

The Cayman Islands' director - almost as flexible as th...

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Once upon a time the postman on Sark was the symbol of offshore farce: rumour had it he held more than 2,000 directorships and quite clearly knew little or nothing about any of them, each being held as a pure nominee to supposedly locate the company of which he was a director for tax purposes on that once idyllic and now rather troubled Channel Island.

Then the 'Sark lark' was brought to an end, the postman went back to the day job and examples of such farce, where nominees were so blatant that the sheer lack of likelihood that they really undertook the task supposedly entrusted to them was harder (not not impossible) to find.

Today the FT reveals the practice of nominee directors holding far more positions than they can possibly manage is alive and well and riddles the Cayman hedge fund industry, which claims to be resident in those islands even though it is very obviously likely that real decisions must be made elsewhere. [As they report](#):

A small group of Cayman Islands “jumbo directors” are sitting on the boards of hundreds of hedge funds as demand for independent directors booms in the Caribbean tax haven.

At least four individuals hold more than 100 non-executive directorships each, and 14 have more than 70 — each worth as much as \$30,000 a year.

One has been listed as on the boards of 567 Cayman entities, almost all of which were [hedge funds](#).

The revelation of the figures, in a Financial Times investigation, comes amid calls from some of the world's leading hedge fund investors for greater transparency in the Caymans as part of a global effort to improve fund governance.

This practice suggests three things. First of all, as I have often argued, the supposed centre of decision making that suggests these funds are located where their directors

are is little more than a charade in many cases.

Secondly, any directors who can believe in this charade must have suspended their judgement: if you can believe in these structures it is highly likely that sound governance has flown out of the window.

Thirdly, and as I have again argued, often, the time for a change in the rules regarding the determination of residence on the basis of where the directors of an entity supposedly meet is more than overdue for reform. As is likely in these cases, real decisions are almost certainly taken in places like London and New York but tax is not paid there as a result of playing games in Cayman. That has to stop. Pretending we can determine residence on rules written for the era of the steam ship and telegram when we live in the age of the internet is just madness, and is giving companies the most massive loophole to abuse the tax rules and revenues of major democratic states. The objections of business have to be ignored and such schemes have to be looked through now wherever possible.

Is this a case for the proposed GAAR? I think it should be, but I fear the hurdle has set been too high for it to be used in such cases. If so then specific legislation is needed. Either way, reform is possible and overdue.