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Ignorance and Madness

In my last article in March I said that we had to just wait and see where the pandemic is taking us. The picture is still not clear, as we face a second year of doubt; but still, some things are coming more into focus as we work our way slowly, and with trepidation, through it. I believe that the pandemic is a moment in history that can be compared with other momentous moments like the French and Russian revolutions, when the old order was challenged; and so in 2021, as in centuries past, some crucial questions are being raised: what is the real role of government, and can we trust our leaders, as we tackle the social inequalities and the shortcomings of globalisation? How far the pendulum swings will impact the international financial services industry, particularly that segment known as "offshore", and whose reputation has been sullied in recent years,

especially in the context of social inequalities that the pandemic has magnified.

Ever since the Organisation for Economic Co-operation and Development issued its report "Harmful Tax Competition – An Emerging Global Issue" in 1998 the reputation of the particular cluster of Caribbean islands offering financial services has gone downhill. As the need for revenue from taxation to fill government coffers now becomes more extreme, so the criticism of such places, often known as tax havens, will surely increase.

Johann Wolfgang von Goethe observed: "There is nothing more frightful than ignorance in action". This German poet and playwright's words are germane when trying to fathom the European Union's logic in compiling the latest list of tax havens and which has engendered outrage such that commentators have described the EU's behaviour as sheer lunacy.

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There are other signs of madness, if one considers that the credulous Tax Justice Network believes that the United Kingdom's Overseas Territories are the world's most significant tax havens. I suggest that this organisation is in desperate need of a compass to guide it on a global tour that will reveal the fact that not every so-called tax haven is offshore.

As for the EU and other fumbling, bumbling bureaucracies, it is as if they live in a parallel world to those professionals working in both the offshore and onshore financial services sectors. "Iolanthe", Gilbert and Sullivan's 1882 comic opera, highlights the inadequacies and farcical pretensions when the established order of things is challenged and which is in step with many of today's authoritative bodies involved with the supervision of the financial services industry.

International financial centres, known also as IFCs, have been described as engine rooms of innovation. I couldn't agree more. I have often likened IFCs to unique centres of specialised knowledge, just like Silicon Valley is, regardless of any tax advantages that might be derived from them. The trouble is, for reasons already suggested, these engine rooms have bureaucrats in the wings waiting to put a spanner in the works.

One of the important and positive results of the pandemic has been that conventional wisdom is under fire from all sides. Many are questioning previously accepted theories, assumptions and beliefs, just like Friedrich Nietzsche, who died at the turn of the last century, did. He had his own thoughts on the subject, describing the man who spurned new knowledge beyond the extremities of his own as foolish, refusing to discover new truths when there "are already too many old ones". I accept that Nietzsche, who famously said that God is dead, was one of the most revolutionary and subversive 19th-century thinkers in Western philosophy whose thoughts could shock the system, similar to the sensation of jumping into icy waters straight from a steaming bath. However, he did have a point: too many of us, including

institutions of every stripe, are following old truths that no longer apply.

What is more, we assume a level of competence and knowledge within the international regulatory system that oversees the financial services sector. Having worn both a gamekeeper and poacher's hat during my career and rubbed shoulders in the United Kingdom, Europe and beyond with fellow regulators and government officials, I have concluded that in many instances, based on past and present-day evidence, that this would be a dangerous assumption to make.

Trust is Dead

When, in the late 1970s, I moved to the West Indies my mind was still full of boyhood impressions influenced by Robert Louis Stevenson's Treasure Island. Those were the days when it was accurate to describe the string of islands providing offshore financial services, most of them British Overseas Territories, as being part of the "Wild West Indies", a conclusion easily drawn when considering my previously conservative business background. Then there were a lot more cowboys than sheriffs. No more. The change that has taken place, and for the better, has been profound. Not all of us, however, understand or appreciate this, and it is where perception once again clashes with reality.

Unfortunately, as we see in the case of the EU, too many are clinging to "old truths" and distorted perceptions. Jonathan Swift was right: "It is useless to attempt to reason a man out of a thing he was never reasoned into". When a former governor of the British Virgin Islands, speaking out very recently about local political corruption, declares to its citizens: "Your voices have been heard. We have received the message loud and clear - the people of BVI want better", this becomes music to the ears of the EU and supports their entrenched, blinkered views. Political corruption, which is to be found everywhere, is bad news but one should not automatically have a related regulatory system, especially in the Caribbean, tarred with the same

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brush. Having to continually comply with due diligence in one or more of the UK's Overseas Territories, I normally find this much more of a challenge than I do elsewhere. To counter the ex-governor's plea, on behalf of a beleaguered industry: the professionals working in the Caribbean offshore sector want better. I doubt, however, that they will get it.

The problem you have in the Overseas Territories, in varying degrees, is that there are three - often conflicting - forces to contend with: the British government, represented by a governor; the island politicians; and the private sector. The British government is responsible for regulation but often gets it wrong by appointing those who may not have adequate, relevant experience. This malady, I should add, is not exclusive to the Caribbean. They may well be perceived as experts in some quarters, but like so many other words these days, use of the word "expert" has fallen into common use, and by doing so has had its meaning devalued. A consultant who worked for the United Nations at one time, once quipped: "everyone's an expert if he's more than 5 miles from home."

In a new twist, one of the consequences of Brexit means that the UK is no longer a member of the EU, and so besides all other adverse developments, such as fighting over fishing rights, it could find itself sitting alongside its Overseas Territories in the dock, labelled as an IFC but one, in Europe's eyes, that has the complexion of a tax haven and so a candidate for more opprobrium from Brussels. This is an unfolding situation that will be worth watching, especially as John Kenneth Galbraith reminds us never to "underestimate the power of very stupid people in large groups". A particular line from Iolanthe also springs to mind: "I did nothing in particular, and I did it very well".

Transparency International, another organisation challenging the boundaries of credulity, fears that the British government could be establishing "onshore havens" in which illicit funds of criminals could be held anonymously. After all, the Tax Justice Network's Financial Secrecy Index suggests

that if the UK's Overseas Territories and Crown Dependencies are included, then the UK is the biggest of the "secrecy jurisdictions". The UK's parliamentary Intelligence and Security Committee has already made mention of the London "laundromat".

When it comes to governments, if Nietzsche had been alive today, he may well have declared on behalf of citizens worldwide that "trust is dead". Where are Gilbert and Sullivan, in this theatre of the absurd, when you need them?

A Time for Reflection and Circumspection

This year two milestones have been reached: Trust Services, S.A. has been in business for 40 years and I am celebrating 50 years as a professional trustee. According to some scholars, Socrates felt that "the unexamined life is not worth living". My own opinion, however, is that whether or not I take the time to examine my life, it is one that I am in no doubt has been worth living, if only for the professional experiences.

What really needs to be examined, however, is how the financial services industry has changed during my lifetime, with or without the pandemic. This has triggered an exercise of reflection, following a year of many changes, creating haunting uncertainties. Crucially, however, and well before the pandemic struck, what seemed to start as a trickle in the last century, has become a steady flow. I am talking about trust, this time in the financial services industry, rather than in governments.

I have often exposed the dark side of the industry, and some of my bleak opinions and predictions have been borne out by events. This newsletter, if you will, is a diarist's record of the differences that highlight the distinct divide between domestic and international business activities; however, that divide today, as I say, is not so obvious, and even if the word "offshore", when used in this context, continues to suggest intrigue and conjure's up in the mind's eye swaying palm trees, scheming bankers and secretive goings-on in accountants'

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and lawyers' offices. Not surprisingly, "offshore" today has become a pejorative, as well as nebulous, term. Because of this, traditional offshore centres, many offering stretches of pristine beach, are still regarded as legitimate whipping boys by onshore governments, despite there being not only "offshore havens" but "onshore havens".

I wonder what Gilbert and Sullivan would have made of this nonsense? So circumstances present themselves not only for pirates but pirate bankers as well, who don't ever need to sail the seas before claiming booty. Forget Gilbert and Sullivan's comic opera, *The Pirates of Penzance*; I think *The Pirates of Circumstance*, be they only onshore in Cornwall or London, would have a long theatre run in the 21st century.

Anyone venturing beyond his own shores for financial benefit may need (not easy) to discard some perceptions that perhaps have been planted firmly in his mind. I know all about this because on many occasions I have battled against my own prejudices, more often than not aided and abetted by perceptions gathered along the way from numerous (often unreliable) sources.

And thus of all the slings and arrows every professional working offshore has to suffer – including the immense pressure coming from both the OECD and EU – he will be continually confronting both prejudice and perception planted in the minds of those potential clients who do not see beyond those swaying palms and, therefore, have little chance of having their own opinions swayed.



Offshore Pilot Quarterly (independent writing for independent thinkers) has been published since 1997 by Trust Services, S. A. which is the British face of international business in Panama. It is written by Derek Sambrook, our Managing Director, a member of the Society of Trust and Estate Practitioners and a Fellow of the Institute of Bankers in South Africa who was both a member of the former Latin America and Caribbean Banking Commission and an offshore banking, trust company and insurance regulator. He has over 50 years combined private and public sector experience in the financial services industry about which he has written extensively and our website provides a broad range of related essays.

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