



Technical Notice (19) Getting ready for the end of the Transition Period

Accounting and Audit

11 December 2020

On 31 December 2020, the Transition Period (sometimes also referred to as the “Implementation Period”) under the EU-UK Withdrawal Agreement will come to an end. The end of the Transition Period will bring an end to the current status quo whereby Gibraltar, its citizens and its business, have enjoyed EU rights. Therefore, subject to the outcome of ongoing negotiations concerning the UK and Gibraltar’s future relationship with the EU, the end of the Transition Period will bring about important changes which Gibraltar, as a whole, will need to be ready for.

Purpose.

The purpose of this Notice is to explain what the effect of those changes are for accounting, corporate reporting and audit. For the purpose of this Notice, a “Gibraltar company” means a company incorporated in Gibraltar and includes a subsidiary incorporated in Gibraltar, regardless of the nationality of its parent, but does not include a Gibraltar branch of a company incorporated elsewhere. An “EU company” means a company incorporated in the EU regardless of the nationality of its parent but does not include an EU branch of a company incorporated elsewhere.

If there is no agreement with respect to the UK and Gibraltar’s future relationship with the EU by 31 December 2020.

Beyond 31 December 2020, and as described in this Notice, Gibraltar will continue to apply, pursuant to domestic legislation, EU rules and regulations that fall under the areas of accounting, corporate reporting and audit. These rules and regulations set out how companies and other legal entities report on their financial activity, corporate



governance arrangements and how those reports are audited. This is reflected in Gibraltar law mainly through the Companies Act 2014 (and regulations made under that Act) and Part 24 of the Financial Services Act 2019 (and regulations made under that Act).

Accounting and corporate reporting.

- **Gibraltar**

Given the above, and subject only to certain technical changes necessary to reflect Gibraltar's status outside of the EU, the corporate reporting regime will be unchanged in Gibraltar in many respects. In Gibraltar, Gibraltar incorporated subsidiaries and parents of EU businesses will continue to be subject to Gibraltar's corporate reporting regime.

- **The EU**

After 31 December 2020, Gibraltar businesses with a branch operating in the EU will become third country businesses and will be required to comply with specific accounting and reporting requirements for such businesses in the EU Member State in which they operate. Complying with accounting and reporting requirements set in Gibraltar domestic legislation may no longer be treated by those EU Member States as sufficient.

Gibraltar companies listed on an EU market may also be required to provide additional assurances to the relevant listing authority that their accounts comply with International Financial Reporting Standards as issued by the International Accounting Standard Board. This will need to be done in accordance with EU third country requirements. In the short term, this could lead to changes to the compliance statements which are required within the annual accounts submitted to listing authorities.



Gibraltar businesses may wish to make themselves aware of the specific accounting and reporting requirements of any EU Member State in which they operate. Moreover, Gibraltar businesses listed on an EU market may wish to make themselves aware of EU third country requirements for listed entities.

Gibraltar legal, accounting and company secretariat service providers to Gibraltar, UK or EU businesses with operations and listings in Gibraltar, the UK and the EU will need to ensure that their clients are aware of the additional reporting requirements as well as the need to obtain additional agreements and assurances.

Audit.

- **Gibraltar**

In the short to medium term, Gibraltar will unilaterally and voluntarily provide for the retention of EU rules in the field of audit. This will be done via the Financial Services (Auditors) (Transitional Provisions) (EU Exit) Regulations 2020 which are currently in draft form.

Therefore, until a date in the future which will be set in the Regulations, the rules relating to audits of Gibraltar companies operating solely within Gibraltar will remain unchanged. This would mean that, during this period:

- Individuals will be able to apply for their EU audit registrations to be recognised in Gibraltar subject to the same conditions which apply today, namely (i) that they are registered with the competent authority of their home state; and (ii) that they pass a local aptitude test; and
- EU audit firms will continue to count towards the “majority of appropriately approved persons” test for owning or managing Gibraltar audit firms.



As soon as the Regulations are published, individuals registered in EU Member States, who are not yet recognised in Gibraltar, will want to make themselves aware of the detail contained in those Regulations. Individuals who are already recognised in Gibraltar do not need to take any further action.

After the date set in the Regulations:

- Individuals will cease to benefit from recognition in Gibraltar on the terms described above and may no longer be offered a local aptitude test (although EU auditors recognised as a result of a local aptitude test process, which is begun before the date set in the Regulations, will continue to be recognised);
- EU audit firms will no longer count towards the “majority of appropriately approved persons” test for owning or managing Gibraltar audit firms
- Audits of EU businesses seeking to raise capital by issuing shares or debt securities on a regulated market in Gibraltar will need to be undertaken by an auditor registered with the Gibraltar Financial Services Commission.

- **The EU**

After 31 December 2020, EU rules in the field of audit will no longer apply, in the EU Member States, to Gibraltar auditors. This means that, as from 1 January 2021:

- an individual’s UK or Gibraltar audit registration may no longer be recognised in an EU Member State on the basis of EU rules;
- a Gibraltar audit firm that wishes to own part of, or be part of the management body of, an EU firm will no longer be recognised among the required majority of EU qualified owners or board members; and



- audits of businesses seeking to raise capital by issuing shares or debt securities on a regulated market in the EU will need to be undertaken by an auditor registered as a “third country auditor” in the EU Member State in which the market operates. The audit will then be in scope of a cycle of inspections by the recognised authority for that market.

To prepare for these changes:

- statutory auditors and audit firms approved in Gibraltar, who want to provide audit services in an EU Member State post-31 December 2020, will need to understand how their Gibraltar registration can be recognised in that EU Member State. This will govern their ability to sign audit reports on behalf of an audit firm approved in that EU Member State, and their ability to be recognised as part of the required majority of EU qualified members of the ownership or management body of an audit firm;
- Gibraltar businesses who wish to raise capital by issuing shares or debt securities on a regulated market in the EU may wish to consider securing the services of a “third country auditor” registered in the relevant EU Member State; and
- Audit firms wanting to be an auditor of a Gibraltar business with debt or equity traded on an EU market will need to register as a “third country auditor” in the EU Member State in which the securities market is situated or operates.

If there is an agreement with respect to the UK and Gibraltar’s future relationship with the EU by 31 December 2020.

Negotiations with respect to the UK and Gibraltar’s future relationship with the EU are ongoing. Should an agreement be reached, it is unlikely that this agreement would include provisions with respect to matters concerning accounting, corporate reporting and audit.



Gibraltar's departure from the European Union means that certain processes and procedures will inevitably become more difficult, cumbersome and bureaucratic. It is important that citizens and businesses are aware of this and that, where possible, they plan ahead. The Government can only prepare in areas that are within its control. Even then, there will be certain areas where mitigation is not possible because the new situation simply reflects what it means to be outside the European Union.

Further information

This Notice is meant for guidance only.

Further information can be sought from brexit@gibraltar.gov.gi.