

The proposed Bank Code of Conduct

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The FT [has noted](#):

Banks and their advisers have hit back at the government's proposals to crack down on tax avoidance, claiming a new code of conduct would damage the competitiveness of the sector.

The Treasury's proposed voluntary code to curb avoidance by banks was also lambasted as potentially unconstitutional and discriminatory in strongly worded submissions to a consultation that closes later this week.

This was the message the FT chose to headline. yet cutting out the more extreme views the Tax Justice Network view seemed realistic. We have submitted [our own tax code of conduct](#) with covering comments, interpreted by the FT as:

The Tax Justice Network, a campaign group, argued against limiting the code to the banking sector and said it should apply to an entire bank and not only its UK operations.

It's a view the Chartered Institute of taxation seem to endorse:

The Chartered Institute of Taxation said to limit the code to banks might amount to discrimination under European Union law. It called on the Treasury to state clearly there was no intention to extend the code to other taxpayers.

Of course, I'd argue it should extend it. But the British Banker's Association might also see merit in our position:

The British Bankers' Association said it was committed to working with the government to find "a sensible and practicable" solution. "We are firmly of the view, however, that an international approach works better than a series of national approaches," it said.

I like the TUC position:

Brendan Barber, the general secretary of the TUC, said: "Moves to improve tax

compliance amongst banks are timely and welcome.”

“However, there is no evidence that banks will comply with the requirements of any code. As such, the TUC believes a statutory basis for the code is essential so that those who transgress can be prosecuted.”

I have a strong suspicion that this is where this is heading. As the Law Society noted:

The Law Society said the code “comes dangerously close to departing from the fundamental constitutional principle that a tax should be imposed by law, not by executive action”. It voiced concern that the Revenue would take on a “quasi-judicial” function, cutting across separation of powers between legislature, executive and judiciary.

So let's make it law and be done with it. Because candidly, as the FT notes, the banks aren't committed to this so why not impose it? That's where a general anti-avoidance principle enshrined in law would come into play.