



# Tackling Economic Crime

Parliamentary Briefing

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**UK Anti-  
Corruption  
Coalition**

Economic crime has a devastating impact on our economy, with the National Crime Agency estimating that **money laundering costs the UK more than £100 billion every year.**

Reports from the Intelligence and Security Committee and Foreign Affairs Committee have shown that the consequences of this problem are not just financial; **the flow of dirty or dark money into the UK from hostile regimes impacts both our national security and the integrity of our democracy.**

Many of the measures needed to address this problem are widely supported across government, parliament, business, and civil society but they have struggled to find time in a busy legislative calendar. **An Economic Crime Bill would be a crucial opportunity to bring forward these popular and much-needed reforms.** We outline four key changes that would help British businesses act as an effective defence against corrupt or stolen wealth.

An Economic Crime Bill should:

- Create a register of overseas companies that own UK property;
- Reform Companies House to ensure it can monitor, verify, and investigate suspicious companies;
- Consolidate the UK's fragmented and ineffective anti-money laundering supervisory regime; and
- Reform corporate criminal liability laws to ensure enablers can be held to account.

### **1) Create a publicly accessible register of overseas companies that own UK property**

The UK property market remains the destination of choice for the corrupt and criminal from across the world to launder, spend, or stash ill-gotten gains.

Research from Transparency International UK **identified over £5 billion worth of UK property bought with suspicious wealth.** The recent Pandora Papers uncovered the identities of those holding £4 billion worth of UK property through secretive offshore companies - nearly 95% of them from the British Virgin Islands (BVI) and many of them involving public officials from around the world. The secrecy with which property can be bought **distorts our housing market, with worrying long-term impacts for our economy,** and allows stolen money intended for schools and hospitals around the world to be cleaned up by the bricks and mortar of some of the UK's most prestigious neighbourhoods.

A key example of this is the first family of Azerbaijan – the Aliyevs – and their associates who have used BVI companies to secretly acquire a UK property empire worth nearly £400 million over the past 15 years.

Introducing a register of overseas companies owning UK property would **prevent corrupt actors being able to purchase UK property in secrecy under the cover of a company.** The

government committed to this in its Economic Crime Plan 2019-2022, the Integrated Review, and maintained as recently as 2 November that this reform will be introduced when parliamentary time allows. A Register of Overseas Entities Bill is drafted and ready to go; there should be no further delay to this essential reform.

*Recommendations:*

- The creation of a publicly accessible register of the true owners of overseas companies that buy or own UK property is a vital piece of anti-corruption legislation, and should be legislated for at the earliest possible opportunity.
- To ensure the integrity of the register, the Government should also place a duty on Companies House to conduct due diligence and verify the data in the UK company register and the forthcoming register of overseas entities.

**2) Reform Companies House to ensure it can monitor, verify, and investigate suspicious companies.**

UK companies are too often abused to launder illicit wealth. Britain's reputation as a global business leader with respect for the rule of law furnishes these shell companies with an air of respectability. But the ease with which criminals can set up companies in the UK is giving us a reputation as one of the money laundering capitals of the world. The FinCEN Files leak revealed that the US Treasury considers the UK a 'high-risk jurisdiction' for money laundering, on a par with countries like Cyprus.

Transparency International UK previously identified at least 929 UK shell companies used in 89 global corruption and money laundering cases, amounting to around £137 billion globally in potential economic damage.

The UK's Person of Significant Control Register was a world-leading step towards beneficial ownership transparency. However, Companies House does not currently have adequate resources or powers to sufficiently monitor and ensure the integrity of company incorporation data that is submitted to them. This allows **a significant amount of false and misleading data** to be submitted which allows criminals and the corrupt to **obscure the identity of individuals behind these companies**.

Thousands of companies are either not complying with the rules or are filing highly suspicious entries. For example: **4,000 beneficial owners** in the Persons of Significant Control (PSC) register are listed **under the age of two**, and **five beneficial owners control more than 6,000 companies** – raising the question of whether some of these individuals are nominees, which is prohibited.

In September 2020, the government announced planned reforms to Companies House and has worked out the technicalities over the past year. It is crucial that reforms are brought forward at the earliest opportunity and included in any Economic Crime Bill.

*Recommendations:*

- Empower the Registrar to query information they suspect to be false or misleading.
- Resource the Registrar to investigate inaccuracies wherever they may occur.
- End the use of opaque corporate vehicles in the management of UK companies.

**3) Consolidate the UK's fragmented and ineffective anti-money laundering supervisory regime.**

The system that should prevent dirty money from entering the UK is failing. Oversight of the enablers of economic crime – the bankers, lawyers, estate agents and others – who allow dirty money to flow into the UK either through complacency or complicity is weak and disjointed. 25 different supervisors are tasked with supervising businesses' compliance with money laundering regulations, yet **most of these supervisors fail to meet basic standards of good governance and effective supervision**.

A recent review of a group of these supervisors found that just over **80% had failed to implement a risk-based approach to supervision, while a third did not have an effective separation of their advocacy and regulatory functions**. Previously, of those supervisors tasked with supervising the accountancy sector, 92% expressed concern that taking robust supervisory action would limit their ability to retain members.

Alongside a disjointed approach and conflicts of interest, supervisors have been criticised for imposing insufficient and opaque civil sanctions which provide little deterrent against future AML failings. **Fines issues by many of the supervisors, including HMRC, are considered so low as to not be effective**. The Financial Action Task Force, the global body tasked with issuing anti-money laundering standards, has recommended that the Financial Conduct Authority should increase the number of sanctions, on both firms and individuals, to create a credible deterrent but the number of fines issued remains low.

Through a combination of more robust advice and guidance, and stronger audit and enforcement action, AML supervisors need to provide a stronger incentive structure for regulated businesses to maintain high standards and effective controls against dirty money. The current fragmented, low-enforcement regime should be replaced with a consolidated one which ensures that **standards of AML supervision are consistent across the different regulated sectors**, and that proper sanctions are imposed where firms fail to have proper systems in place for preventing dirty money.

*Recommendation:*

- Consolidate, standardise and strengthen AML supervision by reducing the number of supervisors.
- Ensure all regulated entities face the same level of supervision and enforcement action where they commit breaches, including the same level of risk of criminal prosecution.
- Strengthen the powers and increase the resources of OPBAS and ensure it uses its existing powers to name and shame failing supervisors more robustly.

#### 4) Reform corporate criminal liability laws to ensure enablers can be held to account.

Alongside proper anti-money laundering supervision, a key element of tackling the enablers of economic crime is accountability for egregious wrongdoing. Yet the **current rules for holding large companies and financial institutions to account for economic crime are unfair, ineffective, and undermine good corporate governance.**

Prosecutors have repeatedly asked for the strengthened laws, the Treasury Committee has described the current lack of deterrent as “potentially dangerous”, and 75.9% of respondents to the government’s consultation on reform argued that current rules inhibit our ability to hold companies to account.

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. The principle has widely been described as **antiquated and ill-suited to a modern global corporation** where decision-making may be diffused throughout a corporate structure. In recent years, the interpretation of the rules has become even tighter due to the Barclays judgement in 2020, which some have said puts large corporations beyond the reach of prosecutors.

The Law Commission is currently reviewing responses to its consultation on this topic and is due to report in early 2022. Current rules are clearly out of step with the reality of large, complex, modern companies. To **give prosecutors the best chance of success** and avoid outsourcing enforcement to the US, corporate criminal liability reform must be a part of any Economic Crime Bill.

#### *Recommendation:*

- Replace the outdated identification principle with a form of vicarious liability, drawing on best practice from the Netherlands and the US, to make it easier to prosecute wrongdoers.
- Introduce a ‘failure to prevent’ offence for money laundering, fraud, and false accounting to ensure coherence with measures to tackle bribery and tax evasion.

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

[www.ukanticorruptioncoalition.org](http://www.ukanticorruptioncoalition.org)



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