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GIBRALTAR INTERNATIONAL

FINANCE AND BUSINESS

Hedge Funds coups show the way

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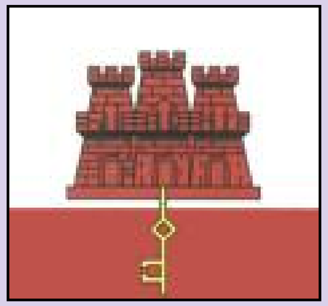

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EDITORIAL COMMENT

Looking to the future

How much better can it get? Gibraltar's economy keeps expanding, having experienced comparatively little effect of the world economic crisis. Investment in new infrastructure continues unabated, without reaching anything like the debt levels of other countries.

The growth in Gross Domestic Product (GDP) – a good measure of an economy's success - is enviable at 5 per cent yet again with the total to end-March now exceeding £900m. As such Gibraltar has one of the highest GDPs per capita anywhere in the world!

Of course it's not all been good news; some sectors have experienced difficult times – construction and retail are examples – but even then it is patchy; some good, others less so.

The May Chamber of Commerce annual Trading Conditions survey suggests all sectors are optimistic about Gibraltar's prospects in the long term, although a third of respondents had been affected by one or more recent business collapse.

It's great news therefore, that some local entrepreneurial spirit remains on The Rock, as demonstrated by the success of four college students in developing GibSights, with the first audio walking tour of Gibraltar, and reaching the Young Enterprise scheme national finals in London.

Apparently, the Chamber says companies in many sectors are holding back their investment decisions until there is certainty on the introduction of a new 10 per cent Corporation Tax across the board.

Well, the draft Tax Act giving effect to the new business tax from January has been published, albeit later than expected. The only slight uncertainty is the outstanding appeal by Spain against the European Court of Justice decision in support of Gibraltar's right to set its own tax rates independent of the UK.

The government is pressing ahead regardless and at the same time promising future lower personal taxes, provided everyone – business and individuals - contributes their fair share, on time.

Little wonder then that those with a wider vision outside of the jurisdiction feel confidence in what is on offer and are deciding to establish a Gibraltar base.

Major hedge funds, Hilton and other hotels, even major airlines – all are convinced that the territory has plenty to offer, despite existing local players complaining of "continued increases in costs … and increased competition from Spain and elsewhere".

Some £119m is being spent on capital projects in the current financial year, the latest Budget having added £92.5m to the pot.

However, it's unfortunate that some continue to carp on about the 'huge' £50m cost of the airport terminal with its business aviation centre – planning for the next half century does mean considerable up-front money, it should reflect the prosperity of the community, and it's being built now anyway.

But clearly, everyone will need to see the finished product next year before feeling "totally impressed, better than its new counterparts in Madrid and Barcelona", as Ministers suggest!

Rooting out 'dirty money' protects reputation

Gibraltar could learn from what Guernsey and the UK have done to help protect the reputation of their financial centres from the effects of bribery, corruption and fraud, key speakers suggested at a *Risk on the Rock* seminar.

World money laundering specialist Jeffrey Robinson, who has lived in the UK, the Channel Islands and elsewhere in Europe for 30 years, maintained that lawyers' confidential client accounts and private trusts are prime areas with potential to harm a jurisdiction's valued reputation.

Standard due diligence was not enough. "If your reputation matters to you, you've got to check it out," he said alleging that even Saddam Hussain had at one time fooled the system and channeled money through Gibraltar using at least two companies removed to avoid detection!

Going beyond KYC

People unconnected directly with any identified problem organisation, or who do not appear on any 'watch' list, are used by others to handle their money, he argued and added: "[the process of] Know Your Client (KYC) doesn't work.

"For all the emphasis on KYC, because the bad guys have got so good at it, your client is going to look totally legitimate. What you have to do is Know Your Client's clients – and his suppliers; you've got to go behind the front person.

Chief Minister Peter Caruana agreed, stating: "There is no substitute for commitment to preserving our jurisdictional reputation, which in a sense is our sole stock in trade."

Compliance and reputation went hand in hand as Gibraltar moved deeper into the complexities of mainstream financial services in insurance, fund management and investor services, he said.

But the government feels that compliance could well be extended beyond financial services companies to embrace lawyers' handling of client accounts, data management and on-line gaming.

Caruana declared that in respect of lawyers, the government would want to "get stuck in to a greater degree on those aspects of the financial centre jurisdictional reputation" and this included client accounts and participation in financial services.

Robinson recalled that Guernsey at one time "repeatedly was approached by legitimate law enforcement agencies wanting information about trusts. The chief minister there recognised it was his island's reputation at risk, and passed a law so that whenever a legitimate law enforcement agency asked about a trust, the information would be given up.

"Secrecy is dead", he assured as the jurisdiction had to be seen to be doing the right thing. "Several accounts left that island, and now doing business in Guernsey has the patina of legitimacy and, I am told, they are making more money now being transparent than they ever did with dirty money,"

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Tax income cut uncertain, but still expect a "good year"

Gross Domestic Product (GDP) grew by 5 per cent last year to reach £914m and is expected to increase by a similar amount in the current period, resulting in "another good year for our economy", says Chief Minister Peter Caruana in his latest Budget statement.

"The financial position remains in very good health…the overall recurrent budget surplus of £29.4m, is an all time record high" and represents nearly 10 per cent of overall Government expenditure, he told Parliament.

This provided Gibraltar with "a comfortable fiscal buffer at a time when most governments are struggling with fiscal deficits".

But importantly, it provides a cushion against an expected temporary fall in revenue from company tax that is being cut from 22 per cent to a new low 10 per cent rate from January – a decline of over 70 per cent since 2007 – and immediate reductions in personal tax!

Revenue in 2010-11 will be more volatile because of the much reduced tax rate and complex transitional provisions – a £10m fall in Corporation Tax to £18m is expected, "but the reduction may be greater".

To cushion the overall effect, Caruana is "rebalancing" revenue streams by increasing: commercial rates by 12 per cent; commercial electricity tariffs by 10 per cent (although as standing charges are unchanged, the average rise in bills will be around 6 per cent); and employer social insurance contributions by 10 per cent.

It was not realistic to expect the Government to "take on the chin" the full effect of more than halving company tax overnight.

Not realistic

"What is not known with any reliable precision is how much will be contributed in its place by companies that are presently exempt and will start to pay tax on 1 January 2011. Nor do we know with certainty what disruptive effect on revenue may result from the application of the transition period", Caruana admitted.

Cutting personal taxes would benefit people already living and working in Gibraltar, and also make it "an increasingly attractive personal tax jurisdiction for newcomers" – businesses, their owners and staff, and High NetWorth Individuals.

The new company tax rate is "a trade off", adding a small amount to business fixed costs, but leaving existing company taxpayers "potentially very much better off", Caruana was at pains to emphasise.

Budget Notes

Record surplus: £29.7m
GDP up 5.5% to £914m
£106m capital projects in 09; £150m for 2010
£139m net Public Debt – 15% of GDP
Public stake in big office development
10% Corporation Tax
Lower personal tax & higher thresholds
Employers' social insurance up 10%
Commercial rates up 12%

Proposals to develop new products and improve legislation in other, non tax areas will be considered by the Government, which will work with various sectors of the Finance Centre to enhance its attractiveness.

In the past year, the Finance Centre "has marked time and held its own well in these very difficult times, resulting mainly from the global recession, and financial and banking crisis which have hit volumes of business and revenue" and as a result lost 80 jobs.

Despite this a number of financial sectors, especially insurance and fund management had developed in international markets.

Overall, employment levels had fallen in some areas and risen in others leaving the job total of 20,450 just 59 down on the 2009 record.

Stepping into offices

Concerned at the lack of available office space, which "is proving to be an obstacle to companies seeking to establish or expand operations in Gibraltar, and thus curtailing our economic growth and development", the government is considering stepping in to remedy the situation.

"We are not willing to lend taxpayers' money to developers to allow them to make a profit", but the Government is negotiating with the developers of the £120m Mid Town Project "to become a majority shareholder in the development of the first phase, thus ensuring that taxpayers get their fair share of development profits".

Phase 1 is for Rock Towers, a 10,000sq ft, 13-storey office block with parking, costing some £30m on the site of a multi-storey car park just outside of Gibraltar's city walls. Commercial Developments Investments (part of Montagu Group) says 25 per cent of space has already been reserved for sale or rent.

As Caruana noted: "The economic needs of Gibraltar for more office space are going unsatisfied, not because of lack of demand for office space here, but because bank finance is unavailable for reasons that have nothing to do with Gibraltar."

Generally, the private sector experienced varied performance, "although there is no getting away from the fact that the global recession and the banking crisis and resulting credit crunch, are affecting everyone to some degree or other", Caruana conceded.

Justified optimism

Nevertheless, the sector "is proving remarkably resilient and robust. Despite short term concerns, there is justified optimism across almost all sectors in the longer term", he said.

The Government shared the objective of ending the most obvious examples of

Continued page 10

Putting Gibraltar "on the radar" as top funds firms move in

A top hedge fund manager has established his business in Gibraltar rather than London, the main centre for capital asset managers in Europe, and successfully launched what is reportedly one of the largest funds for two years worldwide!

"Working together to promote Gibraltar", Nick Cruz of GFCC

Raising more than US$500m, the inaugural Burren Global Arbitrage Fund was launched in July and is the latest in a series of coups for the low-tax jurisdiction that has meant more businesses locating for Gibraltar.

The Gibraltar Finance Centre Council (GFCC) has been receiving presentations from marketing communication companies to develop a strategy for giving the jurisdiction a higher profile among target sectors and opinion formers in the UK and elsewhere.

A 2011 initiative seems likely to follow January's planned introduction of a 10 per cent Corporate Tax rate for all companies - the Tax Exempt status presently enjoyed by nearly 3,000 locally registered businesses, including some banks and insurance companies, is being removed.

But the low tax on business profits has been available to businesses new to Gibraltar since July 2009.

There remains s a feeling amongst GFCC members that more needs to be done to promote the package of benefits Gibraltar can offer to businesses considering relocation of all or part of their operations.

Burren Capital Advisors Fund manager Andrew McGrath told *Gibraltar International* that although "London was traditionally a popular choice with my peers, the fiscal reality of London was no longer attractive to me from a personal or corporate tax perspective".

'Star' trader

The ultra-low profile firm, Burren was formed earlier this year with offices in Ocean Village after McGrath left the UK's BNP Paribas, as one of the bank's star 'special situations' proprietary traders and its head of risk arbitrage in Europe.

McGrath's first solo fund specialising in investment arising from significant global company and other events, has an overall capacity of the strategy in the region of US$750m, without detrimentally affecting returns.

"After the initial investors have subscribed, my intention is to close the fund to new investment for a period of at least 12 months", when he hopes to allow existing investors to increase their allocations.

This activity follows the decision of his associates in

Continued page 16

Low tax depends on all paying

Tough anti-avoidance measures and default financial and legal penalties to help ensure that all pay the taxes that are due are needed to ensure a low rate for everyone – business and individuals.

That's the view of the Gibraltar Government regarding its new, amended and consolidated Income Tax Act that also introduces "severe criminal consequences, as well as personal liability, for directors and managers of companies that withhold tax from workers pay and then fail to pay it over to the Government promptly".

The draft Act, expected to become law in October, sets out "to level the playing field between PAYE payers on the one hand and companies and self employed people on the other"

Self-employed people will have to pay tax during the tax year on account of that year's tax bill. At present, employees pay tax at source, while companies and the self employed can delay payment of their tax for several years. "The new system is thus fairer to all", the government maintains.

Gibraltar's era of lower taxation meant the Government had the fiscal need to tighten up tax evasion and avoidance, Chief Minister Peter Caruana told Parliament

Name and shame

Consequences for employers who engaged consciously in "serial non-compliance" of tax obligations, also included a name and shame approach, restrictions on being able to resume business activities in future, and other deterrents, he said.

"Only by creating a climate of compliance can low company tax and further lowering of personal taxes be assured", the government maintained as it unveiled the legislation that will permit the reduction of Company Tax in Gibraltar from 22 per cent to 10 per cent from January 2011, to coincide with the abolition of the historical tax Exempt Company regime.

However, firms formed since July last year have been already able to enjoy the low 10 per cent rate as a result of the 2009 Budget measures.

The legislation also introduces a system of self assessment and hefty financial penalties for defaulting on payment or returns and represents several years work by many people, including officials, lawyers, accountants.

Competitive tax

"The underlying principles have thus already been widely consulted," Caruana noted in a statement and added: "Thousands of local jobs, much Government revenue and thus our public services, depend on Gibraltar having an internationally competitive tax system."

Returning to his now familiar theme, Caruana emphasised: "Gibraltar is more than just about tax: it is also about political and economic stability, good regulation and high standards and safe business environment, high quality of personal life style, good professional services and communications, and availability of well educated staff." Having consulted, the new Bill will be published in the government's mid-August Gazette.

New hotels and airline links expected

Two large new hotel developments are reaching "agreement in principle", as Gibraltar works to complete its new air terminal and a key tourist hotspot before the start of the summer 2011.

Together the projects involve more than £100m investment and are seen as necessary both to support and encourage increases in visitor numbers and events, and provide tangible confidence in The Rock alongside the expanding finance sector.

'Heads of agreement' with the government are by Autumn expected to be signed by Squarestone, the UK developer of a planned 200-bedroom, 5-star Hilton Hotel and a separate developer of a similar sized mixed hotel and aparthotel resort at Little Bay.

There's an expectation too that there will be a positive step forward in September in the long-awaited £1.8bn East side development, where a 250 room hotel, 2,500 apartments, shops and office space is planned.

Minister for Development and Transport, Joe Holliday said that work on the 28,000 M2 site of the Royal Gibraltar Yacht Club could be started in mid-2011 by Squarestone, which develops property for Hilton hotel franchises. The £45m hotel project includes banqueting and conference facilities for 500 people.

Yet another hotel project may result from the proposed re-development of the former Buena Vista Barracks in the South-Western area of Gibraltar, which includes

Stone Block, currently a workers' hostel, being retained as a heritage property suitable for conversion.

Both the new £50m airport terminal, catering for up to 980,000 passengers a year, and £3m beautification of tourist favorite Europa Point, with its planned 'iconic' restaurant, playing, picnic and parking areas, will be ready by June 2011.

After viewing the new terminals at Heathrow, Madrid and Barcelona, Holliday believes the new terminal that replaces the 1960's-built present one "will be something that people will feel utterly impressed by – a facility we can all feel proud of".

It includes three large luggage carousels, 19 retail units (up from seven now), smart restaurant and lounge, a business aviation centre for private aircraft, and a direct exit into Spain – "although that may not be ready when we open".

Holliday met recently with 12 airlines and importantly, other UK airport operators in a bid to forge a 'package link' from which both destinations can jointly benefit. "The result has been encouraging and others now appreciate how impressive our offering will be," Holliday maintained.

Budding business youngsters spot tourist market gap

After two years supporting the Young Enterprise (YE) Scheme, Gibraltar has just spawned its most successful venture yet. Four teenage college students having identified and exploited a gap in The Rock's tourism market.

The youngsters studying for 'A' Level and GCSE examinations launched GibSights, an audio-based two hour Walking Tour of the main tourist attractions, in April and have so far sold well over 300 of the MP3 player units and are expecting delivery of another 300 units – from China.

Working in their own, out-of-college study time, the group "came up with the brilliant idea of creating a ground-breaking product that had never been done in Gibraltar", declared Maria Antonia Brooks, YE coordinator at Gibraltar College.

"They had support from local business with an overwhelming 29 local companies choosing to advertise in their tailor-made map that accompanies the Mp3 player", she added.

Sarah, Mark, Syanne and Joel receiving their Gibraltar Young Enterprise Award.

The team is made up of Mark Moreno (17), Managing and Finance Director, Syanne Agius(19), Human Resources Director and Company Secretary, 16 years old IT & Marketing Director Sarah Martinezis and Joel Williams(18) as Sales and Operations Director.

They won the Yorkshire & Humber and Gibraltar regional final in Hull in June, having earlier come out top of the five companies in the YE scheme from the College. They also gained the prize for 'innovation and entrepreneurship' 'and the customer focus, marketing and sales' award.

The GibSights team were preparing for the national final in London as *Gibraltar International* went to press in July, having gained sales of over £5,000.

As David Benrimoj, College 'Link' teacher for GigSights, explained: "This scheme aims to give youngsters a real life work experience and introduce them to aspects such as selling techniques, research and time management that might not otherwise be covered in the courses they are studying".

The business has its own web site and any profit made from selling the 1GB tour and player at local shops and tourist sites can be kept by the students, after deduction of a small royalty to the YE enterprise in the UK.

"Having visited Madrid and experienced a similar product for that City, the team realized that there was nothing like it at home in Gibraltar, so after consultation with the Tourist Board and sounding out visitors at the Cruise Terminal and elsewhere, they set about developing GibSights", Benrimoj recalls.

The young entrepreneurs sourced the players on the internet direct from China, having found UK suppliers "far too expensive". That allowed them to develop the product with a reasonable recommended retail price of £14.99 for 24 separate location tracks, and ten bonus tracks detailing other points of interest, including the history of the border with Spain.

The YE scheme, began over 40 years ago in the UK based on the 'principle of learning by doing' and with the help of Business Advisors and Link Teachers, the students have evolved as 'new' young entrepreneurs.

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cross [Spanish] border competition unfairness, but "we equally believe that an open economy is, on balance very much in Gibraltar's interests" but is open to specific effective but sensible measures. A working group with the Chamber of Commerce and the Federation of Small Businesses will be formed in early autumn.

Overall recurrent revenue last year was £334m, a year-on-year increase of 9 per cent, while recurrent expenditure was £305m, just over 6 per cent more on a comparable basis, resulting in the near £30m budget surplus.

Company and gaming tax is forecast to have produced nearly £40m income (up £4.4m); the largest rise in expenditure was to fund debt - £11.7m (up by £6.2m).

Capital spending this year of £150m (£106m in 2009-10) is being funded principally by borrowings, supported by the proceeds of asset sales and premiums made possible "because of the very low levels of debt that the Government has maintained and also the success of our economy", Caruana declared.

He said the Government had decided to bear the cost of "unnecessarily large amounts of borrowing in order to assure its funding and liquidity needs in the current volatile international funding market conditions".

At £139m, net public debt is just 15.2 per cent of estimated GDP. Caruana estimates that net public debt will finish this year at £180m, still "only a lowly 18.7 per cent of GDP". Thereafter it is expected to peak at around 23 per cent of GDP (less than half the maximum allowed in law), before falling again once the projects programme is complete.

"Government's debt is structured with a high degree of stability, both as to interest cost and maturity roll over risk, unlike so much of the currently problematic European sovereign debt," he assured.

COMPLIANCE

More laws and wider use of compliance procedures planned to limit risk on the Rock!

Moves to achieve greater control and regulation of a wider range of business in Gibraltar are likely in a bid to ensure the jurisdiction's reputation as "a modern, international finance centre" is fully protected.

On-line gaming companies, data management firms and, most controversially, lawyers, as well as other – so far unnamed – areas of business beyond financial services are in line for closer scrutiny to ensure compliance with processes and systems required by law.

In particular, lawyers' private client accounts and individual's trusts are expected to come under the microscope.

Chief Minister Peter Caruana told a crowded Gibraltar Association of Compliance Officers (GACO) seminar that there is "a very strong case for you now to consider expanding your reach to embrace other, and all regulated, activities where compliance is at the core".

This is "more and more important to Gibraltar as it continues increasingly to emphasise its future in quality, well regulated mainstream financial services", he told more than 160 people who attended the *Risk on the Rock - bribery & corruption in the 21st century* seminar.

Jeffrey Robinson (pictured), the world's leading expert on money laundering and financial crime, said: "I tip my hat to the Chief Minister.

"These days everyone is in financial services –if I want anything in financial services that you sell, I can get it in any number of other places. What is unique is that it is Gibraltar - and its reputation. It is the name that makes it special –you are not any other country".

And warning that criminals are getting still smarter, he said: "[The practice of] 'Know your client'(KYC) is not enough – you've got to know your client's client – and then some more" to ensure the legitimacy of the source of money and the businesses dealing with it.

"Everyone wants to comply with the regulator. You can no longer count on just being compliant, you have got to go one step beyond," emphasized Robinson, author, journalist and a native New Yorker who has lived in Europe for more than 30 years.

And Gibraltar's Financial Services Regulator Marcus Killick conceded: "As regulators we are notoriously bad at catching fraud."

But he gave notice of a harder line in future. "In Gibraltar, we will ask the government to make some regulatory changes, because there are gaps in the law, which was introduced ten years ago.

"We have to deal with the present gaps and some future ones! We will be more intrusive, moving from a light to a robust, but responsive touch. We will be more assertive, without overreacting."

Caruana had earlier made clear: "This conference shows the maturity of our financial services centre, to openly debate these issues – not because we believe they are a problem in Gibraltar, but because we understand that others can abuse our financial services system to perpetrate such acts in other parts of the world."

In the changing global financial order, "reputation is key and compliance is reputation and therefore key to reputation", the Chief Minister said. "Ensuring internal compliance within an organization is very much the same discipline, whether you are applying it to financial services, to gaming, or data management", he felt.

But increasingly it is going to become more compliance led, Caruana predicted. He went on to point out that a problem for international finance centres like Gibraltar was in having a legal profession that wore two hats – one as part of the Courts and judicial system, rightly independent of government, but the other as key participants in the financial service sector.

Caruana made clear: "The government would not wish to stray into regulation of the conduct of lawyers in the Court room – that is for the judiciary, (although I think that could be put on a more statutory footing) - but it would want to get stuck in to a greater degree on those aspects of the financial centre jurisdictional reputation."

And he made clear: "We continue to attach importance to client privacy, albeit within clearly established parameters and procedures, regulated by law, and subject to referral by the Courts.

Robinson took a different line to the Chief Minister, pointing out: "Client accounts are a real problem when it comes to bribery, corruption and money laundering."

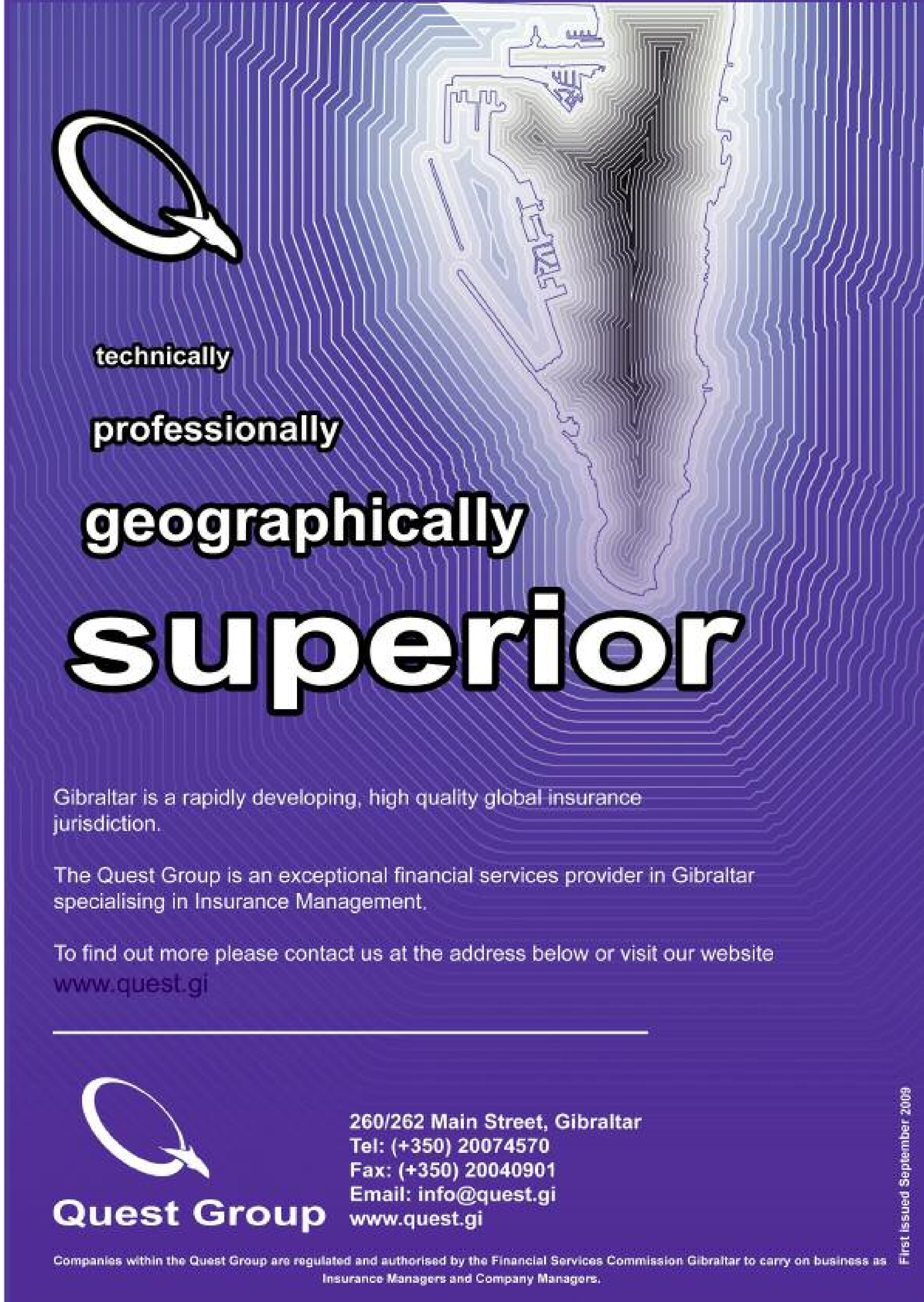
Arguing that the process of KYC - 'Know Your Client' - is insufficient in today's climate of smart criminals, Robinson said: "You have got to know your client's client – and then some more".

"If the client is a lawyer, how do you find out who his client is? And that's a real danger. They will always protect client confidentiality."

Regulator Killick, a barrister and member of the New York Bar, nevertheless emphasised: "There will be enhanced due diligence checks on individuals wishing to do business here in Gibraltar". The move will be from light touch regulation of the last six years, "to a new dynamic, robust response.

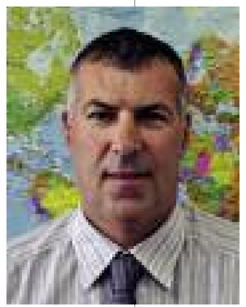
"We will continue with on-site inspections, but they will be more intrusive in the way they are done: I don't like this, but it is necessary. We have not only to be clean, we need to be seen to be clean."

It was inevitable that there will be enhanced checks on due diligence. "A due diligence check, with a copy of a passport and a Utility bill (especially if it's in a foreign language), is not enough. You need to know where the money has come from", Killick asserted.



Tangier challenge prompts unity call as logistics firm bridges border

Businesses involved with the Gibraltar Port need a broad based users' council to represent their interests in discussions with The Port Authority on operating issues and future investment, according to some who foresee growing competition coming from nearby Spain and Morocco.



An existing Port Advisory Council of eight people appointed by Ports Minister Joe Holliday, act as his "sounding board", but some people feel that the Council does not adequately represent the wide range of businesses involved, particularly in the service sector.

Concern at the potential impact of the new Tangier Port now being built was expressed by Danny Gabay, chief executive of Redwood International, a logistics company formed 16 years ago from the former A Mateas family shipping agency.

Redwood, with eight offices - at the airport, in the Port and at customs entry points either side of the frontier - two warehouses and a fleet of eight vehicles and plant equipment, claims 60 per cent of a local marine market shared by five businesses.

More competitive

"We are involved also with Algeciras Port and know that it is becoming more competitive, which could be at the expense of Gibraltar, but even Algeciras is concerned at Tangier's growth", he says.

Originally a logistics service, mostly for ships' spares within Gibraltar, two years ago Redwood became associated with the international UPS logistics and that changed the dynamics of the operation.

"Margins for marine spares delivery work are tight", Gabay says, and speed is essential.

"Often there are only two hours after docking to deliver to ships from the airport or warehouses – and new or return-for-repair parts are trans-shipped almost anywhere in the world using Gibraltar and nearby airports in Spain."

Since relations with Spain have thawed and the frontier opened up in recent years, much of the equipment needed for vessels now arrives by road and with this in mind Redwood in 2006 opened a 800 m2 warehouse operation – three times the size of his Gibraltar port site at North Mole - in La Linea as ANT Logistics.

Gabay will this Autumn move to a new warehouse doubling the size of his present La Linea operation, that also will be capable of handling dangerous goods, extending his six year Gibraltar expertise in this area with qualified staff capable of handling batteries, paints, cleaning chemicals, etc, by air as well as road.

"The next nearest dangerous goods warehouse is at Seville, so we will be offering a new service and already we have been offered bunkering change to stock and supply related contracts".

Instinctively, Minister Holliday suggests that port-related businesses "have never had it so good".

He told *Gibraltar International* that the near doubling of port vessel charges and significant increase in trade made possible through provision of more anchorages had both boosted ship agents' commission, and the income of other suppliers who provide essential marine services.

Intelligence

Agreeing that the additional Eastern anchorages are "one of the best decisions Gibraltar has made" Gabay says local companies can service them well. But he insists: "We need to know what our neighbours are doing and how we can protect our business".

Gabay thinks the government should do more to promote the logistics aspect of the Port service to cruise operators and for bunkering, because it makes good sense for vessels to make use of the full range of services available whilst anchored in Gibraltar waters.

"It is not my place to tell the marine sector how to organise itself as a pressure body, but it seems to me that the old Gibraltar Shipping Association should be re-formed to ensure all aspects of the Port operation have an opportunity to contribute a view", Minister Holliday said.

Meantime, he notes: "We want to grow the business and we want to grow it together. My job is to provide the environment for the Port to grow".

With marine work accounting for 45 per cent of current business, Redwood is waiting to move from a cramped operation adjacent to the existing airport terminal to smart new premises in the replacement building from next year.

Redwood has been involved in freight forwarding and transport operations, including hire of the first 500 ton crane to be imported into Gibraltar to carry out repairs onboard a satellite launcher.

Protecting reputation *Continued from page 6*

Robinson, an expert on organized crime, fraud and money laundering, declared.

The new UK Bribery Act, under which Individuals and companies can be prosecuted, represented the single most greatest shift for a century in the country's corporate legislation, declared Robert Mitchell, head of enhanced due diligence in Europe, Middle East & Africa for World-Check, a global information organisation assessing, managing and remediating financial, regulatory and reputational risks.

Introduction of the law, Mitchell said, was the result of OECD pressure for the UK to get into line with international best practice and "today, the Bribery Act is the gold standard of anti-bribery laws, because the UK had to be seen to be serious about corruption and bribery – and previously it was not."

Courts no longer need to prove intent to be corrupt, the new legislation goes "a quantum leap beyond compliance", Mitchell explained. The law makes it a corporate offence not to prevent bribery – "which means having the right procedures in place – it's likely to be the only form of defence".

Funds coups as advisors crowd to hear jurisdiction's benefits

Two new London hedge fund managers have chosen Gibraltar, rather than other larger and possibly more established finance centres, after "extensive research". They are the latest in a series of moves that will help boost Gibraltar's funds sector, as *Ray Spencer* finds out.

Hilltop Fund Management, which hopes eventually to raise US$500m to invest globally in a portfolio of hedge funds, reportedly made its decision after looking at what Dublin, Luxembourg and Malta had to offer.

Andrew McGrath, who has established his new hedge fund business in Gibraltar with the launch of his US$500m Burren Global Arbitrage Fund expects to increase investment by 50 per cent in a year, and considered a number of other jurisdictions, including Geneva, Monaco, Ireland, Channel Islands and Malta.

The funds coups for the jurisdiction come just as the Gibraltar Funds and Investments Association (GFIA) has stepped up its bid to attract interest from fund managers. The aim is to build on the five fund-of-hedge-funds already in Gibraltar and also to attract asset managers.

"After a thorough analysis of the available options it was quite clear that Gibraltar was the optimal choice", he says.

Andrew McGrath is looking to grow his $500m hedge fund by 50% in a year!

Most suitable

Hilltop, which began in January with US$10m assets under management, used HedgeStart, one of the most prominent consultancies to do its research and suggested Gibraltar as being most suitable.

Trevor Simon, joint Hilltop founder, told *Gibraltar International* that the assessment process was "lengthy and comprehensive and took in a wide range of factors".

Some of the more important considerations were Hilltop's relationship with local service providers, particularly Hassans lawyers and Helvetic Fund Administration, and their cost base, tax treatment of the fund and Gibraltar being within the EU potentially to enable passporting, and convenient travel and time zone for a London operation.

Founding partner and portfolio manager for Hilltop, Rory Hills is reported in trade media as saying: "We weighed up the options and liked Gibraltar and Malta. We felt that Gibraltar was closer to Europe than away from it. It has a reputation which is out of date - it has a good regulator. It is the same as being in Luxemburg or Dublin."

GFIA held a select seminar for high level hedge fund consultants – people who advise on how and where to set up funds – at London's Gibraltar House in June. "We found people-much more willing to listen to the Gibraltar story than they were 18 months ago, because they are getting the information validated by a much wider range of other sources," says James Lasry, GFIA chairman.

Seminar attendance at 33 people was more than twice that expected.

"The UK budget applying a top rate 50 per cent personal tax and proposing changes to Capital Gains Tax rules, provides an incentive to consider Gibraltar with its advantageous tax system, even when compared with Swiss cantons that have been highlighted as potential new homes for funds", concludes Lasry.

> "After a thorough analysis of the available options it was quite clear Gibraltar is optimal choice"

Quality of life

Indeed, Burren's McGrath analysed finance centres using wide criteria, including the legal system, EU membership, a supportive local professional network and government, fiscal issues at the corporate and personal level, transport links and lifestyle.

With an investment team of three, supported by an assistant and operations staff, (some recruited locally), McGrath points out that Gibraltar "promises a good quality of life - most of my team have young children and access to good schools is important".

GFIA's conference, *"Gibraltar: The alternative fund jurisdiction in the EU - Establishment and re-domiciliation opportunities"* was sparked by the EU Alternative Investment Fund Managers (AIFM) Directive, which will tightly regulate the activities of hedge funds and private equity and investment trusts.

"More are now willing to listen" says James Lasry, GFIA chairman

The Directive - now expected to be approved in September after earlier failure to agree the detail - requires EU funds to comply with possible restrictions on leverage and investment strategies and a number of other aspects, but most controversially places conditions on investments in funds from non-EU jurisdictions.

The move was opposed by the UK sector on the basis that it singles out hedge funds for special treatment and "imposes controls and burdens that it does not place on other financial market participants".

And Hilltop's Simon warns that the Directive "has the potential to impact on our forward planning."

Lasry, says:"As a funds lawyer, I too think the Directive is unfair, but as a Gibraltar funds lawyer I think it is tremendous news for us.

No tax to pay

"Within Europe, because the present regulatory and tax issues are too onerous, there are effectively, only four places to set up a hedge fund – Dublin, Luxembourg, Malta and Gibraltar. Theoretically, they can be established elsewhere, but the processes are so long-winded," Lasry explains.

The idea is that there should be no tax on the fund itself, because investors pay tax on profits in their own countries, he adds, and "you can do this in a jurisdiction, like Gibraltar, where there is no tax to pay on the fund".

A small jurisdiction like Gibraltar can afford to make regulation appropriate for

Continued page 18

Putting Gibraltar "on the radar"

from page 7

London-based Ballance Capital to set up in Gibraltar two years ago to specialize in the proprietary trading in the alternative investment sector.

Burren's principals however, are based solely in Gibraltar bringing value added kudos-from having both the mind and management of the fund domiciled within the territory.

At the same time, Burren has shown real confidence in the jurisdiction by not taking the usual route for hedge funds of starting out in the UK.

Although, the Burren Fund will be located in Malta, the firm will pay taxes on its success in Gibraltar.

In yet another development, a new fund of hedge funds has been established in a Gibraltar Protected Cell Company (PCC) by London-based Hilltop Fund Management, which hopes eventually to raise a similar US$500m to invest globally.

As *Gibraltar International* was going to press it was also suggested that another insurer was moving operations to The Rock, where more than 60 insurance companies are based.

The growth in Gibraltar's insurance market in recent years, along with increasing demands for specialist advice relating to the EU Solvency II Directive have prompted Mazars Actuaries and Consultants, a UK-based actuarial arm of international accountancy firm Mazars, to open an office on the Rock.

"Few of these companies have an in-house actuarial resource" says Paul Tysoe, who for six years has been executive director at Zenith Insurance in Gibraltar.

Fresh initiative

However, the independent GFCC - made up of representatives of eight local professional organisations, including bankers, accountants, lawyers and insurers – was formed to advise the government on issues and is exploring a fresh marketing approach.

Revealing the initiative, Nick Cruz, re-elected as chairman of the Association of Trust and Company Managers (ATCOM) told *Gibraltar Television*: "Hopefully, over the next few months we will consult with, and come to government with a sensible marketing strategy and hopefully they will be interested in it and perhaps contribute to it financially."

He explained: "Whilst we all do our own individual marketing efforts, we have not really got together on it. The idea is to do something where we can work together to promote Gibraltar."

Still more needed

This would "actually put Gibraltar on the radar, where perhaps it is not so now", he said. But still more would be needed.

"We still have high levels of personal tax and have to couple low corporate tax and low personal tax. Hopefully, we can do so shortly ..... because one without the other is not that attractive and it needs to be done within a short period of time – a couple of years", Cruz maintained.

This package would attract companies and their staff to choose The Rock, he said whilst acknowledging that Caruana had promised to also lower personal taxation.

In the meantime, Jimmy Tipping, Director of the government's Finance Centre Department, is pressing ahead with organising the annual lunch for City of London and business contacts at Drapers Hall on 18 October to coincide with London's Gibraltar Day celebrations.

Tipping is also planning a *Financial Times* business supplement on Gibraltar to coincide with the event, when over 270 people will hear Chief Minister Peter Caruana give an update on the jurisdiction's economic and business progress.

Nevertheless, while Gibraltar's profile amongst world finance centres may not be as high as the Channel Islands, Cayman and the British Virgin Islands, it still commands considerable respect!

In top ten

According to the *Global Financial Centre Index* (GFCI), which over more than three years monitored opinions of thousands working in the worldwide finance sector, Gibraltar is amongst the top ten 'offshore finance centres'.

The last GFCI report published by the City of London in March, showed Gibraltar as a "transnational specialist" finance centre, positioning the jurisdiction behind Jersey and Guernsey, but ahead of Malta.

That was considered a good result, given that the Channel Islands have been promoting their jurisdictions for longer and more intensely than The Rock has been able to do.

Gibraltar has also been referred to as a "small international finance centre", although Caruana has been referring to the jurisdiction now being an "onshore finance centre within the EU".

Jurisdiction benefits *from page 17*

Experienced or High Net Worth investors, where there is a lesser requirement for protection of individuals, but greater flexibility.

Gibraltar already has US$4-5bn in funds and the amount is growing at the rate of 20 funds a year, Lasry notes.

"I would not be surprised to see a 50-100 per cent growth once the Directive comes into force in a year or two – possibly much greater," he enthuses.

The Directive will mean that European professional hedge funds can be branded as AIFM and passportable to professional investors anywhere in the EU, in the same way as UCITS has done for retail funds. That removes the need to comply with individual EU countries' differing rules on funds and enables a one size, fits all approach.

Other territories have been marketing their offerings hard in the last six months and this is the first targeted campaign from Gibraltar, "which has limited resources", Lasry notes.

The London seminar heard presentations from Marcus Killick, chief executive of Gibraltar Financial Services Commission on 'the jurisdiction for regulated funds', and two lawyers - Albert Isola, a partner at Isolas on 'redomiciliation of funds', and Melo Triay, managing partner at Triay & Triay, who promoted 'Gibraltar as an attractive alternative for fund managers'.

Dr Nick Terras, a leading independent consultant in investment management, spelt out the 'opportunities the jurisdiction presents in Europe under the new AIFM umbrella'.

A funds and structured finance lawyer, Dr Terras drew on his experience in the application of alternatives' strategies within the EU regulated manager and funds arena for investment by both institutional and retail investors within the EU, the US and elsewhere.

In a second June initiative, GFIA attended the four-day GAIM International investment conference for hedge funds in Monaco, with a stand and support of the government-run Finance Centre Department.

Funds reveal strategies

Hilltop's all-weather fund is investing in some 15 underlying hedge funds, diversified by investment approach and geography. Although fund-of-funds are out of favour for some because of poor performance, Hilltop says it will have a bottom-up investment approach focused on fund selection rather than the more usual, top-down asset allocation.

With a minimum investment of €100,000, the Fund has an average target return of 12 per cent a year net of fees over a three year period.

Burren however, says the types of opportunities that it seeks to profit from within the equity and equity derivatives markets globally are often overlooked by its peers.

"Unless a situation is complex it doesn't interest me. Although we very rarely take positions in anything but highly liquid large cap companies the type of arbitrage opportunities that we exploit are not hugely saleable, which logically limits the amount of capital we are able to invest in each opportunity, but also in the fund overall", Andrew McGrath fund manager points out.

That, combined with a 9 year track record of successfully executing this same strategy within the large investment banks, is what McGrath believes has excited interest in his strategy.

Waiting on 'third country' rules

The largest concentration of hedge funds outside of the EU is believed to be in the Cayman Islands, but there it's unlikely there will be any early move by managers in such jurisdictions to seek re-domiciliation.

Continuing uncertainty over how the EU Directive will operate and measures that can be taken by non-EU finance centres to cope with the Directive will lead to a delay in decisions, believes James Lasry, chairman of Gibraltar Funds & Investment Association.

The Directive's "third country rules" will establish how funds based outside of the EU can be marketed to investors within it.

And crucially, it will define the circumstances in which investors within the EU may buy funds domiciled outside of it!

However, Cayman Premier McKeeva Bush reportedly is unconcerned, declaring: "Under the directive, the marketing of funds from non-EU countries would be allowed if certain criteria are met.

"As it currently stands, these criteria include equivalence in relation to regulatory oversight, anti-money laundering and countering terrorist financing, and compliance standards.

They also involve having regulatory and tax information exchange agreements between relevant non-EU and EU authorities, as well as market access for EU based funds," McKeeva said.

A similar approach has been taken by Guernsey Finance chief executive Peter Niven, who maintained that whatever rules are finally adopted, the Island will remain a leading fund domicile.

"Under the latest proposals any third country hedge fund or private equity group will be able to gain an EU passport if it complies with the new rules and its home country applies global standards," said Niven.

"We certainly believe Guernsey meets all the relevant criteria, not least through our long standing commitment to adopt international standards on regulation, transparency and information exchange."

At the end of December, the overall value of funds under management and administration in Guernsey stood at more than £184bn and they were promoted or sponsored by leading institutions in 45 countries.

But Lasry asserts: "Anyone setting up a new fund aimed at the EU area, will do so in one of the key jurisdictions such as Gibraltar, to benefit from AIFM."

Industry sources believe that it will be some time before any third party jurisdiction is approved to have their funds passportable within the EU.

And *Hedge Fund Review* magazine declared in December: "As more investors look for safe, well regulated jurisdictions, Gibraltar appears an attractive alternative within the EU".

World Cup decides bookmaker's fortune

Unexpected happenings and sudden realizations – "blinding flashes when the light comes on" – have marked out the success of **Victor Chandler**'s gambling business, but making Gibraltar his base was a winning certainty, as he explains to *Ray Spencer*.

Described as "the gentleman bookie", Essex-born Chandler did the rather ungentlemanly thing of telling the UK government exactly what he thought of its 9 per cent betting tax by relocating his whole operation to Gibraltar in mid-1999.

It was a defining moment; a move that within months prompted other leading bookmakers to follow suit and brought about the birth of a new and valuable sector of the Gibraltar economy – on-line gaming.

The whole thing was sparked by a realization that high-rolling Far East gamblers wanted to place bets on the 1994 World Cup without paying the tax, which the then Chancellor, Gordon Brown, removed in his next budget. But the damage was done!

"I got a phone call from my London office on a Friday to say someone wanted to place a £1m bet in cash. He deposited £750,000 with us and then arranged to meet me at Newbury Race Course to place bets on the first game", recalls 59 years old Chandler.

Armed police raid

Shortly after, armed police raided Chandler's office and took the money, while the Hong Kong businessman was stopped at a motorway road block and taken to Dover Street Police Station. He missed having the bet, but his lawyers soon established he was legitimate.

"It was the biggest thing that happened to me", and he realized the huge interest in betting from outside of the UK.

Victor Chandler (VC) bookmakers took bets from a great number of Chinese punters for that World Cup. "It got me on my bike to look for a jurisdiction where I didn't have to pay betting tax", he explains.

Chandler went to the Bahamas, Bermuda, Jersey and Guernsey but they either also had a betting tax or wouldn't allow an offshore person to operate and in the Bahamas, the telephone system and the time difference was not suitable.

The solution was mooted unexpectedly over lunch with fellow bookmaker Cyril Stein, a family friend who had just retired from Ladbrokes, which had a small operation in Gibraltar.

"He told me there was a floating bookmakers' licence that belonged to Alex Dendeniotus, who had not included it in the sale of his local casino. I was on a plane to Gibraltar and secured the licence in a matter of days just prior to the start of football's Euro 96 competition", Chandler says.

In the few weeks available, VC was only able to get ten telephone lines, so 40 mobile 'phones were used as backup. Chandler secured work permits for around ten young Chinese to answer the phones, and bought a team from London, as well as hiring a few local people.

Meantime, Chandler set off to tour Hong Kong, Singapore and Malaysia, drumming up customers and establishing marketing offices in Hong Kong and Bangkok, building a 60-strong team.

"Our business was focused almost entirely on the Far East – over 80 per cent - but there were a few Italians and private clients I knew based outside of the UK", he admits.

But VC still had a big UK operation when a chance remark by Chandler's then partner, Carol, in early 1999 prompted another sudden realization. She reasoned that if Irish bookmakers could take bets from people in the UK, he could take them in Gibraltar!

"It was fantastic - the light came on. A QC's legal opinion in the UK confirmed it was OK, so I made plans there and then to move the whole office to The Rock in May", Chandler says.

He managed to keep the whole operation secret. VC already had a small office on the first floor of Leanse Place, and when some 18 of the 30 London staff relocated, the firm took the whole floor and put in 50-60 people initially, mostly Gibraltarians working alongside the Chinese team, but built that to 120 telephonists, recruited from everywhere.

Technology greatest change

The business has changed radically in the last 10 years. The Hong Kong and Thailand offices closed when local laws became restrictive and since then the focus has been on Taiwan and main land China, going out from Kuala Lumpur.

"The greatest change for the business is in technology- 96 per cent of our business is now done on the internet", he reports. VC sold 60 betting shops in the UK and now has only six in a joint venture with an individual.

"I see betting shops dwindling over the next 10 years in the UK, because the average age of people in betting shops is older, and the younger generation is not frightened to use the internet and are used to paying for things on-line," Chandler reflects.

VC previously was "a specialist operation dealing in high rollers – employing 40 or so people in London and a huge on-course betting operation just to service around 2,000 customers".

Continued P22

bookmaker's fortune *Continued from page 21*

Today the firm employs 280 people in Gibraltar, including eight of the original London staff.

Chandler admits: "We've shrunk from our peak of 350 people, because the majority of the business is on the internet and we no longer need banks of telephone operators. We try every incentive – other than with VIP customers – to make people bet on-line, because it's so much cheaper for us."

Riding out

He now gets 80 per cent of profit from 6-7 per cent of clients, because they are big losers.

"We specialize in recruiting people – many of whom are now my personal friends – who if they lose, it's not going to affect their lives, it's a hobby. I don't want to burn people out quickly, I want them to be customers with us, for a long time and I've still got customers who bet with my father from 1974," Chandler notes.

He reports that the average bet in the industry is now £43, but it's much lower if just two other companies are removed!

The product has changed too. "Half of VC business now is in poker, casino, slot machine and virtual sports games; the balance is football and horse racing in terms of number of bets, but racing accounts for 75 per cent of turnover.

However, the World Cup that has just ended was expected to change the company's figures dramatically. Whilst being interviewed, Chandler sanctioned on the telephone two £50,000 bets on games from Irish punters. He was not going to watch any matches however, "we are too busy here and there's my favorite Royal Ascot to attend".

He doesn't see the current UK economic hard times giving a boost to betting shops. Turnover has continued to grow because of other territories, while the UK business has generally suffered and remained flat. "Some of our bigger customers are resting, because they haven't got the disposable assets they used to have".

And VC has seen growing competition in some European markets from other firms who diverted resources from the US when they were prevented from operating there. But he remains optimistic.

France has just licenced on-line gaming companies, Spain will follow next year, he says, and in South Africa the bet has to be taken on servers based there. "We feed all the prices for an event from here, so we charge the subsidiary company for the services we provide and pay tax on that. We don't foresee having traders everywhere in the world", Chandler says simply.

He only occasionally takes bets personally "when out to dinner with friends or at the races - I'm quite good at the odds for horses, but not very good at soccer" – but still gets a thrill sitting in the two vast trading floors in Gibraltar.

He started out training to be a chef in Switzerland, but returned to the UK when his father died to find the business nearly insolvent, because of a combination of things but mainly because we were going through a big recession in 1974: there was no money around."

Aged 22 he started taking bets "and

Continued P24

bookmaker's fortune *Continued from page 22*

it took me three years to get anywhere, before going fully on my own. A good bookmaker has got to have the basic skill of understanding percentages and a feel for betting. You can't do it unless you go through the learning curve; I have made some big losses", Chandler concedes.

Further growth & staying

He expects there to be further growth in Gibraltar on-line gaming, with consolidations in the next five years, "once we come out of the dark days of recession and the licencing situation in Europe has been resolved." Chandler believes the US will again open to foreign gaming firms in the next two to five years. "They need the revenue – it's another way of raising tax" he observes.

Gibraltar's Chief Minister Peter Caruana "grasped early on the potential of having a new industry sector to grow here. I was the only one not happy that he granted licences to other betting operators, but one has to be pragmatic", he intones with a wry smile.

VC is committed to staying in Gibraltar and not looking for suitors, as was rumored a couple of years back.

"The present market is not a good time. The multiples we'd like to achieve on a sale or a float is not there at present", remarks Chandler, who declined to comment on speculation about the private company's £350m value.

Nevertheless, last year's *Sunday Times* Rich List put his then personal wealth and family fortune at ninth equal among bookmakers at £150m.

With two young children from his wife, Susan, and a 14 years old step son, "I spend less and less time away, and now go to the Far East twice a year, when I used to go six times, and will via South Africa, as well as visiting London every couple of months,", he suggests.

Mobile 'phone potential

Having owned property at the exclusive Sotogrande Alto urbanisation since 1998 and living there from a year later, he now owns a 33 hectare Stud farm further inland, where he keeps 23 horses and is building a nine bedroom villa: several existing cottages in the grounds are where high-spending punters and other friends stay.

He is inspired by young people with ideas and "I like to mix with the IT director and the product development people and all the time looking for the new poker." On average, he gets two project presentations a week from outside parties, but has not seen a good one this year.

"I see a huge development in mobile phone betting, although the technology is not right yet, to my mind it certainly will happen. We are working on it now to get the perfect solution – it is an IT challenge", he notes.

Reflecting on his relocation to Gibraltar, Chandler says: "I don't think you ever realize the impact of the move at the time, because we were totally focused on what we were doing. It did seem at the time that anything was possible, but no-one forecast the growth in internet use and how it would change, not only the betting industry, but our lives.

"Gordon Brown did us a favour."

PEOPLE AND PLACES

Around & About

Going again

With "a tear in one eye and the sun in the other" is how **Thomas West Olsen** described his feelings at leaving his position as chief executive of Credit Suisse (Gibraltar) to take charge of Nordic Markets for Credit Suisse Private Banking in Zurich.

Thomas West Olsen

Danish born Olsen left Gibraltar once before. From 2003 he spent two years establishing a Jyske Bank branch in France as general manager, before taking charge of the Swiss bank's Gibraltar operation.

With wife Suzanne, he first arrived in Gibraltar in 1993 as an investment advisor for the Danish bank, advancing over 10 years to become business development manager.

Leaving again is "quite a challenge - I feel very much as though this is my home, as all three of my children – now aged four to 14 – were born here", he says.

With around 30 people in Switzerland organised into four teams for each of the Nordic Countries, Olsen is also responsible for a further 10 people in a similar London team.

From January, he will add another Nordic-focused group in Luxembourg as well as looking at opportunities in other countries, including Singapore to expand his multi-shore operation.

"In every country we aim to be the market leader and my task is to bring structure to our operations in these areas and a changing focus and strategy", he explains, noting also that he's opening a branch in Sweden too. With typical understatement, he adds:"It's very much a growth area for us".

Olsen remains on the Board of Credit Suisse (Gibraltar), so will return to the jurisdiction on occasions, but at the time of going to press his successor had not been named.

"Today, we have 55 employees from 12 nationalities covering our portfolio of wealthy Private Banking clients and we have seen significant growth in assets and revenues over the last five years as we continue to grow our bank in Gibraltar", says Olsen.

In the meantime, his role as President of the Gibraltar Bankers' Association is being filled for the interim until the January annual meeting by **Roy Clinton**, chief executive of another Swiss private banking enterprise, Bank J Safra (Gibraltar), who held the presidency role five years ago.

Returning from Jersey

Having joined Royal Bank of Scotland Group Treasury & Investors Solutions team in Jersey two years ago, Gibraltarian **Dayle Rowbottom** has returned home to become Treasury Associate for a similar NatWest team focusing on foreign exchange risk management for corporate clients.

Educated locally, Dayle obtained an honours degree in economics from the University of York and holds the Securities and Investment Institute Level 3 certificate in Securities and Derivatives, as well as the ACI Dealing Certificate.

As **Gerald Rodriguez**, Director, Corporate Treasury Solutions, comments, Dayle's Channel islands experience will be used to promote the FX hedging side of the business.

"In Gibraltar we live in a dual currency environment and therefore, many of our businesses are exposed to currency fluctuations on a day-to-day basis."

Dayle Rowbottom

Dayle specialises in developing foreign exchange risk management strategies and believes the Bank's commitment to understanding its clients' foreign exchange risk management needs makes it possible to "create solutions tailored to those business needs."

Poolside dining

Gibraltar's iconic Rock Hotel has introduced alfresco dining at its open air poolside for the summer, following the success of the concept last year.

The set three course menu costs £24.95 and is available every day, building on the previous weekend only trial, and has a wine selection specially designed to complement the relaxed, open-air evening environment.

Business crime

Christian Rocca, managing partner of Gibraltar's oldest law firm, Isolas, has unexpectedly found himself country representative of FraudNet, a global network of lawyers specialising in tackling business crime.

Christian Rocca

"I don't know why they chose me, but it seems our profile and experience was what they needed", he says, "but having previously been part of a smaller similar network, I found this new group to be particularly effective."

FraudNet is operated by Commercial Crime Services (CCS), part of the International Chamber of Commerce, and involves companies engaged in international business, the legal profession and law enforcement, dealing with shipping, transport and trade, banking, insurance, intellectual property and information technology.

"We have done quite a bit of bank-related work and being able to deal with specialists you know in other jurisdictions in asset tracing, for example, is a useful addition to our service", believes Rocca, who has been Isola managing partner since 2007.

He regularly advises banks on day to day matters as well as representing leading UK, US and Swiss banks in financing and re-financing projects involving an element of Gibraltar Law.

The world-wide network of legal specialists aims to help clients investigate and take action against fraudsters in foreign jurisdictions.

Political freedom

Two retired UK politicians, Conservative MP and former Tory party chairman, **Michael Ancram** and **Andrew Mackinlay**, who gained a reputation as a 'grand inquisitor' during his 18 years as a Labour MP, are in line to receive the Honorary Freedom of the City of Gibraltar.

"Both men have, over many years shown great support to the aspirations and interests of the people of Gibraltar and have continually supported Gibraltar in the UK Parliament", a government statement says.

Proving popular

Jersey-based Whitmill Group received so many enquiries about European opportunities that principal **Don Wijsmuller** decided to open an office in Gibraltar a year ago. Now he's been proved right as a €15m Cayman Islands hedge fund has transferred its administration and Whitmill expects management to follow before the year end.

Minette Compson, managing director of Whitmill Fund Administration (Gibraltar) reveals more funds from Cayman and BVI are poised to relocate to the Rock spurred by a new EU Directive that enables the easy passporting of funds.

"People hadn't been aware that we were open to funds", she notes at the business' first anniversary reception together with sister firm, Whitmill Trust Company (Gibraltar), run by managing director **Wayne Meenagh**.

The local firm has already attracted three Experienced Investor Funds from the UK.

Lebanese strength

As foreshadowed in *Gibraltar International* early this year, a Gibraltar branch of the private Banque Audi (Suisse) sa has begun operations initially to concentrate on treasury management and was launched in June at a reception attended by Chief Minister **Peter Caruana**. Bank general manager, **Istvan Nagy** and his deputy, Mrs **Christiane Audi**, underlined to guests the strength of operations, revealing that parent Audi Saradar Group, the first and largest private bank in Lebanon had US$26.8bn in total assets, US$ 23.2bn of customer deposits and US$ 2.2bn of shareholder equity.

Banque Audi (Suisse) has its head office in Geneva with more than 30 years of experience in investment management, but its Gibraltar banking license is unrestricted.

Local branch manager **Raymond Joubaud** was a founding member of the Gibraltar Fund and Investment Association (GFIA), while assistant manager **Martine Zerourou** joined the bank in 2004.

Sad loss of director

Europa Trust Company Managing Director, **Frank Olivier Hay**, died suddenly in early June in Geneva, having been unwell for some time.

The funeral was held in the Cathedral St-Pierre, reports **Mark Bridge**, managing director of Europa Trust (Gibraltar), which is celebrating its 25th anniversary.

An enthusiastic jazz musician, he provided the City of Gibraltar with the beautiful Steinway piano now in the Convent Ballroom and was instrumental in organising and promoting the performance by **Sir Elton John** as part of the jurisdiction's tercentenary celebrations in 2004.

Scoring an "A" for energy in your next office or home

Since January, most Gibraltar property sales, rentals and sub-lets – for new and existing buildings - need an Energy Performance Certificate (EPC) by law as part of the contract.

Yet so far, only around 60 EPCs have been issued, with a similar number being processed.

EPCs take into account the way buildings are lit, heated/cooled and used and enable comparisons to be made on the basis of the intrinsic properties of buildings rather than the user's choice of operating patterns.

This effort with existing properties mirrors those being taken in planning and building control where energy efficiency of new or altered buildings is now being taken into account.

They are intended to allow occupiers to make comparisons on the likely energy running costs between similar sized properties through a simple grading system in the same way as many domestic appliances are rated on energy consumption. "A" is best, with "G" being least efficient.

The cost of electricity, the means of powering just about all water and home heating and cooling, represents a comparatively high element of building occupancy costs.

Individual energy efficiency cost going public

Unlike the UK, the energy rating from each Gibraltar EPC soon will be published on a government website to aid public comparison – and to help identify commercial and residential properties that have not been assessed when properties change hands!

There are around 10,000 residential dwellings, of which more than half are rented and some 40 per cent are government tenancies, but only those properties with at least 12kw of air conditioning or fuel derived central heating capacity are affected. There is an estimated 94,000 m2 of office space in Gibraltar, but no estimate of how many non-government individual office spaces there are.

Of the 117 EPCs submitted by end June, only two were for commercial space!

"Our initial effort has been in the private sector where we expect to see the greatest impact as this sector has the highest proportion of air conditioning per premises", says Peter Soiza, senior environment officer.

Twelve government-recognised Energy Assessors from seven local firms have been trained and are assisted by Building Research Establishment (BRE) software developed for UK non-domestic use, adapted to apply to *all* types of Gibraltar property.

The EPC, with its recommendations on energy saving measures, is more far-reaching than similar reports in the UK. As a result of the work involved, the cost of a Gibraltar residential EPC is considerably higher than the UK average of £80.

Public authorities or institutions providing public services, with a total useful floor area of over 1,000 m2, need to provide a self-assessment EPC-type report that must be prominently displayed in the building. But these will not appear until late this year after sufficient officials have been trained.

A total of £ 93,000 has been invested in the development of the EPC process over a period of two years.

No compulsion

Improvement recommendations however, may not be always cost effective, and are advisory.

"We are not going to rebuild all of the old premises and housing stock to achieve higher efficiency ratings; we can't go into retrospective mode," Soiza notes.

At present, there is no set time in which those who receive recommendations for improvements to their energy use must implement, but EPCs must be renewed at least every ten years.

Catherine Walsh, who has a Master of Environmental Technology degree from Imperial College, London, has worked for Gibraltar's Environment Department for the past 18 months, and is now energy conservation officer responsible for the EPC scheme.

Her task is to improve the thermal insulation of the housing stock and raise awareness of the legal requirements, with the aim "hopefully of using less electricity and achieving lower emissions from buildings".

She targeted over 100 lawyers, estate agents, contractors, architects and developers – anyone with influence over buildings – to attend an initial February seminar just after the law came into force making EPCs mandatory. Less than half turned up!

Surprisingly slow

Few of the 12 assessors, are yet busy - two had done none - when *Gibraltar International* contacted them, and they are less in demand than anticipated even given a 'slow' sales market.

Failure to comply can result in fines of £200 for dwellings and for commercial premises up to 12.5 per cent of the rateable value – with a £500 minimum.

Despite this, assessor James Hughes, a chartered architectural technologist for Sharrock Shand Design, maintains "that many new rental arrangements get round the need for this energy assessment through managing agents or owners using their own standard agreements without the need to involve a lawyer, as would be necessary for property sales".

He's even had vendors ask for an urgent assessment to produce an EPC just one day before completion, because they had been alerted to the need for the document at the last moment.

Closer supervision to identify 'uncooperative' jurisdictions

A key international response to the financial crisis has been to look at how enhanced regulation and supervision of the finance sector can prevent similar crises, says *Marcus Killick*, chief executive of Gibraltar Financial Services Commission.

Previously, whilst there was a plethora of international standards - whether for banking, insurance, securities etc - enforcement has, at best, been patchy, with some of the most powerful jurisdictions being some of the worst culprits.

Standard setters had few, if any, teeth and relied heavily upon consensus to achieve their goals. It was comparatively simple to push for change in the so called 'offshore centres', but quite a different proposition to tackle the issues of supervision of the US insurance market!

One way of resolving this has been to extend significantly the remit of key supervisory monitoring bodies. The most important of these is likely to be the Financial Services Board (FSB).

The FSB replaces the Financial Stability Forum (FSF) to "coordinate at international level the work of national financial authorities and international standard setting bodies, and to develop and promote the implementation of effective regulatory, supervisory and other financial sector policies."

Stability role

The Board has a much wider remit, an expanded membership and a broader mandate to promote financial stability.

A number of countries have more than one body as members, the number reflecting the size of national economies, financial market activity and national financial stability arrangements. The UK, for example, has the Bank of England, Financial Services Authority and HM Treasury.

This breadth of FSB membership may cause logistical difficulties. With 70 members there is a risk of delays and inefficiencies.

Key initiatives

The FSB has been tasked with a number of key initiatives, one designed to encourage adherence to international financial standards, including identifying non-cooperative jurisdictions and assisting them to improve.

The initial focus is on adherence to international cooperation and information exchange standards in the financial regulatory and supervisory area as part of a comprehensive framework that the FSB is putting in place for encouraging stronger adherence to international standards more broadly.

FSB member jurisdictions are required to lead by example. They have committed to implement international financial standards, participate in international assessments, and disclose their degree of adherence supported by periodic peer reviews.

The FSB is following a far more detailed and consistent approach for evaluating adherence to international cooperation and information exchange standards in the financial regulatory and supervisory area than the FSF did.

Show willingness

The focus on identifying uncooperative jurisdictions is not restricted to sharing information; it also reflects the level of willingness and capability to apply the standards now expected by the global community.

In the view of the FSB, the three key financial regulatory and supervisory standards are the BCBS Core Principles for Effective Banking Supervision, the IAIS Insurance Core Principles, and the IOSCO Objectives and Principles of Securities Regulation.

The FSB has prioritised a pool of jurisdictions to be further evaluated, based on their importance in the financial system and the available information on their compliance with the relevant standards.

These undisclosed jurisdictions will be invited to engage in a confidential dialogue with the FSB to further evaluate adherence and identify ways to improve.

The FSB has also launched its first country peer reviews. These focus on the implementation and effectiveness of financial sector standards and policies agreed within the FSB, notably through the follow-up to relevant recommendations arising from a recent IMF-World Bank FSAP.

Italy, Mexico and Spain will undergo a country peer review in 2010 and reports will be published once approved by the FSB Plenary.

The FSB's approach will be similar to that of the IMF, forming an expert team to engage in dialogue with the jurisdiction and, if needed, encourage the authorities to request a new assessment of compliance from the IMF/World Bank.

Sanctions

Once the FSB approves the report, it will consider whether to list the jurisdiction as non-cooperative.

Given the acknowledged lack of teeth in previous review processes, the FSB has established a "toolbox" of both positive and negative measures to promote adherence to safeguard the global financial system and to apply additional pressure to improve a jurisdictions' adherence.

In particular, if one year after the approval of the evaluation report a non-cooperative jurisdiction has not made sufficient progress towards adherence, then the FSB could call upon its members to take further measures.

Apart from the FSB and other bodies and warning other financial institutions to be careful in conducting business with that jurisdiction, there is an escalating range of sanctions which, if implemented, would be effective.

Fairness

However, whilst they may be invoked against smaller centres, the ability or willingness to impose them against a politically powerful jurisdiction, or one whose economic wealth is vital to capital inflows elsewhere, will be the first true test.

The FSB will only succeed if it demonstrates willingness to act consistently and fairly. Its commitment to transparency is a good start.

Its removal of the historic bias against offshore centres is, likewise, a positive indicator.

Let us await the first list of uncooperative jurisdictions to see if those indications provide tangible results.