



Economic Crime and Corporate Transparency Bill – Written Evidence Submission

November 2022



**UK Anti-
Corruption
Coalition**

Introduction and Summary

The UK Anti-Corruption Coalition brings together the UK's leading anti-corruption organisations working to reduce corruption in the UK and reduce its role in facilitating corruption abroad. Our coalition consists of experts in various sectors across this policy space, including procurement, illicit finance, and sanctions, and we regularly input to policy processes through letters, briefings, joint statements and submissions to inquiries and consultations.

Our member organisations were pleased to give oral evidence to the Public Bill Committee for the Economic Crime and Corporate Transparency Bill. We welcome many aspects of the legislation and share the Government's aims to drive dirty money out of the UK. The Russian invasion of Ukraine has exposed the national and economic security threats facing the UK and the importance of cracking down on kleptocrats and criminals who abuse our systems for nefarious purposes. This Bill takes some positive steps in the fight against economic crime, however, we would like to highlight three areas where the government's legislative proposals could be improved, otherwise new measures risk being undermined.

- 1) Get Companies House reform right the first time.** The Bill should go further and prohibit opaque shareholders, partners, and members, verify and publish shareholder information, and provide the Registrar the power to review the verification documents provided by third-party agents.
- 2) Reform the UK's anti-money laundering supervisory regime.** Legislative proposals on this matter should be brought forward by Spring 2023, best-practice metrics for supervisors should be produced in the meantime, and responsibilities should be stripped from professional body supervisors that fail to comply with the Money Laundering Regulations.
- 3) Provide sufficient resourcing to law enforcement agencies.** Without proper funding of core infrastructure, the new and ongoing responsibilities of agencies will be inhibited.

Recommendations in Detail

- 1) Companies House Reform**
 - a) Make provisions for other types of companies.
 - b) Improve shareholder data requirements.
 - c) Verification requirements for third-party providers.
- a) The general shift in the responsibilities of Companies House under this legislation, from a data-holder to a more active gatekeeper of company incorporation, is very welcome. It is widely recognised that malign actors have been using the UK's lax incorporation rules to hide their wealth and identity, resulting in illicit finance flowing through the UK with the government helpless to stop this national security threat. In its own White Paper, the Government recognised that:

“Illicit activity is facilitated by multi-layered company control across multiple jurisdictions where the use of registered UK companies can give organised crime a respectable front behind which to

*pursue their activities”.*¹

However, the Bill makes no changes that would disallow private limited companies, limited liability partnerships (LLPs), limited partnerships (LPs), or Scottish limited partnerships (SLPs) from having opaque corporate shareholders, partners or members based in secrecy jurisdictions. In circumstances where companies and partnerships are controlled by opaque offshore entities, it will continue to be difficult to verify their true owners and whether the information on Companies House about them is correct.

In a recent report, **Transparency International UK has identified 1,628 LLPs used in various corruption and money laundering schemes.**² **These schemes operated over a 12-year period between 2004 and 2016. Although at least \$730 billion of suspicious funds moved through these schemes, the actual amount is likely significantly higher.** In the White Paper, the government also recognised that private limited companies, LLPs, and LPs have been abused on an industrial scale, specifically in the Azerbaijani and Russian laundromats and Danske Bank scandal.³

- b) The Bill introduces a new requirement for private limited companies to record full names for shareholders in their registration, as well as a requirement for certain companies to provide a one-off full shareholder list, but these reforms must go further. Information about shareholders on the register is a) difficult to access - as there is not a single source of the information, b) extremely limited – as only a name (or a company name) is required, and c) incomplete – as it does not state when someone is holding shares as a nominee on behalf of someone else. Lastly, none of this information is verified as neither Companies House nor the third-party agents have to confirm that shareholders are who they say they are.

Not having this information can significantly slow down law enforcement investigations and can even lead to dead ends.

- c) Trust and company service providers (TCSPs) are third-party agents who form companies or other legal entities and provide services such as acting (or arranging for another person to act) as a partner, director or secretary of a company, or as a trustee for a trust. While TCSPs provide a legitimate service for businesses, abuse of the UK’s company-formation system can be facilitated by those within this profession.

In 2019, using only a quick Google search, Transparency International UK found 23 active TCSPs offering nominee director, shareholder, and PSC services.⁴ **One of these firms was responsible for forming thousands of UK companies they identified in their analysis of suspicious UK legal entities.** In 2015, one of its employees was also found to have submitted false accounts and, for its nominee PSC service, its website gives advice on how to avoid appearing on public registers as a PSC or a beneficial owner.

Investigations have demonstrated that time and again UK TCSPs have been responsible for building and maintaining secretive networks built from thousands of shell companies and

¹ <https://www.gov.uk/government/publications/corporate-transparency-and-register-reform>

² <https://www.transparency.org.uk/partners-in-crime-UK-LLP-Limited-Liability-Partnership-money-laundering>

³ <https://www.gov.uk/government/publications/corporate-transparency-and-register-reform> (p.17)

⁴ <https://www.transparency.org.uk/publications/at-your-service>

used to launder billions of pounds in illicit funds over the years.⁵ Under this new legislation, Authorised Corporate Service Providers (ACSPs) – TCSPs who have registered with Companies House and a UK anti-money laundering supervisor – will be required to verify information that their clients are required to submit to Companies House. The detail of these checks is still to be defined in secondary regulations. The Bill also provides that a power may be given to Companies House to review the documentation provided by these ACSPs, but it is not clear how this power will work, or when it can be deployed.

Our recommendations for Company House reform to address these three issues:

- **Prohibit the use of opaque corporate shareholders, partners and members for new companies and partnerships.**
- **Extend the Register of Overseas Entities to offshore corporate control of companies.** Overseas corporate shareholders, partners or members would then need to register as ‘overseas entities’ with Companies house, filing verified beneficial ownership information in the process.
- **Companies House should be given the power to check ‘know your customer’ documentation** in cases where they suspect information from TCSPs may be misleading.
- **Companies’ shareholder data** (company number, address, nationality, country of incorporation, month and year of birth, and nominee status if applicable), should be published on an annual basis and in open data format, and supporting documentation should be required from significant shareholders who hold more than 5% of shares.⁶
- **Increase the cost of company incorporation in the UK.** The cost of incorporation is only £12, one of the lowest fees in the world. If the fee was raised to at least £100, as suggested by the Treasury Select Committee,⁷ the UK would still retain one of the most competitive fees globally, but the Registrar would receive additional funding to carry out this new role and achieve the ambition of the legislation.

⁵ <https://www.financeuncovered.org/stories/english-limited-partnerships-secrecy-formation-agencies-ios-las-lotus-comform-corruption>

⁶ 5% is a recognised threshold for certain levels of control in how a company is run (those with at least 5% shareholdings have the right to apply to court to prevent the conversion of a public company into a private company, call a general meeting, require the circulation of a written resolution to shareholders (in private companies) and require the passing of a resolution at an annual general meeting of a public company.)

⁷ <https://committees.parliament.uk/committee/158/treasury-committee/news/160700/treasury-committee-publishes-report-on-fraud-scams-and-economic-crime/>

2) Reform the UK's AML (Anti-Money Laundering) Supervision System

Money laundered through UK property or UK companies does not end up here of its own accord. It relies on lawyers, bankers, accountants, and others who facilitate its passage through our financial system, either through complicity or complacency. Tackling this requires a system that holds all of those who decide to facilitate these crimes to account, yet **the UK's approach to anti-money laundering (AML) supervision is ineffective, fragmented, and its laws fail to offer credible deterrent.** The UK's failures in this space have been criticised by allies - the FinCEN Files revealed that the US Treasury considers the UK to be 'a higher-risk jurisdiction' for money laundering, akin to Cyprus.⁸

The UK's AML regime is made up of a disjointed group of 25 supervisors (3 statutory bodies, and 22 Professional Body Supervisors (PBSs)) overseeing the private sector's compliance with anti-money laundering rules. Oversight of these private sector practices is often threadbare or non-existent. The Government established OPBAS (Office of Professional Body Anti-Money Laundering Supervisors) to help ensure higher standards of supervision for these PBSs in the legal and accountancy sectors, and to facilitate information sharing between themselves, statutory supervisors, and law enforcement.

However, in its annual reports, OPBAS has found issues with the supervision concerning poor resourcing, conflicts of interests due to lack of separation between advocacy and supervisory functions, and limited enforcement frameworks.⁹ Enforcement is inconsistent, inadequate, and fails to provide a credible deterrent to wrongdoing, and conflicted governance – supervisors retaining both trade body representative and supervisory functions – is undermining objective oversight and fair application of sanctions for those who have acted in breach of the rules. **A 2021 review of professional body supervisors responsible for the legal and accountancy sectors found that 81% were not supervising their members effectively.**¹⁰

The Bill contains two welcome legal sector-related provisions which will help regulators tackle enablers of economic crime:

- The new power of the Solicitors Regulation Authority's (SRA) to impose unlimited fines for breaches of economic crime rules.
- The new regulatory objective for legal sector supervisors to promote the prevention and detection of economic crime. The SRA is currently an outlier among major AML regulators as it does not have the power to impose unlimited fines for money laundering.

We support the inclusion of these new provisions in the Bill to ensure that the legal sector - recognised as a high-risk sector by the UK's National Risk Assessment - plays a proactive role in preventing economic crime. However, to ensure that vulnerabilities in UK money laundering supervision in the legal sector and other sectors are addressed, the Government must:

- **Consult on reforms and bring forward legislative proposals on a priority basis.** At the same time, the Government should produce best-practice metrics for supervisors, and produce a clear strategy for revoking responsibilities from professional body supervisors

⁸ BBC (2020) 'FinCEN Files: All you need to know about the documents leak' - <https://www.bbc.co.uk/news/uk-54226107>

⁹ <https://www.fca.org.uk/publication/opbas/supervisory-assessments-progress-themes-2020-21.pdf>

¹⁰ Spotlight on Corruption (2021) '[UK's ongoing weak link in the fight against dirty money – the supervision of lawyers and accountants.](#)'

that fail to comply with the Money Laundering Regulations, in particular those that retain conflicts of interest between their supervisory and representative functions, in order to minimise disruption and maximise effectiveness during any period of transition.

- **Along with new resourcing, give OPBAS new powers and duties.** This would include powers to impose financial penalties on PBSs who are failing to conduct effective supervision, to make public its censures or motions, and to publish disaggregated data on PBSs. It should also be given power to review the performance of statutory supervisors as well as PBSs, a reform long called for by the Treasury Select Committee.¹¹
- **Create ‘failure to prevent’ offences for money laundering, fraud, sanctions evasion and false accounting.** This would make it easier to prosecute those who enable economic crimes and would ensure coherence across the UK’s legislative landscape; there are already ‘failure to prevent’ offences in place for bribery and tax evasion. Senior executives are rarely, if ever, held to account for economic crime committed by the companies they lead. The Law Commission found that it was *“reasonable for directors to be criminally liable where they have consented to or connived in corporate offending and - in some cases - where that is attributable to neglect.”*¹²

¹¹ Economic Crime - Anti-money laundering supervision and sanctions implementations. Treasury Select Committee. 2019. <https://publications.parliament.uk/pa/cm201719/cmselect/cmtreasy/2010/201002.htm>; Report on Economic Crime. Treasury Select Committee. 2022. <https://committees.parliament.uk/publications/8691/documents/88242/default/>.

¹² Corporate Criminal Liability: an options paper. para 9.49.

3) Provide sufficient resourcing to law enforcement agencies

Underpinning all these measures is the need to urgently reassess current funding arrangements for tackling economic crime within government and law enforcement agencies. At present, the lack of resourcing made available to tackle economic crime in the UK has drawn the criticism of our allies. In the Atlantic Council's Issue Brief on Global Britain, the UK was described as *"in severe danger of being shown as a paper tiger"* and that *"Britain must summon the political will and resources needed to massively strengthen enforcement of its own existing laws."*¹³

Spotlight on Corruption has found that money laundering prosecutions have dropped by 35% over the past 5 years, while the number of individuals being convicted by the SFO every year is on a noticeable downward trajectory from 13 in 2016/17, to 8 in 2019/20, reaching 4 in 2020/21. This is also reflected in the decline in the overall conviction rate from 86.7% in 2016/17 to 67% in 2020/21. Key national-level agencies continue to suffer real term declines in their budgets, with the National Crime Agency suffering a 4.2% decrease in its core budget over the past five years.

The current mechanism for returning assets to law enforcement (the Asset Recovery Incentivisation Scheme) is broken, and there has been a 34% decrease in the amount of funds returned through this mechanism being used to fund asset recovery work over the past five years. **Notably, the UK spends £852 million – equal to just 0.042% of GDP - a year on funding core national-level economic crime enforcement bodies, even though economic crime costs the UK £290 billion annually – equal to at least 14.5% of GDP.**¹⁴

To address these issues, the Government must:

- **Extend the Costs Orders introduced under the Economic Crime Act 2022, beyond Unexplained Wealth Orders to all civil recovery cases involving economic crime.** If this is extended, it will increase the risk appetite of agencies in such cases, as they will not be subject to particular court costs.¹⁵ The extension of these - as long as law enforcement has acted reasonably, honestly and properly - has the potential to ensure that significantly more stolen assets can be recovered and returned to victims.
- Enhance long-term sustainable public investment across economic crime enforcement and **double the budgets of key agencies** such as the National Crime Agency, OFSI, SFO and HMRC.
- **Ensure that funds acquired from law enforcement efforts should be consolidated into an economic crime fighting fund** rather than returning to the Treasury, and as a replacement to the Asset Recovery Incentivisation Scheme (ARIS).

¹³ Atlantic Council (2021) [Global Britain: An American review](#), p.14

¹⁴ <https://www.spotlightcorruption.org/closing-the-uks-economic-crime-enforcement-gap-proposals-for-boosting-resources-for-uk-law-enforcement-to-fight-economic-crime/>

¹⁵ Economic Crime and Corporate Transparency Bill, Public Bill Committee first sitting, 2022.

https://publications.parliament.uk/pa/bills/cbill/5803/0154/PBC154_EconomicCrime_1st2nd_Compilation_25_10_2022_REV.pdf

The UK Anti-Corruption Coalition brings together the UK's leading anticorruption organisations who, through their work, witness the devastating impact of corruption on society.

www.ukanticorruptioncoalition.org

Contact: Peter Munro
peter.munro@transparency.org.uk



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