

Why the havens can't be trusted to set standards

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The ITIO, and the Isle of Man in particular [launched an attack](#) on the money laundering and tax management standards of the world's major economies yesterday. That was appropriate. But there's good evidence to think that such places can't be trusted to set the standards required to tackle money laundering or tax evasion. I know Jersey is not a member of the ITIO, but I have been looking at its proposed [new money laundering rules](#) that are expected to come into operation in June this year. I've also looked at the other papers on this issue on the [Jersey Financial Services Commission](#) web site.

Let me come straight to my point. Jersey's new money laundering rules, supposedly designed to ensure compliance with FATF rules and the EU 3rd Money Laundering Directive are actually designed to facilitate tax evasion, and as such money laundering, by ensuring that effective information exchange becomes much harder to operate, especially under the terms of the EU Savings Directive, both as it [now is](#) and as the [European Commission](#) would like it to be.

That's a big claim. I'm accusing Jersey of deliberately seeking to subvert the effective operation of an international agreement that is designed to tackle tax evasion. I'm doing so for two reasons. First of all there's evidence that Jersey has willingly done this [sort of thing before](#). Second, the evidence supports the claim. I'm not going to do a page by page analysis here. The following makes the case though.

First, under the new rules Jersey is changing its client identification procedures. It explains the reason for this as follows in the [Money Laundering Draft Paper](#):

4.19 Ensure that it is clear that the objective of Article 27 is clearly communicated, i.e. that satisfactory customer due diligence be obtained for every customer, while permitting businesses flexibility in the way in which customer due diligence procedures are carried out according to a risk based approach.

Note that word 'flexible': it's important because in the Jersey context what becomes clear is this:

1.11 Applicants for business and customers of financial services businesses will also be

affected by the adoption of a more risk-based approach to customer due diligence on relationships. This will provide for reduced customer due diligence measures on "lower" risk relationships, including scope for reliance on a single document to verify identity, and enhanced measures in the case of "higher" risk relationships. In practice, this means the "customer experience" for many "lower" risk applicants and customers will be improved.

The effect of this is as follows:

A risk-based approach to customer due diligence is set out, that permits reduced or simplified measures in the case of "lower" risk relationships, and requires enhanced customer due diligence in the case of "higher" risk relationships.

Much more emphasis is placed on customer due diligence measures other than identification and verification of identity, and, in particular, on ongoing monitoring of unusual, complex, and "higher" risk activity and transactions.

More "customer friendly" ways of verifying the identity of applicants for business or customers, including scope for greater reliance on a single document to verify identity in "lower" risk circumstances. In the case of an applicant for business that is an individual and is assessed as presenting "lower risk", identity will consist of just name, address, and date of birth, and just name and date of birth need be verified. This means that it will be possible to verify the identity of such applicants using just one document, e.g. a passport.

Note what that is saying: a person's address need not be verified. This will apply to bank account opening. So, someone from the UK now tells their Jersey bank that they are indeed a UK citizen, but please send all correspondence on their account to their address outside the EU, which need not be verified, and hey presto, the whole EU savings Directive ceases to apply to them, and the Jersey bank can say they have still complied with all requirements. That's what this is meant to achieve, I am sure.

What is more, the paper makes clear that serious attempts are to be made to ensure that a bank need not hold information on beneficial ownership if the business were introduced by another regulated company. So, for example, they need not have proof of identity for a company or trust if the business were introduced to them by an accountant or trust company, but can request it if needed. The advantage to the bank is obvious. If they do not know the beneficial owner of the funds, and have not verified that status how can they be liable if the EU SD is not properly applied? I am certain it is not chance that Jersey is embracing this option with such enthusiasm, and wants to extend it to trust business (which the FATF does not allow) and even to the holding of the pooled funds of such businesses, the ownership of which the banks would then have no idea about.

These developments are worrying. Information exchange can only work if there is

information available to identify with certainty where a person is. Jersey is planning that its banks should no longer hold that data. This means the information required for information exchange will not be available. When linked to Jersey's [sham trusts](#) and its plan that no company will be required to file its accounts with any authority once 0% corporation tax is introduced the data available for exchange in Jersey is rapidly diminishing just as the obligation to exchange it is increasing.

I do not think that a coincidence. It's a deliberate attempt to support an industry that was built on tax evasion and [still benefits from it to a considerable degree](#), whatever is claimed, and it's the precise reason why the havens cannot be relied upon to uphold the standards required if we are to tackle money laundering and tax evasion. And it's why the [ITIO's statements](#) on this desire ring hollow, in my opinion.