

Treasury Committee

Oral evidence: Economic Crime, HC 940

Tuesday 15 May 2018

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Members present: Nicky Morgan (Chair); Rushanara Ali; Mr Simon Clarke; Charlie Elphicke; Stephen Hammond; Stewart Hosie; Mr Alister Jack; Alison McGovern; John Mann; Wes Streeting.

Questions 1 - 72

Witnesses

[I:](#) Duncan Hames, Director of Policy, Transparency International UK; Naomi Hirst, Senior Campaigner, Global Witness; Tom Keatinge, Director, Centre for Financial Crime and Security Studies, Royal United Services Institute.

Written evidence from witnesses:

– [Duncan Hames, Director of Policy, Transparency International UK;](#)
[Naomi Hirst, Senior Campaigner, Global Witness](#)

Examination of Witnesses

Witnesses: Duncan Hames, Naomi Hirst and Tom Keatinge.

Chair: Good morning. Thank you very much for being here this morning for our first oral evidence session on our economic crime inquiry. For the benefit of those who are watching from elsewhere, I am going to ask you to introduce yourselves.

Duncan Hames: Good morning. I am Duncan Hames. I am director of policy at Transparency International UK.

Naomi Hirst: Naomi Hirst, senior campaigner at Global Witness.

Tom Keatinge: Tom Keatinge, director of the Centre for Financial Crime and Security Studies at RUSI.

Q1 **Chair:** Thank you very much indeed. We have a series of questions on and around this topic. I wanted to start off with the scale of the challenge on economic crime and whether in fact we are losing this fight already. Rob Wainwright, who is about to be the former director of Europol, is quoted as saying, "We have created a whole ton of regulations...the banks are spending \$20 billion a year to run the compliance regime...and we are seizing 1 percent of criminal assets every year in Europe". Despite all the reforms, are we losing the fight against money laundering? Do you think the scale of this crime is rising? Do you have any particular figures to back this up?

Duncan Hames: It certainly feels like we are continually playing a game of catch-up. While it is very important that there is a strong deterrent effect from effective law enforcement, we really need to prevent these crimes taking place in the first place and prevent the UK from acting, whether intentionally or unwittingly, as a facilitator of that.

In its assessment of serious and organised crime published in the last few days, the National Crime Agency considers that it is a not unrealistic estimate that the scale of what we are talking about here is in the hundreds of billions of pounds a year of illicit financial flows within and through the UK. The scale is vast and it is therefore imperative that we put in place arrangements that stop this from happening in the first place, rather than only have at our disposal policies and interventions that are about chasing criminals after the event.

Naomi Hirst: I very much agree with what Duncan has said. It is very hard to say what the scale of the amount of illicit finance coming through the UK is. Estimates vary in size and, in fact, in credibility. It is worth noting year on year the "National Strategic Assessment of Serious and Organised Crime" go from anywhere between £36 billion and £90 billion in 2016, to in 2017 the NSA saying that was a significant underestimate,



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to just yesterday saying that the amount of money laundering impact on the UK is hundreds of billions of pounds.

As an NGO, we conduct investigations, so naturally we see corruption happening on a case-by-case basis. There is certainly nothing that we have seen to indicate that the scale of money laundering is diminishing. In the cases that we see, absolutely breath-taking sums are being stolen and integrated into the legitimate financial system.

It is probably worth talking very quickly about one example. Just last year, along with Finance Uncovered, we were able to reveal that executives from oil giant Shell knew that \$1.1 billion that they had paid for OPL 245, an oil field in Nigeria, was very likely being used in a vast bribery scheme. That was in 2011. This money has an impact. That money should have gone directly into Government coffers in Nigeria. Instead, it went into the pockets of elites. Bear in mind this is a country where 70% of Nigerians live on less than \$1 a day, so this has an impact. In this particular case, that could not have happened without the City of London participating and helping to facilitate that transaction.

Currently, the Republic of Nigeria has filed a \$1 billion lawsuit against JP Morgan, which in this case was the bank that handled that money. They alleged that JP Morgan could and should have done more due diligence to discover that the deal involved the misappropriation of this money from state coffers, and that the bank had been grossly negligent in their role as banker to the previous Nigerian Government. In its defence, in a court filing JP Morgan has claimed repeatedly that it sought consent to handle this transaction from SOCA, the predecessor to the National Crime Agency.

Of course, there are a number of reasons why SOCA would have granted them consent, but the point is that, seven years on, we have not seen any activity from the UK. Shell and Eni are facing prosecution in Italy for corruption and other charges currently, but we have not seen any response from the UK law enforcement of any note. That gives you a sense of what is happening.

Tom Keatinge: I turn to the document that Duncan referenced, the "National Strategic Assessment of Serious and Organised Crime", published by the NCA yesterday. Heading: "Money Laundering". Key judgments: "There is no reliable estimate of the total value of laundered funds that impacts on the UK". How can we tackle something when we do not actually have the situational awareness to target our resources at it? To us, that is the key issue that we need to be getting at. I think we have to accept that, as a leading global financial centre, the UK will be dealing with dirty money. There is no escape from that, but situational awareness is lacking, data is lacking, evidence is lacking, and until we fix that we cannot possibly have a credible response.

Q2 Chair: In your written evidence you told us that, on economic crime, "the nation's architecture remains underpowered, poorly coordinated and lacks



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strategic oversight and vision". Why is it so difficult to reform? Successive Governments have made announcements, launched initiatives and said how they are going to change things. Why is it so difficult to actually have reform that sticks?

Tom Keatinge: You are right. Our friend "hostile environment" was used to describe the environment that we want to create, as relates to fraud, bribery, corruption, et cetera, by the Home Secretary at the end of last year. To our mind, where is the accountability? Where does the buck stop? Who gets up in the morning and says, "We need to be focused on disrupting financial and economic crime in this country"? Who is genuinely accountable for addressing this issue?

We are a global financial centre. If you look at another global financial centre across the Atlantic, New York, the US, yes, of course it is a much bigger country, much bigger economy, but when it comes to financial position we are not that dissimilar, yet look at the resources they put against this issue, compared with the resources we put against this in the UK. We will never succeed if we treat financial crime as if we are a country of 65 million people. We are not. From that perspective, we are a global centre and we need to be resourced accordingly.

Q3 **Chair:** How do you think the UK is seen? You mentioned the hostile environment, which has been the phrase du jour over the last month or so, but in this context of economic crime. How is the UK seen elsewhere, around the world, in terms of the regime?

Tom Keatinge: Many countries will point the finger at the UK as being a facilitator. Why are we a facilitator? The picture I like to paint is, if you are in the business of laundering the proceeds of corruption, money laundering, you go to the money laundering superstore and head straight to the aisle marked "UK", because we have everything you could need. We have rule of law. We have highly sophisticated professional services. We have large banks. We have deep liquid asset markets, et cetera. Inevitably, the UK will act as a magnet for that kind of money, and therefore we need to ensure that the controls we have on those that use the attractive financial services of the UK are robust. As it currently stands, they are not. That is why we end up as a magnet.

Duncan Hames: The UK Government—this one and their predecessors—have sought to take a leadership position on tackling dirty money and on fighting corruption, as exemplified by the summit that David Cameron hosted two years ago. It has not just been a leadership position in terms of making commitments but, in many respects, with a couple of notable exceptions we will get on to later, in fulfilling those commitments as well. With that leadership position, and in order to retain it, comes a responsibility to ensure that the measures that are being put in place are effective, are seen to work and are sufficiently resourced. That is the challenge ahead of us now.



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We are the first country in the G20 to have a public register of beneficial ownership. That was a world-leading move. Under the fifth anti-money laundering directive, all of the European Union is going to be moving to that position. That directive, which this Government have now committed to implement during the transition period here in the UK, requires that the Government ensure adequate, accurate and current information on beneficial ownership. We have some way to go before we can claim that is what we achieve through our anti-money laundering measures in the UK.

Naomi Hirst: I will follow up on that later, in relation to what Companies House needs to do. In reference to your question about how the rest of the world sees us, I think the levels of fines that we see really speak for themselves. Over the past five years, the FCA has imposed just seven regulatory fines on banks for money laundering, totalling £263 million. In comparison, over the period 2009 to 2015, the US has imposed \$5.2 billion of money laundering penalties. The FCA's highest fine was for the Russian mirror trades at £163 million against Deutsche Bank. The US followed up on Deutsche Bank with \$425 million.

What we are seeing is low fines, really inconsequential to the scale of the problem. More to the point, we are not seeing the levels of accountability, talking to Tom's point about where the buck stops. In the HMT supervision report, the number of professionals fined for money laundering in 2016-17 fell by 20% compared with the previous year. We have not actually prosecuted any companies at all for money laundering failures, not under the money laundering regulations of 2017, and there have only been prosecutions of two individuals under the MLRs that were composed in 2007.

Talking to the accountability point, we are seeing that corporates are not able to be prosecuted. Our corporate criminal liability framework is simply not fit for purpose. For tax evasion and bribery, we have adequate failure-to-prevent provisions in place. For economic crime it is simply not the case. This is something that not only NGOs but the Serious Fraud Office has called for time and again. It really needs to be looked at properly to ensure that, if corruption, economic crime and fraud is perpetrated by large corporates, those corporates can be held to account for it.

There was a call for evidence on corporate criminal liability. That closed in March 2017. We have yet to see the results of that, so that is something that this Committee could call for and stop that from being stalled.

This is also about a matter of fairness when we are talking about the corporate criminal liability framework. Currently, under the system as it is, the identification principle, which requires a direct mind to be identified in order to charge a company, favours enforcement of small and medium enterprises. When you get to larger corporations, the



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identification principle as it currently stands actually incentivises quite poor corporate governance and is shielding the directing minds, the board, from actually knowing what is going on underneath them.

To recap, the fines are not there, the prosecutions are not there and, more to the point, the legal framework is not capable of holding people to account for economic crimes.

Q4 Chair: Do you think the political will is there? As a result of the Skripal attack, the focus we have seen perhaps with the Magnitsky amendments, the recent change on the Sanctions and Anti-Money Laundering Bill that the House of Commons approved, do you see this rising up as an issue? I appreciate it is many different issues badged under economic crime, which I am sure we will come to tease out. Do you see this rising up the political agenda?

Tom Keatinge: As Duncan said, this Government and previous ones should be recognised for what they have done. We have just had the Financial Action Task Force in town in March, evaluating how the UK is doing on its anti-money laundering efforts. That created a level of focus. There is nothing like being exposed to the world by an independent review. That created a level of focus. What we need to be ensuring now is that that momentum continues. What we see is positive, the introduction of unexplained wealth orders, but we need to use these tools. We need to give people the resources to use these tools. That is where the test will come.

Duncan Hames: It is certainly moving up the agenda, but it is also coming into conflict with other political priorities too. If we take efforts to prevent company formation being part of the suite of techniques for setting up corporate networks to use in money laundering, the Government are very proud that Britain is a very easy place to do business. It is one of the easiest, quickest and cheapest places to set up a company. That is almost an article of faith in the Business Department. Yet of course holding on to that assessment inhibits Government from taking action that might introduce more checks on who is setting up companies.

In its report, the National Crime Agency acknowledges that after Brexit business from the UK is going to be doing relatively more business with jurisdictions where corruption risks are heightened. There is a desire to do trade in places where there is a greater risk of bribery. We are seeking to attract inward investment from investor visas from China and Russia. There is a conflict between a number of our economic policy ambitions and some of the measures that need to be taken that have not been taken yet to improve our money laundering defences.

Q5 Wes Streeting: I will begin by picking up first on the Government's progress on delivering the commitments made at David Cameron's anti-corruption summit. Duncan, I think Transparency International's tracker suggests that only 58% of those commitments have been enacted. A



lack of progress around the creation of an offence of economic crime, the foreign-owned property register and an innovation lab on combating corruption are identified as areas where least progress has been made. I wanted your views and the views of the panel on whether you think the delays in enacting those areas are because of reasonable challenges and considerations. If so, it would be good for us to know what they might be. Do you think that actually this is a case of political will? If so, perhaps you might like to outline why these areas are particularly important.

Duncan Hames: On those three, the first two are the most important. Naomi has already talked about delays to action to introduce a corporate offence in relation to facilitating economic crime. The Government have been making ministerial statements indicating their intention and their support for legislative moves in this area for over two years now. There was a consultation, after which there has been a lengthy pause. Somewhere, there is a road block. Somewhere, there is a write-round. There is some discussion that says, "No, put that on the back-burner".

On the foreign property register, the Government renewed their commitment in January under questioning during the Sanctions and Anti-Money Laundering Bill. That commitment also appears in the anti-corruption strategy, which was finally published before Christmas. However, in the Government's anti-money laundering action plan they had set a target date of April of this year for introducing legislation for that register. There has been no legislation introduced.

The Government's current intentions involve publishing a draft Bill this summer. That will essentially put us in a third round of consultation on this measure, which is odd considering there is cross-party support established. This is a Government policy, a promise made by two consecutive Prime Ministers now, and stated positions from the Opposition Front Bench that they support this measure, so why the delay? The longer we delay, the longer those who have used the UK, used property in the UK as a safe haven for the proceeds of crime and corruption, have to hide their tracks and to evade the transparency that would be the effect of introducing that register. It is now overdue and it would be extremely welcome if this Committee caused the Government to think again about the timetable that they have set for that measure, given that there is widespread support for it and it has been Government policy for a number of years now.

Q6 Wes Streeting: Naomi, I can see lots of nods of assent there. Feel free to elaborate further on what Duncan has said. In terms of the creation of the offence itself, I wondered if you had any particular views about, in practice, what that offence might look like and how the Government might deliver this commitment.

Naomi Hirst: We are looking for that consultation response to come out. There is a debate to be had about what that offence looks like. It is worth considering that the DOJ in the United States have a definition of



vicarious liability that they can use very easily, very successfully, and we are very far away from that. That is to the point where, from the outside, it might look like the UK is actually outsourcing some of our corporate prosecutions to other jurisdictions that can do this much easier than we can.

Under David Green, the director who has just finished his tenure, the Serious Fraud Office came up with a series of proposals that bear looking at. I can give you more evidence on this or more suggestions in writing. The really key point is, as Duncan has said, conversations have been had and a conclusion is well overdue. When this was put forward for debate under the Sanctions and Anti-Money Laundering Bill in the Lords, the Foreign Office responded saying that the money laundering regulations as they currently stand give law enforcement enough scope to go after corporates. I just do not see how that is possible. For one, under the money laundering regulations the fines and possible criminal sentences are far too low to justify using that in the same way that the US does, for example.

Ultimately, under our current system, the benefits of conducting fraudulent or criminal behaviour far outweigh the risks of ever being caught. Even if you are caught and fined, the fines themselves can be minimal. We need to see where the Government are at on this and further delay is not particularly justified.

Tom Keatinge: I would just point out that the anti-corruption agenda was very much a passion, if you like, of the former Prime Minister. If you look in the Conservative party manifesto of last year and you search for the word "corruption", you will be disappointed. It does not appear once. We have to acknowledge that the current Prime Minister has, in this space, tied herself to the issue of human trafficking and modern slavery. If you look at the resources and the energy that are put into that issue, not to de-emphasise that issue, that seems to be where the current Prime Minister has placed her credibility in this kind of area.

We have lost momentum on anti-corruption and we need to find a way of regenerating that momentum. Part of the issue remains the fact that we have a patchwork response to economic crime writ large and no one person really feels accountable every morning for driving forward the agenda.

Q7 **Wes Streeting:** I just have a couple of more questions. Turning to London and London's role at the centre of corruption and money laundering, I wonder if you might address the central defence of London as a financial centre, which is, "We know that there is a problem but London is a global financial centre, operating on the scale that it does, and in that context it is not surprising that we see the level of money laundering and corruption issues that exist in the financial centre. It is inevitable and it is not particularly disproportionate for a city of this size". You can probably detect my cynicism, but I wondered what your view



was of that central defence of the City.

Tom Keatinge: I spent 20 years working at JP Morgan. London has benefited from 20 or 25 years of—call it what you want—light-touch regulation. The UK benefits when other countries over-regulate. There are endless statements over the last 20 or 25 years that underline this. The bottom line is that the UK chose to lay out the welcome mat in various different forms, whether it is poorly policed investor visas or, as I say light-touch regulation, et cetera. We are now facing the consequences of not having asked sufficient questions about money that has come into the country over the last 20 or 25 years. If you are a major financial centre, yes, of course you will get your fair share of corrupt money and laundered money through your system. I would suggest we get more than our fair share in the UK because of successive policies over the last 25 years.

Q8 **Wes Streeting:** Is that quantifiable in any way, in terms of standing that up? How do we do in terms of international comparisons with other financial centres?

Tom Keatinge: If you look and see where people choose to park themselves around the world and invest in real estate and so on, just objectively there is certainly a lot more of that in the UK than there is in other financial centres.

Duncan Hames: We are well known for our league table, the Corruption Perceptions Index. That looks at what we might call the countries of origin, where the victims most evidently are in terms of corruption. It is very hard to produce a similar analysis of where that money ends up. Clearly, the Global Forum on Asset Recovery recognises that ourselves and the United States have a particularly important role in addressing that end of this problem.

Naomi Hirst: Going back to the question about leadership as well, I think the UK has demonstrated admirable leadership in the space of recognising what the problem is, inasmuch as we need to clamp down on the opportunities for people to use financial secrecy, hence our PSC register here in the UK in Companies House. We look forward very much to seeing that in the overseas territories when this comes through as well. Also we need to clamp down on the opportunities for people to use the secrecy that they have through anonymous companies. That is where the property register comes in.

The UK has a very good sense of how the corruption operates. Why London is so attractive is that not only can you avail yourself of all the services to park your money and draw your money, use lawyers, use our courts and our PR firms, but you can also spend your money here very easily. The property market, as we have established, is very attractive. Anonymous companies are still able, three years after Government first announced the intention to clamp down on this, to buy properties here. 85,000 UK properties are registered in so-called secrecy jurisdictions.



Two thirds of those are registered in the overseas territories and Crown dependencies. Clamping down on that would be the UK narrowing the opportunity for the corrupt to operate under this guise of secrecy that they can gain by incorporating anonymous companies. The UK has a very strong role in that, not least because London is a financial centre and because of its relationship with the overseas territories and Crown dependencies.

Q9 Wes Streeting: I am sure that is a theme we will certainly return to. Finally, the NCA stated there is a particular concern about the use of capital markets to facilitate high-end money laundering. Is that a fair assessment? If so, is this a failure by regulators, or is it the case that Parliament needs to give regulators better tools to do the job?

Tom Keatinge: You are right. High-end money laundering appeared as a discovered issue in the national risk assessment of November last year. Again, that is a function of the fact that we have the professional services in this country to create the structures that can move money around the world, obfuscate ownership and provenance.

When we have events at RUSI where we bring together the private sector, law enforcement and others, I am often struck that there are areas where everybody understands what financial crime looks like, but those are the traditional areas of laundering the proceeds of drugs, for example. When you start talking about special purpose vehicles set up in this country or that country, you see the gulf in knowledge opening up very rapidly. You will often find the law enforcement are very honest. They will say, "I just simply do not understand what you are talking about Mr or Ms Lawyer, Accountant."

It is good that we have identified this as an issue. The question now is how we deal with that issue. Where is the expertise in the enforcement community to deal with that? The FCA has a bigger role to play in all this. That is the unit that is doing market monitoring. That is where the financial market expertise sits. They need to be deployed more effectively in looking at the issue of capital markets and money laundering through the capital markets.

Q10 Alison McGovern: I just wanted to come to quite a different issue—that of sanctions. This is particularly to you, Tom. I wondered if you would comment further on the written evidence RUSI has given on how well the UK implements the sanctions regime it has decided.

Tom Keatinge: The recent history is that the Office of Financial Sanctions Implementation was set up within the Treasury in 2016. I think we can safely say, as we put in the evidence, at the moment OFSI has yet to show any bite. If you are thinking about sanctions, as a financial institution or as any exporting company, then you know precisely what OFAC is in the US. You know precisely how OFAC can come and deal with you. I do not think anybody really understands what sort of threat OFSI poses to them as an enforcement agency. Until such



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time as we see OFSI take enforcement action that it can take, I think we will remain light on our reputation as a nation that is going to deal with sanctions evasion.

Q11 Alison McGovern: How would you characterise our reputation nationally?

Tom Keatinge: I remember talking to someone from US Treasury when OFSI was set up and people were saying, "It is a mini OFAC". They said, "We will wait and see if that is how it is going to operate". At the moment, it is not operating like that. Once it starts operating like OFAC and starts enforcing against sanctions evasion, then I think, again, back to the point we were talking about before, if you are a global financial centre you need to have the capabilities to deal with that responsibility. We have yet to see OFSI deliver on that.

Q12 Alison McGovern: Do you think they will deliver?

Tom Keatinge: It remains to be seen. They have the powers to deliver. There is a reference in, again, the NCA report from yesterday about the fact that the extent of financial sanctions evasion using the UK is unknown. Again, if we do not know what the problem is or where the problem is, how can we enforce against it?

Q13 Alison McGovern: Just to come to perhaps one of the underlying reasons why it may or may not succeed, there has been some speculation about the so-called negative spillover from sanctions into global financial markets and businesses. How far do you think that the concerns of finance generally, but UK finance specifically, are on the minds of people within Treasury when they are thinking about the new approach to sanctions?

Tom Keatinge: We perhaps recall, in early 2014 I think it was, when sanctions about Russia were starting to be discussed, an official was photographed walking down Downing Street with a bit of paper that said words to the effect of, "We need to be careful this does not affect the City of London". That was back then. Do I think that the thought will go through people's minds? Certainly when pressure has been put on UK financial institutions by OFAC in the US, we know full well that Treasury officials at that time were in close discussion with OFAC about, "Just how hard are you going to come down on British financial institutions"? Clearly, within Treasury they care about the British financial institutions. Are they dissuading OFSI from taking action against them? I have no evidence of that at this point.

Q14 Alison McGovern: Speaking of Russians, let me ask you about the Magnitsky-style sanctions regime. We have a Bill passing through the House at the moment, the Sanctions and Anti-Money Laundering Bill, which has been amended with a Magnitsky-style sanctions regime amendment. I just wondered if anybody had any comments on that. I have been directing my questions to Tom primarily, because of RUSI's evidence, but others feel free to chip in.



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Duncan Hames: If I may, the first thing I would say about Magnitsky is that there is a Magnitsky clause in the Criminal Finances Act from last year. That specifically references corruption and those who profit from the gross abuse of human rights. We would be concerned, in looking at the drafting of the Magnitsky clause in the current Bill, that we do not lose the ability to apply, in this case in relation to visa bans, Magnitsky in relation to corrupt activity.

To other thoughts on sanctions, sanctions are invariably time-limited. They are temporary in nature, and that does not always assist what are often really lengthy procedures to go about recovering illicit assets, proceeds of corruption. There was a recent revelation about the illicit trade in sanctioned Yanukovych-era assets in Ukraine. That suggests that there is a market discount that can be applied for the likelihood of those assets being confiscated during the sanctioned period, but, nonetheless, the expectation that there is a reasonable probability that those assets are ones that you could enjoy the benefit of after those sanctions lapse. There is clearly a disconnect between the problem of sanctions being time-limited and the time it takes to take action against illicit assets.

The other concern we would have in relation to sanctions is you can only implement them effectively if you know who really is the beneficial owner of an asset. How can we know that we are applying sanctions appropriately against all of the entities targeted in the British sanctions policy if we do not know who the real owners of the companies that own the mansions in Knightsbridge are?

Naomi Hirst: As Duncan said, the Criminal Finances Act already includes a so-called Magnitsky amendment. First, there are problems of workability around beneficial ownership transparency and knowing who owns what. Quite frankly, also I encourage the Committee to look into how workable that amendment actually is, in terms of identifying if human rights abusers have actually profited from that. It is very difficult to do in practice, so just a word of warning, really, around how useful that amendment could possibly be, and if the new amendment will address those concerns.

Tom Keatinge: I am sure we will come on to matters related to Brexit, but on sanctions obviously we will become a much freer entity after Brexit. What is the UK's strategy as relates to the implementation of sanctions? That is another area where we perhaps have the opportunity to display the kind of leadership that Duncan was talking about earlier on. Again, you can only display leadership if you have the bodies to lead, and I think at the moment OFSI is not in that position.

Q15 **Alison McGovern:** I have one final question, if I may, just on En+ and their listing in London. Do you have any views on whether they should have been allowed to list?



Tom Keatinge: When I saw the offering circular for that and I saw my former employer was a bookrunner on the transaction I thought, “What were people thinking?” You see it in the debate around where the Saudi Aramco listing is going to happen. In the competition between financial centres, decisions are made around who is going to win the great prize of listing company x, y or z. That is a competition. It may well be the case that, in reviewing documents at a listing authority, perhaps decisions are made that lead to companies being listed that in hindsight we wish were not listed in London.

If you read the risk factors in the En+ offering circular, it is a horror story, but yet the underwriters were willing to underwrite the transaction. The listing authority was willing to list the transaction and there it is, floated on the market.

Chair: I am sure we will be returning to Brexit, as you might expect, at some point in the Committee.

Q16 **Mr Jack:** Can I turn to the fragmented regime that we have in trying to supervise money laundering? There are three statutory anti-money laundering supervisors, and there are 22 professional bodies involved in that. My question is what risk does that run, and do you think those risks have crystallised at times?

Duncan Hames: We have long criticised the fragmented nature of the UK’s anti-money laundering supervisory regime. In recent months, the Government have sought to defend the situation on the basis of their creation of OPBAS—the Office for Professional Body Anti-Money Laundering Supervision—which is a unit inside the FCA. However, as you rightly point out, that only covers the professional body supervisors.

You as a Committee will often have the opportunity to hold to account Her Majesty’s Revenue and Customs. They are one of the statutory anti-money laundering supervisors. They are the default supervisor for the trust and company formation sector and also for high-value dealers—the art market, for example. None of the interventions that are being made by OPBAS will address shortcomings in the areas of supervision that HMRC is responsible for.

I think Naomi alluded earlier to the inadequate level of enforcement by supervisors. In HMRC’s case, with trust and company service providers, a typical fine for failure to demonstrate effective anti-money laundering defences is of the order of £1,000. You have heard the numbers we have been using today to talk about the value of the volumes of illicit financial flows through our economy. It does not seem to me likely that, if you are intentionally engaged in facilitating those illicit financial flows, a fine of £1,000, should it eventually come your way, is going to act as much of a disincentive.

There are two tests that we apply in relation to anti-money laundering supervisors. One is the Clementi principle, which recognises the problem



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of a body both lobbying on behalf of its members, as many professional bodies do, and, at the same time, acting as a regulator of that membership, and the conflict of interest that this potentially presents. Many of our professional body supervisors have to face up to that challenge. It is appropriate that OPBAS should assess the effectiveness of the arrangements they put in place to manage that conflict.

Q17 **Mr Jack:** OPBAS is only responsible for AML co-ordination. Is that correct?

Duncan Hames: For professional body supervisors.

Q18 **Mr Jack:** Yes. I find it odd it has no role at all in counter-terror, terrorist financing or sanctions. Its remit is quite narrow.

Duncan Hames: It is extremely early days for OPBAS. I am willing to give it some time to prove the value it is intended to add, but I am not willing to wait while nothing is done about the quality of supervision outside of the professional bodies. We have written at length, and we may get to speak about it later, about the money laundering risk presented by company formation. The NCA's report at the weekend described that as the greatest area of money laundering risk. Supervision in that sector principally falls to HMRC.

Q19 **Mr Jack:** Of the AML supervisors, which one has the best reputation?

Duncan Hames: I am not sure I can answer in terms of reputation, but we have published data about the assiduousness with which enforcement activity is taken by supervisors. Of that, enforcement was least absent in the case of the Financial Conduct Authority.

Q20 **Mr Jack:** How well is HMRC performing in this role?

Duncan Hames: We are not satisfied with the performance of HMRC as an anti-money laundering supervisor because of the extent of problems we see in relation to company formation. We hear from those who are meant to be supervised by HMRC in other sectors, who complain that actually HMRC's knowledge of their sector, if you take the art dealers, for example, is very limited indeed. I do not want to just come down hard on HMRC. This is illustrative of the problems of a fragmented system of supervision, where there is not consistency either in the independence with which enforcement activity is taken, or indeed in the transparency about that enforcement. The Macrory principles about how transparent you are about the enforcement action you take are typically not adhered to by these anti-money laundering supervisors. That leaves you, as a Committee, with a lack of hard data about the work that is actually being done.

Q21 **Mr Jack:** Funnily enough, Transparency International stated in its submission that AML supervisors fail to comply with the Macrory standards of effective regulation. I can read the quote out to you. What would you like to see in that regard? Do you want me to read the quote



to you?

Duncan Hames: No, I can tell you what we would like to see. We would like to see the standards, which require proportionate, transparent enforcement and detailed analysis of risk. You heard Tom's critique earlier of the NCA's analysis of risk. These are broad-brush terms. We would like to see transparency about what enforcement activity is being taken.

You can check a plumber. You can use a website like Checkatrade to check that your plumber is actually accredited with their various trade bodies. There is not an equivalent means by which someone looking to engage the services of an accountant can look them up to see whether they have been subjected to any enforcement action for failing to observe money laundering defences. If you want to know that you are working with someone who actually takes this problem seriously, you do not have a way of checking, because this range of professional bodies does not operate that level of transparency, which people have come to expect in other areas of business, in terms of the action taken against their members.

Q22 **Mr Jack:** In his opening statement, Tom asked the question about who is generally accountable. Is there a case for the UK having—I think you are saying this—a single statutory AML supervisor?

Tom Keatinge: I would echo what Duncan has said. The idea of OPBAS being the supervisor of supervisors makes sense, but it is not the supervisor of supervisors. It is the supervisor of some of the supervisors. As has been pointed out, HMRC has this kind of bagatelle of sectors to supervise. It seems to be the supervisor of last resort. At the moment, it is very difficult to tell how effective that has been. They should be credited, because they have recently published their first "Report on Tackling Financial Crime in the Supervised Sectors 2015-2017". Fundamentally, HMRC is about maximising revenue for the Exchequer, and I do not know how comfortably it sits with HMRC to be the supervisor of these difficult sectors.

Q23 **Mr Jack:** What about the FCA doing it?

Tom Keatinge: Whoever does it needs to do it effectively. Per se, we do not have an issue with having multiple supervisors necessarily, as long as those supervisors are sufficiently expert to understand the sectors they are looking at. Quite why OPBAS does not cover and hold accountable all supervisors is not clear.

Naomi Hirst: Just to add very briefly, I do not think you should underestimate the scale of the challenge that these supervisors actually face in terms of what they need to be doing. Speaking from our expertise and understanding of the property market, in the last reporting period estate agents were responsible for just 0.12% of the suspicious activity reports submitted. Given that time and again the National Strategic Assessment and the NCA tell us how the UK property market is



at high risk of money laundering and exposure to economic crime, that seems to be grossly under-reporting. That is just to reiterate what these two experts have said and to say not to underestimate the challenge.

Tom Keatinge: There is another point in this. The national risk assessment in 2017 started to pick up on this. Money laundering is not just a real estate problem or an accounting problem. It is a series of activities. We have to move away from this idea that siloed this sector or that sector is a problem and think across the piece. That would perhaps argue for somebody having that overall vision, a unified supervisor, if that is the way to achieve it. Until we start thinking about activities that are required for money laundering, rather than just real estate agents or lawyers, we are never going to get on top of the issue.

Duncan Hames: I have one more piece of data for you. In 2016, 400,000 suspicious activity reports were filed. We can argue about the quality of them, but there were 400,000. Trust and company service providers, the professional services that set up companies in the UK, filed just 77 of those. Who is their anti-money laundering supervisor? Her Majesty's Revenue and Customs.

Mr Jack: You rest your case. Thank you.

Chair: We will come back to SARs in a moment.

Q24 **Mr Clarke:** I will look at the balance, if you like, between the public and the private sector, in terms of combating money laundering. Mr Keatinge, in your evidence, you stated that we need to resolve the tension in what the AML regime is aiming to do. That is to say whether it is about keeping money launderers and potentially terrorist financiers and their assets out of our financial system, or if it is there primarily to provide lead intelligence to the enforcement agencies. How do you think that balance has currently been struck and which would you come down in favour of, were you to be making that decision?

Tom Keatinge: We would all like the money to be kept out of the system, and in a way that has been the focus of the SARs regime. If you go back to when the SARs regime was set up, the financial system was trusted to know who its clients were, to know where the money came from and, in the five days you had to process a transaction, to let law enforcement know. That is clearly impractical in this day and age. I would come down on the intelligence point.

I would not come down on it solely, because I think what we need is greater understanding of who the bad actors are, greater communication of that to the financial sector, who we are asking to police the system on our behalf, and greater working in partnership. Again, that goes back to something Duncan said earlier: the UK has shown leadership around the world, in the form of the Joint Money Laundering Intelligence Taskforce. If we do not understand who the bad actors are and how they are acting, we are never going to keep the money out of the system.



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Q25 Mr Clarke: With that in mind, noting that in their national risk assessment the Government say that since 2015 investor visa applicants have to open a UK bank account with an FCA-regulated bank, are you surprised at the extent to which we are outsourcing so much of our responsibility for AML to the private sector, given that this is about intelligence for enforcement agencies?

Tom Keatinge: I am surprised, but at the same time the financial sector has the resources. In many cases it has the Government employees, because they have all left the NCA and moved to Canary Wharf. I do not say that lightly. One of the issues that we have faced in the UK over the last three or four years is the brain drain down the river. The capabilities in enforcement agencies are not what they should be. They train people who add a zero to their salary when they move to Canary Wharf. We have to accept the fact that if we want the system to be stronger, we are going to have to rely, to a great extent, on the private sector, uncomfortable though that may be for some.

Q26 Mr Clarke: Naomi, in terms of the fines being levelled at the sector in recent times, and obviously there was the £163 million that Deutsche Bank was hit by last year, do you think that is focusing minds? Is the scale of the opportunity still greater than the disbenefit of the potential fine?

Naomi Hirst: I would be inclined more to the latter. They are too infrequent to really deter behaviour. It is probably worth another case example here. If you have been paying attention to the elections in Malaysia, you will have noticed that the Prime Minister has lost the election that he was widely expected to win, not least probably because of his role in the 1MDB scandal. That was something that the DOJ identified as a scam that ran for three years from 2011. During that time, RBS Coutts, which was at the time owned by the taxpayer, and Standard Chartered are alleged to have handled around \$2 billion of funds allegedly embezzled from 1MDB, which was a development company.

The Swiss have fined RBS \$6.6 million and the Malaysian authorities have fined Standard Chartered \$3.7 million, on both cases for anti-money laundering failures, for significant failures in customer due diligence. There has been no activity from the FCA. This is billions and billions of dollars being flushed through the system. Bad actors were identified but no activity was taken here.

Q27 Mr Clarke: Why was it not taken here, do you think? I appreciate that is difficult to say, but speculate about what the drivers are of this culture of inertia, if that is what it is.

Naomi Hirst: The FCA in this case will probably tell you that because enforcement activity on fines was taken in other jurisdictions they felt there was not a need to respond. For me, frankly that feels a little bit—

Mr Clarke: Passing the buck.



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Naomi Hirst: Passing the buck, and also just quite embarrassing for UK plc, unless that is actually what we want to get across. As I said earlier, in some cases are we just happy to outsource significant fines to other jurisdictions? That all comes into play when considering the points that Tom and Duncan were making earlier about the balance of factors in play, in terms of presenting the UK as a good place to do business and as a financial centre that needs to be successful, especially in the years ahead.

Q28 **Mr Clarke:** Duncan, you touched on the fact you were not satisfied with the work of HMRC in this regard. Do you think that the significant spending by the financial sector on anti-money laundering systems and personnel counterbalances that adequately? Is there any way in which we can say that the current system is working? I just want to establish definitively whether you think it is properly broken.

Duncan Hames: There is undoubtedly a substantial commitment of resource, process and costly activity, by the banking sector in particular, in relation to anti-money laundering efforts. A lot of that arises from a zero-tolerance approach. The question that is being asked is whether that effort is appropriately targeted. Do they feel enabled to appropriately target that effort where the risk is greatest?

We talk about supervision. Supervision outside the financial sector, where it would be particularly helpful, involves education and helping people for whom it is not their principal line of work. If you are an art dealer, preventing money laundering is not what makes you an exceptionally good art dealer. It is not your area of expertise. If we want these people to be our first line of defence against this kind of activity, they need advice, guidance and education to help prevent them unwittingly being part of what is ultimately a criminal enterprise.

Q29 **Mr Clarke:** Who takes the lead on providing that at the moment, if anyone?

Duncan Hames: Their sector supervisor.

Q30 **Mr Clarke:** Would you say the performance of those supervisors varies by sector? Is there one sector where it is good and one where it is weaker? If there are ones where it is weak, which ones would you identify?

Duncan Hames: We have recently done a lot of research around company formation, which I think we will get to talk about later. As I said, in the latest report from the National Crime Agency they think that is a particular area of risk. The problem is that, in our research, we see that a lot of the enabling of money laundering by company formation agents may well not be from formation agents that are based here in the United Kingdom. We have a challenge in relation to our dependence on other jurisdictions to supervise their professionals, as well as a challenge about those professionals that are based here in the UK.



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Mr Clarke: I will not touch on the company formation issue precisely, because that is not in my questions, but that is obviously a crucial point.

Tom Keatinge: Could I just make a small point on that? There has been tremendous investment in building this relationship between banks and Government, so around the Joint Money Laundering Intelligence Taskforce. It is something that we should be proud of. Alerts come out. Lots of information is provided, to address your point.

We point the finger at the enablers and say, "You are the ones enabling the money laundering", but how much are we doing to help the enablers not to be enablers? Where is the same level of initiative and effort that we are putting into dealing with the banking sector when it comes to all these other sectors? As Duncan rightly points out, they are even further removed from understanding what the risk looks like, because it is not necessarily in their DNA. That is the kind of gaping hole that we accuse people of being part of the problem but appear to do very little to help them deal with that issue.

Q31 **Mr Clarke:** That goes on to my final question, which is a blunt one. Do we need to see more public investment in this whole problem?

Tom Keatinge: Yes.

Q32 **Mr Clarke:** What magnitude are we talking approximately—tens, hundreds, billions?

Tom Keatinge: I suspect one of the responses we will get from the Financial Action Task Force, when their report comes out at the end of the year, will be around the underinvestment by the UK. The UK made commitments in its evaluation in 2007 to invest in the financial intelligence unit, just in terms of staff numbers, which we have got nowhere near, for example. I would suggest that the Committee should be holding an inquiry on the back of that evaluation, because actually that will be a very clear-eyed inside view of how we are doing. There will be bright spots, but there will also be some ugly spots.

Duncan Hames: Can I just make two points about resourcing for enforcement? The Serious Fraud Office would claim that whenever they have needed funds the Government have made them available. However, it is only very recently that the Government have moved to increase the core funding for the Serious Fraud Office, rather than continually requiring it to take the begging bowl for funding for particular cases.

That increase in core funding will enable the Serious Fraud Office to invest in capabilities that will not just be case-specific but will enable it to be better placed to do forensic analysis of financial data. In doing so, in making some core funding available on a guaranteed basis, it might actually mean that money gets spent better. It might not actually cost the Government more in making that kind of decision, and it would help



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the Serious Fraud Office to retain the capabilities and the staff that it needs.

In the other area that I was going to mention, we have the International Corruption Unit in the National Crime Agency, which receives funding from DFID to work on seeking to recover the proceeds of corruption from DFID priority countries. That is all well and good for DFID priority countries, but lots of the proceeds of crime and corruption that we have seen laundered through the UK in recent years has come from post-Soviet countries, countries that are not DFID priority countries. We are left asking where the resourcing is for the NCA's international work when it does not happen to be a DFID priority country where the funds have ultimately been stolen from.

Naomi Hirst: On public and private, and where the burden should fall, one area where the public sector can do a lot more—and perhaps we will come on to talk about this—is properly resourcing Companies House. Currently Companies House, which hosts the PSC register, formally has 20 members of staff to look at compliance there. This register is something that, having spoken to estate agents, they would find very useful and would really help with their customer due diligence. That is something that can help the private sector, but only if that register is fit for purpose and giving you the right information. That is one point.

Secondly, on the law enforcement resourcing question, we will soon be having at the NCA a new economic crime co-ordination centre. I am not quite sure whether or not that is attracting resources, or whether it is just reshuffling the deck chairs around arrangements between the Serious Fraud Office and the NCA. I am very interested to see what that will deliver.

Q33 **Chair:** I am going to bring Stewart in, but I want to quickly follow up on two points you had raised, which we wanted to ask about. One is the suspicious activity reporting, and the Home Office indicated in December of last year reform of the regime. I am interested if there are any particular reforms you wanted to point to. I take the point, Duncan, about the vast numbers of reports that are made, and the question of who is making them.

The second thing is, Tom, you mentioned the Joint Money Laundering Intelligence Taskforce. How successful has that been, and is that an area that needs to be beefed up, reformed or looked at again?

Duncan Hames: Very quickly, accountants in the period that we studied filed 2% of suspicious activity reports, and a challenge that I often hear put to those professionals by law enforcement is that when they look at suspicious activity reports filed by banks, they see professionals—accountants, lawyers—involved in those transactions, and yet those professionals did not file the suspicious activity reports. It was the banks that did. The question, quite rightly, goes to them, “If the banks saw fit to file a suspicious activity report, why did you not? You were involved in



the same transaction. You were probably acting in an advisory capacity. There is good reason to believe that you would be in a position to file that report yourself”.

A lot of the energies and efforts have been going into the work of the banks, which Tom will speak about at more length, through the JMLIT, but clearly we are not seeing a commensurate level of involvement in this duty by other sectors, and professionals in particular.

Tom Keatinge: Just on SARs, there are the best part of 500,000 of these files. The question we need to ask ourselves is: what do we do with that information? Of course, if it is flagged as terrorism, it gets looked at immediately, but does the FRU have the analytical capability to deal with this amount of data? Everybody has heard on numerous occasions how ropey the ELMER database is, which is where these are stored. The whole system needs to be rebuilt. There have been commitments to that over many years. We are told we are further down the road than we have ever been before, but I think it is a question that the Committee should be asking the officials responsible for that.

On JMLIT, again the UK, as I have said before, should be congratulated on creating that system, bringing the banks together. In a way it responds to some of the weaknesses of the SARs regime; in other words, it says, “As a bank, how am I meant to know what ‘suspicious’ looks like? If you, as Government, have all the intelligence and I have all the data, surely we should get together and we would be much more effective”.

As a headline, that is successful. The question we need to ask ourselves is, “Where does this system go from where we are?” Others have looked at what we are doing in the UK—the Australians, for example—and have come up with a JMLIT 2.0. Are we adapting? Are we advancing what we are doing? Some people have described the UK JMLIT as a low-tech or a no-tech JMLIT, where others are using greater analytics. However, it should be encouraged and it should be a model that is resourced properly. At the moment, the sense we get is that the banks are contributing an awful lot of staff voluntarily to make the JMLIT a success. We should be seeing similar or additional contributions from law enforcement.

However, it is a positive, and in a way that kind of collaborative working is the way we should be going.

Naomi Hirst: I would echo everything that Tom has said. It is a very promising initiative. However, I have one word of caution in terms of interpreting what the JMLIT is: it is not just an economic crime-fighting initiative; it is using financial information to progress investigations on a full gamut of the threats that the NCA sees: drugs, terrorist financing, modern-day slavery. I would be interested for this Committee to find out a little bit more about how JMLIT is successful in really drilling down on high-end money laundering, bribery and corruption. These are precisely the threats which banks and enablers are more likely to be complicit in,



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and see whether or not they are getting the same level of co-operation from the banks against these threats as they are against terrorist financing, modern-day slavery and so on.

- Q34 **Stewart Hosie:** Duncan, are you surprised that the 2017 national risk assessment of money laundering said, "When separating the exploitation of property from the involvement of estate agency services, abuse of property is assessed to pose a medium risk while the services of estate agents themselves pose a low risk"? That is slightly inconsistent. Was that a surprising thing to see?

Duncan Hames: We have looked, at length, at the risk of money laundering into our property sector, and you will find different people with different views as to where the responsibility for mounting the anti-money laundering defences rests. The estate agents will often tell you that the responsibility sits with the conveyancing solicitors. It is only a recent change in the regulations that has required these checks to be applied to both sellers and buyers. Estate agents are often very small businesses, quite unlike the banks that we were talking about earlier, so there is quite a challenge in raising standards of compliance with anti-money laundering checks in what is actually quite a fragmented sector.

When we spoke to conveyancing solicitors about the risks of money laundering in property transactions, we were told that the way the complaints by the Solicitors Regulation Authority work is that if someone complains against a conveyancing solicitor, perhaps because they are being too assiduous in their anti-money laundering checks, then the responsibility for paying the cost of investigating that complaint fall to the conveyancing solicitor, so there is an immediate financial disincentive to disrupt or frustrate that customer in the course of mounting anti-money laundering defences. If we compare that with the kinds of fines we were talking about earlier, it suggests there is some very real problem with the incentives on these transactions.

We have done a lot of research into instances of suspicious wealth being used to purchase premium property in the UK. We are probably only scratching the surface with that analysis, but we found in fewer than 200 properties, £4.4 billion-worth of investment in UK real estate from foreign, politically exposed persons in high-corruption-risk jurisdictions. Clearly, even on people who are earning very large commissions on very big property deals, there has been a failure to properly protect the UK from proceeds of corruption being stashed in our property sector.

- Q35 **Stewart Hosie:** How many properties did you say that £4.4 billion reflected? Was it 200?

Duncan Hames: Fewer than 200. It is 176.

- Q36 **Stewart Hosie:** In central London alone, the value of properties purchased without a mortgage is quite extraordinary, particularly high-end properties above some millions, so this figure would be north of



that. Do you take the view that the property market reflects an outlying area in anti-money laundering supervision? Does it pose a threat to the financial system? Are the authorities missing a trick in not looking closely enough at this?

Duncan Hames: We have only recently had the unexplained wealth orders introduced, which were part of the Criminal Finances Act last year. They are well designed for pursuing illicit assets in the form of property; certainly they are intended to be able to support investigations even where there is not a proven case of corruption in the country of origin. These are countries that suffer from a lot of corruption. The likelihood of there being a conviction may be very low. The first unexplained wealth orders were obtained by the National Crime Agency in February, and they should require those that law enforcement suspect have acquired these assets beyond their lawful means to justify whether, indeed, that was the case. It puts a new onus on the owner of those assets to demonstrate that they legitimately acquired the funds that they used to purchase them.

I quite agree with you that the true extent of this will be a long way north of the figures we have been able to use, because we do not yet have transparency in the ownership of the foreign companies that own UK property assets, and we have relied on court documents, leaks and open-source reports of corruption cases in order to put the research together.

Q37 **Stewart Hosie:** Global Witness asks for a timetable for the introduction of the register of beneficial owners of UK property. They have asked for that to be expedited. Have you seen any evidence that this is going to come along any time soon?

Naomi Hirst: The current timetable is, as Tom said earlier, that the draft Bill will be published this summer, tabled next year. To be honest, I am still flummoxed about it. As we have established, there is cross-party support for this and we should be ready to go, really. With the delay, the Government have actually had another six to eight months to prepare that Bill altogether, considering the delay between February and January this year.

What we really see there is this delay giving the corrupt another three years, not only to enjoy their wealth, but in which to commission their lawyers and their accountants to figure out a way to get around the transparency requirements that will come in. Prime among those particular loopholes that we can see coming down the road is trusts. Trusts will not be included in the property register. Any property that is owned by a trust, with no company in that chain of ownership, is exempt. Given that, so far at least, the UK has been quite reluctant to publish information about trusts that have a transactional role connected to the UK—for tax purposes for example—that is exactly what I would be doing if I were a crook: identifying quite how to get around what is coming down the road. That is another three years for that work to happen.



Q38 Stewart Hosie: Trusts is interesting. I am sure it will tie into a discussion about beneficial ownership registers to include trusts. I suppose that is not just those who will benefit from the value of the trust, but those who might choose to put money into it, which is a different matter entirely.

Back to the property, you also ask for the due diligence requirements for real estate agents to be properly enforced. Apart from the point that Duncan made that they bear the cost of any investigation, have you real evidence that the current due diligence requirements have not been properly enforced?

Naomi Hirst: The investigations that we have done have shown that properties have been bought by politically exposed people from very corrupt countries, and the estate agents could have identified the fact that there might have been something wrong there, by simple Googling in some cases. I would not want to suggest particular names here at all, but the very fact that, as I mentioned earlier, estate agents are only filing 0.1% of SARs in the last session really shows that they are not really aware of the problems—that goes to the education and awareness-raising point that Duncan raised—and are also ignorant, potentially, of the regulations that they are under. It was not until June last year that MLRs were changed so that they now have to do due diligence on both parties. It will be very interesting to see in the next reporting whether or not that has filtered through.

In answer to your question, we do not have an evidence base for suggesting that there are vast customer due diligence savings. However, what indicators we do have suggest to me that there is a very long way to go. The estate agents that operate in the super-prime market—which, do not forget, is not really very big—need to get their house in order, really.

There are interesting learnings, potentially, from the US. I am reluctant to do this on anti-corruption, because on most fronts we have more to tell them than they have to tell us. However, they have geographical targeting orders. What that really means is that they can tell regulated professionals, “There is actually a high risk in a particular area—Miami-Dade, areas of New York—and we are particularly concerned about money coming from former Soviet countries. We want you to be filing suspicious activity reports every time you see that typology arise”, and that is generating a lot more actual intelligence, as it were, for law enforcement to follow up.

Q39 Stewart Hosie: Is that not a bit scattergun, though, that anyone who has a Ukrainian passport or a Russian-sounding name has a report filed? They might have been a truck driver in Kansas for the last 15 years.

Naomi Hirst: Absolutely. I am not suggesting that this would inform the typology that would raise an alert that would get the red flags up, but nonetheless this is information that the NCA is sitting on, in terms of



what we know about the size of the market and where people are investing. If you were simply to tell any estate agent who is dealing with a property over £2 million in Kensington, or even in Westminster—there are over 10,000 anonymously owned properties in this borough alone—we can figure out from there a more sensible and targeted approach.

Q40 Stewart Hosie: That is helpful. I just have a final question. To what extent do you think the risk of money laundering through property might be related to the economic cycle? By that I mean this: prime London properties have seen a recent reduction in transactions and prices. It is still ridiculous compared with the real world, but nevertheless a technical reduction in prices and transactions. Would a downturn like that, particularly if it was prolonged, encourage unscrupulous behaviour by estate agents in order to secure sales and commissions, or is this market insulated from the real world?

Naomi Hirst: What we have found out from looking at these kinds of cases over time is that if you are a corrupt individual and you are looking for somewhere to stash your cash, you actually do not mind paying over the odds, or, as it were, under the odds, as long as you can get your money out from a country where rule of law and property rights are so precarious. Even in the context of the economy as it is today in the UK, even if you do not think you are going to make a profit on flipping that property, if you pay £5 million and sell it the next month for £3 million, that is still £3 million you did not have before that was cleaned up.

Stewart Hosie: It is paying to clean your cash.

Naomi Hirst: Exactly.

Duncan Hames: The point you make about the effect of the economic cycle is equally applicable to policymakers. If we look at the hole in our defences in relation to those investors that were awarded golden visas during the blind faith period after the financial crash, there we had thousands of high net-worth individuals whose investment we were seeking to attract into the UK. There was a degree of misunderstanding, shall we say, between the Government and the private sector as to whether anti-money laundering checks were being applied before an investor visa was awarded. There were instances of banks who accepted customers for bank accounts on the basis that they had this Government-issued investor visa, without doing the same checks they otherwise would have done.

When the rules were tightened up to require that you already had a UK bank account before you would be awarded an investor visa, towards the end of what we call this blind faith period, there was a dramatic drop in the number of applicants for these visas, particularly from China and Russia. Just as you posit those working in the economy might be affected by economic conditions, there we saw policymakers, in their desperate attempt to attract inward investment and capital during the



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financial crisis, nonetheless inadvertently open the door to dirty money coming into the UK.

Q41 **Stewart Hosie:** Tom, do you have anything to add to the discussion on property, money laundering and estate agents?

Tom Keatinge: No, I think it has all been said by those to my right.

Q42 **John Mann:** Naomi, you described the recent beneficial ownership amendment as a huge step forward. What is to stop the overseas territories simply slowing down the flow of information?

Naomi Hirst: First, I am still delighted about that win, two weeks on. Secondly, you are absolutely right. The Hodge and Mitchell amendment is a huge step forward, but absolutely you cannot demonstrate any complacency about that, not least because the amendment as it is currently formulated could be bent out of shape. First of all, this is coming back to where we were in 2015 in terms of leadership, and that is a fantastic thing that we can celebrate, and, quite frankly, the UK needs to demonstrate that leadership further in really supporting the overseas territories to operate to a very high standard.

For us, what that looks like is ensuring that they have the technical support and the financial resources to transition to public registers; ensuring that those registers are in fact public to all, with open data standards to make sure that people can actually dive into that data and understand what is happening; and making sure that all the same information that is in the UK register is adopted by the overseas territories. What is crucially different, and what the overseas territories and the UK should be looking to do, is to verify that information from the outset.

What this amendment and this process give us over the next few years is an opportunity for the UK to further set the standards of beneficial ownership transparency and what that should look like. I do not doubt that there is going to be resistance to this process from certain financial centres.

Q43 **John Mann:** We can go around being really nice to the overseas territories so that they co-operate. Tom, how big a problem are Crown dependencies and overseas territories when it comes to economic crime?

Tom Keatinge: You have to distinguish between the Crown dependencies and the overseas territories. With the leaks of the Panama papers and the Paradise papers, generally speaking we find overseas territories involved in those.

I have to say I am somewhat conflicted on this amendment point, if I am honest. It is very difficult to argue against transparency. I would pick up on the point that you just made, which is that perhaps bullying the overseas territories into the position that they feel they have been bullied into is a mistake. That being said, the overseas territories have misread



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the mood music in recent years, and therefore personally I think what they should have done is moved much faster to show the benefit of the role that they play without offering the lack of transparency.

Q44 John Mann: How big a problem is economic crime, when it comes to them?

Naomi Hirst: Every single investigation that we have conducted at Global Witness, looking into corruption, comes across a company registered in the overseas territories.

Q45 John Mann: That is not saying how big a problem it is. Mr Hames, you are an expert in parliamentary procedures. If we had 100 hours in this Committee—this is a theoretical example—to examine economic crime, how many should we allocate to the overseas territories? I am trying to get a view as to how big a problem it is. Perhaps you have different views on it.

Duncan Hames: Parliament has actually now resolved an intervention, and the attention—

Q46 John Mann: I am asking in terms of economic crime. I am getting the impression that we do not know how big a problem it is.

Duncan Hames: Let me give you some figures. We had the NCA estimate, at the beginning of this Committee inquiry. It is not unrealistic to look at illicit financial flows in the hundreds of billions of pounds a year. We looked at the corruption cases from the Metropolitan Police proceeds of crime unit, before it became part of the NCA. 75% of those involving property involved anonymous companies in secrecy jurisdictions, and 78% of those companies were registered in the UK's overseas territories or Crown dependencies. In terms of anonymous ownership of assets in the UK, the history and traditions of the UK mean that these financial offshore centres, either in the Crown dependencies or in the the offshore territories, are very closely entwined with the transactions that are actually happening here in the UK.

Q47 John Mann: Have you noted any great advantage to the indigenous populations of these overseas territories, from all the trickle-down from this economic crime potential business they are getting?

Naomi Hirst: I know they have very un-progressive tax regimes, so most of the tax there, because they are zero-tax jurisdictions, is coming through VAT, which is inherently fairly unequal. In terms of what benefit to the economy selling secrecy has, I could not give you those figures.

Q48 John Mann: What else should we be doing in relation to them, Mr Keatinge?

Tom Keatinge: I would like to see greater evidence of the fact that law enforcement in the UK is working with the overseas territories to look at some of these cases. In the written ministerial statements that came out at the beginning of May, we hear that the exchange of notes



arrangements have been used 70 times. It does not sound to me like a large number, given how many overseas territories and Crown dependencies there are, but I think we need to be demonstrating, perhaps to your point, that UK law enforcement is working with the overseas territories to investigate the kinds of cases we have been talking about here. At the moment, we do not see that. All we see is that the overseas territories are a problem here and are a problem there, and frankly it is not clear to me that we are necessarily giving the overseas territories the support that they need in order to police their registries.

- Q49 **John Mann:** Naomi Hirst, you have given some examples: a Mr Obiang, son of the President of Equatorial Guinea, and the President of Azerbaijan. Do you have any others? As Mr Hames would know, we MPs are simple people, so why do you not write up your case studies and submit them to the Committee, so we can see who you have found things out about? Obviously I mean these two named here, but others as well, so we can get a picture of the scale of it, and then that is on the record for future use as well. Would that not be a good idea?

Naomi Hirst: Absolutely.

Duncan Hames: It would. Would that have the same privilege as our comments here today?

Chair: if the written evidence is published, which I strongly suspect it would be, that is covered by parliamentary privilege, yes.

Duncan Hames: Thank you.

- Q50 **John Mann:** We have lots of debate and discussion, but we seem to have a unique position in this country—it is not absolutely unique—with these overseas territories and Crown dependencies, which rely on us for lots of things, like the Army, the Navy and the Air Force, when they get into problems. However, we do not know what is going on there, so it frustrates us—or me, anyway. I am interested, as my final question, in what else we can be doing so that we can see what is going on in the Crown dependencies and overseas territories that is allowing people to do this. You have given some examples, but by definition there are others we therefore do not know, and you may not know. We need to find out what is going on and do something about it. What is the additional big thing needed, perhaps each of you, that you think this Committee ought to be recommending to Parliament, Government or whoever?

Duncan Hames: Now we have required them to adopt these public registers of company ownership, we really ought to help them build them, and do that really well. There are models available. There is the UK experience, our own register, and we have a job to do to show what best-in-class looks like there. There is the OpenOwnership platform, which is intentionally a global platform, which already the Ukrainian Government have signed up to using. The UK Government need to invest



resources and expertise into making it as easy as possible for these jurisdictions, in complying with this legislative requirement, to do so in a way that was effective, meaningful and gave them confidence in an economic future that was not dependent on the kinds of customer that hopefully they will now be turning away, because illicit financial flows through those jurisdictions will be exposed.

Naomi Hirst: I would reiterate those points. The public registers they do adopt need to be absolutely as strong as possible, and they need to be supported to achieve that. Going further, one of the best things the UK can do to support this trend towards transparency is actually spreading the gospel. As of 1 May, over 40 jurisdictions worldwide will have committed to public registers, so that is the EU member states, the overseas territories and a handful of others. The Crown dependencies absolutely need to join that list. They should not be able to afford to be isolated in Europe on public registers.

We are talking about some of the big-hitters, so Canada, Australia and the US. It is about taking that leadership forward and suggesting actually that the tide has turned towards transparency. The UK is in a unique and brilliant position to be able to push that further, faster.

Tom Keatinge: The international financial centres play an important role in global finance, but they do not need to play that role in an un-transparent way. We should, as the other two have said, be helping them to play that in a way that gives people confidence that, for the money that is being handled in those centres, you know where it has come from, where it is going, and who is behind that finance.

We also need to be using our law enforcement relationship to prosecute cases that involve these centres, and demonstrate that this kind of open transparency we are now forcing on them is actually going to have an impact. What we are effectively doing is saying that we will create open registries, so that NGOs and investigative journalists can now dig into that data, because at the moment the relationship for gathering that information does not seem to be working. However, the relationship between the United Kingdom and the overseas territories, according to the exchange of notes, should actually be very open on an enforcement basis. There is a question to be answered as to how that relationship has been working. Why do we not trust that relationship? Why do we have to create a level of transparency that means that—dare I say it—we outsource to Global Witness and Transparency International the policing of registries in those countries?

- Q51 **Chair:** Just to be clear, the Global Witness written evidence, which mentions this issue about Azerbaijan and the house in Hampstead, was considered by the Committee this morning and it was agreed for reporting to the House, so we will publish it. That means it is considered to be a proceeding of the House, so it is covered by privilege. We might offer a right to reply or we might well trigger a right to reply from that,



which again we would consider.

Naomi Hirst: I have something to add on that. That same week that the House was discussing the amount of Russian money, the Prime Minister met the President of Azerbaijan. I would be very interested to find out what that conversation included. So far I think it covered a conversation about trade. I would be very interested if she talked about civil society or anti-corruption measures that are happening in that country.

Chair: Duly noted and on the record. Thank you.

Q52 **Stephen Hammond:** Good morning. Thank you for coming to speak to us. Can I follow on from Mr Mann's comments? Obviously the fact that there will now be public registers is to be welcomed. Have we not left ourselves in rather an embarrassing position, because the CDs and the OTs largely had international verification, which was an international standard? We refused to verify that, so they are now going to have public registers internationally verified. We still do not commit to international verification. On some international standards, the UK will be a lot lower in those standards than we are forcing on others.

More embarrassingly, if you look at the company formations of last year, I understand from something that Transparency International have submitted to us that over 40% of those corporations had no due diligence done at all. What value is the public register if we are not policing it properly, and should the UK not submit to international verification so it is up to the standards we are imposing on others?

Duncan Hames: That argument is very well put. I mentioned earlier that the UK Government had acknowledged that it would be implementing the fifth anti-money laundering directive, because the ratification of that sets its implementation within the transition period. That requires that Governments and appropriate authorities ensure that adequate, accurate and current information on beneficial ownership is held. You cannot ensure that information is accurate without some form of verification.

There is a potentially embarrassing position, to use your words, but there is a little bit of time to put that right. There are a number of things that we think would help. At the very least, where a formation agent is used to register a company, having the registration number of that formation agent required as a piece of information in order to be able to accept the registration of the new company would be one way of ensuring that there is someone accountable, someone who could be pursued for their own anti-money laundering efforts, involved in that registration.

We certainly need to look at ways to address questions about the quality of the data. My concern on visiting Companies House recently is that at this relatively early stage in the register, the emphasis is very much on improving levels of compliance by those who, faced with a new requirement, may have innocently overlooked or misunderstood and provided inaccurate information without any ill intent. I suppose this is a



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necessary phase to go through, but we are not going to deal with crooks on the basis of friendly letters inviting people to think again about the information they have submitted and check whether they have got it right.

There are ways in which we could validate the data that has been provided. I saw a suspicious activity report recently that included a UK-registered entity. The registered address of that entity was in a county called "Slouthshire". It was a fake address. It was intentional, by the person registering their country, not to provide an accurate registration address. You could not order a supermarket order online to deliver to a fake address, and yet you can register a company to a fake address using our system.

Naomi Hirst: I would reiterate what Duncan said. The PSC register has the potential to be world-leading in terms of closing down the opportunities for criminals and the corrupt to be using companies for their businesses. However, as you have said, Companies House just does not have the legal competence to verify the data, and that is a gap that needs to be filled if we are going to go around the world and show other people how it is done, which we absolutely should.

We have done some deep-dive data analysis of the data that is there, and we have identified that nearly one in 10 UK companies—so, 350,000—still have not named a person of significant control on the register. That will be for a number of reasons. Some of that will be a mistake. As per this issue with mistaken information with the addresses, 4,000 beneficial owners say they are under the age of two. One has not even yet been born. Those are mistakes within the way that data can be structured. However, there is also some actual misleading and criminal behaviour there. Five beneficial owners control more than 6,000 companies. That is indicating to us that these are not really the persons with significant control; they are nominees. That needs to be looked into. It is something that we are not sure Companies House has the capacity, resource or power to do.

More problematically, 7,000 companies have declared they are controlled by companies registered in overseas jurisdictions that do not share PSC information. Again, that is prohibited by the rules, but those 7,000 companies are still there, and being nudged by Companies House to improve will probably not cut it.

There is this verification issue, absolutely. There is a validation issue, sorting out the problems with how the data is structured and how you input, and preventing data entry mistakes. There is also enforcement. Companies House has the power to impose fines and a prison sentence of two years. To date there have been no such fines or criminal proceedings undertaken around beneficial ownership information, and the one prosecution there has been on false company filings has been something of a farce as well.



There are three areas that need to be closed to ensure that this register can be the model it was designed to be, and to fulfil its potential not only in the UK but as a template for the rest of the world to follow.

Q53 Stephen Hammond: That begs the obvious question: what are the three or four things that you would say this Committee should be saying to Companies House that they should do, so that register is the model? Postcode verification is clearly one. I cannot book a flight to anywhere in the world and put a date in that is not a real date. There is obviously a date issue that could be sorted out. What are two or three other things that we should be recommending?

Duncan Hames: We do not think that company formation agents that are not registered with a UK anti-money laundering supervisor should be able to register companies with the UK company registry. When we looked at 52 major corruption and money laundering scandals, we identified 766 UK companies or corporate entities in those cases. A quarter of them are still showing as active on the UK company register. Half of them were based at just eight UK addresses. We call these company factories. They are forwarding addresses. That kind of intelligence points to how the company registry could be used to help zero in on suspicious activity.

I think there is something about the duties, or indeed culture, in Companies House which for a long time will have been under political instructions to provide a great customer service to UK businesses. Actually, in the world that we have been describing this morning, it clearly needs to be partner in law enforcement and anti-money laundering protection.

Where do they come up against a barrier that says, "Actually, investigating this data on this database is not our responsibility or duty"? What can Parliament and Government do to give them a duty and responsibility, and to empower them to do this investigatory work with their data and partner with law enforcement, rather than simply an approach which requires people to think better of what they have been doing, which is not where we are at with these criminal enterprises.

Naomi Hirst: Very much so. The verification point needs to be addressed. The grace period is almost coming to an end with Companies House, and given we have an opportunity with the transposition of the fifth anti-money laundering directive, that seems absolutely critical. Whatever it looks like, it needs to happen.

Q54 Charlie Elphicke: Turning to Brexit, in terms of combatting economic crime, what do you see as the risks and opportunities that potentially arise?

Duncan Hames: Our exposure to new markets is both a risk and an opportunity. The risk is evident. British businesses are going to be doing more business with Governments and companies in jurisdictions where



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there are high levels of corruption. The opportunity comes from our economic engagement. We cannot ignore these countries any longer if we need to do trade with them. Therefore, the opportunity comes with using that engagement—they will want good trade agreements with Britain after Brexit—to leverage higher standards of anti-corruption and anti-money laundering in those jurisdictions; requiring existing conventions to be upheld in these countries, such as the UN Convention against Corruption, as part of the terms for us fostering greater business with these jurisdictions.

Trade brings risk and opportunities. In terms of political will, as Naomi alluded to earlier, Britain needs countries in a way that it might not have done before, and so it is harder. It is one thing to defend freedom of the press in this place in the UK last week, and then to need to provide an invitation to visit the Queen to the President of Turkey next week. It is one thing to say we are going to have a hostile environment to the proceeds of corruption, and then have the President of Azerbaijan in Downing Street within a matter of weeks.

The challenge, both in terms of risks and opportunity, is whether Britain after Brexit can be a beacon in the world for the high standards we aspire to, or will our need for business outside of the EU create an attraction to a more buccaneering and deregulatory role? We favour that Britain after Brexit should be a beacon, not a buccaneer.

Q55 **Charlie Elphicke:** Naomi, do you share the concern that post Brexit, people like the President of Azerbaijan might be able to pour oil on troubled waters and get away with anything?

Naomi Hirst: Yes, absolutely. I do not think that it is naive of me to say that. I would follow up on what Duncan was saying earlier and leap back to some of the questions that were posed at the start of the session. The UK has demonstrated brilliant leadership on big-ticket items: beneficial ownership transparency, Companies House and now what we are hopefully going to be supporting the overseas territories to do. Where that has been quite patchy, as we have discussed, has been over global financial centre issues, and with regulation and supervision. It is a story of ups and downs, really. How all of that, as a package, fares after Brexit is, at this point in time, anyone's guess.

However, I would encourage this Committee to consider not just the big things that were signed up to at the summit, important and critical as those are, but to really see where the gaps are in the system across the piece and plug those. That goes for Companies House in terms of really justifying whether the ease of doing business is something we aspire towards—our ranking there—as opposed to clamping down on the opportunities for corrupt money to come into companies, as well as plugging the gaps on ensuring all our regulated sectors know exactly what they should be doing and are given the resources, the incentive and the punishments, if justified, to do that.



We have been talking about a lot of different issues, and a lot falls within economic crime as a remit, but it is about having an eye across the piece and ensuring that, as Duncan said, there is an upwards trajectory in terms of standards.

Q56 **Charlie Elphicke:** Tom, they are concerned about a race to the bottom. How could we have a race to the top and improve what we do with our new found freedom once we leave the European Union?

Tom Keatinge: The challenge that we face in fighting the high-end money laundering we have talked about quite a bit this morning is that the money flows across the borders without a passport, but the information to tackle that threat is very difficult to share across borders, regardless of Brexit or anything else. I am less concerned about Brexit as it relates to economic crime. I am more thinking about how we build a coalition of money centres around the world that are facilitating the movement of illicit financial flows, wittingly or unwittingly. How do we build that coalition so that information can flow across borders without the kinds of disruption that we have at the moment? If you want to launder the proceeds of crime, you only need to involve two or three jurisdictions and you are home free. That is the reality, because we cannot exchange information effectively between countries, Brexit or no Brexit.

Q57 **Charlie Elphicke:** Effectively, it is not about European co-operation; it is about more global co-operation. Let me just also challenge on another thing: is there a possibility that our membership of the European Union has led to a mechanistic money laundering process system that is more box-ticking in nature, rather than actually addressing risk?

Let me give an example: as a lawyer, if I have someone's driving licence and water bill, they can do whatever they like. I could file it in a drawer and they could carry on regardless. There is no ability of risk-checking that matrix. Mr Hames, you say 400,000 reports were filed last year. That is not a sign of a system working, is it? Should we use this opportunity to rethink how we do this properly, so we are not just box-ticking, filing reports, bamboozling authorities, but having a much more targeted system? Discuss.

Duncan Hames: I did draw attention to the problem with zero tolerance, as opposed to risk-weighted activity, which I think is the point you were making there at the end. The Government did make some changes to the suspicious activity reporting regime last year in the Criminal Finances Act, to discourage the filing of suspicious activity reports as a way of covering yourself: "I have filed a report, I will hear nothing from law enforcement in the period that this consent SAR covers, and then when that period lapses I can proceed with the transaction knowing that no one can come for me because I have filed this SAR". By lengthening that period through the Criminal Finances Act, the Government discouraged that kind of activity.



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There are a vast number of financial transactions. I am not aiming for more than 400,000 reports, but I think you are right to say we need to focus on the quality of them. It is about how useful that report is going to be, in helping law enforcement to actually identify whether there is an illicit financial flow taking place.

Q58 Charlie Elphicke: We know the answer. Someone said there are no prosecutions at all for some stuff. Is this not just all a false sense of confidence that is being created here?

Duncan Hames: I do not think there is any confidence. There is widespread concern, including in the National Crime Agency, in the report that they have just issued on their strategic assessment. I think you are absolutely right to ask why there is not a higher level of prosecutions arising from all of these efforts. I do not think anyone takes comfort in the volume of reports that are filed. I do have a high degree of discomfort, from the statistics that I shared with you, with the very low number of reports being filed by people involved in the same transactions. Why are the banks seeing fit to report suspicious activity, and a professional is acting as an adviser on that transaction but is not filing a suspicious activity report themselves?

Tom Keatinge: Can I come back to something that was said earlier? I do not think this has anything to do with Brexit, but the Financial Action Task Force looks for countries to take a risk-based approach to managing financial crime: know what your risk is, and then respond to it. Going on from that, actually direct your financial sector to respond to it. We talked about geographical targeting in the US, where particular real estate hotspots are identified. If we do not have the situational awareness of where our risks are, if we are not communicating with the sectors that we are expecting to defend us from that financial crime, then we will never be effective.

We need to focus on pressing the Government to create as much collaboration as possible across the piece, in order to strengthen the entire system. This is not just about how many suspicious activity reports we are filing; it is about whether the information coming to law enforcement is actually worth acting on. Often it is not.

Q59 Charlie Elphicke: Am I right in my understanding that basically there have been no prosecutions?

Naomi Hirst: The stat I threw at you earlier is that HMRC has not prosecuted any companies under the money laundering regulations 2017, and has only successfully prosecuted two under the money laundering regulations of 2007. That is just the money laundering regs; that is not the Proceeds of Crime Act, Bribery Act and so on.

Q60 Charlie Elphicke: What we have is 400,000 reports filed every year, and the number of prosecutions could be counted on two hands, by the sounds of it. This is not a system that is working, is it? Does it not need



wholesale reform and wholesale reworking?

Duncan Hames: In defence of the system—which I am not going to defend, but briefly in defence of the system—the SARs system is an intelligence database that provides information to law enforcement that might not necessarily be in the context of a money laundering prosecution. That is where this information is sometimes held out as being beneficial. However, we have to remember that this is a system that was created at a time when it took five days for a cheque to clear. You did not have fintech activity, or all of these things that we are used to now. It is a system that was created in an analogue era, and we are operating finance at the speed of light.

Yes, the system needs to be completely reconstituted. I am not sure we are going to achieve that, so in the meantime what we are trying to do is to make it more effective through these information-sharing partnerships. That is why these information-sharing partnerships are so important.

Q61 **Charlie Elphicke:** Finally, Tom you mentioned that post Brexit we would have more sanctions freedom. First, what did you mean by that? Secondly, how might we make use of that freedom?

Tom Keatinge: Currently, the majority of sanctions imposed by the United Kingdom either come from the UN or from the EU, terror sanctions apart. Obviously, we will no longer have to go to Brussels and argue whether Mr X or Mr Y should be sanctioned in the context of a Syria chemical weapons attack or whatever it might be. We will have more freedom.

Whether we will be as effective, not being part of an economic bloc that actually can impose material economic sanctions on countries, remains to be seen. It is important to note that as long as the UK remains a large, global financial centre, actually it is that lever that the European Union most often pulls when it comes to sanctions. We will still have influence. Where and with whom we will use that influence, remains to be seen.

Q62 **Rushanara Ali:** Thank you very much. I am going to go on to derisking, but before I do, in relation to some of the questions about the post-Brexit context, how confident are you that the Bribery Act will be sufficient in dealing with some of the issues that you, Duncan, mentioned about trade with emerging economies, and corruption and money laundering issues there, as a challenge? We are aware of the Rolls-Royce case, where there was a big fine.

Also, on co-operation within Europe, is it “as well as” or “instead of”? Obviously a lot of the Brexit debate tends to be focused around “instead of”, but what do we need to keep? What could we live with not having, going forward, in that context?

Duncan Hames: On your second question, we have already discussed today how we will be implementing the fifth anti-money laundering directive. It has been very useful to have a number of countries moving



together on anti-money laundering measures, and we would not want to see the UK choosing not to take actions that neighbouring economies were taking.

On the Bribery Act, it has taken a while—and there are reasons for that—but the Serious Fraud Office has really built some momentum recently in showing its determination to prosecute wrongdoing under this act. It is also worth noting that a characteristic of the Bribery Act is the responsibility on businesses to have adequate procedures in place to prevent bribery and corruption taking place through the auspices of their company. That failure-to-prevent route for prosecution has driven a lot of corporate behaviour to take their own responsibility to make sure that this is not happening. This has been very welcome, and I hope that that will stand British business in good stead in this environment.

Maybe we can learn from that. We spoke earlier about corporate liability laws. Would a failure to prevent offence for corporate entities, in relation to money laundering, actually help make sure that there was proactive action taking place, on the part of professional service providers in particular, to prevent this kind of activity happening unwittingly? Maybe we can learn from the Bribery Act when we try to consider the obligations and the liabilities of companies in regards to other areas of economic crime.

Q63 Rushanara Ali: Unless anyone else wants to add to this, I am going to get on to the question around derisking. To what extent is derisking evidence of a lack of effective risk-led AML regime and rather evidence of a knee-jerk-reaction-prone automated system?

Tom Keatinge: As you well know, the history of derisking started with a knee-jerk reaction. There is no question about that. It started with banks realising that they were doing business and oftentimes they did not know who their customers were. Perhaps derisking was even enforced on them by a regulator; cease and desist orders were issued by the US authorities on certain banks.

I should say that it is something I was involved with at the end of my time with JP Morgan, in 2013. I know from my own experience that we looked at the business we were doing, and it was clear that we probably did not know precisely who we were doing business with. It is no surprise to me to see the trouble that the Latvian banking system has run into because of the high level of non-resident deposits, as an example.

It was initially a knee-jerk reaction. It is a knee-jerk reaction that was allowed to freefall over a number of years. There was little intervention by policymakers in the issue. As you know, there was the action group on remittances that was set up in, I think, 2014. That is still going, but it is not clear what action that group has generated. There is now an NGO working group, which was set up only at the end of 2017. My view is that we allowed market forces and allowed policymakers to be reticent to intervene in the private sector's decisions to allow the financial sector to



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cleanse itself of a range of business that it either felt uncomfortable with or did not want from an economic perspective.

- Q64 **Rushanara Ali:** Do you think those were the right businesses to target, given that the big fines were for the fact that sanctions were broken by certain banks, or trading was taking place with certain countries that was related to drugs, and hundreds of millions—sometimes billions of pounds? Was that the right focus?

Tom Keatinge: The fines that were levied on HSBC and others were a huge wake-up call for the whole industry, which thought, “There but for the grace of God go I”, and made people suddenly start to think, “What business are we doing?” They looked at the risks that were proposed by various policymakers. As you well know, the Financial Action Task Force used to describe charities as particularly vulnerable to abuse by terrorist financing. Why would I bank a charity, if I am being told by the leading—

- Q65 **Rushanara Ali:** How many hundreds of millions of fines were charged because a bank was providing finance?

Tom Keatinge: I am not justifying it.

- Q66 **Rushanara Ali:** No, I am not saying you are. I am just trying to understand—it is my ignorance—whether there were any where there were fines of hundreds of millions of pounds, or remittance companies where that happened? They may have been smaller-scale. That is what I am trying to get to.

Tom Keatinge: If you were to do an analysis that said, “To what extent are the fines that have been placed on banks a function of the sectors that then were derisked?” there would be a massive disconnect, which is the point you were trying to make. However, that is not the analysis that was done. The analysis that was done was, “We see regulators and others telling us that certain sectors are high-risk, and therefore we are going to remove ourselves from banking those sectors.”

- Q67 **Rushanara Ali:** This has been going on for a few years now. Has anyone done any work to understand the perverse consequences of this, particularly in terms of the remittance sector, where there have been reports of the legitimate means for transferring money being driven underground? This has been a source of concern for organisations that are involved in countering terrorist financing and other forms of criminal activity.

Tom Keatinge: You and I remember well the Somalia remittance issue back in 2013, and fortunately we have not seen the disastrous collapse of remittances flowing to countries around the world where they are needed. They may have got more expensive, they may have become more complex, but the money has continued to flow. It may well have gone underground.



The fact that over five years we have achieved nothing, bluntly, makes me wonder whether rather than continuing to think about the problem through that old lens, if you look at what some of the modern technology is doing to move money, that seems to me to be perhaps more promising. We are used to sitting around and talking about crypto-currencies being something we should fear, but do you know what? There is technology there that could move value around the world without having to go anywhere near banks, and in a transparent way.

Q68 Rushanara Ali: Is that really the right answer, given all of the evidence we have certainly been hearing on this Committee, that a sizable amount of crypto-currency is a route for illegal activity?

Naomi Hirst: HSBC has used blockchain technology just this week in its first big transaction.

Tom Keatinge: Crypto-currencies do not need to be opaque. It is purely a way of transferring value, in a manner which, yes, some people choose to do in an opaque way, but it does not need to be done like that. There are new technologies that I think we should put our energies into using, promoting mobile money movements and so on, rather than continuously trying to get the banks to do stuff, which, for the last five years, they have resisted doing.

Q69 Rushanara Ali: It is an interesting point you make, which links to the earlier points about post-Brexit trade and relationships, because it was not just remittance, MSBs and charities; it was banks in developing countries, bank accounts being shut down, businesses not being able to access banking because of derisking. Are we out of the woods on that? Has that been resolved?

Britain goes off cap in hand—well, hopefully not cap-in-hand—trying to do trade deals with emerging economies; is derisking a likely factor? Of course, where there are issues they need to address them. I guess the question is, alongside transferring money safely and legitimately into post-conflict states, whether there are major issues that need to be looked at around some of the challenges for banking in emerging economies, per se?

Tom Keatinge: We do not have a geofinancial strategy, and, to your point, that is what we need. It is not getting any better. The balkanisation of the system continues. If we are going to go off and do business in the sorts of countries Duncan was alluding to, we are going to need a financial strategy to support that. At the moment it is not clear that we have one.

Duncan Hames: I do not want to interrupt this conversation, but it is worth noting that the people who experience negative consequences because of these measures will see some hypocrisy when MPs get to choose how much of a risk they represent, as politically exposed persons, as has happened. Efforts made through Parliament and Government to insulate British politicians and their close associates from this are not



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available to the people who are experiencing the consequences of derisking. The unexplained wealth order explicitly excludes British and European Economic Area politically exposed persons from the principal leg by which someone might qualify to be the subject of an unexplained wealth order. It is easier, therefore, for law enforcement to put an application to the High Court for an American politician with assets here to be subject to an unexplained wealth order than it is for a British politician, or indeed someone from elsewhere in the European Economic Area.

While I am sure that standards of integrity might be very high, nonetheless I think it is naive to pretend that British politicians are not potentially exposed to subsequent areas of risk. We have—and I cast no aspersions on their personal integrity, conduct or character—a former British Minister serving in the House of Lords in a senior office of a company that is now subject to US sanctions, because it is owned principally by a Russian oligarch on its sanctions list. Successful British politicians may well find themselves moving in circles where they do encounter risk, because of the activities of the international elites they might do business with.

Insulating our own from the kind of nuisance and inconvenience while charities and other people trying to do good works are having to jump through a lot more hurdles, leaves a sour taste in the mouth.

Q70 Rushanara Ali: I have one last question. The Financial Stability Board set up the remittance task force, which was supposed to report in March this year. Are you familiar with it, and do you know where that has got to? Are they likely to report publicly at any point?

Tom Keatinge: I thought the report was actually out, but I will come back to you on that. We certainly fed information into that process.

Q71 Chair: I just have a final question on politically exposed persons. You touched on it, Duncan, but do the panel think the system is well-targeted and proportionate? Is it catching the right people? Going back to the question of Russia and the Russian oligarchs, would they be considered to be politically exposed persons, given their links to the Russian state, whether explicit or implicit? Duncan, you have started the conversation on PEPs; do you want to carry on?

Duncan Hames: Politically exposed persons definitely carry a corruption risk. That is not to say that they have engaged in corruption, but they carry a risk, because they have held entrusted power, or their close associates have. Therefore, the opportunity to abuse that power for private gain has been available to them.

We have heard debates in the House where British politicians have complained about difficulties of their family members, be it opening businesses or bank accounts. When I was in Ukraine last year, and I was being interviewed about corruption there, I was given an education after



the interview by the journalist, who explained to me that one thing you have to understand about Ukrainian politicians is they are all very poor, but they have incredibly wealthy mothers-in-law. There is a reason why politically exposed persons captures more than just the politicians. Sometimes we have to take some of our own medicine, and if we want to be effective at preventing the laundering of proceeds of corruption from these high-corruption-risk states, then we need to set standards that may be inconvenient for us to accept ourselves, but which we would want to see become global standards. That is why I think it is important that we should continue to address the risks presented by people who are politically exposed.

Naomi Hirst: One thing to say is that the PEPs regime is fundamentally about conducting due diligence on risk where you see it. A regulated entity must be then satisfied that they have suitable measures in place. Ultimately the risk appetite can still differ from company to company, bank to bank, and so undoubtedly the risk appetite will be greater if the consequences do not follow from taking on risky clients. To get some clarity on the PEPs regime, it still fundamentally rests on decision-making in individual entities, around what their risk appetite is. I would just flag that.

Tom Keatinge: I would add one small point: PEPs know they are PEPs. That is why the net is drawn as widely as it is, and that is why there are wealthy mothers-in-law in the Ukraine.

One of the themes of this discussion has been that we need to be operating on a risk-based approach. We need to be sharing information that allows decisions to be made not just because it says, "All PEPs are risky", but because these individuals are known to have the connections that mean that they could benefit from corruption.

Q72 **Charlie Elphicke:** Just to Mr Hames, can I challenge you on what you say: that we should have global standards, which means that we inconvenience everybody in the name of these standards? We are not actually targeting. By inconveniencing everyone, we tick the box and say that it is all fine, but in reality it is not all fine because it is still going on. Is not a risk-based system the right approach, rather than a global standardisation approach, which is not and does not work?

Duncan Hames: I am advocating targeting. I am advocating targeting of politically exposed persons, because politically exposed persons are closely connected to the politicians that are entrusted with power. A lot of this conversation we have had today arises from the fact that people abuse that power and they enrich themselves or those close to them. That represents a heightened risk. I am not suggesting that we apply this globally to everyone. I am suggesting that we recognise that wherever they are in the world, politicians—those who are entrusted power by their public—carry a heightened level of risk. If we are going to have a risk-based approach, then we need to accept that that applies to politicians in jurisdictions like this as well.



HOUSE OF COMMONS

Chair: Can I thank you all very much indeed for your evidence this morning, and also for the detailed written evidence that I know you have all sent? It has been very much appreciated. If there is anything after this session that you want to add to or clarify, then please feel free to put it in writing. I think you have given us plenty of food for thought and points to pick up in our eventual report, so we are very grateful for your time this morning. Thank you all.