In the City

Milking in Guernsey

CHANGING the name to avoid the blame is a well-worn PR strategy for companies facing reputational problems.

That certainly appears to be the thinking with the Guernsey-based Channel Islands Stock Exchange (CISX), crucial to the Arch Cru investment fund scandal and happily providing a UK tax avoidance loophole for offshore investors running high street businesses.

So, facing a new scandal, it was off with the old and on with the new. Just before Christmas, the CISX was restructured, effectively becoming the Channel Islands Securities Exchange (CISE), and a new regulatory body, the Channel Islands Securities Exchange Authority (CISEA), was created. Legacy problems can now be met with that reliable "that was then but this is now" mantra.

The CISX as was and is remains a recognised stock exchange by HM Revenue & Customs and securities regulators. It obtained that valuable recognition from HMRC in 2002 on the basis that it had "proper and effective arrangements for financial regulation which meet internationally accepted modern standards". Investors with up to £360m lost in the CISX-listed Arch Cru sub-funds would probably disagree.

An investigation last autumn into the CISX also disagreed, concluding: "The overriding impression is of inertia." Not only did members "forget that CISX is their regulator", but also the exchange itself "forgets that it is the regulator". The combined role of chief executive and chief regulator were described as "inappropriate and unworkable" because the same individual was "both chief salesman/promoter of the company's services and also chief enforcer/disciplinarian of its (purportedly) proscriptive and inflexible rules".

Such high regulatory standards had resulted in not just Arch Cru but also "a hideous example of ineptitude exacerbated by wilful prevarication and disingenuous credulity". Both are suspected to be part of a long-running investigation into the CISX by the Guernsey Financial Services Commission (GFSC). Those damning comments were made by experienced regulator Mark Tubby, who was asked to investigate the CISX for its new chairman, private equity veteran Jon Moulton, who came in last May. Tubby is compliance chief at broker FinnCap (also headed by Moulton), and is now chairman of the new Channel Islands Securities Exchange Authority.

Tubby's full report remains unpublished in Guernsey – whose chief minister Peter Harwood was a founding director of the CISX until 2010 while also chairman of the GFSC. The CISX was a company limited by guarantee with some 50 shareholders, so Harwood was a shareholder/director of a company overseen by the regulator of which he was chairman! Cosy places, tax havens.

Last September, soon after Tubby completed his review, the CISX chief executive since 1998, Tamara Menteshvili, resigned. In October, Moulton disclosed that for almost two years the GFSC had been investigating "historic activities" and that there could be a £500,000 liability from GFSC fines or litigation. He now suggests it will be only £200,000.

For several years the CISX provided a highly valuable legal loophole for UK tax avoidance through listing rarely (if ever) traded corporate Eurobonds. These enable offshore investors in loans to British companies to receive interest without deduction of the normal 20 percent withholding tax; the loan interest can be offset against corporation tax. Often this device is used to make "double bubble" inter-group loans, especially by offshore-based private equity outfits.

In 2012 HMRC moved to close the loophole, which it estimated was costing £200m a year. HMRC said there were at least £15bn of Eurobonds issued by UK companies listed on the CISX and the similar Cayman Stock Exchange. But it backed off after extensive lobbying from the beneficiaries here and offshore. The Eurobond device has been used by companies controlled by the families of Sir Philip Green (Arcadia) and the Westons (Selfridges), as well as private equity-owned high street chains.

The "hideous example" was Clerkenwell Medical Research, a small software start-up company listed on the CISX in March 2005, primarily to provide tax relief to high earners through abuse of the Gift Aid rules. The trick was to "ramp" the share price on day one, whereupon the subscribers would gift their shares to a charity at the inflated price and claim back the artificial value against their tax liability for that year.

Some 150-plus investors paid 3p each for 42m CMR shares, which were swiftly elevated to 57p without question by the CISX. When some charities later tried to sell the shares, there were few if any buyers. One managed to sell at 40p. By 2006 the shares were 10p; most soon marked them as worthless.

CMR and three similar Gift Aid "ramps" – Modia, Your Health International and Signet Health International – were all welcomed on to the CISX in 2005 and 2006. CISX was cheaper than an AIM listing and the CISX boasted of its flexibility! The sponsors were the leading Jersey offshore company advisers and lawyers Ogier – a CISX member. The men behind the scheme were former HMRC officials David Perrin and Roy Faichney, then running Vantis Tax, part of the since collapsed Vantis accountancy group.

Perrin and Faichney were both convicted of defrauding the taxman in 2012 and jailed. HMRC claimed they had generated a potential £70m in spurious tax relief. The four CISX "pump and dumps" had sucked in more than 600 investors and £5m in tax relief had been claimed or repaid before HMRC was alerted. Most shareholders dropped their claims for relief.

Just how completely bogus those CMR share prices were emerged during Perrin's appeal. Giving the appeal court judgment in July 2012, Mr Justice McCombe detailed how market makers Winterflood Securities – a London-based member of the CISX – had subscribed for 400,000 CMR shares at 3p each "on the basis of confirmation that CMR had 'four independent investors' willing to acquire 42,500 shares at between 75p and £1". During 21 and 22 March 2005, 293,000 shares were bought at between 8p and 57p. Perrin accounted for 150,000 in two deals; all the other purchases were orchestrated by him and Faichney.

But there was a problem. The 57p price was not high enough. The investors had been assured the CMR price would hit 100p to deliver the promised tax relief value. However, there were no sellers below 100p. After just two days the CISX market in CMR shares was "illiquid".

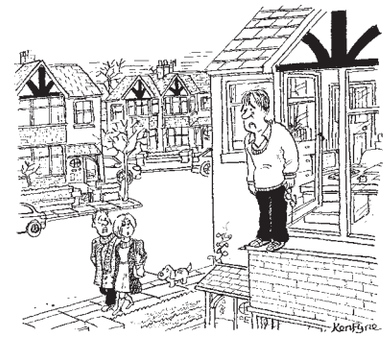
So, on 23 March, there were two "private transactions off-market" at that magic 100p. One was for 7,500 shares bought by Perrin from his PA. The second, for 6,000 shares, was bought by Faichney from another employee.

On that basis, Vantis informed its clients and the taxman that CMR shares were worth £1 – helped by being on a recognised stock exchange, the CISX. Also on 23 March, all but one of the CMR would-be tax avoiders gifted their shares to assorted misled charities.

Referring to CMR, the Tubby report states: "That the price movements on, or shortly after listing, were not investigated beggars belief. Serious questions should have been asked of the sponsor [Ogier] and the market maker [Winterflood]… the responses were seemingly accepted uncritically and filed without challenge or analysis."

Two years after the CMR listing, questions were raised by the GFSC – probably inspired by publicity generated by HMRC raids in 2006 on Perrin and Faichney's homes. At a meeting in January 2007, the CISX board "cautioned against undue haste". However, dealings in CMR were later suspended, so removing any value for the charities. The listings for Modia, Your Health and Signet were also pulled in 2007.

Explanations from Ogier and Winterflood were accepted "without comment", despite the disclosed



"He's working from home"

trades being almost exclusively sales in a share price that had risen by over 900 percent, says Tubby. The CISX suggested the reason might have been "supply and demand". Winterflood gratefully agreed. That, as Tubby caustically remarked, "still begs the obvious, but apparently unasked, question of where the said supply came from".

It seems that the GFSC only began a serious investigation – which may have now concluded – after the Perrin and Faichney trials in 2012. Nobody has yet been sanctioned for CMR.

Tubby also reveals a more recent major embarrassment when last year seven Elysian Fuels renewable energy companies, created by tax avoidance scheme promoters Future Capital Partners, were first rejected for listing, then listed and within months all suspended, locking in shareholders who have invested £55m.

Between October 2012 and July 2013, shares in Elysian Fuels 12, 20–24 and 27 were listed on the CISX. Each raised £5m-£11m in preference shares from investors. In September last year, all the listings were suspended. The reason was that the CISX suddenly decided they were not eligible to be listed as special purpose vehicles – like the Eurobonds. Cancellation of the listing has been delayed, pending a new application for ordinary shares in the Elysian companies.

"The reasoning behind the initial recommendation to refuse admission is documented; the reasoning behind the Market Authority's subsequent decision to admit listing is not," Tubby reports. Big fees might have something to do with that change of mind. The sponsor for the Elysian companies was Appleby Securities, from Jersey. "There are clear issues with these listings which are currently being addressed," says the report.

The CISX has always been the creature of the Guernsey/Jersey financial establishment. And that financial establishment is a powerful element of both islands' equally incestuous political establishment – witness the trio of roles held by now chief minister Harwood. No wonder the GFSC investigation is still wrapped in secrecy and without any decision naming or shaming those to blame at the CISX.

Bonus balls

LAST month *Eye* 1357 questioned the claims of Barclays chief executive Antony Jenkins that he had the "leadership" required to end the 30-year culture of greed-driven bankers. As we pointed out, Saint Antony had himself been a banker for all of those 30 years.

So what a surprise that, less than two months later, Jenkins is announcing Barclays investment banker bonuses for 2013 were to be up 13 percent, despite the investment bank's profits falling 37 percent and losing money in the last quarter.

Reaching for the script written by his disgraced predecessor Bob Diamond, Jenkins claimed such rewards were necessary to keep those who had done so badly while cutting 12,000 other jobs. Given the performance, shareholders might consider they could instead do without the investment bankers – especially after three former Barclays traders were charged this week with Libor rate fixing.

Shareholders could certainly do without the tin-eared stooges on the Barclays remuneration

☞ See over..

In the City

Going, going, Guernsey!

THE surprise decision of Guernsey chief minister Peter Harwood to resign, in the wake of criticisms in the last *Eye* of the conflicts of interest inherent in the looming scandal surrounding the Channel Islands Stock Exchange (CISX), suggests there is more and worse to come from the investigation by the Guernsey Financial Services Commission (GFSC).

The CISX was riddled with at best gross incompetence and flagrant protection of vested interests, or at worst influence peddling and possible corruption. Just what a tax haven needs!

Explaining his decision last week, Harwood cited reputational risk to Guernsey from "my previous role as the director of the CISX" and "uncertainty concerning the final outcome" of the GFSC investigation with resulting "unnecessary media attention". Harwood was at the same time a director of the CISX and chairman of its regulator, the GFSC, while his law firm Ozannes were shareholders in the CISX.

Meanwhile, the *Eye* has established further causes for CISX concern:

- The former chief executive received a pay-off after resigning last September but has a claim against the CISX.
- Current and previous directors and executives have been indemnified against the legal costs of fighting any GFSC-imposed fines.
- The 2012 CISX accounts contained no mention of the GFSC investigation, despite it being in process for months before the accounts were signed off last year.
- Two long-serving CISX directors have quietly resigned from its new successor, the Channel Islands Securities Exchange Limited (CISEL).
- Listings exploiting a UK tax loophole account for almost half the CISX revenue.
- There are further potential conflicts of interest between the GFSC and the CISX.

Harwood was a CISX director when – as detailed in the last issue – it allowed the flotation of four companies used in an attempt to defraud HM Revenue & Customs of up to £70m by ramping the share prices to abuse the Gift Aid tax allowance.

The first of these "ramps" – Clerkenwell Medical Research in 2005 – was described in a report commissioned by Jon Moulton, the veteran private equity investor who became CISX chairman in April last year, as "a hideous example of ineptitude exacerbated by wilful prevarication and disingenuous credulity".

Harwood was also a CISX director as the Arch Cru scandal unfolded between 2002 and 2009. More than £400m was invested in CISX-listed vehicles, almost all now lost to some 20,000 investors. A £54m compensation scheme is part funded by Capita and HSBC, responsible for managing and protecting the Arch Cru funds. Both were CISX members.

Other skeletons may have been buried by a CISX policy which, in the words of the report by Moulton's compliance expert Mark Tubby, was "pre-emptively to defend the interests of individuals". Although the conclusions of the Tubby report had been leaked in Guernsey, Harwood did not publicly engage with the issues raised until they were published in detail by the *Eye*, along with the background to the Clerkenwell scam.

Neither the CISX nor the GFSC will state the nature of the "historic activities" still under investigation since 2012. Why the investigation should take so long may itself be a factor of the incestuous business, regulatory and political relationships endemic in the Channel Islands.

Meanwhile, more may emerge as a result of a potential legal action by former chief executive Tamara Menteshvili, who resigned last September – just four days after Tubby completed his investigation. She had been chief executive since the CISX was founded in 1998, when she joined from… the GFSC. The board delegated most regulatory and supervisory powers to Menteshvili and senior executives.

Information contained in the documents for the post-Tubby restructuring of the CISX and its replacement by two new bodies – the CISEL and the Channel Islands Securities Exchange Authority (same owners, different names) – indicates that a "significant sum was paid in a compromise agreement with a senior staff member". There is also reference to "a claim by CISX's former chief executive".

Remarkably, the documents also reveal that CISX – which is now in liquidation – granted indemnities to current and past directors as well as staff to cover "any costs incurred by these persons in their defence of any penalties imposed on them as individuals by the GFSC". It was admitted that former directors and employees could face fines. That contingent liability, along with any fine on the CISX, is put at £500,000, although Moulton has suggested it might be nearer £200,000. That cost has been indemnified for three years by CISEL, which has acquired the CISX business, helped by an up £2.5m share issue.

Just why the CISX should feel it necessary to provide such wide-ranging indemnities to so many people is not explained. But then this is Guernsey, where everybody in politics and business knows each other.

News of the GFSC investigation did not emerge until October last year. But the CISX accounts for 2012, signed off in April 2013, contained no reference to that investigation as a material contingent liability or post-balance-sheet event. The first mention was in the interim accounts to June 2013. It would be hard to argue that the GFSC investigation was not "material", given the subsequent £500,000 provision.

Yet the CISX auditor, Deloitte, stated that the 2012 accounts gave a "true and fair view" and that it had received all the information and explanations required. The directors in turn stated that there was "no relevant audit information of which the company's auditor is unaware" and that the directors had made themselves aware of "any relevant audit information and to establish that the company's auditor is aware of that information".

Those accounts were signed by two CISX directors – lawyer Graham Hall and Paul Cutts, chief executive of asset manager Northern Trust. The other directors with Menteshvili were Robert Christensen, Tim Herbert and Marcus Stone – all with links to Jersey or Guernsey law firms – and Guernsey fund manager Mark Huntley. Moulton joined the board the day the accounts were signed. Stone (formerly a partner in Harwood's law firm) and Cutts were appointed in 2012. Hall, Christensen, Huntley and Herbert were directors in 2005 when the CMR and related "ramps" occurred. Huntley and Hall were founding directors with Harwood, who resigned in 2010. Herbert was a director since 1999 and a shareholder.

Hall and Huntley resigned soon afterwards from CISX, but Christensen and Herbert were appointed to the board of the successor CISEL. Not for long. Both resigned in January. Paul Cutts is also a director of the new exchange.

Guernsey being Guernsey, the CISX did not publish its accounts. However, the documents for its demise indicate not just how profitable a business it was but also how important to those profits providing a loophole to avoid UK tax on dividends was.

This was and still is provided by listing rarely (if ever) traded corporate Eurobonds. These enable offshore investors in loans to British companies to receive interest without deduction of the normal 20 percent withholding tax. The loan interest can be offset against corporation tax, especially by offshore-based private equity outfits making inter-group loans to UK subsidiaries.

The Eurobond loophole has been used by companies controlled by the families of Sir Philip Green (Arcadia) and the Westons (Selfridge's), as well as numerous private equity-owned high street chains. In 2012 HMRC moved to close the loophole, which it estimated was costing £200m a year. HMRC stated that there were at least £15bn of Eurobonds issued by UK companies listed on the CISX and the similar Cayman Stock Exchange. But it backed off after extensive lobbying from the beneficiaries here and offshore.

A valuation report on the CISX by KPMG for the restructuring shows why. For 2013 the CISX was projecting that listing income from that Eurobonds exemption would contribute just over £1m – 44 percent of total income.

For 2012 CISX made a profit of just under £250,000 (slightly up on 2011) on a similar income of £2.3m, and paid a dividend of £200,000 to its 49 ordinary shareholders. But as a result of the GFSC provision and related costs there was a £532,000 loss in the 10 months to last October. But there was still £2.7m cash in the CISX bank account.

There are also 55 member firms – leading banks, brokers, fund managers and lawyers from Guernsey and Jersey – who each guarantee to put up £10,000 in event of liquidation. They all do business on the exchange.

Peter Harwood's multiple roles at CISX and the GFSC are not the only example of the small world of offshore finance. The vice-chairman of the GFSC is former KPMG accountant Susie Farnon, who is also a non-executive director of CISX-listed broker and investment manager Ravenscroft, which underwrote the £2.5m new-for-old CISX/CISEL share offer. Jon Moulton is a Ravenscroft shareholder.

Ravenscroft (formerly Cenkos Channel Islands) was also a CISX trading and guarantee member. Furthermore, it manages a CISX-listed "closed end" investment fund, Bailiwick Investments, which had a 12 percent stake in CISX. (Bailiwick has marked those shares down from 400p to 50p.) The third largest shareholder in Ravenscroft, with 10 percent, is Guernsey private company Pula Investments. Pula also owns 3 percent of CISX. A Pula director is Hargreaves Lansdown co-founder and now Guernsey resident billionaire Stephen Lansdown… who sits on the board of both CISX and CISEL.

Channel Islands business as usual, then – but all too cosy for regulatory comfort. Especially when a memorandum of understanding between the new Channel Islands Securities Exchange Authority and the GFSC promises "to promote high standards of regulation".

Minority retort

FOR a third time in two years, shareholders of a foreign-based group are being ripped off after falling for the promises of future riches contained in the glossy IPO prospectus for a London listing. First, in 2012, came Indonesian mining group Bumi, then last year Kazakhstan-controlled ENRC, and now it's Essar Energy.

The Indian group's owners, the Ruia family, are following the tactic of ENRC's oligarch owners and generously offering to buy out the mug minority, who bought in four years ago at 420p, for 70p. The shares were 55p before the bid, which has been rejected by the independent directors and institutional shareholders led by Standard Life.

Essar Energy hit 580p soon after the flotation

"Come on, I need more money than that, how do you expect me to recruit and retain the best talent?"

☞ See over...

In the City

Bahrain humbug

TAXPAYERS have received a tiny payback from the multi-million debacle of the Serious Farce Office's failed prosecution of Victor Dahdaleh, sometime paymaster for the Bahraini royal family on behalf of companies such as the US aluminium giant Alcoa (*Eyes* 1353/1356).

The threat of a wasted cost order against Dahdaleh's former lawyers, City white shoe firm Allen & Overy, has resulted in its payment of £25,000 to the SFO – without, however, any admission of wrongdoing.

A&O was in the frame after an initial Dahdaleh corruption trial was abandoned at short notice in April last year. Despite the terms of Dahdaleh's bail specifically banning him from contact with prosecution witnesses, he was at a meeting in London days before the trial with Aluminium Bahrain (Alba) chairman Mahmood Al-Kooheji, a key SFO witness. Two A&O lawyers also attended the meeting, at which it was said attempts were made to influence Al-Kooheji.

But the £25,000 may not be the end of A&O's problems. The Dahdaleh trial judge, Judge Loraine-Smith, is still considering whether to send papers regarding the leading law firm's actions to the attorney general and the lawyers' regulators for further action over contempt of court. He will make a decision shortly.

Meanwhile, the judge is expected to decide this week whether Alba's US lawyers Akin Gump – like A&O a legal big hitter in the corporate world – and one of its partners should pay a wasted costs order to Dahdaleh for its role in the second trial collapsing in December after 22 days. The SFO dropped the case after two Akin Gump partners refused to testify.

Dahdaleh is seeking at least £50,000 for legal costs incurred in the eight days before the trial collapsed and after it became clear the Washington lawyers would not come to London. Akin Gump and Mark MacDougall face several complaints by Dahdaleh's lawyers amounting to alleged "serious misconduct". Akin Gump and MacDougall insist they acted properly.

A two-day wasted costs hearing was held last week. Wasted costs hearings are rare in SFO fraud trials – both for the SFO but also certainly for defendants. It has yet to be decided how much of Dahdaleh's multi-million defence costs for two legal teams will be met by the taxpayer. A&O was replaced by Norton Rose Fulbright for the second trial, along with new barristers.

One of two reasons the SFO gave for halting the prosecution was the refusal of MacDougall and Randy Teslik to return to London after providing statements and assisting the SFO by acting as conduits for Bahrain evidence from Alba. MacDougall was at the meeting, which caused the first trial to be aborted, and tipped off the SFO.

Disclosure of Akin Gump's key role in providing documents and witnesses to help the SFO – which never sent an investigator to Bahrain – made the evidence of MacDougall and Teslik crucial. SFO director David Green was said to have told Akin Gump four days before the decision to drop the case that this would be the result if the US lawyers did not testify.

Akin Gump claimed the lawyers could not give evidence without breaching client confidence and legal privilege or damaging Alba's interests in its ongoing US civil action against Dahdaleh.

Dahdaleh's lawyers rejected those reasons at Southwark crown court last week, claiming instead that it was because the Akin Gump lawyers did not want to be asked "awkward questions" about the £39m Dahdaleh admits paying to a member of the Bahraini ruling family. Dahdaleh claimed the payments were known and approved (if not shared) by others in the royal family. The £39m went to Sheikh Isa bin Ali al-Khalifa, via offshore bank accounts, to obtain contracts from Alba, when Isa was chairman of the state-owned smelter company. Alba has taken no action to recover the £39m from Isa, whose lawyers after the trial collapsed categorically denied the SFO allegations of corruption.

The London-based Dahdaleh acted as the agent for Alcoa, which settled a civil action with Alba for $85m and paid $384m in January to settle US criminal and civil actions brought by the Department of Justice and the Securities & Exchange Commission.

Just how embarrassing the Akin Gump evidence could have been to the Bahraini ruling family emerged during last week's hearing. Dahdaleh's QC Nicholas Purnell told the court MacDougall had assured the SFO in April last year that he was "highly confident" no evidence existed to prove that the long-serving Bahraini prime minister, Khalifa bin Salman al-Khalifa, had any knowledge of corrupt payments.

However, at a meeting in March 2012 with lawyers acting for Dahdaleh's co-defendant, the former Alba chief executive Bruce Hall, MacDougall was recorded as saying: "Sheikh Isa is well known for corruption. He is a spectator. Who is on the take? The PM, everyone knows."

The initial investigation into Alba in 2007 by corporate investigators Kroll Associates had been commissioned by Crown Prince Salman. Purnell described this as part of "a struggle between him and the prime minister". Akin Gump claimed legal privilege for the Kroll report and did not make it available to the SFO. The Dahdaleh camp claimed that was because "it did indeed demonstrate that the prime minister of Bahrain was 'on the take'".

Teslik was said by Purnell to have pressurised former Alba senior executive Jeremy Nottingham in June 2013 not to mention the prime minister to Norwegian investigators, who also had launched a criminal case against Dahdaleh. "Alcoa is the bad guy, not the prime minister," Teslik was alleged to have told Nottingham.

In their submissions to the court, Dahdaleh's lawyers claimed: "Teslik attempted to dissuade him from his belief that the PM was involved in the payments made by [Dahdaleh] to Isa… The overwhelming inference is that [MacDougall] and [Akin Gump] have suppressed evidence which tends to show that the PM was implicated in the [Dahdaleh] payments… Teslik knew that [Nottingham] believed that the PM both influenced key decisions in the running of Alba and was the recipient of funds paid to Isa." Teslik refuted the Nottingham version.

If the Alba corruption investigation was a power struggle, the Crown Prince lost, as the prime minister's position has been bolstered by Saudi support for his crushing of unrest from Bahrain's Shia majority. Still, that Alba's own lawyers believed the man who calls the shots was "on the take" may not go down well back in Bahrain – other than with those pressing for change.

Nor has the SFO's embarrassment ended. In July Bruce Hall is seeking permission to withdraw his previous guilty plea, following the SFO's decision to drop the case against Dahdaleh – in part because he had changed his evidence. Purnell claimed that was evidence about the role of the prime minister.

But this, like the Dahdaleh costs bill, will no longer be an issue for the SFO case controller, Sasi-Kanth Mallela. Weeks after the Dahdaleh fiasco, he left the SFO to join US law firm K&L Gates – at a presumably much higher salary, no doubt advising clients how best to defeat the SFO!

Moulton palaver

JON MOULTON complained to the *Guernsey Press* last week that he was "tired" of the attention the *Eye* has given in the past two issues to the still developing scandal inside the Channel Islands Stock Exchange (CISX), of which he was chairman.

That, however, was before four of his former CISX co-directors publicly denounced the internal report by Mark Tubby, compliance chief at broker FinnCap, where Moulton is also chairman, which savaged the CISX for "indecision, prevarication and general inertia".

The report, and an ongoing two-year investigation by the Guernsey Financial Services Commission (GFSC), resulted in the departure of the CISX chief executive and replacement of the CISX by a new regulatory setup.

"It's PLC gone mad"

Eight former CISX directors – two of whom, Robert Christensen and Tim Herbert, had briefly joined Moulton on the new Channel Islands Securities Exchange Limited (CISEL) – attacked the Tubby report as not being "independently verified", containing "material inaccuracies" and omitting "important and highly relevant information". Moulton had previously indicated that he backed the report.

Needless to say, they also attacked the *Eye* for "wholly misconceived and unjustified criticisms" while denying any wrongdoing and "actively challenging the content and management of the current investigative process".

The report, however, would appear to have been commissioned by the old CISX board, including Christensen and Herbert. Furthermore, the reconstruction resulted in the creation of a new Channel Islands Securities Exchange Authority (CISEA) regulator headed by… Mark Tubby. This was approved by some of the individuals, either as directors or shareholders.

Among the eight was former Guernsey chief minister Peter Harwood, who resigned soon after the first *Eye* article on the CISX scandal. He was at one time chairman of both the CISX and the GFSC, while his law firm Mourant Ozannes was also a shareholder in the CISX and its lawyer.

The eight angry men explain that they were until last week "gagged" by the GFSC, which has been investigating the CISX since 2012. They claim that "gag" also prevented disclosure of the investigation as a material fact in the 2012 CISX accounts. Strangely, that same "gag" did not prevent disclosure of the investigation by Moulton and its existence being recorded in the subsequent CISX interim accounts.

Auditors Deloitte have not said whether they were told of the investigation before signing off the CISX accounts last April.

Ukraine shower

UKRAINE, like most of the former Soviet republics, has not been fortunate when it comes to squeaky-clean political leaders. Post-communist politics was rarely a corruption free zone – one reason democracy activists there want new rather than old faces and the West should be careful what it wishes for.

An early Ukraine prime minister, Yefim Zviagilsky, was accused in 1994 of hiding $25m in Swiss bank accounts. He denied the allegations and was never charged.

Another PM, Pavlo Lazarenko, pleaded guilty in 2000 to laundering bribes through Switzerland. The Swiss seized almost $7m in his bank accounts. By then Lazarenko, prime minister in 1996-7, had been arrested in the US and charged with laundering $114m through American bank accounts. Some $80m was also found in bank accounts in Antigua.

Most of the money-laundering charges were thrown out by a US judge in 2004 because of a lack of evidence that Lazarenko had broken Ukraine law. But he was still jailed on the remaining charges for eight years and released in 2012. Last November US officials seized his

☞ See over..

In the City

Green's shoots

NO DOUBT the air in Monaco – or that little part of it that will be for ever located just north of Oxford Street – was even more heated last week when the MySale Group flotation got off to an embarrassing start. The price being mistakenly quoted in pounds rather than pence triggered a sell-off by automatic trading platforms misreading the decimal point, causing the price to fall by more than 25 percent at one time. It ended well below the 226p issue price and has since slipped further.

Not the launch Sir Philip Green (or MySale adviser Macquarie) had anticipated when Shelton Capital – "ultimately owned" not, of course, by the great retailer (weekdays to be found at the Top Shop/Bhs headquarters in London), but by his Monaco-resident wife Lady Cristina – acquired 25 percent of the Australian fashion website just ahead of the IPO (initial public offering) for A$87.5m (£48.6m). Still, there was a nice quick paper profit with the Shelton stake worth £69m.

It is yet one more potentially tax-free benefit for Lady Cristina from being, as described in the MySale prospectus, the "owner of the Arcadia group" – a role many ill-informed readers might imagine was that of her less publicity-shy husband, often but mistakenly referred to in the media as the effective owner of Arcadia and its Top Shop/Bhs chains.

The reason for this confusion is that ownership of Arcadia would appear to lie with offshore family trusts created either before or after the Greens moved to Monaco in 1998 and Lady Tina established non-resident status.

Green himself has remained firmly taxable in the UK, as a director/employee of Arcadia. Last year he was presumably its highest-paid and taxed director at £1.12m, according to the recently filed Arcadia Group accounts. "We do pay all our taxes in Britain. I am a UK taxpayer. My wife is not a tax exile. My family do not live in the UK," Philip Green told the BBC in 2010.

Arcadia's "ultimate controlling party" is "Lady Cristina Green and her immediate family" via a corporate chain which stretches from the UK-registered Taveta Investments via Taveta Limited in Jersey to GH One and GH Two Limited, registered at a law firm in Monaco. That, at least, was the position in February 2013, as no subsequent annual return has yet been filed in Jersey.

Since 2000, when Bhs was acquired, followed in 2002 by Arcadia, more than £1.7bn has flowed legally along that cash pipeline to Monaco, most if not all of it UK tax-free.

Taveta Investments has paid no dividend since the bumper £1.3bn payout to its Jersey parent for 2005. The get-out-of-tax key is that dividends from UK companies could be paid to an offshore company controlled by a non-UK resident UK tax-free, whereas if paid directly to that non-resident individual there could be a basic UK tax deduction. Payments made upwards within a corporate group – ie from UK subsidiary to offshore parent – can also be tax-free (as in the UK), given that the UK company would have paid corporation tax on the source of the payment.

That indirect but perfectly legal advantage is no doubt why all payments made from Philip Green-run UK companies are paid to offshore companies ultimately controlled by Tina Green, rather than direct. The Jersey companies are outside the UK tax net if they are non-resident-owned. But that lack of dividends does not mean that the family Green has had to struggle without any annual income – other than the interest or capital gains from investing its £1.14bn share of that 2005 payout.

A combination of loan repayments, interest and rental income worth around £190m flowed from the UK to Jersey and beyond between 2006 and 2013. Most if not all of this would have been tax-free as it was paid to non-resident companies with non-resident owners.

Let's start with the largest element of this enviable offshore cash flow. In 2009 Taveta acquired the Bhs chain from its offshore owners, companies controlled by the Green family. Bhs had paid out more than £400m in dividends by the time of the switch in ownership. The price paid in 2009 was £201.4m in loan notes issued by a subsidiary and repayable over ten years, meanwhile providing a generous 8 percent interest per annum. Because these Taveta bonds were listed on the Channel Islands Stock Exchange (CISX), interest could be paid without the normal 20 percent withholding tax to offshore investors. This tax loophole relies on listing rather than actual trading.

As well as Taveta, the Eurobond loophole has been used by companies controlled by another major retail family, the Westons, who own Selfridges, as well as numerous private equity-owned high street chains.

In 2012 HM Revenue & Customs moved to close the loophole, which it estimated was costing £200m a year. HMRC stated there were at least £15bn of Eurobonds issued by UK companies listed on the CISX and the similar Cayman Stock Exchange. But it backed off after extensive lobbying.

Interest payments on the Taveta Investments (No. 2) bonds began in 2010 and loan repayments in 2011. In the four years to August 2013, "companies controlled by Lady Cristina Green and her immediate family" received £46m in interest and £60m in loan repayments. And there is a lot more where that came from still to come. There are loan notes and accrued interest worth over £151m yet to be repaid, according to the Taveta accounts filed last month.

A year after Bhs was acquired in 2000, it entered into a sale and leaseback arrangement with another Green family offshore company, Carmen Properties, in a deal worth £106m. Between 2002 and 2008 Bhs paid £81m in rent to Carmen Properties in Jersey. Rental payments to offshore landlords are subject to UK tax but that is on any profit after all costs, such as interest on borrowings. In the four years from 2009 Carmen has received another £45.8m in rental income – totalling more than the stores originally cost.

Another Jersey company owned by Green family interests was also a Bhs landlord. Between 2005 and 2011, Mildenhall Holdings was paid a further £2.26m in rent.

For the year to August 2013, Green family offshore companies received £20m in loan repayments, £13m in accrued interest and almost £11m in rental income – all largely if not entirely UK tax-free. More than enough to make up for that MySale blip!

ORDER OF THE GARTER

Channel hoppers

SILENCE continues over the investigation begun more than two years ago by the Guernsey Financial Services Commission (GFSC) into the Channel Islands Stock Exchange, which last year was restructured and renamed after severe criticisms of its effectiveness. "The overriding impression is of inertia," was the verdict of the Tubby Report commissioned by the new CISX chairman, private equity veteran Jon Moulton.

The CISX chief executive resigned and after *Private Eye* highlighted the report, several scandals (Arch Cru/Clerkenwell Medical Research/Elysian Fuels) and conflicts of interest embedded in the supposed stock market regulator, so did the Guernsey chief minister Peter Harwood – CISX founder and also onetime GFSC chairman (*Eyes* 1360/61).

However, while there has been no news about the investigation, the surprise departure of Carl Rosumek, the GFSC's long-serving director of investment supervision, was announced last month. Rosumek has been replaced by the deputy director Emma Bailey. No reason was given for the change, but it hardly indicates a new response to old problems, even if the GFSC is keen to suggest it is beefing up enforcement and supervision. Last week's annual report admitted 2013 had seen "some turbulence" plus "concerns and criticisms".

The CISX legacy keeps growing, meanwhile. Another hefty skeleton is the Stirling Mortimer Global Property Fund, which, like Arch Cru, has a series of sub-investment fund cell companies listed on the exchange. The sub-funds represented probably more than £100m invested in developments in Spain, Cape Verde and Morocco. In 2012 it emerged that more than £8m had been misappropriated by the partner of a Spanish law firm. Legal actions have been launched and/or settled in the UK, US and Spain.

Last month Stirling Mortimer announced that it was delisting all the sub-funds. The Financial Ombudsman Service has made a number of rulings against independent financial advisers who put clients into Stirling Mortimer funds. Clearly another CISX triumph.

Hamad pickle

QATAR'S protestations of innocence following allegations of massive bribery in buying Fifa votes to stage the 2022 World Cup are not helped by previous and current investigations into how business is done with the tiny natural gas-fuelled emirate with big ambitions.

At the time of the successful Qatar bid in 2010, the prime minister was Sheikh Hamad bin Jassim al-Thani, then the most influential figure in Qatar. "HBJ", as he is known to a generation of property developers, bankers and dealmakers, was not just the PM and foreign minister but also head of the Qatar Investment Authority sovereign wealth fund.

Back in 2002 a Jersey investigation into how £100m in commissions came to be paid into three trust company accounts linked to "HBJ" by foreign arms companies and contractors, including £7m from BAE Systems, was halted after pressure from Qatar and the British government. Qatar was a key ally in the upcoming invasion of Iraq.

The money had been frozen in 2000. The Jersey attorney-general pulled the plug after al-Thani paid £6m to reimburse the cost of the police investigation. "HBJ" maintained such payments were in his personal capacity and so perfectly legal in Qatar and approved by the ruler. The previous emir, deposed in 1995 with al-Thani's help, had reportedly stashed $3bn of state funds in personal bank accounts abroad.

Jump forward to today and both the Serious Farce Office and the Financial Conduct Authority have Qatar and "HBJ" on their radar as part of investigations into the huge fees paid by Barclays as part of its £6bn double funding rescue act in 2008, which saved the bank from needing taxpayer support.

The SFO and FCA have zeroed in on more than £320m in undisclosed fees which Barclays agreed to pay, supposedly for advisory services in relation to raising those funds, to Qatar Holding, part of the QIA headed by "HBJ", and Challenger, a private vehicle for the prime minister. Barclays is contesting a proposed £50m fine by the FCA