Economic Crime and Corporate Transparency Bill

Commons Bill Committee

UK Finance evidence

11 November 2022

Introduction

1. UK Finance is the collective voice for the banking and finance industry. Representing over 300 firms, we act to enhance competitiveness, support customers, and facilitate innovation.

2. We welcome the opportunity to provide written evidence on the Economic Crime and Corporate Transparency Bill (the Bill). The Bill addresses key economic crime priorities from the Economic Crime Plan 2019-22, on which the financial sector, and others, has worked with the Government. These priorities include: improvements in transparency of ownership, better sharing and usage of information to combat economic crime and more effective powers, procedures and tools for law enforcement. Ambitious reform on these priorities could help deliver a more coherent and effective regime for fighting economic crime, alongside related reforms in the Online Safety Bill, Data Protection and Digital Information Bill and Financial Services and Markets Bill.

3. In order to deliver a more effective economic crime regime, the Bill needs to be amended in the following key areas:

3.1. Companies House duties and powers for verification should include status as well as identity. The Bill's amendments to Companies Act section 1110A and section 1110B should be extended to include reasonable steps to verify the status of key individuals (e.g. those presented as directors, beneficial owners or authorised agents).

3.2. Companies House should take a more cautious approach to reliance on verification by Authorised Company Service Providers (ACSPs). The Bill's amendments to Companies Act section 1110A(2) should be extended to ensure that ACSPs filing directly with Companies House are required to meet all of the customer due diligence obligations under the Money Laundering Regulations, and to file evidence of these checks with Companies House.

3.3. Companies House should be able to query information and amend the register on a proactive and risk-based approach. Clause 80 and 82 should be amended to ensure that these powers can be exercised on the registrar's own motion, and allow queries about the process of verification and annotation of the register relating to enforcement and administrative procedures.

3.4. Provisions for Companies House information sharing and disclosure should allow for permissioned access to non-public registry information for the AML regulated sector. This should be made clear through amendments to Clauses 86, 87 and 90, including order-making powers to define what type of non-public information could be shared and how.

3.5. The Bill should make sure that the registrar's new objectives and powers are properly resourced. Clause 89 should be amended to ensure an initial increase in registration fees within six months of commencement, and to ensure annual reporting on planned investment, fee increases and scheduled implementation of new powers.

3.6. The Bill should ensure that the detection, investigation and prevention of economic crime are clarified to be legitimate interests for the processing of personal data. This is addressed by the Data Protection and Digital Information Bill, but if this does not proceed then Clauses 148 and 149 should be expanded to achieve the same effect.

3.7. The extension of discrepancy reporting obligations should not be used to compensate for inadequate public sector checks. Amendment NC7 should be removed.

3.8. The UK's approach to High-Risk Third Countries should be aligned to the FATF Recommendation and the approach of close allies. Clause 147 should amend the Money Laundering Regulations to ensure that mandatory Enhanced Due Diligence is only required for customers established in 'black-listed' countries.

4. It is important to set out what a more effective economic crime regime would achieve. The UK would have a system that better calibrated activity according to risk, rebalanced the approach toward high-value activity and provided a properly resourced public sector with the tools, intelligence and capabilities needed to deal with criminals and terrorists. There would be a focus on all sectors bringing risk into the system playing their part to tackle the problem of economic crime, be it money laundering or fraud. Less "dirty money" would flow through the UK, helping it remain one of the safest and most transparent places in the world to do business. There would be fewer victims of economic crime both domestically and internationally. The impact on their finances would help to disrupt organised crime gangs, preventing them carrying out activity that harms communities. In short, the impacts and benefits would be clear: cutting crime, catching criminals and protecting the public. We remain committed to these aims.

5. We also believe that an effective economic crime regime is essential from an economic and competitiveness viewpoint, particularly post-Brexit. Effective reform would allow businesses in the UK to engage in trade in new jurisdictions more securely. A stronger focus on inbound investment would mean we could be more confident that the money coming into the UK is clean. Equally, cutting the costs of compliance and reporting activity viewed by both the public and private sectors as not delivering meaningful intelligence or affecting criminals, and allowing more resource to be reinvested into higher-value activity, would deliver greater value to law enforcement. It would improve financial-crime risk management for business and ultimately make this a competitive advantage for UK firms.

6. With these goals in mind we believe that the reforms set out in the Bill should be strengthened in a number of key areas that we address below. We have also addressed some proposed amendments to the Bill where we consider that these changes could have a significant impact on the effectiveness of the UK's economic crime regime.

Companies House reform

7. The banking and finance industry believes it is vital that the government close vulnerabilities in the Companies House regime and improve transparency of ownership. We have welcomed the government's commitment to crack down on abuse of UK corporate structures and we have worked closely through the Economic Crime Plan and with the BEIS expert group to develop and comment on proposed reforms. We also welcomed the introduction of primary legislation as necessary to permit transformation of the company registrar role, from a passive recorder to a proactive gatekeeper. However, we consider that the detail of the Bill falls short of this vision and needs to be strengthened in number of areas.

8. Currently, the role of Companies House as a passive recorder is a key vulnerability in the UK's economic system. Abuse of this vulnerability is a significant enabler of both high-volume fraud and high-value money laundering, as identified repeatedly in UK public-private partnership work as well as by multilateral standard-setters and UK national threat assessments of serious and organised crime. In addition to fraudulent bank account and overdraft applications, the lack of proactive Companies House gatekeeping has allowed UK companies to facilitate international money laundering through the Russian and Azeri Laundromat cases, domestic retail fraud through purchase and investment scams, and domestic public sector fraud through abuse of the Bounce Back Loan Scheme.

9. To uphold the integrity of the register, Company House controls need to be commensurate to these threats of abuse. The low cost of company registration (£12), the speed and ease of registration (a 15-minute process which can be done online) and the lack of a requirement for a UK bank account makes UK companies extremely attractive to criminals. In order to be a proactive gatekeeper, Companies House needs to apply a range of risk-based controls, to deter opportunistic abuse and to help identify more sophisticated criminal abuse through unusual and potentially suspicious trends or anomalies. However, we consider that the Bill fails to provide for these controls in three key areas;

    a. verification of key individuals;
    b. powers to query and amend information;
    c. powers for information sharing with public and private sector partners; and
    d. funding for new capabilities and system integration.

10. We consider that the Bill provisions for **verification of identity only** fall short of minimum industry standards, in not allowing Companies House to check whether individuals presented as company directors and beneficial owners actually hold that status. Verification of status is an important control against abuse of nominee directors and proxies, which is a significant risk identified in international studies[1]. We do not think that this amendment would require Companies House to verify every individual's status but it is important that the Bill ensures that Companies House is able to mitigate the potential for fraudulent claims of status by proactive and risk-based checks. Verification of status is also required by international standards agreed by the Financial Action Task Force

[1] World Bank and UNODC Stolen Asset Recovery Initiative, 'Signatures for Sale' 2022, https://star.worldbank.org/publications/signatures-sale-how-nominee-services-shell-companies-are.-abused-conceal-beneficial

(FATF) in March 2022[2] and reconfirmed through new good practice guidance in October 2022[3].

11. We therefore propose:

    - The Bill's amendments to Companies Act section 1110A and section 1110B should be extended to include reasonable steps to verify the status of these individuals, in line with regulation 28(3-4) of the Money Laundering Regulations. In particular, amendments to section 1110B should be extended to clarify that regulations may make provision about the procedure for verifying or reverifying an individual's status and relationship with the company, including the evidence required and the risk-based approach to verifying this status and relationship. The development and consultation of these regulations should aim to mitigate the specific risks of abuse of the UK's company registration regime in line with international standards[4].

12. The Bill provisions for Companies House **reliance on verification by Authorised Corporate Service Providers (ACSPs)** fall short of minimum industry standards for reliance on another AML regulated firm, in only requiring ACSPs to declare that they have met the defined identity verification standard and not requiring ACSPs to confirm that they have met all customer due diligence requirements. Companies House reliance on ACSPs is particularly concerning given ongoing questions about the adequacy of AML supervision of Trust and Company Service Providers (TCSPs) and other non-financial professions likely to offer ACSP services[5]. These are not academic concerns, as public-private work by industry and law enforcement has included a shared assessment of the money laundering and terrorist financing threat posed by the UK TCSP sector, which resulted in agreed cross-Government activity to tackle identified vulnerabilities[6] and ongoing public-private work.

13. We propose that the provision for Companies House reliance on third party verification should require ACSPs to have met all of their obligations under the Money Laundering Regulations. We do not think that this will create any additional burden, as only firms

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[2] Financial Action Task Force (FATF) Recommendation 24, Transparency and Beneficial Ownership of Legal Persons: https://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202012.pdf (Para 9: *"Accurate information is information, which has been verified to confirm its accuracy by **verifying the identity and status of the beneficial owner** using reliable, independently sourced/obtained documents, data or information. The extent of verification measures may vary according to the specific level of risk.")*

[3] FATF's draft guidance on Recommendation 24: https://www.fatf-gafi.org/publications/fatfrecommendations/documents/r24-public-consultation-oct-2022.html (Para 57: *"Depending on the countries' specific level of risks, verification measures may comprise the following two components: **Verification of identity**: Appropriate steps should be taken to verify the identity of any natural person(s) recorded as a beneficial owner. b. **Verification of status**: Appropriate steps should be taken to verify the basis of identification of a person as a beneficial owner.")*

[4] FATF's draft guidance on Recommendation 24 (Para 59: *"Countries should adopt a risk-based approach to verification. In cases of higher risk (e.g. companies with complex structures across multiple jurisdictions, the existence of nominee directors or shareholders, entities identified as high-risk in a risk assessment, entities with a history of reporting inaccurate beneficial ownership information or where sufficient documentation may not be obtained), the extent and/or frequency of verification measures should be enhanced. In other cases, such as a micro company whose legal owner, director and beneficial owner are all the same person, countries may decide, based on risk, that verification measures may be adjusted (e.g. only request verifying identity).")*

[5] Office of Professional Body AML Supervisors (OPBAS): https://www.fca.org.uk/publication/opbas/supervisory-assessments-progress-themes-2020-21.pdf (Para 2.11 *"Most PBSs had not maintained an effective supervisory approach to ensure members took adequate and timely corrective actions",* Para 2.14 *"Gaps remain in most enforcement frameworks"*)

[6] Progress Report on the Economic Crime Plan 2019-2022, update on 'Undertake Collective Threat Assessments' page 23.

subject to UK supervision are eligible to be ACSPs and the latest amendments to the Money Laundering Regulations clarify that customer due diligence is required whenever a TCSP forms any business arrangement that must be registered with Companies House. We also propose that ACSPs should be required to file evidence of their customer due diligence checks with Companies House. In addition to ensuring access to material required for potential law enforcement investigation and AML supervisory review, requiring agents to provide this evidence would bring the quality of agent verification clearly within scope of the Registrar's querying power. It would also provide Companies House with an important source of data to direct these queries and to identify broader trends that may indicate suspicious activity across individual registrations. The Bill should also provide Companies House with additional enforcement powers and penalties for non-compliance.

14. We therefore propose:

    - The Bill's amendments to Companies Act section 1110A(2) should be extended to include legally binding undertakings that the ACSP has met all customer due diligence requirements as set out in the Money Laundering Regulations and HMRC guidance.

    - The Bill's amendments to Companies Act section 1110A(2) should be extended to require that the agent has provided evidence of customer due diligence checks relating to information filed with the Register.

15. We consider that the Bill's provisions for new Companies House **powers to query and amend information on the register** need to be flexible and risk-based. It is currently unclear whether these powers are limited to an exception basis of confirmed inconsistencies, identified suspicions and formal complaints. In our view, this would be inadequate to uphold the integrity of the register and bear down on fraudulent abuses. We consider that the power to query and amend information must allow the registrar to follow the data in cases of unusual and potentially suspicious trends or anomalies (e.g. high volumes and velocities of changes in directors). The Bill should empower the registrar to uphold the integrity of the register through sample checks, risk-based reviews and queries into critical background information not entered itself into the register (e.g. evidence used in verification of directors and beneficial owners). We also believe that the registrar should be empowered to annotate the register to highlight situations of heightened risk, such as where a company has been fined or otherwise subject to enforcement. This could include administrative procedures that may not indicate heightened risk in themselves but are relevant to wider risk assessment, such as where a query has not been answered in the set timeframe, where information has been amended by the registrar due to an identified inconsistency, etc.

16. We therefore propose:

    - The Clause 80 power to require additional information should extend the scope of Companies Act section 1092A(1) to include queries about verification under section 1110B, including all procedures, evidence and records specified by regulations.

    - Clause 80 should clarify that the query power can be exercised on the registrar's own motion, to allow proactive and risk-based checks.

- The Clause 82 power for administrative removal of material from the register should include a further amendment to the Companies Act (new section 1094C), providing order-making powers for annotation of the register to indicate enforcement and administrative procedures.

- Clause 82 should clarify that these annotation powers to highlight these factual situations can be exercised on the registrar's own motion, without having to meet further tests or exhaust all avenues of appeal.

17. We consider that the Bill's provisions for **Companies House sharing of information** are unclear and currently imply that there are only two options; information is made available to all through the public register, or information is withheld the public register and only available for sharing with other government authorities where appropriate. We consider that this would be unduly restrictive and propose a third option; of providing for permissioned access to non-public registry information for the AML regulated sector for purposes of preventing, detecting and investigating potential crime. In our view, withholding key information from the regulated sector (such as directors' full dates of birth, Clause 51) is an obstacle to an effective AML regime, falls short of international best practice and will limit the scope of new Companies House powers such as bulk data sharing.

18. At this stage it is important that the Bill does not prohibit permissioned access and foreclose discussion and exploration of the options. However, we understand that Companies House are already working on the design and development of more efficient reporting and feedback mechanisms that could facilitate this type of information sharing in practical terms. The banking and finance industry look forward to supporting future policy discussion and practical design and development relating to permissioned access, including through the use of innovative technology such as through the use of Application Processing Interfaces (API) and privacy-enhancing technology.

19. We therefore propose:

    - The Bill's provisions for Companies House information sharing and disclosure should be amended to clarify that permissioned access to non-public registry information for the AML regulated sector is not prohibited, and to include order-making powers to define what type of information can be shared and how.

    - This should include amendments at Clause 86 (on regulations for material not available for public inspection), Clause 87 (on regulations for the protection of information on application) and Clause 90 (on the Registrar's powers and duties regarding disclosure of information to any person for purposes connected with her functions).

20. Legislation is necessary but not sufficient to realise transformation of Companies House into a proactive gatekeeper and the Bill needs to **ensure adequate resourcing of implementation, investment in new capabilities and further integration of systems**. We welcome the 2021 Spending Review announcement of £63m to support Companies House reform to 2024/25, however, we think that further investment is required given the scale of procedural change, technological transformation and data remediation required. Investment in innovative technology can help ensure efficient use of resources to implement new procedures for verification and data-led queries, as well as minimising the

risk of unnecessary disruption to customers. From our experience in managing high volume business we believe that Companies House could utilise modern technology and analytics to develop a properly triaged and risk-based approach to detect and prevent wider economic crime threat, including through investment in machine learning, automated workflow and investigation support tools. Innovative technology can also help the company registrar to play a proactive and enabling role in the Government's fight against economic crime, including public sector data sharing and public-private data matching. Investment in transformation of Companies House also provides an opportunity to support UK competitiveness through more effective business frameworks and a modernised approach to public data, allowing for the development of new services to support digital innovation and facilitate smaller firms' access to regulated services.

21. Given the scale of remediation required for existing registry data, we see a case for **mandating an initial increase of registration fees after commencement of the legislation** to provide a surge of resourcing for review and remediation of data on existing companies. While some of the proposed new powers will not be implemented until regulations are developed, consulted upon and made, other powers could be implemented more quickly. Further fee increases should follow in step with the implementation of new powers, including increases during the consultation phase for regulations made under the Bill's order-making powers to provide resourcing for the testing and roll-out of necessary technology.

22. We therefore propose:

    - Clause 89 should be amended to ensure an initial increase in the fee for company incorporation within six months of commencement, to ensure Companies House has a sustainable self-financing model for the future. This could be targeted to support use of the query and amendment powers to target suspicious patterns in existing companies, directors and beneficial owners.

    - Clause 89 should also be amended to ensure annual reporting on planned investment and fee increases to support scheduled implementation of other new powers.

23. It is important that Companies House has a sustainable source of funding to support the integrity of the register, and that the registrar's new objectives and powers are not undermined by a lack of resourcing. Based on comparison with company registration costs in other developed financial sectors we believe that **the incorporation fee could increase to £50-100 without any appreciable impact on UK competitiveness**. The banking and finance sector are also supportive of additional investment to develop strategic Companies House capabilities. This could include investment to enable Companies House to act as a data hub, delivering public sector information sharing, public-private data matching and permissioned access to non-public data to support private sector compliance and risk management. Strategic investment in Companies House could also deliver wider economic benefits, such as streamlining regulated sector onboarding of new corporate customers by enabling reliance on verified Companies House data during customer due diligence. Investment in this type of ambitious Companies House reform could justify funding from the £100 million per annum Economic Crime Levy, due to begin in 2023/4. We also support further increases in Government funding during the planned period of transformation through to 2024/25, such as through match-funding of the Economic Crime Levy to be invested in fighting economic crime.

24. Finally, **we do not support Government amendment NC7, to empower BEIS to introduce new discrepancy reporting obligations on the AML regulated sector**. The discrepancy reporting requirement introduced by the Money Laundering Regulations has not proved effective and is disproportionate to the aim of detecting and preventing economic crime. We are already working with BEIS, HM Treasury and HMRC to support harmonisation of the existing discrepancy reporting regimes, and a more targeted and efficient approach is required urgently given extensions already proposed for April 2023. The discrepancy reporting obligation currently applies when firms onboard new customers, but it is proposed to extend this to apply whenever firms conduct monitoring or renew customer due diligence checks. The administrative burden and complexity of the UK discrepancy reporting regime has an adverse impact on international competitiveness, particularly for UK-headquartered international banking groups that are expected to apply these checks across all their group offices including non-UK overseas entities. At this time, therefore, we consider that further extension of this requirement beyond beneficial ownership to other registry data would not be justified, and risks diverting focus from the priority of adequate verification by the registrar**.**

25. In addition to risks of additional inconsistencies and administrative burdens, we are not aware of a clear evidence base for the effectiveness of the current discrepancy reporting regime. International good practice guidance by FATF recognises that **discrepancy reporting can complement public sector verification, but should not be used to compensate for inadequate public sector checks[7].** We understand that Companies House has only used existing powers to resolve true discrepancies by amending the register in a handful of cases, despite receiving over a hundred thousand discrepancy reports from the financial sector alone over the past few years. As a cross-check discrepancy reporting is easily evaded, as Companies House does not require companies to hold UK bank accounts and, once incorporated, a UK company can be used for criminal purposes overseas without involving a UK regulated firm.

26. While we welcome forthcoming amendments to align the definition of 'discrepancy' more closely to risk of money laundering and terrorist financing, this type of targeting will duplicate Suspicious Activity Reporting, with 432,316 SARs provided by the banking sector alone during 2020[8]. The original intention of the discrepancy reporting regime introduced under the Fifth Money Laundering Directive was to enhance the accuracy and integrity of beneficial ownership information on the register, but this goal is now being addressed in the UK through new statutory objectives and legal powers for the registrar. These new legal powers include bulk data matching across both the public and private sector, which could provide a less burdensome and more effective method of enhancing the accuracy of information on the register.

27. We therefore propose:

- Amendment NC7 should be removed.

[7] FATF ibid, Para 61: "To support the accuracy of beneficial ownership information, countries may consider putting in place discrepancy reporting mechanisms as a complementary measure on the basis of risk, materiality, and context of the countries. Discrepancy reporting, if applied (most likely in respect of a register/alternative mechanism), should serve to complement the verification measures to various mechanisms outlined above; it should not replace them"

[8] https://nationalcrimeagency.gov.uk/who-we-are/publications/480-sars-annual-report-2020/file

Private sector information sharing

28. We welcome Government amendments 5-30 to **extend disapplication of liability beyond breach of confidence to all forms of civil litigation.** This power already exists in legislation to support voluntary reporting to the National Crime Agency, and we believe this amendment will support consistent use of the private sector information sharing provisions to help prevent, investigate and detect economic crime.

29. . The effectiveness of these provisions is partly dependent on updating data protection legislation to clarify that processing of personal data for the detection, investigation and prevention of economic crime is a recognised legitimate interest. This is clarified in Schedule 1 clause 5 of the Data Protection and Digital Information Bill. The banking and finance sector are working with the Information Commissioner's Office, the Home Office and the Financial Conduct Authority to address other barriers to effective information sharing about economic crime, but legislation is required to clarify this data protection issue.

30. We therefore propose:

    - If the Data Protection and Digital Information Bill does not proceed or is reintroduced without Schedule 1 clause 5, then Clauses 148 and 149 should be expanded to clarify that the detection, investigation and prevention of economic crime are legitimate interests for the processing of personal data.

Money laundering: exiting, paying away and mixed accounts

31. We understand that the aim of Clause 143 and 144 is to reduce administrative burdens on both banks and the FIU by allowing a reduction in Defences Against Money Laundering (DAML) reporting for low-value cases that are approved as a matter of routine. We support this intention: the NCA's 2020 annual report on SARs revealed that consent was given in respect of nearly 98 percent of DAML requests, with low value cited as one reason for no law enforcement interest[9].

32. This is a complex area of law and legal changes would interact with existing guidance by the National Crime Agency's Financial Intelligence Unit (FIU). We welcome engagement by the Home Office and are supporting their consideration of how best to achieve the policy intention. On this basis we make no specific recommendations at this time.

Information Orders

33. We understand that Clauses 145 and 146 are intended to allow law enforcement to request information in circumstances where a Suspicious Activity Report (SAR) has not been submitted. These provisions build on the provisions of the Criminal Finances Act 2017 and address points raised by FATF and the Egmont Group that the UK's FIU "does not play a sufficient role in supporting the operational needs of agencies through its analysis and dissemination function" and the "the limited role of the UKFIU undercuts its ability to effectively share information with foreign FIUs".

[9] National Crime Agency, 2020 Annual Report: https://www.nationalcrimeagency.gov.uk/who-we-are/publications/480-sars-annual-report-2020/file

34. We also recognise that law enforcement has many sources of information and therefore wish to be able to make information orders to test and build on information not received via SARs reporting. However, in addition to extending the scope of information orders these provisions also make changes to the procedural requirements for making requests, raising questions about the proportionality of these measures.

35. We welcome engagement by the Home Office and are supporting their consideration of how best to achieve the policy intention. On this basis we make no specific recommendations at this time.

Enhanced Due Diligence: Designation of High-Risk Countries

36. We understand the rationale behind Clause 147 is to enable a faster process for the government to update the UK's autonomous list of High-Risk Third Countries. The banking and finance industry support timely updates to the UK list to provide greater clarity to businesses on which jurisdictions are deemed high risk and to help businesses to protect themselves and their customers from money laundering and terrorist finance. However, we think that, without addressing a more fundamental flaw in the Money Laundering Regulations, creating a faster process will exacerbate already disproportionate impacts.

37. As noted in our response to the 2021 HM Treasury call for evidence on the AML/CFT regime, the UK list conflates two different FATF regimes under a single rules-based approach: high-risk jurisdictions subject to a FATF call for action (e.g. the Democratic People's Republic of Korea, Iran), also known as 'the black list', and jurisdictions under increased monitoring (e.g. Barbados, UAE), also known as 'the grey list'. The UK Money Laundering Regulations[10] require regulated firms to apply mandatory enhanced due diligence (EDD) measures to customers established in a country on the UK list, regardless of the assessed risk of the individual customer, industry sector, corporate entity or financial product, thereby directing limited resource to lower-priority areas. These EDD measures are currently the same for grey and black-listed countries, because of the policy decision to include both FATF lists in the autonomous UK list of High Risk Third Countries. The imposition of this type of rules-based countermeasure is not aligned with the FATF recommendation for jurisdictions on the grey list[11] and is more inflexible than the approach of many close allies, including the US, Canada and Australia.

38. The UK obligation to apply mandatory EDD on customers established in High-Risk Third Countries, regardless of the risk posed by the customer, was introduced by the EU's Money Laundering Directive with the purpose of mitigating external threats to the Union's financial system. We note that the current EU package of AML reform will likely amend their EDD obligations to focus resource on black-listed countries, in line with the FATF recommendation.

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[10] Money Laundering Regulations reg 33(3)(A).

[11] FATF Jurisdictions Under Increased Monitoring, October 2022: https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/increased-monitoring-october-2022.html ("The FATF calls on these jurisdictions to complete their action plans expeditiously and within the agreed timeframes. The FATF welcomes their commitment and will closely monitor their progress. The FATF does not call for the application of enhanced due diligence measures to be applied to these jurisdictions.")

39. The current UK approach on how to apply FATF standards in regard to black-listed and grey-listed countries is therefore out of step with both G7 Anglophone and European allies, as well as the FATF recommendation. From a banking and finance perspective the Money Laundering Regulations are uncompetitive internationally and do not allow firms to allocate resources to target risk. HM Treasury has announced that it is minded to remove the list of required EDD for customers in grey-listed countries, and we consider that the Bill should do this now. The desired changes would still ensure that firms continue to apply mandatory EDD when FATF requires countermeasures (e.g. for customers established in the black-listed countries). The changes would also still ensure that firms, and their non-UK branches and majority-owned subsidiaries, take account of FATF's list of countries with strategic deficiencies when considering whether to apply risk-based EDD (e.g. for customers established in the grey-listed countries).

40. We propose that Clause 147 should:

- Amend Schedule 3ZA of the Money Laundering Regulations to incorporate only those countries subject to a FATF call for action (i.e. black-listed countries).

- Amend Regulation 33.6(C)(vii) of the Money Laundering Regulations on geographical risk factors, as follows: "countries identified by credible sources, such as evaluations, detailed assessment reports or published follow-up reports published by the Financial Action Task Force, **including jurisdictions under increased monitoring**, the International Monetary Fund, the World Bank, the Organisation for Economic Co-operation and Development or other international bodies or non-governmental organisations as not implementing requirements to counter money laundering and terrorist financing that are consistent with the recommendations published by the Financial Action Task Force in February 2012 and updated in June 2019." (emphasis added; i.e. including grey-listed countries).