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Trillions Down the Drain

Of tax havens and shadow banks

By **Axel Troost** and **Nicola Liebert**

Plenty of quite sensible suggestions are now circulating about what triggered the worst financial crisis since 1929 and what will have to be done to avoid future crises. They include improved regulation of rating agencies, an approval procedure for new financial products ('financial MOT') and the banning of off-balance-sheet special purpose companies.

At the same time, in what is apparently a completely unconnected move, the German Federal Government has started to look for better ways of combating tax avoidance in tax havens such as Switzerland and Liechtenstein, as well as Panama and Singapore. In this respect, it has remained largely unremarked that the inadequate regulation of actors on the financial markets and tax avoidance are two sides of the same coin: for both presuppose the existence of tax havens that, apart from low taxes, offer an environment where, to a large extent, regulators deliberately refrain from intervening. 'The development of the current credit crisis in the financial sector would have been impossible without offshore centres,' as the non-governmental organisation (NGO) Tax Justice Network put it in a statement for a hearing of the Treasury Committee of the lower house of the British parliament.[1]

The shadow banking system

The Deputy General Manager of the Bank for International Settlements (BIS), Hervé Hannoun, admitted frankly in a speech to central bank governors from North and South America that, although central banks had been aware of the

[1] Richard Murphy, 'Tax Havens Creating Turmoil', evidence submitted to the House of Commons Treasury Committee, London, 30 June 2008, http://taxjustice.blogspot.com.

property bubble and the growing credit risks, the securitisation crisis[2] and its impact on the money markets had taken them completely by surprise. The emergence of a shadow banking system had simply not been noticed.[3]

This paper argues that one key reason why the development of a shadow banking system had not been registered by even the most senior supervisors, let alone regulated, is that this system is almost exclusively based in tax havens.

The term ‘shadow banks’ denotes actors on the financial markets that provide banking-type services but without being regulated like banks – hedge funds and special purpose companies, for example. Special purpose companies, often also called conduits, are frequently established by financial groups off their books and used especially to deal in the securitised products that have played such an ignominious role in the financial crisis.

It is well known that the German banks that have almost fallen victim to the credit crisis also availed themselves of such off-balance-sheet vehicles. As is customary in the sector, these conduits were all based outside Germany. In 2002, for instance, IKB founded Rhineland Funding in the US state of Delaware, simultaneously setting up various special purpose vehicles based in Delaware and Jersey. They were later joined by Rhinebridge in Ireland with a subsidiary in Delaware. For its part, Sachsen LB administered the conduits Ormond Quay and Georges Quay through its Irish subsidiary in Dublin. In the end, this subsidiary was earning more than half the bank’s profits, although it did not even hold ten percent of Sachsen LB’s assets. 2005 saw the abolition of the state liability that had previously existed under German law to guarantee the debts incurred by public-sector banking institutions, which had enabled them to borrow money cheaply. Other publicly owned German regional banks (*Landesbanken*) then shifted their risky business abroad in

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[2] Securitisation is the conversion of loans and other claims into tradable securities. The crisis broke out as a result of the ‘securitisation’ of ‘toxic’ property loans, the value of which fell to nothing or nearly nothing overnight after the property bubble burst in the USA in 1997.
[3] Cf. Hervé Hannoun, ‘Policy Lessons from the Recent Financial Market Turmoil’, speech at the XLV Meeting of Central Bank Governors of the American Continent, Ottawa, 8-9 May 2008.

order to open up lucrative new sources of income; for instance, Bayern LB also went to Delaware. According to its own information material, HSH Nordbank has 165 subsidiaries that have not been consolidated. An interpellation tabled in the Hamburg Parliament revealed that eleven of them are based on the Cayman Islands.[4]

Elsewhere too, failed banks with off-balance-sheet conduits have caused a stir, such as the British former building society Northern Rock with its Granite vehicle. The registration of central parts of this trust, which held considerable portions of the bank's assets, on the Channel Island of Jersey was hardly noticed in the uproar about the mortgage-lender among the public and the political class. Just a few newspapers wondered whether, following the nationalisation of Northern Rock, the government in London was now running its own offshore operations.

It was, in any case, one of the demands made at the World Financial Summit in November 2008 that in future off-balance-sheet transactions should have to be at least disclosed. Nevertheless, another example suggests that even disclosure, were it actually to be implemented, would by no means solve the problems with regulatory havens: In October 2008, Hypo Real Estate (HRE) had to be saved from collapse with a bail-out worth 50 billion euros, above all due to the billions of euros written off by its subsidiary Depfa, which it had only taken over in 2007. Depfa, a provider of financial services to the public sector that had once been in German state ownership, was privatised in 1991. In 2001, its headquarters were moved to Dublin, from where its former CEO Gerhard Bruckermann is believed to have shifted individual activities to even more remote tax havens. Depfa is certainly not some obscure, off-balance-sheet company, and Bundesbank auditors even paid it a visit at the end of February 2008 after the Irish and German central banks reached agreement on this course of action. Nevertheless, it did not prove possible to prevent the

[4] HSH Nordbank, *Interim Report as at June 30, 2007*; *Neues Deutschland*, 8 January 2008. Apart from this, Germany's publicly owned regional banks are denying the public sector tax revenues by not just managing their own business in tax havens, but also offering this to well-off private clients (for instance, through LB Swiss Privatbank, a subsidiary of Helaba and BayernLB).

crisis at HRE; and the supervision of the group's subsidiaries in regulatory havens remains problematic: in a letter to the Finance Committee of the German Bundestag written on 16 October 2008, Jochen Sanio, the President of the German Federal Financial Supervisory Authority (BaFin), emphasised that it was exclusively incumbent upon the Irish supervisory authority to monitor Depfa's liquidity and solvency, which was why the German auditors had definitely not been required to examine the liquidity position of HRE's Irish subsidiary. In addition to this, the short-term refinancing arrangement Depfa had been relying on had already been an uncertain prospect for some time when the Bundesbank employees carried out their investigation in Ireland. The crisis at Depfa's parent company, HRE, could presumably not have been averted, even if the audit reports had not been accidentally filed away without being acted on.

Nor is it balance sheet consolidation that is the central problem with hedge funds, which did not actually spark off the current crisis, but probably caused an almost-crash when the LTCM fund had to be saved from going under in 1998. The German Federal Government emphasises that there has been more discussion of the need to regulate hedge funds since 2007, including the – admittedly unsuccessful – talks during Germany's G8 presidency. However, hardly anything is being said about the fact that almost all hedge funds and off-balance-sheet companies are based in tax havens – traditionally on the Cayman Islands, the British Virgin Islands and Bermuda for the most part. For instance, LTCM was registered in Delaware, but ran its headquarters in Connecticut, from where it managed the actual fund, Long Term Capital Portfolio LP – which was registered on the Cayman Islands. The US investment bank Bear Stearns's two hedge funds, the collapse of which in July 2007 marked the beginning of the current financial crisis, were also domiciled on the Cayman Islands.

The failure of the Belgian-Dutch financial group Fortis in October 2008 illuminated the scale of the problem. In its annual results, Fortis listed literally hundreds of subsidiaries. They had names like Fortis Prime Fund Solutions, Jasmette Valley and Rigoletto, and many of them were based in Curaçao, the

British Virgin Islands, Liberia, Liechtenstein, the Swiss tax haven Zug and numerous other tax havens. They also included a special purpose company on Jersey called Scaldis Capital that specialised in asset-backed commercial papers and – as at IKB and Sachsen LB – made massive losses without this becoming evident in Fortis's balance sheet.[5]

Furthermore, the business done on and with tax havens, including the Isle of Man, by the Icelandic Kaupthing Bank only came to light when it passed into state ownership in October 2008.[6] Its dealings with a company called Primus Guaranty, which is based on Bermuda and specialises in credit default swaps – derivatives that are supposed to represent a kind of insurance for credit risks –, are particularly revealing. Not only does Bermuda not levy any taxes, it also does not require companies to be audited if this is the wish of their executives and shareholders. The Kaupthing bankruptcy puts the survival of Primus Guaranty in question. The credit default market is regarded as the next epicentre of the financial crisis.

Many of the business models that brought about the present financial crisis are reminiscent of pyramid schemes. Some of them, such as Bernard Madoff's investment firm in the USA, really were pyramid schemes too. It is inconceivable that Madoff would have been able to keep both his clients and the supervisors in the dark about the nature of his business for so long if it had not been for tax havens. The amount that Western banks and enterprises invest every year in tax havens is estimated at up to one trillion US dollars.[7]

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[5] As *Le Monde diplomatique* notes, it is unclear whom all these subsidiaries now belong to. BNP-Paribas, which acquired Fortis, emphasised that it was only taking over Fortis's 'healthy activities'. The newspaper's inquiries have failed to obtain any answers from BNP-Paribas to questions about the 'health' of Fortis's offshore companies, many of which have been engaged in speculative transactions; cf. *Le Monde diplomatique*, 12/2008.

[6] Joann Weiner, 'Icelandic Bank Failure Reveals Tax Haven Links', *Tax Notes International*, 10 November 2008.

[7] Raymond Baker, *Capitalism's Achilles Heel*, Hoboken, NJ, 2005.

Regulatory havens

The examples that have been mentioned make it apparent that it is not so much their low tax rates, but their relaxed regulatory regimes, in combination with maximum secrecy, that draw financial companies so magically to tax havens. This is why the Tax Justice Network also prefers to speak of 'secrecy jurisdictions' rather than tax havens.[8] They are mostly located in the Caribbean – about three quarters of all the world's hedge funds are registered on the Cayman Islands alone –, but a number of European locations did not wish to miss out on the action any longer. A race to deregulate took place, encouraging ever riskier behaviour among the financial companies, the hunt for quick gains and the highest possible profits, and also, as a consequence of this, the inflation of the bubble that finally culminated in the crisis. Three of these 'regulatory havens' that play a particularly major role for European financial organisations, will be discussed briefly at this point.[9]

In 1987, Ireland renamed the disused Dublin Docks area as the International Financial Services Centre (IFSC), luring the financial arms of large corporations there with a tax rate of just ten percent instead of the 40 percent that was then the standard rate in Ireland. After the EU criticised this preferential treatment of foreign companies as anticompetitive, the Irish government cut the tax rate for all corporations in Ireland to a uniformly low 12.5 percent. Since the EU's new Eastern European Member States were also courting investors with low tax rates, Ireland had to come up with fresh concessions and built up the IFSC into a veritable shadow banking system. For example, the Irish regulatory authority promises to license any fund the next working day, provided its documents have been submitted by 3 o'clock in the afternoon.[10] As most prospectuses comprise hundreds of pages, this

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[8] Apart from low tax rates, the OECD specifies three other criteria that define a tax haven: a lack of transparency, laws or practices that prevent the effective exchange of information for tax purposes with other states and the absence of substantial business activity on the part of foreign companies taxed in the jurisdiction; OECD, *Tax Haven Criteria*, Paris, 17 April 2004.
[9] Around the world, the volume of assets held offshore is estimated at 11-12 trillion US dollars; the tax lost as a result of this amounts to at least 255 billion US dollars annually; cf. Tax Justice Network, *tax us if you can*, London, September 2005, www.taxjustice.net.
[10] *Financial Times*, 7 April 2008.

promise is tantamount to saying that nothing is going to be examined too closely. The subsequent supervisory regime is just as generous. The Irish regulatory authority has made it clear that it only feels responsible for financial organisations that have their principle place of business in Ireland. This light-touch style of regulation has been a success: The total amount of money invested in the IFSC, much of it channelled through obscure conduits, quadrupled between 2000 and 2006 to nearly 1.6 trillion euros – more than ten times as much as other forms of foreign direct investment in Ireland.[11]

The Channel Island of Jersey, which belongs to neither the UK nor the EU, even exempts foreign concerns completely from tax. One quarter of the Island's economically active population work in the financial sector, and its government keeps on thinking up enticing new offers in order to bolster the industry. Since the beginning of 2008, it has been possible to establish completely unregulated hedge funds, of which the regulatory authority is merely to be informed. There is neither an approval procedure nor any control. The only condition is that the amount invested should be at least one million US dollars.

The US state of Delaware also advertises more than just low tax rates. Foreign companies that do not pursue any business activities in the USA pay a flat rate of just 100 US dollars a year. In addition to this, only minimal capital requirements apply, and no information about a company's business needs to be disclosed in the official records, apart from which its owners may remain secret. About half of all US public corporations are registered in Delaware even though, unlike foreign holdings, they are still subject to Federal corporation tax – an indication that the tax aspects are only one part of what makes regulatory havens attractive.

These three examples clearly illustrate typical characteristics of regulatory havens: the secrecy of ownership structures, which makes it possible for

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[11] Jim Stewart, 'Shadow Regulation and the Shadow Banking System', *Tax Justice Focus*, 2/2008; Jim Stewart, paper at the Workshop on Tax Justice, Transparency and Accountability, Essex University, 3-4 July 2008, http://visar.csustan.edu/aaba/TaxProg2008.html.

companies from all over the world to effect risky transactions in these locations unbeknown to their domestic supervisors; and the far-reaching lack of interest in monitoring the business of foreign companies shown by the supervisory authorities in regulatory havens. In addition to this, the possibility of exploiting tax havens to circumvent capital rules is particularly interesting for financial concerns. For instance, the Irish subsidiary of Bear Stearns was backing its assets with just 0.84 percent equity.[12]

Apart from this, it is not just financial organisations, but also other transnational corporations, that use tax havens. Often, they operate in these jurisdictions not only to avoid tax, but also to conduct speculative transactions, the failure of which can in turn contribute to the outbreak of crises. One example is the scandal-rocked US group Enron, which operated a total of 881 subsidiaries in tax havens, 692 of them on the Cayman Islands.[13]

The current crisis has demonstrated how much offshore centres are contributing to the instability of the international financial system. Firstly, it was no accident that the losses reported by many banks were incurred in tax havens. Secondly, however, these losses cannot in themselves explain how this situation evolved into a truly global financial crisis. For this to happen, these losses had to coincide with the banks' refusal to provide each other with credit, which has continued through to the present. In turn, the secrecy jurisdictions constitute one crucial reason for this – and that is because, due to their lack of transparency, it is not possible for any bank to know which of its business partners still hold securities in these locations, how much these securities are still worth and how much will need to be written off as a result of these holdings.

[12] Cf. OECD, *Tax Haven Criteria*, op. cit.
[13] Cf. *New York Times*, 13 February 2003.

Half-hearted initiatives

Over the last two decades, several international initiatives have been devoted to fighting tax havens; however, they have primarily concentrated on private tax evasion, unfair tax competition and combating organised crime and terrorism, while hardly addressing the issue of 'regulatory flight'.

The Financial Action Task Force on Money Laundering was set up back in 1989 at the instigation of the G7. For years, under pressure from the USA, this Task Force has really only been dealing with one specific aspect of the issue, the financing of terrorism. In addition to this, there is the International Monetary Fund (IMF), which had a programme of assessments of offshore financial centres (the IMF does not talk of tax havens) that was incorporated into its general Financial Sector Assessment Program in mid-2008. Like the Task Force, the IMF's assessments have placed particular weight on the measures taken by offshore centres to combat money laundering and the funding of terrorism, apart from which they have investigated the supervision of domestic banks, but largely ignored the shadow banking system and the question of supervisors' cooperation with the authorities of other states.[14]

The Financial Stability Forum that was also founded by the G7 in 1999 as a response to the Asian crisis is intended to identify risks to the financial system at an early stage through improvements to the exchange of information and cooperation on monitoring activities. It has not as yet been possible to discern any successes attributable to this strategy. In 2000, the Forum drew up a study of the risks to financial market stability that arise if supervision in offshore financial centres is too weak and the exchange of information with the supervisory authorities of other countries does not function. By contrast, the recommendations about the current financial crisis that the Forum presented to the G8 in April 2008 were concerned almost exclusively with

[14] In consequence, some tax havens have published their IMF assessments as confirmations of their own policies: 'International Monetary Fund reports that Liechtenstein is on a successful path' (www.liechtenstein.li); 'Guernsey Secures Independent, International Commendation for Regulatory and Law Enforcement Standards' (www.gfsc.gg).

liquidity, risk management and off-balance-sheet special purpose companies, while the offshore centres no longer featured at all.[15]

The OECD initiative launched in 1998 was more comprehensive. It involved calling upon tax havens to conclude bilateral information sharing agreements with OECD member states on the basis of a model agreement. In the mean time, the OECD has watered down its definition of 'tax haven' to such an extent that only countries or territories that refuse to pass on information about non-resident taxpayers when this is directly requested are still included on the list of 'uncooperative tax havens'. In consequence, the black list, in itself a tool that deserves to be welcomed, has shrunk to three entries – Andorra, Liechtenstein and Monaco. This means it has become practically worthless. The Managing Director of the Cayman Islands Monetary Authority, Cindy Scotland, has explained how the exchange of information under the OECD model functions or, especially due to the high legal hurdles that have to be overcome, fails to function in practice: 'In the last few years, exactly two inquiries have come from Germany. So there does not appear to be any great need for transparency.'[16] At the urging of Germany and France, the OECD is due to present a new black list this year.

Since 2005, the EU has sought to use its Savings Directive, which also applies to several tax havens that do not belong to the EU, such as Switzerland and Monaco, to get round the great failing of the OECD initiative, that it does not insist on automatic information sharing. However, this approach has suffered from the way that 'problematic states' such as Luxembourg and Switzerland have insisted on a withholding tax instead of information sharing and the fact that legal entities such as foundations and insurance wrappings are not covered at all. Neither the expansion of the Directive's scope to Singapore, Hong Kong and other offshore centres that is currently being negotiated by the EU nor the extension of its coverage beyond interest-bearing instruments that the German Federal Ministry of Finance is

[15] Cf. Financial Stability Forum, *Report of the Working Group on Offshore Financial Centres*, 5 April 2000; Financial Stability Forum, *Report of the Financial Stability Forum on Enhancing Market and Institutional Resilience*, 7 April 2008.
[16] Quoted in *Der Spiegel*, 46/2008.

demanding would result in greater transparency and stronger regulation of financial business in tax havens.

Alternative approaches to regulation

Many analyses of the reasons for the current financial crisis concentrate on excess liquidity or the development of bubbles and underregulation. In this respect, commentators have neglected the question of where this miraculous multiplication of money took place and why regulators had no influence on it or did not even notice the problem. The strategy currently being pursued by the world's governments resembles that of health authorities that react to the outbreak of a pandemic solely by treating the people who are carrying the infectious disease – the banks – with expensive medicines without asking where they picked up the infection. No one is stopping their patients from setting off straight away for the same destination again, and no one is bothering with action to fight the sickness at its epicentre.

In the mean time, the German Federal Ministry of Finance has recognised that there are ways and means of closing down the tax havens. The ministerial draft of the proposed Act to Combat Harmful Tax Practices and Tax Evasion contains a number of proposals in this field, in particular when it comes to the tax-deductibility of income-related expenses, the avoidance of double taxation and the limitation or discontinuation of the tax-free treatment of dividends. The biggest shortcoming of this draft legislation is that the tax havens will merely have to comply with OECD standards if they are to avoid sanctions, i.e. it is explicit that these jurisdictions will only have to provide the tax authorities with the information they want on request. Neither the automatic exchange of information nor any requirements with regard to regulation are provided for. It remains completely incomprehensible that the German state is not even putting a stop to business in (and with) tax and regulatory havens where it can directly determine organisations' commercial policies, as at the publicly owned regional banks and Commerzbank. Furthermore, every bank that accepts state aid should be obliged to withdraw immediately from all tax havens. For inventive financial companies or their consultancy firms will always be able to sabotage the regulatory efforts of individual states or groups of states as long as there are regulation-free offshore centres in which it is not even necessary to disclose the ownership of a company.

The purpose of legislation aimed against tax havens would have to be not just to combat tax evasion, but either to integrate spaces that until now have been free of regulation into the regulatory system by applying appropriate kinds of pressure or to cut them off from flows of funds. If this is to be done, the first step would be to draw up a black list of tax and regulatory havens in accordance with a catalogue of criteria (tax rates, cooperation with tax authorities, regulation). Sanctions would then have to be taken against these states and territories, as well as companies that did business in or with them: The flat-rate taxation of dividends, interest and other profits transferred from tax havens, the ending of the tax-deductibility of operational costs for services provided in these locations, withholding tax on all transfers to tax havens, steps to remove the banking licences of all banks that operate branches in tax havens and the termination of any double taxation agreements with tax havens. One does not have to be a radical to consider steps of this kind, as the demand made by former German Federal Chancellor Helmut Schmidt demonstrates: 'Financial deposits with and financial credits to enterprises and individuals that are legally registered in tax and supervisory havens should be banned under threat of punishment.'[17]

In addition to this, the sanctions should be supplemented with further measures: Hitherto, for instance, double taxation agreements have all too often contained what is merely a limited disclosure clause under which the only information to be exchanged is that necessary in order to carry out the provisions of the agreement, something that severely limits the types of tax the tax authorities can request information on in the first place. Instead of this, such agreements could generally provide for the automatic exchange of information on tax matters. Further to this, the International Financial Reporting Standards (IFRS) must be reformed. In future, they should prohibit

[17] Quoted in *Die Zeit*, 4/2009.

off-balance-sheet special purpose companies and make it compulsory for accounts to be broken down country by country so that it is apparent from financial statements what business has been conducted where, what profits have been declared and how much has been paid in taxes. This might not prevent business being shifted to tax and regulatory havens, but it would at least create transparency and would put the tax authorities in a position to ask the right questions. Shareholders would probably be much more likely to exert pressure on company managements if they were aware of risky practices that were being undertaken in legal grey areas. The charm of this measure is that it could be implemented comparatively easily and without significant costs.

Aggressive new move from the United States?

The fight against tax havens will only promise success if as many states as possible cooperate. However, the OECD, which the German Federal Finance Minister, Peer Steinbrück, wants to use primarily for this purpose, has two disadvantages: Firstly, its membership includes countries determined to block moves of this kind, such as Switzerland. This is why it would probably be sensible for action to be taken by a small, but convinced coalition – with France and the USA, for example. Secondly, the OECD is regarded by many smaller countries, above all in the South, as a ‘club for the rich’, which is why it lacks legitimacy. For this reason, the creation of a UN tax authority would be desirable. At the least, however, the work of the UN Committee of Experts on International Cooperation in Tax Matters (*Code of Conduct on Cooperation in Combating International Tax Evasion and Avoidance*) should be supported unconditionally. The *Code*, which is addressed to both governments and corporations, is intended to put in place uniform minimum standards, for instance concerning the presentation of accounts, disclosure requirements and the exchange of information, and to isolate states that refuse to comply with international standards. Codes of conduct are no substitute for legislation and international agreements, but they can lay down benchmarks and help to foster a political climate that encourages the adoption of appropriate national laws and international agreements.

Interesting initiatives on action that would make it possible to go beyond voluntary standards are coming from the UN itself. The commission of experts on reforms to the financial system set up by the General Assembly in response to the financial crisis and chaired by Nobel Prize-winner Joseph Stiglitz (of which German Federal Development Minister Heidemarie Wieczorek-Zeul is also a member) has called for discussion of, among other things, whether financial organisations from countries with robust regulation should be banned from doing business with financial firms from countries with inadequate regulation – indeed whether such a ban should even be extended to countries that do not themselves prohibit business activities of this kind.[18]

For a long time now, the United States has been using the possibility of exclusion from the lucrative US capital market as a threat. Banks that wish to remain in business in the USA must conclude contracts with the Internal Revenue Service (IRS), the US tax authority, and guarantee to disclose the identities of US-resident taxpayers. However, there is a quite simple method available to tax refugees if they wish to avoid this: all they have to do is not purchase any US securities, because these are the only assets that have to be reported (while securities that have been held for a certain period are merely subject to a withholding tax). In addition to this, the USA has forced through a treaty on mutual legal assistance with Liechtenstein, which applies not only to cases of tax evasion, but even when tax evasion is just suspected. Although both arrangements are only intended to take effect in special circumstances, they have received a great deal of attention because they show that tax havens are by no means immune to pressure.

An aggressive new move from the USA would be more comprehensive in its impact: the Stop Tax Haven Abuse Act, a draft bill to combat the abuse of tax havens that was tabled in the US Senate in 2007 by Senator Barack Obama – as he then was – together with two other colleagues. The bill, which has not yet been passed, contains a black list of 34 ‘secrecy jurisdictions’, including EU states like Luxembourg, the Netherlands and Latvia, as well as almost all

[18] Cf. Commission of Experts of the President of the UN General Assembly on Reforms of the International Monetary and Financial System, *Draft 1.0*, 28 November 2008.

the UK's Crown and overseas territories. The bill would empower the US government to impose sanctions on states and dependent territories or businesses that 'impede United States tax enforcement', exactly as the USA Patriot Act currently permits in cases of money laundering.[19] Provision would also be made for certain banks to be banned from issuing credit cards in the USA.

It is true that this bill only targets the use of tax havens for the purposes of tax avoidance and tax evasion. However, since it refers, above all, to secrecy as the special characteristic of tax havens, these jurisdictions would have to set about appropriate reforms in this field in order to have themselves taken off the black list. This would in turn be an important step in moving financial policy towards reregulation – as a consequence of which it would simultaneously make an active contribution to crisis prevention.

[19] Conversely, Brazil is demonstrating that no exceptions have to be made for a US state like Delaware: The Brazilian financial authorities recently placed Delaware on their black list of tax havens. This means that all dividend and interest payments or other repatriated profits automatically have a 25-percent flat-rate tax levied on them instead of the usual 15 percent. In addition to this, a stricter approach is being taken to transfer price rules and the taxation of profits from the disposal of assets.