



The US strategy against banks hiding flight capital needs help

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I'm proud of the achievements of bank compliance and law enforcement officers around the world. About \$400bn in drug money continues to be laundered around the world every year, according to credible sources, despite their good efforts. This river of illicit funds affects our everyday lives. It not only keeps drug cartels and terrorist organizations flourishing, it skews the legitimate business playing field against honest companies that need to charge normal market prices to make a living. Honest employers can't compete with companies financed with illicit funds that operate simply to legalize their dirty capital. Today, the US government seems unaware of its unique opportunity to achieve great strides uncovering illegal drug and terrorist financing.

Whistleblowers inside Swiss banks have been plentiful recently. Rudolf Elmer of Swiss private bank Julius Baer and Bradley Birkenfeld of Swiss banking giant UBS are cooperating with the IRS. But the Department of Justice may be letting a golden opportunity slip through its hands. Its strategy could have more teeth. The government could do so much more than simply making deals that lead to fines paid by banks caught with institutional money laundering plans and getting those banks to disclose records of tax cheats. That's just not enough.

As a federal undercover agent who posed for years as a corrupt businessman, I was a member of a secret club of crooks that received exclusive membership in the international banking community. In this capacity, I was allowed to have my dirty money cleaned by bank officers assigned to the private client divisions of international banks.

What I realized from my experiences and global governments need to realize is that there is a pool of people serving the wealthiest to manage "flight capital." What is "flight capital"? It's money seeking secrecy. Who owns it? The list starts with tax evaders and gradually gets dirtier, as the money gets bloodier. "Flight capital" includes fortunes from companies evading duties and tariffs, sellers of black market goods to prohibited nations, fraudsters who swindle the unsuspecting, arms dealers, government officials pilfering public funds, drug traffickers, financiers of terrorism and other criminals who reign over the hundreds of billions of dollars a year that governments never see.

If your money has a shade of dirt, and you want help to hide it, you can go to a community of private bankers, businessmen, lawyers and money brokers to make your fortune invisible. As a money launderer with hundreds of millions at my disposal, the private bankers and businessmen who serviced me offered secret safe deposit boxes abroad, schemes to disguise money being moved back into the US as offshore loans, secret meetings to whisper account details (so paper never crossed borders), backdating transactions, the destruction of records if a government sought proof, and endless other services.

Let's look at what taxpayers got out of the UBS deal. Bradley Birkenfeld received a 40-month prison sentence. Under the watchful encouragement of UBS, he provided the same services I enjoyed as a member of the exclusive mega millionaire club. But, what has the government done with UBS? UBS received a deferred prosecution (legal speak for dropping the criminal charges) in exchange for UBS's payment of a \$780m fine (cost of doing business) and an agreement to turn over the records of 4,450 of the 52,000 accounts they maintained for US citizens.

Now, our government turns its attention to the 4,450 people who used the services of UBS's private banking staff. The users (tax cheats) deserve to be dealt with, but are they the real problem? Or is the problem the suppliers within the professional community that cater to those with "flight capital" seeking secrecy?

Our government's war on Swiss-bank secrecy parallels another war we've never been able to get under control. It's very similar to our "war on drugs." In that battle, the users and small-time dealers are primary targets. These are important threats, but not to the exclusion of paying closer attention to those at the top who design the organizations that put tons of drugs on the streets and use their profits to corrupt governments.

The most important targets are those involved in designing the schemes. Without them, many countless thousands of

Americans couldn't have hidden billions. Who taught Birkenfeld how to hide money anyway? Oh, that's right, the bank is paying a fine – the case is closed for them.

Let's hope federal authorities don't repeat the UBS strategy with their handling of the new Julius Baer scandal. Here are the actions that I would tell the feds to take – although they are not likely to do any of them.

Don't negotiate now with the lawyers who represent the bank. Get Elmer to provide details about every crook (not just tax cheats) who hid money in the bank. Play hard ball and force the bank to turn over the records with due process, not in return for any favors. Get Elmer to identify the bankers and lawyers who designed and directed the methods used by the bank to hide money. Make your deals with the tax cheats. They'll be happy to pay fines and penalties when they know you've got them. Why give the bank any credit for helping you collect this money? You don't need them. Get every tax cheat and other crook that banked there to give you details about who they dealt with at the bank and what each professional did to launder money. Get sealed indictments against each banker and lawyer involved. They travel often to jurisdictions in which they can be arrested. Once they're in custody, they'll offer information about everyone above them to lighten their sentence. They'll probably be able to tell you about schemes they witnessed when they worked at other international banks.

Now you'll have the ammunition to make a difference when you indict, arrest and imprison the select group of senior bank executives that put this all together. Believe me, banks that market flight capital will then start closing the doors that now accept the fortunes of criminals, forcing them out of the shadows. Then you'll have done something that will really make a difference.

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