Politically exposed

If you do voluntary work, it may increase your chance of being rewarded with a title. **Jon Moulton** did the time, but feels like it's being treated like a crime

Until recently, I thought little of TV presenter and journalist Jeremy Clarkson, with his petrol-head best mates and puerile-at-times-and-at-best chat. However, I've been compulsively viewing *Clarkson's Farm*. His efforts to run the farm, while diversifying into retail and running a restaurant, have somewhat changed my view of him. A lot of what he says about red tape resonates.

His character is clearly some kind of construct and the show is doubtless somewhat staged. But the narrative – fighting idiotic bureaucracy and government – is uncomfortably real. Business prevention is a lucrative and secure career.

In our private equity world, the business preventers are becoming more and more numerous. Most readers will have experienced the extraordinary processes of 'know your client' and money laundering, while once-easy tasks such as opening a bank account or changing account signatories are now lengthy and tedious activities.

Branded for life

A decade or so ago, I offered to chair Guernsey's tiny government airline. It was an unpaid role and at the time I had no idea what this would do to me.

You might reasonably take the view that the risk to global financial stability of my having held this role is not great. But I got a new title, of sorts – I became a PEP, a 'politically exposed person' (please note, there is a difference between a PEP and an exposed politician, literally and metaphorically).

A PEP is defined as 'a person entrusted with a prominent public function. PEPs (as well as their family members and known close associates), must be subject to enhanced scrutiny'. So the definition even covers my children, who probably have no idea that they are PEPs – for the rest of their lives. The full UK rules on PEPs reside in the 120 pages of the *Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017* – a recommended insomnia cure.

One effect of being a PEP is that you are subjected to an extraordinary number of questions on where your wealth came from. In one current situation, a proposed financial partner has offered to spend a day – this "should suffice" – tracking my wealth back to my leaving university some 50 years ago.

Guernsey at least moderates the impact of being a PEP by stopping the designation five years after the role ceases. Unfortunately, other jurisdictions (such as the UK) don't recognise this endpoint.

Even criminal convictions punished with up to four years imprisonment are considered 'spent' after a few years. But PEPs suffer for ever. This is all part of a lack of proportionality in regulation and its application.

Diddly squat convictions

Some six years ago, a new law came in that enabled UK companies to face criminal prosecution if they had not taken steps to implement checks designed to eliminate the facilitation of tax evasion. There has been a sum total of zero prosecutions to date. Apparently 77 potential cases have been reviewed and discarded. Many millions will have been spent in implementing controls – much of it in producing unread corporate standards. Some might argue that the law has succeeded by acting as a deterrent, but who knows? Economically, ignoring a law that works like this is a no brainer.

Again, 190,000 people are subject to the Financial Conduct Authority's Senior Managers Regime. Successful enforcement by way of a financial sanction stands at single figure cases every year since 2016. Enforcement seems a lengthy process, rendering it much less frightening too. And really, senior management in larger companies do not seem to have been prosecuted at all, even when their organisations have been heavily fined.

Proportionality, cost-benefit analysis and practicality seem very lacking in our financial services regulation. Bulk is not a measure of effectiveness. There are many offences in our company law. Outside of insolvency cases, most seem unused. There would be little damage in deleting many of them.

As a 'politically exposed person', I stand with Clarkson in pleading for common sense and simplicity in business to be the norm.

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