

GIBA GIVES GUIDANCE ON COVID-19 AND SUBSTANCE REQUIREMENTS

20 MARCH 2020



The Guernsey International Business Association has issued guidance on how Guernsey companies can comply with substance requirements during the coronavirus pandemic.

GIBA's statement said: "It is becoming increasingly clear that the efforts to combat the worldwide and local spread of the coronavirus, COVID-19, will have an impact on the way that many companies operate. In the light of the restrictions on travel, reductions in numbers of face-to-face meetings and the possibility of individuals self-isolating this is relevant to the ability of certain companies to comply with their obligations under the economic substance requirements.

"In particular, this may restrict their ability to meet the directed and managed test and also to demonstrate that all core income generating activities are taking place in Guernsey."

GIBA and the Guernsey Society of Chartered & Certified Accountants have had a number of discussions with the Revenue Service where companies have had to adjust their operating practices to compensate for the coronavirus outbreak. They said they understood that the Revenue Service would take a pragmatic approach to not determine that they have failed the economic substance test.

This treatment would only apply to adjustments to the normal operating practices, and to the extent they are required to mitigate the threats from the outbreak.

"Companies should maintain and retain relevant records that show what their policy was in respect of restrictions on travel for the company officers and the period of time for which that policy was in place. This will ensure that companies can demonstrate where COVID-19 restriction measures prohibited the company from holding an adequate number of board meetings in the island or required meetings to temporarily be held virtually, such as conference calls, video conferencing, Skype or similar. It should be noted that the normal protocols for such meetings should be observed, as far as possible."

The published guidance already recognises that there are times when meetings may need to be held overseas. It should also be noted that a virtual meeting, where there is a quorum of directors physically present in the island, would already count towards demonstrating that board meetings are held in the Island.

Businesses should also give consideration to the ability to appoint alternate directors on-island who can attend meetings in Guernsey and thereby address any short-term practical difficulties arising from the coronavirus and indeed other unforeseen eventualities.

A similar approach would apply to relevant 'core income generating activity' (CIGA) meetings.

Guernsey Finance Chief Executive Dominic Wheatley said: "At this critical time it is important that the island shows flexibility while it maintains complete alignment with the core principles of substance requirements."

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