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MONEY BOX

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LEWIS: Hello. In today's programme, as a new firm takes over Britain's biggest logbook loan brand, we look at this expensive way to borrow money secured on a car or motorbike. I find out how hard it is to use a cash machine if you're blind and hear what one listener wants to change.

SIMONS: We should be independent. We should be able to access this facility like anybody else, and it's about time that we got some action.

LEWIS: Two lenders are raising the cost of mortgages for more than a million customers. Will others follow? And tax avoidance, tax evasion, tax planning - what are the differences or is it really all the same?

But first, Money Box has learned that Britain's largest logbook loan brand is active again just days after the firm that owned it went into administration.

Logbookloans.co.uk, now owned by Hermes Property Services Limited, is online offering loans at 470% APR secured against the value of a car or motorbike. The Office of Fair Trading had taken steps to revoke the credit licence of the brand's previous owners, but days before its final appeal the firm was closed down and sold. Bob Howard's been investigating.

HOWARD: Paul, when this sort of loan is taken out, the vehicle legally becomes the lenders. It then has the right to seize the vehicle and sell it without going to court if the customer defaults. The lenders rely on an old piece of legislation called the Bills of Sale Act 1878, and there are dozens of firms which offer this sort of loan. Robert Shaw was a customer of one such company.

SHAW: I borrowed £3,000 from them, and the potential term of the loan was for 3 years and that would have resulted in me paying £10,500 in interest to borrow £3,000.

LEWIS: Expensive, Bob. How widespread are these sorts of loans?

HOWARD: Well, Paul, the Government estimates that nearly 40,000 bills of sale worth £30 million were registered in England and Wales in the tax year 2008-2009. The firm with the website Logbookloans.co.uk has been the biggest player in the field. In October 2009, the OFT ruled the firm had been sending out letters to customers in the name of a legal services company falsely threatening to take action against them. Consequently it said it would revoke the firm's consumer credit licence which would effectively close it down.

LEWIS: Well that was two and a half years ago, Bob. What's happened since?

HOWARD: Well the appeals process has dragged on and on, and just as the process was about to be exhausted last month the two parent companies - Nine Regions Limited and Logbook Loans Limited - went into administration. Its brand and loan book were bought by the firm Hermes Property Services Limited. The firm already runs a similar company called Loans to Go. Now Hermes has applied for the trading name Logbook Loans to be added to its existing consumer credit licence, but on Friday a member of the Money Box team applied for a loan via the website Logbook loans.co.uk and later that afternoon was told it had been conditionally accepted. Now the OFT told Money Box that a firm which carries on business under a name not specified in the licence is committing an offence. We contacted Hermes Property

Services Limited to request an interview. We were told nobody was available to speak to us and the firm refused to comment at all on its operations.

LEWIS: Thanks Bob. Well most logbook loan companies belong to the Consumer Credit Trading Association. I asked its Chief Executive, Greg Stevens, what changes the industry was introducing.

STEVENS: We've been working closely with the Business, Innovation and Skills and the Office of Fair Trading to come up with the code of practice which is specific to the logbook loan sector.

LEWIS: But codes of practice are all very well, aren't they, but they don't have to be followed. Your members could just not follow them if they chose to.

STEVENS: Well the code of practice which has been devised for logbook loans is also going to be audited and monitored and we're working with the OFT on that process at the moment.

LEWIS: What's the good bits of it because under the old law that governs bills of sale, they can just pop round and take your car or motorbike away without going to court, without anything, can't they?

STEVENS: We're looking at, if you like, a rotten apple in a barrel.

LEWIS: But leaving logbook loans aside, just using it as a generic term - under the Bills of Sale law, a company that lends you money on the basis of a bill of sale can come round and take your vehicle away at any moment, can't they, because it belongs to them?

STEVENS: Well they can't take it away at any moment because there are processes to go through. And certainly ...

LEWIS: What do they have to do then?

STEVENS: ... certainly with regard to forbearance issues that'll be looking with regard to debt collection guidance, then no they can't.

LEWIS: The Government has suggested in the past, hasn't it, that it would consider outlawing this particular way of lending money through these bills of sale? Are you really sort of in the last chance saloon before the Government steps in and acts to regulate your industry properly?

STEVENS: To be fair, Paul, we had long discussions with Business, Innovation and Skills and the minister with regard to the fact that he was minded to actually ban the sector.

LEWIS: And you persuaded him not to?

STEVENS: And the persuasion was there via BIS and also the OFT saying well it is one rotten apple in the barrel. Why look at the whole sector because you're looking at it through the HP or through the motor finance sector. There are other products which also come under Bills of Sale.

LEWIS: And just to be clear, the minister said to you he was minded to close this way of lending down and you persuaded him not to by introducing a new code of practice?

STEVENS: The minister spoke to the Trade Association and we dealt with the Business, Innovation and Skills Minister and he agreed not to, yes.

LEWIS: Greg Stevens. Well we asked for an interview with the Consumers Affairs Minister from the Department of Business, Innovation and Skills, but it said no. In a statement though, the department confirmed what Greg Stevens had told us.

STATEMENT: The Government concluded that rather than banning these loans, a package of measures based on an industry code of practice and a plain English consumer information sheet explaining how bills of sale work was the best way to proceed in this market. The vast majority of reputable companies have signed up to the code.

LEWIS: A spokesman also said it would be “disproportionate” to ban an industry because of a few rogue lenders. David Sanders is Lead Officer for Civil Law at the Trading Standards Institute. He’s been following the logbook loan industry for many years. I asked him if this code of practice really would improve things.

SANDERS: It doesn’t really have any teeth. So I mean for instance if this company that we’re talking about decided no longer to be a member of the association, it wouldn’t be bound by any code, and there are still quite a lot of companies outside the code and we can see no reason why they would feel bound by it.

LEWIS: In the past the Government’s talked of repealing this law and stopping bills of sale loans.

SANDERS: Yes.

LEWIS: They now seem to have gone back on that. Are you disappointed by that?

SANDERS: I am disappointed. I personally would like to see one set of rules throughout the credit industry, and I don’t like the confusion where there’s completely different sets of rules for different pieces of legislation. So my option would be to repeal this law. I don’t see that in this day and age it’s necessary.

LEWIS: David Sanders of Trading Standards.

Most people take it for granted that if they need cash, they go to a cash machine and

draw some out. But what if you're blind? Money Box listener Suzie Simons lost her sight nearly 7 years ago. She has very limited peripheral vision, but she can't read a screen. I met Suzie at a cash machine as she tried to take some cash out. (*to Suzie Simons*) Your card's going in here.

SIMONS: Could you please read me what it says on the screen?

LEWIS: It says please wait. Now it says please enter your personal identification number.

SIMONS: And then I try and be discreet as possible. Could you press enter, please?

LEWIS: And do you want cash ...

SIMONS: Yes, please.

LEWIS: ... no receipt? But you couldn't see that.

SIMONS: Every single machine has ... Even the same bank has different information on different machines and sometimes they'll put up an advert or something and it becomes incredibly frustrating.

LEWIS: Right, we've run out of time again, so I've pressed a button. And now you want cash with a receipt or no receipt?

SIMONS: No receipt.

LEWIS: And then it says required amount. Now can you tell what those are because again they'll be in different orders?

SIMONS: No. No, I can't.

LEWIS: You can see there's a screen there, but you can't ...

SIMONS: I can even see that there's something on the screen, but I can see no amount.

LEWIS: Right. So we'll take £10 out, shall we?

SIMONS: Yes please.

LEWIS: So now we're waiting. And it's telling us (because this is not a bank machine) there's a service charge. Now you wouldn't have known you were being charged £1.85 for using this machine.

SIMONS: No I wouldn't.

LEWIS: And now you press yes to accept or no to cancel.

SIMONS: Yes to accept.

LEWIS: Alright, well we've pressed yes to accept and of course we'll pay your fee. There we are. So you find your card and pull it out, and you can find the money and pull it out. Now if this was anyone other than me, someone could just take both of those and run off, couldn't they?

SIMONS: It obviously puts people in a very vulnerable position if they have to ask a stranger and we want to avoid making ourselves any more vulnerable than we obviously already are.

LEWIS: Given that there are so few of these in Britain, what's your message for the banks?

SIMONS: We should be independent. We should be able to access this facility like anybody else, and it's about time that we got some action - please, please.

LEWIS: That was Suzie Simons. And she told me she does sometimes get help from her 7 year old son. The Royal National Institute of Blind People asked the banks 2 years ago to equip all cash machines, so they could talk to blind people through a headset. So far only two have committed to make the change. Hugh Huddy is RNIB's Campaigns Officer. I asked him what reaction there'd been from the bankers.

HUDDY: We've had various reactions. Some of them have been, "We don't really think very many blind people want to use cash machines" to completely the opposite end, which is "We didn't realise this was a problem. We'll get on to deal with it".

LEWIS: Yes because a couple of the banks have now said that they'll be introducing them at some point or a number of machines anyway, but some of the banks have said to us very clearly they're simply not going to do it.

HUDDY: Well this is a response we don't understand. When I was in New York, I used a cash machine that talked. I walked up with my headphones, plugged them in one ear, used the cash machine and walked away. There's 100,000 talking cash machines in America and they're the same make and model of machines as used in the UK. The banks just haven't added the accessory.

LEWIS: One of the things the banks say is there are security issues and I suppose you can imagine what they mean. You're standing there with a headset on; people probably know you're blind if you're got a white stick. It may seem very obvious what you're doing.

HUDDY: That's true if anybody stands by a cash machine; you may feel vulnerable. It really is a decision for blind and partially sighted people to make themselves as you know adults making independent decisions about how they're managing their money.

LEWIS: Hugh Huddy of RNIB. Well with me in the studio is Claire Dawson, a partner with lawyers Russell, Jones & Walker, who specialises in disability discrimination law. Claire Dawson, we do have laws which say firms can't discriminate against people with disabilities. Are the banks breaking those laws?

DAWSON: Well I think, Paul, the starting point, as you said, is that the providers of goods and services have a duty not to discriminate against disabled people. One of the elements of that duty is an obligation to make reasonable adjustments, and that duty arises very simply where disabled people are put at a substantial disadvantage in comparison to non-disabled people in the way in which a service is provided.

LEWIS: And clearly they are, in the case of someone like Suzie Simons. She couldn't use a cash machine without someone else's help.

DAWSON: Yes, absolutely. And in those circumstances the service provider is under an obligation to then take reasonable steps to remove the effect of that disadvantage. That's what the law says. And of course what reasonable steps are will really depend on all the circumstances of a case and the courts will look at different things in assessing reasonableness.

LEWIS: But given that the banks are very large and generally (certainly on the retail side) very profitable, taking reasonable steps surely could include making all cash machines talk within a period of time? They do it in the USA. There's 100,000 there, we heard.

DAWSON: Well I think the RNIB has made a very persuasive case here and I think the fact that, for example, there are talking cash machines in the US is something that

points to that. The fact that they say at the moment very few blind and partially sighted people feel they can use cash machines because there isn't the audio system available would again point to it. One of the things that a court will look at is the size and the resources of an organisation when looking at the cost of making this kind of a change, and of course global banks would be considered to be in a better position than a smaller organisation.

LEWIS: Yes, absolutely. And we've been told that most cash machines are made by one firm, NCR, and it told us that all its new machines actually have this jack socket in it. So if it's just a software matter, it should be negligible cost when machines are being upgraded anyway to introduce this.

DAWSON: I think that goes to the reasonableness of the proposal by the RNIB, which I understand has been that this is something that would be phased in and it wouldn't necessarily be an overnight change.

LEWIS: So could they take a bank to court and force them to do this?

DAWSON: Well claims can be taken in the county court under the Equality Act for failure to make reasonable adjustments where the duty arises. And there have been cases taken in the past against banks.

LEWIS: And RBS I believe lost one for not providing a lift for a wheelchair user. Is that right?

DAWSON: Yes, that was an interesting case. Mr Allen was a wheelchair user who couldn't access his local branch and RBS argued in that case that because there were alternative ways of providing banking services to him - telephone, internet, etcetera - he didn't need to access the branch, they didn't need to make it accessible. The court rejected that. They said very clearly if non-disabled customers can get into the branch, then you should make the adjustment to allow him in.

LEWIS: Some hope there perhaps.

DAWSON: Yeah.

LEWIS: Claire Dawson, thanks very much for talking to us. And until this week only Barclays among the big five banks was committed to converting some of their cash machines to talk, but since we started investigating Lloyds has now committed to start installing them next year. Only the smaller banks - Clydesdale and Northern - have some talking cash machines. The other banks stress they're committed to helping blind people use their services. You can let us know your experience of how banks make services available to disabled people through our website: bbc.co.uk/moneybox.

Now talking of banks, two of them are raising their variable mortgage rates for some customers. RBS has announced it's raising the rate paid by 200,000 customers who have an Offset or One Account mortgage. It'll rise by a quarter of 1% from 3.75 to 4%. Some have already gone up. The rest will rise on May 1st and that'll raise the cost of a £100,000 mortgage by up to £21 a month. In addition 850,000 Halifax customers will be told tomorrow that their SVR will increase by nearly 0.5% from 3.5 to 3.99 from May 1st. It also has the leeway to raise them another quarter point in the future if it wants to. Both banks blame the rising cost of raising funds to lend out. Live now to talk to David Hollingworth who's Associate Director at London and Country Mortgages. David Hollingworth, people are asking me why is this happening? Base rates have been at the same 0.5% for 3 years now.

HOLLINGWORTH: Yeah, absolutely. The cost of funding has been rising and the lenders are citing this as a reason why they're needing to review. What it does go to highlight is that of course you can't just sit comfortably expecting the variable rate to match movement in base rate.

LEWIS: No, as indeed they're not. But it is very difficult for people, isn't it? Prices are rising, many people have their wages or pay frozen and they've been relying on

their mortgage being effectively frozen by the bank rate as well, but now that's going up. That's going to be a big cost. As I said, I think £100,000 loan with Halifax could go up by £41 a month at its worst.

HOLLINGWORTH: Yeah and I think we'll have two groups here. So these rises will either trigger borrowers to make a review of their situation - maybe switch to a cheaper deal elsewhere, put more clarity into their situation whether that be pegging it to Bank of England base rate or even fixing - but of course there's a more vulnerable group who perhaps don't have as many options. They will be those who have very little equity and will find that alternative options from other lenders will be more limited.

LEWIS: Yes because it can be quite hard. If you've ever borrowed in the past, as people were encouraged to, it's quite hard to get a new mortgage, isn't it? I mean you say the cost of funding's going up, but of course UK banks have been borrowing - particularly RBS and Lloyds funnily enough - from the European Central Bank at 1.1%. The bank rate's 0.5%. The libor rate, the interbank rate, is just over 1%. Is it really true that they're facing rising costs of funding these loans?

HOLLINGWORTH: Well the interbank rate had been around 80, 85 just at the back end of last year.

LEWIS: .85?

HOLLINGWORTH: .85 yeah. So that has risen. And of course there's just uncertainty in the market. What that then forces is they have to pay more for retail savings if they try and generate funding that way. So all round, they will face higher costs. But again it just highlights these rates are at the discretion of the lender.

LEWIS: And we should stress this is two banks, and in the case of RBS only some of its customers. Do you think this is going to spread, briefly, to the other banks and all

the rest of the millions of people with mortgages?

HOLLINGWORTH: Well, look, I think if you've got lenders of this size having to make this difficult decision to review, we couldn't rule that out.

LEWIS: David Hollingworth from London and Country, thanks very much for talking to us.

Barclays Bank was caught out this week trying to reduce its tax bill by a supposed half billion pounds using what the Treasury called “aggressive tax avoidance schemes”. The Treasury said it would stop the bank saving this £500 million in tax, though Barclays later said the figure would be lower than that. Barclays’ scheme was perfectly legal at the time and the Treasury says it will change the law to make it illegal. That of course turns avoidance into potential evasion. But how real is that traditional distinction? With us to talk about this is Mike Warburton, Director at accountants Grant Thornton. And Mike, I’ll start with you. When does legal tax planning cross the line to become aggressive tax avoidance?

WARBURTON: Yes, well there's three distinctions. There's tax planning, there's tax avoidance and then there's tax evasion, which is the illegal bit. Dennis Healy once said the difference between avoidance and evasion is the thickness of a prison wall, so you don't want to be doing that.

LEWIS: Well I know, but the Treasury seems to think that some kinds of avoidance, which are perfectly legal, are in fact so bad they won't be allowed.

WARBURTON: Yes, I think there's an important point to take as a result of this week's outcomes. We've got Barclays Bank who they disclosed what they were doing to the Revenue authorities, and they did so because of a disclosure regime introduced by the last Government. And I think you've got to give Gordon Brown credit for this because the disclosure rules he introduced put an imposition on businesses and indeed

some individuals in many cases to tell the Revenue authorities what they were doing, which gives transparency and it gives the opportunity to clamp down very quickly on these sort of circumstances.

LEWIS: Well they certainly did in this case. Well listening to that is Chartered Accountant Richard Murphy of Tax Research UK. Richard Murphy, where would you draw the line between tax avoidance and what's acceptable and what isn't?

MURPHY: It's very simple. It's when you put a step into a transaction that is artificial that is intended to give you a tax advantage. Now that can be entirely legal. It could for example mean that you move money into a tax haven or into an artificial trust structure or something like that, but the point is at that point you are trying to get round the law. You're doing something which isn't economically justified except by the tax saving. Now that doesn't mean to say people can't tax plan. They can. The law intends that you put money into an ISA, the law intends you put money into your pension, and that's absolutely fine. But it's when, for example, you find a person putting a limited company between them and their employer - and it's very obviously an employment relationship - you have to ask the question is that tax avoidance? And my answer is almost certainly yes and the Government has to do something about it.

LEWIS: Yes and of course a lot of people do that. I mean we heard this week that Ken Livingstone had done it, the famous Labour politician, and I must say ...

MURPHY: We don't know he did it with an employer, by the way. We know he took a lot of money in a company. We don't know he had an artificial employment. I was quite clear there.

LEWIS: Yes, absolutely, he didn't have an artificial employment. But even to set up a company instead of being self-employed is surely a way of reducing your tax bill? Is that acceptable?

MURPHY: Well I've candidly changed my mind on this issue over the last 25 years. At one time it seemed to be perfectly normal and now it's become so prevalent first of all that Government is losing a lot of money and, secondly, it is clearly being abused. There is an alternative. It's a limited liability partnership structure. It gives the people who are trading a limited liability situation and yet they're taxed on the income of the business as if it's their own and pay full income tax on it. I use that structure myself for that reason. It's clear, it's transparent, and nobody can accuse you of abusing the law.

LEWIS: So a limited liability partnership. Mike Warburton?

WARBURTON: Well I'd like to come back there. Obviously service companies have come into the news a lot recently and I think this is an important distinction to be drawn here because there are many, many people who perfectly legitimately use service companies or indeed limited companies as a way of structuring their business. Service companies have come into the news a lot for the reasons we just discussed, but whether or not that is regarded as abuse of avoidance or not, I think rather depends on the way you look at it. And just to make it clear here. If you are inserting a company between yourself and your employer, as Richard suggested, that is already caught by the rules. Gordon Brown introduced in 1999 the so-called IR35 rules - very unpopular, I've got to say - but they are effective at preventing people simply inserting a company for the purpose of avoiding tax. So that example I don't think works very well.

MURPHY: Well look, Mike ...

WARBURTON: People use service companies. Even, Paul, the mighty BBC operates with many presenters who use service companies entirely legally and perfectly acceptably, so I think it would be dangerous to rule out service companies as being unacceptable.

LEWIS: No-one is saying they're not legal. It's whether people say they're acceptable I think is the question. I should add at this point I don't do that. Richard Murphy, where would you draw the line on service companies because some people have told me that they actually have to set up a company or they won't get work - people in IT, for example?

MURPHY: Well the problem we have here is that we're trying to force the 21st century commercial world into a 19th century structure, the limited liability company, which has clearly outlived its usefulness. It's fine for large organisations where there's a separation between ownership and control. What we have to do, if we have a government that's really interested in the future of small business in this country, is provide an honest, open and transparent mechanism where people can organise themselves in a limited liability structure, but which is accountable and incidentally puts its accounts on public record. Now Mike saying that this works now there's a mechanism against it is so obviously wrong because we've seen it not working.

LEWIS: Okay, you've both set out your positions. I want to use the last thirty seconds or so that we've got just to get both of you in turn to say what change would you make. Mike Warburton first.

WARBURTON: I think the balance at the moment is about right. What we've seen is the disclosure rules that Gordon Brown brought in I think are working well. The current Government has shown its commitment to use those rules and they're bringing down the corporate rate of tax, which I think is helping to prevent avoidance by companies. I think it's about right where it is.

LEWIS: Richard Murphy?

MURPHY: A strong general anti-avoidance rule. Not the one now being proposed by the Government, but a really strong one that would have prevented Barclays and other companies even trying their abuse; and reform to limited liability laws for companies

so that these become tax transparent, so that we won't have this sort of problem in the future.

LEWIS: Richard Murphy from Tax Research; Mike Warburton, Grant Thornton, thank you both very much indeed. That is it for today. More on our website, bbc.co.uk/moneybox, where you can let us have your say - where you can have your say, I should say - on how banks deal with disabled customers. I'm back on Wednesday with Money Box Live, this week taking questions on part-time work and how it can affect your finances. I'm back with Money Box next weekend. Today the reporter was Bob Howard, producer Lesley McAlpine. I'm Paul Lewis.