Briefing: The Economic Crime Bill must be prioritised.

Economic crime is estimated to **cost the UK economy** at least £290 billion per year, equal to 14.5% of GDP, and gravely undermines the transparency and fairness needed for a free market to operate. **Law abiding businesses lose out**, while both the public and public money are put at risk by fraudsters, with an estimated £9 billion now lost to fraud on covid-related support schemes.

Yet where there are victims, there are also winners. Just £852 million a year, 0.042% of annual GDP, has been spent on our economic crime fighting agencies, while the corrupt and criminal have been able to abuse UK company structures, property, and courts to the detriment of our national security. For too long, kleptocrats from around the world have used 'Londongrad' to stash their ill-gotten gains. **Delays to long-promised legislation have left us poorly equipped to find this suspicious wealth and tackle those who facilitate its flow into our economy**, precisely at the time we need it most. The threat of sanctions over the situation in Ukraine risks ringing hollow in the absence of either the powers or resources needed to identify the assets of Putin's allies in the UK.

The Prime Minister has personally committed to delivering key economic crime reforms several times, stating in the House of Commons on 2 February that the government would bring forward the Economic Crime Bill in the third parliamentary session, and promising reforms at the US-led Summit for Democracy in December. This is the perfect opportunity for the UK to demonstrate to the world that **integrity, fairness, and respect for law and order are at the heart of our financial system**, and that we will not tolerate our systems being used as vehicles for illicit finance.

An Economic Crime Bill should be brought forward as soon as possible, and contain the following reforms:

- Create a register of overseas companies that own UK property.
- Empower Companies House to monitor, verify, and investigate suspicious companies.
- Strengthen Unexplained Wealth Orders (UWOs).
- Introduce a 'failure to prevent' offence for money laundering, fraud, and false accounting.
- Fix the UK's fragmented and ineffective anti-money laundering supervisory regime.

Creating a register of overseas companies that own UK property

To date, Transparency International UK have identified £6.7 billion worth of UK property bought with suspicious wealth from open source information, although the real figure is likely to be much higher. Without a register of overseas companies that own property in the UK, it remains impossible to know just how much dirty money has flown into the UK's property market.

The government first committed to a property register at the UK-hosted International Anti-Corruption Summit in 2016, and finalised draft legislation in 2018. In May 2019, the Joint Committee on the Draft Registration of Overseas Entities Bill concluded that the bill was "timely, worthwhile, and, in large part, well drafted" and expected it to be introduced in 2019. Despite failing to deliver on this timeline, the UK government reaffirmed during its recent G7 Presidency that it would take "concrete actions" to tackle the abuse of real estate property by corrupt actors. This legislation is drafted, widely supported across the house and in the business community, and must be included in the Economic Crime Bill.

- **£1.5 billion** worth of UK property identified so far has been bought with suspicious wealth from Russia.
- Nearly **95% (678 of 716)** of the offshore companies revealed in the Pandora Papers to own UK property are from the BVI.
- **Six years** since the government first committed to introduce this reform.

Empowering Companies House to monitor, verify, and investigate suspicious companies

Reforms to Companies House were first announced in May 2019, when the government launched a consultation. The government published a response in September 2020 and promised a draft bill by the time of the summer recess in 2021, which has not been published as of January 2022. With the frequent abuse of UK companies leading the US Treasury to consider the UK a 'higher-risk jurisdiction' for money laundering, akin to Cyprus, this delay is a serious cause for concern.

This key reform would allow improved monitoring, verification, and investigation of suspicious companies. Currently, Companies House does not have adequate powers to sufficiently monitor and ensure the integrity of company incorporation data that is submitted to them. This has led to a plethora of false information submitted to disguise true identities, with previous research identifying 4,000 beneficial owners in the Persons of Significant Control (PSC) register under the age of two. These powers should also be adequately resourced – the obvious solution would be to increase company registration fees, as recommended by the Treasury Select Committee in their recent inquiry.

- **7,000** companies, registered to only five addresses in London, claimed up to £473 million from the furlough scheme between December 2020 and June 2021. About 340 of the firms were created on or after March 1 2020, when the furlough scheme came into operation, and claimed up to £26.6 million.
- **40,000** British companies evaded anti-money laundering checks in 2020, with almost one in ten firms not declaring a 'persons of significant control'.
- **929** UK companies were identified as being involved in corruption and money laundering cases in research carried out in 2019, costing the global economy as much as £137 billion.

Strengthening Unexplained Wealth Orders (UWOs)

The Economic Crime Bill promised to strengthen UWOs to allow law enforcement agencies to more effectively challenge kleptocrats with corrupt sources of wealth who purchase UK assets. First introduced in 2018 to much fanfare, UWOs' usage has since faltered, with only four cases brought overall so far and none since July 2019. The Baker vs NCA case, which the government lost, exposed shortcomings in the UWO regime that need to be addressed, particularly the huge costs incurred by the National Crime Agency, which may dissuade it from pursuing further cases. If the UK is serious about using UWOs to clamp down on corrupt wealth in the UK, they need to be strengthened by ensuring costs protection where law enforcement have acted reasonably and properly. Otherwise, legal costs could cripple already stretched law enforcement budgets.

- **Four** UWO cases have been brought so far, with none since July 2019.
- There is **no target for the use of UWOs** based on aid-funded investigations after aid cuts have led to a £3.6 million budget cut for law enforcement bodies tackling illicit finance and international corruption work.
- A **25%** funds expansion between 2020-2025 was planned for the Action Against Corruption Programme, which funds units in the NCA, CPS, and City of London Police to fight international corruption, prior to aid cuts. Now, the aid-funded budget for this work will be cut by 14.7%.

Introducing a 'failure to prevent' offence for money laundering, fraud, and false accounting

The current rules for holding large companies and financial institutions to account for economic crime are unfair, ineffective, and undermine good corporate governance. The crux of the problem is that current laws are underpinned by the identification principle, which means that prosecutors must identify a 'directing mind and will' for the offence among a company's most senior directors. This principle has

widely been described as antiquated and ill-suited to decision-making structures in today's large, complex, and global companies, including criticisms from past and present directors of the Serious Fraud Office.

The Law Commission is currently reviewing responses to its own consultation on this topic and is due to report in mid-2022. To give prosecutors the best chance of success and avoid outsourcing enforcement to the US, stronger corporate criminal liability for businesses must be a part of any Economic Crime Bill. Shifting to a regulatory offence would only further weaken its deterrent effect, create a fragmented and inefficient enforcement landscape, and leave the UK out of step with best practice globally.

- **75.9% of respondents** to the government's consultation on corporate criminal liability felt that the identification principle inhibits holding companies to account.
- **Over two thirds** of respondents to the government's consultation thought the introduction of criminal corporate liability for economic crime would result in improved corporate conduct.
- **Zero** successful corporate criminal prosecutions were brought by the UK in relation to the conduct of large corporates during the 2008 Financial Crash, while the US brought in over £22 billion in criminal and non-criminal fines to its public purse, including £10 billion from UK head-quartered firms.

Fixing the UK's fragmented and ineffective anti-money laundering supervisory regime

The Treasury is currently reviewing the UK's anti-money laundering (AML) regulatory and supervisory regime, which is not fit for purpose. A disjointed system of 25 different supervisors is tasked with supervising businesses' compliance with money laundering regulations. Yet widespread failures of basic good governance, conflicts of interest, and paltry fines hamper their ability to act as a bulwark against money laundering and provide robust guidance to businesses, as noted by the Financial Action Task Force and recent government reviews. The Economic Crime Bill is a critical opportunity to address this loophole by consolidating, standardising, and strengthening the UK's AML regime.

- **Two thirds** of professional body supervisors in the accountancy and legal sectors do not have effective enforcement frameworks in place, according to the FCA's Office for Professional Body AML Supervision.
- **Almost 50 per cent** of businesses subject to an HMRC money laundering compliance review in 2019 were found to be 'non-compliant.'
- **One third** of professional body supervisors lack effective separation of their advocacy and regulatory functions, with a 2019 review finding that **92%** of accountancy sector supervisors expressed concerns about taking robust action if this would damage their ability to attract or retain members, with.

APPG on Anti-Corruption & Responsible Tax

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