

## the Panama Papers: what they reveal and what must happen

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The world's media is full of discussion of the so-called ['Panama Papers' this morning](#). This is the leak of 11.5 million documents from Panamanian law firm Mossack Fonseca. The documents cover many years, but include papers as recent as 2015. This is not an ancient archive: this is an indication of what is happening now.

So far (and I may be wrong about this as yet) I have read nothing from the revelations that suggests there is something new to learn on the techniques used by offshore. This is a tale of secrecy through the use of trusts owning shell companies, managed by nominees with bearer shares playing a part and all the usual suspects - starting with the British Virgin Islands - lined up to play a role.

In terms of the revelations on people I suspect no-one is going to be surprised that those around Gaddafi, Mubarak and Assad used or use shell companies.

Nor is the suggestion that high ranking Russians use such companies to export their capital a surprise.

Iceland comes as a little more of a surprise though. And it is also, in part, where the lessons that need to be learned begin to become apparent. The involvement of senior politicians there is already leading to calls for elections, and rightly so. But let me link those themes, because this is what I think needs to be done.

First, let's be clear that offshore secrecy is about corruption of normal process and accountability even when its use is apparently legal. This is, in itself, a direct assault on the requirement for full disclosure that is necessary for the effective functioning of politics, government, business and markets. Without that disclosure all of these activities that are and have to be built on trust fail, and over time do so to increasing degrees. In that sense offshore, even if supposedly legitimate, is an assault on the way of life we apparently wish to lead. It is nothing less than economic warfare as a result.

Second, let's be clear that the so-called legitimacy of much of offshore is wholly dependent on something readily apparent [in the statement from Mossack Fonseca in](#)

which they said:

*We are not involved in managing our clients' companies. Excluding the professional fees we earn, we do not take possession or custody of clients' money, or have anything to do with any of the direct financial aspects related to operating their businesses.*

What this makes clear is that Mossack Fonseca comply with [the theory of offshore I created in 2009](#) where the concept of 'elsewhere' is paramount. This means that Mossack Fonseca deal with what is in front of them and what happens in the place of incorporation of the company they supply and claim all is compliant and legitimate in that place knowing full well that everything that is of substance about the entity happens 'elsewhere', to which they turn a complete blind eye. The pretence is that this is none of their responsibility. I argue that it most definitely is, and is where the change in focus on offshore regulation must now take place. The splitting of tasks that lets each accountant, lawyer and banker claim that what they saw was legal when they know that the operation as a whole may not be has to end.

Third though let's focus on how real change has happened offshore. As I mentioned recently, when John Christensen and I set out to tackle offshore head on we decided that the best way to do it was on the front page of newspapers. The aim was to simply make the risk of using such places too high. This leak continues that tradition, and so I warmly welcome it. But there is another aspect to this: HMRC and other UK regulators have to play their part. The leak of more than 6,000 names from HSBC led to one prosecution by HMRC. This must not happen again. If Iceland can topple a government over this then HMRC can prosecute those with undeclared links: the time for action to put those who are abusing on the front page of papers has arrived so that the reputational risk of using offshore becomes too great for anyone to do.

And last? It has to be said that it is UK territories doing this, where UK banks and firms with familiar UK names will be found there. I am not saying any of them are doing anything illegal, but you can't have an office in the BVI (for example) and hold your head up high. It has to be said that as a matter of fact that is true. The aspects used for criminality are those used for commercial purposes. There is no honour in being in such a place and the fact is that it is time for the UK authorities to first take action on places like the BVI itself and second on the UK based financial service institutions with links to it. Any such link has to be subject to the utmost scrutiny and licences have to be reconsidered for those who persist in linking their activities to offshore. The price of operating offshore has to become too high to bear for those mainstream banks, lawyers and accountants who still think this is good for business. It isn't.

Then we will make progress on this issue.

*Note: I will be discussing these issues on the Today programme on radio 4 at 8.50 this morning unless schedules change (which they do).*