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Dirty Money

From John Christensen

Alex Smith ignores my key point on offshore finance, which is that for all the efforts of the Financial Action Task Force and others, the flow of dirty money continues to increase, and that this increase is facilitated by tax havens, half of which are linked to Britain ([Letters, 20 October](#)). According to one estimate, from a Swiss banker quoted in *Capitalism's Achilles Heel*, the failure rate for detection of dirty money flowing through that country is 99.99 per cent. Dirty money is money that is obtained, transferred or used illegally. It is useful to distinguish between proceeds from crime, proceeds from corruption, and proceeds from illicit commercial activities (transfer mis-pricing, re-invoicing and similar profit-laundering transactions). The latter, according to *Capitalism's Achilles Heel*, accounts for 40 per cent of the \$500 billion of annual illicit capital flows from developing countries.

Smith asks what was implied by my reference to the 'real intentions' of the World Bank, the IMF and the UK government? Perhaps I might quote Grover Norquist, straight-talking president of Americans for Tax Reform and a leading neo-conservative, who said earlier this year that 'the Tax Justice Network agenda is a direct threat to America's economic interests. The US is a tax haven, and this policy has helped attract trillions of dollars of job-creating capital to America's economy.' No matter that a substantial proportion of this capital consists of dirty money: funding the current account deficit takes priority. The IMF and the US and UK governments have pursued financial deregulation policies for ideological reasons, without paying sufficient attention to the problem of dirty money, and the situation has deteriorated markedly.

Of course some 'special purpose vehicles' (SPVs) have legitimate commercial purposes, but most of those I have encountered were linked to charitable

trusts set up for the purpose of tax avoidance. Enron used hundreds of SPVs to conceal loss-making assets, and hid approximately \$14 billion of 'off balance sheet' debt in structured finance deals using SPVs in Cayman and other offshore finance centres. Readers will find this issue explored in greater depth in William Brittain-Catlin's *Offshore: The Dark Side of the Global Economy*.

The figures used in my review came from a number of sources, including *Capitalism's Achilles Heel*, the Tax Justice Network research paper 'The Price of Offshore', and the Boston Consulting Group's Global Wealth Report. Readers wanting to know more about the regulatory inadequacies of the Jersey Financial Services Department prior to its replacement by an independent commission are referred to the Association for Accountancy and Business Affairs monograph *No Accounting for Tax Havens* (available as a free download from the AABA website; typing 'Offshore Watch' into Google will take you straight there). The far from clear cut distinction between tax evasion and tax avoidance is considered in our guide to tax justice, downloadable from www.taxjustice.net.

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From Alex Smith

John Christensen's piece on offshore finance ([LRB, 6 October](#)) deals mainly with the period from the 1980s to the mid-1990s, but anyone reading it would imagine that the situation he describes remains in place. Nowhere does he mention the Financial Services and Markets Act of 2000, or the legislation dealing with money laundering, or the position of the UK regulator (the Financial Services Authority) or, for that matter, the financial regulatory authorities of Jersey. He may not be aware that all staff of the FSA have to undertake rigorous tests in anti-money-laundering legislation.

Christensen includes not one precise piece of evidence of wrongdoing by the Jersey or the UK government authorities. He refers knowingly to 'dirty money', but what does he mean by it in this context? If he means that the proceeds of crime are being passed through a network of offshore accounts, then that is money laundering and it is a criminal activity. Or does he mean money gained by means he disapproves of but which is processed according to legitimate methods of tax avoidance? He seems to confuse avoidance with evasion. And by 'City of London banks', does he mean banks residing in the City – which could be Barclays, the Royal Bank of Scotland or Lloyds TSB – or small, exclusive finance houses? There are far more foreign banks in the City than UK banks. What is Christensen's point, other than to imply that City = bad?

Christensen also neglects to mention the Financial Action Task Force (FATF), an inter-governmental body whose purpose is to develop and promote national and international policies to combat money laundering and terrorist financing. Full members include, among many others, the UK, the USA, Argentina, all the EU member states, Switzerland and Turkey. Jersey, Guernsey and the Isle of Man are not full FATF members, but they are members of the Offshore Group of Banking Supervisors. Christensen's innuendos would lead his readers to believe that those in authority are little better than criminals. The reality is quite different. 'Dirty money' – the proceeds of crime – does come over from Nigeria, from other African countries and from other parts of the world, but it is not always possible to identify when money is being laundered. Criminals are skilful, and technologically adept.

Christensen sneers at the use of such things as 'special purpose vehicles' (SPVs) and 'beneficial ownership'. There is nothing necessarily illegal or suspicious about these things, when used legitimately. SPVs are often used in the quite legitimate process of 'securitisation', by which companies take assets off their balance sheet and issue investment paper ('securitising') against them, usually in the form of bonds. The SPV is used to ensure that a 'clean break' is achieved between the issuing company and the assets it formerly

controlled. The process is subject to rigorous auditing, and is scrutinised by the FSA whenever a supervised firm is involved (it nearly always is, as banks are required to undertake the work). The term 'beneficial owner' is quite commonly used in share dealings and other financial transactions to differentiate the owner who benefits from an asset from the legal owner, which may be a bank nominee company, for example. It is usually a matter of convenience, not secrecy. Indeed, when served with the appropriate notice by the authorities, the nominee company must divulge the name and address of the beneficial owner. An uninformed reader of Christensen's article could be forgiven for thinking that recourse to SPVs and nominee companies were criminal activities.

Of course we would all like there to be less corruption, and fewer opportunities to promote it. But Christensen does his cause no good by using the language of accusation without substantiating his argument. Where does he get his figures from? Whose calculations are they? When he speaks loosely of the 'real intentions' of the IMF, the World Bank and the UK government, what is he implying? If he knows of individuals or bodies that have broken the law – principally the Money Laundering Regulations or the FSMA – he should report it to the authorities. Indeed, in the case of money laundering, the regulations require him to do so.

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