



HOUSE OF COMMONS

LONDON SW1A 0AA

The Rt Hon Boris Johnson MP
Prime Minister
10 Downing Street
London
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9th March 2020

Dear Prime Minister,

Countering the Threat of Economic Crime

I am encouraged by the Government's plans to tackle the growing threat of economic crime, in particular fraud and money laundering. These crimes pose a significant cost to the UK economy. Fraud costs the UK £190 billion annually, while the National Crime Agency estimates that upward of £100 billion in illicit finance impacts on the UK every year. Economic crime at this scale undermines the UK's reputation as a safe place for doing business, enables the corruption of state institutions around the world and puts our own national security at risk.

I am pleased that the Government has committed to taking bold action to cut crime and I hope that the following proposals will be prioritised in your plans for reform:

1. Corporate liability reform

Existing corporate liability laws make it virtually impossible to prosecute large corporate actors for wrong-doing in the UK, including for instances of high-scale fraud and money laundering. Regulatory fines in lieu of criminal sanctions are not working as an effective deterrent. Real action is needed to prevent UK corporates from committing and facilitating economic crimes.

There is now an opportunity to extend the 'failure to prevent' approach to corporate criminal offending to economic crimes such as fraud and money laundering and task the Law Commission to review the UK's outdated and inadequate corporate liability laws on a priority basis.

2. Transparency of overseas entities that own property

There is a serious and continuing problem with corrupt money – wealth stolen from state budgets and extorted in bribes – finding its way into the UK property market. Experts have identified £5 billion worth of properties in the UK that have been bought with suspicious wealth, which they say that this is likely to be the tip of the iceberg.

Alongside the Queen's Speech, the Government committed to progressing the Registration of Overseas Entities Bill, which would create a public register of the real owners of overseas companies that buy property in the UK. This Bill has been consulted on across the parties and both Houses of Parliament and I encourage you to legislate at the earliest possible opportunity.

3. Beneficial ownership transparency in the Overseas Territories

The secrecy afforded by companies registered in the UK's Overseas Territories is helping to facilitate economic crime on a global scale. The continuing role of Britain's offshore jurisdictions in corruption cases undermines the UK's claim to be a global leader in the fight against corruption and money laundering.

In accordance with the Sanctions and Anti-Money Laundering Act 2018, those Overseas Territories which have failed to introduce public beneficial ownership registers by the end of 2020 must face Orders in Council requiring them to do so. Should any of the Overseas Territories fail to voluntarily introduce these registers on their own terms by the end of this year, I encourage the Government to set a deadline of no later than 2023 for their introduction.

4. Delivery of the Economic Crime Plan

HM Government's Economic Crime Plan, overseen by the Chancellor and Home Secretary, sets out a series of bold initiatives for government, law enforcement and the private sector to prevent the UK being abused for economic crime. Delivery of this Plan, as well as the UK's other commitments to tackling illicit finance, is key to our security and our prosperity.

Preventing economic crime will also require significant new public resource and commitment to a genuine multi-stakeholder approach. I encourage you to prioritise delivery of the Economic Crime Plan while establishing clear accountability and transparency arrangements for economic crime governance and committing substantial new resources to fighting economic crime.

I look forward to working with you to ensure that the Government continues to lead on these issues. Delivering this response will ensure the UK is a world-leader in tackling the threat of economic crime.

Yours ever,



Kevin Hollinrake MP
Chair of the APPG on Fair Business Banking



John Penrose MP
The Prime Minister's Anti-Corruption Champion

Rt Hon Hilary Benn MP, Chair of the Exiting the European Union Committee
Tom Tugendhat MBE MP, Chair of the Foreign Affairs Committee
Sir Bob Neill MP, Chair of the Justice Committee
Julian Knight MP, Chair of the Digital, Culture, Media and Sport Committee
Clive Betts MP, Chair of the Housing, Communities and Local Government Committee
Simon Hoare MP, Chair of the Northern Ireland Affairs Committee
Neil Parish MP, Chair of the Environment, Food and Rural Affairs Committee
William Wragg MP, Chair of the Public Administration and Constitutional Affairs Committee
Huw Merriman MP, Chair of the Transport Committee
Dame Margaret Hodge MP
Rt Hon Andrew Mitchell MP
Jonathan Reynolds MP, Shadow Economic Secretary to the Treasury
Dr James Davies MP
Mike Amesbury MP
Mohammad Yasin MP

Kenny MacAskill MP
Helen Hayes MP
Catherine West MP
Dehenna Davison MP
Chris Elmore MP
Tonia Antoniazzi MP
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Alan Brown MP
Stephanie Peacock MP
Seema Malhotra MP
Patricia Gibson MP
Philippa Whitford MP
Grahame Morris MP
Chris Law MP
Ben Lake MP
Paul Howell MP
Rachel Reeves MP
Mark Pawsey MP

Lord Faulks Q.C.
Baroness Stern
Lord Kennedy of Southwark
Baroness Sheehan



FAILURE TO PREVENT ECONOMIC CRIME

OVERVIEW

The United Kingdom currently has no legal mechanisms in place to hold large corporations criminally account for economic crimes, such as fraud and money laundering. It has been three years since the government announced its intention to close this legal loophole, and no real change has taken place. Currently, law enforcement agencies like the SFO must prove the “identification principle” before a corporation can be held criminally liable. However, this principle is difficult to prove in today’s world of complex MNCs in which day-to-day tasks are delegated rather than controlled by senior executives. Existing legal precedent is unfair as it is easier to prove corporate liability to a single-minded business, such as an SME rather than a large MNC.

By introducing a “failure to prevent” model, such as that in the UK Bribery Act 2010 and Criminal Finance Offense 2017, the burden of proof shifts onto the corporation to prove that they have adequate procedures in place to prevent economic crimes from taking place. Ensuring corporate liability for failing to prevent economic crime will dramatically increase accountability for crime in corporations and will change corporate culture.

PROGRESS

The Government launched a consultation in January 2017 and produced a consultation paper on reforming the law on corporate liability for economic crimes, which closed in March 2017 and is yet to be published. The responses that have been released generally support a failure to prevent offence.

In March 2019, the APPG on Fair Business Banking coordinated a [letter to the Prime Minister](#) asking for the government to expand corporate criminal liability by introducing failure to prevent model for economic crimes such as, fraud and money laundering. The letter also called for the Law Commission, which stated in 2010 that the UK corporate liability laws were inappropriate and ineffective, to conduct a 12-month review of UK corporate liability framework and then give the government 6 months to implement the law commission’s recommendation.

Also, in March 2019, the Treasury Select Committee (TSC) released a [report on economic crimes and anti-money laundering](#) and recommended that the government brings forward legislation to improve the enforcement of corporate liability for economic crime including the SFO suggested reforms.

[The House of Lords Select Committee on the Bribery Act 2010](#) agreed in March 2019 that the act, which includes Failure to Prevent, was an important and effective piece of legislation and

it should not be weakened. Although there was concern surrounding the guidance provided to firms by the Ministry of Justice, it was concluded that the change in guidance must not be used as a backdoor route to watering down the Act. The Select Committee encouraged the government to analyse the evidence provided to 2 years ago relating to failure to prevent economic crimes.

Transparency International, a global anti-corruption think tank, [recommended that the UK adopts a failure to prevent model for all economic crimes](#), abandoning the identification doctrine.

EXAMPLE FROM OTHER JURISDICTIONS

- United States: Bancorp in 2018 was fined more than \$600m by US regulators and charged with two criminal violations of the Bank Secrecy Act over “willful” failings in its anti-money laundering program over a period of more than five years.
- France: A criminal court in Paris ordered UBS to pay a \$4 billion fine. It was convicted of illegally helping its wealthy clients in France to hide billions of euros from French tax authorities between 2004 and 2012 and launder the proceeds.
- Netherlands: ING Bank was fined €775 million for its failure to prevent money laundering. Major business clients of ING used the bank to launder money and pay bribes. The Dutch prosecution found that the bank failed to prevent bank accounts being used to launder hundreds of millions of euros.

EXAMPLE FROM UK BRIBERY ACT 2010

- Skansen Interiors Ltd: the company reported bribery by two of its employees to the police and subsequently the company itself was charged with S7 offence as its anti-bribery procedures were not adequate and it failed to prevent economic crime. This is the first such company to be found guilty of an offence of failing to prevent bribery.
- ICBC Standard Bank Plc: Agreed to sign a DPA with the SFO, this was the first to be signed in the UK. The Bank is required to pay financial orders of \$25.2 million and agreed to pay the SFO’s reasonable costs in relation to the investigation and subsequent resolution of the DPA, totaling £330,000

An All Party Parliamentary Group (APPG) is an interest group that occupies a strategic and effective position within Parliament. It is cross-party, with a minimum number of parliamentarians from the Government and the official opposition, and cross-house, made up of both peers and MPs. The APPG on Fair Business Banking is a platform through which businesses, professionals and trade bodies can discuss issues regarding commercial banking and its role in the life cycle of a business, and through which parliamentarians can access information on banking, finance and related issues, including business rescue and insolvency, on behalf of constituents. As a cross-party group, the APPG is an effective vehicle to effect meaningful change via the Parliamentary system. The Group’s status is that of an APPG as bound by the rules set out by [The Office of the Parliamentary Commissioner for Standards](#). It does not have charitable status, or official status in the House, nor is it funded by Parliament. It relies wholly on the participation and contribution of parliamentarians, industry members and stakeholders committed to creating a strong platform for business in the UK to thrive. The APPG is coordinated and administered via the APPG on Fair Business Banking Secretariat.

The APPG on Fair Business Banking processes personal data. Further information on the processing of personal data for constituents is found on our [Data Protection Privacy Notice for Constituents](#) and for members and affiliates of the APPG on our [Data Protection Privacy Notice](#). We hold your information securely on Parliament’s digital network and keep your information for one year after the current Parliament ends (maximum of 5 years). We will not share your personal data with a third party unless we have your express consent. You have the right to access your data, withdraw consent for the APPG to hold your data, to have your data corrected or to restrict the use of your data at any time. Please contact buchananh@parliament.uk in order to do so. The data controller is the Chair of the APPG.