The Taxcast, Sept 2024: Green Laundering

Naomi Fowler: Hello and welcome to the Taxcast from the Tax Justice Network. I'm Naomi Fowler. On the Taxcast this month, a big victory against Ireland and Apple's tax dodging pact which goes back years as the European Union Court of Justice rules it was against EU state aid rules. Here's EU Competition Commissioner Margherethe Vestager.

Magarethe Vestager: I think it's a very important step towards tax justice, I think that shows European citizens that actually once in a while, tax justice can take place. And it's important to me as well. I'm very, very happy with this win. We won the Apple case and it's final.

Naomi Fowler: Yep, it's final. Apple must now pay back taxes in Ireland of over 13 billion euros, or more than 14 billion dollars. It's a big win for the European Commission. We're going to discuss the implications.

Also on the Taxcast, are banks claims about their financing of fossil fuel companies true, or are they green laundering?

Franziska Mager: I think they're still very much riding a wave where they're getting away with greening their commitments and their image quite a bit, pretty visibly.

Naomi Fowler: At the Tax Justice Network we've been following the money, and our investigations show how financial secrecy is allowing banks to hide the true scale of their backing for activities that are accelerating the climate crisis. We found that two thirds of the fossil fuel financing provided by the world's 60 largest banks is granted to subsidiaries in secrecy jurisdictions. It's an international scandal.

But first, the Apple tax case. Ireland and Apple have lost their appeal against the EU's order back in 2016 that Apple must pay Ireland 13 billion euros, about 14 billion dollars, in unpaid taxes. They wanted to defend what they thought was a right to shift profits around so they could lower their taxes to pay between 1 percent and as little as 0.005 percent in taxes a year. They *didn't* have that right because it's against EU state aid rules to give selective tax advantages. Here's economist Joseph Stiglitz of the Independent Commission for the Reform of International Corporate Taxation, or ICRICT for short.

Joseph Stiglitz: Apple in Europe claimed that all the profits they made in Europe were made in Ireland. That all the economic activity that occurred all

over Europe was actually due to Ireland. And then they had a quirk in the Irish law where they said that what went on in Ireland was controlled by Silicon Valley so they didn't have to pay any taxes in Ireland. And they gave Ireland just a little bit for the service of avoiding taxes. That was the only service that Ireland provided, really, was tax avoidance.

Naomi Fowler: And the initial motivation for Apple to use Ireland was to shift their taxable profits out of the United States, too. Ireland's been in the bizarre position of fighting against receiving billions of euros in order to try to protect their client, Apple, and presumably all the other companies who've also used Ireland's jurisdiction to shift profits over the years. To discuss all of this I'm with Tove Ryding, tax coordinator at the European Network on Debt and Development, Eurodad in Europe, and Zorka Millin, former tax lawyer and policy director at the FACT Coalition in the United States, that's the Financial Accountability and Corporate Transparency Coalition. We started off by talking about their initial reactions to the news. Here's Zorka Milin first.

Zorka Milin: Most obviously, I think the EU and especially the visionary competition commissioner I think this is a big win for her, for the commission against tax sweetheart deals, especially in Europe. Um, and also paradoxically Ireland was fighting this tooth and nail, but now they get to keep this 14 billion dollar windfall in revenues!

I also want to add that you know, even though it's imperfect and incomplete in, in, in some ways, still, I think this is also a win for civil society groups who have been campaigning for such a long time to bring greater tax accountability to companies like Apple, and I want to say that because, you know, we're not always very good at celebrating our victories and you know, we always tend to look critically at how things could be even better, and let's just go for the next big thing. But I think this is a really important case that shows we can actually win, even if it's imperfect, incomplete, and it took ages, more than a decade, it is still some semblance of tax justice and still one that we should celebrate.

Naomi Fowler: Yeah, right. And I mean our EU Competition Commissioner said it brought her to tears. So yeah, maybe we should take that? Tove, what do you think?

Tove Ryding: Yeah, I definitely agree that the European Commission is a big winner. They put a lot of resources into this. If I understand them correctly, they were actually surprised themselves that they won this case because they had several tax related state aid cases that didn't go so well. So indeed, a big

congratulations to them and also to Margrethe Vestager, who has been championing this, and this is the end of her term in the European Commission.

And, as to the broader celebrations, I guess we, especially the European organizations that have been following this case for a long time, are some of the ones that aren't quite sure that this is a moment for celebration, because a real win for us was never in the cards! I guess we won a bit of transparency into how the transfer pricing system works and that's actually really rare because most of these things are usually secret. So we saw in this case, there's one year where Apple's tax payments are down to 0.005%. So you drop your jaw about how extreme the tax system is. But then when you see what this case was actually about, the European Commission has been trying to force Apple to collect taxes on profits that were generated in countries all over Europe, but also in Africa, the Middle East, and India. So for all the other European countries, but also for our colleagues in the other regions, the big question is why did all that profit only go to Ireland and why can't any other countries tax this money, especially since Ireland very clearly didn't want to tax it? So, we won a little insight into how problematic the tax system is, but the, the very clear conclusion is that the problem we have is more than just one rotten apple.

Naomi Fowler: Yeah, some of the countries who that tax revenue belongs to won't get that revenue, so a lot of treasuries are not going to benefit from this. Ireland didn't want to benefit from this, but has been forced to now by the courts. Who else are we looking at who are losing out from this ruling? Um, I guess the shareholders would be one, who have been very slow to recognize the risks of profit shifting and turning a blind eye to that. Zorka?

Zorka Milin: Yeah, I agree that, that among the losers we've got other countries that should have or could have gotten their share of these tax revenues. Um, and here I, I include in addition to the European countries and, you know, the global South markets, I would also include the United States, and let's hope that this ruling will be a kick in the pants for these countries to do what they can to fix their own international tax and especially transfer pricing rules so, so they make sure they can’t be taken advantage through profit shifting going forward. Um, and then, of course, obviously, you know, Apple is the big loser, I mean, we could debate how much 14 billion matters to such a huge and hugely profitable company but there's no question it's material. And as you say, Apple's investors, you know, the risk was sprung on them. They were in the dark about these huge tax risks that the company was taking because of a lack of tax transparency. Uh, and it really only came to light through a congressional investigation in, in a series of dramatic tax hearings in the U.S. Senate back in

2013 so yeah, I would say the losers are the company and some of the other governments, as you said, I agree with that.

Naomi Fowler: Yeah, Tove?

Tove Ryding: Yeah it's a really interesting situation because for once you actually have a weird coalition of big multinational corporations and investors and governments and civil society *all* shaking our heads at the tax system. Of course, we have been highly concerned about the transfer pricing system for a very long time, not just because it's open to abuse, but also because there is an unanswered question about how should the right to tax profits be allocated fairly between countries, and now that we have such a big amount of profits ending up in Ireland, you have everyone else, civil society and governments all around the world going, well, this is odd! And at the same time, now we actually have investors and multinational corporations that very clearly see an example of exactly how risky it can be to do tax constructions that are, let's say, a bit on the creative side. And especially because this case goes back so many years. You really have CEOs and the different types of corporate tax departments that have to sit now and wonder how many of the tax arrangements that we did 20 years ago, 30 years ago are actually safe from scrutiny? And I think that's the question that we all have now is, okay, this was one company. This was two tax rulings. What about all the others? And I think that's the big question here in Brussels now as well.

Naomi Fowler: Oh yes, definitely. I mean, the consequences of this ruling now for other companies that were enjoying Irish sweetheart deals and, and not just Irish ones as well, but yeah, they must be quite worried, right Zorka?

Zorka Milin: Yes, exactly. As Tove said, you know, it's not just one bad apple. There's plenty of other companies that have historic Irish sweetheart deals, and now they are at legal risk if they are within the 10 year statute of limitations. Now, I should say here, I'm not an EU or an Irish tax lawyer, and this is certainly not tax advice to be clear, but if I had clients in this situation, if I was still in private practice, I would say they should definitely take a closer look, and, you know, strictly speaking, you could say the impact is, is going to be narrow because this exact structure, the double Irish, is no longer possible. By the way, that's thanks to a combination of tax reforms in Ireland, in the U.S., and also BEPS, all of that was won in response to these kinds of scandals.

So we don't have this exact kind of structure, but more broadly, you know, I would say it is a sea change because it signals that Brussels can go, they have

legal authority to go after the tax laws of member states in these kinds of situations.

Naomi Fowler: So, you know, if you look at Ireland, it said, we don't give preferential tax treatment to, to companies which is found to, to not be the case, but they didn't fight against having to take these back taxes, 14 billion dollars for no good reason, right? So the corporations, I mean, you've talked a bit about how they might start looking at things a bit differently and thinking, this is a bit, not only in terms of reputation, this is risky, but actually legally and financially, there are big risks here. But what do you both anticipate that perhaps the enabler industry of professionals helping companies do these type of things, governments who have jurisdictions like Ireland, who have been quite big offenders in draining tax revenues from other countries, what do you think they're going to be doing now after this ruling as a result? Tove first.

Tove Ryding: I think we can see how a lot of the business lobby is responding, including the tax advisors. They emphasize the need for tax certainty, and of course, some of them are also still saying that there's no longer a problem with large scale corporate tax avoidance, and *that* we strongly disagree with. But when it comes to tax certainty, they of course emphasize the need for certainty for business and investors.

And we emphasize the need for tax certainty for governments and citizens to make sure that there is revenue coming in. But there is an odd point of agreement here that the current international tax system is simply one big chaotic tombola, you never know what the result is going to be in the long run and everyone's actually really uncomfortable with this. So it creates a much needed and very healthy discussion about how can we create tax certainty? And there we have seen numerous reforms, both at the OECD level in recent years, or at the EU level, some of the reforms have echoed the OECD reforms, and then there are also separate EU reforms. But the problem is that while closing some loopholes, they open some other loopholes instead. And we've even seen a few examples of corporations that are starting to restructure to make their structures fit with the new loopholes instead.

And the point that there's also agreement on is that the tax system became a whole lot more complex. Basically, we took the transfer pricing system and then we added a big layer of *different* anti-avoidance rules. And then we put what's called Pillar Two on top, a minimum effective corporate tax rate that unfortunately doesn't seem to be very effective. And so the tax system expanded with thousands of pages. And there is a now an odd agreement on the fact that none of the actors that were discussing the global tax system feel more certain

now about what the tax system actually says and how the realities are going to look like in the future. So now is a great time to discuss the fact that it doesn't have to be like this. We could actually construct an international corporate tax system that is much more transparent, much more fair, much more simple, and much more certain. And that discussion is coming now. And that's probably the best news in all of this.

Naomi Fowler: Yeah, we're going to talk about the United Nations where we all think that they should be focusing their efforts, but let's go to Zorka and ask her for her take on how the whole industry really, involved in these type of activities, how they're going to react in your view.

Zorka Milin: Yeah, I mean, um, talk about enablers, they'll keep enabling, but they'll just find another way, and I have to say, as a former international tax lawyer, it's been really disappointing to see the reaction from the tax profession. From what I've seen, there's a consensus that this is just a terrible legal decision in the Apple case. You know, there's been some disagreement on how big a deal it is, some lawyers think it doesn't really matter much anymore because these exact kinds of schemes are now basically over. Although it could, as we said a minute ago, it could affect some of those previous schemes. Other lawyers are saying it's just outrageous that the Brussels Competition Authority can override domestic tax laws but, you know, whatever the exact stakes are, the consensus seems to be it's just a terrible decision. And while that's not necessarily surprising, I find it disappointing because it shows that tax lawyers are still kind of trapped in their role and they're failing to see the bigger picture here. I mean, we had a company that was setting up subsidiaries that are not tax resident anywhere at all, and they got their effective tax rate down to, what, basically nothing, 0.005%. And that kind of outcome is just so manifestly unjust. And there is no way a tax system that produces such an outrageous outcome could be defensible or sustainable. And of course, yes, Tove was talking about certainty. We need, you know, we need to have nice things like rule of law and stability and certainty. And I'm all for that, I'm a lawyer, but this is just not the way. And the Apple tax case is up there with one of the most egregious corporate tax scandals I've ever seen. I think it's time that we just need a different kind of law. But I'm an optimist, I will try to be an optimist. And so I think things are going in the right direction slowly but surely, and we have so much momentum and so many opportunities for real tax reform, both international, UN is surfacing, but also domestically and unilaterally, including here in the U.S. where we focus.

Naomi Fowler: Yeah, yeah, we're definitely in a different place to where we were when the whole Apple thing started, that's for sure. So, last question to you both. What can nation states do, both independently with their own tax law and

collectively to protect their own tax bases against ongoing profit shifting? It may not be quite this scheme that Ireland had that's in question here, maybe other ones, new ones that they might think up. I mean, looking at the United Nations being able to create a more equitable forum for deciding all of these collectively, to improve what's really been a terrible situation when it comes to these very, very big, very often US, but not exclusively, multinationals. Let's go to Tove first.

Tove Ryding: Yes, exactly. This is the big question now. What can countries do to try and push for a fairer international system? In theory, all countries can consider domestic measures. In reality, we often see that, especially when small developing countries try to take initiatives on their own to increase their tax income from multinational corporations also, in examples where it's extreme, where they, for example, get no tax whatsoever from multinational corporations operating in their countries, when they try and push for more equitable taxation individually, they often, uh, see a strong international pressure on them and uh, we've seen that, uh, when the Europeans or, or when the U.S. does it, then… one example is digital services taxes that the Europeans started to try and collect more income from the digital giants and many developing countries are trying that now and one of the good things is that it actually creates revenue, but there is a strong international pressure and it's very difficult and unsustainable for, especially for small countries to do this on their own.

And that's why it's amazing news that we're now seeing such a strong push from a very broad coalition of developing countries to have a truly global solution to this. It started with the African countries, the Africa Group at the United Nations, setting an agenda and saying, we want a UN framework convention on tax. They also pushed to have a protocol that addresses cross border services in the digitalized economy, which is actually also an issue that could be relevant for companies such as Apple. So they pushed extremely strongly, but the other developing countries have really come in and backed up this initiative and last year in August, when they negotiated the terms of reference for this convention, we're also seeing some of the OECD countries in the global north run out of arguments.

It's really difficult for Europe if you say that you support an inclusive international tax system, and you recognize that developing countries have a right to be at the table on an equal footing, then when they come out so strongly and say, the UN Framework Convention on Tax, that's what we want, it's difficult to keep saying no to that and at the same time say that you're, you're supporting developing countries.

And that was a strong reason why we saw that in the latest vote in the UN, where the EU had previously voted no, now they abstained. But another reason why the EU is finding it harder to resist the UN initiative is also that you have more and more EU countries that start to look at the UN tax convention and say, actually, maybe there's also a fairer and more effective tax system for us in this, and maybe this is actually an opportunity for us to avoid that all profits end up in countries like Ireland, but also to get some of this tax certainty that everyone is talking about.

And the terms of reference are really strong. They talk about the need to create a system that ensures equitable taxation of multinational corporations and fair allocation of taxing rights, and combating practices such as tax avoidance and evasion. So in that sense, the Apple ruling is a very timely input to this discussion because it's a great reminder, this case goes back a number of years, but it's also a public secret that, of course, we still have an extreme problem of large scale corporate tax avoidance. So now we finally have an opportunity to create a better and truly global system.

Naomi Fowler: Yeah, yeah. And Zorka, the United States is, is definitely not one of those less economically powerful countries. It's not very keen on the United Nations any more than my own country, the United Kingdom is, maybe that might change with the new government, you never know, in the UK. So the United States, it wields so much power in this area, it also has a lot of power to to move in terms of its own law. Tell us a bit about what's been going on there and your take on this.

Zorka Milin: Sure. I think there are a couple of different things that we can do that in particular, the United States can do to address the kinds of problems that led to the Apple tax scandal. There are two sides to this. One is fixing international tax allocation rules, so when it comes to the tax allocation rules, that's a separate job for international negotiators, as Tove explained.

And on the other hand, there's also a lot we can do to improve corporate tax transparency. But, you know, I do think there's a lot that domestic tax policy makers can do to pursue unilateral solutions at the same time as we push for more lasting and inclusive multilateral agreement. That's not an either or, I think we can and should pursue both and to talk about the US since that's our focus of the FACT coalition and also, it's a central part of the apple tax scandal - let's not forget the Irish tax scheme was actually, you know, what the motivation for that was primarily Apple wanted to avoid U.S. taxes, that's the main reason why they went to Ireland, and we can put a stop to that sort of thing if we make sure that companies like Apple, these American multinationals have to pay tax in

each country where they operate, and we have a bill in Congress that would do that, called No Tax Breaks For Outsourcing Act. It's supported by a majority of the Democratic members of the U.S. House. And also we've got support of 90 NGOs, so we're optimistic on that one.

In addition, you know, there's also a transparency link here. You know, we could have known about this problem much sooner if Apple was required to come clean and report under full public country by country reporting, because this huge amount of profit that was shifted into these stateless subsidiaries that they set up in Ireland, it couldn't have just vanished and fallen between the cracks if we had full transparency and, you know, who knows, maybe in that case, Apple wouldn't have even gone forward with such an aggressive structure. So, I think these are just some of the policy solutions that we can work towards to address, and hopefully prevent these kinds of tax scandals in the future.

Naomi Fowler: That bill that Zorka mentioned would aim to ensure that U.S. multinational corporations pay at least the U.S. statutory rate, currently 21%, believe it or not, on their income in every country where they operate. Details on that are in the show notes. My thanks to Tove Ryding of Eurodad and Zorka Milin of the Fact Coalition.

Now, green laundering. Yep, it's a thing. As flooding, wildfires, drought, hunger, conflict, all of those things are accelerating and the effects of climate crisis are realities for more people across the world, banks know their reputations are important. They're also operating in a world of supposed corporate social responsibility and ESG principles, those are environmental, social, and governance principles. They're supposed to encourage more responsible investing and business activity. The claims by banks sound positive:

Bank adverts:

…Sustainability. As pioneers in sustainable finance, this is at the core of the company's priorities.

Signatory of the Net Zero Banking Alliance, our objective is to finance a carbon neutral economy by 2050. To achieve this, we are aligning our portfolios to reduce Greenhouse gas emissions linked to financing in the most polluting sectors to preserve biodiversity....

…Climate change is a global emergency. As a bank with 148 million customers worldwide, we have a responsibility and an opportunity to support the green

transition and to encourage more people and businesses to go green. All of us need to change...

…We will enhance our climate related disclosures. Update our environmental and social policies in relation to restricted and prohibited activities in high emission sectors such as energy, metals, and mining and soft commodities…

…There is much, much more to be done, but our new commitments are a big step on what is a long journey.

Naomi Fowler: It all sounds pretty heartwarming, doesn't it? But talk is cheap. Here's Franziska Mager and Alison Schultz of the Tax Justice Network. They co-authored our report, *How Green Laundering Conceals the Full Scale of Fossil Fuel Financing.*

Franziska Mager: We define 'green laundering' as the complicity between large banks and fossil fuel companies.

Alison Shultz: It's a process by which fossil and other dirty investments are hidden because they are channelled through secrecy jurisdictions.

Franziska Mager: The reason we're including laundering in this term, which is obviously reminiscent of money laundering is because we know that traditionally illicit financial flows tend to flow through secretive and opaque jurisdictions, as we've shown, you know, over many years. Banks and fossil fuel fossil fuel companies structure their operations as many multinationals do across a whole range of different jurisdictions with different degrees of secrecy, and they put a lot of their subsidiaries into these secrecy jurisdictions.

Alison Shultz: Yes, this means that it kind of makes it impossible for researchers but also for regulators and the public to really gauge the real amount of dirty financing or fossil fuel financing.

Franziska Mager: So we wanted to know what purpose do these subsidiaries serve for the interaction between banks and fossil fuel companies?

Naomi Fowler: So you've looked at fossil fuel financing from the world's 60 largest banks. Is there a system that's commonly used the banks to report publicly on their fossil fuel based investments and their involvements? I mean, what do they have to report and what do they *not* have to report publicly?

Alison Shultz: So it depends a little on where the bank is based and which regulations apply, but in general, they have both regulatory requirements, but also voluntary requirements, which are often driven by investor pressure to expose fossil, fossil fuel lending, especially like, especially corporate loans to fossil fuel companies. So most, if not all of the global banks do have some reporting on this. So they report how much oil and gas loans they will have in their balance sheets, so actually we see that these banks do this reporting. However, then we see that for the largest banks, which we investigate, we compare what they report, and this is either done in their annual reports or their sustainability reports, and we compare what they report with what we see in the data of their fossil exposures. And we see a very, very big mismatch for all the banks we investigate, that the reporting which they have is way smaller than what we see in the data.

Franziska Mager: Banks refer to their general sustainability strategy in order to project an image of their commitment towards a shift towards sustainable finance, you know, big sustainability pledges that you'll hear on the radio when you hear a spot, for example, by BNP Paribas, that's the first thing they open with, it's very prominently on the website usually, if you go looking a little bit at what they're advertising. So, it's a really big part of their public image of all of these banks is the reckoning that they need to, and that they *are* shifting towards more green financial investments, whatever that might be. That very visibly advertised, right? And then when it gets into the details you can look at the sustainability reports, sometimes it's in the annual report, sometimes there's a standalone publication that's called a climate report or something like that, where banks will go into a certain level of detail over what that actually means. So, what does that strategy actually entail? What do they mean by it? What's covered? And to be fair, you can access a decent amount of level of detail in terms of what it means for fossil fuel financing and the way that's usually structured is not by saying, this is what we still finance, or this is what we do finance, but instead it's giving you a list of exclusion policies that apply to things that they will no longer finance. And that's really what you have to work through and read in detail if you want to understand how far these commitments then go in reality.

Naomi Fowler: So yeah, so they'll say, we don't do this anymore, we won't finance this anymore?

Franziska Mager: Yes, it's a really explicit claim over the things that they're no longer doing, or that they're committing to no longer doing in the future. And I think the important thing to say about what banks now exclude from their business and this general strategy is that they're self-imposed standards, right?

Banks choose what they put into these sustainability and climate targets and so on, it's self-imposed in the sense that there's no bigger entity, no bigger regulatory entity that can really tell banks - stop funding all kinds of fossil fuels completely. It's a for profit business so they're looking for profitable clients, so the standards that do exist when you look into these reports, these annual reports, the climate reports, the sustainability reports are evolved from within banks. So that should make you suspicious to, to begin with, you know.

Naomi Fowler: The mismatch between banks' decarbonising claims and what the data show when we followed the money is all about subsidiaries and secrecy. Our report finds that two thirds of the fossil fuel financing provided by the world's 60 largest banks is granted to subsidiaries in secrecy jurisdictions. Hence the potential underreporting of emissions banks are really responsible for. Alison Schultz.

Alison Shultz: They might be underreporting a lot because they don't acknowledge the subsidiary structures of the fossil fuel multinationals. So, so the suspicion we have here, and this is hard to verify because the data is so bad because there's so much intransparency about it. But what happens is that most of the fossil fuel companies do have subsidiaries which are only there to raise the financing. So they would have a subsidiary often located in secrecy jurisdictions, like we see many of these subsidiaries in the Netherlands, in Jersey, in Delaware, like all the well known secrecy jurisdictions. And this is where these fossil fuel companies raise the financing and then distribute it to their sister companies. And we do not really see that banks take this into account adequately. So they would give out financing to a subsidiary of a fossil fuel company, which is kind of not apparently a subsidiary because it is only there for financing and because it often is located where transparency is very weak.

Naomi Fowler: As well as looking at major banks, Alison and Franziska also investigated two recipients of bank financing, two big fossil fuel companies, the world's largest oil company, Aramco, and Glencore, the world's largest coal producer and exporter.

Alison Shultz: We have looked at Glencore, where we see the subsidiaries of Glencore because Glencore lists the subsidiary. For instance, we see that the headquarters of Glencore are located in Switzerland, even in one of the cantons which is known for the highest secrecy in existence in Switzerland and so the lowest tax rate. We know that the holding company of Glencore is located in Jersey, which is also a well known tax haven. We know that the financing and this comes back to the fossil financing we're looking at is done via subsidiaries

again in Jersey for the European part and in Delaware, a very well known tax haven in the U.S. for the U.S. part. So we actually see all these suspicions where we see, okay, why do they have the subsidiary exactly located where it is? But the problem is that this is where our information stops. And this is due to two things, two different aspects of transparency. The first one is that we don't have country by country information on how much actual activity is happening in these different jurisdictions. What are these subsidiaries even used for? Is it just for financing? How exactly are things done? And we as researchers, and also the public is not able to see what is actually happening and if they might have these subsidiaries in all these places for good reasons or not, because we don't have the information. And an additional layer of intransparency comes in for being established in these jurisdictions, because for many of the subsidiaries, it's just super difficult, if not impossible, to just find their very basic financial information.

Franziska Mager: Yes. What are banks responsible for through their lending, what amount of emissions or what damage has been made possible through that money alone? And that's not visible. That's not effectively regulated or mandated actually at all at the moment. So, looking at the money only gets you so far, right? But ideally, we would be looking much further and we would have proof on paper of the emissions that this money has facilitated.

Alison Shultz: We call this like 'planned ignorance,' but they are kind of happy to not being forced to know too much. So if, if the bank can actually say, yeah, we gave money to this one subsidiary, we don't even know what they are doing, it's a financial company, so everything fine there! So they wouldn't need to report it, which would actually improve their public image in terms of fossil fuel financing. And this is even more complex because many of these fossil fuel firms are super big and super complex firms. So what we see, for instance, is we have a financing subsidiary, but this financing subsidiary is not directly giving funds or not directly linked to a big oil and gas company, but it's linked to a chemical company, which in turn is owned by the big oil and gas company. So this makes it really complex to really see where the money is flowing because in general, you don't have any information about where a loan eventually will be used or where a bond financing will be used eventually in the corporate group. So, our understanding of the bank's role is a little that they are quite happy to keep some ties to a very profitable business, the fossil fuel business, if they cannot immediately see that this is a fossil fuel business.

Citi Group advert: What's it going to take for the world to reach net zero emissions? It's going to take investing in some things you've heard of, and some you'd never expect. It's going to take funding innovation in renewable energy,

helping reduce carbon footprints, and big bets on environmentally conscious construction. Citi has committed one trillion dollars in sustainable financing to help build a better future. Because to reach net zero, it's going to take everything…

Naomi Fowler: That's an ad from Citigroup. It sounds good, doesn't it, but reporter Will Crisp of the Bureau of Investigative Journalism uncovered how Citigroup helped raise three and a half billion dollars for the UAE's state oil company, Adnoc, that's Abu Dhabi National Oil Company, one of the world's biggest polluters.

Wil Crisp: I was quite surprised when we were initially talking about the challenges of the project, I was thinking how are we gonna…? Yes I'm sure that the money that goes to the subsidiary, ultimately ends up with the parent company, but how are we gonna show that that happens because as everyone knows, money moves around very easily in large corporate groups of many companies but it's actually quite hard to trace this so I was quite surprised when we found you know those documents which outlined exactly how that money was used.

Naomi Fowler: It's not easy to get a smoking gun on these things, as you heard earlier. But here's an example where they did.

Wil Crisp: The deals that we looked at were examples where on paper a bank was lending some money to a chemicals business but in reality they were handing billions of dollars to one of the world's largest oil producers. And one of the things that banks can benefit from by providing money to a subsidiary rather than a parent company is potentially in the way that they report their so called financed emissions. Another thing, obviously, is just the way it looks on a superficial level. If you report a deal with a small chemical subsidiary that no one's heard of, it looks different to announcing this deal with a large international oil company that maybe everyone's heard of. So, you know, there's also that superficial element to it as well.

The interesting thing that we found is just how simply and directly some of this money is passed on to the parent company.

Naomi Fowler: And that really matters, because the three and a half billion dollars Citigroup helped lend didn't affect that bank's climate targets that it likes to talk so much about. Because of this indirect way of financing Adnoc, the bank didn't have to account for the emissions associated with lending to such a major polluter.

Wil Crisp: As things stand, there are a lot of different ways of calculating financed emissions and the banks are free to choose whichever way suits them best and so yeah, its a mess because you can't compare apples and apples because each bank has its own methodology. Citi bank is a member of the partnership for carbon accounting financials and so this is an initiative that was launched to try and implement a common methodology that could be used by all kinds of different institutions which is a good idea in itself. In terms of the project that we did looking at these Adnoc subsidiaries, the subsidies of this oil company, the main problem is that its current guidelines right now for good practice when calculating financed emissions is to do it at a subsidiary level and that means if you lend to a subsidiary of a larger company you look at the emissions of the subsidiary rather than the larger parent company. And obviously this methodology is problematic if the subsidiary is a much smaller carbon emitter.

Naomi Fowler: But it's great if you want to report your financing of emissions as lower than it really is, *if* that's what they're intentionally doing. For Alison Schultz, there are very quick wins for banks, if they're really serious about counting all the emissions their financing is responsible for when it comes to their exclusion policies.

Alison Shultz: For me, there's one big indication which shows that most banks don't take their own commitment serious. And this is that they do not acknowledge subsidiary structures in their exclusion policy, so these banks exclusion policies would be something like a bank saying, we don't finance any coal projects. So what the bank says right now is, we do not give money to a coal project. What we are saying is if you're serious about it, you have to say, *we do not give money to any subsidiary of a company which is involved in coal projects. That wouldn't be hard to do!* We actually have a few examples of banks which tried to do that, at least in some of their commitments but the larger number of banks don't include this disclaimer, let's say. So I think that if they would take their own commitments serious, they should include this part, and that they do not have included it in their exclusion policies for me is a sign that they try to have strong commitments and still some loopholes to not fully comply with those.

Franziska Mager: When we gave banks the right to reply, what's noticeable is that you usually get replies from within different parts of the bank. So, most banks now have a big corporate social responsibility or green finance team in place. That is probably the same team that's heavily involved in in setting some of these targets, or for the general overall strategy, green strategy of the bank, but then you have all kinds of other arms of the bank that does all kinds of other

business, right? So the first thing to say is, I think there is a variety of different perspectives that do exist within these banks. But on the whole, it's a for profit entity, the bank wants to make money and it wants to stay in business. So, for me, I have a pretty cynical read on the overall intentions. I think that the bar on what they finance and what they're accountable for, what emissions they have facilitated through the financing that they give out was so low for so long that even the pledges and the targets that we do see now seem really lofty and really, really impressive, if you, if you look at them, it sounds really, really good at first look, but that's in part a function for how long they were able to do this business pretty much without anyone really interfering. I mean, there was always campaigning groups, there was always pressure, you know, we've worked really hard in this movement to, to exert pressure wherever we can for a really long time but the real, at least on paper, commitment to phasing out financing to fossil fuels is pretty young. So, in that sense, I think they're still very much riding a wave where they're getting away with greening their commitments and their image quite a bit, pretty visibly, but actually in practice, probably continuing a similar or a little bit lower level of fossil fuel financing than before.

Alison Shultz: We were in contact with all the companies, also with all the banks, which are mentioned in the report and just asked them for their interpretation, also asked them for explanations. For instance, we asked them, so what do you see as the reason why your reported fossil exposures are so much lower than ours? So, we asked them, and for Glencore for instance, we asked them, so what's the, what activity do you have in different jurisdictions? Can you send us the country by country reports?

And what is important to know there is that they *do* have these country by country reports because they have to pass them to the tax authorities in Switzerland so it's not an information that is not existing. So Glencore at the same email tells me that they are super open to transparency and that they try their best, that they abide to all regulations, of course. But then when I asked, can you please send me the country by country report, they would just say no. And that's also why it's very relevant to have these regulations, so obviously the company itself, they won't push for transparency. They don't have an interest in that. So they would really need to be required to make this publicly available.

Naomi Fowler: Glencore has denied any suggestions of concealment. Aramco didn't reply. All responses from banks and fossil fuel companies that we looked at are in our report. Back at the Bureau of Investigative Journalism, Wil Crisp didn't get any response.

Wil Crisp: No comment from Citibank and I think it's a shame because I think it's all tied into a lot of the problems that you see generally in the world of sustainable finance and that's the fact that these methodologies are still at such an early stage in their development. A lot of this stuff has been developed in the last three to four years and you know is not like reporting standard financial information like an annual report profit and loss and when we're talking about carbon accounting and financed emissions these methodologies are very new and what we are hoping is they do move in that direction and I think that that's why this is quite an important story because it may be shows how they need to change.

Naomi Fowler: One thing's for sure. As the climate crisis worsens, the spotlight is increasingly going to shine on the green, decarbonising claims that banks are making and on their mixed methods of marking of their own homework. Not least from investors wanting proper transparency in all areas.

Franziska Mager: What *is* happening is that the green investment space as a whole is coming under a lot more scrutiny and that's kind of adjacent to what we're looking at here. For example, in Germany recently, there was a case where Deutsche Bank as a part of the company, it's called BWS, is the sort of poster child of Deutsche Bank for all things ethical investment, it's a green investment firm. And now, after a lot of research and a lot of campaigning by different groups, it was revealed how much of that money in that fund actually goes into fossil fuel projects, something in the hundreds of millions, something like that. So now you have a case of litigation, where they're being basically sued for greenwashing their commitments. And that, I think, is increasingly happening. That's more on the greenwashing side than the green laundering cycle.

Naomi Fowler: Yeah, but it's an interesting example.

Franziska Mager: There's other policies that we fought for in the tax justice movement for a long time around public country reporting, for example, that could actually make a big difference in this area as well.

Alison Shultz: And one point to this, related to the country by country reporting. In general, the regulations, as they are in the moment, they do not need to reveal explicitly which employees, which number of employees, which taxes they pay, which profits they report in different jurisdictions. So this is something which really makes the working on this issue even harder. I think one of the good messages is that there's movement in this. So for instance, in the European Union, we will have this public country by country reporting

requirements for multinationals starting soon in different countries. However, these laws which will come into force soon are very weak and would even not solve the issue. For instance, in the European regulation, I've talked about Glencore, which has a relevant headquarter in Switzerland, a relevant holding company in Jersey, and the relevant financing companies in Jersey and Delaware. And for the European regulation, Glencore would just need to disclose the different economic activity and taxes and profits in European jurisdictions and in the short list of jurisdictions which Europe considers non-cooperative, but neither Switzerland nor Jersey nor the US with Delaware are part of these.

Naomi Fowler: So, yet again, we see the challenges that are created by watered down legislation and politicised lists of problematic jurisdictions. Instead of using non politicised indexes like ours, the Financial Secrecy Index and our Corporate Tax Haven Index. An updated version of that is out next month. It's the job of banks to know exactly which subsidiaries they're dealing with and how those subsidiaries are functioning. They have all the information at their fingertips, but it seems they're not keen to share what, in theory, should back up their decarbonising claims. Here's Franzisca Mager again.

Franziska Mager: Bankers know that the money can be moved around within the corporate fossil groups so effectively that it's very hard to keep track over what it has actually financed, and that they *do* know that it is being used for fossil fuel expansion, even though the commitments to not do so exists on paper. Obviously banks know that these companies have huge internal capital markets, they know that the money is being moved around and they need to know that because they need to make an assessment of whether the company is creditworthy, right? Whether it's solvent, that's a very practical, immediate reason why everyone working in a bank knows that the money is being moved around. So, I think there's a huge contrast there in terms of how much ignorance they feign in terms of where the money flows to for fossil fuel finance over how they actually treat the corporate group as a whole, you know, they do it when it's convenient for them and they don't do it when it's inconvenient for them.

Naomi Fowler: We're not saying that any of the companies we've named are actively violating laws or regulations here, but the climate crisis the world faces is too serious for this poor reporting and lack of transparency to continue. Our report, *How Greenlaundering Conceals the Full Scale of Fossil Fuel Financing*, is in the show notes. Thanks for listening. We'll be back with you next month. Bye for now.