Second/Supplementary Written evidence to Public Bill Committee: Economic Crime Bill 2022 submitted by Elspeth Berry, Associate Professor of Law, Nottingham Law School (giving evidence in personal capacity) (ECCTB22)

I teach and research in partnership law, including LPs and LLPs, was invited to give oral evidence to the Committee, and have submitted Written Evidence.

This second/supplementary written evidence concerns **identity verification of partners (both general and limited) in a limited partnership (LP)** (supplementing section 3 of my earlier Written evidence).

1. The Bill explicitly provides for the identity verification of directors and PSCs of companies.
2. It does not explicitly provide for identity verification of partners, or of the managing officers/named officers of corporate partners.
3. This may – or may not – be achieved via ACSP anti-money laundering due diligence, on the basis that all of these people are clients for that purpose. However, it is essential in the interests of clarity and to close any potential loopholes, that the Bill explicitly requires ACSPs to verify the identity of all partners, general and limited, and to confirm that they have done so.
4. Otherwise there is a risk that ACSPs will verify the identity of only some partners (and under current proposals, there is no possibility that some or all of them will be verified as PSCs, since the Bill does not apply PSC requirements to LPs).
5. Verification of all partners, and the managing partners/name officers of corporate partner (on whom see section 6.3 of my earlier Written Evidence, reproduced below) is essential in the interests of transparency and in order to avoid creating a loophole for wrongdoing, because:
    a. general partners manage the LP;
    b. limited partners supply the money for the business to function (and benefit financially) and can also undertake tasks akin to management (see, e.g. the safe harbour list in s6A Limited Partnerships Act; for PFLPs only but indicative), so can be pivotal to the operation of an LP, particularly an investment or private equity LP (see also my earlier Written evidence at 3.1 on the need for shareholder identity verification and 11.3 on the need to ban disqualified persons from acting as limited partner, both reproduced below);
    c. corporate partners inherently allow for obfuscation and are consistently associated with wrongdoing LPs (and LLPs), and their managing or named officers are the individuals which the Bill makes responsible for them.
6. Of course, this does not prevent the ultimate beneficial owner behind a corporate partner being hidden from the register, but it is a first and necessary step.

3.1 Shareholders must be identity verified (possibly subject to a very small de minimis exception). They not only supply the money for the business to function (and benefit financially), but have statutory powers and often additional powers granted in the articles or side agreements. It is essential to know who they are, and to be able to identify where shareholders appear in multiple companies or as partners/members in LPs/LLPs.

6.2 At very least they should be subject to the same requirements as corporate directors. Not only are corporate partners/LLP members a significant feature of wrongdoing LPs/LLPs, the attempts in the Bill to trace an individual somewhere behind them are so complex as to be unworkable in practice – difficult for legitimate businesses (other than well-resourced investment LPs) to understand, but impossible in practice for CH to check, and an obvious route for obfuscation by

wrongdoers. E.g the concept of a named officer of a managing officer of a corporate partner (and presumably of an LLP member), compounded by the fact that a named officer's residential address can be redacted and they need not supply a service address.

11.3 What is clear is that the provisions only apply to general partners, whereas they should also apply limited partners so that:

…..

b) all disqualified persons are prohibited from acting as general or limited partners in an LP. Limited partners are not shareholders; although they are investors, they can also undertake tasks akin to management (see, e.g. the safe harbour list in s6A Limited Partnerships Act; for PFLPs only but indicative) and can be pivotal to the operation of an LP. Why on earth would we allow them to act while disqualified?

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