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Fast spinning into oblivion? Recent developments in money-laundering policies and offshore finance centres

MARK P HAMPTON & MICHAEL LEVI

ABSTRACT *This article examines the growth of money-laundering in conjunction with the associated development of offshore finance centres (OFCs) located in small places such as islands or microstates in the Caribbean and elsewhere. The phenomenal growth of OFCs since the 1960s may be seen in terms of the 'four spaces'. Three of these 'spaces—the secrecy space (confidentiality); the regulatory space; and the political space—can be used to frame an analysis of the growth of offshore finance and the emergence of a suitable environment for international money-laundering. The article then examines recent policy developments concerning money-laundering and OFCs, such as the workings of the Financial Action Task Force (FATF), and the regional Task Forces such as the Caribbean Task Force. Finally, the article explores the changing way 'offshore' is being constructed as exemplified by rising onshore pressure from the OECD, G7, the EU and, most recently, the UK government, with its growing concern demonstrated by the 1998 unprecedented Home Office and FCO reviews of both British Isles and Caribbean OFCs.*

Many Caribbean small island economies (SIEs), including the Cayman Islands, the British Virgin Islands, The Bahamas, Anguilla, The Netherlands Antilles and Barbados have become tax havens and offshore finance centres (OFCS) since the 1960s, and now form a key component in the increasingly globalised financial system. These island locations are linked to onshore global financial centres such as London and New York by high capacity telecommunications and computer networks, facilitated by recent advances in the so-called converging technologies.[1] Thus, vast international flows of capital—now estimated at trillions of US dollars—now pass through these small, once remote and 'underdeveloped' places. The nature of the relationship between the recent emergence of this network of OFCS and the associated problem of money laundering is little understood at present. This article examines the growth of Caribbean OFCS since the 1960s and the role of the regulation of financial services. As such it will begin to reveal some of the mechanisms involved in how international funds gravitate towards such safe havens.

Mark Hampton is at the Department of Economics, University of Portsmouth, Southsea PO4 8JF, UK. Michael Levi is Professor of Criminology at Cardiff University, Cardiff CFI, UK.

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Money laundering and offshore finance

Money-laundering

What is money-laundering and why is it so important? Money-laundering—the movement of the proceeds of crime or tax-evaded lawful income so as to conceal their illicit nature—and its control are important for several sorts of reasons. In geopolitical terms the war on drugs and other assaults on organised crime offer an apparently ideologically neutral rationale for intervention in the affairs of countries around the globe. All countries and territories that can be said—sometimes with only flimsy evidence that *some* laundering once happened there—to facilitate the supply of drugs are in the line of intervention by the international community. This is irrespective of whether they are believed to be (a) producers or distribution zones, or (b) a route through which the proceeds of crime are disbursed. The chance of them being targeted in practice is greater if they are politically weak, in the sense that they need aid, have no substantial military forces, have few major corporate sponsors, and/or are not needed for other strategic purposes. (Countries which, from Pakistan to Panama, are convenient for military purposes have greater freedom to commit financial crime and traffic in drugs, at least while Western political needs, eg pertaining to the Afghanistan war, are current.)

However, setting aside geopolitical control considerations, what role does money-laundering actually play in *crime*? Major crime, like any other business, requires start-up capital and methods of distributing, storing and re-investing its income streams. Unlike legal business (but in some respects like private commerce during the Communist era), professional criminals or other citizens cannot go to legitimate financiers explicitly for criminal finance capital because, quite apart from any considerations of morality, those financiers would suffer reputational loss should they be exposed, and would have no powers to sue should the money not be repaid. In the case of organised fraud schemes, the bankers might be the targets and they would (probably) be lending the money on the basis of false accounts of the commercial rationale. But there are few banks in the world that would explicitly agree to finance drugs trafficking. On the other hand, as in bankruptcy frauds,[2] there might be individuals with undeclared wealth who might be searching for high-reward outlets which would also offer some glamour and flirtation with risk of exposure. Criminals may also be available for 'loans', as well as direct management of trafficking enterprises. Finally, if all else fails, dealers may have to adopt a variant of the 'micro-banking' approach, financing initial capital from crime and gradually building up, depending also on their expenditure patterns.

Criminals do not only want finance capital for direct purchase of goods and initial start-up funds. They may also need money to pay for services such as bribes for law (non)enforcement, judges and politicians. The level and distribution of bribes is a function of supply routes, of the degree of monopolistic control over enforcement, and of perceived corruptibility. They may also want to keep their money where countries with an interest in crime control cannot get it. Hence the role of offshore havens and, for that matter, *domestic* 'black holes' that are not—at least currently—vulnerable to observation by the state.[3]

Whereas in the past 'eliminating' a criminal group might well have rolled up the money-laundering apparatus with it, now there are two quite distinct targets of investigation and enforcement which might require two quite separate approaches. Pursuing transnational crime requires better (faster and more complete) transnational mutual legal assistance, both before and after charges have been laid, and this is a question of modernising criminal law (and, some Western countries and the OECD might argue, abandoning the dual criminality provisions that prohibit mutual assistance where an OFC does not criminalise tax evasion and/or has no tax). Combating money-laundering, however, may require initiatives that might threaten not this or that institution so much as well established systems of banking, and financial practices which have a long historical pedigree and which are protected by strong vested interest groups, including not just banks but also transnational corporations (TNCS), accounting firms, etc. It might require actions which threaten the sovereignty of an independent nation or an overseas territory, creating problems of *realpolitik* and of international law.

A second complication comes from the fact that, while once it was relatively easy to separate the legal and illegal aspects of economic activity, for they existed in a different social and economic space, today that is not the case. Underground commercial activities—either explicitly criminal or merely 'informal' (which may mean evading taxes on otherwise lawful activities)—interact at many levels with legal ones. Sweatshops in big cities in the industrialised countries hire illegal aliens brought in by smuggling groups that may also deal in banned or restricted commodities; are financed by loan sharks who may be recycling drug money (perhaps because depositing cash in banks is now much harder); and make cartel agreements with transportation firms run by organised crime families, all leading to supply of goods to major retailers. The masses of street vendors in the metropolis of developing countries sell goods that might be smuggled, branded counterfeits or stolen from legitimate enterprises, may pay no sales or income taxes, but make protection payments to drug gangs that control the streets where they operate. The drug gangs might then use the protection money as operating capital to finance wholesale purchases of drugs or arms, perhaps using International Business Corporations (IBCS) established in OFCS to channel the funds, perhaps paying cash. The result of these and many similar sorts of interfaces is an economic complex that can no longer be divided neatly into black and white; rather it forms a continuum of differing shades of grey.

Such a blurring of traditional frontiers raises new problems of money-laundering control. If economic activity is no longer divisible simply into legal or illegal, if the economy is full of rule-bending and rule-breaking entrepreneurs, then social values change and there may be a ready escalation from breaking 'small' to breaking 'large' laws. Moreover, the greater the degree to which legal and illegal, formal and informal, underground and overground activities are mixed up, the deeper the confusion over the origins of funds, the more difficult the job of exercising due diligence with respect to crimes deemed especially serious and the greater the problems of effective use of suspicious transaction reporting: the laws that have been passed to enable or require financial and other institutions to pass on their suspicions to the police or other designated public authorities.

These reflections led a UN-commissioned team to develop 'ten laws of money-laundering.'[4]

- Law One: the more successful a money-laundering apparatus is in imitating the patterns and behaviour of legitimate transactions, the less the likelihood of it being exposed.
- Law Two: the more deeply embedded illegal activities are within the legal economy, the less their institutional and functional separation, the more difficult to detect money laundering.
- Law Three: the lower the ratio of illegal to legal financial flows through any given business institution, the more difficult will be the detection of money-laundering.
- Law Four: the higher the ratio of 'services' to physical goods production in any economy, the more easily money-laundering can be conducted in that economy.
- Law Five: the more the business structure of production and distribution of non-financial goods and services is dominated by small and independent firms or self-employed individuals, the more difficult the job of separating legal from illegal transactions.
- Law Six: the greater the facility for using cheques, credit cards and other non-cash instruments for effecting illegal financial transactions, the more difficult is the detection of money-laundering.
- Law Seven: the greater the degree of financial deregulation of legitimate transactions, the more difficult will be the job of tracing and neutralising criminal money flows.
- Law Eight: the lower the ratio of illegally to legally earned income entering any given economy from outside, the harder the job of separating criminal from legal money.
- Law Nine: the greater the progress towards the financial services supermarket, the greater the degree to which all manner of financial services can be met within one integrated multidivisional institution, the less the functional and institutional separation of financial activities, the more difficult the job of detecting money-laundering.
- Law Ten: the worse becomes the current contradiction between global operation and national regulation of financial markets, the more difficult the detection of money-laundering.

We could construct an international index of *susceptibility* to money-laundering using these criteria, though one might also add to them corruptibility (which is necessary only if regulation—national or international—is attempted; however, market imperfections of knowledge might lead to risk-averse unnecessary corrupt offers by those seeking favourable treatment for their criminal or otherwise legal activities).

Offshore finance

An OFC can be defined as a place that 'hosts financial activities that are separated from major regulating units (states) by geography and/or legislation'.[5] Offshore

financial activities include offshore banking (both wholesale banking such as Eurocurrency loan booking and retail banking, particularly international private banking); offshore funds; trusts; offshore companies and captive insurance.[6] Not all offshore activities take place in all OFCs: individual centres have developed specialisms so, for example, the Cayman Islands and Bermuda dominate the captive insurance business, and the British Virgin Islands have specialised in offshore company registration. This is a competitive business, in which some have historic and reputational advantages, which others may seek to overcome by means of lower pricing, faster service or competitive underregulation.

As noted above, many OFCs are located in small jurisdictions or micro-states, and the majority are found in small island economies SIFs.[7] In the Caribbean region, the largest OFCs (with the exception of the Netherlands Antilles, The Bahamas and Barbados) are not independent states, but are British colonial possessions and were recently renamed as UK Overseas Territories. These small remnants of the once powerful British Empire play a significant part in a truly global finance industry. SIEs, as a function of their smallness, face limited economic development options. In part this is because of their small populations and land areas, limited natural resources, lack of economies of scale, reliance upon one sector or product (such as tourism or bananas), vulnerability to sudden commodity price shocks (as they are usually price-takers not price-makers) and higher than average transport costs.[8] Thus, hosting an OFC has appeared to be a highly attractive economic development for many Caribbean island governments, following the highly visible success of early offshore entrants such as the Cayman Islands from the mid 1960s, which has created its own global demonstration effect.[9] At least until the late 1990s, diversification into OFCs was encouraged by the UK government.

However, other Caribbean islands have not been so successful in attracting international financial services firms actually to locate in the island, and have mainly attracted large numbers of offshore companies and banks that exist 'virtually' in computers and in bank record books. As such, many Caribbean island OFCs remain as 'paper' or 'notional' centres with subsequently limited economic impacts and only a nominal amount of local employment when compared with larger 'functional' OFCs elsewhere.[10] Thus, for example the Cayman Islands and The Bahamas are larger, more functional OFCs with a variety of offshore economic activities than those operating in, for instance, Anguilla. One of the consequences of this is that there is very little 'sunk capital' into the paper OFCs, making them highly vulnerable to shifts in costs and other demand factors.

In more analytical terms, the rise of OFCs since the 1960s may be seen in light of the 'four spaces' introduced by Hampton.[11] Three of these 'spaces'—the secrecy space (confidentiality); the regulatory space; and the political space—can be used to frame an analysis of the growth of offshore finance and the emergence of a suitable environment for international money-laundering.

First, the secrecy space is one of the prime attractions for users of OFCs. One of the largest user groups of OFCs are the global wealthy elites who use offshore international private banking (IPB) services offered by the largest banks. Typically, IPB for wealthy customers can involve multi-currency bank accounts and

sophisticated asset management, often using complex structures of offshore companies and trusts, sometimes stretching across several OFCs. Strict secrecy is sought by the customers, whether stemming from the tight bank secrecy legislation enacted in The Bahamas and the Cayman Islands, or from the so-called banking 'confidentiality' offered by other OFCs elsewhere, such as Jersey or Guernsey.[12] This secrecy space attracts legitimate IPB business, but the opaque nature of the offshore structures can easily be used to mask illegal activities such as the laundering of the proceeds of drug trafficking, serious crime, terrorism, etc. As an English High Court judge (now Law Lord) J Millett remarked in a case involving allegations that professional accountants in the Isle of Man actively assisted money laundering through a series of offshore companies, when holding them to be constructive trustees: 'Secrecy is the badge of fraud.'[13]

The fundamental role of secrecy in OFCs is also emphasised by Tim Morris, an Australian government anti-money laundering specialist:

> It's the strict bank secrecy, the inability of any government to investigate the source of unusual wealth parked in places like that [that is, OFCs].[14]

Second, as for the regulatory space, the banks that first moved 'offshore' into the Caribbean in the 1960s were able to exploit this regulatory space that had opened up between those jurisdictions and the larger mainland economies. This regulatory space was itself a function of the political space (see below), that is, the relationship between the islands and the mainland UK. The islands, whether colonies (Bermuda), or dependent territories (the Cayman Islands and British Virgin Islands (BVI), were not directly under most UK financial regulation, and so offshore financial activities were effectively unregulated at first. The exceptions were the Exchange Control Act until 1979, and the Sterling Area until its rescheduling in 1972, which left the British Caribbean territories outside the new, smaller sterling currency area.

As the Caribbean OFCs grew, and more banks and other financial services firms arrived, most of the island jurisdictions set up some form of minimal regulation, often under the oversight of the local government's Financial Secretary. For the newly independent former colonies such as The Bahamas, the new Central Bank took responsibility for oversight of the OFC.

More recently, following international pressure, strengthened regulatory authorities such as the Cayman Islands Monetary Services Authority have been formed, and some OFCs have become members of the Offshore Group of Banking Supervisors and the Caribbean Financial Action Task Force (CFATF). We will return to this later.

Third, in terms of the political space, the nature of the relationship between offshore and its mainland onshore is an important determinant of its usefulness as an OFC. At present, the majority of OFCs are located either in the UK Overseas Territories, or in the British Crown Dependencies (the Isle of Man and the Channel Islands of Jersey and Guernsey). The constitutional status of such territories is somewhat ill-defined, creating a confusion or opacity which provides room for manoeuvre. These quasi-independent jurisdictions are 'within and yet without' the mainland,[15] having autonomy in some domestic areas (including

fiscal policy, internal legislative and judicial affairs) but maintaining close ties in areas such as monetary union, external affairs, education, language and culture, and, perhaps equally importantly, being seen by the rest of the world as regulated by a competent and honest jurisdiction. The ambiguity of these relationships provides the 'offshore interface' which renders these micro-states extremely useful to international financial capital.

As noted above, the majority of OFCs are found in UK territories, or in independent nations such The Bahamas, Malta and Mauritius that were former British colonies. The only other European former colonial power to have OFCs in its remaining territories is The Netherlands. The Netherlands Antilles have a history as a financial centre dating back to 1940, when the Dutch parliament enacted a swift law to allow Dutch companies to transfer their corporate location to The Netherlands Antilles for the duration of the second world war, to avoid their acquisition by German occupying forces. After the war, the companies relocated back to The Netherlands but it has been argued that this 'left behind the notion of an offshore sector'.[16]

In comparison, France has long had a historical opposition to OFCs, dubbing them 'pirate economies' and none of the French overseas territories such as Guadeloupe or Martinique have become OFCs. The main exception to this is Vanuatu (formerly the New Hebrides), which was a Pacific territory jointly administrated with the UK.[17]

Interestingly, a more recent colonial power, the USA, has generally been strongly opposed to any of its overseas territories becoming tax havens or OFCs, so that the US Virgin Islands, geographically part of the same group as the BVI, have not been permitted to develop as an offshore haven of any type.[18] The USA, and particularly its courts and its Internal Revenue Service (IRS), have aggressively pursued nearby Caribbean OFCs with vigour since the late 1960s, attacking bank secrecy and tax evasion.[19] More recently senior staff at the US treasury have suggested the need for a revitalised push against the Caribbean tax havens.[20]

Following internal and international financial and corruption scandals, during the 1970s and 1980s, the UK Foreign and Commonwealth Office (FCO) commissioned several reports, including the Gallagher Report, on the development of offshore finance in the Caribbean. The FCO encouraged several British dependencies as OFCs, perhaps as a way to reduce the UK's costs in its remaining overseas possessions. More recently, a 1997 report to the FCO from the National Audit Office advised that many small British Caribbean territories had become highly vulnerable to money laundering, drug trafficking and serious fraud and faced possible financial-sector failure. This appears to have signalled the beginnings of a change in FCO policy, as exemplified by the commissioning of a major review of financial regulation in the UK Overseas Territories. This may be connected to the UK Labour government's avowed promise of an explicitly ethical dimension to UK foreign policy, and it may well affect the reliance on offshore finance in the remaining British Caribbean territories.

Another important feature of the OFC environment is the susceptibility to information-sharing under Mutual Legal Assistance Treaties (MLATs), where micro-states find it difficult to resist 'cooperation' because of the sanctions

threatened—including extra-territorial applications of subpoenas and freezing of bank assets held in the USA. Given the role of unlawful transfers in the recycling of drug money, the Caribbean micro-states may be more vulnerable as they are closer to the US mainland for cash deposits than Liechtenstein or Luxembourg for instance.[21]

Finally, the other OFC 'space', the fiscal space—taxation—is a less significant attraction for money-launderers (especially given that they probably do not pay taxes on their main economic activities, although their front companies may file tax returns to disguise their operations). However, it is fundamental to the rapid growth of OFCs since the 1960s.[22]

Recent policy developments in money-laundering and OFCs

During the 1990s the legislative and political space or framework within which OFC activity is situated has been affected in substantial ways by the political and social movement against drugs and against its concomitant spectre, 'organised crime'.[23] A series of international instruments, starting with the 1988 UN Vienna Convention against Psychotropic Substances, has been passed, most recently including the 1997 OECD Convention criminalising the extra-territorial bribery of public officials by companies and executives based (mainly) in the 'North'. In addition, there is a proposed UN Convention on Transnational Organised Crime in the process of development. One of the political effects of this activity is to make it unrespectable within the contemporary 'law and order discourse' to display 'inappropriate' concern for the rights of defendants *and of those who facilitate crime*, at least in the non-business press.[24] To make things more difficult still, the policy process has required states to go beyond the ritual passage of legislation. It has required a process of mutual evaluation, conducted by public and private sector experts under the rubric of international bodies such as the Financial Action Task Force (FATF), the European Union and the Council of Europe. There has even been a certain amount of delegated sub-contracting, as the FATF has spawned a Caribbean FATF and has influenced the Offshore Group of Banking Supervisors. Those who do not participate in this legitimation process are to be cast into the outer commercial darkness as pariah OFCs, though it is not self-evident what the economic and/or other sanctions are to be for non-compliance: even US banks have not sought to sever their ties as correspondent banks for sometimes dubious offshore institutions.

It is too soon to tell whether this unorthodox method of mutual regulation—a sort of banking regulators' international neighborhood watch—which is a precondition of FATF and CFATF membership, will have any profound practical effect. Sceptics might argue either that the whole process is a façade, devised to stave off more serious intervention with the free flow of global capital or, alternatively, that the use of FATF (rather than, say, the UN) is a subtle method of imposing a cultural and economic hegemony on territories that are not normally within the control or even 'sphere of influence' of the USA. (In which case, presumably, there *should* be some measurable effect compared with what would have happened otherwise.) From observation of the early processes, there is no doubt that it was intended to have a practical effect, consciously driven by

the desire to re-order sovereignty so as to support the infrastructure of the 'war on drugs', and that a new and relatively non-bureaucratic organisation was preferred to the UN as being more amenable to pressure from the major industrial countries on most parts of the globe, including those in transition from socialism. (Whether there was a conscious desire to use FATF to assist in the imposition of a New World Order is more speculative.)

However, it is plain that the FATF and its offshoots have had more than a merely cosmetic effect. There has, for example, been a good deal of vigorous criticism of OFCs, including those 'belonging' to major countries like the UK. The November 1998 meeting of CFATF was highly critical of Barbados for its failure to implement an organised system of reporting suspicious transactions, and The Bahamas for complacency and for reporting very few transactions as 'suspicious'. As the outgoing CFATF Chairman, the Attorney General of Barbados, observed, the key aspect is that all member states have made a commitment to taking part in a regional process. The objective is not merely to ensure that legislation is passed but that substantive organisation of anti-laundering systems exists, monitoring mutual assistance and reporting suspicions. It also remains policy to encourage due diligence on the part of OFCs not just in opening bank accounts and identifying customers physically but also when establishing new companies or International Business Corporations. Currently, in many jurisdictions, IBCs and asset protection trusts of various secrecy levels can be readily formed, and the policy goal appears to be to criticise any place which allows secrecy without the possibility of discovering the beneficial ownership by mutual legal assistance. This would prohibit the 'walking trusts' developed in the Cook Islands, and arguably threaten the more secretive Caribbean jurisdictions.

Nevertheless, the ability of such processes actually to identify laundering beyond the more rudimentary forms is open to question, for how one picks out illegal (or particular types of illegal) behaviour from among the myriad financial transfers remains an unsolved mystery, despite all the work that has gone into FATF and CFATF methodologies. Furthermore, there remains the fundamental problem that control over regulatory space in some areas creates an economic incentive for other areas, and provides a premium on the price of secrecy. Some jurisdictions have a well enough established OFC to make them prepared to pay some price for reputation and lose the marginal business, but for others, there may be a general unwillingness in *some* Caribbean OFCs to ask too many questions about the sources of funds: 'the newer offshore tax havens … [are] illustrations of the income flow benefits of an unenquiring attitude to how money is made, though such attitudes now provoke the wrath of the FATF'.[25]

The changing international context for offshore finance

In terms of how offshore finance operates, it appears that the present situation facing OFCs in the Caribbean and elsewhere is changing significantly, and that the way in which 'offshore' is constructed is being fundamentally altered. Specifically, there appears to be growing international pressure from 'onshore',

what may be a sea-change affecting how OFCs are tolerated, or not, both by individual nation states and also by various international bodies.

In May 1998 the G7 Finance Ministers approved an OECD plan which identifies jurisdictions offering low or zero tax rates, and sets out to nullify this by using economic sanctions. The OECD is now making a 'hit list' of global tax havens that are engaged in harmful tax competition. This OECD activity on harmful tax competition sends a clear warning to tax havens and recommends that action is taken by OECD members against the major tax havens by the year 2004.[26] The OECD's action produced a strong attack from the Governor and the Financial Secretary of the Cayman Islands at the November 1998 FATF Council Meeting.[27] The latter asserted that the OECD penal initiative offended 'every basic principle of sovereignty … This would serve only to divert attention from the real scourge of illicit drugs and other activities that mankind regards as criminal. It would also endanger the hard-won political will which is the lifeblood of our organisation.' The Attorney General of Barbados (and retiring CFATF Chair), David Simmons, reasonably pointed to the apparent contradiction between EU investment of some £70 million in anti-laundering regimes in the Caribbean and the implication from the OECD that these OFCs should be closed down altogether.

In addition, at the national level, recent UK government interest was exemplified in 1998 by an unprecedented Home Office Review of financial regulation in the British Isles OFCs of Guernsey, Jersey and the Isle of Man (the Edwards Report [28]) and by the recent FCO Review of Britain's remaining Caribbean territories.[29]

Conclusions

There is no doubt that the move into Offshore Finance Centres has been lucrative for SIE hosts, although the generic 'trickle down' effects on the local (as opposed to expatriate) community remain untested and variable. The extent to which rapid and uncritical willingness to incorporate and transact business is a *necessary* component of the success of OFCs is difficult to ascertain *in advance* of restrictive measures, and besides, it is often politically difficult to criticise a dominant industry, whether in an SIE or in an advanced economy. However, the stranglehold exercised by small cliques in clientelist systems with high social interaction and high political, social and economic integration may make adjustments that are rational for the long term of 'the economy' hard or impossible to achieve in practice.

Whether those OFCs that are overseas territories will be protected by their host nations from the aggressive tactics of the USA and the OECD remains uncertain, but the fiscal crisis of many modern states and the current social democratic domination within Europe create a more hostile environment and discourse in which the neutral or positive 'customer confidentiality' is transformed into the negative and almost sinister 'banking secrecy'. In the light of these pressures, it remains unclear whether OFCs will be able to prosper in something like their present form in the long run, or whether they will be spun out into economic oblivion.

Notes

[1] P Dicken, *Global Shift*, London: Paul Chapman, 1992.
[2] M Levi, *The Phantom Capitalists*, London: Heinemann, 1981.
[3] These are not restricted to the pariah countries: US states such as Delaware and Montana have company law provisions that allow considerable secrecy in nominee ownership, and may be inaccessible even to the US Federal Reserve or the New York County District Attorney.
[4] J Blum, M Levi, R Naylor & P Williams, *Financial Havens, Banking Secrecy and Money-Laundering*, Vienna: United Nations, 1998.
[5] M P Hampton, 'Treasure islands or fool's gold: can and should small island economies copy Jersey?', *World Development*, 22 (2), 1994, pp 237–250.
[6] Offshore captive insurance companies are formed to insure the assets of their parent company including tanker fleets, aircraft, etc. Various other services in OFCs may include offshore stock exchanges and stockbroking, ship and aircraft registries and, more recently, information technologies such as data processing and internet services.
[7] Here the upper limit defining an SIE as having a population of under 1.5 million is used, following that of the Commonwealth Secretariat, *A Future for Small States. Overcoming Vulnerability*. London: Commonwealth Secretariat, 1997.
[8] See ibid; H Armstrong & R Read, 'Comparing the economic performance of dependent territories and sovereign micro-states', paper presented ESRC International Economics Study Group Conference, 'Small States in the International Economy', University of Birmingham, 16–17 April 1998.
[9] However, some offshore financial activity took place before the 1960s. For example, The Bahamas were used from the 1930s by US firms with early offshore companies, and by wealthy Canadian and US citizens with offshore trusts.
[10] M P Hampton, *The Offshore Interface: Tax Havens in the Global Economy*, Basingstoke: Macmillan, 1996. Hampton offers a typology of the three main types of OFC—functional; notional and compound—as classified by type of offshore activities actually taking place there, the OFC's contribution to GDP and direct local employment.
[11] M P Hampton 'Creating spaces. The political economy of island offshore finance centres: the case of Jersey', *Geographische Zeitschrift*, 84 (2), 1996, pp 103–113.
[12] Confidentiality, if resulting in completely opaque offshore structures with hidden beneficial ownership of trusts, or offshore companies, is effectively secrecy. The Channel Island authorities often protest that they are not secrecy havens like many Caribbean OFCs, but in reality this is mere semantic game-playing and is misleading.
[13] Mr Justice Millet, High Court judgment in *AGIP (Africa) Limited v Jackson and Others (1990) 1 Ch 265*, quoted in A Mitchell, P Sikka & H Wilmott, *The Accountants' Laundromat*, Basildon, Essex: Association for Accountancy and Business Affairs, 1998, p 19.
[14] Quoted in B Lintner, 'Paradise for crooks', *Far Eastern Economic Review*, 6 November 1997, p 31.
[15] Hampton, *Offshore Interface*, p 69.
[16] I Yule, *Offshore 94. The Yearbook and Directory of the Offshore Finance Industry*, London, Charterhouse, 1994 p 277.
[17] France's peculiar political relationship with the Monaco city state falls outside our remit. However, the existence of several such micro-states in Europe, including Andorra, Liechtenstein and the Vatican City has long provided tax and secrecy havens for Europe's wealthy.
[18] However, several US states such as Vermont have sought to attract offshore business by offering many incentives and tax-breaks for company formation, etc. In addition, the New York financial centre has a specific offshore component, the International Banking Facilities, IBFs, set up in 1981 arguably to attract funds back to the USA from Caribbean OFCs.
[19] See M Levi 'Pecunia non olet: cleansing the money-launderers from the temple', *Crime, Law and Social Change*, 16, 1991, pp 217–302.
[20] *Tax Notes International*, 17 (25), 1998, no pp nos.
[21] B Ramharack, 'Drug trafficking and money laundering in the Caribbean mini states and dependent territories: the US response', *The Round Table: Commonwealth Journal of International Affairs*, 335, 1995, pp 319–341.
[22] See Hampton, *The Offshore Interface*.
[23] For a sceptical perspective, see P van Duyne, 'The phantom and the threat of organised crime', *Crime Law and Social Change*, 24, 1996, pp 103–142; and van Duyne 'Money-laundering: beyond Pavlov's dog', *Howard Journal of Criminal Justice*, 37 (4), 1998, pp 359–374.
[24] M Levi, 'Regulating money laundering: the death of bank secrecy in the UK', *British Journal of Criminology*, 31 (2), 1991, pp 109–125; and Levi 'Pecunia non olet'.
[25] M Levi 'Evaluating the "new policing": attacking the money trail of organized crime', *The Australian and New Zealand Journal of Criminology*, 30 (1), 1997, pp 1–25, p 18.
[26] Organisation for Economic Cooperation and Development (OECD), *Harmful Tax Competition: an Emerging Global Issue*, Paris: OECD, 1998.

[27] *The FT Fraud Report*, December 1998, pp 8–9.
[28] A Edwards, *Review of Financial Regulation in the Crown Dependencies: A Report* (The Edwards Report), London: Home Office, 1998.
[29] It has been suggested by Mitchell *et al*, p 54, that UK government was coming under international pressure from other regulators concerning the more blatant abuses of its British Isles and Caribbean OFCs. Alternatively, it has been suggested that Jersey's inept mishandling of the 1996 crisis (a $26 million scandal involving the Swiss Bank Cantrade, a UBS subsidiary) and the damaging international publicity triggered the Home Office inquiry in 1998. See M P Hampton & J Christensen, 'Treasure island revisited. Jersey's offshore finance centre crisis: implications for other small island economies', *Environment and Planning A*, forthcoming 1999.