

Right Foot forward

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Much as expected, the [Foot report](#) into the Crown Dependencies and the Overseas Territories is disappointing. Appoint the wrong man to do the job — and Michael Foot was always the wrong man to do this job — and he has even [defected to the Tories](#) whilst undertaking it in an extraordinary show of poor etiquette — and you will get the wrong answers. How could a man who makes his living from offshore have ever done this job?

But the report, none the less seeks to deliver some small punches. It is, for example, adamant that these places must raise enough tax to bear their own risks. I agree, of course. It is only too obvious that they have delivered tax haven facilities on the basis of subsidy from the UK, direct or indirect. The UK subsidy of £230 million VAT to the Isle of Man each year was just the most obvious example — and at least that has been reduced now, albeit I think a subsidy of maybe £90 million a year remains. The demand that each place raise more tax is reasonable and appropriate. The fact that sales taxes are promoted shows that Foot, true to his Tory colours, understands nothing about social justice. This makes the local population of these places, many of whom are really not very well off, pay the price of tax haven activity for the world's rich.

And the fact that this is the centrepiece of the report also shows a poverty of thinking on Foot's part. He may have noticed that some of the world's largest banks have failed of late — despite claims to have been profitable. That was because they were massively under-capitalised to withstand the risks inherent within their business models. Raising some VAT or its equivalent in Guernsey and other such places is the equivalent of what a small rights issue did for RBS in 2008 — it utterly failed to correct the inherent flaw within its balance sheet. The reality is that these places promote risk which it is way beyond their capacity to manage or bail out. In which case this focus is completely wrong. The only way to manage financial risk in these places is to dramatically curtail the risk they deliberately, provocatively and inappropriately underwrite without capacity. And that would have required their financial services sectors to be radically curtailed. Foot is not saying they should do that. And therein lies the flaw in his report. It has missed the real issue: Foot thinks the risk is in the weakness in government

revenues in these places, and there's no doubt it's true. But nothing they could raise could in any way help manage the risks they face. So whilst the proposals marginally reduce UK government risk they do nothing for the real issue.

The same is true of his focus on improved regulation. I think Foot realises the regulations with which he urges enhanced compliance were drawn up by bankers to let offshore happen beneath a veneer of respectability whilst permitting the flow of funds to continue — cutting out just the smallest and most egregious part of the business. He knows because [he was part of the elite](#) — in the UK at the Financial Services Authority and offshore in various appointments — that made sure the system was designed to deliver constructive non-compliance. He was also one of those most responsible for setting up the system of bank regulation that has so spectacularly failed. That is the veneer of respectability that allows the abuse to continue. And just as the rules he delivered at the FSA were useless — so are the offshore rules he is now promoting. They were never designed to really regulate financial abuse, were never intended to stop tax abuse, were never intended to stop the creation of asymmetric information that encourages market abuse, and were never intended to curtail this abuse in the social interest. So encouraging compliance with them now is absurd: the only thing he should have been doing is to demand automatic information exchange on the identity and income of all users of offshore tax havens, the introduction of country-by-country reporting and massive increases in the transparency of offshore structures so that the accounts, beneficial ownership and true nature of the identity of management of all offshore entities (including those in London, Delaware, and beyond) be available on public record, freely accessible and subject to massive penalty (yes, massive — including forfeiture and more) if inappropriately recorded. There are only at best very tentative steps in this direction.

Then we would have seen change. Instead we have a weak apology for a report that is going to do little, but allow it to be claimed the issue has been tackled — especially by George Osborne, who has every reason to promote the abuse no doubt beloved by many of his friends. I never had high hopes for this report. And even then I have been underwhelmed. A weak man, born to be an apologist, has delivered a weak report. It was what I expected but after a period of real progress this is, without doubt, a set back.

The moral: never again appoint insiders to undertake reviews. It does not work. Strong outsiders do work. Just look at the contrast with the [Nimrod review](#) to see what I mean.