



# Treasury Committee

## Oral evidence: Are the UK's Russian financial sanctions working?, HC 604

Wednesday 22 May 2024

Ordered by the House of Commons to be published on 22 May 2024.

[Watch the meeting](#)

Members present: Dame Harriett Baldwin (Chair); Mr John Baron; Samantha Dixon; Dame Angela Eagle; Stephen Hammond; Danny Kruger; Dame Siobhain McDonagh; Anne Marie Morris.

Questions 176 - 249

### Witnesses

I: Neil Wilely, Director of Sanctions and Export Controls, UK Finance; and Mike Miller, Economic Crime Manager, Institute of Chartered Accountants in England and Wales.

### Examination of witnesses

Witnesses: Neil Wilely and Mike Miller.

Q176 **Chair:** Welcome to this afternoon's session of the Treasury Select Committee and our inquiry into whether the UK's Russian financial sanctions are working. Can I start by asking our witnesses to introduce themselves?

**Mike Miller:** My name is Mike Miller. I work for the Institute of Chartered Accountants in England and Wales. I am the economic crime manager, mainly focusing on policy aspects and providing guidance and advice to our members, as opposed to the other half of ICAEW, which is responsible for supervisory and regulatory enforcement.

**Neil Wilely:** I am Neil Wilely. I am the director of sanctions and export controls at UK Finance, which is the banking trade body for the UK. We cover the whole gamut of sanctions and export controls.

Q177 **Chair:** You have already submitted written evidence and you are here representing how your two important sectors of our economy are dealing with these sanctions on Russia. I am going to ask you a big, straightforward, open-ended question to start with. Neil, how are things working from the perspective of your sector?



## HOUSE OF COMMONS

**Neil Whiley:** From the perspective of the finance sector, we are operating globally, and UK sanctions are one of the many jurisdictions that we have to take into account. We see a lot of work with the G7-plus in attempts to align, which is something that we encourage. When you try to impose these kinds of measures against an economy the size of Russia, it is really complex. The volumes are showing where the framework was not really ready for that kind of capacity that people needed to have in place.

Q178 **Chair:** Did that mean you made mistakes in your sector?

**Neil Whiley:** Everybody has been making mistakes, across Government, academia and industry. I hope that we are all learning from them and not repeating them too frequently.

Q179 **Chair:** Can you share with us some statistics on how many times you have made mistakes in your area?

**Neil Whiley:** I would not know how many time people have made mistakes, but we have seen from the OFSI annual report how many cases it is investigating. These are where people have reported themselves to OFSI. Obviously there are those who do not report. We do not get sight of what is going on there.

Q180 **Chair:** I have the same big, open-ended question for you, Mike. How is your industry evaluating these sanctions?

**Mike Miller:** As opposed to the banking sector, which had quite a lot of these people and resources in place originally, there was quite a steep learning curve for the accountancy sector. There was a lot of devotion of resources to compliance-related efforts. Things were introduced so quickly. Helpfully, we worked a lot with Government to be able to express this back to our members. Some of our members are large multinationals, so they have to adhere to various different sanctions regimes. Some only apply to the UK.

The smaller firms tend to have very limited exposure to Russian clients that would fall under the sanctions. However, the larger ones have had more complex things to take on. The general approach has been one that is very risk-averse. We have seen a lot of divestment from clients. A lot of this was due to the legislation originally perhaps being difficult to interpret. Some of the guidance was a little bit challenging, and a lot of the feedback was to seek legal advice. People took the lowest common denominator of essentially trying to get rid of any clients associated with Russia that could affect their business.

Q181 **Chair:** It sounds like you have erred on the side of caution. The banking industry has acknowledged that there have been a few mistakes in terms of implementation. What about you?

**Mike Miller:** It is different, because if you are looking at transactions it is happening all the time. In accountancy, we have the benefit of



## HOUSE OF COMMONS

retrospective looking, because we will be looking at money or transactions—or whatever we are auditing or offering services to—that have already taken place. When we do client due diligence, we can already see whether that person has been sanctioned, and appropriately respond. I will not speak for Neil, but in banking, if somebody goes on to the sanctions list on a Friday afternoon, perhaps it is much easier for a mistake to be made if they are not immediately added.

Q182 **Chair:** Are any of your members still doing any business in Russia, as far as you are aware?

**Mike Miller:** There is a limited amount of exposure of some of the larger clients, not to Russian firms but to UK or international firms that have subsidiaries in Russia. There are a few larger businesses that have not been able to divest. You will be aware that there are quite a lot of European companies, particularly, that have quite a lot of funds stuck in Russia currently.

Q183 **Chair:** Are they taking on new business?

**Mike Miller:** Not that I am aware of, but I am very happy to check and come back to you.

**Chair:** Thank you. It would be helpful if you could clarify that.

**Mike Miller:** Certainly, yes.

Q184 **Chair:** What about you, Neil, in terms of the finance sector? Are you still having members operate there?

**Neil Whiley:** There are still some banks operating in Russia but, as Mike pointed out, there are other corporates in Russia that have assets that are currently stuck. If the banks leave, those assets are never going to be repatriated, so we need some banking.

Q185 **Chair:** Are they frozen there in your members' accounts?

**Neil Whiley:** Getting funds out of Russia is very difficult because it clearly does not want us to remove our funding and close down our businesses, so it is making it very difficult now to close down businesses in Russia. Pretty much the last people out will be the banks, because they need to make sure that those assets are exited from Russia in as clean a way as possible.

Q186 **Chair:** The majority of your members are still operating there.

**Neil Whiley:** Not the majority, no. There is only a handful of banks that operate in Russia. That is historic. Not every bank operates in every jurisdiction. We have to remember that, for 30 years, we were encouraged to operate in and around Russia.

Q187 **Chair:** None of the banks that were operating in Russia have moved out of Russia, then.

**Neil Whiley:** Some have, yes.



## HOUSE OF COMMONS

**Chair:** They have managed to.

**Neil Whiley:** Some are in the process of moving out. Some need to delay that a little longer because of their customer base that is trying to exit, and they want to make sure that they can get out as well.

Q188 **Chair:** On the question of whether the sanctions are working, I noticed in your evidence, Mike, that you say that, as a result of the sanctions, political and economic flows appear to have shifted to other overseas jurisdictions. Are these other overseas jurisdictions where your members are also operating? Are you just lamenting that loss of business or seeing other jurisdictions benefit from these sanctions?

**Mike Miller:** It is a little bit of everything. In terms of the movement of funds, you will have seen it being reported quite a lot in the media that, the more restrictions come, the more other financial jurisdictions—particularly, in the Russian case, places like Dubai—have become very much a focus.

Q189 **Chair:** You say “places like Dubai”. Can you list other places?

**Mike Miller:** In terms of finance and trade, if you look at central Asia these countries also benefit. There is obviously movement through China and other countries that you would now term the global south. It is the focus for investment of sovereign assets, so central bank assets, the majority of which are in Europe, in Belgium. In terms of personal assets—for example, those of the oligarchs—we will not have sight of those asset movements any more.

Q190 **Chair:** Are your members moving to where that business is?

**Mike Miller:** Some of our larger members will have a presence in places like Dubai. Some of them have businesses over there. I do not think that there is any movement to try to take up that business from UK-based members. From a financial crime and anti-money laundering point of view, our concern is that we have less visibility of where these transactions come from, the source of funds and where they are ultimately going. It is more difficult to make a decision, essentially, on the viability of a transaction and where the funds have come from.

Q191 **Chair:** You can rule out any of your members that will not do business with a sanctioned entity here in the UK doing the same business in another jurisdiction. That is not happening as far as you are aware.

**Mike Miller:** No, not as far as I am aware. There are still the different sanctions regimes that need to be adhered to overseas. For example, a UK-headquartered business doing business in whatever jurisdiction, including those in the US and the EU, tends to have to follow all three sanctions regimes at the same time. We have over 11,000 members. I cannot rule out the fact that something has happened. As far as I know, they would adhere to the same sanctions regimes that have been put on their headquartered companies.



Q192 **Chair:** Do they feel the moral imperative to do that?

**Mike Miller:** Yes, very much. There has been a real push. There has been some challenge with understanding some of the legislation, especially for smaller members, who do not have the resources to employ lawyers, political specialists or whatever it might be. There is a distinct desire for them to do the right thing. A lot of the work we have done with Government is to say, "We are not trying to get out of doing these sanctions. We want to put them down in a way that works for business and can be implemented successfully".

Q193 **Chair:** Neil, what about your members? Are they following the money and going and doing the business that they cannot do here elsewhere?

**Neil Whiley:** Any UK bank has to adhere to UK sanctions guidance. Section 21 of SAMLA makes that absolutely clear. It is the same for European and American banks. That is the majority of the members that we have here in London, wherever they are operating globally.

To give you an idea of the scale, at UK Finance we track 111 jurisdictions that are either imposing, or targets of, sanctions or export controls. That is because our members are operating in those jurisdictions and we need to make them aware of any prohibitions or goods restrictions that there may be. They are all bound by their own domestic legislation that operates internationally in the same way that SAMLA does. They would be breaking their own laws and then subject to fines from OFAC, the EU or OFSI.

Q194 **Anne Marie Morris:** Mr Whiley, can I ask you a little more about the impact of all this on your members? Your members are having to implement financial sanctions, to monitor their clients to do their best to make sure that they are complying, and to implement trade sanctions. Are we asking too much? Is there anything the Government could do to support you and your members better to enable them to comply?

**Neil Whiley:** The thing I would flag is that, according to research that LexisNexis did recently, industry is spending £34.2 billion a year to fight financial crime. That is apparently 75% of the Ministry of Defence budget in the UK. That is every single year. It is a staggering amount of money and you would expect a much bigger result for that amount of money being spent to fight financial crime.

The reason why it is not as effective as it could be is that they are all doing this individually. We do not have the provision to share data among ourselves, to talk with our peers and to collate that data and share it with Government easily, for Government to then look at what the real issues are and share that back out with industry. We are not working as a collective. We hear this team sport mantra all the time and we see it in pockets, but we are not working as a whole society to use the resources that we have effectively to target the people we are aiming our sanctions at. We have a long way to go but we have a lot of intel, experience and



## HOUSE OF COMMONS

resource. We need to use that in a sensible way, and at the moment we are not doing that.

Q195 **Anne Marie Morris:** Is that because the systems and protocols are not there and no one has taken the lead, or is it because there is legislation—data protection—that stops you co-operating in a way that would work?

**Neil Whiley:** In the money laundering world, under POCA section 333C, you can share data with your peers for money laundering reasons. We do not have an equivalent for sanctions. It is this blocker that means that, when there is a new designation, 500 banks in London have to repeat the same investigation, rather than two or three sharing it with Government and it being reflected back out.

We might get on to it later, but ownership and control is very complicated. When we see Government mentioning that they believe corporates are owned or controlled, in the other information about an individual who is designated, why are they not added to the list in the same way as in the US? It is these disparities that cause undue workload. We could easily minimise that and allow those resources to be more effective, which would then, I hope, have a much better impact on the targets that we are trying to change the behaviour of.

Q196 **Anne Marie Morris:** Are there any particular areas of weakness—for example, when we are looking at cryptocurrency or some of your smaller financial institutions—which clearly do not have the set-up that the bigger brothers do?

**Neil Whiley:** Clearly, the smaller the institution or corporate entity, the fewer people they are going to have dedicated to any particular function. You may find that, in financial crime, that person may be covering more than one discipline. There are pros and cons of that. One pro is that they get a more holistic view across the different financial crime areas. Most people would argue that you cannot commit just money laundering or just fraud. There are always touchpoints on others.

There might be a little bit of benefit there in having a more whole-system view, but this person is on their own possibly, or maybe in a team of only two. The workload that we have seen post-Russia is a near 400% uplift in customer screening and a near 300% uplift in transaction screening. If they were already working at 90% capacity, that is not sustainable. These guys need help, and this is where we need the whole-society approach to try to lessen the workload for everybody. We need Government to help us with more considered listing so that we do not have to dig into corporate structures. If we already know that they are owned, tell everybody.

In terms of cryptocurrency, that is an area that is sometimes hidden from the banking sector. We only see it when it pops back up to become a fiat currency. Where it is going over different channels of crypto, we may be totally unsighted. We may only see funds disappearing and then popping



## HOUSE OF COMMONS

up. We do not know whether they are the same funds or whether they have been split or combined.

Then you look at products such as Tornado, which looks to obfuscate that and make it even more complex to understand who owns those particular crypto funds. These are tools that are being used for the reason that they were not put in place for, which has always been the case, unfortunately. People are seeing that the traditional banking sector is pretty good at spotting nefarious actors, so they are moving to other areas where they are out of sight of the industrial machinery that we have to look for sanctions.

Q197 **Anne Marie Morris:** What could we do in addition to current steps to try to reduce the flow of finance and funds to Russia? What can we do with regard to some of the, if you like, indirect exports to Russia via proxies such as Kazakhstan?

**Neil Whiley:** There are probably three things that we need to do. One is to work with those countries to say, "Yes, it is great that your exports of this to Russia have gone up, but these are not good products that are going to Russia. Everyone else is saying that this product should not go to Russia. You should not take advantage of a gap in the market and try to fill it with products that we are trying to suppress."

We should be looking at the companies. There are western companies involved. You heard from Tom Keatinge at RUSI. He is absolutely right. Manufacturers are not afraid of sanctions because they never get targeted. They are shipping their products, and sometimes in increased volumes, to hop-off countries—places like the Stans and Turkey—in the reasonable knowledge that that is not the destination it is being shipped to; it is going to go on to another country. Sometimes it does not just go Kazakhstan-Russia; it might bounce around a few countries, so it becomes a bit more difficult for them to spot it.

The problem is that it is not illegal currently for them to ship that product. There is no prohibition in the UK to say that you cannot ship that to Kazakhstan, because we do not have the same kinds of measures against Kazakhstan, which is not invading Ukraine. It is very difficult. We have to do the political discussions with the country to say, "Play the game." We have to do the same with our own industry sector and say, "If you are seeing this, this is a red flag. Surely you must be thinking, 'This does not look right.'"

Wherever the banks can see these patterns, they can start reporting that and saying, "Hang on a minute. This exporter's exports of this product to this region have gone up. It looks perfectly legal, because there is nothing stopping them from doing this, but it looks suspicious because of the rise that they have had." If we can work together, maybe we can figure out who is behind it, because there are people benefiting from getting products that should not be getting to Russia.



Q198 **Samantha Dixon:** The Chair mentioned earlier the economic flows shifting to other jurisdictions. Mike, have you identified a loss of business and revenue for UK businesses as a result of the sanctions?

**Mike Miller:** The most direct example we can give is the risk-averse approach that was taken—so legitimate business that, considering the sanctions, probably could have continued has not continued from the UK with people connected with Russia. Also, people will approach smaller firms—particularly now, if they are, say, Russian clients or clients connected with Russia—and because those smaller firms may not have the resources to get the inevitably very expensive legal advice you need to get to give yourself reassurance that you can go ahead with the business, that will be a direct loss to the UK.

The point is more general, and it is more commenting on the trend of flow. It is inevitable that Russian money that flowed in the last two decades into London is not going to flow in now. That is part of the sanctions, which is perfectly fine. If other measures are taken—for example, we may discuss confiscation of assets or whatever it might be later—that further give that message to other countries that there may be a lack of safety for their assets in the UK, that could move some business away from the UK.

Q199 **Samantha Dixon:** In your written evidence, you note that some businesses in the UK that are reliant on Russian funds face liquidation as a result of the sanctions. How widespread was that problem?

**Mike Miller:** This was very much in the start of the invasion, when a lot of particularly smaller businesses that do not have a lot of cash reserves were reliant on one or two key customers that had been either directly or indirectly affected by the sanctions and were not able to make their payments. There was a licensing request put in to OFSI at the start so that those payments could be made, but that took quite a long time to be granted. Quite a few businesses went. I would have to double-check exactly how many, because I am not just talking about the accountancy sector, but also accountants that were providing accountancy services to these businesses, that saw them go out of business.

Q200 **Samantha Dixon:** Neil, in your evidence to the Committee you discuss how a business may face civil liabilities for dealing with an individual or entity designated under the sanctions regime. What impact does that have on their willingness to trade and do business?

**Neil Whiley:** SAMLA is pretty clear. You must not receive funds or economic benefit from, or give funds or economic benefit to, or for the benefit of, a designated party. That is pretty clear and easy to understand. In most businesses, if we are talking about financial services, if they see one of these people attempting to become a customer of that business, they would not adhere to that.

The problem that we have with global corporates is that their existing customers get sanctioned. There is a straight asset freeze and





## HOUSE OF COMMONS

unfortunately that customer account is disabled. You cannot close it, because you cannot move the frozen assets, so you have to hold on to them and the account stays open. We would point out that it is not a crime to be sanctioned. We need to be mindful that it is intended to change people's behaviour, so taking away their ability to transact, hopefully, is a trigger for their behaviour improving.

One other point that we would flag is that, while the G7-plus is broadly aligned, it is not harmonised. We have seen UK banks adhering to UK sanctions globally, as they are bound to under SAMLA, but they are freezing accounts of parties the UK has sanctioned in other jurisdictions where that party is not sanctioned and are then being sued in that country because it is not listed there. This is something that we see for UK banks in Europe and the US. We see US banks getting caught in Europe and the UK. As you would expect from Russians with lots of money, wherever they can sue, they are going to take people to court, because it ties up resources. It is expensive even if you win. All those people are in court for that amount of time.

It is the flipside of when the UK goes last and others have designated by the time we get round to it. People know that they are going to be designated, their liquid assets have gone and there is nothing there for us to freeze. We appreciate it is going to be impossible to harmonise, but getting as close as we can to harmonisation across the G7-plus would make a huge difference to those corporates that are operating globally.

**Q201 Samantha Dixon:** You mentioned earlier—we have received evidence about this—that businesses have had to rapidly increase their compliance teams to meet the challenges that this brings. Do you have any idea of the cost for this and what it has meant for businesses to increase their compliance teams?

**Neil Whiley:** Each business will be different. The thing I always point out is that they are all banks, but the only thing they have in common is the word "bank". Every bank has different customer profiles, jurisdictions and product lines. They are operating differently and they will be impacted differently by whatever measures are put in place.

To give you an example, in the summer of 2021, when there was a significant increase in sanctions against Belarus, we had some members that had zero impact and other members that were seeing more than a million extra cases to work a day because of their customer base, the product lines they had and the jurisdictions they were operating in.

It is very difficult to say, across the industry, "This is the cost for every single company." We know that, across our members—some will be worse than these numbers, but some will be lower—the FTE resource had to go up by 268%. If you take 500 banks across London—and when you take the other financial institutions into consideration, you are approaching 900 institutions—having to uplift by 268% on average is a



## HOUSE OF COMMONS

significant resource that they are paying for. This is where you can see the £34.2 billion a year can easily be reached.

**Q202 Samantha Dixon:** You talked about the capacity of small businesses to deal with this and touched a little bit on what kind of support they would need. Do you want to expand on what you think could be done to support them in their compliance?

**Neil Whiley:** The problem for all businesses, big or small, is the scale of what they are facing. For a large business, you might have resource that you can pull in from other areas to give you some surge, a bit like Treasury did with people coming in from other Departments to help those guys out. This is not industry only; this is everybody. OFSI was in exactly the same position as the banks. There were not enough experienced people around to bring in to help cope with what was happening because of Russia.

To give you some indication of how big this was, there are 36 regimes plus three pseudo-sanctions regimes in the UK framework. In 2022, 30 of those changed, including Russia. In January 2022, the Russia statutory instrument was 65 pages. I had a look today; it is now 502 pages. If you are a small firm where it is part of your job, not your whole job, and you might be the person doing other things, you cannot even read 502 pages of just Russia to understand what the changes are, let alone the other 35 pure sanctions regimes, and keep on top of those and be sure that you are not breaching Syria or Iran because you are spending all your time concentrating on Russia.

It is back to making the listings really clear and the legislation really clear and easy to follow, because it is more cost-effective that way. Unfortunately, we write quite difficult-to-interpret legislation. As Mike said earlier, when we approach Government for clarification, quite often the response we get is, "Seek legal advice." I know that, when we seek legal advice, we will speak to three different law firms because we want to make sure that we are getting a good spread of legal advice. They will come back with three different answers, so even they cannot agree on what the legislation means.

If we want this to work, it has to be clear and easy to follow. We used to have a good law project in the UK until it was shut down, which is a bit of a shame really, because they may have been able to help us tidy up some of the wording that is in the law. Those who are writing the legislation need to understand that London is a major global centre. We have to think globally when we are writing our legislation. Do not just do it as if you are working in the UK and it is a UK-centric piece of legislation. We have seen too frequently that that catches out those that are operating internationally but are bound by UK law because that is their home country or they are UK citizens.

**Q203 Samantha Dixon:** Mike, would you add anything else?



**Mike Miller:** We have a slightly different approach because we do not have to actively monitor transactions like the banking sector. To touch on your first point around the increasing compliance costs, for the larger firms we have seen that go up. They maybe had one or two dedicated sanctions people. Now they maybe have a handful more—five, six, seven or eight. They have also pushed some of the compliance staff who worked in other areas to work on sanctions.

The main comment we have from them in terms of increased resources is how much they have to pay law firms now—tens of thousands and into the hundreds of thousands of pounds—to try to get legal advice on what they should do. We had a big issue, which we might touch on later, around the prohibition of auditing services to Russia, because that was very different in the way it was applied from the US and the EU. It brought quite a lot of legal complications.

Q204 **Samantha Dixon:** This is legal advice to interpret what is coming from us.

**Mike Miller:** It is what is coming from legislation, exactly, and then after that from either statutory or non-statutory guidance that is produced by the Department. That would lead to my last point. Particularly for smaller firms, as has been said, I think, there needs to be clarity around what the intention of the sanctions is, what they are there for and how best to apply them, with guidance that can be used. A lot of accountancy firms are very small and probably do not have exposure to this, but they still need to do their client due diligence. They still want to adhere to the sanctions. A lot of them are perhaps more concerned than they would be because they read the legislation and do not really know how to adapt to it.

We produce quite a lot of guidance particularly for smaller firms. Because we are an AML supervisor as well, we can tie this in to the risk-based approach that they take for that. Having that communication from Government to say, "This is what we want to do. This is the best way to do it" would be very helpful from the outset.

Q205 **Mr Baron:** Can I please turn to the feasibility of the UK, in concert with its allies, seizing Russian state assets? We are not talking about individuals here. We are talking about state assets. We have had testimony in sessions front of the Committee that there is a view that, if the west in concert—the UK, US, EU and other allies—were to confiscate the broadly \$300 billion we believe is held in Belgium at Euroclear and in one or two other places, mostly as liquid assets, that would change the whole nature of the war; certainly, it would help with reconstruction. For example, Bill Browder has told the Committee that the UK should follow the US and legislate to provide for the seizure of assets to fund the war. If we did this in concert, what is your view? May I start with you, Neil, given that there is a bit of a finance angle to this?



## HOUSE OF COMMONS

**Neil Whiley:** Lots of the evidence that you have received around this talks about due process and rule of law. That is the key thing that everybody is really keen that is followed. As long as robust, legal mechanisms are used, I do not think that anybody should have an issue with that.

Q206 **Mr Baron:** Do you have any qualms?

**Neil Whiley:** The problem people have is that, potentially, we would look as bad as those that we are trying to target if we just start taking away assets that we have immobilised in this case.

Q207 **Mr Baron:** Except we do not go invading countries.

**Neil Whiley:** No, not recently.

Q208 **Mr Baron:** I would agree with you about “not recently.” What is your view, Mike?

**Mike Miller:** The fundamental point is that it has to follow international law and have a very sound basis to do it in international law. We have built what is the international rule-based order, essentially, on following the norms of international law. If we break that, there is a question about the knock-on effect.

Q209 **Mr Baron:** What if the international community, the west, come together across the board and say, “We are going to do this”? Would it be your view that that would be breaking international law? Do not tell me: you are going to say that it is down to the lawyers.

**Mike Miller:** That is really a political decision as to whether they would want to do it. We would stress that there would have to be that agreement between the countries. As we have seen at the minute with the G7-plus, there is not agreement. There is some agreement between the US, Canada and particular parts of the UK Government. The rest of the G7-plus do not seem convinced. The EU, which is the main holder of Russian central bank assets, definitely does not seem convinced. They are coming up with different ideas on whether you can use it as collateral or as a loan.

If I could make just one more point, we would also consider the viability and attractiveness of UK and western capital markets. We have seen quite a lot of surplus-heavy countries—for example, those based in the Gulf, such as Saudi Arabia, or China and Indonesia, but also some in the global south, as we would say now—that have lobbied fairly heavily against the G7. They are concerned that, if they fall foul of or fall out with Washington or London in the future, they potentially get their assets seized. You would have to do it in a way that does not damage FDI into the UK, because we obviously want to attract that and make the UK open for business.

Q210 **Mr Baron:** If the west and the global south were able to agree that this is an extraordinary set of circumstances—an invasion of a sovereign



## HOUSE OF COMMONS

country—they could coalesce around that view that perhaps this justifies seizure of those assets, confiscation and so forth. Ukraine has been waiting for a \$60 billion aid package, which it believes is going to make a fundamental difference, so \$300 billion would make a very big difference as well. I am suggesting to you that, if the west could agree, surely the justification is there, is it not?

**Neil Whiley:** I do not think that anyone has a disagreement with the spirit of what is trying to be achieved. It is just concerns around making sure that we follow international law and due process and do not leave ourselves open to litigation.

Q211 **Mr Baron:** Got it, but you have no evidence to suggest that, if the west was to act in concert, we would be contravening international law. You are not aware of any evidence—yes or no.

**Neil Whiley:** I am not a lawyer, so I have no knowledge.

Q212 **Mr Baron:** You do not know. Okay, let us move on. One argument against, perhaps, is that the sudden seizure of assets would create market instability. In the big scheme of things, if you look at the global economy, \$300 billion sounds a big figure, but it is actually manageable. We have had testimony from people like Tom Keatinge, director of the Centre for Finance and Security at the RUSI, and Bill Browder saying they would strongly disagree with the consensus that it would somehow spook the markets. Tom makes the point that the maximum point of jeopardy for market confidence is when the assets were immobilised in early 2022, and nothing happened. That is what central bankers and the authorities are supposed to do—stabilise the markets. What is your view on that? Would it cause insurmountable instability if the assets were seized?

**Neil Whiley:** From the UK, it is £22 billion. That is not going to cause an issue to the market. My prudential colleague assures me that the liquidity coverage ratio for the UK, according to the Bank of England, is £570 billion, so £22 billion is not a significant sum for that.

Would it cause issues for the institution? Yes, potentially. It would need to go out to the market to shore up its liquidity, but that liquidity is there and this is something the banks are doing every single day of the week—borrowing off of those who have excess cash and lending when they themselves have excess cash. It is a large sum, but it is not insurmountable.

To your point, global trade is just under \$32 trillion, which is a significant uplift on that. In the UK, Bank of England figures for sight and time deposits are £3.2 trillion.

Q213 **Mr Baron:** Your view is that it would not be insurmountable. Provided the central banks and authorities stepped in, any instability that might follow could be managed.

**Neil Whiley:** That institution would need some help, yes.



## HOUSE OF COMMONS

Q214 **Mr Baron:** I am being devil's advocate a little bit, but I would be interested in your view. To come back to your point, Mike, what about the line that, if those assets were seized, people in the countries involved would lose confidence and might not deposit their moneys there, for example? My retort to that would be that a co-ordinated effort on this across all the major western and global south economies would help solve that. People with serious money would not put their funds, money or investments anywhere else that was not considered stable, surely. As long as you do it in concert, you can address that issue. What do you think?

**Mike Miller:** Again, it is a political point, but the challenge would be getting the concert of all the G7 and all the EU countries. It would be even more difficult to get the global south to follow up. At the minute, there is a US-led push to get the G7 to agree. I would suggest that that is probably the first step. Then, if you broaden it out and broaden it out, that is probably going to be a fairly big leap. I am not sure how quickly that would be feasible or what steps would need to be taken to achieve that. If the consensus could be achieved, then yes.

Q215 **Mr Baron:** While I am not naive enough to believe that every single country in the global south and major economies in the west would be able to sign up, we could get the major economies on board, starting with the US—they are already there—and so forth. I know that the EU is worried, as are some other jurisdictions, about the run on its currency, the euro, and it has said that very publicly. If we could get some sort of concerted action, people would have no choice. The trade flows and so forth could not flow to more very minor, periphery countries. If there was an element of concerted action, that would address that concern, would it not—yes or no?

**Neil Whiley:** It is a political minefield.

Q216 **Mr Baron:** I know it is political. I am asking you, as experts in your respective fields, if there is the political nous there to get certainly a majority view on this in the international community, in the western world and the free world, if you like, whether there is a logic to the argument. Where else would investors put their money if they could not put it in the major economies that have reserve currencies? Let us put it like that.

**Neil Whiley:** It is a fair point. Any action carries risk. We would need to understand the risk.

Q217 **Mr Baron:** Is the greater risk not inaction when you have an invasion of a country, and the lack of finance could perhaps influence the result in favour of the Russians?

**Neil Whiley:** I take your point. Inaction carries risk as well. It is about understanding that risk.

Q218 **Dame Angela Eagle:** Do you think that the sanctions that have so far



been put into effect have been successful?

**Mike Miller:** It very much depends on what your definition of “successful” is. If we look at it from the UK’s perspective in terms of, “Do you want to reduce the footprint that the UK has and its connection with Russia? Do you want to reduce the amount of, for example, Russian oligarch-linked money in the City of London?” certainly it has had an effect. If you judge it by reducing Russia’s ability to wage war, it probably has not had much of an effect.

There are certainly effective sanctions in terms of limiting components but, as we have already discussed, there are ways around that. The EU in its current sanctions package is looking at ways to potentially put more liability on manufacturers for if their products end up in Russia despite going through other, third countries. It has changed the UK approach a lot. It has changed the western approach a lot to Russia.

It has also forced other geopolitical shifts. This is not an accountancy-specific point but, if we look at the oil cap, we have seen that working initially, and now Russia still manages to sell for above the oil cap. Countries tend to have an ability to adapt, especially if they have alliances with significant countries.

Q219 **Dame Angela Eagle:** I am hearing you say that it was initially successful. There is now a change of behaviour that is evading some of the worst parts of it, but it has been marginally successful at reducing the footprint of Russian money in London.

**Mike Miller:** It has definitely been successful in reducing what you would call Kremlin-linked money, although that issue of control is very hard to assess in Russia because of the crossover between politics and business. The amount of money that is flowing into London and the UK from Russia will change because of this.

Q220 **Dame Angela Eagle:** We might not be called the Russian laundromat any more. Is that what you mean? It is still going round as far as I can see.

**Mike Miller:** That would definitely be a hope. This has been a bit of a wake-up call to HMG in itself from when it first happened. There were steps taken bit by bit, particularly after the Crimea invasion in 2014, but they were very much incremental steps. There have been fairly significant legislative changes in the last two years, with the two economic crime Acts. The real issue is getting them to work on the ground and translating it into what will actually work—getting the secondary legislation through, getting the resource to sort out Companies House and getting more information flows.

Q221 **Dame Angela Eagle:** It all seems to be going terribly slowly from that point of view, doesn’t it?



**Mike Miller:** It is a real challenge. In terms of Companies House, I know it is not direct to sanctions, but it is if we are talking about sanctioning entities, which can often be more effective. You have to have viable verifiable information about the entity that comes from that area. We would say that sanctions are a good tool in the short term but, if you leave them there for a long time, people find a way to adapt.

Q222 **Dame Angela Eagle:** Mr Whiley, do you think that the sanctions have been successful from UK Finance's point of view?

**Neil Whiley:** We have to caveat that sanctions are very complicated, and a binary answer is difficult for such a complex area. If we look at the Foreign Office's "Deter, disrupt and demonstrate", did they deter? No. Russia invaded. Have we demonstrated that we think this is bad behaviour? I think that we have, along with our G7-plus allies. We have all put in measures. Foreign Secretaries have made statements in the House. Have we disrupted? I think that we have. We have good evidence that Russia is missing \$400 billion that it would have had, had the sanctions not been in place. That would have allowed it to put that money towards funding the invasion of Ukraine, so there is some disruption there.

In some of the research that we have seen from other areas, the Ukrainians are telling us that, when they dismantle the drones that they are shooting down now to see what components are in there, they are now much lower-quality components. The servos and guidance systems are not as high tech as they were, so the quality of the munitions that Russia is firing at Ukraine is degrading. That is positive.

We are seeing circumvention, but we would highlight that circumvention carries a cost. You are having to find new trade routes and new partners. You are not just using your old, "Just go and buy something." You are having to work around the system. I think that it has been pointed out that that was places like Turkey, UAE and the Stans. We are now seeing a slight reduction in those areas and other jurisdictions starting to rise up. It is a bit of a whack-a-mole. As we squash down one, it pops up somewhere else. These are countries that are seeing benefit in doing particular business that might not be illegal where they are doing it; it is where it then goes on that brings in the circumvention part of sanctions.

Q223 **Dame Angela Eagle:** Your description of whack-a-mole is probably a good one. When Bill Browder gave evidence to us about the difference between sanctioning individuals and entities, I was pointing out that a lot of Russian oligarchs seem to hold their money seemingly individually, but they are effectively holding it in trust for Putin. There is not as much meaningful difference between an entity and an individual in a kleptocratic system like that as we might think. He said that the amount of Russian money flowing in had actually corrupted our country. Do you agree with him, Mr Miller? He said "had corrupted", not "was corrupting" but "had already corrupted."





## HOUSE OF COMMONS

**Mike Miller:** A lot of financial services and other resources were definitely put towards the Russian money that was coming in, and was encouraged by successive Governments to come in, to the City of London when we envisaged Putin as potentially opening up to the west. I do not want to say that it has been corrupted. I do not think that it has been corrupted.

I certainly think that corruption is a challenge that more effort should be put into tackling here. I note that we are supposed to have had an updated corruption strategy published quite a long time ago and that that has been delayed. There is not perhaps as much effort going into countering corruption here as there could be, but I do not think that it is fundamentally corrupt.

Q224 **Dame Angela Eagle:** Mr Browder pointed out that there has not been a single case even opened following the Magnitsky fraud—the £230 million that was stolen from him, a lot of which was traced to Britain. Not a single inquiry has been opened by any of our authorities—from HMRC to the National Crime Agency, the Serious Fraud Office and on down—since Putin came to power. Not a single inquiry has opened, let alone anyone being convicted. Do you think that that is acceptable?

**Mike Miller:** I do not think that that is remotely acceptable, but that is very much for the Government and the authorities to put more resource and effort into.

Q225 **Dame Angela Eagle:** He also said that, for corrupt Russian money coming in and dirtying our markets in this country, there was an “ecosystem” of support, with people such as accountants and lawyers who were willing to take action to make it impossible to freeze some of these things because of the very lucrative nature of the remuneration when one is doing that. Do you agree with that?

**Mike Miller:** From an ICAEW point of view, we have very strict controls on people who can be members. Chartered accountants have a lot of ethical and compliance things that they have to go through, to maintain and to be supervised on, primarily for anti-money laundering purposes.

Q226 **Dame Angela Eagle:** Are you convinced that all accountants operating in the City of London are clean when it comes to that? Bill Browder seemed to think that there is an entire ecosystem, including, one would have to say, accountants, helping to hide some of this stuff.

**Mike Miller:** There is also a challenge between an accountant and a chartered accountant. You can set yourself up as an accountant without having a membership of a professional body or whatever it might be. There is this discrepancy. From our membership, we follow it. Yes, there will be a certain number of bad actors, but at least from our point of view they are very much in the minority.

Q227 **Dame Angela Eagle:** You do not need many of them to get the job done, do you?



**Mike Miller:** That is true, but we see the vast majority really trying to apply the sanctions and work for the UK to be a good place to do clean business.

Q228 **Dame Angela Eagle:** Mr Whiley, what about banks?

**Neil Whiley:** Banks are caught under what is called “relevant firms”, which has a reporting requirement. That requirement is that if you have breached or see other people who are designated or acting on behalf of designated people. There is a collective reporting of intel to the regulators. I would point out that the most recent fine that OFSI issued, against Hong Kong Wines, was as a result of two banks reporting to OFSI; it was not Hong Wines reporting themselves. They are very keen to weed out those that are trying to circumvent UK sanctions from within the UK.

Q229 **Dame Angela Eagle:** There are a lot of oligarchs holding an awful lot of money in the British banking system that profits are being made out of, aren't there? It is of dubious origin, let us put it that way.

**Neil Whiley:** When you are onboarding a customer, that would come down to the due diligence that you would do for that client or individual. Source of wealth and source of funds checks have to be gone through.

Q230 **Dame Angela Eagle:** Why is London known as the Russian laundromat or the London laundromat if those kinds of checks have not grossly failed in the last few years?

**Neil Whiley:** It is the largest cross-border financial centre in the world. If you want to move money and have it go unseen, you want to be in a wood that has millions of trees. London processes 110 billion transactions a year. To process a couple of thousand nefarious ones, it is very easy to hide in 110 billion. It is not quite so easy if it is BVI or the Cayman Islands, where their transaction volumes are much lower. That is why London is attractive to everybody who is trying to launder money.

Q231 **Dame Angela Eagle:** Finally, what do you think should be done? What one or two things, if they were done, would improve our capacity to take action against some of this behaviour, but also to ensure that sanctions would be more effective? Transparency of ownership would certainly be one. What about other things?

**Neil Whiley:** This goes back to the point I made earlier. The banks are individually trying to fight sanctions because they are not allowed to discuss with each other what they have.

**Dame Angela Eagle:** Okay, so sharing of data.

**Neil Whiley:** An oligarch, unfortunately, is not going to bank everything with bank A. Anybody who is trying to circumvent things or perform financial crime is not going to be honest about the source of their funds, where their wealth came from or what companies they own. It is the banks that have to spend all the time, effort and money to uncover this,



yet when they get it wrong, they are the ones that get fined. It is not the people who are behaving badly that are getting punished. It is the banks that are trying to do their best to unearth the bad behaviour, and when they fail, they get punished. The Met police do not get sanctioned and fined if they fail to stop a crime, but the banks do. It seems a little weird that the people who are trying their hardest get punished.

**Q232 Dame Angela Eagle:** They do not seem to be interested in examining any of these crimes at all. Bill Browder took us through some of what might be done there. What about transparency of ownership as well as data sharing?

**Neil Whiley:** Transparency of ownership only goes as far as the person declaring what they own. Again, most people are going to be honest, but they are not the ones that we have a problem with. The people who are behaving in an egregious manner are probably not going to give us all of the right information at the time that we need it. It is how we unearth that and then share what we find. It will not be one bank finding all of the information. It will be a number of them and they all have a different piece of the puzzle. If you have only one piece of the puzzle, you do not know what it is that you are looking at. It is being able to talk and collate that information.

This goes across industries as well. It is not just the banks. There are the importers, exporters, manufacturers, shippers, consigners, accountancy firms and law firms. We all need to be part of this conversation, as do Government. We also need to be looking at the brilliant work that is done in academia. If we bring it together as a whole-society response to making sure that UK sanctions are effective, it will be more effective than it is today.

**Q233 Dame Angela Eagle:** It sounds like we are a million miles away from that.

**Mike Miller:** Could I add a very quick point to that? Neil is absolutely right. Having verified data on Companies House would be very much of use. Also, specifically from our point of view, as an accountancy professional body, we encourage the exchange of intelligence and information, and we have disciplinary powers ourselves that have a lower threshold than a criminal prosecution.

If law enforcement authorities detect bad behaviour by a chartered accountant but cannot pursue it to criminal standard and therefore get a conviction, they can send that to us and we can investigate and launch disciplinary procedures. That, hopefully, would reduce the small amount of what you would call enablers who are active under that guise. That power is actually pretty good, but we do not make use of it as much as we should, because we do not receive the information from the authorities.

**Q234 Stephen Hammond:** Good afternoon. In your written evidence you both



talk about disparities between regimes that are in place for sanctions. Mr Miller, your written evidence in particular said that the disparity has widened since the Russian sanctions have been brought into place. Mr Whiley, you highlighted particular regulatory and litigation risks. Can I ask the obvious questions, therefore? How wide are those differences? Do they really matter? Is unity in implementation more important? Mr Whiley, as an additional question to you, can you highlight some of those risks, so we are clear about what you are talking about?

**Mike Miller:** From our point of view, because of the way that we process sanctions, having uniformity—particularly in the case of large multinationals, which essentially have to do business over various different sanctions regimes—reduces the compliance burden. It reduces the amount of time taken. It also makes it more effectual to actually be able to implement the sanctions on the ground, rather than doing too much box-ticking work.

An example I highlight, which caused quite a lot of issues for us, was the prohibition of audit services, because the UK took a very different approach. If you were a UK-headquartered company and you had a subsidiary in Russia, you could not complete a group audit because you would have to get somebody based in Russia to carry out that audit and provide the information back to the firm in the UK or in London. The US and EU both had carve-outs for that. There was a big challenge in trying to understand the legal complexities around that and the effect on the capital markets of not being able to file an audited group account.

From a strategic point of view, when countries announce that they are trying to achieve the same political goals, having as close alignment as possible makes things much easier to implement on the ground. Having said that, different jurisdictions obviously have their own different legislative frameworks. They have different ways of implementing things. They have different capacities for doing so.

For example, in the audit case, we asked repeatedly why the Government had made the decision. From what we could see, they were treating UK firms in a more negative way than the EU was treating EU firms and the US was treating US firms. We did not really understand how that would necessarily degrade Russia's ability. The answer we got was, "It is a political decision." That is fine if it is, but communicating the rationale behind would help firms implement it quickly.

Q235 **Stephen Hammond:** Do you regard the EU and US regimes as aligned?

**Mike Miller:** No, not particularly, although there are areas where they are aligned. It looks like the EU, in its recent discussions, is going down a fairly different track on manufacturing, access to the alternate Russian finance system and so on. There are certain challenges.

**Neil Whiley:** I will just echo that we have to remember that every single jurisdiction has its own legal framework. They will be different; they are



## HOUSE OF COMMONS

never going to be harmonised. Because of that foundation, when they try to put in the prohibitions that we are trying to align on, they will come in slightly differently, and then the targets are not 100% aligned, as you have heard in other evidence sessions, particularly from Bill Browder when he was talking about the CAATSA 232 list of the 98 oligarchs that the US has been highlighting for quite some time.

To give you an example of where it has been problematic, Mike touched on regulation 54C, which is the prohibition on business services. Regulation 54D is the prohibition on legal services. I just remind you that London is a global centre for legal services. It is a global centre for banking and lots of other international parts of various economies. In the schedule to explain what legal services are, it includes talking about the law. Regulation 54D prohibited anybody with a UK nexus from talking to anybody who was not a UK citizen about the law. A French bank in London cannot talk to their headquarters in Paris, because they are not UK nationals. That clearly was not the intention. An American person working for an American bank in London cannot talk to New York or Washington. They cannot talk to their French colleague across Europe to say, "This is what we are seeing."

We are supposed to be aligning, but it is back to that bad drafting where whoever is drafting the legislation from a UK perspective is not considering London as an international centre. To go back to the way the EU and the US did it, there were carve-outs. If you were providing that legal service to yourself—to your own branches or subsidiaries—that was fine. The EU actually used the phrase, "You cannot provide legal services to anyone who is, or is connected with, Russia", which is much clearer, because that was the target, not the whole of the world. Unfortunately, that was the way the UK one landed.

**Q236 Stephen Hammond:** When we took evidence from Mr Bronze, who is the co-founder at Energy Aspects, he told the Committee there had been lots of effort within the energy sector to harmonise sanctions, which made it more effective. From your perspective, how much energy has been put into trying to harmonise, or to pressure on Governments to harmonise, sanctions? What would you tell the UK Government are the most significant differences, which we need to overcome or sort out?

**Neil Whiley:** From a financial services perspective, the biggest disparity is the treatment of ownership and control. In the US, ownership is 50% or more. In the UK and the EU, it is more than 50%. It is a slightly different test. The US aggregates ownership. If more than one person who is designated combined owns 50% or more of an entity, that then becomes designated. The UK does not do that. The EU does. When it comes to control, the US will list those entities that it believes that any designated person controls. The EU does not. You have to work out whether they control it or not. I would argue that this sometimes comes down to little more than an opinion.



The UK has the same approach as the European Union but adds strict liability on top. If you are in a position where you reasonably believe that that is not control, that is not a defence, because knowledge has been stripped out of strict liability. If Treasury believes that it actually is control, it can fine you. It is this really complex way of introducing something that should be really simple. Ownership should be legally measurable. It should not be that complicated. When schedule 1 of every statutory instrument tells you what ownership means, and point 12 is, "informal arrangement, whether it is legally enforceable or not," that cannot be ownership. That is just not how ownership works.

This is the challenge that every international corporate with a UK nexus is struggling to get a sense of, when these things are not aligned with the EU completely and not aligned with the US—to be fair, the EU and the US are not aligned either. So we could do with a bit more parity across all the approaches to ownership and control. We appreciate that this comes down from the UN, but they do not specify how you have to implement it. It is within the gift of the implementing nation but, as much as people would love it to be removed completely, we cannot remove it because it is a UN obligation that we hold.

**Q237 Stephen Hammond:** When we had Mr Browder in front of us giving evidence, he made a point I am hearing from you: that the US is perhaps the most aggressive and effective in implementing and enforcement. Therefore, that would be best practice. What should we look at immediately to ensure we are complying with best practice? Is it the pursuit of enablers, for instance, which the US is already heading for? Indeed, the confiscation laws in Canada seem to be changing somewhat as well.

**Neil Whiley:** If we talk about the US, normally people are referring to OFAC, the Office of Foreign Assets Control, which is the Treasury department that oversees financial sanctions. Then, the Department of Commerce tends to look after the trade-based sanctions. There are some nuances, and it is not quite as clear-cut as we might believe, as is always the way with lots of different Government departments. OFAC is quite a mature department. It has been around a long time. It has worked for a very long time with the different industries that it oversees. It has a not perfect but reasonable understanding of the challenges that those industries face. It has a better dialogue with those industries to understand those industries.

Anybody who works in banking who says they understand banking is not really understanding the complexities of banking. They will know the bits they work in. To expect Government to understand banking is not reasonable. They are not working in banking. What they need to realise is that, because they do not fully understand it, they need to talk to industry and talk to the right people in the right bits, depending on what measures they are trying to put in, to help get a better sense of, "What would it mean if we put this measure in? Would it cause problems for our



## HOUSE OF COMMONS

own economy and our own banking system? How do we get to the spirit without crippling ourselves and while impacting the target as much as possible?" That is where OFAC is a bit stronger.

In terms of enforcement, yes, it tends to come down much harder. So far this year, we have had \$149 million in fines from OFAC. That compares to OFSI's £20 million in total. So far this year, it has done seven times as much as OFSI has ever done, and we are only in May. This is the kind of difference that we see with OFAC.

What we also see with OFAC is that it is a tiny percentage of the cases that end in a fine. Lots of them will see no action or a private letter saying, "You must do better." Sometimes it is a disclosure notice, which is public. We saw one last year for MidFirst Bank, where it had got things a little bit wrong, but OFAC deemed it not to be as egregious as perhaps it looked at first. A lot of the breaches were very early on, straight after designation, where it takes a little time for the bank's systems to catch up.

OFSI has some catching up to do there. It has OFAC people embedded, which is really positive, but it is a young department, so we have to bear that in mind.

**Mike Miller:** Neil makes some very good points. The US system is a lot more mature. It has been doing a lot of this for quite a number of years. OFSI is quite new compared to it. It might be helpful if OFSI produced some sort of anonymised enforcement report to show people, because there have been very few enforcement actions, as Neil has shown. OFAC takes a lot more of a stringent approach. It would be good to give an impression to UK businesses of where these actual enforcements are happening, where sanctions breaches are happening, just for information purposes.

Just as a last point, obviously the US is in a very strong position to issue sanctions because of the position of the dollar as a reserve currency. Nothing strikes fear into the financial sector like being a big international financial institution and getting sanctioned from the use of dollars. They are also far more politically forward in this case. You see a lot of arguing internally within the EU particularly, because EU businesses have quite a lot of assets that are still tied up within Russia—far more than US businesses do. The US tends to be a bit more gung-ho, if you like, in going forward, whereas there is a bit more reticence and consideration within the EU.

**Danny Kruger:** I am sorry I had to step out—I was just doing my democratic duty. I missed some probably very helpful evidence from you, so forgive me if I ask you to repeat points you made. In fact, Stephen was asking about some of these same issues, so forgive me for this. Could you characterise the relationship in your sectors between business and OFSI at the moment? How would you say that relationship stands?



**Mike Miller:** Our relationship will be far less because the sanctions that mainly apply to accountancy are trade sanctions. We have been dealing a lot with the Department for Business and Trade. Now we are waiting for OTSI to come into existence. We obviously do have exposure to OFSI, particularly through licensing, and there are occasional crossovers, but we were mainly relying on guidance from OFSI at the start of the issuing of sanctions so that we could provide it to members, particularly smaller firms. That was quite slow at the start, but it now has picked up as the headcount within OFSI has increased.

Q238 **Danny Kruger:** Neil, how do you think relations stand with your sector?

**Neil Whiley:** Our relations with the likes of OFSI, the FCDO, the FCA and the DBT are very strong. We probably see OFSI more than once a week. We are constantly meeting with it, either bilaterally or as part of wider industry panels. We have the level of relationship with OFSI that we can fall out about something but then carry on working together. It is that mature. We have a very good relationship.

Q239 **Danny Kruger:** That is great. You were just discussing OFAC. I was going to ask you what your sense of the comparison of enforcement agencies is across the world with OFSI. It is more mature, has been around longer and knows more what it is doing, perhaps. Do you think that is the gold standard, or is there another model around the world that we should be looking to?

**Neil Whiley:** From a financial sanctions perspective, OFAC is the one that you would hold up as doing the best. I would probably argue that OFSI is in second spot. It is ahead of anybody in the European Union and certainly the wider world. The thing about the European Union is that this is enacted and enforced at member state level. While the European Commission may set the policy, the listings and the prohibitions, that then has to ripple down. It is not as aligned as people may think when they look at the EU. It is 27 slightly different interpretations and slightly different timings on things coming in. It is not as advanced.

Q240 **Danny Kruger:** Just picking that up, you or maybe Mike just responded to Stephen saying that OFAC is more politically forward or more gung-ho than OFSI. That is interesting. Can you unpack that a bit?

I also wanted to ask you about what accounts for the fairly poor record on enforcement. We can criticise or not, but the fact is that the enforcement has not been a lot. Do we account for that by saying that it is because OFSI's overall policy is less aggressive, or is it a question of resources? I would be interested on your views of OFSI's resources. Previous witnesses have explained that there is a question around not so much headcount, but the skills mix and the capacity to deal with the complexity of the cases. Transparency International said OFSI needed an army of forensic accountants, which it does not have. I am interested in your sense of whether there is a policy and approach question or a resource question, or what the mix is that would account for the poor





## HOUSE OF COMMONS

record on enforcement.

**Neil Whiley:** In terms of the legislation available to OFSI, it can impose fines of £1 million or 50% of the value of the transaction, whichever is greater. It is not that it is capped by legislation.

**Danny Kruger:** It is not lack of power.

**Neil Whiley:** It has the space to sort out what sort of fines it should be issuing. In terms of the view in industry, the first two fines were £5,000 and then £10,000, which is very low. Those are not the kind of measures we would expect from OFAC. We would expect something more in the hundreds of thousands. Look at some of the big fines OFAC has issued: £8.5 million to BNP Paribas. Just at the end of December last year, just under £1 billion of the £4.5 billion that Binance got came from OFAC.

Whether or not it is a conscious policy decision from OFSI to be more in the educating and trying to encourage space rather than to just keep fining, we have to remember that the people who are going to get fined are those with a UK nexus who have reported themselves for not quite meeting the target, and they are trying to do their best. It is not the people who are trying to hide stuff. It is very rare that we find people reporting those who have not self-reported themselves. It is maybe a double-edged sword, with no easy answers.

Q241 **Danny Kruger:** Is there a question, then, of resources to enable OFSI to actually find the real wrongdoers?

**Neil Whiley:** I am not 100% sure it has the power itself to go and investigate. It has the power to request information, and then it acts on reports that are sent to it. There was an article in Politico earlier this week pointing out that OFSI has 135 people. The NCA has 5,000. People think OFSI has grown, but it was from a very small department.

Q242 **Danny Kruger:** Mike, what is your sense of its capacity and expertise?

**Mike Miller:** The recruitment has been pretty swift. The uptick, obviously from a very small amount, to what we have now or what the aim is—over 135—is a very positive step forward. The tie-in with law enforcement and the ability for law enforcement to investigate sanctions breaches and then pass that over to OFSI is something that we are not sighted on, but it is probably a factor. Obviously, we are also not sighted on the policy discussions within OFSI about how much it wants to show enforcement. I agree that the current amount of enforcement does not send a huge deterrence message, but perhaps it is more in a “sit back and educate” space.

Q243 **Danny Kruger:** Mike, can I ask about the interesting point made in the evidence you or your organisation submitted, about unintended consequences? The suggestion you make is that, as a result of the sanctions, political and economic flows appear to have shifted to other overseas jurisdictions, where we have less confidence in the controls in



## HOUSE OF COMMONS

place to limit financial crime. Are we saying there that the unintended effect might be to push activity into areas where it is possible to breach the sanctions on Russia? Are we just shifting sanctions busting elsewhere, or are we putting money into areas where there is, as it were, common or garden financial crime happening?

**Mike Miller:** It is both. I was thinking about it particularly from a money laundering perspective, but that also ties over. If you have less visibility of the source of funds, you have less visibility of how the transactions are moved. Then, you are asked to carry out work on x amount of funds. Normally, if these transactions have taken place in the west, there is at least a paper trail and you can have relative confidence.

Q244 **Danny Kruger:** Do we think there might have been an increase in money laundering and financial crime not related to Russia? Is there a consequence of sanctions?

**Mike Miller:** I could not speculate. We will be doing inspections from our own point of view throughout the year. I am very happy to report if there is an uptick from that side.

Q245 **Danny Kruger:** My last question is for Neil. The general licence system enables businesses to carry on trading that would otherwise be in breach. Give us an impression of how you think that is working. Holland & Barrett is the famous example here, where the Government had not realised that Holland & Barrett would be affected and that there would be a consequence for a big high street business like that. Do you think we are getting that right? Could there be improvements to that system? Do other countries do it better?

**Neil Whiley:** Do other countries do it better? Yes, because OFAC does the listings and does the general licences, so it has much more sight of who is being listed. As I mentioned earlier, if it believes there is control, it will list. If that corporate is not listed, there is no control element. It is an ownership criterion that needs to be met. From the UK side, it is the Foreign Office that is doing the listing. If it is going to list Frolov and Treasury is unsighted on that, it cannot issue a general licence to protect Holland & Barrett, because it is owned by LetterOne, which is owned by Frolov.

I know they are working much better together, because this was very early on. That joined-up conduit between the lister, the Foreign Office, and the implementer, Treasury, needs to be there. Otherwise we have these little glitches.

Q246 **Danny Kruger:** That still needs to happen.

**Neil Whiley:** They are not happening as frequently. We have not seen one for a very long time, to be honest.

Q247 **Chair:** I just want to ask you a very open-ended question again, about the oil price cap. How do you feel that is working? Neil, you spoke about



## HOUSE OF COMMONS

some of the unintended consequences of the oil price cap. I would be keen to hear how it is working but also how it could be better.

**Mike Miller:** From our perspective, we have very little exposure to the oil price cap or implementing it. I could give a personal view, but not from us.

**Chair:** Leave that to Neil. Neil, what are your views?

**Neil Whiley:** The oil price cap followed on from the very broad prohibition on Russian oil and gas products. A lot of the UK market exited on the back of the prohibitions. The oil price cap is an exception to allow them back in, as long as the product is bought below the cap. A lot of them have not gone back in, because the oil price cap is not as simple as it might look. It is also fraught with dangers. Early on, there were discrepancies in the way that the G7 group were trying to apply what was oil and what was not oil, because the problem is that, when you get to co-mingling, it is very difficult to tell how much Russian oil is in there. You are not a chemist with a kit at the quayside who can take a sample. You are just a financier many, many steps away from what is actually going on. The tiering system was novel. The framework that we have used for the oil price cap could be considered for other areas, as and when that becomes a necessity.

On unintended consequences, there are examples all through history where people have tried to stop something happening, and then it is basically circumvented, and it is decided, "Actually, I do not need to use your services." After the Carter grain embargo on Russia, they basically just started getting their grain from South America, and then when they lifted the ban Russia continued to get its grain from South America. It was the Americans who lost out there. During the Napoleonic blockade of the UK, we just went west and traded west.

That is exactly what is happening with the oil price cap. We are stopping UK or G7-plus insurance shippers, consigners, financiers, accountants and lawyers working with these people unless it is below the cap. It is so complex that lots of them are just not bothering. Now we are seeing the shadow fleet of potentially insured or not insured vessels full of oil going around the world. I saw a report the other day about how much of that traffic comes through the straits of Dover. If they are uninsured and there is a disaster, it is going to be the UK and the French picking up the bill for that, because there is no insurance to cover any spill.

Q248 **Chair:** Just to ask you the obvious follow-up question, how would you improve things? I do mean not just for the oil price cap but for the sanctions regime generally. What more could we do to make these sanctions more effective in each of your sectors?

**Neil Whiley:** It is about working together. If we are going to have a team sport, we have to have a team sport. We cannot shout at the goalkeeper because we did not score enough goals. That is not his job. We need to work out who has the best visibility of which piece, and who



## HOUSE OF COMMONS

can work in particular areas, and make sure they are part of the conversation. There is no point having something like an oil price cap if you do not include maritime oil and gas insurers, because they are absolutely fundamental to that. They were included, so that was good. The right people were around the table.

If you are putting in measures like ownership and control, and you have really unreliable sources like Companies House, it is very difficult for people to work out who actually owns what. I do not know if you are familiar with the work that Graham Barrow does, but he does a lot of work on Companies House and how poor the checks are for people to register businesses, get the certificate online nearly immediately and then, using that certificate as proof of being incorporated in the UK, commit frauds or money laundering. We need to be working together to stop this.

In terms of having Government and industry not fully united, tied up and working together on the spirit of what the foreign policy aim is and how we achieve that between us, Bill Browder and Tom Keatinge both said Russia is at war; it is on a war footing. We need to take that same mentality and think, "This is a war. What would we do in a war?" We would not separate everybody into 500 different ranks and say, "Do your own homework." We would be working together. This is where we need to move to.

Q249 **Chair:** Mike, what about your industry?

**Mike Miller:** I support those points. If you have countries with similar foreign policy goals, it is very useful to have that cohesion and that strategic approach to things and, when you get below that level, to have good mechanisms for working together. This has improved a lot in the last two years. It was very siloed when the sanctions were first announced. Now we have a lot more cross-Government and cross-industry bodies. There could be more. As Neil said, it is important to have that cohesion and to understand that there are certain areas of the economy that can be helped by others, which banking or accountancy can do more of.

Clarity around terminology for effective implementation is key. At the start, "connected with Russia" was the term that was used. It was very difficult to define, so you probably had unintended consequences in terms of those who did not want to take legal advice or could not afford to take legal advice, and penalising UK nationals with connections to Russia or something that was outside the sanctions. Having a clear communication strategy and being clear what you actually want to achieve is going to be key moving forward, as is setting out the aims. In the longer term, what are the aims, and how can business prepare? How we help prepare Governments for the steps they may take when they have to make tough political decisions is key.

**Chair:** If there are no further questions from my colleagues, let me say



# HOUSE OF COMMONS

that you have given us a lot of food for thought this afternoon. Thank you very much for coming along and representing your sectors.