

## Just a bad apple?

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The excuses are already flying in Jersey about the filming of Lloyds openly facilitating tax evasion by creating structures that avoided the European Union Savings Tax Directive and then stating they were indifferent to whether tax was paid by their customers.¶

Some say the salesman in question was just a ‘bad apple’; an isolated example.

Others argue it is only banks who have this problem; the rest of the sector is clean.

Others still are saying it is good for Jersey; this is what they’re for.

All are wrong. First, this did not happen by accident. Two interviews and two banks offering open assistance to evade tax — with explanations given on how to do so in both cases — is not chance. This stuff was not created one off for camera: this was secret interviewing, done twice with both Lloyds and Northern Rock showing that they know they provide mechanisms that permit tax evasion.

This suggests just one thing: that this is the normal pattern of events. These are learned sales scripts. The ‘turning of a blind eye’ is¶ what they do — although illegal under anti-money laundering rules in Jersey. The selling of the fund by promoting its link with Hong Kong is commonplace, and in the case of Northern Rock the accepting of deposits only from shell companies is official policy. The turning of a blind eye in both cases again appears illegal to me under Jersey anti-money laundering rules.¶ This is, therefore, systemic abuse requiring systemic action to correct what is happening. That means no scapegoat can be created, senior managers and group directors are responsible. And it is they who should be prosecuted.

Second, banks of this sort are low grade activity. If they offer abuse then in more complex environments the abuse is simply more sophisticated. To argue that in higher grade activities the abuse is not present is to argue contrary to all we know about the way tax works: as complexity rises abuse does with it. I accept, the abuse may look more like avoidance and not evasion in these higher grade cases, but let’s also be

clear, tax avoidance is also completely [unacceptable and abusive](#).

Third, anyone who thinks that this is good for Jersey is deluded. If, as must be the case or this could not have happened, the culture of abuse is all pervasive and the appearance of regulation is, as I call it ‘constructive non-compliance’ then Panorama has done a considerable service in proving by just how far current regulation fails to deliver real change. The result will be more and better regulation requiring real change. And most places like Jersey will not survive that change simply because they cannot be regulated from within, which is the current assumption.

I have long argued this: in a tiny and deeply connected community like Jersey the outsider feels their status very badly. Regulators must be outsiders. Regulators of the only industry of note in a tiny place, where that industry holds the power of cash, and is corrupted by that cash — as Panorama showed - can hold any regulator to ransom by simply blocking them out of society, blocking their children and partners out of society and by ensuring that their lives are misery if they do their jobs properly. Few can face that sanction, which can be avoided in larger and more balanced societies. This is why Jersey will never regulate itself. And when regulation involved secret filming — as it should — then abuse of the sort Panorama has noted would be apparent.

That’s when the game will be up.

I expect this will happen sooner than anyone is predicting because change in this area is happening at enormous pace. And like it or not, spending cuts in the UK and elsewhere will not happen — they are almost impossible to deliver. That’s the lesson of history and nothing has changed. In which case tax rises will happen. And they’ll only be acceptable when the cheats are driven not just out of town but out of secrecy jurisdictions.

All of which will have to occur very, very soon.