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EXECUTIVE SUMMARY

I. Objectives

This submission addresses the following issues relating to concerns regarding or improvements to the UK's anti-money laundering (AML) and the sanctions regimes:

- Corporate liability for economic crime.
- Deferred Prosecution Agreements.
- The role of whistleblowers in uncovering money laundering.

II. Findings

A. Attribution of corporate liability for money laundering:

At the present time, the criterion to attribute criminal liability for money laundering to a legal entity is the identification principle, which poses serious challenges for prosecutions.

The UK has introduced the failure to prevent-type offence to counter bribery and tax evasion, which represents a valid alternative.

The adoption of a "failure to prevent money laundering" offence would significantly increase the success rate of prosecutions for that crime and as such increase the deterrence effect of the related criminal provisions.

The risks that the introduction of a "failure to prevent money laundering" offence would be largely mitigated by the use of corporate settlement procedures, which have been recently introduced in England and Wales.

B. Deferred Prosecution Agreements:

English DPAs have already proved to be a successful legal instrument as they offer both authorities and companies considerable advantages

However, thorny issues arise from the practice of using DPAs to resolve corporate crime cases. Such issues should be carefully considered and addressed, especially where a future scenario in which corporate cases of money laundering would be dealt with through the combination of failure to prevent offences and deferred prosecution agreements is taken into consideration.

1. Lack of proper transparency.
2. Vagueness of the concept of the "interest of justice".
3. Pay to perpetrate crimes culture and structural lack of focus on individual liability.

C. The role of whistleblowers in uncovering money laundering:

Whistleblowers provide a critical societal control mechanism over organisational misdeeds, and are recognised as a key factor in detecting corruption and other corporate crimes, including money laundering.

Despite the crucial role whistleblowers play in the financial services sector, they often continue to face retaliation and retribution for their meritorious actions.

In October 2019, the EU passed the Whistleblower Protection Directive, Directive (EU) 2019/1937, which introduces new standards for the protection of

whistleblowers. Irrespective of Brexit, the introduction of a system of whistleblowing protections at least equivalent to the one provided by the Directive appears crucial.

In the United States, it has been demonstrated the positive impact that not only protection from retaliation but also an effective rewards system for whistleblowers may exert on the fight against economic crime.

III. Recommendations

A. Introduce a "failure to prevent money laundering" offence.
B. Use of corporate settlement procedures to minimise the risks related to the introduction of failure to prevent-type offence.
C. In relation to DPAs, give crucial watchdogs (i.e., media and NGOs) access to all the investigative documents.
D. In relation to DPAs, create new authoritative rules that specify the notion of "interest of justice".
E. In relation to DPAs, re-structure the work of prosecuting authorities so to have two investigative teams focusing respectively on corporate and individual criminal liability.
F. Introduce a system of whistleblowing protections at least equivalent to the one provided by the EU Whistleblower Protection Directive.
G. Introduce an awarding system for whistleblowers related to money laundering and other economic crimes.

FULL SUBMISSION

1. Overview

1.1. Brief introduction

I am submitting this evidence in a personal capacity, as an academic expert in economic crime. I serve as an Assistant Professor in Law at Coventry University and Global Module Leader for Corporate Governance and Ethics at the University of London. In 2015, I worked for the Serious Fraud Office participating in the first-ever English Deferred Prosecution Agreement. As of 2018, I have been appointed as an international expert in the area of corruption, good governance, and tax crimes for the Council of Europe and I am included in the anti-corruption Knowledge Hub of Transparency International. I am currently leading VIRTEU, which is an EU-funded high-profile legal research project (Grant Agreement no: 878619) that aims at exploring the interconnections between tax crimes and corruption.

My primary research interests are in the areas of economic crime, corporate governance, corporate social responsibility, and business ethics. In particular, my current research not only focuses on the traditional aspects of each of these fields but is also driven by the ambition to combine them to find innovative solutions to fight against corporate and economic crime.

1.2. Reasons for the submission and focus

I am submitting this evidence to support, with my expert knowledge, the Treasury Committee's review of what progress has been made in combatting economic crime and suggest ways to counter such a criminal phenomenon.

This submission addresses the following issues relating to **concerns regarding or improvements to the UK's anti-money laundering (AML) and the sanctions regimes:**

- **Corporate liability for economic crime (Part 2)**
- **Deferred Prosecution Agreements (Part 3)**
- **The role of whistleblowers in uncovering money laundering (Part 4)**

This document, or part of it, has neither been published nor submitted for publication elsewhere.

2. Corporate liability for economic crime

2.1. Attribution of criminal liability to legal entities: the identification principle

The criterion used to impute criminal liability to a legal entity in England and Wales is fundamentally represented by the "identification principle", under which criminal liability is attributable to a legal entity only where the offence is committed by a natural person who is the directing mind or will of the organisation. Under such a criterion corporations are liable only for criminal conducts authorised or endorsed by the CEO, the board of directors, or the shareholders in a general meeting (Grasso 2016). From a theoretical point of view, such a criterion simulating the *mens rea* of the organisation appears respectful of the principle of legality in the area of criminal law. As a matter of fact, under English law vicarious liability, which is the legal mechanism by which the law attributes blame on a person for the conducts of another, is appropriately avoided in criminal matters (Ormerod and Laird 2018).

On the contrary, in the United States, in order to attribute criminal liability to corporations the law is guided by the *respondeat superior doctrine*, which represents a form a vicarious liability. As it was clearly expressed in the landmark decision *US v. A&P Trucking* 358 U.S. 121 (1958) the purpose of such an approach is that: "The business entity cannot be left free to break the law merely because its owners, stockholders […], partners […], do not personally participate in the infraction."

Although the identification principle, through the avoidance of any form of strict liability, appears respectful of the fundamental rights of the accused, owing to the narrow approach to the notion of identification and given the difficulty of providing evidence for the subjective element, this criterion proved highly inefficient for the purpose of prosecuting corporations (Alldridge 2011). Taking into consideration the inherent size, reach, and complexity of the corporate structure of multinational enterprises, it is not surprising that it becomes an extremely complex task to demonstrating the awareness of the top management or the assembly of shareholders in occurrences of corporate crime, let alone their direct involvement. Consequently, prosecutions against companies have faced major, and in many cases insurmountable, obstacles. Such an inadequacy strongly emerged in relation to the attribution of criminal liability to corporations for corrupt practices from the report of the Working Group of the OECD Anti-Bribery Convention in 2008. The

members of the Working Group expressed their concern about the UK's continued failure to address deficiencies in its laws on corporate liability for foreign bribery. In particular, they highlighted how only one company had ever been prosecuted for bribery since the UK adopted bribery legislation in 1906 and the conviction was overturned on appeal; they also stressed that the doctrinal requirements for corporate liability (i.e., the identification principle) "preclude any likelihood of liability for most companies" and was such as to "dissuade in practice any attempts to prosecute" (OECD 2008).

2.2. Failure to prevent offences

In response, Parliament passed the Bribery Act 2010, s.7 of which introduced the "failure of commercial organisation to prevent bribery" offence. The new crime has not replaced or removed direct corporate liability for bribery under the identification principle, but has introduced a new form of corporate liability for omission that does not require knowledge, intention or recklessness, and occurs when the commercial organisation has failed to prevent corrupt practices. To avoid the introduction of a strict liability regime for the attribution of criminal liability to legal entities, the same section has provided that it is a defence for a commercial organisation to prove it had in place adequate procedures designed to prevent persons associated with it from undertaking such conduct. It has to be noted however that the new regime still represents a deviation from the fundamental principle that the prosecution must prove the whole of the case (Ormerod and Laird 2018). Moreover, it has to be stressed how such a burden of proof is draconian in nature and problematic in practice. In essence the corporation has to prove it had in place 'adequate' measures to prevent bribery, despite the apparent contradiction by the reality (i.e., that its anti-bribery compliance program was adequate and effective even if it did not prevent the occurrence of the corrupt practice).

The introduction of section 7 has greatly eased the prosecution of companies for bribery and has led to many successful investigations (e.g., Standard Bank PLC in 2015, Sarclad Ltd in 2016, Rolls-Royce in 2017, Güralp Systems Ltd in 2019, Airbus SE in 2020, and Airline Services Limited in 2020).

It is a welcome development that Part 3 of the Criminal Finances Act 2017 extends the provision of a failure to take adequate steps to prevent to include tax evasion, however, the failure to prevent criterion of attribution of corporate criminal liability remains hampered in its effectiveness by its confinement to these areas, and may not be relied upon more broadly when corporations fail to take steps to prevent other acts of foreseeable criminality.

2.3. The failure to prevent money laundering scenario

UK law does not at present contain a provision to make the failure to prevent money laundering an offence. As a result, at the present time, the criterion to attribute criminal liability for money laundering to a legal entity is the identification principle. Reflective of the sources and beneficiaries of money laundering, this poses a significant threat to the security of the UK and international partners by failing to adequately prevent the financing of terrorism, organised crime, modern slavery, and drug trafficking. As long as criminal liability for money laundering relies on the

identification principle, this will continue to present serious challenges for prosecutions and as such lack the required deterrent element. It is not surprising that the Serious Fraud Office has been lobbying for an extension of the failure to prevent offence for some time, as the Director, Lisa Osofsky, confirmed on the 8 October 2020, speaking at the Royal United Services Institute (Serious Fraud Office 2020).

The adoption of a "failure to prevent money laundering" offence would significantly increase the success rate of prosecutions for that crime and as such increase the deterrence effect of the related criminal provisions. This seems particularly relevant for at least two reasons. On the one hand, notwithstanding the complexity of AML regulations, not only does money laundering appears widespread as a series recent scandals have demonstrated, but also cases of corporate recidivism are common as the FinCen files have clearly shown, for example in relation to HSBC (Woodman 2020). On the other, money laundering affects banks and other financial institutions that are typically characterised by an extremely complex corporate structure and a transnational nature that *de facto* represent an insurmountable obstacle for successful use of the identification principle.

Also, the adoption of such an offence would make the UK compliant with Article 7(2) of the Sixth EU AML Directive, which provides that Member States shall take the necessary measures to ensure that legal persons can be held liable where the lack of supervision or control by a relevant person has made possible the commission of money laundering. It is true that the UK exercised its right to opt-out of the Directive in September 2017 and has left the EU altogether on the 31st of January 2020. However, being compliant with the Directive could not only make it easier for the UK to find an agreement with the EU so to allow its banks and financial institutions to keep using the EU passporting system, but also could assist in case of 'no deal' to activate the EU legislation that allows non-EU based firms to offer a limited number of services into the EU if their home country regulatory regime is accepted by the EU as being 'equivalent' to EU standards (Stojanovic and Wright 2020).

A system enabling more effective corporate prosecution due to the adoption of a "failure to prevent money laundering" offence does present potential risks in that it may potentially exert adverse consequences on the socio-economic structure of the country such as loss of jobs, harm to innocent shareholders, creditors, and suppliers, as well as negative influence on local economies and other collateral effects of corporate prosecution (Alexander and Cohen 2015). *However, this is a calculated risk that would be largely mitigated by the use of corporate settlement procedures, which have been recently introduced in England and Wales.*

As it will be discussed in the next part, such a policy of negotiated resolutions would in effect replace the *de jure* rule of quasi-strict corporate criminal liability that the failure to prevent money laundering offence will *de facto* entail; so to establish an enforcement practice that makes formal conviction contingent on the firm's efforts to help enforcement authorities detect and sanction wrongdoing by adopting an effective compliance program, self-reporting and fully cooperating with the prosecution (Arlen 2016).

3. Corporate settlement agreements

3.1. The introduction of Deferred Prosecution Agreements in England and Wales

Over the course of the last decade, the practice of using "corporate settlement agreements" to deal with corporate crime issues has become increasingly common. The term "settlement" refers to a wide range of legal tools, also known as "non-trial resolutions," that consist in an agreement between a company and a prosecuting authority aimed at resolving corporate criminal matters without a full court proceeding (Grasso et al. 2020).

Schedule 17 of the Crime and Courts Act 2013 introduced Deferred Prosecution Agreements (DPAs) into the English legal system. DPAs may be essentially described as a way of imposing a term of probation upon a corporation without a conviction. Under a DPA prosecutors bring charges but then agree to hold them in abeyance pending the company's successful completion of certain provisos in the agreement for a set period (Grasso 2016).

Although English DPAs have a clear contractual nature, they cannot be qualified as merely private arrangements because they require the approval of the court. Specifically, the Crown Court has to declare that entering into a proposed DPA is likely to be in the interests of justice, and that the terms of the proposed agreement are fair, reasonable and proportionate. As it has been argued y some scholars, DPAs share similarities with the restorative justice procedure and that such symmetries include elements like prosecutorial discretion, negotiation, avoidance of collateral consequences of criminal prosecution, and adoption of compliance programmes (Pasculli and Ryder 2020).

Although non-trial resolution systems adopted in different jurisdictions share certain features, these legal tools often vary in their legal and procedural approaches (OECD 2019). Among the various types of non-trial resolutions, DPAs are characterised by a contractual nature designed to be framed in a criminal procedural context. DPA-type resolutions are also the model whose adoption is proliferating among the globe, several countries (i.e. Brazil, France, the United Kingdom and the United States) have already introduced them and others (e.g., Australia, Canada, and Switzerland) are currently considering adopting a DPA scheme to resolve cases of criminal corporate liability (ibid).

3.2. Main advantages of Deferred Prosecution Agreements

While law enforcement has become the focus of recent discussions, governments have traditionally preferred non-criminal response to corporate crimes. The reasons behind such a trend lie in the inherent complexity of transnational corporate crime cases, that require substantial resources to be dealt with, have to rely on the cooperation of foreign authorities that cannot be taken for granted, and may potentially generate negative externalities associated with corporate prosecutions. As a result, it is little wonder that traditional criminal law enforcement has been to a large extent overshadowed by settlement agreements and other hybrid responses to transnational corporate crime (Hock 2020).

The rationale behind the introduction of DPAs is that, in contrast to the inflexibility of a common criminal process, DPAs allow prosecuting authorities and corporations to cooperate in order to produce satisfactory and creative solutions for remedying structural corporate problems and set companies on the road of good corporate citizenship. In particular, differently from the deterrent and retributive purposes of corporate criminal liability, these deferral solutions allow minimizing the negative externalities associated with attaching criminal liability to the corporation, and at the same time enhance the business model and culture of the involved firm through the implementation of corporate compliance programs (Grasso et al. 2020).

Thank to such characteristics, English DPAs have already proved to be a successful legal instrument as they offer both authorities and companies considerable advantages, which could be summarised as follows:

Main advantages for the authorities (and the society at large):

- ✓ Assuring certainty of a successful prosecution whereas the outcome of a trial could be uncertain especially in complex cases of transnational economic crime.
- ✓ Not requiring prosecutors to conduct a "full" investigation. Commonly, investigators also receive evidential material from the investigated firm. This can reduce the length of the investigations and the amount of resources necessary to carry them out. It could also compensate for the lack of investigative capabilities or for the extreme complexity of gathering evidence abroad in cases of transnational economic crime.
- ✓ Allowing the inclusion in the agreement of concerted remedial actions and creative solutions for remedying structural corporate problems.
- ✓ Minimising or avoiding the risk that innocent parties and society at large can incur substantial collateral damage as a result of a criminal prosecution.
- ✓ Avoiding to alter competition in an unfair way or establish situations of competitive disadvantages for the investigated firms, especially taking into consideration the asymmetric nature of the efforts into the fight against economic crime at the global level.

Main advantages for the firms:

- ✓ Safeguarding corporate reputation and avoiding the potentially fatal consequences of criminal proceedings.
- ✓ Avoiding mandatory debarment from entering into public contracts and other blacklisting mechanisms that a conviction for economic crimes may entail.
- ✓ Calculating the costs of the negotiated resolution so to safeguard the firm's business activities and productivity.

Taking into consideration these advantages, it is not surprising that settlement agreements are becoming increasingly popular. The OECD has calculated that, in relation to foreign bribery, from 1999 to 2019 the 44 Parties to the Anti-Bribery Convention have successfully concluded 890 foreign bribery cases, of which 695 (i.e. 78%) were concluded through non-trial resolutions (OECD 2019).

3.3. Main issues relating to the adoption of Deferred Prosecution Agreements

Such a success story should not obscure the inherent risks that the adoption of DPAs entail. Generally speaking, the main concern related to negotiated resolutions is not so much on due process rights in the criminal process; rather the concern is whether corporates are negotiating their way out of the criminal process (King and Lord 2018). Moreover, thorny issues arise from the practice of using DPAs to resolve corporate crime cases. Such issues should be carefully considered and addressed, especially where a future scenario in which corporate cases of money laundering would be dealt with through the combination of failure to prevent offences and deferred prosecution agreements is taken into consideration.

Lack of proper transparency. Although DPAs are commonly considered as transparent, public events. They are characterised by a limited level of transparency. The problem lies in that the prosecution may select the evidential material to submit to the judge in order to obtain judicial approval for the agreement. As a result, to enter into the agreement and resolve successfully a complex and otherwise uncertain economic crime case, the prosecution may tend to not submit some pieces of evidence that could potentially suggest that it would not in the interest of justice to enter into the DPA with the company. This issue that already appears particularly critical taking into consideration the established substantial advantages that the prosecutors gain from entering into the agreement, further, these concerns are more relevant in a scenario of money laundering because of the strategic socio-economic importance that banks and other financial institutions have in the country. Similar concerns have already emerged in the United States, where settlement resolutions for cases of corporate crime are commonly used and where complex backroom deals happen when criminal charges are brought against a major company (Garrett 2016). Currently, under the principles set in the landmark case *Regina (Guardian News and Media Ltd) v City of Westminster Magistrates' Court and another*, [2012] EWCA Civ 420, the press may only access the documents submitted to the judge by the prosecuting authority. Consequently, *to mitigate such a risk, the legislature should give crucial watchdogs (i.e., media and NGOs) access to all the investigative documents* used by the prosecution in the cases that are resolved through a DPA.

Vagueness of the concept of the "interest of justice". Although the legislation provides that prosecutors should enter into a DPA with a firm only where the agreement is the "the interest of justice", such a term has not been defined by the legislature and its ambiguity may adversely affect the principle of predictability in the administration of criminal justice and result in a source of inequality before the law, threatening in this way the very essence of the rule of law. In particular, from the Rt. Hon. Sir Brian Leveson's approved judgement in the case Rolls Royce it has emerged clearly that the strategic importance of the company and its economic relevance have been considered as key elements in evaluating if the proposed DPA was in the interest of justice. Even if such evaluation makes sense and it is clearly based on a pragmatical and utilitarian approach, it raises crucial issues. The vagueness of the concept of the interest of justice seems to be in conflict with the ideals of the rule of law that constitute the pillars of our society in that it may lead to *unconstrained judicial choices that remain a systemic deficit that ought to be remedied through the creation of new authoritative rules to avoid this unconstrained choice in the future* (Grant 2017).

Pay to perpetrate crimes culture and structural lack of focus on individual liability. From a practical point of view, the adoption of DPAs in a jurisdiction may inherently lead to the establishment of a pay to perpetrate crimes culture where firms, relying on access to agreements, consciously decide to commit a crime evaluating the future costs of potential agreements following a cost-benefit analysis. Recent studies suggest that imposing large fines on corporations does not actually deter corporate crime and that where negotiated resolutions are used, that corporate recidivism rates remain disturbingly high. Theoretically speaking, a DPA supposedly forbids future criminal behaviours and involves ongoing cooperation with the prosecuting authority. So that these repeat offences should result in sentencing enhancements when the new criminal charges are resolved, and they should prompt prosecutors to trigger breach proceedings under any existing DPAs. But this rarely happens (Werle 2019). The FinCEN files, which have demonstrated how dirty money has been handled by the UK financial sector, are emblematic of such a situation (Teka 2020), evidencing the willingness of financial institutions to continue to repeatedly engage in conduct that is the subject of DPAs, and to continue to profit from powerful and dangerous clients, even after paying fines for doing so (Holden 2020). As a result, it seems essential that prosecutors focus non only on corporate criminal liability but also on individual criminal liability of involved corporate executives. However, where DPAs are commonly used a chronic lack of enforcement in pursuing individuals for criminal misdeeds has been experienced. The problems lies in that in order to gather sufficient evidence to deem a corporate executive guilty of economic crime beyond any reasonable doubt, it is necessary for the prosecutors to conduct a “full” investigation, often using intrusive investigative techniques, whereas one of the main advantages of the DPAs consists in avoiding such a “full” investigation and instead rely on the result of the internal investigations submitted by the company. In the United States, the Department of Justice tried to solve the problem through the Yates Memorandum, which states that companies must divulge the identities of every wrongdoer, along with every reasonably ascertainable fact about the misconduct, to qualify for any cooperation credit (Rodgers, 2016). This however creates a problematic paradox - a costly, complex, and time-consuming “full” investigation is avoided by relying on internal investigations conducted by the firm, yet to determine if, and to evaluate to what extent a firm may be hiding pieces of evidence against its employees, it would be necessary to conduct the “full” investigation that has been avoided thanks to the DPS. It would come as no surprise that such a solution did not work. *It is here recommended to structure the prosecuting authorities that conduct investigations in the area of economic crime in such a way that where a corporation is investigated, two teams conduct, from the beginning, parallel investigations in a coordinated way but aim respectively to assess corporate and individual criminal liability. Then, in case of DPA, the policy should be to include in the terms of the agreement the payment of the "reasonable costs" of the investigation for both teams*, so that no extra economic cost would be imposed on the public resultant of the firms' criminality. Accordingly, this would have the benefits of reassuring the court and wider society as to the reliability and veracity of the evidence presented, deter corporations from attempting to hide or otherwise obscure evidence, readily identify issues where there has been an attempt to mislead the courts and investigators, establish a level of increased confidence in the DPA system, and make the companies, not the taxpayer, responsible for bearing the cost of investigating wrongdoing

4. The role of whistleblowers in uncovering money laundering.

Globally, organisations have made enormous investments into tools, processes, and structures designed to detect internal fraud and wrongdoing, however, none of these systems have been as effective or reliable as disclosures made by whistleblowers (Andon et al. 2018). Whistleblowers provide a critical societal control mechanism over organisational misdeeds, and are recognised as a key factor in detecting corruption and other corporate crimes, including money laundering.

Through intimate knowledge of internal systems, whistleblowers remain the most effective stakeholders in reducing the occurrence of, and increasing disclosure of, unethical and criminal behaviour in organisations (Miceli and Near 2005). Accordingly, whistleblowers have the potential to form a key feature in the fight against money laundering.

In 2018 it was revealed by a whistleblower that through its Estonian branch, Danske Bank had engaged over the course of several years in the suspected laundering of over €200bn. Following raising the alarm internally on several occasions, the bank failed to take action and eventually the concerns were taken public, resulting in a number of criminal prosecutions of individuals involved and fines. Without the actions of the whistleblower, it is unlikely this conduct would have been exposed (Jensen and Gronholt-Pedersen 2018).

Despite the crucial role whistleblowers play in the financial services sector, they often continue to face retaliation and retribution for their meritorious actions, causing to the loss of jobs, loss of livelihoods, ostracization and exclusion from the industry, and significant mental stress and anguish. This provides a strong deterrent effect on would be whistleblowers who have a knowledge of wrongdoing, including money laundering, but are fearful of making a disclosure. Even when disclosures are made anonymously, actors have been demonstrated to attempt to uncover their identities, as was the case with Jes Staley from Barclays (Sahloul 2018).

In October 2019, the EU passed the Whistleblower Protection Directive, Directive (EU) 2019/1937, which must be imposed by member states no later than 17 December 2021. This directive sets a standard that would work to protect whistleblowers from acts of retaliation and impose penalties on those who do engage in acts of retaliation, as well as establish specific reporting channels. As such, it is envisaged the directive will have the dual effect of empowering whistleblowers to make disclosures, and act as a deterrent to wrongdoing through the increased risk of exposure. *While it is recognised the UK is no longer bound to implement this directive, by doing so this would bring the UK in line with EU standards, and therefore prevent the UK being seen as an attractive method to circumvent AML regulations in operation within the EU*. If the UK were to be seen as an easier way to engage in money laundering, this would have the potential risk of preventing the use of the EU passporting system, and limit other modes of business.

When a potential whistleblower undertakes a cost-benefits analysis on the risks and rewards of making a disclosure, evidence from the United States has demonstrated the impact that not only protection from retaliation, but of an effective rewards system on encouraging whistleblowers. In its 2020 report, the Working Group of the OECD Anti-Bribery Convention, praised the American system that provides confidentiality guarantees as well as financial incentives to whistleblowers (OECD 2020). As such, in order to best empower and encourage those with intimate and crucial knowledge of wrongdoing, a system of financial incentives may act as an important factor in tipping the balance when making the cost-benefit analysis. Therefore, *it is recommended that an internal financial whistleblower reward system be explored in order to increase the number of relevant disclosures related to financial crimes and money laundering*.

5. Summary of the Recommendations

A. Introduce in the legal system a failure to prevent money laundering offence.
B. Use of corporate settlement procedures to minimise the risks related to the introduction of failure to prevent-type offence.
C. In relation to DPAs, give crucial watchdogs (i.e., media and NGOs) access to all the investigative documents.
D. In relation to DPAs, create new authoritative rules that specify the notion of “interest of justice”.
E. In relation to DPAs, re-structure the work of prosecuting authorities so to have two investigative teams focusing respectively on corporate and individual criminal liability.
F. Introduce a system of whistleblowing protections at least equivalent to the one provided by the EU Whistleblower Protection Directive.
G. Introduce an awarding system for whistleblowers related to money laundering and other economic crimes.

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