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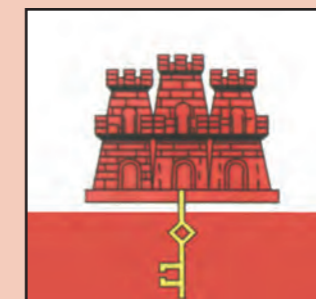


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EDITORIAL COMMENT

Putting it together

It's interesting that Gibraltar hosted a meeting with senior representatives of Jersey and Guernsey to discuss matters of mutual interest, including the finance centre.



Is this to be the start of a type of lobbying group to defend the interests of finance centres that have been labeled variously as 'offshore tax havens', 'small offshore finance centres' and the like, usually with negative overtones?

Apparently not. Guernsey's requested fact-finding meeting had Jersey joining in too; and not a word has been spoken on the subject since by any participant, at least in public.

The possibilities of what such a liaison might achieve – if it became a reality – are intriguing.

Chief Minister Peter Caruana told *Hedge Funds Review* in December that part of Gibraltar's problem in growing the finance centre was achieving greater awareness. "As a member of the EU through its association with the UK, Gibraltar has a particular challenge in making sure its voice is heard", he said.

Given that the jurisdiction as a finance centre is small in the global scheme of things, making a meaningful impact on prospective financial services businesses, hedge funds, new insurers and the like to get them to make their base in Gibraltar, is a tough call.

Forging alliances with other similarly challenged finance centres could help. Constructive dialogue to get a bigger communication clout - a voice to be heard - makes sense, particularly given that there is sufficient potential business to go around for all small finance centres like Guernsey, Jersey and the Isle of Man.

Jurisdictions don't have to compete head-to-head; but there's sufficient need to differentiate each, whether on tax, approach to regulation, innovation or infrastructure.

Gibraltar, for example, has benefits of "passporting" financial products within the EU; Jersey and Guernsey cannot. Indeed, Jersey's finance centre brochure illustrates the point well by making a virtue of its EU non-membership, saying (perhaps rather injudiciously): "Jersey is not a part of the European Union and is therefore not obliged to implement EU directives"!

When major nations are seeking to shift some of the blame for the current struggling world economies onto the existence of offshore finance centres, then a collective response with reasoned arguments seems a good move.

Changing perceptions is key. Just about every country is considered co-operative, or largely so, since the OECD initiative encouraging worldwide tax transparency through Tax Information Exchange Agreements (TIEAs).

And Gibraltar achieved OECD "white list" status last November; having now signed 17 TIEAs, with a possibility of more to come.

This needs to be trumpeted as often and as widely as possible, particularly since the authoritative City of London Financial Centres Global Index in March inaccurately referred to The Rock's 'grey list' status!

Especially when that valuable piece of research on attitudes to financial centres worldwide uses the on-line views of thousands of people working within financial centres worldwide.



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Tax transparency agreements to come under scrutiny

Gibraltar's compliance with the operation and implementation of its new Tax Information Exchange Agreements (TIEAs) is to be closely examined in a Peer review process in the second half of next year to ensure rapid implementation of the arrangements with other countries.

Gibraltar has signed 17 TIEAs, the latest being Norway and Iceland just before Christmas, and since last November has been on the "White List" of countries that the Organisation for Economic Co-operation and Development (OECD), regards as meeting minimum requirements.

The two-stage review process by the Global Forum,

which brings together 91 countries and territories, including both OECD and non-OECD countries, is initially over three years and forms part of the international fight against cross-border tax evasion.

On site visits

Phase 1 of the Review will be desktop research to examine the legal and regulatory framework in each jurisdiction, whereas Phase 2 will evaluate the implementation of the standards in practice through onsite visits.

Gibraltar's International Co-operation (Tax Information) Act 2009 came into force just before Christmas, but at mid-April

only three TIEAs – with the US, Greenland and Denmark have come into force. The remainder are waiting for the various other countries formally to adopt them.

The second stage reviews - which in Gibraltar is not scheduled to take place before the first half of 2014 - will be conducted by assessment teams that generally consist of two expert assessors, coordinated by a member of the Global Forum secretariat.

Rapid implementation

But the OECD makes the general point that jurisdictions not in the early stages of each Phase "will want to review the recommendations that are

addressed to other jurisdictions to see if these are relevant for them".

The object of the Global Forum's review process is to promote universal, rapid and consistent implementation of the standards of transparency and exchange of information.

This can be achieved, the Forum says, "when international tax co-operation allows tax administrations to effectively administer and enforce their tax laws regardless of where their taxpayers choose to locate their assets or organise their affairs".

The Terms of Reference for the Review breaks down the standards of transparency and exchange of information into ten essential elements

under three broad categories: -availability of information; access to information, and exchanging information.

Quick to respond

Whilst giving recognition to progress that has been made, the Reviewers are expected to identify areas of weakness and recommend remedial actions "so that jurisdictions can improve their legal and regulatory frameworks as well as their exchange of information practices", a Forum briefing note explains.

OECD Secretary-General Angel Gurría, said: "The Global Forum has been quick to respond to the G20 call for a robust peer review mechanism aimed at ensuring rapid implementation of the OECD standard on information exchange.

"This is the most comprehensive peer review process in the world."

A first group of 15 juris-

dictions being assessed now includes Bermuda, Cayman Islands, Denmark, Germany, Jersey and Monaco and the results will be available later this year. The UK is reviewed both for Phases 1 & 2 in the second half of this year.

All members of the Global Forum ultimately will be reviewed and "no inference should be drawn about a particular jurisdiction from the timing of the reviews", the Forum insists.

Still more TIEAs may be signed by Gibraltar. Chief Minister Peter Caruana has said his offer to "sign a TIEA with whatever country wants to sign one with us, remains open".

As part of the Trilateral Forum of Dialogue on Gibraltar, the Spanish, UK and Gibraltar governments are according to a Joint Communiqué discussing how

"to establish normal lines and methods of co-operation

including tax exchange of information, regular contacts, liaison and exchanges between regulatory authorities, taxation and anti money laundering issues and policies."

They aim to conclude a TIEA in part to combat "fiscal or financial fraud" and also to adopt Double Taxation arrangements – both would be a real step forward in Gibraltar/Spanish relations.

Removing obstacles

In the meantime, the OECD and the Council of Europe have agreed on an update to the Convention on Mutual Administrative Assistance in Tax Matters, an international treaty that aims to help governments enforce their tax laws and also open the Convention beyond the original 14 country signatories.

Among other things, the Protocol provides for exchange of information, mul-

tilateral simultaneous tax examinations, service of documents and cross-border assistance in tax collection, while respecting national sovereignty and the rights of taxpayers and ensuring extensive safeguards to protect the confidentiality of the information exchanged.

"New provisions aim to remove obstacles to effective co-operation and exchange of information, especially those related to bank secrecy legislations," said Thorbjørn Jagland, Council secretary-general.

"The amending protocol also provides for the opening of the convention to countries that are not members of the Council of Europe or the OECD, thereby transforming it into an instrument to fight tax evasion worldwide," he added.

See also "TIEAs taking effect", page 12

Ship arrests growing

Signs that the world economic situation is continuing to have an effect are now becoming apparent in Gibraltar. Lawyers, the Port Authority and others are seeing a significant upturn in business.

Overall the world marine sector saw a delay in trade impact last year, but as 2009 drew to a close it became increasingly apparent that some ship owners couldn't afford either to repay mortgages, pay Port or bunkering costs, or even find enough money for the crew.

Hence the rise in numbers of ship arrests - broadly since the third quarter of last year - the detention of the ship being security for the claim.

In the year to end March, there were 25 ship arrests –

including a super yacht - compared with only seven a year earlier, according to figures prepared for Gibraltar International. Already this year, there has been a further two arrests.

The pace is accelerating, according to Gibraltar's Admiralty Marshall, Annabel Desoiza, who is charged with responsibility for overseeing the impounding and eventual sale of the vessels.

The jurisdiction's well established admiralty law rooted in English law, its pro-

cedural speed and efficiency and its practical and flexible approach to arrests, together with a prime position adjacent to two of the busiest shipping lanes in the world, are the factors that help make Gibraltar's reputation as jurisdiction of choice for ship arrests.

Efficient operation

"Gibraltar has become an increasingly favoured jurisdiction for banks to enforce their security against ships by arresting and procuring their

judicial sale at auction. Gibraltar has a reputation as a good arrest port, because of the overall efficiency of the process", explains Raymond Triay, a partner in law firm Triay & Triay, and who for 20 years has specialised in Shipping and Admiralty matters.

Nevertheless, each ship arrest also produces nearly £0.5m in fees and commissions on average for Gibraltar, although no figures are published by the Courts on the value of sales handled.

"In Gibraltar it takes seven weeks on average from arrest to sale of the ship", says Triay, "but in Italy, for example, it can be three or four years – and even longer in Spain where it's necessary first to put up a bond equal to the amount being claimed".

He adds: "Being a small community, communication in Gibraltar between the parties involved – lawyers, the Admiralty Marshall, the ship brokers - works with logistical ease and is completed with pragmatism".

Significant savings

A ship arrest, in reality, is no different to a liquidation of a company, where a liquidator is appointed to control an orderly distribution of assets to creditors.

An efficient procedure for the sale of the ship usually results in significant savings for the benefit of all creditors who have claims against the ship and Admiralty matters are given priority in the Supreme Court of Gibraltar.

The legal procedure involves filing documents with

the Court, arrest by the Court, which is carried out by the Bailiff, and then sale of the ship either by private treaty or by sealed-bid auction.

"It's a fairly gentlemanly process and many ship owners in this situation co-operate by voluntarily ordering their vessel into Gibraltar to be arrested. But it is not always so, and sometimes the claimant takes the opportunity to advance the arrest when a ship happens to visit the Port", Triay explains.

Since last July Triay's practise has been involved with eleven arrests. In February, Triay said he executed one arrest procedure with a debt of £75m secured on a fleet of eleven ships, of which two were arrested in Gibraltar.

Continued P8

\$1m for two arrests!

2001 was a peak year for ship arrests in Gibraltar, when Europe was experiencing its previous recession.

It was also the year when events caused Gibraltar to adopt a pragmatic approach to the Supreme Court 'poundage fee' - 1 per cent of a vessel's value - by introducing a sliding scale of charges for an arrest involving multiple vessels.

The simultaneous arrest of seven cruise liners from the Renaissance Fleet Line - following a sharp and rapid downturn in trade in the wake of the attack on the Twin Towers World Trade Centre in New York - became Gibraltar's single most important incident of Admiralty Arrest.

The task, unmatched anywhere in the world, required both flexibility and efficiency.

It was necessary quickly to find enough, sufficiently large, semi-permanent berths alongside in the Port. Food and prompt payment of crew wages became the next priority, along with the rapid repatriation of over 1500 seamen and hotel staff after 20 days afloat when they usually had one night between port visits!

The supervised removal of concessionaire equipment (discotheques, cinemas, gyms, boutiques, hairdressing salons etc) so as not to delay the sale.

Only a short time before, Gibraltar saw the arrest of a fleet of Abu Dhabi bulk load carriers - another seven vessels - at the request of a mortgagee bank.

Ship arrests from page 7

Ordinarily, ship arrests involve vessels with a value in the range £5m-12m, although recently he was involved with sale of a 150ft super yacht for £14m.

Other large legal firms are also involved in the sector.

Isolas partner Christian Hernandez, head of the firm's admiralty and shipping team, is described by Legal 500 as 'undoubtedly one of the heavyweights in the sector' having represented shipowners, P&I Clubs, banks and the International Transport Workers' Federation.

Speedy payouts

Hassans, Gibraltar's largest firm of lawyers, also has a specialist Admiralty team.

Under Gibraltar law a bank enforcing its mortgage over a vessel has priority over most claims that usually arise when a ship is arrested. All parties then know where they stand and this reduces the need for expensive litigation.

Normally, payment of a judgment can be achieved within eight weeks of the initial arrest. Because an arrest is usually a measure of last resort, the arresting party will usually have been out of pocket for some time.

A procedure resulting in a quick payment out is crucial to the success of any jurisdiction.

An order for sale will usually be granted at the same time as entry of the default judgment, 14 days after the arrest of the ship. Once an order for sale is granted by the Supreme Court, the Admiralty Marshal brokers to market and advertise the sale. The normal period of advertisement is three weeks.

Gibraltar's income from ship arrests can be quite considerable – even for a

relatively straight forward sale.

The Admiralty Marshal acts as guardian of the ship under arrest, but is paid for by the arresting party (the claimant, usually a bank) and fees and costs – provision of services, pay and launches for crew transfer, provisions, bunkering and fuel oils – can be up to £100,000.

Two people acting as ship keepers are employed to secure the ship and prevent her from breaking arrest – and costs £40,000 on average; Berthing Fees – average £2,000 a week and could cost up to £5,000 a week.

Court Pounding of 1 per cent of the gross proceeds is charged following the sale of the vessel, but if a sale is by auction – generally considered the way to produce the highest price – the Admiralty Marshal's brokers will charge an additional 1 per cent commission.

Arrests in the financial year just ended, produced ten times more income for the Admiralty Marshal in poundage, a total of £555,000, compared to 2008-09, pointing to a combined vessel sales total of £55m!

In 2001, arrests accounted for almost all of Triay business, but last year it was negligible.

"Banks are being very careful about which ships they call in for default of payments, because effectively it means they are writing down the asset, particularly for younger loans", says brother Melo Triay, managing partner.

Although most sales traditionally have been valued in US Dollars, now Euros are being used more often with the advent of European Banks originating arrests.

(See also 'Port spending', pages 16-18)

More Courts means solving legal issues

As work progresses to more than treble the number of Gibraltar law courts, major changes to the way the legal profession operates are also in prospect.



Artists impression of the new Court building

In a much-needed multi-million pound expansion project undertaken by the wholly owned Government company GJBS, the number of Magistrates Courts will increase from one to three and the Supreme Court is going from one to four court rooms when completed by 2012.

The present Courts are housed in period premises off Main Street. The rising level of cases – particularly civil ones affecting business and families – is causing "unacceptable delays" in hearings at a time when some of the new legislation is expected to encourage more cases to be attracted from outside of the jurisdiction.

Inclusion of pre-nuptial arrangements in Divorce hearings by Minister of Justice Daniel Feetham, is expected to appeal to many High Net Worth Individuals in the UK who are looking to

other low tax jurisdictions that will respect pre- and post-nuptial agreements, because these are unenforceable in the UK.

The change in the law is part of a number of amendments to Gibraltar's legal system, including the appointment of Gibraltar's first specialist family judge, Christopher Butler – one of the two recently-appointed puisne judges. That, together with the expansion of the number of courts, should speed up Court appearances, which some lawyers at the start of the Legal Year in September said was adversely affecting the jurisdiction's financial sector, as well as the prosecution of criminal cases, the backlog for which was described as "an embarrassment".

Gibraltar is already

Continued P10



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More courts from page 8

regarded as “jurisdiction of choice” for Admiralty cases, because of its long experience at processing arrests and speedy disposal of assets to creditors – and this area of work is growing as a direct result of the world economic recession (see story page 7).

High level link

Work on increasing from two to seven court rooms and associated facilities more than trebles the present capacity for hearings, and involves refurbishing the existing courts, as well as a new 3-storey Town Range building with high-level link and atrium on the sloping site.

The Supreme Court of Gibraltar has a criminal jurisdiction similar to that of the English Crown Court, and a civil jurisdiction equivalent to that of the English High Court.

Feetham sees provision of the new Courts, with sufficient back-up resources and equipment as well as overhauling numerous laws, to be “part of the task where we haul the justice system into the 21st century”. Prior to the new Constitution in 2007, justice was the responsibility of the Governor, not the elected Government.

The Courts will soon have a video conference facility – similar to that viewed two years ago by Feetham at

the Inner London Crown Court – between the Court and the prison, which is being moved from the historic Moorish Castle, to a new £5.5m facility at Lathbury Barracks. The aim is to cut unnecessary prisoner and lawyer time at the Courts waiting for their hearing.

In up-grading the computer infrastructure, he envisages claim forms being filed on-line. He is also tackling administration efficiency with the imminent appointment of a chief executive to manage the modernised facilities, rather than have only the Court Clerk, whose primary role is to assist Judges, JPs and the Registrar.

Formerly a partner in Hassans, Gibraltar’s biggest law firm, Feetham was a litigator who worked in the 90’s for independent barristers’ chambers in Manchester, the first outside of London doing only commercial litigation.

Making changes

He sees his Ministerial position, established more than two years ago under the New Gibraltar Constitution, as “providing me with a unique opportunity to give something back to the community and the legal profession I love”, before returning to private practice.

Earlier this year, Anthony Dudley, was appointed the first Gibraltarian to become

the territory’s Chief Justice after more than two years in an acting capacity following the suspension of his predecessor Derek Schofield who was formally removed from office in October.

And to cope with growing activity, six Magistrates have been appointed, doubling the number previously.

But many lawyers are caught up also in the controversial debate over the appointment of Silks – Gibraltar has 10 Queen’s Council (QC) out of a total of around 190 practicing barristers and solicitors on the Supreme Court list.

The last three QCs were all appointed in 2002, but none in the previous seven years!

As with other small jurisdictions – such as Jersey, Isle of Man, Bermuda – Gibraltar has a fused legal profession with barristers and solicitors enjoying the same rights and privileges on court appearances.

Many lawyers believe taking Silk confers an advantage – financially and in client selection of law practices – and that Gibraltar’s image as a thriving finance centre would be enhanced by having more QCs.

The UK ‘norm’ is for around 10 per cent of lawyers at the Bar to be QC’s, which would indicate many more Gibraltar appointments, but

this has divided the legal profession, both as to need and the appointment system itself, some arguing it is not transparent.

The President of the Courts of Gibraltar, Sir Murray Stuart-Smith – an ex-officio member of the Judicial Service Commission that advises the Governor on appointment of QCs – points out that the rank is usually bestowed on “those who have displayed outstanding ability in litigation”.

Debate on QCs

However, there is debate over whether any solicitor not usually appearing in Court can also become a QC. As Sir Murray points out: “In a commercially active jurisdiction there may be exceptional cases where an applicant has not had significant, or any, litigation experience.”

At the same time, the Bar Council has proposed “it may be opportune to consider the appointment of senior barristers to act as part-time judges to assist the judiciary,” fanning the QC debate still further.

However, Council Chairman David Dumas, a Hassans partner who gained QC status in 2002, accepts: “In a small jurisdiction, issues of conflict of interests may be difficult to overcome, but this should not present itself as an insurmountable obstacle.”

Sharing experiences across jurisdictions

Gibraltar played host to the Chief Ministers of Jersey and Guernsey on “a fact-finding and familiarisation visit in relation to taxation, the EU, financial services and political matters”.

Held at the request initially of Guernsey chief

minister Lyndon Trott, who invited his Channel Island colleague Terry Le Sueur, Jersey’s chief minister, the delegations also met with Gibraltar commissioner of Income Tax, Frank Carreras; Finance Centre director James Tipping; and the head of

Gibraltar’s new European Union & International Department, Michael Llamas.

Although a rare event, it was not without precedent; “we have co-operated previously when asked by other jurisdictions to see what happens here in Gibraltar”.

The move follows growing interest by major countries in offshore finance centres and the impact they have on national economies, but no joint counter initiative is believed to have been discussed by the three small jurisdictions.



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Seeing tax information exchange taking effect

Even though new tax agreements between finance centres may yet move from reactive to proactive exchange of information, **Desiree Mchard** argues that having tax transparency through TIEAs is a good thing for clients too!



information request and these are designed to protect the legitimate confidentiality of taxpayers and the holders of information in both countries.

In particular, they guard against what are often known as “fishing expeditions”, where a tax authority might look for a large amount of general information, hoping that some of it might be useful!

Safeguards are there

Information requests are sent to the ‘Competent Authorities’ of the respective countries - in Gibraltar’s case, it is the Finance Minister or his authorised representative - and must include the identity of the person under investigation, details of what information is sought, the tax purpose for which it is sought, etc.

Failure to submit these details or to not follow the rules means the request for information can be declined. If the competent authority needs to use legal powers to obtain the information, even more safeguards are built into the process.

Jurisdictions need to have necessary legal and administrative frameworks to support their commitment to exchange information. The 28-page Gibraltar International Co-operation (Tax Information) Act 2009 came into force in December and gives TIEAs legal effect in Gibraltar.

The detailed procedures for the exchange of information with authorities from another jurisdiction are set out in this Act, as well as the jurisdiction’s powers to request documents and to compel the production of documents, compel witnesses to give evidence and the powers of search and seizure in the event of non-cooperation.

The Act establishes the grounds on which parties can appeal and the time limits thereof and it enables tax officials from other jurisdictions to seek permission to participate in tax investigations carried out in Gibraltar.

Continued page 14

because of the number of tax evasion scandals that hit the headlines.

As Angel Gurria, OECD Secretary-General, remarked at the International Tax Dialogue Global Conference in Beijing: “While tax may not have been a primary cause of the financial crisis, it has to be part of the solution”.

He believes that we have to “look beyond the current crisis to rebuild a sustainable and vibrant financial sector for the future” and needs more international co-operation on taxation”.

Requirements and rules

TIEAs are bilateral agreements negotiated and signed between two countries to establish a formal regime for the exchange of information relating to taxes.

The standards for Transparency & Exchange of Information, which are reflected in Article 26 of the OECD Model Tax Convention, require:

- Exchange of information on request where it is “foreseeably relevant” to the administration and enforcement of the domestic laws of the treaty partner
- No restrictions on exchange caused by bank secrecy or domestic tax interest requirements
- Availability of reliable information and powers to obtain it.
- Respect of taxpayers’ rights
- Strict confidentiality of information exchanged

There are a strict set of rules that have to be followed when making an

The past decades have witnessed an unprecedented liberalisation and globalisation of national economies. An increasing number of countries have removed or limited controls on foreign investment and relaxed or eliminated foreign exchange controls.

While tax administrations remain confined to their respective jurisdictions taxpayers operate globally. But the imbalance and differences in national systems have led to harmful tax practices.

These problems were addressed by The Organisation for Economic Cooperation and Development (OECD) by focusing on improved transparency and co-operation between tax authorities so that countries can fully enforce their tax laws to protect their tax base.

The efficient functioning of tax co-operation helps to ensure that taxpayers who have access to cross-border transactions do not also have access to greater tax evasion and avoidance possibilities than taxpayers operating only in their domestic market.

Co-operation in tax matters also reflects the basic principle that participation in the global economy carries both benefits and responsibilities. The continued viability of an open world economy depends on international co-operation, including co-operation in tax matters.

The momentum that Tax Information Exchange Agreements (TIEAs) have gathered might be as a result of the financial crisis, or perhaps,



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TIEAs taking effect from page 12

It also makes it an offence to interfere with, alter, suppress, destroy, place beyond access, remove from Gibraltar, knowingly or recklessly furnish incorrect or misleading information related to a TIEA request or failing to attend when subpoenaed.

These offences are punishable by a maximum of two years imprisonment or a fine or both.

If a matter is not a criminal tax matter, or an alleged criminal tax matter, the Authority can notify the subject of a request for information. However, failure to do so will not invalidate the notice.

Statutory protection from suit for breach of confidentiality, to persons disclosing confidential information that is not privileged, is also provided.

In the current global financial crisis, exchange of information and transparency has become an even more important political objective for OECD.

International finance jurisdictions are under increasing pressure as the financial crisis forces industrialised nations to seek more sources of tax revenue.

OECD Member States have started to implement defensive measures against jurisdictions that refuse to sign TIEAs and have adopted a three-tiered grading system for jurisdictions and the level of transparency that they have.

The current system is that those jurisdictions that have signed 12 TIEAs are considered to have 'substantially implemented the internationally agreed tax standard' and form the so-called 'white list'.

Increasing requirements

Gibraltar has so far signed 17 such agreements and is one of 66 jurisdictions now on the 'white list'.

However, recent comments by OECD Secretary General Angel Gurría and the leaders of France and the UK suggest the requirements to meet the standard are likely to increase in the near future.

By mid-March 20 jurisdictions (15 of which are considered by the OECD to be tax havens) were on what is commonly known as the "grey list", being countries that have committed to the internationally agreed tax standard, but which have not yet substantially implemented it.

Gibraltar's TIEAs involving the US, Greenland and Denmark have been in operation since the end of January, but as of mid-March none of the other 14 countries with which Gibraltar has signed a TIEA had enacted their relevant legislation to give effect to the agreements.

Peer reviews

The international fight against cross-border tax evasion has entered a new phase with the launch by countries participating in the Global Forum on Transparency and Exchange of Information of a peer review process of TIEAs country-by-country.

They will look at:

1. the jurisdictions with which the agreements have been signed, ie: "quality" (a tax haven which has 12 agreements with other tax havens would not pass the threshold),
2. the willingness of a jurisdiction to continue to sign agreements even after it has reached this threshold and, probably most importantly,
3. the effectiveness of implementation.

Clearly, this is not a numbers game and quality and implementation are important, as it is apparent that TIEA compliance will be regularly updated, initially over the next three years.

Gibraltar has not been included in the first wave of 18 jurisdictions to be reviewed.

The review reports will be published once they have been adopted by the Global Forum, which next meets in Singapore at the end of September.

Gibraltar's Chief Minister, Peter Caruana, has repeatedly stated that the jurisdiction is ready and willing to enter into TIEAs with any country that wishes to do so.

The present list includes several major countries of importance to Gibraltar – France, Germany, Portugal, Ireland, Belgium, Denmark and Sweden, the UK and the US.

All of Gibraltar's agreements are based on Exchange of Information on Request.

In future, Automatic Exchange of Information – typically information comprising many individual cases of the same type – may be required.

There is even a possibility that Spontaneous Information Exchange may be required, including any information

uncovered as a result of domestic investigations that might be considered of interest to another party. Such information might be passed on without the other authority having sought it.

Globalisation not only makes it harder for tax authorities to accurately determine the correct tax liabilities of their taxpayers, it also makes the collection of tax more difficult.

In future another part of the OECD Model Tax Convention, which requires assistance with tax collection might also be implemented.

There is concern that companies and individuals daunted by the unknown consequences of these TIEAs might move their assets and corporations to countries that are not in any tax treaties, such as Panama.

However, TIEAs can be of benefit to those using financial centres that have signed up to them, as they allow for greater reporting transparency between centres by following the OECD model agreement for exchange of information in tax matters.

Secret bank accounts

As a reputable financial centre Gibraltar's clients should be utilising structures which legitimately reduce their tax liability and not just hide earnings/profits and as such they should not be affected by any enquiries.

The easiest targets for any enquiries might be companies and individuals that have "secret bank accounts" where they "hide" untaxed earnings.

The evidence so far is that TIEAs have produced little more than a trickle of information. This could be because you have to know what you are looking for before you request it, or perhaps because the jurisdictions involved have limited resources to dedicate to enquiry work.

Undoubtedly, TIEAs are very important international agreements.

Gibraltar's programme of TIEA negotiations has enhanced our standing in the global financial community, provided economic opportunity and further built our reputation as a reputable financial centre within the EU.

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Desiree McHard is managing director of BDO, Gibraltar



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Port spending to stay on course

Gibraltar Port is thriving despite the general downturn in shipping as a result of the world economic crisis and *Ray Spencer* learns of multi-million pound investment to keep the jurisdiction ahead of competition in the Straits.

With dry dock, ship repair and maintenance facilities, bunkering, cruise-related operations, shipping agents, tug operators and logistics companies all prospering, The Gibraltar Port Authority (GPA) has profitably grown its own business.

Gibraltar Port attracts around 10 per cent of all maritime traffic in the Straits and last year handled 10,042 vessels – 3.1 per cent more than in 2008 – representing a slightly lower year-on-year gross tonnage of 276m.

“This is extraordinary, considering the shipping world has seen a significant negative effect from the recession”, says Joe Holliday, Minister for the Port.

The total is made up of 238 cruise ships, 6,708 bunkers, 132 repairs, 193 cargo ships and 547 others for lay-ups, change of crew and arrests!

Gibraltar is known as a giant filling station for ships and bunkering last year saw a 12 per cent rise to reach 4.7m tonnes. In addition to ships stopping at the Port specifically for bunkers, around 65 per cent of cruise ships also took on fuel while docked.

They are serviced by 16 registered bunker barges, supported by three ‘mother’ supply ships anchored in the Bay and by shore-based storage facilities in both Gibraltar and nearby Algeciras.

The rising bunkering total goes against the trend. Most other ports are showing significant falls in bunkering in the Region, maintains Peter Hall, Captain of the Port for nearly two years, having previously been Bristol Port harbourmaster.

Across the Bay of Gibraltar in Algeciras however, the Spanish port also reported bunkering up – 5 per cent more last year to reach 2.5m tonnes – less than half of Gibraltar’s growth level.

Gibraltar does well because of its strategic location at the intersection of the two main shipping lanes to provide a broad market, he explains, and also because the

Port is almost the last location where ships going north can get low-sulphur fuels, to comply with EU requirements.

“Concern over piracy has caused many ship owners to avoid use of the Mediterranean to reach the Suez Canal and instead use the Atlantic, but fortunately that still leaves Gibraltar en-route, plus the world economic situation has meant there is less need for fast deliveries, so ships can take longer routes and travel more slowly” Hall explains.

In May, the GPA increased port fees substantially – some were virtually doubled – to increase income from £2.5m in 2008-09 to reach £4.5m to end-March this year, when fees were again raised for many by a further 5 per cent!



M H Bland's fast catamaran MHB Swordfish

Last year’s higher fees – opposed by some as likely to harm trade in times of economic recession – raised the extra £2m and targeted bunkering in particular as the sector most able to stand the charges.

Fees no deterrent

“The rates had not been increased for many years”, explains Holliday, who ordered an analysis of charges by other ports in the region “and we found that we could afford to put charges up and not deter vessels from calling at Gibraltar.”

Income could have been even greater

had not the port closed through extreme bad weather for 10 per cent of January and 12 per cent of February – at least double the usual winter down time.

Charges for cruise ships remained untouched, reflecting the government’s desire to preserve liner business in difficult times, and all the spin-off port trade and tourism the vessels bring for Gibraltar plc.

Economic surveys show that cruise passengers are the highest tourist spenders, even though ships generally call for only half a day. That means the Port will be able to accommodate at least four dockings a day, as well as cruise ships anchoring nearby.

The free-standing GPA business, which a year ago grew out of the former government port department, was set the goal to make income 20 per cent higher than expenditure in the first year. “This has been achieved and the business model envisages the Port will continue to do so at the same rate for this current year and several years to come”, he adds.

“The government is embarking on a programme of significant investment and change in the port to modernise, extend and improve its facilities, so that it continues to be an important engine of our economy”, Holliday declares.

In the year to end-March £1.3m has been invested, more than half in respect of up-grading the Vessel Tracking System (VTS). A further £0.7m is anticipated to be spent on upgrading infrastructure this year.

The biggest up-coming project however, is a £1m extension to double the size of the cruise terminal. The year-long work programme will start this summer to be ready for the 2012 cruise programme.

Fewer cruise ships plan to call at Gibraltar this year, the 193 expected being down by nearly a fifth on 2009, but with passenger numbers only 8 per cent less at 332,000, illustrating the trend towards larger capacity vessels.

At April, bookings for 2011 show a



Gibdock's three dry docks and 1km-long quayside work space

continued small decline – 179 ships and a potential 328,000 passengers – although more vessels still could decide to call!

“From our soundings at the recent Miami Seatrade Cruise Shipping Convention in March, we know that although the current year will not be financially great for cruising in the Mediterranean, operators expect the sector to bounce back and 2012 to be a good year.

“I have sold them the idea of an extended cruise terminal, plus the new airport terminal which could be attractive for operators of vessels with around 750 passengers to use Gibraltar as a turn-around port,” Holliday asserts.

The new facilities at the airport will have bedded down and “although I don’t

think we will get many takers initially, we could well attract maybe two or three companies to take up the idea,” he speculates.

Part of the reason for the increased port revenue this year is a near doubling in the number of anchorages to 38, by charging for ships using the east side of The Rock. Previously they stayed for free while owners laid-up vessels waiting for fresh instructions.

MH Bland is Gibraltar’s largest ship agent for merchant as well as cruise liners, claiming a quarter share, having started in maritime services 200 years ago.

For a fee, Bland represents owners’ interests when in Port co-ordinating the provision of services – stores, spares, crew,

documentation, and fuel – from its own resources.

Under the banner, ‘Three ports, one team’ Bland’s marine agency operations also has offices in Algeciras opened in 2002 and in Ceuta from early 2005, contracting suppliers across the range of requirements, (much as most of the other 15 firms do in Gibraltar).

“However, the long term aim is to replicate the complete Gibraltar service in the other two ports,” says Gaggero who is “actively eying up the new Tangier Port and in the future, also the Canary Islands for similar agency services”.

A year ago Bland bought its sixth craft,

Continued page 18

Go getting yards

Gibraltar’s 100-years old former Royal Naval dockyard is gearing up for an expansion in business as is a small repair yard for yachts, despite the marine world suffering the effects of economic recession.

“Over the last three years we have spent millions of pounds on infrastructure – cranes, tools and other facilities – and we will continue to do so”, says New Yorker Joe Corvelli, chief executive of Gibdock.

The yard changed its name from Cammell Laird (Gibraltar) in December to

avoid confusion with the separately-owned Cammell Laird yard at Birkenhead, and today has two wharves, three dry docks, workshops and seven cranes.

Privatised in 1985, the yard has operated under several names. Repair and conversion work – such as adapting offshore supply vessels for work in Brazil, and cutting vessels in half to extend their length – means making efficient use of the docks to maximize turnaround times.

Offshore industry is attractive – work

on semi-submersible and jack-up oil rigs for West Africa and Mediterranean need minimum down-time and space booked well in advance.

“Our investors are committed to this business and are prepared to spend more. We enjoy being debt free”, enthuses Corvelli, the marine engineer and naval architect, who took over the Gibraltar job three years ago for a London-based private equity group.

Employing 250 full time and up to 400 part time staff, Gibdock’s turnover last year was £30m, but Corvelli expects business

Continued page 18

Port spending to stay on course from page 17

the 15m-long aluminum catamaran *MHB Swordfish*, to supply ships for rapid service of vessels on the eastern side – “at 20 knots she can go around the Bay and to ‘off-limits’ anchorages almost twice as quickly as the craft it replaced and carries a larger payload, plus 12 crew for changeovers”, declares deputy chairman George Gaggero.



Michael Sheppard's Coaling Island yard

“Tighter controls aim to minimise the risk by ensuring that only vessels calling at Gibraltar for commercial reasons can anchor on the east side”, Holliday emphasises.

Key to that development is being

able to safely manage use of those anchorages and part of the reason for investment of over £1m in the VTS radar system. The VTS system allows operators in a new state-of-the-art control room located on the Port's North Mole to visualise and interact with all marine traffic within the GPA 'Area of Responsibility'.

Gibraltar has experienced two major shipping accidents in recent times – the sinking of the *Fedra* cargo ship 1 mile off Europa Point after a collision with another vessel in October 2008 that cost around US\$70m and another cargo ship, the *New Flame*, 14 months earlier, which cost over US\$120m!

No blame was attached to the jurisdiction for either incident and the costs met the owners' insurers, but it is recognised that a VTS system might have helped prevent one of them. The expenditure is good value, says Peter Hall, acknowledging that “potential damage to our reputation is our biggest risk”.

Environmental concerns over the potential for an incident involving the bulk storage bunkering ‘mother’ ships permanently anchored in the Bay of Gibraltar has fuelled fresh efforts to organise replacement facilities on-shore.

Chief Minister Peter Caruana told Parliament earlier this year that there were “four or five applications” from



Cruise Terminal to be doubled in size

firms to restore the former Kings Lines depot and associated supply pipelines to the quayside operated by the Ministry of Defence (MoD) for the Royal Navy.

A decision is not expected for at least a year, but Caruana emphasised that “the Government has a medium to long-term aspiration to reduce - and if possible eliminate - floating bunker storage”.

Another aspect is land delivery of lubricant oils from Spain which are then trans-shipped to vessels at anchor, as an adjunct to bunkering.

MH Bland invested in a barge early last year called *Oilfish*, which is being converted to lubricant use in Algeciras to deliver 280,000 ltrs of oils to vessels on behalf of Shell and BP.

Go getting yards from page 17

this year to be a little lower.

“There was a significant lag amongst ship owners compared with the recession generally. In the first half of last year, we achieved the most growth we had ever seen, and then in the second half it all fell away.”

Nevertheless, Corvelli forecasts: “The future is strong and as we continue to be successful in this business, our growth multiples could be significant”.

A big opportunity area is in developing afloat work, where Gibdock also has use of half of the South Mole, giving the firm a total 1km of quayside space!

There is growing competition in the region from Algeciras, Cadiz and Portugal, and from a wider geographic scope, “because ship owners under financial pressure have more time at present to send vessels wherever makes the best economic sense - Eastern Mediterranean

yards and even Baltic countries where they have lower labour costs”, he notes.

Competition for yacht maintenance however, is not the problem for M Sheppard & Co, which has been trying for five years to invest in expanding its repair and lifting operation – it's a lack of sufficient waterside space!

Needing more space

For the past three years Sheppards has operated a 1,000 m2 workshop for mechanical and other repairs in an old Naval cold store on Coaling Island, where around 50 yachts a year can be handled.

“The firm used to deal with ten times that number before the original boat yard - where Ocean Village now is - closed in 2005 and we've been waiting since then to get new premises”, says Michael Sheppard, managing director.

Sheppard bought the business, including a chandlery that remains at

Ocean Village, from his father, (who founded the firm in 1980), and then set about reforming the operation.

With 16 staff remaining, Sheppard wants to grow the business over a three year period to its former size so that Gibraltar can offer a premium yacht service. Such was Sheppard's reputation in Gibraltar that the firm also used to attract clients for more specialist work on electronics for riggings and engines that otherwise only is available in the Mediterranean at Palma, Majorca.

“Clients came from as far as Turkey, the Caribbean and the UK, but we don't now have the physical facilities to handle them, space is so restricted”, explains Sheppard.

He hopes to re-open a 5,000 m2 boatyard at a proposed industrial site next to the airport runway as part of the Western Beach reclamation, but after five years, complex airport planning requirements make an early resolution unlikely.

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Simply part of a team

Two things have remained constant throughout the career of **James (Jimmy) Tipping**, Director of the Government's Finance Centre Department – a maxim that “there are never problems, only challenges”, and his pleasure at being simply part of a team – as *Ray Spencer* finds out.

He's relied on both constants since returning to The Rock in 1999 to take on the role of sounding board and facilitator for the diverse finance sector businesses in their dealings with government. He is also promoter of Gibraltar to attract more firms and Category 2 / High Net Worth (HNW) individuals.

While emphasising throughout a policy of ‘quality not quantity’, 48 years old Tipping sees his task as ensuring the benefits of Gibraltar are seen as a package that stand scrutiny and consideration by anyone thinking of relocating their base.

But “it's about what Gibraltar has to offer and not about what other places are lacking”, he emphasises.

Drawing on his earlier 14 year experience of Capital Markets, Tipping is emphatic: “It's like when you are pitching for Eurobond business to a bank – the last thing you want is to talk about is how other people aren't very good.

“That would be negative – very unprofessional – and something I have never, ever done”.

Instead, “you detail what you are able to achieve and then it is up to individual advisors to look at the offering more closely”.

In promoting Gibraltar, “we deliberately don't look to generate a high profile in newspapers.

Journalists from major UK publications have called up looking for a story about Gibraltar being predatory as a financial services centre; that we can't wait to get our hands on all the people and businesses to encourage them to move across. But that's a double edged sword”.

Gibraltar looks instead to provide information to relevant professionals –



intermediaries, accountants, lawyers, consultants and other advisors – in London and other major financial capitals “rather than titillate the great public in the business pages of XYZ newspaper”.

He uses Gibraltar's status as being a finance centre within the EU for insurance enquiries, as an example. “We say we are part of the EU and if asked who our peer group is, it's EU countries with captives and general insurers having access to a single market.”

“Knocking somewhere else – being negative – is completely and utterly wrong. If I went to a law firm and said I'm thinking of using you for a particular matter and they said, ‘oh by the way, this other lot are not very good’, you would not be impressed and rightly so”.

But Gibraltar has competitors.

“Fifteen years ago, I would suggest that the market here was much smaller and we would have been looking towards the Crown Dependencies. Whether we like it or not – from our obligations point of view and a rights point of view – our

EU status has pushed us away from comparison in that market”, Tipping says.

The introduction within the EU of a minimum guarantee fund for insurers, which raised minimum capitalisation requirements more than tenfold, from €200,000 to €3m, “was seen as the kiss of death for Gibraltar as a captive insurance centre, because they were suddenly obliged to maintain much higher minimum capitalisation levels than elsewhere – the Crown Dependencies, for example.

“But actually it didn't. It made people focus on the fact that to play in the single market and operate within the benefits of a single market system meant a change in approach.

“The small captive industry was forced – and indeed wanted – to change to targeting multinationals to come here instead of Crown Dependencies, for example”.

Funds increasingly will follow the same path, he believes and “our peer group will be EU countries as opposed to anything outside of the EU, particularly when new Directives such as UCITS IV start to kick in, and I can see that trend continuing”.

Another area of Tipping's responsibility is handling the Category 2 HNW resident status, where other EU countries are not seen as being in competition for potential clients, but rather the more traditional range, including the Isle of Man, Monaco, Andorra and Switzerland.

No wholesale move

However, Tipping is dismissive of the notion that large numbers of Hedge Funds Managers are relocating from their traditional London base to Switzerland.

“I don't believe there is a wholesale move of a significant number of people; I think there is a lot of smoke about it – a lot of noise – but the actual numbers are not that significant at the moment.

Gibraltar's Tax Exempt regime – introduced in 1967 to attract international companies that in the main had no holding companies – was not designed to attract the wholesale move of industries.

The number of such companies with

Continued P22

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Tax Exempt status has been steadily reducing from a high of around 10,000; around 2,900 remain. That status is no longer available and by the year-end will be rescinded when a general 10 per cent Corporation Tax rate is introduced.

“But of course, Gibraltar has to put over an attractive package. That may mean low taxation, having no work quota systems, the lack of housing quotas, showing a strong fiscal position (even in the face of terrible financial positions worldwide), enjoying a stable political environment – all are designed to be attractive”, he says.

No fiscal nomads

The number of HNW residents – some 340 people at present – is growing steadily, but increasingly there’s a need for tax planning both in Gibraltar and the country Cat2 applicants are leaving, or where they might also spend a significant amount of time.

“There is no such thing as a fiscal nomad in today’s environment” and “it’s almost that these people must be able to show beyond doubt, that they are living here as a main home, which means they really have got to spend time here”, he emphasises.

It’s a similar situation with companies. An insurance company setting up in Gibraltar might be using an insurance manager locally to help, and they may have a host of broking relationships in the UK, but inevitably the advice is to move key staff to Gibraltar – to have their presence as an operator in Gibraltar.

This would “demonstrate that not only are they ticking all the boxes, but the management is taking decisions in Gibraltar.

“It’s a trend that many practitioners have been putting across for a long time to demonstrate clearly that mind and management is here; the key individuals have to be here in Gibraltar – people that you can see and touch. Gibraltar cannot be used as a brass plate jurisdiction,” he explains.

Relationship management, as he calls it, has always been a strong aspect of Tipping’s work, dating back to 1986 when he joined merchant bank Samuel Montagu & Co (owned by Midland Bank, and then HSBC) and was sent after

a 12 month induction to Brazil where a small investment bank had been established as a joint venture with a Brazilian bank.

His banking entry was opportunist – “I needed a job”.

With a degree at University College, London in Iberian and Latin American (LA) studies – “although there was no incredible link between that and spending 14 years doing LA Capital Markets” – he faced stiff competition to join accountants Arthur Andersen as a tax trainee.

But “it was the worst thing I’ve experienced in my life having gone from being an arts student to a very technical environment”.

He left after a year having nevertheless learnt a great deal about presentations and other skills sets, including being “taught to never, ever use the word problem – there are challenges”.

However, aged 25 and by that stage married for three years, the appeal of working overseas in a bank, the result of a second go at the University ‘jobs milk round’, was greater.

His entry into the small niche market of Latin American (LA) Debt Trading had been assisted by his knowledge of Spanish and learning Portuguese.

“I was basically the PA of one of the Managing Directors, and then got drawn more and more into the trading side, buying and selling debt, and into arbitrage – I loved my time there”, he recalls.

Trading was done by knowing the markets – economically, politically and socially – interpreting developments and, without the aid of computer screens, buying and selling LA Debt bonds personally using telephones and contacts. After three years he was sent for a similar period to join the Bank’s New York trading team.

Alien situation

As markets recovered and governments started to issue 1-year Eurobonds, his job became less about fundamentals of the countries – although part of it – and more puremarkets. “It was a very alien situation”, he recalls.

Tipping regards his six years at West Merchant working as country specialists originating new business from institutions, winning mandates, building relationships with other banks to buy and sell distressed debts and issuing new

bonds, as “a Golden age of being able to lead the markets and things going terribly well in a merchant bank that was very collegial”.

But here too things changed; towards the end it had all become “very corporate”, moving from a relatively small bank with 300 people and rising to 1,000 people.

Gone was the flat management structure “where you can talk easily to the chief executive, because he’s right next to you. Instead, there were numerous systems, manuals and flexibility was gone.

Fond memories too

Tipping’s present job was unplanned.

The job came up by co-incidence; a friend told me it was being advertised in the Financial Times”.

He saw the opportunity to return to Gibraltar while his two children – now 15 and 18 – were still young enough, and “to improve our quality of life – London can be great, but it is anonymous, whereas Gibraltar is quite small and quite friendly.”

Tipping has fond memories of the LA banking scene, having made many friends who remain so today. However, he still finds his finance centre job challenging. “I think there’s more to be done and I’m happy in what I’m doing”.

Although the marketing message is unchanged to reinforce objectives over time, “I like seeing the story unfold and sticking to the issues”.

Last year there was a new development: Gibraltar signed 17 Tax Information Exchange Agreements in nine months. Tipping worked closely with Chief Minister Peter Caruana (acting as Minister of Finance) and on occasions he signed the documents on behalf of the Government.

Tipping’s main function is to advise the Minister of Finance on all aspects of interest to the finance centre.

“Gibraltar has always portrayed itself as being a complementary jurisdiction to large financial capitals” he says.

With “a great team of ten people”, Tipping also liaises with the private sector through the Finance Centre Council, an independent representative body, and advises government on legislative changes needed to develop the finance sector.



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Giving learning a boost

Members of Gibraltar Bankers' Association (GBA) have turned down a request to establish a 'loan guarantee scheme' from the Federation of Small Businesses to help members with cash flow issues.

"But we have proposed instead that we support a series of workshops to help small businesses better make their

case for finance when they are establishing a company, by explaining what banks want to know and how best to present it", says GBA President, Thomas Westh Olsen.

At the same time the 16-member banks of the GBA have set up an education committee aimed at improving

qualifications and future learning for existing staff, as well as targeting school leavers interested in the finance sector as a career.

In a separate move, the GBA has established a Charity reserve fund and as a first step £1,000 is to be given to both of Gibraltar's Comprehensive schools to fund an aspect of

learning, such as presentations materials in consultation with school managers.

And the Gibraltar Finance Centre Council – the representative body of eight professional areas – is hoping to create a Gibraltar Finance Certificate to aid the employment prospects of local school leavers.

Airport 'ready for summer 2011' says Minister

Gibraltar's airport will open in time for the 2011 airline summer schedules, insists Development Minister, Joe Holliday – although the Spanish side may not be completed at that stage.

The terminal still retained a skeletal appearance

in early April and some observers had questioned whether the £50m project was behind schedule.

Chief Minister Peter Caruana told Parliament in March that the new tunnel under the east end of the runway and associated ring

road work will cost £36.7m and will be completed by July next year.

In the meantime, Andalus has suspended its Gibraltar to Madrid & Barcelona flights 'indefinitely'; a Spanish government report suggests the airline owes €7.5m and in the

short term is able to meet less than a fifth of its debts!

However, Air Europa has been attracted by the new airport terminal that is being built and has had exploratory discussions on possible services with Gibraltar's Joe Holliday.

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Moves to protect against insurance failures brings fresh opportunities

Upcoming European solvency rules could present a substantial financial burden for insurers, but some businesses can reduce the effect and benefit in other ways if they act now, suggests **Liz Quinn**.

A new European-wide Directive designed to strengthen both the risk management and the capitalisation requirements of insurers to avoid failures is the most far reaching change to affect the industry for many years.

The Solvency II requirement, expected to come into effect in late 2012, will involve fundamental changes to the manner in which some businesses are managed.

More crucially, it is expected to have an adverse impact on the capital requirements of insurance companies across the European Union (EU). Being within the EU, Gibraltar insurers are not exempt.

The UK Financial Services Authority (FSA) describes Solvency II as "a fundamental review of the capital adequacy regime for the European insurance industry", which "aims to establish a revised set of EU-wide capital requirements and risk management standards that will replace the current Solvency 1 requirements."

Reducing the impact

Gibraltar insurers and their advisers can, however, take certain key actions in the coming months to reduce the expected impact of Solvency II and to benefit fully from the more robust management practices it will require.

The new Directive introduces three Pillars that aim to: 'demonstrate adequate financial resources (Pillar 1); demonstrate an adequate System of Governance (Pillar 2), and instil Public Disclosure and Regulatory Reporting Requirements (Pillar 3).

Under Pillar 1, if an insurer takes no



action it will be directed towards a Standard Model for calculating solvency. Quantitative Impact Studies have shown that the result of this action could be to double a company's current capital requirement.

Performance penalty

The Standard Model is expected to penalise "monoline" insurers - those that underwrite only one or a limited number of classes of business, such as motor insurance.

The penalty occurs in part because an insurer's performance is being compared to the industry norm, rather than taking account of its own experience.

This would have a considerable impact on the Gibraltar insurance industry, which to date has built a strong reputation on the back of niche insurers who have typically developed strengths in one line of business being distributed in one country.

However, a 'Full' or 'Partial' Internal Model is also possible and can reduce the

capital requirement by more accurately assessing the actual risks that the entity faces.

Such risks would include the actual performance of a particular business, the reinsurance programme and the company's investment profile.

In Gibraltar these are key issues.

Historically better

The establishment of the overwhelming majority of insurers in Gibraltar has resulted from the fact that these businesses have historically operated to better results than the industry average.

In addition, once established - and especially in their formative years - these insurers tend to maintain their funds in cash or equivalent investments, rather than adopting a more risky investment profile.

Gibraltar entities have tended also to enter into extensive reinsurance arrangements with high quality partners in order to mitigate risks.

A Full or Partial Internal Model therefore, will more closely mirror the actual risks of the business and is likely to benefit the local market.

Pillar 2 demands that insurers demonstrate their own effective risk management system and prospective risk identification through an Own Risk and Solvency Assessment (ORSA) and this is an area where a company's local service provider or insurance manager should be able to provide valuable assistance.

Regular reviews

The Insurer's Board of Directors needs collectively to agree and document the strategy that the business should be adopting - this should be fairly straightforward for most - and also the level of risk that it is prepared to accept in its business operation.

These factors need to be reviewed regularly and taken into account in all key decision-making.

The risk framework is key in enabling the company to carry out its ORSA. We have been working with our clients for many months on this area, devising Risk Frameworks to address all of the relevant issues.

Interest in assisting with Solvency II is considerable, particularly from actuarial practices that are able to produce appropriate Full or Partial Internal Models.

Attracting firms

There have been several visits to Gibraltar over the last year or so, with presentations undertaken to the industry from various front line firms, some of which have not had a presence in Gibraltar previously.

Several of these firms are known to be considering establishing offices in Gibraltar, and this can only be a positive move generally for the insurance industry as it continues to mature.

As an example of innovative thinking, Quest Insurance Management (Gibraltar) has teamed up with Deloitte's

actuarial practice from the City of London, to provide a modelling solution for at least eight of its clients.

It is expected to provide a cost efficient answer to the Modelling needs of small insurance companies such as exist in Gibraltar.

A further central element of Solvency II is the Supervisory Review Process.

This requires a supervisory authority to review insurance and reinsurance undertakings to ensure compliance and to identify financial and/or organisational weaknesses.

Gibraltar's Financial Services Commission (FSC) has waited to see matters develop before finalising a strategy for executing its role under Solvency II.

It can be expected that the FSC will work closely with more than one actuarial practice to avoid any conflict that may arise from analysing the various models produced by insurers.

These models need to be ready for submission to the FSC by the second half of this year to allow it time to fully

understand them, and to work with the insurer and its model over the period before Solvency II is finally implemented.

Higher fees

Consultation recently undertaken by the Finance Centre has highlighted the need to raise Regulatory Fees for insurers to pay for the costs of work required in respect of Solvency II, in particular.

The new fee structure came into effect in April, with a further increase anticipated next year.

Whichever route an insurer decides to take to satisfy the Directive, time is of the essence.

Although implementation of Solvency II requirements may seem a while off, plans need to be put in place now to prepare Models to suit individual insurers' needs, so as not to be caught out by the changes next year.

Elisabeth Quinn is Group Finance Director of Quest Group
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PEOPLE AND PLACES

Banking on change

"If we are to position ourselves in the Gibraltar market as a world class wealth manager & local bank, we have to ensure that our operational efficiency & effectiveness is second to



Lee Francis

none", says **Lee Francis**, who has been appointed as director – sales & business management in Gibraltar and Cyprus for - Barclays Wealth Intermediaries & Corporates.

Reporting to Franco Cassar, Head of Barclays' operations in the region, 38 years old Francis has an initial internal focus to develop the Gibraltar team.

"Looking at the business, our strategy and business requirements, it became apparent that we needed a business management director in Gibraltar because of its sheer size and complexity", says Francis, who for two years previous had been Country director for Barclays Wealth in Cyprus.

In 2001, Francis became one of the youngest retail branch managers in the Barclays Group, having joined the group thirteen years earlier. He has extensive experience in corporate banking, learning & development & change management, the latter as national change director in Johannesburg.

Early objectives this year for Francis, who lives with his partner in Gibraltar, includes achieving "pure revenue growth and reduced operating costs through enhanced efficiency."

Building on law

Three associates of Hassans, Gibraltar's largest legal firm, have been called to the Gibraltar Bar/ Admitted to the Role of Solicitors in a series of developments that also saw Senior Partner, **James Levy QC**, become the only Gibraltar lawyer to receive a 'Star Individual' ranking for lawyers with exceptional recommendations in their field.

Chambers, also ranked Hassans as No 1 in its Global 2010 directory.

Joelle Hernandez (24) and **Lizanne Noguera** (23) were called as barristers – specialising in Funds and corporate and commercial law respectively, whilst 38 years old **Grahame Jackson**, who works in tax, was admitted as a solicitor of the Supreme Court of Gibraltar.

In the meantime, Hassans' partners **Peter C Montegriffo** and **James Lasry**, were speakers at the Annual Family Office and Wealth Management Conference in Tel Aviv.

"We hope that by taking Gibraltar to Israel that more companies and individuals will look to do business here, which can only be a good thing", explains Lasry.

Commanding leader

The expanding Bland Group, which this year is celebrating its 200th anniversary, has broken with tradition and created a new post, specifically to look after its expanding commercial interests in the Region.

Forty three years old Lt Col (Retd) **John Perez** MBE,



James Gaggero and John Perez Bland Group

Commanding Officer of the Gibraltar Regiment until retiring late last year, has been appointed to the Board of the Gibraltar-founded private company and made chief executive, with specific responsibility for the Group's interests in the territory, Spain and Morocco.

The company, which owns the Rock Hotel, Bland Travel and Gibair, the airport ground handling operation, employs 750 people locally and "remains fully committed in increasing its investment in the region". Perez assures.

James Gaggero, Bland Group Chairman, pointed to Perez's outstanding leadership skills that would enable him to "play a key part in developing the potential of our people and businesses in the region".

Married to Emma, managing director of S G Hambros Bank (Gibraltar), the couple celebrated the birth of their second daughter within a week of taking up his new post.

More mediation

Stephen Bossino, who worked alongside well known UK criminal and human rights lawyer **Colin Nicholls QC**, on a successful challenge to the first European arrest warrant issued in respect of a Gibraltarian, has

joined local law firm Stephen Bullock & Co as a consultant. A past chairman of

Around & About

Gibraltar's industrial tribunal and an experienced mediator, Bossino says he is "hoping to dedicate more of my time to court work and also promoting greater use of mediation and arbitration services within this jurisdiction."

Lighting up

Celebrating 25 years in Gibraltar, **Europa Trust Company Ltd** has re-branded its Rock operation focusing on the lighthouse at Europa Point "being an emblem of trust, safety and security" that reflects the company's values.

At the same time, it has launched a new website – www.europa.gi – that showcases its services and features an interactive map showing the worldwide jurisdictions in which it operates.

Ensuring growth

Paul Sykes, 42years old managing director of Aon Insurance Managers (Gibraltar) and its sister company in Malta since 2006, has been elected chairman of the Gibraltar Insurance Association, which has 52 member businesses.

"The outlook for insurance industry growth is extremely positive having been given further impetus by the development of tax certainty and Gibraltar's achievement of a 'white listing' by the OECD", he says.

With the jurisdiction having 63 licensed insurance and reinsurance companies,

household names such as General Electric, Tate & Lyle and BRIT insurance.

"There are many more open market insurance companies established today in Gibraltar writing 'third party' risks, that passport their services into the EEA member States", he points out.

Gibraltar could now boast a motor insurance market of international significance, underwriting some 8 per cent of all business in the UK motor sector - more than Lloyds of London.

Sykes succeeds **Penny Hudson**, managing director of Caledonian Insurance Management Services, after a three year term.

Quest Group moves premises

Aiming to keep up with developments in the insurance sector, where local firms look after the interests of major insurers when first becoming established in Gibraltar, **Quest Group** is moving in June to new offices at Ocean Village Marina.

"We will have about the same space overall as we do now in Main Street, but it will be much more flexible and capable of accommodating the interests of start-up insurance enterprises that we will manage", explains **Steve Quinn**, chairman.

The location will be convenient for the airport and the frontier with Spain to ensure good accessibility.

Quest, along with **Lamp Insurance**, which shares space in the same 400 m2 building, has 22 staff and was established in 2004 by former Lloyds TSB UK banker, Quinn who was concerned with insurance company start-ups in Gibraltar and spotted an opportunity to provide local management services for them.



Paul Sykes

working with the parent business in Guernsey, which he joined in 2003, and now has a team of 17.

"We have enjoyed double digit growth year-on-year since we came here", Sykes reports, and clients include

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A timely tale

It's a long time since I was confronted with time management and its something I didn't think I'd ever have to face again.

Not the scheduling of appointments variety – meetings, squash matches, bar lunches, visits, meetings, more meetings, school visits, social engagements. These are what I'd define, if I was forced to do so, as managing my time in order to get the most out of it – for me.

No. Time management was something that my then employers felt would be beneficial in getting the most out of me – for them. It would help me, they suggested, in balancing the things I liked doing – strategizing, planning, building business and political relationships, getting out and about, as well as writing, of course – with those things I didn't.

In fact, it's using what Wikipedia describes unappetizingly as “a range of skills, tools, and techniques to manage time when accomplishing specific tasks, projects and goals”.

As a manager, I found budgeting, financial forecasting, performance appraisals, pay grading and so on, simply tedious; the bits that got in the way of doing the real job. I never did get the hang of it – that too was boring.

So imagine my surprise when on holiday recently at being confronted yet again with the need for time management.

Not as you might reasonably expect, in order to fit in the competing demands of reading books & magazines, swimming, sun bathing, tennis, going to bars, lunch and so on.

The things I liked doing.

This time, to my horror, it was more about acquiring the skills, tools and techniques for securing our sun beds! Everyone knows personal sunbeds – or at least ones you wish to make your own

for the duration – are an absolute must for a successful beach holiday.

Everything revolves around them, from the start of the day to the end. It's the base from which holidaymakers – lazing or active – move on to do whatever they enjoy. And to secure said ‘bed’, it's necessary to ‘mark’ it as your own, much as a dog will wee to mark its territory.

You can see where this is going. In order to secure the bed, you need to leave your real (hotel) bed sufficiently early to deposit a towel, so claiming the position for yourself.

But we found to our horror that not only had our towels been piled on a low

spots right next to the beach. But the principle of moving our things seemed all wrong.

Being British (reserved by nature, naturally) we resigned ourselves to the ‘possession being nine tenths of the law’ rule and were relegated to a fully sheltered, back row space on our own balcony. But we fumed.

Who determines how much unoccupied time is too much? If one group feels able to commandeer previously reserved space, can anyone invade ‘our’ space at any time, without a by your leave? Wars could have been started for less.

And then came my deployment of time management. And as a good manager, I delegated the prime task to my significant other....

She got up before 6am – “you can see the ball of sun come out of the sea”, I enthused – and not only marked our beds with beach towels, but added my yesterday's shirt, two magazines, books and other items to emphasise our ‘ownership’. Move those weighted down beds at your peril.

But then the ‘foreign’ bodies were spied circling round, coveting our beds – at 06.30am; daring my wife to move away.

And so the die was set for the next few days. One or other of us would remain on or

within view of the beds. Our meals were an anxious time away, and daytime shopping excursions (I was relieved to find) meant I had to stay put.

The offending bodies eventually sorted their own spaces out, after also commandeering three sun umbrellas (but who is counting) and an uneasy daily rhythm ensued. And as I sipped my Pina Colada, gazing up to the cloudless blue sky, I reflected that the Wikipedia definition of time management may not have been so wrong.

I'd employed skill, tools, and techniques to manage time to accomplish a specific task, project and goal. Here's to time management – cheers!

Steve Richards

“ Who determines how much unoccupied time is too much? ”

table nearby, but our sunbeds had been taken over by ‘foreign’ bodies – in the interests of discretion I'll not reveal which nationality, (but suffice to say a whole race has been characterized by the early morning towel-on-sunbed act)!

Challenged as to why this outlandish act had been perpetrated, our absence for three hours was given as sufficient justification –and they were not moving. Three hours! I've known people book whole day trips out and still claim their sun bed. Such anarchy..... such cheek!

True, we had been away twice as long as we had expected and maybe they had a point about taking up some of the very few prime sun bathing, sea view

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