



House of Commons
Treasury Committee

**Economic Crime - Anti-money
laundering supervision and
sanctions implementation**

Twenty-Seventh Report of Session 2017–19

*Report, together with formal minutes relating
to the report*

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The Treasury Committee

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Contacts

All correspondence should be addressed to the Clerk of the Treasury Committee, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 5769; the Committee's email address is treascom@parliament.uk.

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Introduction

Conduct of the inquiry

1. On 29 March 2018, the Treasury Committee launched an inquiry into Economic Crime. The Committee announced that the inquiry would be organised into the following two strands:

- Anti-money laundering and the sanctions regime. The Committee will examine the scale of money laundering, terrorist financing and sanctions in the UK, the current regulatory and legislative landscape, and how individuals, firms and the wider economy have been impacted by these regimes and the implementation of them; and
- consumers and economic crime. The Committee will scrutinise the scale and nature of economic crime faced by consumers, particularly retail bank consumers, the effectiveness of financial institutions in combatting economic crime, and the security of consumer's data.¹

This Report covers the first of these strands. A second Report covering the consumers and economic crime strand will follow later in 2019.

2. As well as receiving many pieces of written evidence, the Committee held the following oral evidence sessions:

- 15 May 2018—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 (RUSI)
- 27 June 2018—Stephen Curtis, Chairman, The Association of Company Registration Agents (ACRA), Adam Harper, Director of Strategy & Professional Standards, AAT, Mark Hayward, Chief Executive, NAEA Propertymark
- 9 October 2018—Colin Bell, Group Head of Financial Crime Risk, HSBC, Stephen Jones, CEO, UK Finance
- 10 October 2018—Rena Lalgie, Director, Office of Financial Sanctions Implementation, HM Treasury, Simon York, Director, Fraud Investigation Service, HM Revenue and Customs, Alison Barker, Director of Specialist Supervision, Financial Conduct Authority
- 19 October 2018—Director Donald Toon, Prosperity Command, National Crime Agency, Mark Thompson, Interim Director, Serious Fraud Office
- 30 October 2018—John Glen MP, Economic Secretary to the Treasury, Rt Hon Ben Wallace MP, Minister of State for Security at the Home Office, Robert Buckland QC MP, Solicitor General

3. The Committee would like to thank all those who provided written and oral evidence during this phase of the inquiry.

¹ Treasury Committee, [‘Economic crime inquiry launched’](#), 29 March 2018

1 The threat of economic crime

The scale of the threat

4. The National Crime Agency states that economic crime covers a range of crime including:

- Money laundering;
- [Those covered by the] International Corruption Unit (ICU);
- Fraud; and
- Counterfeit currency.²

5. The scale of such crimes is, however, difficult to ascertain and official estimates of the scale of economic crime are highly uncertain. Looking first at published documents, the National Strategic Assessment of Serious and Organised Crime 2018 suggested that the scale of money laundering impacting the UK annually could be in the hundreds of billions of pounds,³ whereas in its Serious and Organised Crime Strategy, the Government put it in the tens of billions of pounds.⁴

6. When the Committee asked Mark Thompson, then interim director of the Serious Fraud Office, to describe the scale of the threat from economic crime, and whether it could be quantified, he responded “the short answers would be ‘big’ and ‘no’”.⁵ He went on to say:

My view after 20-odd years in this field is that I am pretty sceptical of most attempts to quantify economic crime. [...] My view is that it is extremely difficult to quantify in practical terms. That said, the UK is a major financial centre. Therefore, plainly, whatever percentage of transactions might be tainted in some way, it is a large number. I would not really want to say much more than that.⁶

7. Donald Toon, Director of Prosperity (Economic crime and cyber crime) in the National Crime Agency said that they “see the hundreds of billions figure as a realistic possibility”.⁷ He added:

We are talking about a very large amount of money, but we need to be really cautious about impacting on the UK. That is into the UK, through the UK and facilitated by UK structures. We have certainly seen cases where UK company structures have been used to facilitate large-scale money laundering. The money itself has never touched the UK.⁸

2 National Crime Agency, [Economic Crime Command](#), Accessed 4 November 2018

3 National Crime Agency, [National Strategic Assessment of Serious and Organised Crime 2018](#), p38

4 HM Government, [Serious and Organised Crime Strategy](#), November 2018, p14

5 Q174

6 Q174

7 Q192

8 Q254

He also noted that:

In terms of the scale of the money laundering problem, we have been reasonably clear that it is really, really difficult to put a figure on this. We are essentially in a situation where people are trying to move money through a series of transactions that of course look very, very similar to millions upon millions of other transactions. We have said that it would be realistic to say that hundreds of billions are laundered through the UK annually.

That sounds like a huge figure, but, to put that in context, if you simply look at foreignexchange trading, the daily value of foreignexchange trading in the UK is around £1.8 trillion. You are talking about a lot of money moving and a significant amount of illicit money moving. But that pales into insignificance if you look at the overall scale of money that is moving through the financial sector.⁹

8. Rt Hon Ben Wallace, the Security Minister, could also only give a ballpark figure, saying “it is safe to say that we are talking about billions, not hundreds of millions”¹⁰ and said that the previous £90 billion figure was “a conservative estimate”.¹¹

9. The expert witnesses also provided their view on the scale of the problem and were critical of the Government for not having a better assessment of the magnitude. Naomi Hurst, Senior Campaigner, Global Witness, told us that:

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.¹²

10. Tom Keatinge, Director, Centre for Financial Crime and Security Studies at the Royal United Services Institute (RUSI), was unforgiving of the Government’s uncertainty around the scale of the problem:

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.¹³

11. Despite not having a robust assessment of the scale of economic crime, the Government and agencies could demonstrate that combatting such crime was a priority. Mark Thompson noted that: “the fact it is difficult to quantify does not mean you cannot attempt to tackle it. We deal with fraud”.¹⁴ He later added:

9 Q183
10 Q441
11 Q442
12 Q1
13 Q1
14 Q175

[...] Roughly 50 per cent to 55 per cent of our work is on international corruption cases. They tend to be high-profile and involve large companies. From the point of view of ensuring a level playing-field and fulfilling our international commitments in terms of the UK being a safe place to do business, those are important public-interest factors that we would take into account. On the fraud side, again, we would be looking at the most impactful frauds. We would be looking at the particularly large-value and pernicious investment frauds, which harm lots of pensioners and thousands of investors. Those are the ones that are notoriously difficult to investigate, and those are the ones we should be doing.¹⁵

12. Donald Toon gave detail of some of the NCA's responses to economic crime.

At the moment, our investigative resource around economic crime is focused most heavily on money laundering, because it is the identified strategic priority in this space and because it also has that impact on wider serious and organised crime. That includes the other strategic priorities we have, which are in cyber, firearms supply, child sexual abuse and exploitation, modern slavery and human trafficking. That is the principal focus of our investigative capability at the moment in relation to economic crime. That is supported by some of the work we are doing using civil investigation and civil litigation on the recovery of assets from those who may have been involved in serious crime and our use of unexplained wealth orders as part of that process.¹⁶

13. While Alison Barker, Director of Specialist Supervision, Financial Conduct Authority, noted that the FCA didn't have any more information to challenge the assertions of the NCA on the scale of economic crime, she did note that:

In terms of which sectors that may be flowing through more than others, we do not have any information that would help us define that in any more detail. The banking sector is the place in which you would expect that. That is why we supervise it and want strong defences, because that is seen as a high-risk sector, in terms of where the risks sit.¹⁷

14. The Security Minister noted that London's position as a financial centre presented difficulties to law enforcement. He said:

[...] it is a very large haystack, which is why money launderers are attracted to centres such as this. [...] The estimates we have heard, when there have been estimates—about £90 billion or hundreds of billions—are correct. It is partly because of the scale of the City. It is also because dirty money is attracted to clean places. [...] Some of it will transit here and one of the areas I am keen to target is where it harbours here. In other words, once it has been cleaned, those people who are busy out enjoying it in London, because they like to live in Britain, are of concern. Yes, it is an awful lot of money, but the scale of global dirty money is staggering. That is what I would say.

15 Q203

16 Q201

17 Q380

It is no longer the gangster fencing his goods from a bank robbery. It is cybercrime, sometimes by hostile states, that is producing hundreds of millions of pounds.¹⁸

15. **The scale of economic crime in the UK is very uncertain. It seems that it can reasonably be said to run into the tens of billions of pounds, and probably the hundreds of billions. We note that those who gave evidence regarded it as being small in comparison to the total amount of financial activity in the UK, and especially the City of London—for example the daily value of foreign-exchange trading in the UK at around £1.8 trillion. Such a comparison provides no comfort to the Committee. Rather, it suggests that the upper bound of the estimate is unknown.**

16. **It is exceptionally difficult to measure economic crime, given those undertaking it are actively trying to hide it. The Committee does not doubt the will of the authorities to combat economic crime. However, it considers there to be merit in attempting to measure its extent, since greater understanding of the scale of the problem will allow those responding to provide sufficient resources to tackle it, and potentially highlight where those resources should be targeted. The Committee therefore recommends that the Government undertakes more analysis to try and provide both more precision on the potential estimate of the size and scale of economic-related crime in the UK, as well as the exposure of different sectors to it.**

London as a financial centre

17. The UK, and especially the City of London, is a worldwide hub for financial services. Naomi Hirst, from Global Witness, explained that London is attractive because “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”.¹⁹

18. Tom Keatinge, of RUSI, argued that the UK response to financial crime was insufficient, given its position in the global financial system, saying “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”.²⁰ Comparing the UK position with the US, he noted that:

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.²¹

19. Mr Keatinge felt that this position has developed over time:

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. [...] We are now facing the consequences of not having asked sufficient

18 Q440

19 Q8

20 Q2

21 Q2

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.²²

20. When asked about political support for combatting economic crime, Mark Thompson, then interim director of the SFO, noted that:

Going after the top end of economic crime does not necessarily make you popular in all quarters. In fact, if we were entirely popular, we would probably not be doing our job properly. [...] in the economic crime review, the Home Secretary said the SFO would remain independent. We had our core budget increased by the Treasury in March. My successor takes over in August. She has been appointed on a five-year term. Taken together, that shows a degree of political support for the work of the SFO.²³

Complementing that point, Donald Toon of the National Crime Agency, told us that:

In terms of political support, the commitment to the National Economic Crime Centre makes the Government's commitment on economic crime very clear. We have had no issues with political support for the work on tackling economic crime whatsoever.²⁴

21. The UK holds a prime position in global financial services, with the City of London a dominant financial centre. Despite Brexit challenges, the UK must work to keep it that way. A 'clean' City is important, so the Government must recognise the responsibility to combat economic crime that comes with that position. Recent moves by the Government in this area are welcome, but must be sustained, and match the UK's ambitions to continue to be a global leader in financial services.

The UK leadership role and the UK's exit from the European Union

22. The Committee heard evidence that the UK had acted as a leader in combatting economic crime internationally, though as Naomi Hirst explained, performance had not been uniform.

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.²⁵

22 Q7
23 Q208
24 Q208
25 Q55

23. The Committee considered what impact the UK's exit from the European Union might have on Government's efforts to combat economic crime. For example, the National Crime Agency's *National Strategic Assessment of Serious and Organised Crime 2018* noted that:

As the UK moves towards exiting the EU in March 2019, UK-based businesses will almost certainly look to increase the amount of trade they have with non-EU countries. We judge this will increase opportunities for criminals to carry out [Trade Based Money Laundering].²⁶

This was not the only area where the *National Strategic Assessment* highlighted risks from the UK's exit from the EU, and firms potential move to look outside the EU to trade:

[...] We judge this will increase the likelihood that UK businesses will come into contact with corrupt markets, particularly in the developing world, raising the risk they will be drawn into corrupt practices.²⁷

24. When asked about the risks and opportunities of the UK's exit from the European Union, Duncan Hames, Transparency International, told us that:

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 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.²⁸

Duncan Hames also emphasised the balancing act the Government would face in promoting trade following the UK's exit from the European Union, while maintaining a focus on combatting economic crime:

In terms of political will [...] Britain needs countries in a way that it might not have done before, and so it is harder. [...] 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?²⁹

26 National Crime Agency, [National Strategic Assessment of Serious and Organised Crime 2018](#), p40

27 National Crime Agency, [National Strategic Assessment of Serious and Organised Crime 2018](#), p45

28 Q54

29 Q54

25. Simon York, Director, Fraud Investigation Service, HM Revenue and Customs, noted that a number of the practical arrangements that support the fight against economic crime and which may be impacted by the UK's exit from the European Union.

There is a range of intelligence sharing and co-operation arrangements currently linked to the EU, which we would very much want to retain. [...] Lots of things, like the European Arrest Warrant and, from an HMRC perspective, Naples II, which is about the sharing of customs information, are currently tied up with EU-type processes. It is probably in everybody's interest—both our European partners' and ours—to continue to share information and intelligence on serious criminality.³⁰

He added that “a law enforcement agency will always want the maximum amount of information, data and intelligence. The more we have, the better. We would very much be looking to retain and build the capability on that”.³¹

26. The UK's departure from the European Union will inevitably result in a change in international trading relationships. Such new trading relationships may also provide opportunities to those wishing to undertake economic crime in countries that are more vulnerable to corruption. The UK must remain alert to that risk, including when it conducts trade negotiations. The Government must be consistently clear about its intention to lead in the fight against economic crime, and not compromise that in an effort to swiftly secure new trading relationships.

27. We recommend that the Government retains, or replicates, the arrangements with the EU to maintain the flow of information between the UK and EU member states' law enforcement agencies on economic crime. We recommend that the Government work to develop strong relationships with other countries and strengthen mutual information sharing and law enforcement powers.

Financial Action Task Force

28. The Financial Action Task Force's (FATF) mutual evaluation review of the UK's anti-money laundering and counter-terrorist financing systems was published on the 7 December 2018³² after the Committee had taken its oral evidence. It has been over a decade since the last such report.³³

29. It is notable that, as the FATF publication approached, the pace of reform in this area has increased. Simon York, Director, Fraud Investigation Service, HM Revenue and Customs, highlighted that:

Government have been very responsive recently with the recent money laundering regulations, the corporate criminal offence, the National

30 Q360

31 Q361

32 FATF, [The United Kingdom's measures to combat money laundering and terrorist financing](#), 7 December 2018

33 FATF, [Third Mutual Evaluation Report: Anti-Money Laundering and combating the financing of terrorism, The United Kingdom of Great Britain and Northern Ireland](#), 29 June 2007

Economic Crime Centre. There is an awful lot happening and a lot of that is quite new. It is about us getting to grips with that and making the most of it.³⁴

However, there is concern that the UK may lose focus on this area now that FATF has reported. Tom Keatinge, RUSI, was quoted as saying: “There’s a lot of work to do [...] The question is, having put so much energy and resource into the process, what will replace the steel of FATF in the UK’s back?”³⁵

30. The importance of the then ongoing FATF process was emphasised by the Economic Secretary during the Public Bill Committee of the Sanctions and Anti-Money Laundering Bill in March 2018:

[...]. The FATF is the international standard setter in this area and will report publicly later this year on its findings. The report will consider matters, including the effectiveness of how the UK prevents the misuse of legal persons, such as companies, for money laundering purposes. Hon. Members will appreciate that this report will greatly inform the future of the UK’s anti-money laundering regime [...].³⁶

[...]

Once the FATF has reported, the Government will actively consider its conclusions, including those in relation to any areas in which the UK’s anti-money laundering framework can be improved. [...] It would be more sensible to allow the review to identify specific areas where action is necessary before making further changes to our AML regime.³⁷

31. Ben Wallace, the Security Minister, noted the need for a dynamic process around money laundering policy:

[...] because the adversaries move to the vulnerabilities as they appear. It will never be that we can put our arms round and say, “There we are; this is now sorted”, because they are deliberate, and they have the resources to work out and exploit our systems as they change and develop. Any Government, if they are honest, will always sit here and say, “We could do more” or “We are doing this now, but maybe we should have done more two years ago”, because it is a dynamic process and they move to where the weaknesses are in the system and will continue to do so.³⁸

32. Following the conclusion of the Committee’s oral evidence, the Government announced the formation of the Economic Crime Strategic Board on 14 January 2019. It will be jointly chaired by the Chancellor and the Home Secretary.³⁹ Its role will be to “set

34 Q424

35 Moneylaundering.com, [UK Defenses Against Money Launderers Overwhelmingly Effective: FATF](#), by Koos Couvée, October 19, 2018, Accessed 31 October 2018

36 Sanctions and Anti-Money Laundering Bill Committee, 6 March 2019, [col 167](#)

37 Sanctions and Anti-Money Laundering Bill Committee, 6 March 2019, [col 167](#)

38 Q481

39 HM Treasury/Home Office, [News story: New taskforce to tackle economic crime](#), 14 January 2019

priorities, direct resources and scrutinise performance against the economic crime threat, which is set out in the Serious and Organised Crime (SOC) Strategy”, and a mixture of public and private members will sit on the Board.⁴⁰

33. The Committee may consider taking further evidence on the findings of the Financial Action Task Force (FATF) mutual evaluation in due course. The Committee does, however, note the zeal with which the Government has considered reform in this area as the FATF mutual evaluation has approached. With the previous full mutual evaluation occurring over a decade ago, the UK should not solely rely on prompting by FATF to ensure its economic crime prevention, detection and enforcement systems remain fit for purpose and it should not rely on FATF alone to identify areas where improvement is needed. The Committee therefore recommends the Government institutes a more frequent system of public review of the UK’s AML supervision, and law enforcement, that will ensure a constant stimulus to improvement and reform. This review should take a holistic view of the entire system, rather than be undertaken by each individual component supervisor or agency. There may be a role for the recently announced Economic Crime Strategic Board in this work.

40 HM Treasury/Home Office, [News story: New taskforce to tackle economic crime](#), 14 January 2019

2 A fragmented approach to AML supervision

The UK's AML supervisory landscape

34. The UK has a number of anti-money laundering (AML) supervisors. The Treasury has identified 13 Accountancy Professional body AML supervisors, nine Legal Professional body supervisors, and three Statutory AML supervisors: HM Revenue and Customs, (HMRC), the Financial Conduct Authority, and the Gambling Commission.⁴¹

35. When asked about the fragmented nature of this supervisory regime, Duncan Hames, Transparency International, said:

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, [...] that only covers the professional body supervisors.⁴²

36. Tom Keatinge, RUSI, also highlighted the risks being run with the current approach to supervision.

[...] 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.⁴³

37. The next two sections examine two areas where a risk of money laundering has been identified—property and company formation—considering in each case the risk it presents and the AML supervisory regime that is meant to contain that risk.

Property

38. The *National risk assessment of money laundering and terrorist financing 2017* identified property as a sector with risk of economic crime:

When separating the exploitation of property from the involvement of estate agency services, abuse of property is assessed to pose a **medium** risk while

41 HM Treasury, [Anti-Money Laundering and Counter-Terrorist Financing: Supervision Report 2015--17, March 2018, Annexe A](#)

42 Q16

43 Q23

the services of estate agents themselves pose a **low** risk. Property continues to be an attractive vehicle for criminal investment, in particular for high-end money laundering.⁴⁴

39. Duncan Hames, of Transparency International UK, provided further detail:

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.⁴⁵

40. The Committee also heard evidence on where the risks from these transactions were potentially concentrated. Naomi Hirst, Global Witness, told us that “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”.⁴⁶ Mark Hayward, Chief Executive of NAEA Propertymark, noted that “we all know that, at the moment, the prime central London market has collapsed—the transactions are very low—so for those on the ground, perhaps in a small, niche company for whom the fees will be significant, will they ask too many questions, which could put people off purchasing?”⁴⁷ However, he also explained that the problem was not confined to a particular area. He told us that:

It is not just prime central London. [...] Certainly we have seen evidence outside London, particularly where purchases are not uncommon from overseas—particularly in university towns, whether that be Cambridge, Exeter, Bristol or Manchester. There is a very high proportion of purchases from overseas, and we particularly ask our members to be careful when it is a company and to try and find the beneficial ownership of that, and that is starting to improve at the moment.⁴⁸

41. Others were also critical of the role of estate agents. Naomi Hirst, Global Witness, said:

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.⁴⁹

She also noted that “the very fact that [...] estate agents are only filing 0.1 per cent of SARs [suspicious activity reports] in the last session really shows that they are not really aware of the problems”.⁵⁰

44 HM Treasury and Home Office, [National risk assessment of money laundering and terrorist financing 2017](#), October 2017, p54, para 8.4

45 Q34

46 Q38

47 Q78

48 Q76

49 Q38

50 Q38

42. Mark Hayward said that he “probably agreed” that estate agents were one of the “weakest links” in the AML regime.⁵¹ This view was shared by Ben Wallace, the Security Minister at the Home Office, who said that:

[...] It is absolutely the case that estate agents have been one of the weak links in the suspicious activity and money laundering schemes. They have not done nearly enough at all [...] I have a stick, which is to say to the estate agents, “Where are your SARs? Out of 621,000 SARs each year, 83 per cent are from banks and 0.17 per cent or 0.017 per cent are from estate agents. Why is that?”⁵²

However, Mark Hayward also noted that there were others involved in any transaction, each with a responsibility to report any concerns:

To a great extent solicitors are attuned to it, particularly now with the heightened awareness of fraud in conveyancing. I refer to the NCA’s report from two years ago, when they investigated 750 solicitors around property transactions who weren’t solicitors. So it should be picked up because of the customer due diligence done by the agent, the lawyer and possibly the lender, and we should be sharing the information about those we have picked up.⁵³

Donald Toon, Director of Prosperity (Economic crime and cyber crime), National Crime Agency, argued that more emphasis should be placed on the roles of lawyers.

[...] Most of us will have bought houses at some point. SARs fundamentally are about the money. There is a limited involvement of estate agents with the financial transaction. Some do, but some have very little involvement whatsoever; they simply act as an agent of the seller. When you go through the process of a property transaction, for most people it is the solicitor and the conveyancing solicitor who will do the know-your-customer checks, seek to be absolutely certain of your identity and assess what the source of the funds is. Is there a need for improvements around estate agents? Yes. I am a little nervous about saying that estate agents are wholly the root of a problem in this space. There is an issue here about making sure we get good, solid reporting across the legal sector as well as estate agency around property.⁵⁴

43. Mark Hayward also noted some of the gaps in the AML supervisory regime for property:

[...] Do not forget that we are not the only people who sell houses. House builders sell houses, and they are not even bound by the Estate Agents Act. They are seen as a private seller. [...] and] any of us can go out today and buy a house at auction and we don’t need an interface.⁵⁵

51 Q78
52 Q431
53 Q91
54 Q244
55 Q126

44. On estate agents, Simon York, Director, Fraud Investigation Service, HM Revenue and Customs, said:

In all these sectors, there are good and there are bad. We go back to the national risk assessment for our core guiding principles. That draws on intelligence and insight from right across the supervisors and UK law enforcement, and it guides our activity. We would not say they were the weakest link. Yes, they are driven by results, but, as I say, they do not typically handle money. That is a distinction from some of the other sectors we supervise, which are higher risk.⁵⁶

However, Simon York did acknowledge that on SARs submissions by estate agents there may be weaknesses. He noted that, “in the last year, it was 766. I still do not think that is enough”.⁵⁷

45. **The property sector poses a risk from an anti-money laundering perspective. Yet the AML supervisory regime around property transactions is complicated. Banks are supervised by the Financial Conduct Authority, solicitors by their relevant professional body, and estate agents by HMRC. While there may be debate over which part of the transaction chain bears most responsibility from an AML perspective, each part has a role in reporting, or preventing, a transaction that may be used for money laundering. There is a risk that some estate agents may be unsupervised, having not registered with HMRC. We recommend that HMRC carries out further work to ensure estate agents are registered with them and following best anti-money laundering practice.**

Company formation

46. Company formation can be undertaken through different institutions, or directly through Companies House. Company registration agents are supervised by HMRC. Accountants or solicitors, who may also undertake company formation activities, are either supervised by a professional body AML supervisor or, if they are not part of a professional body, by HMRC.

47. There are money laundering risks associated with company formation. The *national risk assessment of money laundering and terrorist financing 2017* noted that:

While the vast majority of companies and partnerships are used for legitimate purposes, law enforcement agencies assess that criminals seeking to hide wealth or enable money laundering are likely to use companies and partnerships in order to do so. The risk of criminals seeking to launder money through UK and overseas corporate structures is therefore assessed to be **high**.⁵⁸

56 Q383

57 Q382

58 HM Treasury and Home Office, [National risk assessment of money laundering and terrorist financing 2017](#), October 2017, p59 [Emphasis in original]

48. These risks posed by company formation were also acknowledged by Stephen Curtis, Chairman of the Association of Company Registration Agents (ACRA), saying “money laundering is a risk. There is plenty of evidence, anecdotal and other, that people have used companies to hide wealth”.⁵⁹

49. When asked whether company formation agents were the weak links, Mr Curtis said “my genuine belief is that members of ACRA are not a risk. We put a lot of effort into discussing best practice in anti-money laundering checks.”⁶⁰ He explained that:

We have a very detailed Treasury guidance note that dictates how we do it. We are supervised by HMRC, which inspect that we are doing it in the way that they say. [...] We also look at whether the client is a professional. In many cases, the client has already done the due diligence. We do things such as using the electoral roll. We use a commercial database to identify politically exposed persons [...].⁶¹

50. However, Stephen Curtis also had some concerns about the AML supervision of company formation, where he noted risks around unregistered agents, and businesses that register directly with Companies House and do not use agents.⁶²

51. There is a clearly identified risk that company formation may be used in money laundering. There are a number of entities that undertake company formation, and therefore a number of supervisors. More worryingly, there appears to be a number of unsupervised entities engaged in company formation. These should be identified by HMRC and dealt with as a matter of urgency.

Companies House

52. As highlighted above, one aspect of the anti-money laundering regime related to company formation where a risk has been raised was the role of Companies House. Companies House is an executive agency, sponsored by the Department for Business, Energy & Industrial Strategy (BEIS). Its role is to incorporate and dissolve limited companies and register company information and make it available to the public.⁶³ Companies House also keeps the ‘people with significant control’ (PSC) register, which has details of names, dates of birth and nationalities of the “beneficial owners” of a company.⁶⁴

53. However, this inquiry has identified weaknesses in the controls around the information in Companies House. The Right Hon Lord Henly, Parliamentary Under-Secretary of State for BEIS, confirmed to the Committee that Companies House was not subject to requirements to carry out anti-money laundering checks and could not refuse registration for reasons other than non-compliance with the registration requirements.⁶⁵ He also confirmed that Companies House powers were limited, with it not having powers to verify the information on the register, although he went on to say that “it does carry out

59 Q92

60 Q79

61 Q74

62 Q79

63 [Companies House](#), Accessed 1 November 2018

64 Companies House, [Blog: The new ‘people with significant control’ register](#), by Gareth Lloyd, Director of Digital Services at Companies House, Accessed 2 November 2018

65 Treasury Committee, [Correspondence from the Parliamentary Under-Secretary of State to BEIS to Chair relating to Companies House, 22 October 2018](#)

a number of checks on all information received, ensuring it is valid, complete, correctly formatted and in compliance with company filing requirements. The obligation to ensure the information is accurate lies with the company and its directors”.⁶⁶

54. Witnesses were very supportive of the PSC register. Stephen Jones, CEO, UK Finance and Colin Bell, Group Head of Financial Crime Risk, HSBC, both underlined the importance of a register which is up to date and validated. Witnesses also questioned the current accuracy of the register. Colin Bell said “I am not sure—I think long and hard about this—whether there is really a best practice example of a public register at the moment”.⁶⁷ Duncan Hames of Transparency International UK said being the first country in the G20 to have a register was “a world-leading move” but went on to say that “we have some way to go before we can claim that [the Government ensures adequate, accurate and current information on beneficial ownership] through our anti-money laundering measures in the UK”.⁶⁸

55. Naomi Hirst, Global Witness, outlined potential problems with the PSC register that her organisation had found.

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.⁶⁹

56. Stephen Curtis, Chairman of ACRA also questioned whether Companies House has the resources required to be proactive in checking the register. He went on to say that:

Absolutely, partly because my members put 10 per cent of their turnover into doing these checks. We are locking the back door very solidly and the front door is being left open. That seems to us galling, apart from anything else, uncompetitive and not right. We are worried too about what it does to reputation. The Government say that they want the UK to be a good place to do business. From our point of view, a good place to do business is also a responsible place to do business, or a place to do responsible business. We would not want the UK tarred with the sort of brush that is occasionally used in offshore.⁷⁰

57. Naomi Hirst also noted problems around enforcement by Companies House, noting that “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”.⁷¹

58. Duncan Hames commented on the remit of Companies House and suggested it may need reform:

66 Treasury Committee, [Correspondence from the Parliamentary Under-Secretary of State to BEIS to Chair relating to Companies House, 22 October 2018](#)

67 Q321

68 Q3

69 Q52

70 Q95

71 Q52

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.⁷²

59. Stephen Curtis concurred, noting that:

Companies House is self-financing, and at the moment it only costs £12 to form a company, which is way less than half of almost anywhere else. The EU encourages members to charge less than €100, which is about £80 to £90; we charge £12. So there's a lot of headroom there. As I said, with the PSC register, we think that Companies House should be doing more checking; we think Companies House ought to be putting more resources into the things that matter—and we believe that this is something that matters.⁷³

60. Rt Hon Lord Henly, Parliamentary Under-Secretary of State for BEIS noted that “Companies House is undertaking a number of activities to improve the quality of information on the PSC register”.⁷⁴ In their evidence to the Committee, while noting that it was a BEIS responsibility, and that a review was in train,⁷⁵ Ministers appeared to suggest that there was a case for reform at Companies House. John Glen, Economic Secretary, noted that: “[...] we have a range of bodies that are fit for purpose. There are challenges to individual elements of that, at times, as we have discussed with Companies House, about how we need to reform it to make it more effective”.⁷⁶ Ben Wallace, the Security Minister, said “I have concerns and the Government have concerns about how Companies House has been used in the past and the lack of diligence. [...] You are right, and we need to improve the data and its quality”.⁷⁷

61. Robert Buckland, the Solicitor General, when asked whether he had discussed Companies House with BEIS, told us that:

I have not spoken directly to BEIS colleagues about this, but there is a general point here. Where we have agencies such as Companies House that are already in possession of significant information that might ultimately, as it often does, form the basis of a prosecution or an investigation of another nature, I would hate to think we are missing opportunities. While I do not want to overburden Government agencies with too many flags or questions, it is a pretty important question to be asked. Therefore, I would be happy to have that conversation.⁷⁸

72 Q53

73 Q131

74 Treasury Committee, [Correspondence from the Parliamentary Under-Secretary of State to BEIS to Chair relating to Companies House, 22 October 2018](#)

75 Q429

76 Q433

77 Q486

78 Q485

62. On the findings of FATF, John Glen, Economic Secretary to the Treasury took this further, saying that “BEIS will look further at controls over who registers companies in the UK, what information they have to provide, and how assurance is provided over that information”.⁷⁹

63. There must be no weak areas in the UK’s systems for preventing economic crime. At present, Companies House presents such a weakness. The UK cannot extol the virtue of a public register of beneficial ownership and yet not carry out the necessary rigorous checks of the information on that register. The Government must urgently consider reform of Companies House to ensure it has the statutory duties and powers to ensure it plays no role in helping those undertaking economic crime, whether here or abroad. It is welcome that the Economic Secretary has noted that BEIS is considering reform in this area, but the Government should move quickly and now publish detail of this reform by summer 2019.

Core financial services

64. At the heart of the financial system lie the banks, and other financial institutions regulated by the Financial Conduct Authority, which also acts as its AML supervisor. Alison Barker outlined the work of the FCA in this area:

We are obviously supervising a range of firms within our scope. [...] We assess the risks. We use the national risk assessment to identify where the risky sectors are. Then we will use data and analytics to identify which firms we think are the highest risk in that population. Our most intensive supervisory programmes are for the highest-risk firms. [...] We use outbound calling; we have a contact centre and we use that contact centre to outbound call, in particular, very small firms to ask questions about what they are doing on money laundering. We feel that we are quite intensively working with firms to drive home messages and understand what is happening in the money laundering space. On the enforcement aside, we have a range of powers and take enforcement action against firms. [...] There are fines at one end [of the spectrum], but we also impose business restrictions.⁸⁰

65. Stephen Jones, from UK Finance, told the Committee that:

[...] in terms of focus and attention, in terms of time, money and indeed personal accountability, as a result of the senior managers regime as well as the regulatory oversight to which banks are subject, I would strongly suggest that they do get it. They are also doing everything they can to help Government, [...] to make sure that the UK is as safe and transparent as it can be, as a place to undertake financial services businesses.⁸¹

66. There have though been a number of FCA fines on banks for poor AML controls. For example, in January 2017, the FCA fined Deutsche Bank AG more than £163 million for failing to maintain an adequate anti-money laundering control framework.⁸² At the time, the FCA said that “this is the largest financial penalty for AML controls failings ever

79 HC Deb, 10 December 2018, Col 2WS

80 Q358

81 Q264

82 FCA, [FCA fines Deutsche Bank £163 million for serious anti-money laundering controls failings](#), 31 January 2017

imposed by the FCA, or its predecessor the Financial Services Authority (FSA)”.⁸³ More recently, in June 2018, the FCA both fined Canara Bank nearly £900,000 and imposed a restriction preventing it from accepting deposits from new customers for 147 days, for anti-money laundering systems failings.⁸⁴

67. Despite this, Naomi Hirst, from Global Witness, stated that the FCA’s fines had been “too infrequent to really deter behaviour”.⁸⁵ Mark Thompson, of the Serious Fraud Office, also noted certain deficiencies in the way banks AML systems work, saying “I will leave you to fill in the blanks, but it is possible that senior figures in the banks avoid being involved in some of [the compliance] decisions”.⁸⁶

68. In December 2012, HSBC entered into a deferred prosecution agreement with US Department of Justice, and forfeited \$1.256 billion for anti-money laundering and sanctions violations.⁸⁷ Colin Bell, HSBC, provided the following outline of HSBC’s efforts to combat economic crime since that time:

It is clearly well known that we have been through a transformative effort over the last five years, with a huge amount of investment. [...] In terms of technology investment, we have spent over \$1 billion since 2015 on AML-type technology, but there has also been a whole-firm effort in terms of training. [...] For an institution to tackle this really well, you have to really understand the risk. That is training and education. You have to be able to operate your systems at scale. That is technology investment. You have to recognise that it is a continuous process, because the threat environment continues to change. [...] In terms of the level of understanding, the fingertip feel across the organisation for financial crime risk, I think that has been transformative.⁸⁸

69. The regulator also suggested that it had adopted a tighter focus on financial crime. Alison Barker told us that, compared to 2008, the FCA’s focus on economic crime “has significantly increased. Financial crime has been an FCA priority and a priority on our business plan for three or four years. We have significantly increased resources. We have significantly increased our enforcement pipeline”.⁸⁹ When asked whether the greater focus in the banks on financial crime was the result of the regulator, or of their own volition, Ms Barker said that it was no longer seen as a “tick-box thing” and now was more about a “public-private partnership approach”.⁹⁰ She noted that the Senior Managers’ Regime had “focussed minds” but that the banks had also seen culture and behaviour changes, with people “focussing on their accountability and what they are accountable for”.⁹¹

83 FCA, [FCA fines Deutsche Bank £163 million for serious anti-money laundering controls failings](#), 31 January 2017

84 FCA, [FCA fines and imposes a restriction on Canara Bank for anti-money laundering systems failings](#), 6 June 2018

85 Q26

86 Q230

87 United States Department of Justice, “[HSBC Holdings Plc. and HSBC Bank USA N.A. Admit to Anti-Money Laundering and Sanctions Violations, Forfeit \\$1.256 Billion in Deferred Prosecution Agreement](#)”, 11 December 2012, Accessed 4 November 2018

88 Q264

89 Q395

90 Q370

91 Q370

70. When we asked the FCA whether they had noticed a change in the banks position on financial crime, Alison Barker said that for “largest, most risky institutions”:

We have seen those institutions improve in terms of their systems and controls to tackle money laundering, their ability to monitor customers and do enhanced due diligence, and their transactions monitoring. On the whole, we have seen improvements in that space.⁹²

However, Alison Barker seemed more concerned around smaller foreign banks, were she told us the FCA had “perhaps seen fewer improvements”.

We still have work ongoing with those to improve standards. We have had a number of enforcement cases against some of those institutions; the most recent was Canara, but we have also had Sonali Bank and the Bank of Beirut. We want to see systems and controls improved.⁹³

She warned, however, that the threat was not static and that the FCA needed “to be focused and on top of our game in terms of tackling what is coming up”.⁹⁴

71. The Economic Secretary was keen to combat the suggestion that the banks were undertaking a disproportionate amount of the supervisory burden. He told us that “Banks have a responsibility to work with the FCA and others to deal with the risks that exist among their customers. That is responsible capitalism and they need to be participating in that”.⁹⁵

72. Though the emphasis has been on the risk presented by enablers, such as accountants or solicitors, there should also be a sharp focus on the supervision of the core financial services. To the extent that this risk is not ameliorated by supervision, the FCA needs to ensure that they keep up a constant pressure on the core financial services businesses and take appropriate enforcement action against them.

The Periphery versus the Core

73. During this inquiry, another potential split in the supervisory regime was identified by the Committee, between the core banking system, supervised by the FCA, and the so called ‘enablers’ or ‘facilitators’, such as estate agents, accountants and solicitors. For example, Colin Bell, from HSBC, told us that “We know from the industry statistics that the vast majority of reports of suspicious activity come from banks. Almost self-evidently, more could be done by other parts of the regulated sector in terms of reporting”.⁹⁶

74. Donald Toon, of the NCA, said that the Government had not been blind to this risk, noting that “the UK’s own national risk assessment of the risk on money laundering and terrorist financing identified an issue [...] with fragmentation and inconsistency”,⁹⁷ and he suggested this had been a reason for the creation of the Office for Professional Body Anti-Money Laundering Supervision (OPBAS), within the Financial Conduct Authority. When asked which sectors were particularly weak, Mr Toon mentioned “legal, accountancy,

92 Q369

93 Q369

94 Q369

95 Q478

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97 Q188

company-formation services, estate agency”, saying “there is no consistency in those sorts of areas. If you look at the structure of SAR—suspicious activity report—reporting, the numbers in there are lower than we think we should expect”.⁹⁸

75. Duncan Hames from Transparency International, talked about the challenges faced by those outside of the core financial system.

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.⁹⁹

76. This was reinforced by Tom Keatinge, Director, Centre for Financial Crime and Security Studies, Royal United Services Institute (RUSI), who told us 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. [...] 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? [...] 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.¹⁰⁰

77. The concern around the role of the enablers was acknowledged by the Security and Economic Crime Minister, Ben Wallace, who told us that “I absolutely agree with the point that the facilitators have not had the same focus on them as they should have done. They have a responsibility that they need to live up to and I would like to see them being put under more pressure to comply”.¹⁰¹ This view was also included in the *Serious and Organised Crime Strategy 2018*, which noted that “professionals such as lawyers and accountants are an important part of the response to serious and organised crime”.¹⁰²

78. The evidence we have received has directed our attention to those who act on the periphery of the financial system, rather than its core, the so-called enablers or facilitators. External witnesses suggested that there is a requirement for education as well as enforcement—the Security Minister pointed towards the responsibility of the enablers to play their part. It is welcome that in its Serious and Organised Crime Strategy, the Government has acknowledged a similar focus. The Committee recommends that the Government steps up education of facilitators, to ensure they have all information about their role, recouping any additional costs through fees. Once this has been completed, it should be followed with an enforcement campaign to ensure compliance.

98 Q190

99 Q28

100 Q30

101 Q481

102 HM Government, [Serious and Organised Crime Strategy](#), November 2018, p14

Professional body supervision and OPBAS

79. A significant part of the UK's AML supervisory regime is its use of professional body AML supervisors. At present, there are 22 such bodies, divided amongst the legal and accountancy sectors.¹⁰³ However, the Committee heard claims that the use of professional body AML supervisors is not without risk. Duncan Hames, Transparency International UK, outlined the inherent conflict a professional body AML supervisor may face in undertaking its duties, highlighting “the problem of a body both lobbying on behalf of its members, [...and] 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”.¹⁰⁴

Echoes of this view were heard in the evidence from Stephen Curtis, Chairman of the Association of Company Formation Agents, who, when asked if his organisation would like to be a professional body AML supervisor, said:

On balance, I prefer having HMRC to many of the other solutions I can think of. We have thought about doing it ourselves, but we are a small, close-knit industry, so we see a potential conflict. If we were both lobbyists and supervisors, members may say, “But I thought you were supporting me”.¹⁰⁵

In comparison, when asked whether his association would like to register as an AML supervisor, Mark Hayward of NAEA Propertymark said:

We probably would. We would then have the resource to conduct more on-site inspections. We already look at our members' client accounts, so we already have oversight of that. We could increase the training.¹⁰⁶

Office of Professional Body Anti-money laundering Supervisors (OPBAS)

80. The Office of Professional Body Anti-Money Laundering Supervision (OPBAS) is part of the Financial Conduct Authority. Its creation stemmed from the 2016 *Action Plan for anti-money laundering and counter-terrorist finance* which initiated a call for evidence on the supervisory regime.¹⁰⁷

81. In December 2017, the Treasury announced the establishment of OPBAS.

The Office for Professional Body AML Supervision (OPBAS) will work across the UK's anti-money laundering supervisory regime to improve standards and ensure supervisors and law enforcement work together more effectively.

OPBAS, which will operate within the FCA, will ensure the 22 bodies meet the high standards set out in the Money Laundering Regulations 2017, and have powers to investigate and penalise those that do not.¹⁰⁸

103 FCA, [Office for Professional Body Anti-Money Laundering Supervision \(OPBAS\)](#), 23 January 2018

104 Q16

105 Q171

106 Q125

107 HM Treasury/Home Office, [Action Plan for anti-money laundering and counter-terrorist finance](#), April 2016, p44

108 HM Treasury, [News story: UK establishes new money laundering watchdog](#), 21 December 2017

One of the ways in which OPBAS can penalise supervisors is by recommending to the Treasury remove them from the list of professional body AML supervisors.¹⁰⁹

82. OPBAS was launched in January 2018.¹¹⁰ Alison Barker, from the FCA explained that its initial priority was to visit the professional bodies, to make an assessment of how they are meeting the requirements set out in the money laundering regulations and take a view of how effective they are as supervisors. It had assessed 15 of the professional bodies by 10 October 2018.¹¹¹ OPBAS also has an objective to encourage intelligence sharing between the professional bodies, and their members.

Concerns over cost and focus

83. In the written evidence received by the Committee, there has been a particularly discordant note sounded by the professional body AML supervisors around the creation of OPBAS. Adam Harper outlined the concerns the Association of Accounting Technicians (AAT) had with OPBAS:

[...] we do not have an issue with oversight; we are aware that that model is applied in other jurisdictions. [...] The issue we have is that there has been no clarity on how it will do that, or on what its measures of success will be, and we are still awaiting clarity on the ramifications for us from a fee perspective.¹¹²

Give this lack of clarity on objectives and measures of success, Adam Harper proposed that there should be an independent review in a couple of years, to assess how well OPBAS has met expectations.¹¹³

84. Mr Harper also noted the potential impact of the cost of OPBAS, estimated at the time in the region of “£2 million per annum in operating costs”.¹¹⁴ The AAT had, at the time, not assessed the impact of OPBAS’ costs but he said it was likely “that AAT, and indeed other supervisory bodies, may then look to transfer those additional costs to [its] members, who will look to transfer those costs to their clients”.¹¹⁵

85. Responding to these concerns around cost, Alison Barker said that the FCA was “very alive to those concerns”.¹¹⁶ In its consultation published in October 2018, the FCA noted that there had been a reduction in the amount of resources needed. It explained that while in September 2017 the expectation was that the annual funding requirement (AFR) was £2.25million to be recovered through fees, having now seen the actual expenditure of OPBAS, the FCA total has been revised down from £2m to £1.4million, and the AFR to be recovered in 2018/19 is £1.65million.¹¹⁷

109 The Oversight of Professional body Anti-money Laundering and Counter Terrorist financing Supervision Regulations 2017, [2017 No. 1301](#), Regulation 17

110 HM Treasury, [News story: UK launches new anti-money laundering watchdog](#), 23 January 2018

111 Q425

112 Q160

113 Q159

114 Q158

115 Q158

116 Q426

117 FCA, [Recovering the costs of the Office for Professional Body Anti-Money-laundering Supervision \(OPBAS\): proposed fee rates for 2018/19](#), Consultation Paper, CP18/32**, October 2018, p6

86. The Committee supports the role that The Office of Professional Body Anti-Money Laundering Supervision (OPBAS) has been given in relation to the Professional Body Anti-Money Laundering Supervisors. The inherent conflict in a membership organisation also monitoring its own members means that there is a need for external supervision. The number of such supervisors also shows there is a need for a single organisation to look at the system as a whole to identify weaknesses. We consider the concerns around whether the statutory AML supervisors also need such a coordinating body later in this Report.

87. At present, OPBAS also has the responsibility of recommending to the Treasury whether a professional body should remain an AML supervisor. It is not clear how the Treasury would consider such an OPBAS recommendation, and where it would envisage placing such AML supervisory responsibilities in such a case. Without adequate preparation in this area, AML supervisors may become too important to fail, and therefore risk undermining standards in this area. We recommend that the Treasury publishes—within six months—a detailed consideration of how it would respond to such a recommendation from OPBAS.

HMRC as an AML supervisor

88. HMRC is one of the statutory AML supervisors. It covers a wide range of unconnected industries, including:

- money service businesses not supervised by the Financial Conduct Authority (FCA);
- high value dealers;
- trust or company service providers not supervised by the FCA or a professional body;
- accountancy service providers not supervised by a professional body;
- estate agency businesses;
- bill payment service providers not supervised by the FCA; and
- telecommunications, digital and IT payment service providers not supervised by the FCA.¹¹⁸

89. As this list shows, while HMRC is the sole supervisor for certain industries, HMRC often acts as the supervisor of firms that are not a member of a professional body that also has AML supervisory responsibilities. In its evidence, RUSI noted that this wide-ranging remit meant HMRC was “viewed by some as the ‘supervisor of last resort’ given the bagatelle of sectors it is required to supervise (including real estate agents and money services businesses)”.¹¹⁹

90. Simon York, Director, Fraud Investigation Service, HM Revenue and Customs, argued that this description of HMRC’s role was “really quite unfortunate”. He continued:

118 HMRC, “[Guidance: Who needs to register for money laundering supervision](#)”, Accessed 31 October 2018

119 [RUSI Centre for Financial Crime and Security Studies \(ECR0018\)](#)

There are some sectors that naturally sit with other organisations, banks with the FCA, casinos with the Gambling Commission, but in many ways we are the supervisor of first resort. For the sectors that do not fit with anyone else, we are the place the Government come to ask us to deal with them.¹²⁰

91. The Committee has heard criticism of HMRC’s work as a supervisor. RUSI said that HMRC “[...] does not represent a credible supervisory enforcement deterrent”.¹²¹ Duncan Hames, Director of Policy, Transparency International UK, said they were “not satisfied [...] 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 [...] for example, is very limited indeed”.¹²² Stephen Curtis from ACRA said he “would give HMRC about seven out of 10”.¹²³

92. Mr Curtis went on to describe HMRC’s work on money laundering supervision as follows:

[...] We are supervised directly by HMRC. At the policy level, that works extremely well. We have a very good relationship with the policy people who are responsible for policy for trust and corporate service providers within HMRC. I can phone them up if I need to and I always feel I am getting a good hearing. That does not mean at all that we get agreement but at least I feel I am being heard, so that is very good.¹²⁴

93. Accountancy is one area where HMRC supervises only those firms that are not members of a professional body AML supervisor. Adam Harper, AAT, argued that such firms posed a greater risk to the AML regime, as they had not been subject to the “rigorous set of standards” required to become a member of a professional body.¹²⁵ Simon York, from HMRC, said that while those accountants who are not a member of a professional body “might not be as competent [...] they are probably less likely to get involved in the more complex financial planning that would sit around money laundering”.¹²⁶

The tax authority as AML supervisor

94. External witnesses raised the issue of having the tax authority as an AML supervisor as it was felt HMRC may be tempted to treat its supervisory responsibilities as adjunct to its revenue raising activities. The HMRC *Single Departmental Plan* contains no stand-alone objective for its AML supervisory work.¹²⁷ RUSI stated that “HMRC also has a law enforcement role, in particular in relation to tax crimes, and there is a perception that its AML supervision stance is primarily driven by self-interest”.¹²⁸ This was then emphasised

120 Q387

121 [RUSI Centre for Financial Crime and Security Studies \(ECR0018\)](#)

122 Q20

123 Q168

124 Q130

125 Q105

126 Q384

127 HMRC, [Corporate report: HM Revenue and Customs single departmental plan](#), Updated 12 July 2018, Accessed 4 November 2018

128 [RUSI Centre for Financial Crime and Security Studies \(ECR0018\)](#)

by Tom Keatinge of RUSI who told the Committee that “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”.¹²⁹

95. The Committee questioned HMRC about the proportion of the convictions noted in its *Report on Tackling Financial Crime in the Supervised Sectors 2015–2017* were tax-related crimes that include money laundering. Simon York responded that:

There is a mixture in there. Some of the criminal prosecutions are for regulatory breaches of the money laundering regulations. Some of them are freestanding money laundering investigations. We see people who are professional money launderers, who might be abusing some of the sectors we work with, or they might be facilitating tax criminals, so there is a big tobacco job or whatever, and we have a professional money launderer here who is helping. There will be some there. There will be others where it might be a tax investigation that has that.¹³⁰

96. When the Committee directly tackled HMRC on whether its priority was its role as a tax authority rather than its AML supervisory responsibilities, Simon York responded that:

Clearly, we are the UK’s tax and customs authority. I think everyone would agree that is our primary function and our primary role. That is not in any way to say that the money laundering work we do is any less of a priority. I hope I have described that we increasingly take it seriously, first, because Government want us to take it seriously, we have been given the job, and we take every job we are given seriously, but, secondly, we think it is a great way to help us on the tax side as well. Almost all tax evasion, all organised crime, involves money laundering. Being able to deploy those supervisory teams, the full enforcement functions, the full tax powers and the proceeds of crime powers all together is quite a powerful mix. There are huge opportunities for us, which we have started to take over the last few years, to really make a difference to tax crime in this country.¹³¹

Resourcing

97. Another area of concern raised with the Committee about HMRC was around resourcing, both amount and expertise. Stephen Curtis, of the Association of Company Registration Agents, noted that “HMRC’s problems probably are down to resourcing and budget cuts”¹³² Mark Hayward, of NAEA PropertyMark, concurred.¹³³ Mr Curtis also raised concerns around the knowledge and stability of those supervising company registration agents. He said that his “members find they spend quite a lot of time explaining the arcane work of a company registration agent to the inspector” and said there was a high turnover of staff.¹³⁴

129 Q22

130 Q411

131 Q419

132 Q131

133 Q135

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98. Simon York, HMRC, acknowledged that HMRC's resources were currently not sufficient for its supervision work.¹³⁵ He noted that there was no cross-subsidisation with HMRC's other work, and that was why HMRC was "consulting on increasing the fees. To fully implement the 2017 regulations, we feel we need more resource there".¹³⁶

Unregistered firms

99. One concern around HMRC AML supervision is whether it is ensuring that all firms that should be registered with it, are. Mark Hayward, of NAEA Propertymark, when asked whether some firms were slipping through HMRC's net, told us that he thought some were, and that "I know that National Trading Standards is prosecuting some of them on behalf of HMRC, but it is very difficult to identify".¹³⁷ Stephen Curtis also suggested that HMRC spent too much time with those already supervised, and not enough with those who were unregistered.¹³⁸

100. On the number slipping through the HMRC net in another area of its supervisory work, company formation, Mr Curtis noted that:

Interestingly, there are 105 company registration agents listed on Companies House's website. In a study last year, RUSI found that a quarter of them are not registered with HMRC. What are they doing all being allowed to form companies?¹³⁹

101. Simon York, of HMRC, said that the proportion of unregistered businesses was "[...] pretty small. [...] that number has gone up from 8,000 to 10,000 over the four years we have dealt with [AML supervision]. Some of that could be market conditions and change in the actual constitution of that, but we know some of that is us bringing in people who perhaps had not registered to start with".¹⁴⁰ He said that HMRC is taking a number of actions to reduce the number of unregistered firms, including cross-checking information with data held through tax work.¹⁴¹

HMRC's overall role as an AML supervisor

102. The concerns about HMRC mentioned above raise doubts about whether HMRC should maintain its role as an AML supervisor. When we asked the professional bodies whether HMRC should withdraw from their areas, Mark Hayward of NAEA Propertymark (which is considering becoming a professional body AML supervisor) said he "would be very much in favour of that" as it has taken HMRC a long time to get to know their sector and he felt the professional bodies would know what to look for.¹⁴²

103. Adam Harper of the AAT asked "if HMRC were no longer a supervisor for AML purposes, where would those firms go? Would it mean that individuals who fall out of

135 Q400

136 Q401

137 Q170

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139 Q172

140 Q408

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142 Q169

that environment are effectively unable to trade in that profession?”¹⁴³ Stephen Curtis, Chairman of the Association of Company Registration Agents said that “on balance, I prefer having HMRC to many of the other solutions I can think of”.¹⁴⁴

104. In June 2018, the Committee asked Sir Jonathan Thompson, Chief Executive of HMRC, whether HMRC’s AML work was a “bolt-on activity for HMRC rather than core business “. In response, he said that “there is an interesting question about whether the primary purpose of HMRC is to collect the revenue that pays for public services [...] these other activities are undoubtedly important, but are they best aligned with us or might they be best aligned with someone else? Our plan is to have that conversation in spending review 2019”.¹⁴⁵

105. When the Committee queried whether some of HMRC’s roles were ‘bolt-ons’, and whether the tax authority was an appropriate supervisor of estate agents, the Economic Secretary replied:

Lots of Government Departments have a big range of responsibilities. The question is whether the Department that is doing the activity is discrete, ring-fenced, responsible and effective in what it is doing.¹⁴⁶

106. In evidence to this Committee, the Chief Executive Officer of HMRC noted that he was considering, as part of the 2019 Spending Round, querying whether HMRC should retain its role in Anti-Money Laundering supervision. The Committee agrees that this should be given proper consideration, not only to support HMRC concentrating on its core tasks but also to address concerns expressed to the Committee about HMRC’s work as an AML supervisor, and whether its approach to its supervisory responsibilities may be unduly influenced by its role as a tax authority. The Treasury must send the Committee a report on this consideration well ahead of the Spending Review and we will take oral and written evidence.

107. Notwithstanding the above recommendation, the Committee has heard a number of concerns around the work of HMRC as an AML supervisor, including around its work on unregistered firms. If it is to retain its AML supervisory responsibilities, HMRC should:

- include within its departmental objectives a single stand-alone objective related to its anti-money laundering supervisory work; and
- keep a clear reporting line between its AML supervisory work and its work investigating tax crime and associated money laundering offences. HMRC should have a separate strategy for its AML supervisory work which would include key performance indicators on which HMRC can report.

143 Q171

144 Q171

145 Treasury Committee, [Oral evidence: The UK’s economic relationship with the European Union, HC 453, 5 June 2018](#), Q793

146 Q455

Supervisor of supervisors

108. The fragmented nature of the AML supervision regime in the UK has led to calls for a ‘supervisor of supervisors’. Tom Keatinge of RUSI noted the limitation in OPBAS scope of operations, saying “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”.¹⁴⁷ He explained that:

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.¹⁴⁸

Mr Keatinge also pointed out the advantages such a supervisor of supervisors would bring, given the interconnected nature of financial crime. He told us that:

[...] 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.¹⁴⁹

109. Duncan Hames from Transparency International UK noted that OPBAS having no formal role in overseeing the statutory supervisors (such as HMRC) could be problematic if one of those supervisors was underperforming.¹⁵⁰

110. The Economic Secretary to the Treasury, however, was more sceptical of the possibility of a single agency taking this responsibility. He argued that originally he’d thought of “a single button or single view of what to control and how to evaluate this. It is not possible to do that”.¹⁵¹ He said “that it would be impossible to develop a comprehensive new single entity, but what we have in place is optimised co-operation across Government to identify where risks need to be acted on and where changes in the law are necessary”.¹⁵²

111. With the creation of OPBAS, the Government acknowledged that consistency across AML supervisors was important. The Committee recommends that it should go one stage further, by creating a supervisor of supervisors. The aim of this institution would be to ensure that there is consistency of supervision across all the AML supervisors, whether statutory or professional body. There is a strong case for this to be OPBAS, given it already has a role in the coordination of the professional body AML supervisors, and a role in information sharing.

112. The Government should then also consider moving the supervisory responsibilities of HMRC to OPBAS. This would reduce fragmentation in the current supervisory landscape and allow HMRC to focus on its tax authority responsibilities. It would also

147 Q22

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152 Q439

mean that OPBAS could act as supervisor of last resort in the case of a failure of a professional body supervisor. The close relationship between OPBAS and the FCA, a fellow supervisor, would also be beneficial.

113. OPBAS should be placed on a firmer statutory footing, more akin to the Financial Ombudsman Service, in having its own distinct identity protected under primary legislation. The Committee will monitor how OPBAS is working through regular evidence sessions. We will consider the funding model of OPBAS including the retention of penalties.

3 Other issues

Resources

114. We took evidence criticising the level of public resource dedicated to combatting economic crime. For example RUSI, in its written evidence, noted that “under investment in resources and capabilities means that the UK has been unable to sufficiently manage the responsibility placed upon it as a global financial centre”.¹⁵³ In its written evidence, UK Finance told the Committee that:

Firms also note that whilst the financial sector has increased resource on economic crime, there has been a reduction in public sector resource in this area. We have also seen banks, as a highly regulated sector, being increasingly required to deliver functions to supplement that of the State. These include carrying out further checks on other regulated sectors (even where they are regulated by a Government body) or carrying out due diligence that exceeds that undertaken by Companies House.¹⁵⁴

115. While Donald Toon, of the NCA, accepted on resourcing, “there is a very simple answer here: you can always do more with more”, he also said “there is a starting-point question, which is this: are we as effective as we can be with the resources that are currently available [...] law enforcement, the regulators and the private sector. That is an entirely legitimate question”.¹⁵⁵

Mark Thompson, then interim director of the SFO, noted that “attracting and keeping high-calibre staff is an issue for most public sector organisations”.¹⁵⁶ Donald Toon agreed.¹⁵⁷

116. On who might pay for any additional resourcing in the public sector, Stephen Jones, UK Finance, said that “[...] there is no question that there is substantial pressure on public resources and, increasingly, the ask therefore comes from the authorities to us, the private sector, to fund that”.¹⁵⁸ He noted a number of initiatives that are funded, or the suggestion is they will be funded, by the private sector, including:

- the SARs reform programme;¹⁵⁹
- the Dedicated Card and Payment Crime Unit, which is a joint venture between the Metropolitan Police and the City of London Police and targets the organised crime end of card and payment fraud;¹⁶⁰ and
- the Banking Protocol is training police forces up and down the country to work with bank staff to spot the signs of individuals being coerced to withdraw large amounts of cash at bank branches.¹⁶¹

153 [Written evidence submitted by the RUSI Centre for Financial Crime and Security Studies \(ECR0018\)](#)

154 [Written evidence from UK Finance \(ECR0064\)](#)

155 Q197

156 Q206

157 Q206

158 Q292

159 Q292

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161 Q292

117. Given this potential need for additional resource, Stephen Jones therefore argued that there may be a need to think about other ways of raising revenue to pay for systems to combat economic crime. He called for a debate, telling us that:

[...] It may well be that, for the no-blame scenarios in APP fraud [...], and for other SARs reform investment programmes, we need to think about some form of central pool, which could be a levy, for example, on payment transactions.¹⁶²

118. Stephen Jones, when asked whether it was right for the Government to ask the private sector to pay to tackle economic crime, told us that:

There are circumstances where the private sector can and should pay. [...] we estimate that it is paying about £5 billion per year in the UK in the fight against economic crime. There are also circumstances where there is a public sector requirement as well. Sometimes it is very important that both sides see each other investing in a programme, to demonstrate that both sides have skin in the game in making the system more effective.¹⁶³

119. Alison Barker, from the FCA, noted that “the assessment of money laundering is part of the DNA of the FCA, whether a firm is coming into authorisation or the ongoing supervisory work [that the FCA does]”.¹⁶⁴

120. On resourcing for combatting economic crime, the Economic Secretary told the Committee that:

Private sector actors will need to make a significant contribution, as has been outlined. We have discussed how HMRC is probably going to increase its fees by 80 per cent to 100 per cent. There are mechanisms by which the different regulatory bodies can increase the amount of money they bring to this. I do not think we have done a cross-governmental assessment of how much money, collectively, because it is pretty difficult to do that, given that there are so many regulatory bodies, sometimes almost hybrid organisations, that work so closely with the public sector. We need to have a dynamic approach to this. We need to intervene and make additional resources available, should the risk profile change. Across a complex supervisory environment, and across different elements, we have lots of opportunities to move the dial in different domains quite quickly and effectively.¹⁶⁵

Outsourcing to the private sector

121. The change in the regime for visa applications appeared to witnesses as a way for the Government to move some AML work to the private sector. The *National risk assessment of money laundering and terrorist financing 2017*, noted that, the Government made a change in 2015 to require that visa applicants must have opened a UK bank account

162 Q292

163 Q295

164 Q393

165 Q499

with an FCA regulated bank for the purposes of making their qualified investment. This measure ensures that prospective applicants will have been subjected to suitable levels of due diligence and the UK's AML/CTF regime before gaining a visa through the route.¹⁶⁶

122. When asked about this, Tom Keatinge from RUSI commented

I am surprised, but at the same time the financial sector has the resources. [...] 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.¹⁶⁷

123. Duncan Hames, from Transparency International UK, noted the initial effect of this change on how visas were AML checked:

[...] 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.¹⁶⁸

124. The resources to combat economic crime available to the private sector dwarf those currently available to the public sector. The private sector support to the public sector, provided either through direct payments or through undertaking tasks one might expect Government to undertake on AML, is therefore welcome.

125. One significant issue is the maintenance of expertise in the public sector to undertake this work, considering the salaries available in the private sector. The Government and public sector bodies should consider whether there is the pay flexibility available to ensure that the appropriate skills are maintained.

126. The Committee is also concerned that the Government may have not allocated enough resource to effectively marshal the private sector resources to achieve a 'hostile environment'. The Economic Secretary confirmed that there is no cross-government assessment of public resources being brought to bear in this area. The Committee recommends that such an assessment is made, and that any potential funding shortfalls are rectified.

Information flows and the National Economic Crime Centre

127. An important element of combating economic crime is to ensure that information flows easily between those trying to combat it. Stephen Jones, from UK Finance, emphasised the importance of having ways for private sector entities to share information. He said:

166 Home Office/HM Treasury, [National risk assessment of money laundering and terrorist financing 2017](#), October 2017

167 Q25

168 Q40

At the moment, there are legal gateways that allow information sharing with the public sector to happen, but the Criminal Finances Act did not take the opportunity to make it easier for banks to share information with one another or with other regulated sectors, like lawyers and accountants. As a tool, with a basic threshold that has to be met, that could be extremely useful in allowing institutions to collaborate in the fight against economic crime in general.¹⁶⁹

128. Colin Bell, from HSBC, explained what he would want from improved information sharing.

One is what we have termed pre-suspicion information sharing. [...] At some point before [we file a suspicious report], we will be conducting an investigation. That investigation will be triggered either by an alert from our monitoring systems or by a member of staff who has indicated that they have seen something they did not like. At that investigatory stage, before we have made the decision, it would be helpful, where we had an indication that there was a link to another institution, if we could share that information, and if we were then able to have a cross-institution discussion about whether we felt there was suspicion.¹⁷⁰

Colin Bell then provided the following justification for the additional data HSBC wanted to be allowed to share between banks:

Partly it takes us back to the richness of reporting and the quality of information we want to give to law enforcement, because a single bank may see only part of the picture. [...] If it is a judgment, we will file, but if we can have that conversation with another institution we can put together a much richer picture of the network that we may think is at work, so what goes to law enforcement would be that much more effective. Otherwise, we are passing half the puzzle to them, and they have to pick up the SAR and add all the bits together by going out to other institutions.¹⁷¹

129. Tom Keatinge, from RUSI, brought out the importance of information flows internationally:

[In high-end money laundering] 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.¹⁷²

169 Q277

170 Q325

171 Q327

172 Q56

130. Colin Bell agreed, highlighting the legal framework and noting “it is a criminal offence to tell someone outside that jurisdiction that you have filed a SAR”.¹⁷³

131. The Economic Secretary, when asked about this need for the ability of banks to share information between themselves, added a note of caution. He said:

In the passage of the [Criminal Finances] Bill last year, there was considerable discussion. The key issue there is what “suspicious” is. We cannot have a situation where people’s data defaults to being shared without a sense that there are any risks around it. I understand the instinct; obviously they want to be able to minimise their exposure to illicit finance and making the wrong judgments, but we have to think about what rights individuals have and keep their financial affairs secure and private when there is no risk.¹⁷⁴

132. Despite some praise for the Joint Money Laundering Intelligence Taskforce (JMLIT) from Colin Bell, Stephen Jones noted a limitation in how it worked.

Collaboration not only between regulated sectors but also between the public and private sectors is critical in winning this battle, and it is a battle, with a very sophisticated opponent. There are examples of where that public-private collaboration, and across multiple private sectors, has worked, such as the Joint Money Laundering Intelligence Taskforce, but it is tactical. These initiatives need to be scaled up.¹⁷⁵

133. The Money Laundering Advisory Committee (MLAC), is co-chaired by HM Treasury and the Home Office, and designed to advise “the government on its approach to preventing money laundering in the UK”.¹⁷⁶ When asked about the benefits of the Money Laundering Advisory Committee, Mark Hayward, Chief Executive, NAEA Propertymark, noted that:

It is very useful. [...] It is useful to share best practice. It is probably very much more reportage than discussion because of the number of individuals there, but I find it very useful.¹⁷⁷

He also noted though that it could be improved by “breaking it down into smaller groups and having more interaction in slightly longer meetings. Ninety minutes with 40 people in a room does not necessarily get the best out of it”.¹⁷⁸

134. Rena Lalgie, Director, Office of Financial Sanctions Implementation, HM Treasury, again emphasised the importance of the information sharing regime for sanctions implementation, which she saw as “quite a critical part of improving awareness as to what it means to comply with the regulations, but also to making the enforcement regime more effective”.¹⁷⁹ She also noted that on the enforcement side, OFSI “have the powers under the

173 Q326

174 Q504

175 Q277

176 HM Treasury/OFSI, [Policy paper: Preventing money laundering](#), Published 5 June 2013

177 Q133

178 Q134

179 Q359

regulations that allow us [...] to share information with anybody as long as it is to further compliance with the regulation”.¹⁸⁰ This meant that information could be shared with “the FCA, the Solicitors Regulatory Authority and others”.¹⁸¹

135. There has been great emphasis on the need for information sharing in combatting economic crime. Such information should be shared both within sectors, and between sectors. Banks have asked for additional powers to share information between each other. Such a move would require that the privacy of lawful consumers of financial services is maintained. At the very least, there should be a number of safeguards to protect both consumers’ information, and to ensure that as a consequence of such information sharing no consumers unfairly lose their access to financial services. We recommend that the Government reviews the scope to increase information flows at the bank level and report back to this Committee within six months.

National Economic Crime Centre

136. One new element in the economic crime landscape has been the creation of the National Economic Crime Centre (NECC). Announced on 11 December 2017, it was described as follows:

A new national economic crime centre within the National Crime Agency (NCA) will task and coordinate the national response to economic crime, backed by greater intelligence and analytical capabilities. It will draw on expertise from across government, law enforcement and criminal justice agencies, as well as new resources provided by the private sector.¹⁸²

137. On the National Economic Crime Centre, Donald Toon told the Committee that:

It is about drawing together all of the capabilities and ensuring we have a single coherent picture, a single approach to prioritising activity effectively to hit economic crime, and a single authoritative voice about the threat of economic crime and how the UK is responding to it. It is also about leveraging very heavily that private sector relationship.¹⁸³

He went on to say that:

It is very much designed to understand the overall problem, draw together the capabilities and to prioritise the use of those capabilities across all of the different agencies. What it is not doing is taking lots of investigators from different agencies and bringing them together into one place. [...] This is very much about having a single centre and a clear role in terms of understanding, prioritising and driving forward operational results across all of the economic crime agencies.¹⁸⁴

180 Q359

181 Q359

182 Home Office, National Crime Agency, and The Rt Hon Amber Rudd MP, [Press release: Home Secretary announces new national economic crime centre to tackle high level fraud and money laundering](#), 11 December 2017

183 Q198

184 Q200

138. The importance of the work of the NECC was emphasised to the Committee by Stephen Jones, from UK Finance.¹⁸⁵ This was echoed by Colin Bell of HSBC:

It is really important to understand those three constituents: law enforcement, regulators and the private sector. They are three legs of a stool that all have to talk together. When I talk about how we land the NECC, if the head of that organisation has a co-ordinating authority or a tasking authority across the three elements and we can have a shared set of priorities, that will be a significant step-change improvement in terms of the way we tackle this at the moment.¹⁸⁶

139. Alison Barker, from the FCA, emphasised to the Committee the importance of sharing information. She told us that:

It is really important that we all work together on the National Economic Crime Centre [...] to support information sharing and targeting of things. Nobody has the whole picture, so agencies working together [...] is really important in getting all of us targeting and focusing on financial crime.¹⁸⁷

140. The Security Minister also stressed the importance of the NECC.

The National Economic Crime Centre is trying to put in one place HMRC, NCA, intelligence capabilities and the police, plus potentially elements of the private sector, to develop leads and analysis of what is going on at the moment, and to effectively exploit those leads, to see if they go into further investigations. Partnership and sharing are really key in intelligence-led investigations. [...] we really have to stay one step ahead. The NECC will do that.¹⁸⁸

141. The Government has placed a lot of emphasis on the benefits the National Economic Crime Centre will bring. It is welcome that a single centre will provide an element of leadership to this complex web of interacting agencies and firms. The Committee will continue to monitor the impact of NECC, and recommend that annual updates of the measures of success of the NECC are published or provided to the Committee.

Suspicious Activity Reports

142. Suspicious Activity Reports are one way in which information flows from the supervised sectors to law enforcement.

143. In the *Suspicious Activity Reports (SARs) Annual Report 2017*, the NCA provides a picture of SARs reporting, both in terms of the volume submitted, as well as the sectors from which those SARs emanate (see Table 1).

185 Q297

186 Q297

187 Q396

188 Q501

Table 1: SARs submitted by all sectors October 2015 to March 2017

October 2015 to March 2017	Volumes	Per cent of total
Credit institution–banks	525,361	82.85 per cent
Credit institution–building societies	22,323	3.52 per cent
Credit institution–others	19,326	3.05 per cent
Financial institution–MSBs	16,704	2.63 per cent
Financial institution–others	23,675	3.73 per cent
Accountants and tax advisers	6,693	1.06 per cent
Independent legal professionals	4,878	0.77 per cent
Trust or company service providers	112	0.02 per cent
Estate agents	766	0.12 per cent
High value dealers	265	0.04 per cent
Gaming (including casinos)/leisure (including some not under Money Laundering Regulations)*	2,223	0.35 per cent
Not under Money Laundering Regulations (MLRs)	11,787	1.86 per cent
Total	634,113	100 per cent

Source: NCA, Suspicious Activity Reports (SARs) Annual Report 2017, p12

* The MLRs place requirements on certain industry sectors (the ‘regulated sector’) to put in place internal policies and procedures to prevent and forestall money laundering and terrorist financing

144. As can be seen in table 1 above, banks dominate the reporting of SARs. Also, as has been discussed in other parts of this report, there is very limited reporting by the so-called enablers, like estate agents and company formation agents.

145. Simon York told us that SARs were used by HMRC in multiple ways. One was “as a direct piece of intelligence that leads HMRC to an investigation”.¹⁸⁹ Secondly, they were a “defence against money laundering SARs, which are consent SARs, where a financial institution wants to pay some money and comes for consent. [HMRC has] new powers to investigate those under the Criminal Finances Act”.¹⁹⁰ Thirdly, HMRC puts “every single SAR into [its] risk engine”.¹⁹¹

146. Duncan Hames, from Transparency International UK, said:

[...] I do not think anyone takes comfort in the volume of reports that are filed. I do have a high degree of discomfort [...] 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?¹⁹²

147. On the disparity in the reporting from those outside the core of the financial system, Mark Hayward, from NAEA Propertymark, told us for estate agents:

189 Q353
190 Q353
191 Q353
192 Q58

When you look at that number of SARs, which is only 0.12 per cent, it is actually less than that in terms of companies doing the reporting. There are some good people out there who know what to do, but there are others turning a blind eye.¹⁹³

On the low level of SARs submitted by estate agents, Mr Hayward argued that the number “must be low”, but added that “it is not an easy thing to do [...] You do not always get any feedback, so there is no encouragement. You are not told what is going to happen”.¹⁹⁴

148. This point of a lack of feedback was also expressed by Stephen Curtis, Chairman of the Association of Company Registration Agents, who noted:

I know it is difficult for the NCA, but you don't quite get the feeling of encouragement [...] The NCA go in and say they can tell you nothing. [...] You don't feel inclined to do it again.¹⁹⁵

149. Stephen Curtis accepted that company formation agents are “probably at the bottom of the pile” in SARs reporting, but explained that lack as being:

Largely on the basis that it is very rare that [they] would have the information about suspicious activity. [...] occasionally, when you have that much deeper relationship with the client, you could see suspicious activity if it is occurring.¹⁹⁶

150. Donald Toon, from the NCA, told us that “the confidentiality of SARs is an important tenet of the regime” and was adamant that that “information is absolutely available within the various educational programmes that the different supervisors run”, though he could provide no assurance on how well attended, and how impactful, those programmes are.¹⁹⁷

151. Mark Thompson explained the importance of SARs from the SFO's perspective:

[...] From our point of view, we use SARs at various points. They are a useful source of information at a whole range of stages, right from the very earliest stage. If a member of the public reports something to us, it is one of the sources we would look at. We would continue to look at it throughout the course of the case. From our point of view, the system gets quite a lot of criticism that it is not terribly effective and so on, but, as an investigator myself, I know that delving into the database at all sorts of stages can give you additional information you did not know, whether it is a phone number, a bank account or just some peripheral nugget of useful information.¹⁹⁸

152. The Security Minister was unsympathetic on estate agents' low SARs returns.

It is quite easy to go on the NCA website and download a guide to a SAR, whether it is a digital or an online paper copy. You do not have to be a brain surgeon to do it.¹⁹⁹

193 Q83
 194 Q138
 195 Q151
 196 Q148
 197 Qq248–249
 198 Q239
 199 Q482

153. Following the completion of the Committee's oral evidence hearings, the NCA published its *Suspicious Activity Reports (SARs) Annual Report 2018*. Table 2 shows the new sectoral split data.

Table 2: Summary of SARs reporting by sector

April 2017 to March 2018	Volumes	per cent of total	per cent comparison to 2016–17
Credit institution–banks	371,522	80.08 per cent	6.30 per cent
Credit institution–building societies	19,640	4.23 per cent	35.81 per cent
Credit institution–others	13,678	2.95 per cent	4.58 per cent
Financial institution–MSBs	21,198	4.57 per cent	80.70 per cent
Financial institution–others	21,446	4.62 per cent	30.41 per cent
Accountants and tax advisers	5,140	1.11 per cent	13.19 per cent
Independent legal professionals	2,660	0.57 per cent	-11.92 per cent
Trust or company service providers	53	0.01 per cent	-26.39 per cent
Estate agents	710	0.15 per cent	32.46 per cent
High value dealers	249	0.05 per cent	30.37 per cent
Gaming (including casinos)/leisure (including some not under Money Laundering Regulations [MLRs])	2,154	0.46 per cent	50.63 per cent
Not under MLRs	5,488	1.18 per cent	-33.76 per cent
Total	463,938	100 per cent	9.60 per cent

Source: NCA, Suspicious Activity Reports (SARs) Annual Report 2018, January 2019

154. Table 2 shows that while banks and building societies continued to increase the number of SARs they report, the picture was more mixed for the 'enablers'. While estate agents and accountants increased their SARs reporting, independent legal professionals and trust or company service providers both saw falls in the number of SARs being reported. Even given the rise in SARs from estate agents, the NAEA propertymark noted that:

Whilst the numbers of SARs received overall was it's highest ever—463,938—disappointingly only 710 reports came from estate agents, making up just 0.15 per cent of all SARs submitted. However, it is encouraging that this figure is up 32.46 per cent from April 2016–March 2017.

It is unclear if the low number of submissions by estate agents is due to educational need, lack of awareness of the penalties, lack of available resources or the need for improving the online process and guidance, but we would expect there to be more disproportionate to the risks our sector faces from money laundering threats.²⁰⁰

SARs reform programme

155. In its *Suspicious Activity Reports (SARs) Annual Report 2017*, the National Crime Agency noted that there was a reform programme underway for SARs reporting.

The NCA and Home Office have established a joint SARs Reform Programme to deliver more fundamental change to the regime. Work has commenced on looking at what is in the best interests of the UK with regards to its model, its funding and supporting Information Technology (IT) in the medium to longer term. The programme has also established a short-term programme of improvements that are being taken forward in parallel with longer term design work.²⁰¹

156. The National Crime Agency, in its *Suspicious Activity Reports (SARs) Annual Report 2018*, noted on the reform programme that:

The Home Office is leading a SARs Reform Programme. This aims to improve the SARs regime, including by underpinning it with modern IT. The aim is for the public and private sectors to deliver an integrated and transformational world-leading approach that reduces harm, protects the integrity of the UK economy, supports legitimate growth and prosperity, and ensures that there are no safe spaces for economic crime or terrorism financing. The UKFIU and other regime participants have been heavily involved in this.²⁰²

The 2018 Annual Report was published after the Committee had concluded taking written evidence.

157. The case for the reform of the SARs system was made by Duncan Hames, of Transparency International. He told us that:

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

200 NAEA propertymark, [Suspicious Activity Reports 2018 - how many did agents submit?](#), 3 January 2019

201 NCA, [Suspicious Activity Reports \(SARs\) Annual Report 2017](#), p30

202 NCA, [Suspicious Activity Reports \(SARs\) Annual Report 2018](#), January 2019, p2

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.²⁰³

158. When asked what he would like from the SARs reform programme, Stephen Curtis explained that there were concerns about the need to hold transactions up, which may inhibit people from putting in SARs. He provided the following description of the problems that caused:

It can take quite a long time. The difficulty is that the transaction that is being asked for takes a day; at the beginning of the day you get instructions from a company, and by the end of the day you have it. If you reported to the NCA and they told you to hold it up for a week or whatever, that would make the client suspicious. You mustn't tip them off, but you would by not delivering the service. There tends to be a bit of a cleft stick there—"Why haven't you phoned me?"—which is awkward.²⁰⁴

159. On SARs reform, RUSI argued that "building on the work of the Joint Money Laundering Intelligence Taskforce and information sharing provisions of the Criminal Finances Act 2017, further mechanisms to promote information sharing with reporting entities should be developed to allow them to file more targeted SARs".²⁰⁵

160. In considering the SARs reform programme, Mr Toon explained that the reforms were to attempt to "ensure that SAR reporting is as effectively focused on risk and the priorities of risk as it can be".²⁰⁶ He accepted that submission of a SAR was a regulatory and commercial decision, but noted that:

Almost the first port of call in a major investigation when you start to look at the financial side is the SARs database, so you have six years' worth of SARs in there. It may well be that you start an investigation today and SARs that were submitted two, three, four or five years ago then become relevant. There is a series of issues here around the fact that the SARs database includes a very wide range of information. Some of it is absolutely critical now; some of it very firmly supports other investigations; some of it we think would be better not reported at all. Part of the SARs reform programme is to try to work through how we lose that which has no value without throwing the baby out with the bathwater.²⁰⁷

161. On the reform process, Donald Toon told us that "in terms of the efficiency and effectiveness of the SARs regime, one of the key issues is replacing the technology that currently supports the regime "which would be part of the programme led by the Home Office. The aim is to have that completed by 2021. Donald Toon though noted that "one of the complexities here is that there are around 56,000 entities spread across the regulated

203 Q60

204 Q154

205 [RUSI Centre for Financial Crime and Security Studies \(ECR0018\)](#)

206 Q242

207 Q242

sector” and that “they all have to be able to support reports, so we need technology that is able to do that”. Alongside this “all the law enforcement and regulatory agencies in the UK, [...] need to be able to access the database and use it at the other end”.²⁰⁸

162. However, not all witnesses were worried about the volume of SARs. Colin Bell, from HSBC, noted that:

In terms of the volume that we get in the UK, I would take a slightly different position on that. It is about what we do with that volume. It is about how we consume it and how we analyse the information that they present. If I take the US as a comparison, five years ago, maybe, in the US they went through a big upgrade of the way they ingest suspicious activity reports. They introduced electronic filing, something called a common data model, so it all arrives in a common format that allows law enforcement to query the data, to have direct access to it, along with regulators. It allows FinCEN, which is their financial intelligence unit, to run proactive analytics over that data. It has enabled them, in that particular case, to become slightly volume agnostic, if I can put it that way. The analytics that they can run allow them to find things in that large amount of data that have not been found before. We have an opportunity to do something similar in the UK. It is less about volume, because financial institutions will be conservative if we have a suspicion. The threshold is that you know, you suspect or you have reason to suspect. If we cross that threshold, we will file. If we file with standard information and we can interrogate that data in a way similar to the way I have described, we have an opportunity to see things in that data that we have not seen before, which is why we are hugely encouraging of the SARs reform programme that is ongoing in the UK.²⁰⁹

While Simon York, from HMRC, told us that “quality is more important to us than quantity”²¹⁰ on SARs, he also noted that, when asked whether the system that has been created has incentivised quantity over quality:

Indeed, and the Home Office is currently leading a programme that is looking at how to reform that. There have been enormous advances with data analytics and how we can handle data generally. Technically, we are able to handle bigger amounts of data now. The example I have just given you is an example where you might have 400,000 SARs, but you can make use of them because you are using them as part of a quite sophisticated data-matching system.²¹¹

163. The Security Minister outlined the following elements of the reform programme:

We are working together on SAR reform, because we both want quality not quantity of SARs to be made. Of course, that inevitably opens up the debate to who carries the risk. At the moment, the problem with the SAR regime is 620,000 of them are made, of which roughly 83 per cent are from banks. That is your de facto defence; you make the SAR and effectively walk away.

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Banks quite rightly say that is an awful lot of making. I say, “Yes, let us help you to have quality referrals, not quantity”. They say, “What about the risk of us not doing a referral? Who carries that consequence?” That is why we are working together, financially and on policy, to come up with SAR reform that helps my NCA do its job, but also helps to lift some of the cost of that regulation from banks, because they are going to be doing fewer SARs but of better quality.²¹²

164. The FATF mutual evaluation was also supportive of a reform of the SARs system, noting that:

While a significant number of high-quality SARs are received, the SAR regime needs a significant overhaul which would improve the financial intelligence available to the competent authorities [...]. While the full range of financial institutions (FIs) and designated non-financial businesses and professions (DNFBPs) are required to report SARs, there remains an underreporting of suspicious transactions by higher risk sectors such as trust and company service providers (TCSPs), lawyers, and accountants.²¹³

165. Suspicious Activity Reports (SARs) are one way in which the authorities can receive intelligence from the private sector. The SARs reform programme is therefore an exceptionally important piece of work for the AML regime. The Committee’s evidence suggests that reform should focus on increasing the number of SARs reports by those outside the core of the financial system, the so-called enablers. We have heard a number of reasons why SARs may not be submitted by the enablers. It is a legal requirement for SARs to be submitted, so the system needs to be as robust and simple to use as possible. Thought should also be given, in a world of faster payments, to how NCA requested delays to payments can be better handled. Confidence in the SARs system, at present, appears to be weak outside the core financial service. In its response to this Report, the Government should set out how it will increase confidence in the SARs regime.

166. We also heard evidence that quality, rather than the quantity of SARs, should be encouraged. While an increase in quality is always desirable, modern data analytics means that quantity may also be useful. The review will have to be careful not to stifle SARs that in and of themselves may seem of low quality, but when analysed in the round may provide far more useful information.

Politically Exposed Persons

167. An integral part of the AML regime are the rules around Politically Exposed Persons (PEPs). Regulation 35 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 notes that there must be “enhanced customer due diligence” on PEPs or a family member or a known close associate of a PEP.²¹⁴ A PEP is defined as “individual who is entrusted with prominent public functions, other

212 Q479

213 FATF, [Anti-money laundering and counter-terrorist financing measures, United Kingdom Mutual Evaluation Report](#), 7 December 2018, para 11

214 The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, Regulation 35

than as a middle-ranking or more junior official”.²¹⁵ In its recent Financial Crime Survey, the FCA reported that in 2017 “firms identified 120,000 ‘politically exposed persons’ among their customer bases”.²¹⁶

168. Duncan Hames, from Transparency International UK, stressed the importance of the PEP system,²¹⁷ as did Naomi Hirst, of Global Witness:

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.²¹⁸

Tom Keatinge, from RUSI, added:

[...] 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.²¹⁹

In its written evidence, the NAEA Propertymark called for more assistance from the Government when dealing with PEPs. It noted that:

The Government need to provide simple tools and training to help agents and senior managers assess the level of risk. Enhanced due diligence often involves seeking a better understanding of the source of funds, requiring the payment to be carried out through an account in the customer’s name with a bank subject to customer due diligence measures and senior-management approval. To support agents with their enhanced due diligence obligations, the Treasury should issue an easily accessible Politically Exposed Person (PEP) list and advertise it widely. This is even more important now that there is no longer a distinction between a domestic or foreign PEP. Furthermore, most estate agents or senior managers will not know how to define a middle-ranking or more junior official to distinguish whether enhanced due diligence is necessary.²²⁰

169. Mark Hayward argued that it was quite hard for a high street agent to make such PEP assessments, given that 81 per cent of the sector are owner-managers with one to three offices. He noted that “they are small businesses and the owner is on the front desk. It is difficult for them to make that call if there was not a finite list to go to”.²²¹

215 The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, Regulation 35(12)

216 FCA, [Financial Crime: analysis of firms' data](#), 13 November 2018

217 Q71

218 Q71

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220 [Written evidence by NAEA Propertymark \(ECR0039\)](#)

221 Q115

170. Stephen Curtis provided further detail about how Company Formation agents deal with PEPs. He noted that one ACRA member uses a commercial register of PEPs that “at the last count, has 72,855 names on it”.²²² He noted that the register was international, but that it cost his members money to use, as it was a commercial database.²²³ When asked whether company formation agents may be better placed to identify PEPs than estate agents, Mr Curtis replied:

Better and worse. We have only got the information in front of us; we have not got that person and asked them for further and better particulars. When my ACRA member uses this register, he goes ahead in three ways. One is that he has a match and it is undoubtedly a politically exposed person. Secondly, he undoubtedly hasn't got a match and it isn't a politically exposed person. Thirdly, there is some doubt and he may have to go back and ask for further and better particulars.²²⁴

Colin Bell, from HSBC, provided a description of the PEP regime from the perspective of a bank. He noted that:

The definition of a politically exposed person has developed. [...The definition] is a senior Government official, domestic or foreign, in a country. That is a pretty loose definition. [...HSBC] have our own set of guidance. We looked at the UK, the EU, Hong Kong, the US, and we came up with our own definition of what we think a politically exposed person is. [...] We make our own determination in terms of what a PEP is, against that rather loose guidance. We try to apply that consistently globally. More precise guidance would be welcome, recognising that it is quite a difficult topic to get hold of.²²⁵

171. The Politically Exposed Persons regime is an important part of the system for preventing money laundering. We have heard that defining PEPs remains difficult for institutions, both large and small. While commercial solutions are available, they may be beyond the resources of very small companies. We recommend that the Government creates a centralised database of PEPs for the use of those registered by AML supervisors.

Derisking

172. One of the Committee's concerns has been around 'derisking'. This is where financial institutions remove services from individuals because, owing to characteristics (such as nationality) they believe it is too risky to do business with these people. This can mean that businesses and individuals who are operating within the law can find that they lose access to banking services they need.

173. In its written evidence, the White Collar Crime Centre laid out the following stark effects of the financial exclusion derisking may cause, both when it affects individuals and businesses:

222 Q116

223 Q117

224 Q118

225 Q338

Financial exclusion can have a devastating impact on individual lives, the business community, and society as a whole. Exclusion from the formal financial system exacerbates inequality and leaves marginalised groups at a severe disadvantage. A lack of access to basic financial products drives people to participate in cash economies where illegal activities flourish and customer protections are non-existent. The denial of financial services to legitimate businesses stunts innovation and overall economic development.²²⁶

174. In its written evidence, the FCA provided the following description of the work that it had been doing on de-risking, and its expectation of banks on their risk management:

We are aware that some banks no longer offer services to categories of customers they deem to be high risk of money laundering.

In 2015, we published a statement in response to de-risking decisions that clarified how banks should handle money laundering risk. We said we do not think effective money-laundering risk management should result in wholesale de-risking, that banks should not deal generically with whole categories of customers or potential customers and they should recognise the risks associated with different business relationships.

[...]

We are also working with UK banks, via UK Finance, on a set of principles on how they deal with decisions to close relationships. This encourages, where possible, communication with those customers prior to termination and we hope that dialogue might avoid some closures.²²⁷

175. Tom Keatinge from RUSI said

[De-risking] started with banks realising that they were doing business and oftentimes they did not know who their customers were. Perhaps de-risking was even enforced on them by a regulator; cease and desist orders were issued by the US authorities on certain banks. [...]. It was initially a knee-jerk reaction[...] 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 cleanse itself of a range of business that it either felt uncomfortable with or did not want from an economic perspective.²²⁸

Highlighting unexpected consequences of de-risking, Mr Keatinge told us that:

[...] I remember well the Somalia remittance issue back in 2013, and fortunately we have not seen the disastrous collapse of remittances flowing

226 Evidence submitted by The White Collar Crime Centre ([ECR0026](#))

227 [Written evidence by the FCA \(ECR0010\)](#)

228 Q63

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.²²⁹

Tom Keatinge also lamented the lack of change, though suggested that there may be some technological change that could help. He told us that:

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 cryptocurrencies 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.²³⁰

176. Colin Bell, of HSBC, provided us with the following description of why the bank sometimes decided to end their relationships with a customer:

[...] We need confidence that we can manage the risk in the footprint within which we operate. Through that process, there is obviously a need to look at the customers you currently bank and make sure you are still comfortable with them, and to set the standards that I have described in terms of new-to-bank customers. They are difficult conversations, in some cases. At the core, it comes back to transparency. Every time we work with our customer to determine the relationship that we have with them, the core of the conversation is transparency. Do we understand where the money has come from? Do we know who can direct where it goes? Are we comfortable with the transparency as to where it goes? Clearly, in some cases, the firm could not get comfortable with that conversation and exits took place.²³¹

Colin Bell told us though the position wasn't static, and that there was the potential for change, again from technology. He said:

With the work we are doing today, it is a continuous improvement, partly because the threat changes as criminals get smarter, and they are relentless in their attempts, partly because the environment is changing, but partly because we want to be much more nuanced and precise in the way that we understand risk. The work we are doing around data analytics, information sharing and the need for close partnerships, as we have talked about, will help this discussion. It really will help. It will make a difference, because we will be able to get greater insight into activity and transactions, et cetera.²³²

177. Stephen Jones, for UK finance, discussed the factors that came into play when considering derisking. He told us that:

A very important and delicate balance needs to be struck between ensuring that criminals cannot access the financial system, on the one hand, and

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being able, as a legitimate person, whether you are a charity, a corporate or an individual, to operate your bank account and have access to it. Certain sectors become targets and are in the spotlight as a result, for example, of national risk assessments that are put out by the public authorities. It is very important that banks are particularly careful. You mentioned money remittance businesses. They have in the past been targeted in warnings to the banks as potential vehicles through which funding passes, for example, to terrorist organisations. We need to get the balance right.²³³

Stephen Jones, for UK Finance, suggested that financial firms were aware of the risk, and were attempting to find a solution. He told us that:

In terms of access to banking, it is very important that, if someone is de-banked, they understand why they have been de-banked, why the institution has derisked, and we are working with the FCA on better communications around that. We also, as UK Finance, support the Government's action group on remittances to ensure that customers in the UK can access legitimate money transfer services. We have worked with a number of roundtables for other industry groups that have had problems, across sectors such as pawnbrokers, crowdfunding, money service bureaus and e-money institutions. All of those have been subject to enhanced scrutiny, because there have been some bad actors in those sectors and that has been highlighted by the public authorities. We are working with the Payment Strategy Forum at the moment to take forward work for payment service providers that have indirect access to payment systems, to make sure that they get easier access to payment systems. That may well also touch on money remittance service providers. There is a lot going on to make sure people are not inappropriately derisked and de-banked across the sector, but I recognise your comments.²³⁴

178. The Committee also raised concerns around derisking with HMRC, which supervises money transfer businesses. Derisking by banks is in part meant to reflect weaknesses in the supervision of such money transfer businesses. Simon York, from HMRC, outlined the work they did to supervise

[...], for every sector there is good and bad. Money service businesses are our highest-risk sector by quite some distance. That is what the national risk assessment says and that is very much our experience. They are widely exploited by criminals or exploitation is attempted by criminals. Some of them are complicit with criminality and we see them featuring in a high proportion of our tax fraud investigations and our money laundering investigations. We actually put an awful lot of attention on to the MSB sector, as with everything else, in the main trying to help them, support them, get the systems right. We have also run surge activity. We have a task force tackling MSBs and we have a significant number of criminal investigations.²³⁵

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234 Q282

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179. When the Committee raised the concern that derisking had pushed some money transfer businesses underground, Simon York replied that:

Overall, we have not seen the number of businesses or the number of premises we supervise change all that much, but there has been a change in the make-up of that. Some of the smaller businesses have joined with the bigger businesses to give them that protection and systems to help them. Some of the smaller ones may have moved into more informal money transfer systems, which absolutely pose different problems for us.²³⁶

Mr York then further explained why money service businesses presented a risk of money laundering. He told us that:

The criminals will use whichever approach they think is most effective for them, and we have seen money service businesses, as I say, widely exploited. They are very different from banks. A money service business does not have an ongoing customer relationship often. Someone will walk in literally with a bag of cash and walk out with high denomination notes in another currency, or they will walk in with bags of cash and it will be transferred to another country.²³⁷

When pressed on whether derisking can drive activity underground, Simon York told us:

It can do, absolutely. Let me just tell you something we were doing a couple of weeks ago. I had my people alongside Border Force at one of the UK's major airports—I will not tell you which—looking at passengers going to certain destinations. We seized quite a lot of cash there and then we chased that back down to see whether it took us to either criminality or supervised businesses that are not doing the checks properly. We are very live to that. Yes, there has been some of that. Overall, we think the sector is broadly the same size as it was, though.²³⁸

180. Another of the areas where derisking has happened has been around the charity sector. Colin Bell provided this description of HSBC's approach:

As far as charities specifically are concerned, we take the work that we do with charities really seriously. We work with the Charity Commission. We provide banking services to 32,000 charities and 106,000 not-for-profit organisations. We have a meaningful relationship with a range of charities, and we work, as I said, with the Charity Commission.²³⁹

181. Stephen Jones, for UK Finance, suggested that reform had been possible in the area of humanitarian aid. He noted that:

For humanitarian aid to countries, whether the subject of sanctions or not, there is now a fast-track process that allows banks to explicitly bypass

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sanctions in order to ensure that humanitarian aid, for example, arrives in areas that, on the one hand, might be the subject of sanctions but, on the other hand, desperately need those remittances to flow quickly.

Stephen Jones from UK Finance then provided the following positive example in relation to the relief efforts in the face of the recent tsunami in Indonesia:

It was very quick. It was an order that was issued. It was saying, in relation to the tsunami damage there, to the extent that there were any restrictions, “Boom, no, it is fine; money can go to NGOs that are operating in this area”. I saw it come across my desk and thought, “This is good. This is fast. It is timely”. Maybe it is getting better.²⁴⁰

182. The Economic Secretary, when questioned about derisking, told us:

I certainly recognise the trend in derisking, with the withdrawal of banking facilities. The UK chaired the remittance task force that was designed to look at this issue in the remittances sector. The task force has reported back to the G20 this year with 19 recommendations. Quite often, what you see is an individual who apparently has done nothing wrong and has been barred from banking services. There needs to be an examination of this matter, because it just is not just, in some of the cases I have seen. The question is how you do this in an environment where there are legitimate risks that need to be countered at a macro level by banks. We have a senior Treasury director who has led some of that work, and we are taking the conclusions of that task force forward.²⁴¹

183. Derisking, where financial institutions cease customer relationships with certain ‘high risk’ customers, can have a significant impact on both individuals and businesses. As we have seen, it can also potentially move illicit flows underground. While there has seemingly been much effort, progress in tackling derisking has been achingly slow. We recommend that the Government publishes its strategy on how to address disproportionate derisking strategies within six months. That strategy must include how it will take the conclusions of the G20 taskforce forward.

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241 Q513

4 Legislative reform

184. One of the ways to ensure that the UK is a ‘hostile’ environment for economic crime is by ensuring there are prosecutions. However, questions have been raised as to whether the statutory framework is helping law enforcement achieve such prosecutions, especially with regard to actions by larger companies. Naomi Hirst argued that “[...] 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”²⁴².

185. In its written evidence to the Committee, the Serious Fraud Office outlined both the nature of the problem as it saw it, and its potential solutions. Its main concern was around the ‘Identification Principle’:

In respect of crimes which require proof of a mental element (such as dishonesty or recklessness), the attribution of corporate criminal liability is governed by the common law doctrine of identification or the Identification Principle.

Under the Identification Principle, a company can be fixed with criminal liability by establishing that a person who was the “directing mind and will” of the company at the relevant time carried out the acts and had the necessary mental state.²⁴³

186. The consequence of this ‘identification principle’ according to the SFO, was that:

The concepts behind the Identification Principle have been developed by the courts in a number of cases. However, there remains uncertainty as to who represents the directing mind and will of a company. It has generally been accepted that directors and senior officers of the company are likely to be capable of being directing minds in most cases. However, in large, multi-national companies, the day-to-day management of the business will typically be delegated to managers or subsidiary companies and there is currently a lack of clarity as to what level, and under what circumstances, the directing mind and will of the company can be fixed.

As a result, it is often impossible to prosecute the company, notwithstanding the fact that they may be the main beneficiary of the wrong doing.²⁴⁴

187. Naomi Hirst, Global Witness, also emphasised the imbalance in prosecutions between smaller and larger companies the ‘identification principle’ engendered, and the implications that might have for corporate governance. She argued that:

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 identification principle

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243 [Written evidence from the Serious Fraud Office \(ECR0068\)](#)

244 [Written evidence from the Serious Fraud Office \(ECR0068\)](#)

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.²⁴⁵

The Solicitor General also appeared to be sympathetic to this view. He told us that:

At the moment in English law, we need to establish the controlling mind principle, which means that corporates that have a more exotic structure of management, Byzantine some would say, can get round that problem. There is plenty of direct evidence from prosecuting authorities, the SFO and CPS, which supports the contention that the bringing of prosecutions in the first place is difficult.²⁴⁶

188. Having identified the problem with the UK's regime, the SFO argued for "two equally favoured and parallel options". It called for:

1. Replacing the identification doctrine with a new principle for the attribution of corporate liability. This would set out the circumstances in which a company would be liable for the substantive criminal offence. The SFO's proposal is that a company would be guilty of the substantive offence if a person associated with it commits that offence intending:

- To obtain or retain business for the company;
- To obtain or retain a business advantage for the company; or
- Otherwise to (financially) benefit the company.

This solution would provide a principled basis on which all companies would be liable for all substantive offences.

2. The introduction of a new offence of failing to prevent economic crime. This solution aligns well to the provisions of section 7 Bribery Act 2010, as well as the new Criminal Finances Act offence of failure to prevent tax evasion, and promotes consistency across the wider economic crime landscape. Section 7 of the Bribery Act has been proven to be effective in its application. This would allow for a quicker and consistent solution to this urgent problem.²⁴⁷

189. The United States provides an interesting comparator to the UK due to its differing framework for corporate liability. Naomi Hirst outlined the following advantages of the US system:

There is a debate to be had about what that offence looks like. It is worth considering that the DOJ [Department of Justice] 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,

245 Q3

246 Q462

247 [Written evidence from the Serious Fraud Office \(ECR0068\)](#)

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.²⁴⁸

Mark Thompson, then Interim Director of the SFO, also noted the implications of this difference in the law between the US and the UK:

They have significant advantages, particularly in respect of dealing with companies and corporate entities because their system relies on vicarious liability. If an employee of a bank is involved in money laundering, the bank is pretty much liable. We do not have that here, which makes it more difficult for British regulators and prosecutors to take the same action that our American colleagues take.²⁴⁹

Mr Thompson noted that “there are some corporate criminal fraud offences that could be prosecuted with a different regime”.²⁵⁰

190. The United States example was also explored by the Solicitor General:

Nobody can deny that [the United States] is not anything other than a very vigorous free market economy, and yet its criminal rules on corporate liability are very tight indeed. They have a system of vicarious criminal liability, which means that the corporate is responsible for the acts of the individual, even if the corporate has taken steps to stop or prevent the individual from wrongdoing. That is a model we need to look at that very carefully.²⁵¹

However, the Solicitor General did note some potential drawbacks to the position taken by the US:

In going down the path of enhanced corporate criminal liability, we must not take away from the fact that there will be cases of rogue individuals who behave in a way that a well-intentioned company did not intend or wish. It would be a false choice for us to make, when it comes to prosecution, between corporates and individuals. This is one area where we need to have our cake and eat it. [...] What draws me away from the American vicarious liability model is that it tends to focus very much on the corporate and not on the individual, in a way that the public would be concerned about.²⁵²

191. In his evidence Mark Thompson also provided a glimpse into the potential factors the Government may be considering around whether or not to legislate for these changes to the legislative framework:

248 Q6
249 Q185
250 Q221
251 Q456
252 Q462

The Government continue to consider whether it is necessary. My understanding of the Foreign Office's position, for example, is that it was not necessary because the regulatory regime around senior persons in the City was sufficient to address a lot of this.²⁵³

Colin Bell, of HSBC, also argued that the FCA's Senior Managers Regime effectively bound those in financial services:

As an approved person under the senior managers regime, with accountability for financial crime risk within HSBC, I feel that accountability very keenly. I feel bound by that statement of responsibilities. I think my colleagues and peers feel the same way. There has been a sea change in the way that is tackled, and we feel it. We really do feel it.²⁵⁴

192. However, in its evidence, the SFO argued that a regulatory response alone was not enough:

Regulation has an important part to play, but it does not meet the challenge. Regulation only covers a limited section of corporate activity and cannot affect non-regulated sectors and the SFO has several investigations underway into non-regulated businesses that illustrate this point. Regulation also tends to focus on procedures and record keeping rather than on the end goals of preventing and punishing offending. In addition, a regulatory sanction does not carry the weight or impact of a criminal conviction or the terms of a DPA [Deferred Prosecution Agreement].²⁵⁵

193. The Solicitor General also appeared unsympathetic to any attempts by industry to forestall reform. He told us that:

In any development of policy you are going to have debate, but in response to that I would say this. Companies and corporates have already brought in measures to deal with failing to prevent bribery and tax evasion and, if they have not, they ought to get on with it, because this is the law of the land. Frankly, if they brought in mechanisms and systems to deal with those particular aspects of criminality, it would not be a leap in the dark to extend them to economic crime more generally.²⁵⁶

The Government's response

194. On 13 January 2017, the Government issued *Corporate liability for economic crime: call for evidence*.²⁵⁷ That call for evidence considered both the deficiency of the 'identification principle' and potential reforms to the law. The call for evidence closed on 31 March 2017. The Solicitor General accepted that there had been no follow up publication yet.²⁵⁸

253 Q213

254 Q332

255 [Written evidence from the Serious Fraud Office \(ECR0068\)](#)

256 Q461

257 Ministry of Justice, "[Closed consultation: Corporate liability for economic crime: call for evidence](#)", 13 January 2017 [Accessed 31 October 2018]

258 Q457

195. Some witnesses appeared frustrated at the slow speed at which the Government was progressing on this issue. Naomi Hirst, Global Witness, referred to the consultation as “stalled”,²⁵⁹ noting that corporates were currently unable to be prosecuted.²⁶⁰ While Mark Thompson noted that “tackling companies is difficult” he also told us that “there are a number of proposals that have been looked at but have not yet borne fruit”.²⁶¹

196. The Solicitor General argued though that there were legitimate reasons for the delay. In response to the Committee’s query as to whether the evidence that resulted from the consultation was not conclusive, he replied:

That is probably right at this stage. We have not formed a final view at all but, as I have identified, a lot of thinking is going on about what the precise model might be. I will give you an example. In the failing to prevent offences that we have already introduced, there are slight differences in the test between failing to prevent bribery and failing to prevent tax evasion. For example on tax evasion, an intent to benefit financially is not part of the test to be applied, but it is for bribery. I am sorry to be boring about detail, but we need to get the detail right before we go out there and consult.²⁶²

He also told us that the work had been moved from the Ministry of Justice to his own department, the Attorney General’s office.²⁶³

197. When the Committee queried whether preparations for the UK’s departure from the EU had hampered work in this area, the Solicitor General replied: “I have been rather busy on Brexit, as have my colleagues. Although some people think I have unbounded energy, I have to prioritise. This is a very important priority for me”.²⁶⁴

198. When asked if there was any way of pushing reform up the priority list, the Solicitor General noted

[...] frankly, debating it publicly like this and listening to not just your contributions, but the other witnesses who have given evidence oral and written, helps the process and highlights the point that, both in our manifesto and in the actions we have already taken, the Government are moving in a direction to help improve the culture in the UK.²⁶⁵

199. The Government’s proposals on reforming the law on corporate liability around economic crime have stalled. Though the Solicitor General realises the importance of this issue, preparations for Brexit seem, in part, to have waylaid this important work. Despite Brexit, the Government must progress domestic priorities. Without reform in this area, multi-national firms appear beyond the scope of legislation designed to counter economic crime. That is wrong, potentially dangerous and weakens the deterrent effect a more stringent corporate liability regime may bring.

259 Q3
 260 Q3
 261 Q187
 262 Q458
 263 Q456
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 265 Q460

200. There is clear evidence that legislative reform is required to strengthen the hand of law enforcement in the fight against economic crime. We recommend that the Government sets out a timetable for bringing forward legislation to improve the enforcement of corporate liability for economic crime. The Serious Fraud Office's suggested reforms should be considered as part of those proposals.

201. The Solicitor General emphasised the importance of getting the detail of new legislation right. The consultation process can help with that task and need not be delayed until proposed legislation is in near final form.

202. We recommend that the Government responds to the evidence submitted in response to the 2017 Corporate liability for economic crime: call for evidence and undertake further consultation on proposals for legislation by the next Queen's speech.

5 Financial sanctions

The Regime

203. The imposition of financial sanctions is the joint responsibility of the Foreign and Commonwealth Office and HM Treasury. The FCO is responsible for sanctions policy, while HM Treasury is responsible for implementation, through its Office of Financial Sanctions Implementation (OFSI).²⁶⁶

204. Ben Wallace MP, the Security Minister, outlined the sanctions regime:

The Sanctions Act that was recently taken through Parliament lays out clear conditions for when we can lay sanctions. It is a matter of fact that, while we are members of the European Union, we cannot unilaterally lay international or European sanctions without doing it at an EU level. That is the way it is. We can do certain things with the Proceeds of Crime Act. In the Criminal Finances Act, we took through a measure that, if we suspect someone is guilty of human rights abuse, we can confiscate their funds or move to seize their funds if they are in the UK. As far as sanctions go, at the moment, we can do it under United Nations auspices or through the EU. After that, the Act sets out a number of reasons, one of which is human rights abuse, Magnitsky, and one is United Nations designations, basically putting into law what the UN says. In the next round, we are seeking to put in a simple condition about serious and organised crime, war crimes and others. It is a Foreign Office lead.²⁶⁷

The Office of Financial Sanctions Implementation (OFSI)

205. In its written evidence, RUSI questioned the effectiveness of OFSI.

The Office of Financial Sanctions Implementations (OFSI) lacks ‘bite’ and should make use of its civil penalty powers under the Policing and Crime Act 2017 to ensure that sanctions violations are dealt with in an effective, proportionate and dissuasive manner. At the current time, there is no evidence to suggest that OFSI acts as any sort of deterrent to UK based sanctions violations.²⁶⁸

Tom Keatinge, of RUSI, in his oral evidence, expanded on that scepticism. He compared OFSI to the US Office of Foreign Assets Control (OFAC) as follows:

Office of Financial Sanctions Implementation was set up within the Treasury in 2016. I think we can safely say, [...] 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.

266 Q444

267 Q444

268 [RUSI \(ECR0018\)](#)

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.²⁶⁹

He concluded that:

Until such 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.²⁷⁰

He then went on to provide a potential rationale for that inactivity:

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.²⁷¹

206. Colin Bell, of HSBC, though he had not had much direct contact with OFSI, was positive, though noted some issues:

Our UK teams see the relationship [with OFSI] as an important one. It is an important provider of guidance. We have had comments internally about the licensing regime, because there are quite often some very practical elements in how we manage assets internally. For example, when you ring fence, you sometimes need to move assets from one side of the ring fence to the other. That is a technical violation and you need a licensing regime. The agility and the response of that licensing regime is something we have been discussing with OFSI to improve.²⁷²

207. Rena Lalgie, Director of OFSI, appeared confident on their level of resourcing:

In large part due to the creation of OFSI and the powers that followed, we are better resourced, in terms of both people and powers, than we have ever been. That is a journey we have continued on. It is also something, in many ways, on which we are in a good position to support other jurisdictions, many of which do not have that level of resourcing.²⁷³

She identified the following areas most in need of the help of OFSI in meeting the sanctions regime requirements:

269 Q10
270 Q10
271 Q13
272 Q301
273 Q397

[...] we have long worked with banks across the UK. Actually, the sanctions risk and exposure extends far beyond the financial services industry. We have identified and worked with sectors with particular exposure. We have issued some sector-specific guidance for exporters, but also for charities and NGOs, which will often have a high risk exposure because of the nature of the activity that is taking place. We have also been able to identify where, for specific regimes, there are sectors that we can helpfully work with to help them understand what the regime requires of them, and to support them in their work to assess and manage their risk. For example, on the DPRK/North Korea sanctions that are in place, we have done some quite targeted work, not just with the financial institutions, but also with maritime insurers, to try to help and support them in managing and assessing the risk. We have then proactively worked with EU partners and the G7+ partners, to share the experience we have had of working with the sectors that have particular exposure.²⁷⁴

208. When asked to identify particular sectors where there was a specific sanctions risk, and more work needed to be done, Rena Lalgie highlighted the role that the law firms play in ensuring that financial sanctions as being very significant, and explained how OFSI had supported the Solicitors Regulatory Authority to target outreach to its members to make sure that they ensured they were not holding funds on behalf of designated persons.²⁷⁵

209. Given that the FCO is the lead for sanctions policy and OFSI implements it, the Committee questioned how well that balance worked. Rena Lalgie replied:

Two things are particularly important. The first is that the effort that is put into developing and imposing sanctions follows through to implementing and enforcing them. That is where the journey we have started with the creation of OFSI and the work we have been doing is particularly important. It is also why we have lots of conversations with other countries that are interested in the journey we have been on to really focus on the implementation angle of sanctions. Making sure that they are actually implemented once they are imposed is the first thing I would say is important. The second is to acknowledge that it is part of a single operation that needs to work together. To that end, you are absolutely correct: we work very closely with colleagues in the Foreign Office and with colleagues across the EU who are thinking about the sanctions regime. There is a richness to the information that we see through our implementation, which can really support and help to inform future policy. We have seen examples where the experience of the trickiness around implementing financial sanctions has therefore informed the way in which sanctions regimes have been revised and updated.²⁷⁶

210. When asked about enforcement, Rena Lalgie said that “there were 133 reports in 2017 of suspected breaches” although this did not mean those breaches occurred within that particular year, and noted that not all of those were assessed as being actual breaches. She went on to say:

274 Q374

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276 Q376

For companies to have to come in, put on record the steps they are going to take, and satisfy both the NCA and us of the work that they are going to do helps to build that case going forward, which helps us to meet that threshold that there is reasonable cause to suspect in those instances.²⁷⁷

211. When asked why, given the amount of data was available to OFSI, there hadn't been more enforcement, Rena Lalgie said that "there are cases that have now made their way through to my head of enforcement in OFSI, which would be in scope for the penalty, partly because of severity [...] We need to work that through the system properly and make sure we can assure ourselves that the legal thresholds have been met".²⁷⁸

212. When the Committee pressed Ms Lalgie on RUSI's comment that there was "no evidence that OFSI acts as any sort of deterrent to UK-based sanctions violations", she did not agree. She noted that the new civil monetary penalty power was not retrospective; and could only be used for cases where the breaches occur after 1 April 2017. She went on to say that:

We have made clear in our guidance that we will use that power for the most serious breaches of financial sanctions. [...] Where we see them coming through, we will not hesitate to use that power. When we do use that power, it will undoubtedly be the most visible form of enforcement action that we take, in part because we have committed to publishing the details of the action that we take: what happened, what occurred in that instance, but also the nature of the penalty.

[...]

Through our day-to-day dealings with companies, both on licensing but also on enforcement, we see a growing sense of what their obligations are. We also see, if I may describe it in this way, a growing awareness of the extent to which action can be taken, the new powers that are at our disposal, and a concern about making sure that they stay the right side of the line.²⁷⁹

The Economic Secretary was also supportive of the work of OFSI.

It has only been operational since April 2017. As Rena Lalgie told you, there are the first cases of breaches in the pipeline and a considerable amount of work is ongoing. I would concur that the evidence of the effectiveness of the organisation is not yet publicly available.²⁸⁰

He continued that "[OFSI] has only been operational for 18 months, which is not a reasonable amount of time to evaluate the effectiveness of its activities".²⁸¹ Following this oral evidence, OFSI announced on 25 February 2019 its first monetary penalty against a firm of £5,000.²⁸²

277 Q372

278 Q373

279 Q371

280 Q493

281 Q494

282 OFSI/HM Treasury, [Collection: Enforcement of Financial Sanctions](#), 25 February 2019

213. **The Office of Financial Sanctions Implementation (OFSI) has only been in existence for a year and a half. It has a number of potential sanctions breaches under investigation. While all breaches will have to be investigated thoroughly, and treated on their own merits, public examples of enforcement will be necessary if OFSI is to be recognised as an effective deterrent. It is necessary for the Government to review the effectiveness of OFSI. We recommend that two years after its formation marks the time for such a review to take place.**

Lessons from EN+

214. The listing of EN+ was a recent test of the effectiveness of the financial sanctions regime. The Foreign Affairs Committee, in its Report *Moscow's Gold: Russian Corruption in the UK*, provided the following background:

En+ Group is an energy firm that, at the time of its initial public offering (IPO) on the London Stock Exchange, was controlled by billionaire and Kremlin associate Oleg Deripaska. En+, in turn, held a controlling stake in Rusal, a major Russian aluminium firm. VTB Capital and Gazprombank—both subject to sanctions since 2014—were among the banks involved in the listing, which was facilitated by UK legal firm Linklaters.²⁸³

215. Tom Keatinge, RUSI, expressed concern that the EN+ listing had been allowed to proceed in London.

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.²⁸⁴

216. However, in written evidence, Sir Tom Scholar, Permanent Secretary to the Treasury, was clear that the FCA had undertaken due diligence on the EN+ listing, and checked with OFSI on the sanctions position. He told us that:

In the case of the EN+ Group, while reviewing the draft prospectus, the FCA noted the company's intention to use the float proceeds to repay existing debt outstanding to VTB Bank, which is a sanctioned entity under EU Council Regulation 833/2014. This Regulation does not prevent the repayment of existing debt to sanctioned entities.

283 Foreign Affairs Committee, [Moscow's Gold: Russian Corruption in the UK](#), Eighth Report of Session 2017–19, HC 932, para 13

284 Q15

In reaching its decision on whether to grant the application for listing, the FCA needed to take a view on whether the listing would be permitted under the sanctions regime, and discussed this with the OFSI. The FCA subsequently concluded that there would be no breach of sanctions and that the company met the applicable conditions for listing.

Under the applicable legislation, the Treasury (including the OFSI) has no power to intervene to block a flotation on national security grounds.²⁸⁵

217. The Chancellor emphasised to the Committee the importance of due process in the decisions around the implementation of sanctions:

[...] If an entity is sanctioned there will be restrictions on what that entity can do but we do have a rule of law-based system. Sanctions are based on very clear criteria. They are open to challenge in the courts and all of this is done according to very strict rules. If there is an entity that is sanctioned and there are restrictions on it being involved, for example, in a listing process of another entity, we would enforce those restrictions.²⁸⁶

218. Rena Lalgie, Director of OFSI, was also adamant that proper checks had been undertaken in the case of EN+, and explained the constraints of the sanction regime in place at the time.

OFSI fully implements the sanctions regimes that are in place at the time. [...] The FCA can consult with relevant Government Departments when going through the process, but the decisions around the listings and whether to grant applications, as you have rightly pointed out, is one for the FCA. I can assure the Committee that, in that particular instance, as part of the discussions that we had, there was very careful consideration of the interaction between sanctioned entities and their European subsidiaries.²⁸⁷

She reiterated that: “We must implement the regulations as they are specified. If we act in circumstances that go beyond that, it would be unlawful”²⁸⁸.

219. On EN+, Alison Barker, from the FCA, was firm about the FCA’s position:

There were no reasonable grounds for the FCA to reject the application. Disclosures were made clearly in the prospectus and all normal processes were followed from the FCA’s perspective. We operated within the remit that we operate within, in the contacts that we make.²⁸⁹

220. In response to questioning about the EN+ listing, the Economic Secretary noted that:

The FCA is responsible. They seek views but, at the time when it was listed, there were no reasons not to list it. The challenge we have in a global environment is, if in another jurisdiction another country puts in a

285 [HM Treasury \(CHX 0002\)](#)

286 Oral evidence from the Chancellor of the Exchequer, 24 April 2018, Q123

287 Q376

288 Q379

289 Q378

sanction, how we respond to that. There is a piece of work to be done. This is a legitimate concern about how, when we have a national security concern, an individual's role within a firm is reflected in the listing process.²⁹⁰

221. The Economic Secretary did though confirm he wanted the power to block a listing on National Security grounds.²⁹¹

It is perverse to have a situation where the FCA gives, to all intents and purposes, a clean bill of health for a listing when, a few months later, another jurisdiction can issue sanctions and we have no meaningful way of reflecting that.²⁹²

222. The EN+ listing occurred due to a weakness in sanctions policy, not implementation. The evidence heard by the Committee suggests that while the proposed listing was carefully analysed given its sensitivities, the narrowness of the sanctions regime meant that the listing could not be blocked.

223. In the face of this seeming failure of the sanctions regime, the Economic Secretary has suggested that there should be a power for the Government to block a listing on National Security grounds. On the face of it, this would create a new focussed power outside the sanctions regime. If the Committee is to be persuaded that such a power is necessary and appropriate, the Government needs to set out very clearly when such a power would be used, what effect it might have on UK listings and financial services, and most importantly, why it would be needed, especially when sanctions are in the full control of the UK post-Brexit. We would expect full, wide and timely consultation on such a power to inform its scope and design.

Russia

224. There has been a recent focus on the use of the UK's financial system by Russian citizens, potentially for illegitimate use. This is supported by the FCA Financial Crime Survey, where a ranking of how frequently firms consider jurisdictions to be high risk in 2017 placed only Iran and Panama higher than Russia.²⁹³ For example, Deutsche Bank in its written evidence provided one example of this potential Russian misuse of the financial system:

The Russian Laundromat is the name given to a complex scheme used to launder billions of dollars in funds stolen from Russian government or obtained via organised crime. Money was moved from shell companies set up in jurisdictions such as the UK, Cyprus and New Zealand into EU banks through Latvia, with funds legitimised via the Moldovan court system.²⁹⁴

225. However, the Committee heard notes of caution on focussing exclusively on Russia. Mark Hayward, from NAEA PropertyMark, told us:

290 Q450

291 Q451

292 Q451

293 FCA, [Financial Crime: analysis of firms' data](#), 13 November 2018

294 Written evidence by Deutsche Bank UK Financial Crime Investigations ([ECR0053](#))

The programme “McMafia” might have increased people’s perception of this happening every day, but I have no evidence from members that Russia is necessarily at the front of the queue of foreign buyers—there is a whole host of them out there. [...] From speaking to good compliance officers and directors of central London firms, I know that they are doing things correctly, but they are concerned that if they report an interested party or start asking questions, that interested party disappears quite quickly and yet is able to buy from someone else who may not be as rigid as they are in their procedures.²⁹⁵

226. On Russia, Donald Toon, of the NCA, also argued that some caution should be used, telling us that, for him the issue was “the criminality, not the nationality”.²⁹⁶

We see issues with PEPs [politically exposed persons] and with illicit assets linked to PEPs, not just from Russia but from a wide range of different countries.²⁹⁷

[...]

[Since the Skripal incident] we have certainly increased the overall effort we are putting into the corrupt elites agenda. A significant chunk of that is Russia. The Prime Minister made that position clear in Parliament shortly after the incident. That is quite true. We are putting a significant effort into understanding and tackling that problem. Across economic crime, we would not say that is distracting or reducing our capability to deliver ongoing casework at this point.²⁹⁸

227. It has recently been reported that some visas were being refused to Russians. Mr Toon was unable to discuss operational matters and noted that the decisions are for the Home Office, not the National Crime Agency. However, he was able to confirm that “when we identify people who are not UK citizens and may have visa issues, it is absolutely normal and routine for us to identify that point to the Home Office and identify the concern”.²⁹⁹

228. Colin Bell, from HSBC said that its approach was not country-specific but that it was based on risk.

[...] As an institution, we take a global standard, we apply it everywhere and we have a consistent standard in the way we think about customers. [...] We think about that risk through a number of components. We think about the country of origin. We think about the type of business that they are in [...]. We think about the products that they want to use. We look at that collection of considerations and we take a view on the level of risk. We use that determination, if we think somebody is higher risk, to look at how much scrutiny we subject them to. It could be an enhanced due diligence process. It could be additional monitoring once they are on board [...] That

295 Q86
296 Q223
297 Q223
298 Q232
299 Q238

is not a Russia-specific view of the world; that is a risk view of the world. When you look at Russia, you would apply exactly the same lens to a Russian business or client as you would to somebody from any other country.³⁰⁰

229. Stephen Jones, from UK Finance also noted that “there are other externalities that are relevant across the industry. National risk assessments are important in terms of raising sensitivities, as is the imposition of sanctions”.³⁰¹ He continued:

There is no question that the UK’s risk appetite to Russia in general has changed over recent months. That is an important factor that goes into individual institutions determining what their risk appetite is. There are well-known individuals who have previously lived in London happily, and until six months ago were given visas to do so by the Home Office, who are no longer able to do so. That reflects through, and our members are working closely with the authorities as requested in order to help them understand the quantum and nature of the potential risk in relation to Russia since Salisbury, which has definitely changed risk appetites.³⁰²

230. There has been, without doubt, a malign influence on the UK financial system from certain elements of Russian money. This fact has been acknowledged by both financial services and law enforcement. However, as noted by the FCA, illicit Russian money does not need to use novel or unique ways to enter the UK. The UK must achieve a balance between focussing on financial flows from one country, while not distorting the AML system, and creating a risk that other criminals slip by while attention is focussed on individuals with a specific nationality.

The impact of the UK leaving the EU

231. The current UK sanctions regime is based on either UN resolutions or EU measures. The UK does not have an independent sanctioning capacity.

232. The Chancellor noted that there were constraints in operating a sanctions regime while a member of the EU. He noted that following the attempted murders of Yulia and Sergei Skirpal:

I think it is probably fair to say that there are varying degrees of appetite within the European Union for further pressure on this group of individuals and one of the challenges of working within the European Union is that in these areas such as foreign policy, one is required to build a consensus of 28, which means operating frankly at the lowest common denominator quite often.³⁰³

233. Given this structure of the UK’s system of sanctions, Tom Keatinge, from RUSI, provided the Committee with an outline of the new freedoms that the UK’s exit from the European Union might bring:

300 Q271

301 Q274

302 Q274

303 Oral evidence from the Chancellor of the Exchequer, 24 April 2018, Q198

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 [...] 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.³⁰⁴

234. The Security Minister outlined the benefits that an individual sanctions policy could bring.

[...] we could do similar to what the United States does, which is to individually focus sanctions on groups of individuals. In the United States, after the recent Russian events or cyberattacks, they have listed actual people they believe work in the intelligence services. They really go to the individuals, as opposed to sanctioning the overall country. At that tactical level, you can make a difference.³⁰⁵

235. He agreed with Tom Keatinge about the power of the City of London:

[...] The City of London is one of the main global centres of finance, not just European but global. Therefore, being frozen out of the British banking system is a bit like being frozen out of the dollar by the United States. You will tend not to be a very effective financier, bank or whatever you are as a result.³⁰⁶

[...]

Post-Brexit, it is my strong belief that the City of London has to have a reputation for cleanliness and security, as a way to survive outside the European Union. It is not in the Government's interest to do the opposite [...] because the growth we see in both financial regulation and things like bribery and corruption legislation is extra-territorial reach. [...] The direction of travel is a global standard of either regulations or sanctions law, and it is in Britain's interest to be pitching itself as the City of London that is clean and secure with your money.³⁰⁷

236. The United Kingdom's departure from the European Union could allow additional flexibility in its use of sanctions, though there will always be a need to ensure a multilateral approach. The Government must ensure it is ready to introduce any new powers it believes are necessary as soon as any further flexibility has become available, having consulted appropriately.

304 Q61

305 Q445

306 Q445

307 Q446

Conclusions and recommendations

The threat of economic crime

1. The scale of economic crime in the UK is very uncertain. It seems that it can reasonably be said to run into the tens of billions of pounds, and probably the hundreds of billions. We note that those who gave evidence regarded it as being small in comparison to the total amount of financial activity in the UK, and especially the City of London—for example the daily value of foreign-exchange trading in the UK at around £1.8 trillion. Such a comparison provides no comfort to the Committee. Rather, it suggests that upper bound of the estimate is unknown, and almost unconstrained. (Paragraph 15)
2. It is exceptionally difficult to measure economic crime, given those undertaking it are actively trying to hide it. The Committee does not doubt the will of the authorities to combat economic crime. However, it considers there to be merit in attempting to measure its extent, since greater understanding of the scale of the problem will allow those responding to provide sufficient resources to tackle it, and potentially highlight where those resources should be targeted. The Committee therefore recommends that the Government undertakes more analysis to try and provide both more precision on the potential estimate of the size and scale of economic-related crime in the UK, as well as the exposure of different sectors to it. (Paragraph 16)
3. The UK holds a prime position in global financial services, with the City of London a dominant financial centre. Given Brexit challenges, the UK will work to keep it that way. A ‘clean’ City is important, so the Government must recognise the responsibility to combat economic crime that comes with that position. Recent moves by the Government in this area are welcome, but must be sustained, and match the UK’s ambitions to continue to be a global leader in financial services. (Paragraph 21)
4. The UK’s departure from the European Union will inevitably result in a change in international trading relationships. Such new trading relationships may also provide opportunities to those wishing to undertake economic crime in countries that are more vulnerable to corruption. The UK must remain alert to that risk, including when it conducts trade negotiations. The Government must be consistently clear about its intention to lead in the fight against economic crime, and not compromise that in an effort to swiftly secure new trading relationships. (Paragraph 26)
5. We recommend that the Government retains, or replicates, the arrangements with the EU to maintain the flow of information to UK law enforcement agencies on economic crime. We recommend that the Government work to develop strong relationships with other countries and strengthen mutual information sharing and law enforcement powers. (Paragraph 27)
6. The Committee may consider taking further evidence on the findings of the Financial Action Task Force (FATF) mutual evaluation in due course. The Committee does, however, note the zeal with which the Government has considered reform in this

area as the FATF mutual evaluation has approached. With mutual evaluations occurring only on a 10-year cycle, the UK should not solely rely on prompting by FATF to ensure its economic crime prevention, detection and enforcement systems remain fit for purpose and it should not rely on FATF alone to identify areas where improvement is needed. The Committee therefore recommends the Government institutes a more frequent system of public review of the UK's AML supervision, and law enforcement, that will ensure a constant stimulus to improvement and reform. This review should take a holistic view of the entire system, rather than be undertaken by each individual component supervisor or agency. There may be a role for the recently announced Economic Crime Strategic Board in this work. (Paragraph 33)

A fragmented approach to AML supervision

7. The property sector poses a risk from an anti-money laundering perspective. Yet the AML supervisory regime around property transactions is complicated. Banks are supervised by the Financial Conduct Authority, solicitors by their relevant professional body, and estate agents by HMRC. While there may be debate over which part of the transaction chain bears most responsibility from an AML perspective, each part has a role in reporting, or preventing, a transaction that may be used for money laundering. There is a risk that some estate agents may be unsupervised, having not registered with HMRC. We recommend that HMRC carries out further work to ensure estate agents are registered with them and following best anti-money laundering practice. (Paragraph 45)
8. There is a clearly identified risk that company formation may be used in money laundering. There are a number of entities that undertake company formation, and therefore a number of supervisors. More worryingly, there appears to be a number of unsupervised entities engaged in company formation. These should be identified by HMRC and dealt with as a matter of urgency. (Paragraph 51)
9. There must be no weak areas in the UK's systems for preventing economic crime. At present, Companies House presents such a weakness. The UK cannot extol the virtue of a public register of beneficial ownership and yet not carry out the necessary rigorous checks of the information on that register. The Government must urgently consider reform of Companies House to ensure it has the statutory duties and powers to ensure it plays no role in helping those undertaking economic crime, whether here or abroad. It is welcome that the Economic Secretary has noted that BEIS is considering reform in this area, but the Government should move quickly and now publish detail of this reform by summer 2019. (Paragraph 63)
10. Though the emphasis has been on the risk presented by enablers, such as accountants or solicitors, there should also be a sharp focus on the supervision of the core financial services. To the extent that this risk is not ameliorated by supervision, the FCA needs to ensure that they keep up a constant pressure on the core financial services businesses and take appropriate enforcement action against them. (Paragraph 72)
11. The evidence we have received has directed our attention to those who act on the periphery of the financial system, rather than its core, the so-called enablers or facilitators. External witnesses suggested that there is a requirement for education

as well as enforcement—the Security Minister pointed towards the responsibility of the enablers to play their part. It is welcome that in its Serious and Organised Crime Strategy, the Government has acknowledged a similar focus. The Committee recommends that the Government steps up education of facilitators, to ensure they have all information about their role, recouping any additional costs through fees. Once this has been completed, it should be followed with an enforcement campaign to ensure compliance. (Paragraph 78)

12. The Committee supports the role that The Office of Professional Body Anti-Money Laundering Supervision (OPBAS) has been given in relation to the Professional Body Anti-Money Laundering Supervisors. The inherent conflict in a membership organisation also monitoring its own members means that there is a need for external supervision. The number of such supervisors also shows there is a need for a single organisation to look at the system as a whole, and identify weaknesses across the piece. We consider the concerns around whether the statutory AML supervisors also need such a coordinating body later in this Report. (Paragraph 86)
13. At present, OPBAS also has the responsibility of recommending to the Treasury whether a professional body should remain an AML supervisor. It is not clear how the Treasury would consider such an OPBAS recommendation, and where it would envisage placing such AML supervisory responsibilities in such a case. Without adequate preparation in this area, AML supervisors may become too important to fail, and therefore risk undermining standards in this area. We recommend that the Treasury publishes—within six months—a detailed consideration of how it would respond to such a recommendation from OPBAS. (Paragraph 87)
14. In evidence to this Committee, the Chief Executive Officer of HMRC noted that he was considering, as part of the 2019 Spending Round, querying whether HMRC should retain its role in Anti-Money Laundering supervision. The Committee agrees that this should be given proper consideration, not only to support HMRC concentrating on its core tasks but also to address concerns expressed to the Committee about HMRC’s work as an AML supervisor, and whether its approach to its supervisory responsibilities may be unduly influenced by its role as a tax authority. The Treasury must send the Committee a report on this consideration well ahead of the Spending Review. (Paragraph 106)
15. Notwithstanding the above recommendation, the Committee has heard a number of concerns around the work of HMRC as an AML supervisor, including around its work on unregistered firms. If it is to retain its AML supervisory responsibilities, HMRC should: (Paragraph 107)
 - include within its departmental objectives a single stand-alone objective related to its anti-money laundering supervisory work; and
 - keep a clear reporting line between its AML supervisory work and its work investigating tax crime and associated money laundering offences. HMRC should have a separate strategy for its AML supervisory work which would include key performance indicators on which HMRC can report.
16. With the creation of OPBAS, the Government acknowledged that consistency across AML supervisors was important. The Committee recommends that it should go one

stage further, by creating a supervisor of supervisors. The aim of this institution would be to ensure that there is consistency of supervision across all the AML supervisors, whether statutory or professional body. There is a strong case for this to be OPBAS, given it already has a role in the coordination of the professional body AML supervisors, and a role in information sharing. (Paragraph 111)

17. The Government should then also consider moving the supervisory responsibilities of HMRC to OPBAS. This would reduce fragmentation in the current supervisory landscape and allow HMRC to focus on its tax authority responsibilities. It would also mean that OPBAS could act as supervisor of last resort in the case of a failure of a professional body supervisor. The close relationship between OPBAS and the FCA, a fellow supervisor, would also be beneficial. (Paragraph 112)
18. OPBAS should be placed on a firmer statutory footing, more akin to the Financial Ombudsman Service, in having its own distinct identity protected under primary legislation. (Paragraph 113)

Other issues

19. The resources to combat economic crime available to the private sector dwarf those currently available to the public sector. The private sector support to the public sector, provided either through direct payments or through undertaking tasks one might expect Government to undertake on AML, is therefore welcome. (Paragraph 124)
20. One significant issue is the maintenance of expertise in the public sector to undertake this work, considering the salaries available in the private sector. The Government and public sector bodies should consider whether there is the pay flexibility available to ensure that the appropriate skills are maintained. (Paragraph 125)
21. The Committee is also concerned that the Government may have not allocated enough resource to effectively marshal the private sector resources to achieve a 'hostile environment'. The Economic Secretary confirmed that there is no cross-government assessment of public resources being brought to bear in this area. The Committee recommends that such an assessment is made, and that any potential funding shortfalls are rectified. (Paragraph 126)
22. There has been great emphasis on the need for information sharing in combatting economic crime. Such information should be shared both within sectors, and between sectors. Banks have asked for additional powers to share information between each other. Such a move would require significant consideration of the privacy impact on consumers of financial services. At the very least, there should be a number of safeguards to protect both consumers' information, and to ensure that as a consequence of such information sharing no consumers unfairly lose their access to financial services. We recommend that the Government reviews the scope to increase information flows at the bank level and report back to this Committee within six months. (Paragraph 135)
23. The Government has placed a lot of emphasis on the benefits the National Economic Crime Centre will bring. It is welcome that a single centre will provide an element of leadership to this complex web of interacting agencies and firms. The Committee

will continue to monitor the impact of NECC, and recommend that annual updates of the measures of success of the NECC are published or provided to the Committee. (Paragraph 141)

24. Suspicious Activity Reports (SARs) are one way in which the authorities can receive intelligence from the private sector. The SARs reform programme is therefore an exceptionally important piece of work for the AML regime. The Committee's evidence suggests that reform should focus on increasing the number of SARs reports by those outside the core of the financial system, the so-called enablers. We have heard a number of reasons why SARs may not be submitted by the enablers. It is a legal requirement for SARs to be submitted, so the system needs to be as robust and simple to use as possible. Thought should also be given, in a world of faster payments, to how NCA requested delays to payments can be better handled. Confidence in the SARs system, at present, appears to be weak outside the core financial service. In its response to this Report, the Government should set out how it will increase confidence in the SARs regime. (Paragraph 165)
25. We also heard evidence that quality, rather than the quantity of SARs, should be encouraged. While an increase in quality is always desirable, modern data analytics means that quantity may also be useful. The review will have to be careful not to stifle SARs that in and of themselves may seem of low quality, but when analysed in the round may provide far more useful information. (Paragraph 166)
26. The Politically Exposed Persons regime is an important part of the system for preventing money laundering. We have heard that defining PEPs remains difficult for institutions, both large and small. While commercial solutions are available, they may be beyond the resources of very small companies. We recommend that the Government creates a centralised database of PEPs for the use of those registered by AML supervisors. (Paragraph 171)
27. Derisking, where financial institutions cease customer relationships with certain 'high risk' customers, can have a significant impact on both individuals and businesses. As we have seen, it can also potentially move illicit flows underground. While there has seemingly been much effort, progress in tackling derisking has been achingly slow. We recommend that the Government publishes its strategy on how to address disproportionate derisking strategies within six months. That strategy must include how it will take the conclusions of the G20 taskforce forward. (Paragraph 183)

Legislative reform

28. The Government's proposals on reforming the law on corporate liability around economic crime have stalled. Though the Solicitor General realises the importance of this issue, preparations for Brexit seem, in part, to have waylaid this important work. Despite Brexit, the Government must progress domestic priorities must not be forestalled any longer by Brexit. Without reform in this area, multi-national firms appear beyond the scope of legislation designed to counter economic crime. That is manifestly unfair, and weakens the deterrent effect a more stringent corporate liability regime may bring. (Paragraph 199)

29. There is clear evidence that legislative reform is required to strengthen the hand of law enforcement in the fight against economic crime. We recommend that the Government sets out a timetable for bringing forward legislation to improve the enforcement of corporate liability for economic crime. The Serious Fraud Office's suggested reforms should be considered as part of those proposals. (Paragraph 200)
30. The Solicitor General emphasised the importance of getting the detail of new legislation right. The consultation process can help with that task and need not be delayed until proposed legislation is in near final form. (Paragraph 201)
31. We recommend that the Government responds to the evidence submitted in response to the 2017 Corporate liability for economic crime: call for evidence and undertake further consultation on proposals for legislation by the next Queen's speech. (Paragraph 202)

Financial sanctions

32. The Office of Financial Sanctions Implementation (OFSI) has only been in existence for a year and a half. It has a number of potential sanctions breaches under investigation. While all breaches will have to be investigated thoroughly, and treated on their own merits, public examples of enforcement will be necessary if OFSI is to be recognised as an effective deterrent. It is necessary for the Government to review the effectiveness of OFSI. We recommend that two years after its formation marks the time for such a review to take place. (Paragraph 213)
33. The EN+ listing occurred due to a weakness in sanctions policy, not implementation. The evidence heard by the Committee suggests that while the proposed listing was carefully analysed given its sensitivities, the narrowness of the sanctions regime meant that the listing could not be blocked. (Paragraph 222)
34. In the face of this seeming failure of the sanctions regime, the Economic Secretary has suggested that there should be a power for the Government to block a listing on National Security grounds. On the face of it, this would create a new focussed power outside the sanctions regime. If the Committee is to be persuaded that such a power is necessary and appropriate, the Government needs to set out very clearly when such a power would be used, what effect it might have on UK listings and financial services, and most importantly, why it would be needed, especially when sanctions are in the full control of the UK post-Brexit. We would expect full, wide and timely consultation on such a power to inform its scope and design. (Paragraph 223)
35. There has been, without doubt, a malign influence on the UK financial system from certain elements of Russian money. This fact has been acknowledged by both financial services and law enforcement. However, as noted by the FCA, illicit Russian money does not need to use novel or unique ways to enter the UK. The UK must achieve a balance between focussing on financial flows from one country, while not distorting the AML system, and creating a risk that other criminals slip by while attention is focussed on individuals with a specific nationality. (Paragraph 230)

36. The United Kingdom's departure from the European Union could allow additional flexibility in its use of sanctions. The Government must ensure it is ready to introduce any new powers it believes are necessary as soon as any further flexibility has become available, having consulted appropriately. (Paragraph 236)

Formal minutes

Tuesday 5 March 2019

Members present:

Nicky Morgan, in the Chair

Mr Steve Baker	Stewart Hosie
Colin Clark	Catherine McKinnell
Mr Simon Clarke	Wes Streeting
Charlie Elphicke	

Draft Report (*Economic Crime—Anti-money laundering supervision and sanctions implementation*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 236 read and agreed to.

Resolved, That the Report be the Twenty-Eighth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Tuesday 12 March at 9.00 am

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

Tuesday 15 May 2018

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 [Q1–72](#)

Tuesday 19 June 2018

Stephen Curtis, Chairman, The Association of Company Registration Agents (ACRA), **Adam Harper**, Director of Strategy & Professional Standards, AAT, **Mark Hayward**, Chief Executive, NAEA Propertymark [Q73–172](#)

Wednesday 4 July 2018

Director **Donald Toon**, Prosperity Command, National Crime Agency, **Mark Thompson**, Interim Director, Serious Fraud Office [Q173–262](#)

Tuesday 9 October 2018

Colin Bell, Group Head of Financial Crime Risk, HSBC, **Stephen Jones**, CEO, UK Finance [Q263–339](#)

Wednesday 10 October 2018

Rena Lalgie, Director, Office of Financial Sanctions Implementation, HM Treasury, **Simon York**, Director, Fraud Investigation Service, HM Revenue and Customs, **Alison Barker**, Director of Specialist Supervision, Financial Conduct Authority [Q340–426](#)

Tuesday 30 October 2018

John Glen MP, Economic Secretary to the Treasury, **Rt Hon Ben Wallace MP**, Minister of State for Security at the Home Office, **Robert Buckland QC MP**, Solicitor General [Q427–513](#)

Tuesday 27 November 2018

Richard Piggin, Head of External Affairs, Which, **Richard Emery**, Independent Fraud Investigator, 4Keys International [Q514–563](#)

Tuesday 8 January 2019

Police Commander Karen Baxter, Police National Coordinator for Economic Crime, City of London Police, **Detective Chief Superintendent Peter O'Doherty**, Head of Crime and Cyber, City of London Police

[Q564-622](#)

Wednesday 13 February 2019

Stephen Jones, Chief Executive, UK Finance, **Susan Allen**, Head of Retail Business Banking, Santander UK, **Chris Rhodes**, Chief Product and Propositions Officer, Nationwide Building Society

[Q623-721](#)

Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

ECR numbers are generated by the evidence processing system and so may not be complete.

- 1 4Keys International ([ECR0076](#))
- 2 4keys International (ii) ([ECR0077](#))
- 3 ABI ([ECR0052](#))
- 4 ACRA ([ECR0069](#))
- 5 Additional written evidence from the Office of Financial Sanctions Implementation ([ECR0072](#))
- 6 Association of Accounting Technicians (AAT) ([ECR0012](#))
- 7 Association of Certified Fraud Examiners ([ECR0003](#))
- 8 The Association of Company Registration Agents (ACRA) ([ECR0013](#))
- 9 The Bar of Northern Ireland ([ECR0030](#))
- 10 Barclays ([ECR0081](#))
- 11 Bond Anti-Corruption Group ([ECR0036](#))
- 12 Bournemouth University ([ECR0045](#))
- 13 Campaign for Fairer Gambling ([ECR0021](#))
- 14 Campbell, Professor Liz ([ECR0009](#))
- 15 Centre for Economic Performance / London School of Economics ([ECR0040](#))
- 16 The Chartered Institute of Taxation (CIOT) ([ECR0011](#))
- 17 Cifas ([ECR0037](#))
- 18 City of London Police ([ECR0057](#))
- 19 Cooper, Barrie ([ECR0079](#))
- 20 CORE Coalition ([ECR0029](#))
- 21 Corruption Watch ([ECR0028](#))
- 22 Deutsche Bank UK, Financial Crime Investigations ([ECR0053](#))
- 23 Emery, Richard ([ECR0083](#))
- 24 FCA ([ECR0010](#))
- 25 Financial Conduct Authority ([ECR0071](#))
- 26 Fraud Advisory Panel ([ECR0034](#))
- 27 Global Witness ([ECR0027](#))
- 28 Heathershaw, Dr John ([ECR0017](#))
- 29 HM Revenue and Customs ([ECR0070](#))
- 30 Home Office ([ECR0078](#))
- 31 HSBC ([ECR0063](#))
- 32 HURFORD, Mr DAVID ([ECR0001](#))
- 33 ICAEW ([ECR0024](#))

- 34 JH Dragon Network ([ECR0049](#))
- 35 Keep Me Posted ([ECR0043](#))
- 36 The Law Society ([ECR0041](#))
- 37 Levi, Professor Michael ([ECR0023](#))
- 38 LexisNexis Risk Solutions ([ECR0005](#))
- 39 Master Card Vocalink ([ECR0085](#))
- 40 Mather & Co Solicitors ([ECR0058](#))
- 41 MIDAS Alliance ([ECR0032](#))
- 42 Money Saving Expert ([ECR0062](#))
- 43 NAB Customer Support Group ([ECR0054](#))
- 44 NAEA Propertymark ([ECR0039](#))
- 45 National Crime Agency ([ECR0073](#))
- 46 National Pawnbrokers Association ([ECR0086](#))
- 47 National Trading Standards ([ECR0016](#))
- 48 Office for National Statistics ([ECR0082](#))
- 49 Payment Systems Regulator ([ECR0015](#))
- 50 Petrol Retailers and Car Wash Associations ([ECR0055](#))
- 51 Post Office ([ECR0042](#))
- 52 R3 ([ECR0066](#))
- 53 Richardson, Holly ([ECR0084](#))
- 54 RICS ([ECR0059](#))
- 55 Rights and Accountability in Development (RAID) ([ECR0035](#))
- 56 RUSI Centre for Financial Crime and Security Studies ([ECR0018](#))
- 57 Ryder, Dr Nicholas ([ECR0031](#))
- 58 Santander ([ECR0080](#))
- 59 Santander ([ECR0087](#))
- 60 Serious Fraud Office ([ECR0038](#))
- 61 Serious Fraud Office (supplementary) ([ECR0068](#))
- 62 Solicitors Regulation Authority ([ECR0014](#))
- 63 Standard Chartered Bank ([ECR0050](#))
- 64 STEP ([ECR0022](#))
- 65 Thinking about Crime Limited ([ECR0002](#))
- 66 Thomas, Simon ([ECR0025](#))
- 67 Thomson Reuters ([ECR0051](#))
- 68 Transparency International UK ([ECR0004](#))
- 69 UK Finance ([ECR0064](#))
- 70 UK Finance (ii) ([ECR0065](#))
- 71 UK Finance (iii) ([ECR0074](#))

- 72 UK Finance (iv) ([ECR0075](#))
- 73 University of Sheffield Management School ([ECR0033](#))
- 74 Visa Europe ([ECR0061](#))
- 75 Which? ([ECR0044](#))
- 76 The White Collar Crime Centre ([ECR0026](#))
- 77 Yoti (ECR0048)

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the [publications page](#) of the Committee's website. The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2017–19

First Report	Appointment of Sir Dave Ramsden as Deputy Governor for Markets and Banking at the Bank of England	HC 472
Second Report	Appointment of Professor Silvana Tenreyro to the Bank of England Monetary Policy Committee	HC 471
Third Report	The Solvency II Directive and its impact on the UK Insurance Industry	HC 324 (HC 863)
Fourth Report	Transitional arrangements for exiting the European Union	HC 473 (HC 850)
Fifth Report	Autumn Budget 2017	HC 600 (HC 757)
Sixth Report	Appointment of Elisabeth Stheeman to the Financial Policy Committee	HC 758
Seventh Report	Student Loans	HC 478 (HC 995)
Eighth Report	Appointment of Charles Randell as Chair of the Financial Conduct Authority and the Payment Systems Regulator	HC 838
Ninth Report	Childcare	HC 757 (HC 1196)
Tenth Report	Re-appointment of Alex Brazier to the Financial Policy Committee	HC 936
Eleventh Report	Re-appointment of Donald Kohn to the Financial Policy Committee	HC 937
Twelfth Report	Re-appointment of Martin Taylor to the Financial Policy Committee	HC 938
Thirteenth Report	The Motability Scheme	HC 847
Fourteenth Report	Re-appointment for Gertjan Vlieghe to the Monetary Policy Committee	HC 1056
Fifteenth Report	Women in finance	HC 477 (HC 1567)
Sixteenth Report	Appointment of Bradley Fried as Chair of Court, Bank of England	HC 1319
Seventeenth Report	Appointment of Professor Jonathan Haskel to the Monetary Policy Committee	HC 1318
Eighteenth Report	Appointment of Andy King to the Budget Responsibility Committee of the OBR	HC 1340

Nineteenth Report	Household finances: income, saving and debt	HC 565 (HC 1627)
Twentieth Report	Appointment of Jill May to the Prudential Regulation Committee	HC 1511
Twenty-first Report	Appointment of Professor Julia Black to the Prudential Regulation Committee	HC 1512
Twenty-second Report	Crypto-assets	HC 910 (HC 1845)
Twenty-third Report	Re-appointment of Sir Jon Cunliffe as Deputy Governor for Financial Stability at the Bank of England	HC 1626
Twenty-fourth Report	SME Finance	HC 805 (HC 1873)
Twenty-fifth Report	The UK's economic relationship with the European Union: The Government's and Bank of England's Withdrawal Agreement analyses	HC 1819
Twenty-sixth Report	Budget 2018	HC 1606
Twenty-seventh Report	Appointment of Kathryn Cearns as Chair of the Office of Tax Simplification	HC 2010
First Special Report	Transitional arrangements for exiting the European Union: Government Response to the Treasury Committee's Fourth Report	HC 850
Second Special Report	The Solvency II Directive and its impact on the UK Insurance Industry: Bank of England Response to the Committee's Third Report of session 2017–19	HC 863
Third Special Report	Autumn Budget 2017: Government and Office for Budget Responsibility responses to the Treasury Committee's Fifth Report	HC 757
Fourth Special Report	Student Loans: Government and Office for National Statistics responses to the Committee's Seventh Report	HC 995
Fifth Special Report	Childcare: Government Response to the Committee's Ninth Report	HC 1196
Sixth Special Report	Women in finance: Government Response to the Committee's Fifteenth Report	HC 1567
Seventh Special Report	Household finances: income, saving and debt: Government Response to the Committee's Nineteenth Report	HC 1627
Eighth Special Report	Government and Financial Conduct Authority Responses to the Committee's Twenty-Second Report: Crypto-assets	HC 1627
Ninth Special Report	Government and Financial Conduct Authority Responses to the Committee's Twenty-Fourth Report: SME Finance	HC 1873