

p6 Hotel boom

p25 Airport grows

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EDITORIAL COMMENT

Crack down brings big benefit

The so-called 'crack down on tax havens', which definition tends to include Gibraltar, will – contrary to the expectations of many – have a very positive effect on the jurisdiction!



Politicians and pressure groups around the world focused on London's G20 nations summit to allege that offshore financial centres are about helping individuals and businesses not only to evade, but also to avoid, taxes they feel rightly belong to their national revenue instead.

The resulting clamour by OECD 'grey' and 'black listed' countries to sign Taxation Information Exchange Agreements (TIEAs) in a move to 'transparency' will serve to help bring those 'havens' into mainstream acceptability.

All 84 OECD countries will have sufficient numbers and standard of TIEAs if promises are kept; Gibraltar signed its first – with the US – significantly, just ahead of the G20 meeting and expects to have the necessary 12 such agreements by Winter.

That will mean Gibraltar losing its tax haven label, rightly being considered an EU on-shore financial centre – and providing a considerable marketing opportunity for the territory and its advantageous (compared with most 'big' countries') tax system!

A second TIEA with "another of the largest OECD countries" is said to be imminent. If it is not with Spain, then it ought certainly to be shortly, as a result of the Tripartite talks this summer that includes financial services. Spain will surely not drag its heels on clearly such an important matter when it was a strong advocate of and signatory to tax haven reform!

But what exactly will have changed for G20 members; will world economies improve as a result?

Gibraltar, under the EU Savings Tax Directive has long co-operated with countries asking for specific information, as will happen under a TIEA. In the New Order, The Rock is unlikely to be a material beneficiary.

And inquiries can only concern an individual or an identified company – not general fishing exercises – after exhausting all other legal means; not a speedy or simple process.

However, there are moves to extend the Directive to other investments. The Trades Union Congress wants reform, suggesting the UK loses at least £4bn a year, because only three quarters of the potential 'withholding tax' is received. It wants it all.

What might be a better next step is to ensure that individuals and corporate entities are protected from the risk of being taxed twice where the same income is taxable in two states – in other words, a series of Double Taxation Agreements, which are proliferate amongst G20 countries, but Gibraltar lacks!

Whilst there is international acceptance of tax sovereignty, seeking to pay less tax – known as tax avoidance – is no crime.



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Hotel boom in prospect set to double capacity

In excess of 1000 new hotel rooms are being planned to open in Gibraltar over the next three to four years, more than doubling the total number of rooms presently available - despite the present economic recession, Editor Ray Spencer reports.

Big name hotel groups are being associated with four major projects and there is even talk in addition of a 250-bed floating hotel!

The investments would likely exceed £100m.

Each aims to be of at least four star standard - one is likely to become a 5-star hotel, Gibraltar's first - and some already have planning permission.

If the schemes became reality, they would create significant new employment opportunities, both during the construction phases and also the hotel staffing and numerous support businesses.

This is in addition to firm plans to extend the 120-bed-room city centre O'Callaghan Elliott Hotel, increasing its total space by 75 per cent in an extension building.

But existing hoteliers question the viability of the new schemes and whether the Gibraltar tourist market in particular, is sufficiently developed to justify more rooms.

Chief Minister Peter Caruana told the April session of Parliament that Hilton had expressed an interest in establishing a hotel in Gibraltar, at a meeting with investors and representatives of the chain in London.

Gibraltar International understands that negotiations on a city centre site have begun for use as a 5-star hotel

with around 250 rooms, which is likely to be an independent development, operated by Hilton on a management or franchise basis.

A decision on the project, aiming primarily at business customers, is expected within six months when a number of issues have been resolved.

But Hilton spokesperson, Nicola McShane, would not confirm the plan, saying only: "We are interested in opportunities throughout the whole of the Iberian region; we are actively looking."

At the same time, Ukrainian Geert Camerlinckx, has submitted a proposal to the Government for his Belgian company to anchor

"sees value in the idea, it has not yet approved any proposal, or a site, or a size, or a design for the building."

Indeed, the government has for several years been keen to see more hotels on The Rock and numerous schemes advanced - most are dormant or have been abandoned.

"Gibraltar has been in need of additional hotel space for a number of years - I could see that coming in the late 1990s; after being in office for 3-4 years, I could see how tourism was growing", remarked Joe Holliday, Minister for Development.

He recognised that building a hotel takes time, "so I was advocating additional hotels when occupancy was not up to saturation point and there were still plenty of rooms available".

Holliday, whose brief until a year ago included tourism, told *Gibraltar International*: "At the time

local hoteliers were definitely against any new hotels coming in."

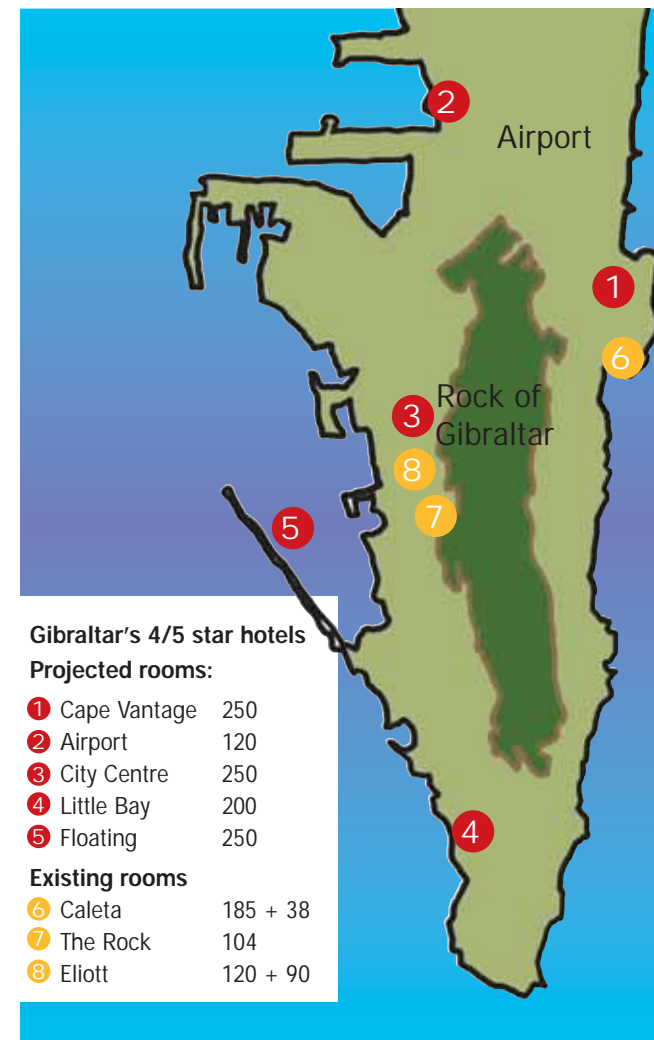
Part of local concern is the level of occupancy of Gibraltar's seven hotels, which in 2007 and 2008 was 60-65 per cent. That means on average on any night of the year there were 150 available hotel beds on the Rock.

Earlier this year occupancy was thought to be slightly down on a year ago, mainly in the business sector.

But Gibraltar's success at the European Court of Justice in confirming tax sovereignty is expected to prompt more businesses to relocate to the Rock to take advantage of the new low 10 per cent Corporation tax rate, and consequently boost corporate hotel demand.

Hoteliers also reported an uncharacteristic bumper Easter trade spurred by Sterling Zone appeal and the first Gibraltar Boat Show; early indications are for higher tourist demand overall this year.

"Other successful tourist destinations achieve 75 - 80 per cent occupancy, but as things now stand any new hotel facility will clearly cher-



ry pick custom and serve only to dilute occupancy levels for other existing hotels", commented Franco Ostuni, general manager for the last ten years of the 185-bed 4-star Caleta Hotel.

Nevertheless, Minister Holliday is focused on the years ahead and the need for new "serious players" located on The Rock, which will "help drive up interest in visiting and staying in Gibraltar".

Leading hotel chains such as Four Seasons, Hyatt, InterContinental and Holiday Inns are thought to be taking an interest in Gibraltar, as well as Hilton.

According to Holliday, there was "no shortage of interest from people in opening businesses in Gibraltar, despite the wider recession; people are taking a longer term view."

On the east side of The Rock at Sovereign Bay, a 250 room, 4/5 star hotel of 3,100 sq m, is included in the £1.8bn project now known as Cape Vantage. A year ago the master plan, which includes up

to 2,500 apartments, retail, commercial or office and leisure facilities, received government approval.

A 500-berth marina project is also envisaged, but options are being considered for the scale and design of this aspect and when to include it within the build programme.

Projected to take a decade to realise, Cape Vantage is expected later this year to submit detailed plans for the first phase, which is likely to include the first two buildings - around 400 residential units and the hotel.

"The east side is a very large and significant project, not just for Gibraltar, but anywhere in the world", Holliday acknowledged.

Originally designed by British architect Norman Foster, ownership of the project has changed in recent years and now is a partnership between Canadian developer Brookfield and local entrepreneurs, the Reubin Brothers.

Continued P8

Big three can still get bigger

Gibraltar's three existing four star hotels account for nearly 80 per cent of Gibraltar's hotel rooms and apart from refurbishment, each has development plans.

The largest project is for the 104-bedroom iconic Rock Hotel, built in a commanding position overlooking the Bay of Algeiras in 1932 by the Marquis of Bute.

Decorated in colonial style, its myriad of corridors and elegant rooms were destined until recently to be demolished to make way for a projected slightly smaller £20m destination hotel, reportedly with spa and health club to appeal as much to

locals as to tourists.

But the potential for premium corporate business growth as a result of Gibraltar's planned 10 per cent low corporation tax rate has prompted shareholders - the Bland family, plus a handful of others - to pause and look at other hotel possibilities.

Either way, it would take at least two years to be rid of the energy and space inefficient original, and rebuild the hotel.

It is believed there's even the possibility that The Rock Hotel could be relocated!

The 32 years old Caleta Hotel, also family owned, emerged in 2007 from a seven year, £5m refurbishment pro-

gramme that saw bedrooms reduced from 185 to 169 catering for twice as many people, and creation of Gibraltar's largest conference centre with break-out rooms, plus health & beauty suite.

Sited on the east just south of the large Cape Vantage residential and hotel development, the Caleta has planning permission for an extension to provide 38 self-catering suites.

"The project is shelved at this time", says Franco Ostuni, general manager, "the building costs of up to £1,800 per sq m don't make it seem a viable proposition, even when we already own the land". However, the opportunities are

being kept under review. The O'Callaghan Elliott is a newer city centre hotel with 120 bedrooms that was refurbished in 2006 to include a conference suite and restaurant.

The Development and Planning Commission resolved a year ago to grant outline planning permission that it has yet to issue, for an extension to the Irish-owned hotel on an adjacent site adding 90 bedroom suites that will be linked to the main hotel by a bridge.

In the meantime, competition has also come to a limited extent from Spanish-owned Iberostar Hotels, which opened a 226 room property nearby in La Linea, opposite the new Alcaidesa marina complex now being built, and facing Gibraltar.

Spreading the word gains in popularity

The Gibraltar Finance Centre is to more than double its programme of promotional meetings held abroad in 2009 as part of a re-energised marketing effort to attract more businesses to the jurisdiction.

In recent times, four or five specialist seminars have been staged each year by the Finance Centre department of the Ministry of Finance in cities such as Zurich, Vienna, Prague and Munich, as well as London. They include subjects from Funds, Wealth Management and Insurance as well as attendance at major industry international events.

But now, in addition a series of smaller, more intimate and fairly discreet occasions are planned, made possible in part by the availability of meetings facilities at the Gibraltar Government's new London office, where it is cost-effective and efficient to have groups of around 25 people.

Finance Centre Director,

James Tipping, told *Gibraltar International*. "We are doing more meetings than before and taking our activity to a different level by leveraging the availability of key people in the main elements that make up Gibraltar's financial sector".

The programme, devised in conjunction with Gibraltar businesses that share in the cost, includes re-visiting RIMS Risk & Insurance Management Society, in Florida on 20-23 April - the largest risk management event in the USA, gathering up to 10,000 risk industry professionals.

In mid-May, Tipping's team will be at the British Insurance Brokers Association conference and exhibition in Manchester and it is hoped to break new ground with attendance at the June conference in Monaco of GAIN, the alternative investment managers' and funds body.

The Centre also plans to visit STEP - the Society of Trust

and Estate Practitioners - at its Edinburgh conference in November, and provide details about the jurisdiction's new low tax legislation planned to take effect from July next year.

Gibraltar's chief minister, Peter Caruana, has responded to requests for him to again address a Finance Centre luncheon in Geneva, in October which follows the second of two Swiss seminars on Funds and Wealth Management.

"What is most rewarding is the quality of people and organisations prepared to come along and listen to what Gibraltar has to offer - the level of interest and take-up is great", Tipping declared.

In addition to the annual foreign financial media visit to Gibraltar in June - the invitations to which were accepted within 24 hours - the Finance Centre team is planning a series of one-on-one briefings at the London office with individual journalists keen to get an insight into the reasons for the jurisdiction's progress and potential.

At the same time, the Finance Centre is hoping to

accommodate demand for more spaces from Gibraltar businesses wanting to invite their UK contacts to attend the Finance Centre lunch in London, addressed by Caruana as part of the Gibraltar Day celebrations in mid-October.

"It has proven to be a great networking opportunity for those wishing to expand their business with Gibraltar and to hear at first hand about our progress from the Chief Minister", said Tipping.

The programme includes:

● *Gibraltar as an International Financial Centre for Funds and Wealth Management*, including presentations on Gibraltar as a jurisdiction, the economy, the benefits of its position within the EU. *Lausanne - 12 May & Frankfurt - 14 May.*

● *Gibraltar - European Centre for Insurance and Reinsurance* examines regulatory framework and the use of Protected Cell Companies. *London - 17 June.*

● *Gibraltar as an international financial centre for funds and wealth Management*, covering asset management operations and fund. *London - 18 June.*

Hotel boom from P7

The project's web site states: "Around 10 per cent of Gibraltar is reclaimed land. Cape Vantage will adopt this technique and create a new coastline for the territory."

Jones Lang LaSalle Hotels, the international hotel investment services firm, has been appointed to secure a premium hotel operator to provide "the new benchmark for hospitality in Gibraltar".

In yet another move, a 120 - 150 bedroom aparthotel is planned for the Rotunda site directly opposite the airport terminal - itself subject of substantial development and just metres away from the Spanish border, on land presently used

as a 24-hour car park.

Outline planning permission for 245 guest rooms, as well as retail facilities and 552 car parking spaces, has been granted after aeronautical studies meant limiting the height of buildings to two storeys. However, a "more viable" 4-storey hotel project is likely to be submitted next year by local developer A B Massias, utilising government reclaimed land at adjacent Western Beach.

A project that has been mooted for some time is at Little Bay at the South end of The Rock on Ministry of Defence land where City Vacations boss Raj Kumar is hoping to build a 200 room

holiday hotel, with banqueting and conference facilities.

Negotiations include relocation of MoD facilities on the site and a decision to proceed is now expected to be made within six months.

"It is probably inevitable that in three or four years there will be at least one more hotel in Gibraltar that will bring a bigger, fresher product, but I doubt that this will be fuelled by strong growth in demand", says Ostuni, who has just overseen a £5m, seven year refurbishment of the near 50-year old Caleta Hotel.

General manager of the 77 years-old Rock Hotel, Stephen Davenport, is philosophical about more hotels opening in

Gibraltar. "It's a free market and we will meet that competition, if and when it comes."

Given the certainty of the new tax regime from 2010 and the new airport terminal now being built, Davenport sees more opportunity for higher-yielding corporate bookings and declares: "The future for Gibraltar and its hotels is very encouraging."

Minister Holliday, who also is Deputy Leader of the Government, notes: "I know that some hoteliers are on-side - they see it as a positive to be able to offer more hotels here in Gibraltar - others as a threat, but it is not up to the Government to control competition".



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Six 'special advantages' give insurance captives a good home

After more than 40 years' experience working in international insurance from the City of London, Dennis McDonald recalls he first began business dealings in Gibraltar in 1994 – and still believes The Rock is best...

Since the mid-1980s, a significant part of my effort has been in developing and assisting Captive Insurance and other Alternative Risk Financing devices, and have dealt with all major specialist Financial Centres around the world.

Some 15 years ago I was approached for advice by a Gibraltar-based captive insurance manager on re-insurance for a company being established. Gibraltar domiciled insurance companies at that time could be counted in single figures – (now there are around 60). I became a regular visitor to The Rock, and have advised many clients that it is the place to domicile their Captives or Cells.

And I see six special advantages offered by Gibraltar.

● **LOCATION.** When the island of Åland (a Swedish speaking autonomous province of Finland in the northern Baltic) decided in the early 1990s to promote itself as a specialist insurance domicile, it was mindful of its close proximity to Sweden, a major market for Captive insurance.

Swedish potential clients however, understood something of the regional weather patterns, and chose to look further south!

Bermuda was also seen as attractive in the early days of European-owned captives, but today shareholders and finance directors are less sympathetic to risk managers recommending a domicile far from home!

In contrast, Gibraltar is relatively easy to reach and enjoys a better climate than the home countries of most European captive owners.

● **INFRASTRUCTURE** – Gibraltar has good infrastructure, with a strong pool of highly competent insurance professionals.

The recent formation of a Chartered Insurance Institute branch in Gibraltar, with an initial compliment of more than 100 members, demonstrates this well. Essential support services – legal,

accounting, and banking – are also readily available.

● **REGULATION** – Regulators are Bureaucrats. As such, they may be tempted to take an "If-I-never-say-yes-I'll-never-be-sacked" attitude, and this approach is clear in some places. But not in Gibraltar, where firm but fair regulation – to full EU Standards – is coupled with a friendly team of pragmatists happy to help new entrants meet required standards.

The Gibraltar Financial Services Commission is also highly regarded by fellow regulators around the world – and even by those whose job it is to oversee regulators on behalf of global institutions, such as the IMF. Gibraltar truly has become a "Centre of Excellence".

● **THE EU** – What used to be called the Common Market, the European Union is now becoming (and perhaps, always was in the minds of its initial promoters) much more of a political institution, determined to control more and more of the activities of its citizens.

At the same time, it has moved a long way towards becoming the major single entity for trade and commerce that was promised.

The Isle of Man and Guernsey (plus to a lesser extent Jersey) provide good facilities for UK companies looking to set up Captives for their UK activities, but Gibraltar's EU status gives it an important advantage over those longer-standing competitors when risks outside the UK are involved.

● **GOVERNMENT SUPPORT** – The Gibraltar Government provides exceptional support for the financial community, with The Finance Centre in particular, doing an excellent job both at home and around the world in assisting the private sector to get its message across.

The Government has also been helpful with legislation, particularly, in recent years, the law that allowed Protected Cell Insurance companies to be established within the domicile.

With an insurance background, rather than accountancy, I sometimes feel that tax breaks enter a little too early into the consideration of whether and where a captive insurance company should be formed.

No-one wants to pay more tax than necessary, so Gibraltar's low Corporation Tax approach that is expected shortly to be introduced should provide still more impetus to the growing popularity of the Rock as a 'domicile of choice'

● **STABILITY** – Even the World's premier specialist insurance centre, Bermuda, has been suffering from the twin pressures of a big neighbour (in the form of the US) wanting greater control of what occurs on the island, and a local Government that wants to change local employment, housing, and other facets.

By contrast, Gibraltar's situation of political and economic stability – particularly since the 2006 Cordoba Agreement to establish the Trilateral Forum of Dialogue on Gibraltar between Spain, the UK and Gibraltar itself – is regarded as being just about as good as it gets.

And the European Court of Justice has just confirmed that The Rock is able to determine its own company tax policy, independent of the UK. There are no 'one size fits all' solutions to the global problems of Risk Management and Insurance and Gibraltar is never going to be the single place to answer all these challenges.

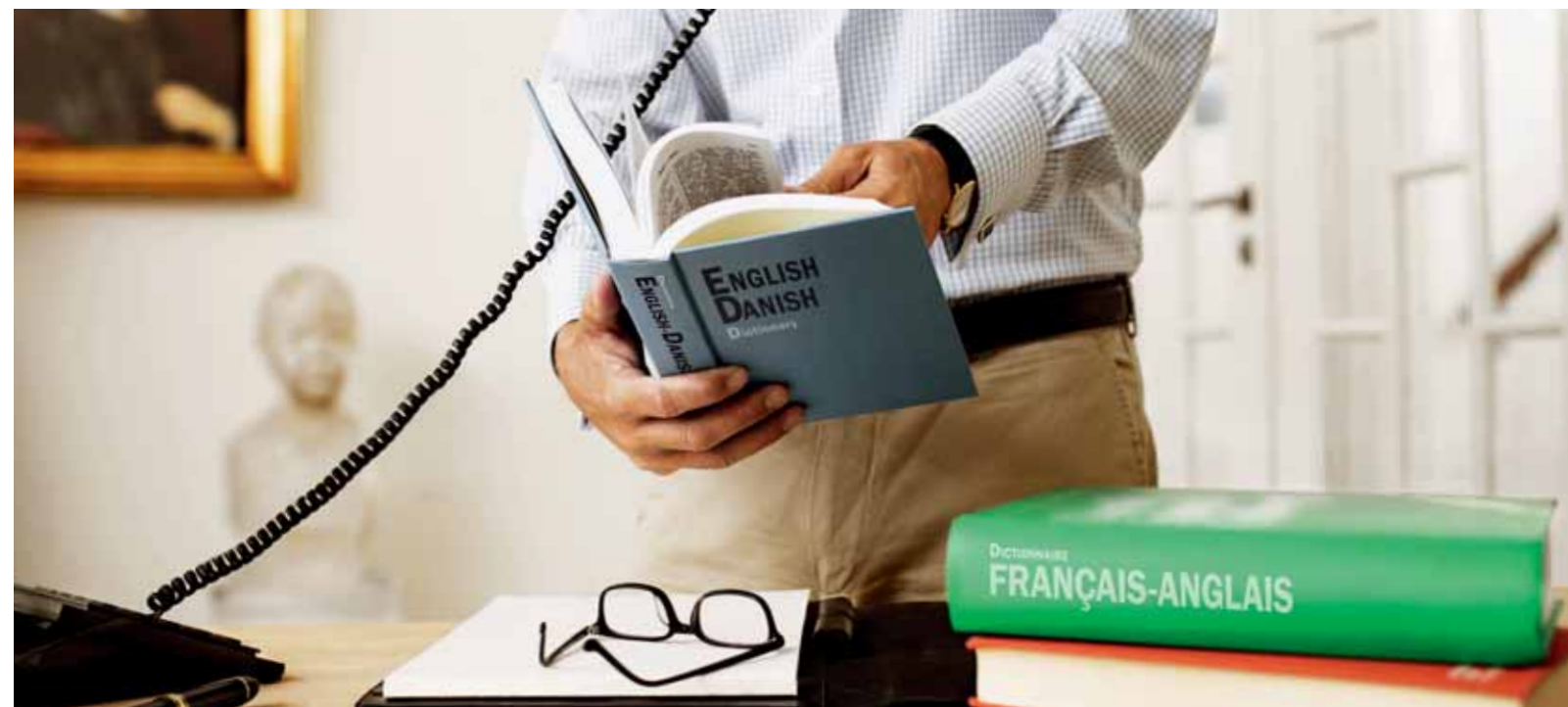
It is however, well-placed to play a role far greater than might be expected from its small physical and population size.

This has not happened by chance; it is the result of a determined and co-ordinated effort by all sections of "Gibraltar Ltd" to rise to the challenges.

Dennis McDonald is a divisional director of Thompson Heath and Bond, a Lloyd's Broker and a non-executive director of Caledonian Insurance Management Services, Gibraltar.



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Towards better regulation

A raft of new consultation papers suggests a number of changes, but David Parody, Chief Executive Officer at the Financial Services Commission, argues it is not a case of too many, too soon!



The Financial Services Commission (FSC) has always led by example. It has been a believer in not asking firms to do anything that it would not do itself.

And for that reason, it was one of the first organisations in Gibraltar to demonstrate its commitment to Quality Management Systems and its own HR processes by obtaining the ISO9001:2000 and Investors in People certifications.

More recent changes to the FSC itself has seen the separation of the functions of Chief Executive and Chairman in terms of its own corporate governance, as well as the establishment of Audit, Nominations and Remuneration Committees.

These are things that the FSC has promulgated in the Corporate Governance Consultation paper (see later). If the only constant is change then the FSC epitomises how it constantly looks at itself in order to seek improvements in how it addresses new issues.

The internal workings of the FSC are evolving to better understand the risks being faced by both the industry and the Gibraltar jurisdiction.

An internal Regulatory Risk Committee, which is comprised of the senior team members of each division of

the FSC, now meets regularly to review issues affecting not only specific firms, but also the industry as a whole.

This was one of the improvements made to FSC internal workings after an examination of the Northern Rock report on failings at its UK counterpart, the FSA.

Key to the successful implementation of a regulatory regime in a jurisdiction like Gibraltar is maintaining good relations with stakeholders and making sure that both interests are served without compromising standards.

The FSC in the coming months plans to roll-out a universal application process for all types of regulated activities. At present there are a variety of forms and documentation required to be produced with some 15 variations of application forms in use and the FSC recognises that this is burdensome, bureaucratic and confusing.

We are looking to streamline this to three or four forms that can be used to apply for any type of regulatory activity.

In the first quarter of this year, the Government of Gibraltar and the FSC have issued a number of consultation papers dealing with various aspects of proposed changes to financial services regulation. The FSC has also gone public with a revised methodology for supervising firms.

The FSC consultation exercises

reflect not only the established maturity of the industry, but also underscore the need for regulatory practices to keep abreast of international standards.

Fresh look at risk

The FSC announced in March that it has revamped the main supervisory tool with which it carries out its supervisory and regulatory functions to achieve a more focused approach to the mitigation of risks of firms to both their underlying customers and industry at large.

The revised methodology ensures that regulatory burdens imposed on the firm are proportionate to the risks presented. Larger firms with poor controls and volatile business plans will have a greater emphasis on the FSC radar than those with a lower risk profile.

A firm's senior management therefore is able to ensure that risk management techniques are brought to bear so that a low risk profile is achieved and maintained, thus keeping regulatory costs down.

The scope and intensity of the FSC programme of visits to firms will be targeted more towards those firms with a higher risk profile, ensuring valuable FSC resources are focussed on where they are most needed.

'Approved Persons' plan

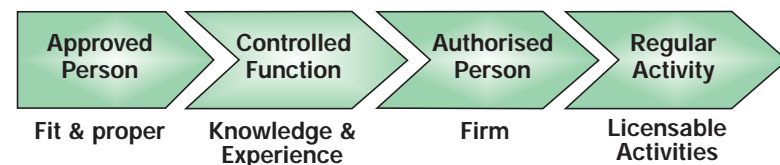
The Government's consultation paper on the introduction of an Approved Persons regime aims to bring about important changes to the way in which key individuals are approved for regulated firms.

One of the most important changes would be to ensure natural justice for the individuals concerned. At present the FSC may take action against a firm when it considers that one of these key individuals does not meet the "fit & proper" test; yet an individual has no right of recourse to any type of appeal process.

We believe this to be fundamentally flawed and the FSC wholly supports the concept of individuals having such rights. The proposed regime requires anyone who has a key role within a regulated firm (known as a controlled function) to be approved for that role within that firm. (See Figure 1)

Continued P14

Fig 1



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Regulation from P12

However, that person has no automatic right to perform the same function at another firm; the permission is very specific for a given function at a given firm. Consent will need to be sought for every change in circumstances.

'Approved Persons' will need to abide by Statements of Principle and the accompanying Code of Conduct, as set out in the Consultation Paper. Failure to abide by these would give the Authority the right to remove the individual's approval.

It is envisaged that those persons currently conducting a controlled function will be "grandfathered" into the new regime.

Corporate Governance demands

The FSC launched a separate paper on a related but much wider subject - Corporate Governance of financial services providers. The paper seeks views from industry on the possible publication of a Guidance Note to make public the FSC practice in relation to Corporate Governance arrangements.

As well as existing statutory provisions of Gibraltar legislation, the paper draws heavily on work produced by international standard setting bodies - the Basel Committee on Banking Supervision, International Association of Insurance Supervisors and the International Organisation of Securities Commissions.

Four areas are identified where the FSC will expect regulated firms to have compliance arrangements in place.

Head Office, Mind and Management and Four Eyes are already requirements that must be met by all regulated firms. The consultation paper highlights what it is expected firms should have in place in order to satisfy this approach. (See above Fig 2)

What has drawn great interest from the industry relates to the proposals to have the larger firms (banks, insurance companies as well as the larger company management / trust operations and insurance managers) split the roles of Chairman and of Chief Executive, the appointment of an independent non-executive director, and the establishment of an audit committee.

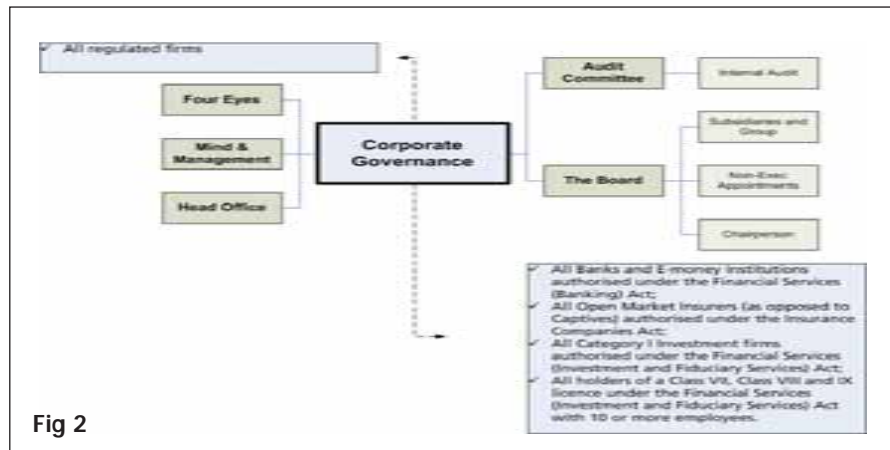


Fig 2

Once industry feedback has been reviewed, the FSC will make a formal submission for the issue of the Guidance Notes, subject to any amendments that Government may wish to effect.

Mortgage regulation follows EU

Government has also consulted industry on the possible introduction of a regulatory regime for mortgage service providers, not only those who extend mortgages (banks and building societies), but also those who give advice or broker mortgages.

Considering that a mortgage is probably the biggest financial outlay that most people face in their life, it is important that good and clear advice is provided so that informed decisions are made. The proposals, which also include making the early repayment of mortgages easier, follow recent EU consultations on the future EU-wide regulation of the sector.

Compulsory insurance needed

The fourth Government consultation paper proposes compulsory forms of insurance for financial services providers. The FSC already imposes these requirements via statutory provisions for certain types of regulated firms and by way of licensing conditions on others, but it is now proposed that legislation requires all types of regulated firms have these forms of insurance.

The paper highlights the pros and cons of the insurance types. In particular, ultimately they add a level of reassurance to customers and to the regulator that a major event can be withstood, which otherwise might affect

the financial stability and long term viability of a firm!

Transforming regulation

If one thing is certain to arise out of the current economic crisis, it is that the regulatory environment is about to be transformed. The EU is leading the pack with the recent Larosiere Report and the EU presidency committing to macro-economic regulator across the EU.

Stronger micro-regulation requirements are also about to make an intro into the foray with revisions to the Basel capital accord for banks, wider regulation of the shadow banking system and credit rating agencies also on the cards.

In the UK the FSA has also published a major review of its own supervisory processes in the form of the Turner Review.

The FSC will keep a close eye on all international regulatory developments with a view to giving them effect, with Government consent, to addresses the specific risks and circumstances of the Gibraltar marketplace.

Whilst these changes may seem to be too many, too soon, the FSC strongly welcomes them, and believes that industry should too; they will lead to a stronger and more robust regulated financial services industry.

These changes do not represent a case of "more regulation", but of "better regulation". We are urging firms to respond as soon as possible to the consultation processes.

Copies of the FSC paper on Corporate Governance can be found at www.fsc.gi/fsc/consult and Government Consultation Papers on Financial Services at www.gibraltar.gov.gi/gov_depts/finance/consultation.

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Gambling on the future

A decade after internet gambling firms began relocating to Gibraltar, Editor Ray Spencer looks at how the on-line firms are adapting to tough economic times, increased competition and international protectionism!

The challenge for the on-line industry now is to "face the misperception in Europe and the US of the nature and value and methods of the mainstream gaming companies", says Phill Brear, Gibraltar's Head of Gambling Regulation.

Those words mask a long-running row between internet-based gaming companies, many of which are based in Gibraltar, and the US and a dozen European countries, all seeking to exclude on-line gaming firms from taking their citizens bets – contrary to international and EU law!

"The US for example, regards on-line gaming as un-licensable and so accepting bets from US citizens is not permitted. But in Europe, there are many firms still exploiting the US market to the detriment of Gibraltar-based businesses, which are prohibited from targeting US markets", he pointed out.

The US 2006 decision to close its market to foreign gaming companies cut off significant business for many operators and led to reduced staffing.

Brear, a former Director of Operations at the British Gambling Commission and Deputy Chief Constable of West Yorkshire Police, said this remains a delicate commercial and legal dilemma as other jurisdictions adopt a different position. A wide range of parties are trying to encourage the US Government to adopt a less prohibitionist and more consistent 'free trade' position.

This would better reflect the realities of remote gambling than an assumption that denying US players access to bona fide suppliers is the most appropriate method of remedying the fiscal and social policy issue underlying the legislation.

In a draft report, the European Commission has found that US laws deny access and discriminate against foreign suppliers of gambling and betting services inconsistent with US World Trade Organisation obligations.

Provisional conclusions of the report imply that WTO proceedings against the US

would be justified.

European companies – despite withdrawing from the market – were still subject to US legal proceedings based on their past activities and the report, sent to EU member states for comment, concludes that was "legally not justified and discriminatory".

A founding member of PartyGaming, Anurag Dikshit, agreed in December to forfeit \$300 million after pleading guilty to breaking US law against Internet betting prior to October 2007 when the Unlawful Internet Gambling Enforcement Act – was passed.

Other operators are said privately to be concerned at what they see as 'caving in' to the US authorities.



PartyGaming expects to settle at a "significantly lower" amount without a criminal plea on the part of the company or of a director.

In the online marketplace, competition has intensified and is expected to continue to do so. "Overall, the competitive environment remains subject to change depending on regulatory and technological developments", PartyGaming added.

Responsibility

In the meantime, Brear pointed out that Gibraltar had licensed "the world's strongest and most dynamic operators in remote gambling", but "with that comes a responsibility for all parties to ensure we help develop and meet the highest international standards around player protection, integrity of facilities and resilience of systems".

A member both of the European Gambling Regulators Forum and the International Association of Gambling Regulators, Brear sees it as important that, as the industry comes under increasing demand and international scrutiny, "we must ensure that Gibraltar's reputation goes from strength to strength".

The condition of a Gibraltar licence is that "the advertising and promotion of gambling activities can only be directed to citizens of nations in which it is not illegal for such activities to be undertaken", according to the Government Internet Gambling web site.

The inequity is further compounded by parts of the UK – Isle of Man and Alderney (Guernsey) – having no licence restrictions and, unlike Gibraltar, they are not part of the EU. However, unlike in the EU, the ban on infiltrating the huge US market is made possible because there is no specific US against protectionism.

There is uncertainty as to the legality of online gambling in some countries, where local regulators are willing to license and regulate local and often State-owned operators, but at the same time prohibit foreign operators.

In the EU, which requires 'free movement of goods and services', France, Germany, Spain and Italy are among States that have moved to protect their own land-based gambling enterprises.

"Their feeling is that internet gaming offers originating from outside their boundaries harms their national lottery and casino operations by siphoning revenue out of the country", explains Brear.

"Yet the gambler in those countries is able to use the Internet to access sites originating in Belize and some very remote and far-away places, for example, where there are no controls and no tax arrangements benefiting EU countries", he added.

Since April 2006, the Commission has instigated infringement proceedings against ten member States because it believes they

have rules that break European law. The proceedings are against Austria, Germany, France, Hungary, Sweden, Finland, Denmark, Italy, Greece and the Netherlands.

Oliver Drewes, EU Commission Spokesman for Internal Market and Services, said there were "no new developments at this stage, cases are ongoing and being considered".

Landmark ECJ rulings – the 'Gambelli' and 'Placanica' Italian cases – have largely supported the companies' objections, and there is a suspicion that the delay in issuing further judgements is to do with European politics.

France, Spain and Ireland are now thought to be preparing to regulate rather than ban on-line gaming.

PartyGaming's Jim Ryan said in his annual business review that "if regulation rather than prohibition is introduced in major markets and if the efforts of the European Commission are successful in breaking-up many of the state controlled gambling monopolies across Europe, then the impact on future growth for the industry and for PartyGaming will be significant".

Regulator Brear points out: "The ECJ has the opportunity to clarify the market situation and differentiate those in well-run, licensed jurisdictions as main stream and at the same time come up with a resolution that will satisfy all parties concerned".

One other possibility, given the sophistication of on-line software that can track key strokes down to individual computers, is to institute some form of tax scheme acceptable



to the companies, the nation concerned and the Gibraltar Government that would see the various target States receiving a proportion of the gambling revenue originating in those countries.

"In that way", Brear argues, "the countries would legitimately get a bigger slice of the gambling cake, without restricting access contrary to EU rules."

William Hill estimates Europe accounts for 45 per cent of the global on-line betting and gaming market; PartyGaming

reports worldwide online gaming to be worth around \$20bn in gross gaming yield last year.

Consolidation is in prospect, but not until the US situation is resolved, and possibly also the outcome of the ECJ is known; then values can be put on companies.

Staffing steady as expansion seen for on-line gaming

Gibraltar's internet-based gaming industry looks set to ride-out the current economic crises and expand, according to industry reports.

Gibraltar's 20 on-line gaming firms are expecting to gain more business as people continue to regard it as an affordable, low-cost entertainment.

The mood has been towards consolidating operations, shifting key functions from the UK to the lower-cost Rock centres, although some operators have reduced their staff numbers.

"On balance the net effect has been largely neutral, with between 1,700 and 1,800 people involved in the sector currently", Phill Brear, Gibraltar's Head of Gambling Regulation, remarked.

Mergers in the industry are mooted, but the outcome of negotiations concerning access to American punters, and several national protectionism cases needs to be clear.

Gibraltar strictly controls the number and nature of licences and for remote gaming and betting does not have an 'open

door' policy for newcomers.

It will only consider licensing blue chip companies with a proven track record in gaming, licensed in a reputable jurisdiction, of good financial standing and with a realistic business plan.

Even then, it seems keen not to expand significantly the number of gaming businesses on The Rock. Yet the appeal of Gibraltar is great as a result of its "less aggressive duty and tax-friendly policy".

Companies pay 15 per cent Gaming Duty in the UK, but only between £85,000 and £450,000 in Gibraltar based on 1 per cent of betting turnover or gross gaming yield, which last year netted the Government £8-9m.

Free to expand

Next year a new flat 10 per cent rate Corporation Tax will apply, expected to be effectively further reduced by 'allowances' when calculating the pre-tax sum.

Existing operators are free to expand their Gibraltar base and there has been, for consolidating and relocating sales, accounting, customer service and technical support functions to The Rock.

Victor Chandler was the first gaming company to relocate to Gibraltar a decade ago, prompted by the UK 9 per cent tax on customers placing bets – subsequently removed in late 2001. That sparked a flood of licence applications from other internet-based gaming companies to set up in Gibraltar.

In mid-February, Stan James (Gibraltar) merged its UK Stan James (Abingdon) consolidating all remote betting operations, including internet, mobile and call centre in Gibraltar.

That added 35 jobs – some people relocating to Gibraltar – and increased its Gibraltar headquarters staff to 260 compared with 96 four years ago.

Peter Fisher, chief executive of Stan James recently transformed from a family business to a PLC – says the firm was "at the beginning of the industry's next growth phase", he said.

Continued P19



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Staffing steady from P17

He warns "those operators that do not keep up with the development of customer requirements, as well as technological developments, are unlikely to survive increased competition in the near future".

PartyGaming, a wholly on-line gaming company, has 225 of its 1,200 employees at the Gibraltar head office and operations centre. Company spokesman John Shepherd said.

"But our commitment to Gibraltar remains sound. We are looking to expand our business again, but have to bear in mind the economic climate".

Contribution

Online gaming companies already make a very large tax contribution to Gibraltar, in particular through employment taxes, gaming duty and bandwidth charges, Shepherd noted, "just as we are already major stakeholders in Gibraltar, its growth and its success".

Henry Birch, William Hill Online chief executive is also "very committed to Gibraltar as a jurisdiction with a fantastic infrastructure". Integration with its new software partner Playtech could take until September, and "as a result, we expect to grow our operations in Gibraltar."



Ralph Topping, the firm's chief executive, noted in the parent company's 2008 annual report: "The internet-based gaming and betting market is expected to continue to grow at double-digit rates for at least the next three to five years."

And William Hill added: "While it is unclear how the current economic climate might affect our business in the coming months, performance in 2008 as a whole, in the fourth quarter of the year and in 2009 to date has been resilient".

More outside UK

Tax on profit grew just short of 15 per cent to reach £59.3m in 2008 and following a cut in UK corporation tax, the Board expects the Group's effective tax rate to reduce further "as a result of a greater proportion of operating profit coming from online activities based outside the UK."

Regulator Brear, who also is responsible for 220 gambling machines in Gibraltar clubs and bars and the Rock's

GAMING

Casino said: "Unlike in the UK, betting duty in Gibraltar is much lower.

"Although it may be complex for on-line gaming companies to move all of their activities from the UK because of tax considerations, they are moving parts of their business here where there is a more sympathetic and more competitive tax regime", he notes.

Nevertheless, operator 888.Holdings plc with 300 Gibraltar staff, noted that adverse foreign exchange movement with the marked appreciation of the US dollar compared to Sterling and the Euro, challenging trading conditions and an uncertain recessionary economic environment, had adversely affected its business.

The full year 888 performance, however, still turned out better with total operating income up 21 per cent on 2007 at US\$263m, "despite the difficult economic circumstances", chief executive Gigi Levy, said in April when revealing the company's final results.

Levy added: "We remain confident that we will continue to grow our business even in the current downturn."

Bwin International claims to offer up to 30,000 bets daily in more than 90 sports. It employs around 200 people in Gibraltar - 40 more than a year earlier - involved in bookmaking, customer service, security, IT and administration.

Casino builds on cross-border appeal

Easter produced a bumper demand for gaming facilities - particularly bingo - at Gibraltar's new £6m Casino at Ocean Village's Leisure Island.

After 44 years, Gala Coral Group moved the casino in January from Upper Rock to create its largest single gaming and entertainment venue, incorporating both Gala and Coral branded activities.

"Relocation has been an excellent move for us," said Tim Mitchell, international sales and marketing manager. He's been promoting fly-gambling holidays in the UK at the Group's 160 bingo clubs and 28 casinos.

The Casino has twelve gaming tables and incorporates a 450-seat bingo centre, poker room, coral sports lounge as well as the Epernay Champagne Bar, Ice Line Bar and a Char Grill

Restaurant.

"Even before the move, we were attracting around 2,500 people a week to the casino and bingo - half from

local businessmen as a purpose-built focal point for Gibraltar, the Casino became part of the Gala Group when it bought Ladbrokes in 2000.

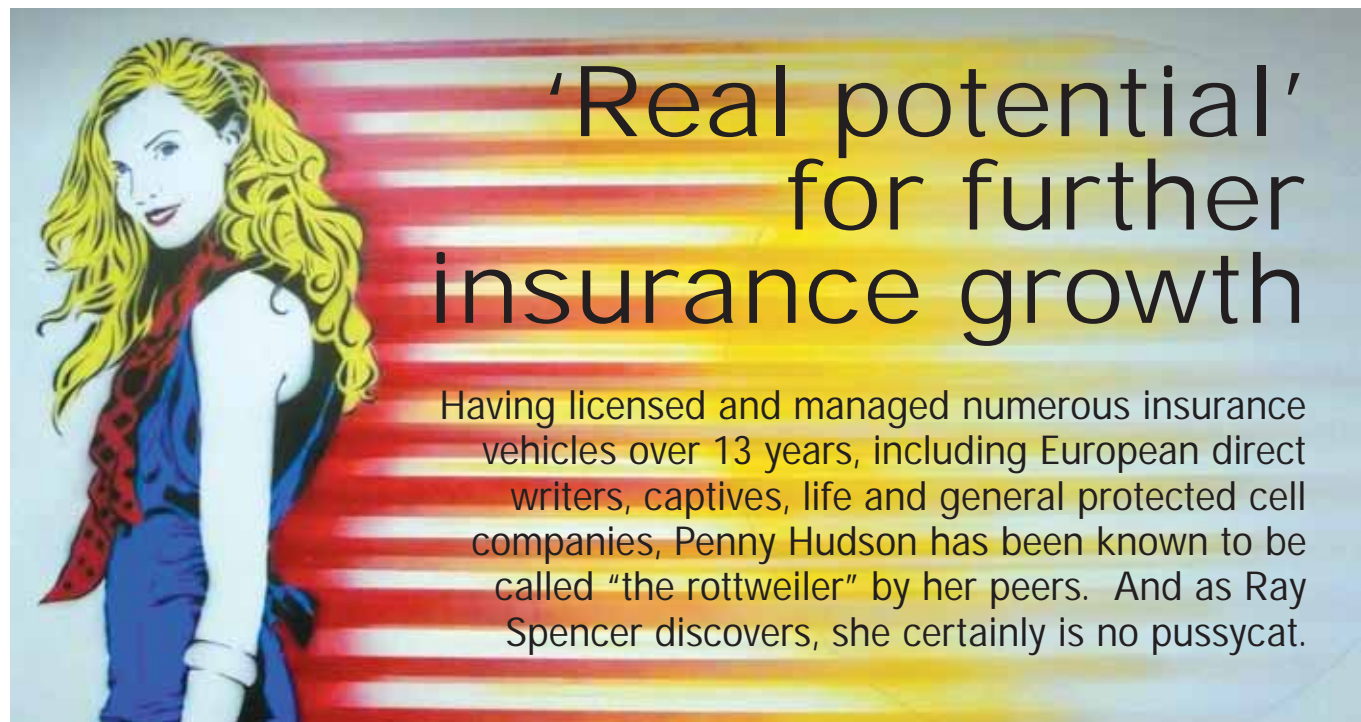
Mitchell, who has spent 37 years in the gaming business also in the UK and Bahamas, explains: "Here we have a fantastic business model that will set Gibraltar ahead of the rest of Europe, combining under one roof both the casino - where we will even teach people to play without feeling inhibited - and bingo.

"This enables us to even out the peaks and troughs of demand from different sectors of the community and the 'Holiday in the Sun' offer to our UK centres will bring in a new wave of business that will benefit all of Gibraltar", he adds.



Spain - and being now located near both to the town and to the border it has proved even more popular", says Mitchell, who has been working for the Gibraltar's casino for 12 years.

Originally built by a consortium of



She began her insurance career with Pearl Assurance which later became AMP and moved from the UK to Gibraltar in 1991 having answered an advertisement to work for Norwich Union (later to become Argus) on life & pensions business.

Then after four years at Valmet (now Finsbury Management) in the local insurance division, Hudson felt the need for a fresh challenge.

At 33 years of age, Hudson founded Caledonian Insurance Management Services Ltd. "I don't know why I decided to go it alone; I just wanted to see if I could do it", she recalls.

With Valmet's blessing, Hudson took with her the management of Heaton & Newcastle's property and liability captive, (which she retained until 2002 when the client no longer required a Gibraltar captive).

"My parents were very adventurous types; they had me late - my brother is 9 years older - and whilst I was still young, they urged me to try anything and everything," she comments.

So aged 23, Yorkshire-born Hudson ventured alone to Thailand for a year travelling and working. "It was a big step going to the Far East alone. I was bought up to know no fear, but not to be stupid - caution is there", Hudson assures.

When she set up Caledonian there were only four marketing insurance in Gibraltar; Hudson, Bruno Callaghan (now part of Willis), Alan Kentish (STM Fidecs) and Chris Johnson (European Insurance Management services, later to become Aon).

"We were like the four musketeers - a David and Goliath situation facing up to the might of Luxembourg, Ireland and Bermuda, spurred on by our territory's new Euro credentials for passporting financial services."

Enticing business

Today there is double the number of management firms and whereas at the beginning "it was always necessary to go out of Gibraltar to entice business here, for the past few years the reverse has been true".

A Virgo, she admits to being "very anal about things - consumed by detail and a born worrier." But given the definition of Virgo personality - very independent, very intelligent, and highly analytical - it's hardly surprising: problem solving is what she does best.

And Hudson can lay claim to a number of notable achievements.

For the past six years, Caledonian has managed from Gibraltar the UK's largest motor insurance company which writes on a branch basis.

Working with Robin Ellison,

London & Colonial Assurance Group Chairman - a pensions expert, lawyer and past chairman of the National Association of UK Pensions Fund - and Ken Wrench, L&C's chief executive, Caledonian launched in 2001 Gibraltar's first life insurance company cell facility, for which Hudson remains managing director, supported by a local Board. L&C has £500m assets under administration.

Significantly, it was also the first independent life cell facility of its kind to offer a full range of products within the EU.

But that's not where it ends. A year later, equally notable, Caledonian incorporated Millennium Insurance as the first Spanish-owned insurance company in Gibraltar, and in 2006 it became stand-alone.

Although cross-border relations were "difficult" at the time, Millennium was still able to get a license to operate from Gibraltar; Hudson believes "it still is the only Spanish owned insurance company operating from this territory".

But Hudson claims to have been "oblivious to the politics of it all then; I am not a political animal, I just tend to say what I think, but I have to live with the consequences too", she smiles.

Hudson's forthright approach was born out of a need to make herself heard and to be taken seriously. Being the

product of a mixed Yorkshire boarding school, she admits to being something of a Tom Boy.

"Success is largely a balance - worrying about the business and making time for personal enjoyment. Profit is not my only criterion, so I try to find the right balance in life", Hudson insists.

"I have also been very lucky; since 2001, I have had an intelligent major shareholder that leaves me contractual control, and a responsible board of directors. That together with the amazing team of people that work with me, allows Caledonian to be the stable and consistent company that it is", she enthuses.

By way of proof, Caledonian's operations has doubled in size in the last four years, and bought smart new Main Street offices in 2006.

Whilst the old adage says "time is money", she values the Oriental saying, "time is luck - and you have to make the most of it".

Looking considerably younger than her 46 years, she is infectiously positive, but escapes to a Spanish cottage in the Jimena national park, "where I can close the door on the world; I am very happy with my own company".

Her brother, she says whilst rolling her eyes, has "an IQ off the scale", as did her civil engineer former husband, and - as though realising it for the first time - she then reflects: "I suppose my IQ level maybe more than I give myself credit for".

Today, Hudson believes she still is Gibraltar's only female Fellow of the Chartered Insurance Institute - the industry training arm - a distinction gained in 1996 having submitted a thesis on 'Why captives can go bust writing third party risks'!

More women now

"Compared to when I arrived in Gibraltar, the great thing is that there are many more women in the insurance industry, qualified and running their own businesses," she says.

Disarmingly shy about her own success, she prefers to deflect attention by praising "the agility and adaptability of the Gibraltar Finance Centre to changing and developing circumstances".

Although the jurisdiction has seen steady growth, based on quality not

quantity, she feels it's sometimes hard for Gibraltar's voice to be heard given its small size compared to others within the EU.

"Despite this, Gibraltar copes with the full weight of European requirements", she points out. "I'm amazed how people in Gibraltar take things in their stride and just keep on going", she observes, seemingly unaware that that situation mirrors her own personal experience.

"Now Gibraltar has its tax status confirmed [by the December European Court of Justice (ECJ) decision that the territory is independently responsible for its own tax laws] that will encourage the insurance industry further and gives us a chance to re-market this place and challenge others like Ireland as a low tax destination," Hudson enthuses.

"I am not a political animal, I just say what I think, but I have to live with the consequences too"

"There is real potential - since the ECJ decision I am already talking to at least one other insurance sector company about moving its operation here."

Called by colleagues a rottweiler - "I give as good as I get" - Hudson declares: "All I want is a fair deal. I've faced all the forms of chauvinism going".

She tells of how as a Valmet director early in her Gibraltar career, she contacted a local bank manager who declared he didn't deal with secretaries and to 'phone back when her boss returned!

Today, Caledonian has 15 staff - just two are male - and there is three more female staff in her London & Colonial operation.

"I've not done that consciously, it's just the way things have turned out for available people of the right quality and experience." Caledonian both retrain staff originally from outside the insurance industry, and trains others from elsewhere in Europe - "it's a major benefit of being in the EU".

Re-elected Chairman of the Gibraltar Insurance Association in late

February for a third year, Hudson removed a committee structure to actively involve all of the growing membership, and was instrumental in the launch late last year of the training-led Gibraltar Insurance Institute.

"We need to be able to take advantage of our members' combined talents, strengths and experience to combat potential future threats to our industry and to maintain a level playing field," she declares, adding: "There are some really great people here in Gibraltar representing the industry, and they have been very supportive."

"Being a small jurisdiction, especially one in the EU, we have always had to fight our corner and we have become good at it, hence Gibraltar will continue to grow in size, stature and innovation," Hudson asserts.

She also acknowledges two consuming passions - travel and animals (as well as owning stray dogs and cats).

Hoping to visit the Arctic in May "to see some of the place before it disappears and the polar bears and wolves", her appetite was whetted in 1993 by a trip to the Amazon.

"I saw pink fresh water dolphins, fed parrots ice cubes and piranha fishing - they are so fast and very difficult to catch" - she recalls, with no thought of danger. White water rafting and helicopter flights at sunset over the Iguaçu were brilliant too.

Small but large

Having worked in both life and general insurance for companies, brokers and as a captive manager, her work ambition now simply is to keep Caledonian progressing. "Although the number of clients we have is relatively small, in terms of size of clients, we are already a large operation."

However, she admits to another personal aspiration. "At some point I'd like to work at a safari park for a while".

Winter target for 12 tax agreements

The Gibraltar government expects to have signed at least 12 Tax Information Exchange Agreements (TIEA) with OECD countries by November. It has already agreed one with the US and "the operative parts of the text with another of the largest OECD countries".

The second agreement, which the government sees as part of "the global raising of standards of financial services regulation, transparency and exchange of information", is expected to be signed shortly with the undisclosed country.

And Chief Minister Peter Caruana stated his administration was "well advanced in the process of signing up tax information exchange agreements" to achieve the goal of 12.

The US and Gibraltar signed their tax agreement in London on the eve of the G20 nations summit. It was Gibraltar's first such agreement, although it offered agreements to all OECD countries in November.

The OECD lists Gibraltar among "jurisdictions that have committed to the internationally agreed tax standard, but have not yet substantially

implemented". Achieving around 12 TIEAs would put the jurisdiction in the main body of countries with agreed standards of information exchange.

Countries currently in the same list as Gibraltar include EU Member States like Austria, Belgium, Luxembourg, as well as other countries such as Switzerland, Singapore and Bermuda.

Just prior to Easter all 84 OECD jurisdictions had at least verbally agreed to the international standard, but as European Commissioner for Taxation and Customs, László Kovács, noted: "We have a long list of commitments, now it's a question of how they are implemented in practice."

"Countries cannot undermine our process with second hand commitments. We will be monitoring progress; the proof of the pudding will be in the eating", the meeting heard. Some countries had done very little since committing to information exchange five or six years ago.

Agreements can differ slightly in terminology and details, but broadly allow both countries to seek information

on all types of taxes. Only specified tax authorities can receive and send information solely for tax purposes and confidentiality of information must be safeguarded.

Requests for information can only be made after legal remedies within a country have been exhausted. The US agreement TIEA allows both countries to ask for criminal tax information relating to any taxable year and for civil tax information relating to taxable years beginning after 2008.

As part of the EU, Gibraltar already complies with EU standards of financial regulation and exchange of information and operates under the Savings Tax Directive, which includes the option of applying withholding tax on interest payments, and the Mutual Assistance Directive.

Kovács told a Paris press conference post-G20 that "the era of bank secrecy is over". There were plans shortly to "extend the scope of the Savings and Tax Directive beyond bank deposits" to automatically exchange information on other areas "such as capital guarantee investments and life insurance".

There were plans too to extend the Directive beyond the geographical scope of the EU! OECD Secretary-General

Angel Gurría told the conference: "The goal is not to have names publicly in the newspaper; the aim is to allow all countries to do their jobs and ensure residents and companies pay their taxes."

"The OECD standard is not a passing flavour of the day; we were applying this before the current economic crisis."

In a statement Caruana said "Gibraltar welcomes the raising of global standards in financial services that is bound to emerge in the near future, and is itself already very well placed to prosper in the new era that will emerge."

There had been a "hard-worked-at transformation of the Rock's financial sector from an offshore haven into a well-regulated, EU onshore finance centre".

"Twelve years of planned repositioning of our finance centre, its activities and reputation will now serve Gibraltar well", he added.

As an integral part of the EU, including its single market in financial services all EU regulatory and supervisory directives and other laws, as well as all EU laws, agreements and measures relating to transparency, exchange of information (including for tax purposes) and regulatory co-operation and direct taxation, already apply in Gibraltar.

Accountants see TIEA as "perfect platform"

"Committing to Tax Information Exchange Agreements under the right conditions will reaffirm Gibraltar's willingness to implement international standards of transparency, cooperation and exchange of information with international partners," believes Joe Pisharello, President of Gibraltar Society of Chartered

and Certified Accountancy Bodies. Changes to a single corporation tax next year "gives us a perfect platform to promote a well regulated jurisdiction, with a low tax rate and in so doing better able to attract good quality business," he told members and other finance centre professionals.

Speaking at a Society

dinner, Pisharello also pointed to growing pressure from the European Commission, to introduce laws limiting auditors' liability, which many EU countries had either done, or were in the process of activating.

He believed it fair for auditors to be able to limit their liability solely to acts under their direct responsibility and "the responses to a recent consultation paper overwhelmingly supported the introduction

of limitation of liability principles, if nothing else to ensure that Gibraltar is not left out on a limb compared to the rest of Europe".

A significant factor that contributed to the credit crunch was a fundamental failure in corporate governance, Pisharello maintained, including a lack of rigorous challenge by Boards compounded by a poor understanding of the risks involved.

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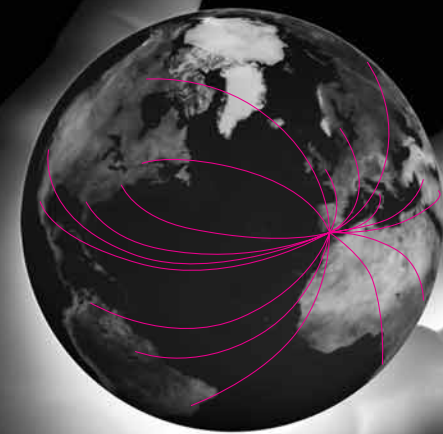
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In touch with you...

New airline primes a projected six-fold airport expansion

Work is well underway with construction of Gibraltar's new €59m airport terminal that will allow direct passenger entry and exit into both Spain and Gibraltar, but aspects of the design are still being finalised – and there is no indication yet of what arrangements will exist in La Linea.

Government confidence in the decision to invest upfront of clear demand indicators was given a boost by the news that new low-cost Spanish airline Andalus was linking Gibraltar and Madrid with regular flights from 30 April, with the full support and encouragement of surrounding Spanish local authorities.

Indeed, Andalus – an Andalucian-financed airline started in January from Malaga – is confident that by



summer it will have a second route in place from Gibraltar to "other destinations on the Peninsula", possibly to include

Barcelona!

Using a 50-seat Embraer 145 plane based at Gibraltar, these flights effectively replace

and expand those discontinued by Iberia at end-September after two years of twice weekly links to the Spanish capital using larger capacity aircraft.

"When complete in early 2011, the terminal will be able to handle up to six times as many passengers than now - in excess of 1m people", Joe Holliday, whose role as Minister for Transport embraces the airport, told *Gibraltar International* in an exclusive interview.

However, the aim was not to maximise the new opportunity: "We have set a self-imposed limit of a maximum of 16 flight rotations on a daily basis, which is around 3 times more than now", he said, "because we understand the need to take into account the environmental effect on the Gibraltar community and the population of the Campo".

Continued P26

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Airport expansion from P25

In July, the Government awarded the contract for construction of the new air terminal and related roads and buildings to Dragados SA, part of ACS Group of Spain, under EU tender procedures.

The work now progressing includes a section of new road between the frontier crossing and the commercial gate, air-field apron and aircraft parking works, new cargo handling facilities, airport vehicles building, and new customs facilities for both the airport and the commercial land frontier crossing.

Chief Minister Peter Caruana said in September that the new terminal was necessary "because 21st century socially and economically affluent Gibraltar could not last very much longer with the airport and the air terminal that we have".

Since being announced the airport project has been dogged by opposition politicians and the Federation of Small Business claiming the scale of development was unnecessary in the economic recession.

Former FSB chairman, Ken Robinson, declared that whilst agreeing that the existing terminal had to be upgraded, he questioned the need for "such a grandiose scheme" when the limited Government funds available could be better spent perhaps on other entrepreneurial ventures or tourism site improvements.

"The Government takes a long term view - it cannot be a short term decision based on what we expect the economy to be like over the next 18 months", Minister Holliday maintained.

"We continue to be as excited about the project as we

have always been; the timing is right".

The development has been made possible by the 2006 Cordoba Agreement between Spain, the UK and Gibraltar, which accepted the need for "more fluid movement of people, vehicles and goods between Gibraltar and the surrounding area", and provided for expanded use of the terminal, with all functions remaining in Gibraltar.

That meant all security, check-in, baggage handling, boarding and all air-side apron activities remaining within Gibraltar's jurisdiction and control, with a small part of the terminal building on the Spanish side of the frontier fence.

That will allow Spanish officials to carryout advance Schengen entry and exit checks on passengers travelling to or from a Spanish airport, or who

enter or exit Gibraltar Airport via Gibraltar.

"There are issues that still need to be resolved - for example the commercial aspects of the duty free area - aspects that are important to the everyday person", Holliday explained.

"It has taken a long time to develop our requirements, because of the need to have political agreement under Cordoba and which involves adapting the design of the building - effectively, architects working alongside politicians", he added.

"We expect to be in a much better position to move forward publicly and be clear by summer, but everyone can see now that work has started".

The terminal will mean Gibraltar is well-placed to take advantage of growing demand when international economies start to improve.

Closer FX supervision

All of Gibraltar's 18 Bureaux de Change facilities and Money Transmitters have been given a provisional licence to operate by the Financial Services Commission, pending consideration of applications for full licences, as part of heightened supervision of their operations.

Changes to Gibraltar legislation in October, shifted responsibility for licensing and supervising from a government committee working with Customs & Excise to the Financial Services Commission.

Whilst the temporary licence was automatically available to existing operators, they face regular on-site visits and risk assessments to ensure greater compliance with the changing international situation on movement of money.

FSC chief executive Marcus Killick believes "there will be room for improvement", particularly in respect of enhancing procedures under new money laundering requirements set out by the International Monetary Fund.

Banking control stepped up

An extra layer of scrutiny has been imposed in Gibraltar with immediate effect for those wanting to set up banks in the jurisdiction, as a further means of safeguarding the Finance Centre reputation.

Even applicants that have passed scrutiny by the Financial Services Commission may be rejected by Chief Minister Peter Caruana, in his dual role of Finance Minister, shifting the final responsibility to publicly elected officials, who are accountable "if things go wrong".

The move means that only existing, well-recognised banks will be able to open for business in Gibraltar and Caruana told Parliament that it is important to be seen as only having reputable banks.

Now the Minister's consent is also needed whenever applications are from an entity where more than 20 per cent of shares are not owned by an European Economic Area (EEA) credit institution, or is not a branch of a credit institution in the UK or another EEA state.

The new requirements also apply whenever the applicant involves use of a

name by an authorised credit institution other than a name derived from the name of those of its shareholders that are a credit institution or the group of companies of which such shareholders form part.

In addition to reputation, the government felt that it should be protected against possible claims for a bailout beyond the liability of the deposit protection scheme and this move is backed by existing banks concerned that they fund the compensation scheme.

Pointing to Iceland as an example of an economy put in jeopardy, Caruana declared that "these judgements should not be made by bodies that are not accountable to the electorate," whilst stressing continued confidence in the Regulator and the FSC, which still has the ability to reject applications from the outset. It was "a time to be raising public perception of the quality of our banks," he said. Only established banking names can be used, and where it is a new joint venture, the name must be that of the banking institution.

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Gibraltar's Safe Haven

It's somewhat disconcerting, to read almost daily about the UK economic woes, let alone those affected elsewhere around the world, when we sit here in Gibraltar seemingly relatively unaffected says Paul de Beresford



claiming the right to tax the bank account holders, irrespective of the location of the bank, the EU Savings Directive ensures that interest paid is reported to those countries.

However, since Gibraltar doesn't tax bank interest for its residents, the idea of establishing residence here has become even more attractive!

Gibraltar is also a very safe place - even when compared with other perceived safe places. The low crime rate is partly because of Gibraltar's small size and single exit point.

But it's also because of the lack of an unemployed under class, given full-employment and also a hands-on, relatively large Royal Gibraltar Police force that can be seen day and night on the ground.

Gibraltar is a properly governed territory with a well-regulated financial services industry with massive investment in

Yet, recent moves to clamp down upon tax havens and those that hide assets and income (including capital gains) in them, must be leading many to re-assess their choices in selecting where to base their economic activity, residence or capital.

But would they necessarily think about joining us here?

It has only been in recent years that Gibraltar has shaken off the image of being a naval and military base, with armies of manual workers serving it and

as a result a large part of its population in public housing estates.

Now, the reality of Gibraltar is a sophisticated and even glamorous city, with numerous luxury homes for well-healed outsiders and prosperous locals - now almost entirely white-collar and/or professionals.

Of course, individuals may already be feeling that the European Savings Directive has killed off the advantages of off-shore bank accounts.

It's true, that whilst tax on savings has always been payable in the countries

well-educated personnel drawn largely from locals who will not be here-today, gone-tomorrow.

Ownership of property is safe, as all is granted by the Crown (even freeholds).

The property market may have slipped back from dizzy advertised prices in anticipation of continued growth, but it is unlikely to erupt into free fall like elsewhere.

Anyone thinking of actual residence here should bear in mind the reduced stress levels likely to result in a longer life expectancy and the absence of necessary conversion of currency from Sterling.

EU standing

And for companies too, the EU has helped increase the standing and awareness of Gibraltar.

The recent European Court decision that, whilst Gibraltar is within the EU by dint of the UK's membership, it is actually a separate tax jurisdiction free to set its own tax levels and exemptions (and, of course, it remains excluded from its Customs Union, VAT Territory and Common Agricultural Policy provisions).

Gibraltar conceded that it could not tax its own local businesses whilst exempting those based here - but owned by outsiders and engaged in activity outside - so a new common rate of a mere 10 per cent and applicable to all is being introduced shortly.

This carries far more credibility compared with those territories continuing to exempt such overseas companies.

The other continuing issue is Spain and its attitude to Gibraltar.

Well, the Cordoba Agreement between the governments of Spain, the UK and Gibraltar put an end to any behind-closed-doors deal between Spain and UK to change anything unless Gibraltar agrees, and proposals cannot even be discussed without Gibraltar's knowledge.

A more important factor that has now arisen is Spain's obvious self-interest to remain on good terms with the UK, as the Spanish economy becomes more intertwined with Britain's as a result of recent mergers and acquisitions.

What, hopefully, will emerge from the talks is an exchange of information agreement that provides for still better transparency of activities involving Spanish residents to ensure that Spain

does not suffer, in much the same way that France does not allow French residents to use Monaco to avoid tax.

Spain is challenging ownership of the waters around Gibraltar, since no mention was made of them in the treaties that ceded (and later confirmed) Gibraltar as British, not Spanish.

A try-on by the Irish in the '70s over a similar omission in the peace treaty between the UK and Irish in 1920 that retained six counties for the UK, but mentioned nothing about the waters, got the Irish exited in case oil was found near the Giant's Causeway! International law prevailed and the challenge was dropped.

Indeed, the Government of Ireland Act, 1920, brings to mind a potential solution to any perceived uncertainty over Gibraltar's status.

That Act provided for a devolved constitution for Ulster with its own Governor, Senate, House of Commons, Civil Service and Ministries, and fiscal separation in as much as tax revenues were initially shared on a strict population basis (1/40 to Northern Ireland).

Reference to Northern Ireland being an "integral" part of the UK was to satisfy unionists; the intention of the Act was to separate Ulster permanently from Great Britain in preparation for eventual re-union with the independent South.

Since then, Northern Ireland has been refused "integration" into the UK by the British Government. (So much for the word "integral" in the Act.)

The separate nature of the Province was and remains demonstrated by the absence of measures otherwise applying across Great Britain. For example, British Railways never operated there, nor

British Gas.

The purpose of devolution in Scotland is different. It is a device to keep Scotland within Great Britain, not encourage it out. It can have no separate civil service or nationalized industries.

Gibraltar, by default, is no longer a colony, is not independent, does not wish to revert to Spain, so must be an "integral" (even if not "integrated") part of the UK and certainly, is part of an EU member state except, by Court decision, not required to adopt the same tax regime.

Politicians might ponder this analysis in their desire to see Gibraltar removed from the UN list of non-self governing territories and seek Gibraltar to be defined as part of the UK, albeit completely devolved from it.

Desirable location

Representation at Westminster would become necessary, but this could be satisfied by a seat in the House of Lords given that it is now largely a representative chamber, currently by appointment - but possibly by partial election in the future.

The Channel Islands and Isle of Man are not part of the UK or EU, although its peoples are British Citizens and, therefore, EU citizens, but they do not enjoy the free movement (immigration rights) to live and/or work in the EU (apart from the UK).

In the meantime, Gibraltar should rise up the ladder of desirable places to locate - businesses and personally.

Paul de Beresford is a UK-qualified tax practitioner specializing in residence, domicile, relocation and company & trust structures.

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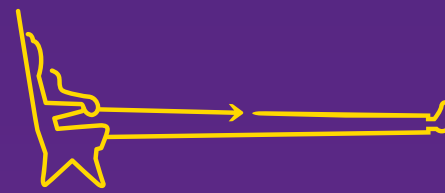
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