not realise that it is so."

Ray Spencer



Samantha Sacramento



Franco Ostuni



Lucien Mosquera

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Alternative Investment Funds



By Nicola Smith, CEO of Helvetic Fund Administration Limited, which is part of the HFFT Group

With the ever pressing drive towards transparency in today's financial services industry, investment managers are increasingly looking to Europe for onshore structures to satisfy investors' appetite for alternative collective investments. Any marketing of Alternative Investment Funds (AIFs) in the European Union will now have to comply with the Alternative Investment Fund Manager Directive (the "Directive"). The Directive adds considerable administrative burdens on the manager and caused most managers to

pause for thought as to how they could deal with their obligations under the Directive. This article is intended to highlight the main considerations when deciding whether a manager should seek to obtain their own Alternative Investment Fund Manager (AIFM) licence or outsource some or all of the functions or join a management company which offers an existing AIFM platform (the "outsourced AIFM") in order to remain compliant with the Directive.

AIFM licence

As in every business decision, finding a balance is the key to the optimal solution for each manager's situation and this often boils down to questions of cost and investor approval. It's a significant responsibility to manage the corporate governance of an AIFM and one that must have suitable substance behind it to keep the manager and the funds it manages compliant.

For those wanting to retain control of

their management company and looking to make their own application for an AIFM licence, resources will be one of the first influences affecting their decision.

A company seeking its own AIFM licence will need to appoint a board of directors / team which satisfies the local regulator that there is sufficient experience and expertise on the team to cover all the relevant functions set out in the Directive. These include compliance, risk and portfolio management (which must be dealt with independently under the Directive). If more than one investment strategy is used then the AIFM will need to demonstrate that it has the relevant applicable experience within the organisation to oversee and manage all those strategies – which may require additional staff and the inherent difficulties this involves.

Detailed policies specifically tailored to the AIFs, being managed by the AIFM, on risk and liquidity management, remuneration, valuation, reporting, conflict of interest and



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compliance and AML procedures must also be drawn up and continually monitored in accordance with the Directive. By far the biggest challenge for managers arises from Annex IV reporting obligations. These entail inter alia the interpretation and analysis of comprehensive legal terms and categories as well as ensuring that templates and codes are used in accordance with the regulatory requirements.

The issue of resources may not faze the larger fund managers who have substantial investments already committed to their European ventures. Their choice of an outsourced AIFM may be influenced more by cost and timing considerations.

However, often smaller fund managers do not have the resources to separate out those key functions of risk and liquidity management from portfolio management. The prospect can also be cumbersome for non-EU managers to establish a real presence abroad when they are so remote. They may already be accomplished managers with experience in other jurisdictions but not have the local knowledge to launch as quickly and efficiently as they may expect; or it may be the

first AIF they are launching and they have previously worked within a large institution with additional resources and have never had to deal with such an extensive piece of legislation or Annex IV reporting. With over three hundred data reporting points and 30 days to report (45 for funds of hedge funds) every quarter, employing an outsourced AIFM may be the best solution for the smaller fund manager. This red tape and bureaucracy may distract these managers' focus from their original aim of being a successful portfolio manager and they may be more suited to opt for an outsourced AIFM solution.

Significant trust

As well as assisting with the compliance function and ensuring that the ever expanding regulatory requirements are adhered to, often the outsourced AIFM can offer other services and means of support including fund administration, share transfer services and connections to other service providers e.g. depositaries, banks and brokers if the manager does not already have those established contacts they want to use. The outsourced AIFM should have knowledgeable

staff available and already approved by the regulator to become the AIFM to an AIF which would reduce the time to launch the AIF.

If a client chooses to engage a third party to act as the outsourced AIFM to their AIF it must be clear from the outset between the parties that this is effectively a partnership. Significant trust must be built up between the parties. The client relinquishes elements of control over the AIF but in turn will no longer bear the full responsibility if anything goes wrong. Therefore for both the client and the outsourced AIFM the future will be a very close working relationship requiring the parties to work together to ensure the right people are focused on what they are best placed to do and the traditional portfolio manager is supported and assisted in complying with a complex and all-encompassing new piece of EU legislation.

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The tax efficient Mediterranean Lifestyle

By Gavin Gafan, Assistant Manager, Tax Department & Hannah Clark, Manager, Tax and Company Services, Deloitte

It is safe to say that we currently live in a fast-paced society. One only has to take an early morning walk through any bustling metropolis in order to witness the flood of suits regimentally marching to their own



Queensway Quay

respective offices, traffic squeezing through practically choked city streets, and public transport that barely manages to cope with an incessant stream of commuters. Fixed on the

inner side of a train, bus or the tube, among other adverts, you might observe an invitation to visit a Mediterranean destination, and the lure is simple yet effective. A close-knit family, all smiling and with healthy-blushed skin, gathering around a table laid with healthy dishes, behind which sprawls the yellow sands of an idyllic beach setting. Therein lies the concept of the Mediterranean lifestyle, a perfect balance between work and leisure, family and great food.

However, is this concept of an idyllic lifestyle attainable? From a professional perspective it could be perceived that sunnier countries might not offer this perfect work-to-leisure balance, thus detracting from the go-get mentality prevalent in successful Northern European countries.

Then there is also that soul-destroying word that would demotivate any entrepreneur, professional or business-person wishing to relocate their family to a Mediterranean country, "bureaucracy," which like the sun can become more evident the further south in

Europe you travel to.

But what if there were a southern jurisdiction that combined sun and sea with a northern European way of doing business.

Well hold on tightly to the inside of that congested train, bus or metro because your answer may lie only a stone's throw away. Or rather 'Rock' in this instance, the Rock of Gibraltar.

Pillars of Hercules

Gibraltar is a British overseas territory situated at the southernmost tip of Spain, flanked by both the Mediterranean Sea and the Atlantic Ocean. The territory is a short distance from northern Africa as evidenced by the beautiful Moroccan mountain Jebel Musa which can be viewed clearly from Gibraltar, and which together with the Rock of Gibraltar form the legendary "Pillars of Hercules". Surprisingly to some, Gibraltar is not an island, it is connected to southern Spain, one of the world's premier leisure destinations, by a land frontier. Travelling to the jurisdiction is easy,

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with direct daily flights from London and other UK airports or through the several Spanish airports that are no further than a 2 hour drive, namely Malaga, Jerez and Seville.

It is a small, friendly and safe place, offering a mild climate with an average of over 300 days of sunshine each year. The local community approximates 30 thousand people which include both the native Gibraltarian as well as expatriate residents. Gibraltarians constitute a homogenous ancestral mix of Maltese, UK, Italian, Moroccan and Spanish, which has resulted in a British population which is very Mediterranean in its outlook to life, especially when it comes to family, food and social life, but with a professional work system.

Given its size it is unsurprising that it has a negligible crime rate. By the same token unemployment levels have also remained very low, an encouraging thought when considering the current global economic climate.

To an extent, it's current economic success can be attributed to the large number of resident professionals who have helped to foster a dynamic local business model as well

as promoting healthy employment levels.

Gibraltar is also unashamedly British whilst boasting its own Mediterranean charm, unsurprisingly it is therefore an attractive jurisdiction for those wanting the stability of a British way of life in the sunshine.

From a business perspective, the jurisdiction operates within the same Common Law framework as the UK. Likewise the local education system is also in line with the UK, with pupils sitting GCSE and A Level examinations. Furthermore, Gibraltar has also recently established a local University for students who wish to further their academic pursuits but who do not wish to travel abroad.

Tax legislation

In addition, Gibraltar is also a member of the European Union (EU) and therefore all the freedoms as per the Treaties of the European Union, including the freedom of movement of people and services apply. It has transposed all EU Directives into its legislative framework.

Not only has Gibraltar ratified all EU Transparency Directives to its local

legislation, but it is also among the first wave of international jurisdictions to have adopted global transparency and exchange of information initiatives with the aim of encouraging responsible taxation. In line with other major finance centres, it prides itself on adhering to statutes conforming to the highest international standards ensuring that companies operating from the jurisdiction are meeting their fiscal obligations.



Sandy Bay
in Winter

Gibraltar's current tax legislation however allows for effective tax planning, in that unlike other jurisdictions, it does not charge wealth tax, gift tax, inheritance tax or death duties. Investment income as well as capital gains falls out of the chargeability of its taxation. From a corporate perspective, it offers an attractive headline tax rate of 10% on

*Continued
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High net worth individuals considering relocating to Gibraltar to benefit from the lifestyle or low tax status may be also be pleasantly surprised to find that they can also benefit from a special tax status called the Category 2 status (more commonly referred to as Cat2) which limits the amount of assessable income chargeable to Gibraltar tax in any given tax year (01 July to 30 June) to £80,000, translating to a maximum tax charge of £27,560 (for 2015/2016) with a minimum tax payable of £22,000.

Accordingly, Cat2 individuals already paying the maximum Cat2 tax in Gibraltar can opt to declare their worldwide income in the jurisdiction; by doing so they would not be liable to further income tax charges in Gibraltar.

Professional wealth structuring and planning helps to preserve your family assets, enhance control over your financial position, while allowing for an orderly succession of assets across jurisdictions. One of the biggest concerns of very successful entrepreneurs, who have built thriving businesses is “how do I succeed in efficiently transferring what I

have built to the next generation?”

Gibraltar, as a leading Finance Centre, offers world class solutions to assist in succession planning, the distribution of family wealth as well as the protection of assets for individuals who reside in politically or socially unstable environments, to name a few.

Legal framework

It should be noted that Gibraltar’s legal framework boasts robust legislation that covers Companies, Trusts, Purpose Trusts and Private Trusts Companies. Legislation in respect of Foundations is also imminent, as well as firewall legislation which seeks to provide a secure environment for law trusts.

Whatever the reasons behind relocating, Gibraltar, as a leading finance centre, is very aware that all its clients need to have access to first class professional services and has developed a suite of services aligned with these needs. Good working relationships with local Government and Private Bodies, can make relocation effortless and keep bureaucracy to a minimum. Services include tax planning and compliance, succession

planning, monitoring and reporting on investments, managing payments and also extend to general concierge services to ensure a smooth relocation and trouble free living.

The fact is that we do live in a fast-paced society, many of us having to travel further from home in order to conduct our business or work duties in notoriously congested cities. If you are sitting in the inside of a congested train, bus or the tube, reading this article, packed-lunch in briefcase and standing amidst solemn-faced commuters transfixed on their mobile phones, perhaps you might yearn to take a leap into that Mediterranean advert. If so, then Gibraltar can provide a hub from which you can enjoy that idyllic way of life, as well as providing bespoke professional services required for conducting effective day-to-day business. If you are truly interested in a tax efficient southern lifestyle then Gibraltar could be your perfect port of call.

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understanding the roles and responsibilities that are performed locally. Company boards tend to be quite small compared to – for example – the UK, and as a result it is less likely that each Board member will have a tightly defined job description, rather looser areas of responsibility. This is an area which I expect to be developed further by the regulator this year.

Other Current Issues of interest

• Current Comparative Strength of the UK Motor Insurance Market

The Gibraltar insurance industry is dominated by UK motor insurance premium (it is estimated that just under 20% of total UK motor premium currently emanates from Gibraltar), and this insurance market is notoriously cyclical.

It has been enduring a difficult period for two or three years but there are signs that 2016 and hopefully beyond will be stronger performers. This recovery is well timed given the enhanced capital requirements that

all insurers face in the new Business As Usual world.

• Investment returns

The financial markets have been turbulent for several months now and the prudent insurer will most probably have lowered return expectations with funds being moved away from potentially more risky investments to shorter duration, higher quality asset classes. The market volatility has arisen at a time when the new Solvency II (sorry, Business As Usual) rules have impacted on certain asset classes by requiring higher capital charges being imposed; to illustrate the point, property now incurs a 25% charge whereas a three month bank deposit with a secure institution will incur only 7%.

• Rating Agencies

I am aware of several insurers that have obtained strong ratings from AM Best in the last year or so, although many are choosing not to publish these at the present time. I believe this will be an area that will continue to develop.

• Part VII Transfers

Sad to report but there have been no noticeable positive developments in this long running saga. Should Brexit happen it would be imperative that the Government of Gibraltar agree with the UK Treasury that Gibraltar be allowed to receive portfolio transfers from the UK. Bizarrely, we have seen further inward transfers from other EU member states, but this door may be closed in a post-Brexit world.

• ILS Business

The first of these transactions was completed last year and it is believed a second is imminent. There has not been the steady stream that was to be hoped for as yet, and again I believe it will be an area that is uncertain until after the UK Referendum.

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held a similar role in the Cayman Islands, comments: “Whilst I am not sure that client compensation schemes work in small jurisdictions, an effective independent arbitration system or ombudsman scheme may be appropriate for individuals to be able to get any wrongdoings by law firms put right in a speedy and cost effective way – it’s what people effectively expect to have in 2016.”



Mark Okes-Voysey traded PwC Europe role for Hassans’ international business

The Bar has also been supportive of compulsory training for lawyers specifically in Gibraltar law, which is based on Common Law and similar to English Law, but frequently is subtly different. A new Certificate in Gibraltar Law is required by all newly qualified lawyers before they can be called to the Gibraltar Bar and the part-time, one-year course at Gibraltar University is being taken up by the first 21 students on law firm contracts of at least a year, as well as a

two week Professional Skills Course that will follow in the summer.

Training for the future

Currently there are 37 Gibraltar-sponsored students of law at various stages of UK University training, and those who return to Gibraltar will either join one of 31 local practices or work in-house for companies or government.

However, continuous professional development (CPD) for existing lawyers occurs only on an ad hoc basis: Azopardi would like to see it become compulsory, a view supported by government. Minister Licudi reveals: “I used to do CPD, because I was not only called to the Bar in Gibraltar and the UK and unusually I had a practicing certificate there as well, so I was required to keep up with knowledge through CPD – its fundamental.”

Gibraltar’s modernised and extended law courts costing £11m opened in 2012, but ‘administrative issues’, such as backlogs in provision of dates for hearings, caused months of delays, and then law firms frequently waited months for court

appearances. The government subsequently imposed hearing date time limits of five days for 90% of applications and for cases to be heard as soon as possible. Licudi says the system sometimes works too well; “we now even face situations where dates are given that are too soon for lawyers.”

There used to be “a significant delay – years later in some cases – in reporting of cases and judgments and, because we rely on Common Law and judicial precedent, it is so important for the profession to know what judges are deciding.” Judgments now are made available on the Court website shortly after cases end.

Recently a judge criticised prosecution systems as “a shambles” when court papers were mislaid or not available. Licudi is hoping to prevent repeat situations with the launch before summer of a £1.4m criminal justice integrated IT system that provides for data input from all elements of the criminal justice system, police, lawyers, judges, prison authorities and customs staff. “It will reduce the need for paper shuffling: taking physical bundles of documents to court may well be a thing of the past”, Licudi muses.



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Finance Minister leads trade mission to Singapore and Hong Kong

The Hon Albert Isola MP, Minister for Financial and Maritime Services, led a delegation to Singapore and Hong Kong in April.

Gibraltar Finance, and a strong contingent from the private sector, including lawyers, accountants, fund administrators and the Gibraltar



HM Government of Gibraltar

Stock Exchange (GSX) held technical sessions, including a breakfast presentation for some ninety professionals, principally in the funds and asset management sectors, which focused on fund structuring, marketing and securitisation for alternative asset managers. Prior to the presentations, Minister Isola took the

opportunity to address and inform the audience of current developments in Gibraltar.

The Minister also hosted a reception for the Singapore shipping community and was accompanied by CEO and Captain of the Port, Bob Sanguinetti and key stakeholders from the maritime sector, who highlighted the many synergies between Singapore and Gibraltar.

The delegation then moved on to Hong Kong for a series of similar events that were organized with the assistance of Jason Cruz, chief executive of the Gibraltar governments Hong Kong office, and his team.

Two new lawyers join ISOLAS law firm

Longest established Gibraltar law firm ISOLAS is delighted to announce the appointment of two new lawyers, to join their growing

team. Stuart Dalmedo, who spent some time at ISOLAS as part of a secondment arrangement with Grant Thornton, returns to join the team. He is a dual qualified solicitor of England & Wales and Gibraltar, and he received his BA (Hons) Business and Law from Kingston University.



Also joining the firm is Karan Aswani, who is a graduate in European Law and French from the University of

Warwick/Lille (Erasmus). He had previously worked with a number of lawyers at ISOLAS, as part of the companies Mini-Pupillage Scheme.

Donation to Rainbow Ward at St. Bernard's Hospital

The Guardian Angel Foundation has donated £14,000 to fund the sensory room in the Rainbow Ward at St.

Bernard's Hospital. The sensory room provides a relaxing space that helps to reduce agitation and anxiety; feelings often experienced by hospitalised, sick children. An interactive aroma panel activates smells, colours, sounds and breezes for aromatic, visual, audible and tactile stimulation, while a bubble tube and LED projector wheel lighting, is soothing and relaxing.



Sensory areas are especially useful for children with sensory processing disorders such as autism, cerebral palsy or brain injury.

The donation has also funded the refurbishment and development of the children's playroom, including the purchase of new toys and art and craft materials.

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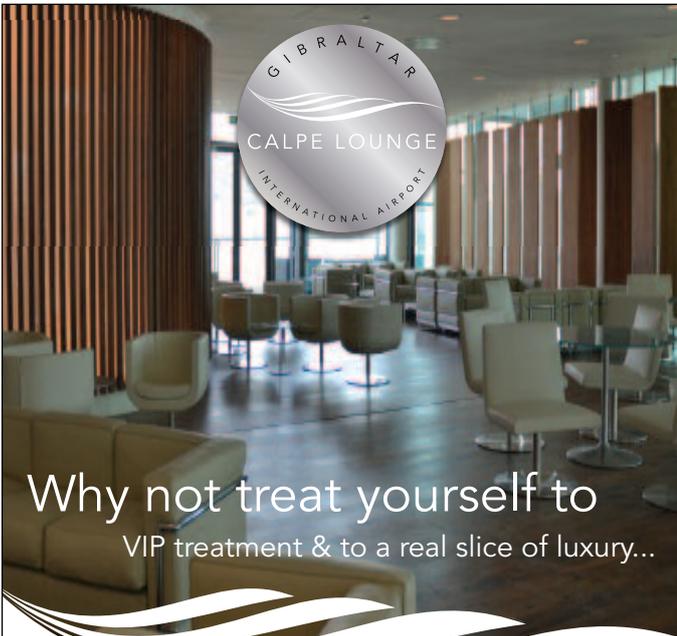
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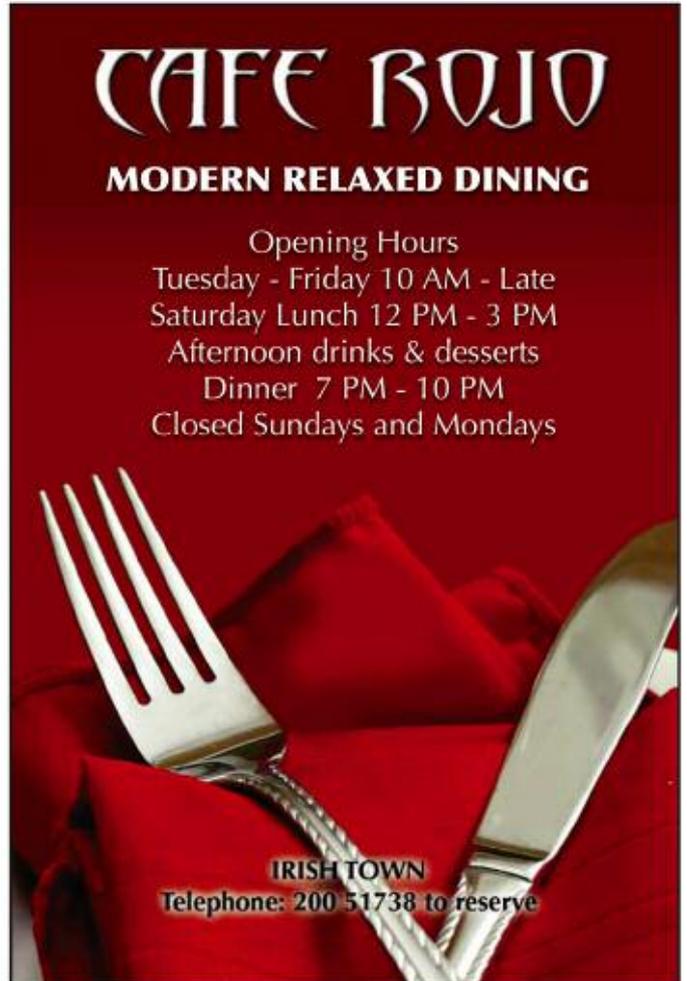


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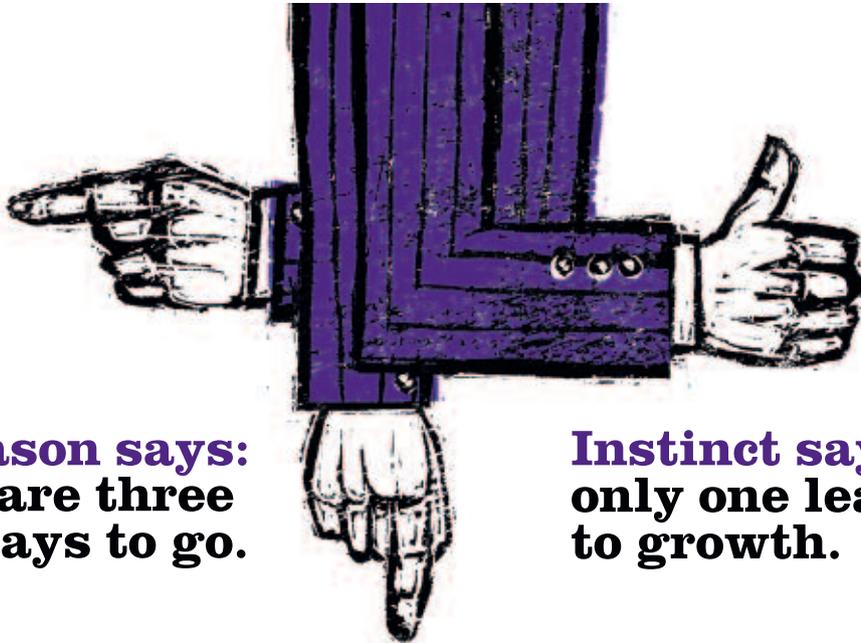
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