Money Matters By Peter Schirmer

QROPS code of conduct will give Gibraltar 'the moral high ground' pensions seminar is told

Financial Services Minister Gilbert Licudi and GAPFA chairman Steven Knight share amusement at one of Marcus Killick's dry (and always entertaining) remarks before last week's QROPS seminar

A code of conduct setting out the parameters for handling Qualifying Recognised Overseas Pension Scheme (QROPS) should be in place before the end of August and will follow a double-header of consultations among members of the Gibraltar Association of Pension Fund Administrators (GAPFA) as it prepares for what is expected to be a significant transfer of the UK-based pension funds to Gibraltar. This follows the recent de-listing of more than 360 QROPs from Jersey, Guernsey and the Isle of Man by Britain's tax authorities.

And as these funds seek new homes in other jurisdictions Gibraltar's 20 or more pension fund managers anticipate that the local taxation and management structures - which became law last week and followed three years of triangular negotiations between HMRC, the Gibraltar government and GAPFA members – will attract many of the funds and bring as much as £30 million or more to the Gibraltar economy. The average QROPS transfer fee is around £180,000, according to GAPFA chairman Steven Knight. And it doesn't take an Einstein to calculate that - with the blessing of the UK Taxman and the attraction of a 2.5 per cent tax rate – if even a third of the QROPS seeking a new home opt for out jurisdiction, fee earnings will be substantial.

And the interest is already there, Financial Services Minister Gilbert Licudi told a seminar last week – held, by fortunate coincidence, of the eve of the legislation being placed on the statute book... and amendment to the Tax Act which, with cross-party support, he had pushed through Parliament more rapidly than is managed with most measures, He had already had enquiries from Britain – including a call from the influential FT - he told the Knight gabfest (a major part of which was the chairman's extensive review of much that GAPFA members already knew).

"It has been a piece of industry-led legislation – we have given you the tools to make things work, now its up to you," Licudi said.

"It opens up a line of business which has previously, in effect, been out of reach from Gibraltar," he added.

A clear code of practice from those managing QROPS activity on the Rock would 'preserve the positive positioning of Gibraltar QROPS on an enduring and long-term basis.' Said Knight.

The blueprint for the Code, which is being worked out by a GAPFA sub-committee in conjunction with the FSC, will build on the new legislation and seems necessary not only to give the Rock what Knight terms 'the moral high ground', but because some regulations which should apply to QROPs have still to be drawn up.

"I don't like areas of supervision where there is uncertainty," said Financial Services Commission CEO Marcus Killick, who pointed out that, after a home, a pension was probably the second biggest investment most people will make.

As the 'competent authority' for the local pensions industry he was building an understanding of regulatory needs through the International Association of Pensions Supervisors; but though at present there was very little regulation, it was important 'to get regulation right'.

"We must not over-regulate," he said, adding that the Commission would accept suggestions from fund administrators.

The FSC – already responsible for the supervision of pension fund trustees – is expected to have a similar role with QROPS managers and would act against those who failed to comply with the code. QROPS pensioners must have the same right to protection as local pensioners, Killick told the seminar.

The Association also intends to meet regularly with the local Tax Department to 'smoothe and optimise' QROPS registration, distributions, and transfers out. Gibraltar will control the latter by prfeventing capital being passed on to any scheme in another jurisdiction which does not at least meet our standards on taxation and distribution. And it will also comply fully with UK and EU legislation and practice.

"There will be no pesionp-busting, no non-compliant investments permitted as has occurred in some other jurisdictions with QROPS," said Knight.

Chris White, an international tax specialist and partners in the international law firm Hassans, always gets to the nitty-gritty at seminars. Last week he pointed out that because the new legislation was retrospective to 2006 when QROPS were introduced, the sponsors of existing Gibraltar schemes now needed to have 'their deed/rules amended to come within the Imported Pensions Legislation, pay the 2.5 per cent tax on distributions made since importation, and approach HMRC to seek their approval.'

Costas' ex-pats pick wrong targets for their investment complaints

Britain's ex-pats who escaped the cold and rain that is 'English weather' to find the warmth of sun and wine on the Costas have not had it easy in recent years. Many have lost or face losing their homes because these were illegally built; others have fallen prey to unscrupulous and unregulated 'financial advisers; and they have found that rising prices of goods and costs of services have seriously eroded what were once 'comfortable' incomes.

And some of them are looking for someone to blame for their plight – particularly those who have been the victims of the 'unregulated' rogue financial advisers. They form groups, draw up petitions...and then target the wrong authorities.

Latest to enter the fray – and with a scatter-gun approach – is the Costa Del Sol Action Group which has fired a broadside at a string of English – speaking financial regulators which it claims has ignored its pleas for support.

The Action Group argues it has suffered a lack of response to its complaints from the financial services authorities of Gibraltar, Guernsey, Isle of Man, Jersey, Malta, and Cyprus.

"We are concerned that for many advisers in Spain the regulatory [these] authorities are a less arduous test of a firm's compliance ethos, as they seem to have much less strenuous requirements," says an Action Group statement.'In addition the regulators are an anathema to the Spanish authorities, there is no co-operation between them in the same way that there is between the Spanish regulator and the UK Financial Services Authority."

Their compensation schemes are not as good as those which apply to UK FSA regulated businesses, their plaint continues. "An expatriate may not access the UK Ombudsman Scheme nor may the Compensation Scheme be accessed in most cases. [And] the value of the advice given by independent financial advisors is, in our view, reduced due to the way in which these authorities deal with client complaints, and their regulatory position does not really help aggrieved investors in the event of a complaint where a dispute arises."

The catalogue of complaints continues.

While I cannot speak for other jurisdictions, I understand that Gibraltar's FSC has not only responded to every complaint from the various action groups which have sprung up in recent years – including the Costa del Sol Action Group - but on several occasions FSC CEO Marcus Killick has invited them to discuss their complaints. These offers have been ignored. Can it be that somewhere along the line between the cold and the sun Britain's 'blame and claim' culture has run off the rails?