

**Civil Society Steering Group on Economic Crime  
Monday 6<sup>th</sup> March 2023**

Present:

Helena Wood and Kathryn Westmore, RUSI

Rachel Davies, Transparency International UK

Alan Bryce, Fraud Advisory Panel

Susan Hawley and James Bolton-Jones, Spotlight on Corruption

Apologies:

Denisse Rudich, The Sentry

**A. Overarching observations on the draft second Economic Crime Plan**

1. The group welcomes the Plan, and particularly the work done by government over the past few months to strengthen it. We are pleased the government has committed to expanding law enforcement capacity for fighting economic crime, including for the Combatting Kleptocracy Cell, and also to ambitious reform of the AML supervisory regime.
2. The group noted that several recommendations that civil society had made in relation to the Plan have not been included, and that it will be important for the government to address these issues outside of the Economic Crime Plan as part of its wider economic crime agenda. These recommendations are included in the Annex.
3. Overall, the group has ongoing concerns that:
  - a) The draft plan must be implemented in a truly multi-stakeholder way that reflects the multi-stakeholder engagement in its creation, including by ensuring that civil society is valued as an important partner, and the important role that civil society and journalists play in fighting economic crime is recognised.
  - b) The resourcing for the plan is not ambitious enough or sufficient for delivery. In particular, we are concerned that public investment beyond the Economic Crime Levy appears to be largely focused on tax fraud, benefit fraud and the Public Sector Fraud Authority (which does not cover the full public sector).
  - c) There is still no independent challenge function on the ECSB, and there are ongoing questions about the governance of the plan.

**B. Reduce money laundering and recover criminal assets**

4. The group noted that it would have liked to see more ambition and detail on government strategy to increase asset recovery and to tackle High-End Money Laundering and Cash-Based Money Laundering and would like to understand better what steps the government is undertaking to improve enforcement outcomes in these areas.

5. The group noted that it would be good to see greater transparency from government about what steps it is taking outside of the Plan to address these issues. The group also noted a concern that there might be an over-reliance on restraint or disruptions as metrics of success. In particular, it was noted that the government should consider how and whether a criminal failure to prevent money laundering offence could help drive up standards outside of the regulated sector.
6. The group also noted that in order to future proof the Plan it would be useful if there was wider reference to new technologies and their impact on economic crime beyond crypto-assets.
7. In relation to SARs reform, the group indicated that it would be desirable for there to be more public output of analysis from the database once the IT system is up and running on trends, and flows.
8. The group welcomes the commitment to review the Proceeds of Crime Act, and strongly encourages the government to strengthen both civil and criminal confiscation. In particular, the group urged the government to commit to a third Economic Crime Bill to make legislative time to address outstanding gaps in the UK's armoury against economic crime and kleptocracy.
9. The group expressed its concern however that the role of whistleblowing and the need for a thorough review of the potential for compensation for whistleblowers to enhance the fight against economic crime is not mentioned in the Plan. It also noted that a review of the legislation on use of cooperating witnesses (in SOCPA) is also not reflected, despite emerging consensus that it is needed. Finally, it noted that there is no reference in the Plan to specific actions to enhance support for victims of economic crime across the board.

### **C. Combat Kleptocracy and drive down sanctions evasion**

10. The group welcomed the focus on kleptocracy in the plan. It noted the importance of ensuring that the lessons learned in relation to Russia are applied to kleptocracy globally. In particular, it expressed concern that while enforcement of sanctions is addressed in detail in the plan, ensuring the effective use of the Global Anti-Corruption sanctions regime to tackle kleptocracy is not.
11. The group also expressed concern that there is not enough public information about funding for the Combatting Kleptocracy Cell and the International Corruption Unit, or assurance about their future multi-year funding. This makes it hard for the public to understand how adequately these units are being funded. The group was not convinced by arguments that revealing this information would undermine operational effectiveness.

### **D. Cut Fraud**

12. The group recognises that the full details of the government's planned actions on fraud will be in the fraud strategy. Individual members of the group expressed concerns about particular aspects of the fraud actions in the Plan:
- a) Fraud Advisory Panel expressed its concern that some key areas such as SMEs, local government, social housing and the charity sector are not reflected in the plan, and that the ambition and detail on how to empower people to prevent fraud is not sufficient. FAP also raised concerns that the current wording around the disruption and prosecution target is open to potential public misinterpretation, particularly as to the number of prosecutions that are achievable. In addition there is a risk that such a target could encourage police to prioritise lower level frauds over more complex cases, and minor disruptions over prosecutions.
  - b) Spotlight on Corruption expressed concern that the plan has missed the opportunity to reflect important new provisions in the Procurement Bill about excluding rogue actors from public contracts on grounds of fraud and corruption, and other economic crime, and to highlight the role the private sector can play in putting in place strong preventative procedures in response to the proposed failure to prevent fraud offence.
13. The group wanted to put on record that it is concerned that any new failure to prevent offence should not include a carve out for SMEs. It believes this would send entirely the wrong message that SMEs are not vulnerable to being involved in fraud, may drive risky activity to small subsidiaries of larger firms, and is unnecessary, as any formulation about 'reasonable' procedures and subsequent government guidance could address the issue of what it is reasonable for SMEs to do to prevent fraud.

#### **E. Reduce the threat of Illicit Finance**

14. The group warmly welcomed the commitment of the government to champion transparency of registers in the OTs and CDs.
15. The group urged the government to ensure that incorporation fees at Companies House are raised in line with a realistic assessment made of what it will cost to properly verify and enforce the new legislation, and to make public Companies House assessment of this.

#### **F. Cross-cutting system reform**

16. The group welcomed the plan's focus on strengthening the NECC, improving data, increasing FTEs and developing a people and skills plan. It noted that the people and skills plan should look specifically at how disparities of pay within the public sector impact upon retention and recruitment as well as disparities between the public and private sectors. It also noted that secondments into the private sector as well as from the private sector should be considered.

17. On the Criminal Justice System, the group strongly welcomed the commitment to reform the identification doctrine as well as introduce a failure to prevent fraud offence.
18. The group urged the government to commit to close engagement with the judiciary to look at economic crime training for judges, and to review the pros and cons of judicial specialisation.
19. On funding, the group strongly urged the government to look for public funding sources beyond ARIS and bank accounts including at how greater reinvestment of money brought in by law enforcement could be achieved.

## G. Governance

20. The group noted that it would like to see an independent challenge function on the ECSB and a review of the remit of which parts of the private sector are represented on the Board. It also noted that previously the Anti-Corruption Champion attended these meetings but that this post is now vacant.
21. The group urges the government to ensure a new Anti-Corruption Champion is swiftly appointed and to ensure there are ways for other stakeholders to feed into the meeting through the independent challenge function.

## ANNEX 1

The Civil Society Steering Group provided several inputs into the plan, including through the multi-stakeholder workshops, through a written submission ahead of the Plan being drafted, and comments on an initial draft of the plan.

The following table lists actions recommended by civil society that were a) reflected in the ECP2; b) partially reflected; and c) not reflected:

Recommended Action	Reflected in ECP2	Partially reflected	Not reflected
<b>Governance and Accountability</b>			
No10 should move swiftly to appoint a new Anti-Corruption Champion to replace John Penrose. Whether a Minister, senior backbencher or crossbench Peer, they should have the right characteristics and a public announcement should be made of the post's priorities. The Champion role is a political appointment and would cover corruption and related issues.			✘

<p>Appoint an independent Economic Crime Commissioner to enhance system leadership and work with Parliament to create stronger parliamentary oversight of economic crime prevention and enforcement.</p>			x
<p>The role of the Minister for Security is overly broad which risks the economic crime aspects of their work being marginalised. The portfolio should be curtailed to national security issues (counter-terrorism, cyber, economic crime, including fraud, illicit finance and online harms), with borders aspects being moved to a separate portfolio. The role should be re-named 'Minister for Security and Economic Crime'.</p>			x
<p>Appoint an independent chair to the Advisory Group for the PFSA and appoint both civil society and private sector representatives to the Group.</p>			x
<b>Money laundering</b>			
<p>Commit to standardisation of reporting and collection of data and full transparency on AML supervision, by a) standardising how data is collected by HMT and OPBAS on supervision including the date ranges it is collected in and b) ensuring greater consistency and transparency in relation to public statements about regulatory supervisory/enforcement activities by all AML supervisors, including PBS and the FCA.</p> <p>Establish best practice for publication of enforcement notices, and develop a timetable for supervisors to meet best practice.</p>		<p>Review of required reporting by AML/CFT supervisors, such as the PBSs' Reg 46A reports and HMRC's annual self-assessment, to help monitor delivery against the performance framework. (HMT, OPBAS)</p>	
<p>Ensure that regulatory activity and enforcement actions appropriately target senior management. This includes:</p> <p>a) Working with the Law Commission to develop legislative proposals to standardise consent and connivance clauses across economic crime statutes, ensure that where negligence has occurred directors can be held criminally liable for neglect, and ensure that directors can be held to account for neglect under strict liability offences including failure to prevent offences.</p> <p>b) Ensuring more robust use of the SMCR by the FCA to tackle economic crime/money laundering misconduct.</p> <p>c) Developing stronger oversight over the robust application of malus and clawback provisions against senior executives where there is corporate wrongdoing and failure.</p> <p>d) Conduct a review of the options for providing prosecutors that use civil sanctions and DPAs the power to apply directly for director disqualification to a court.</p>			x

The Economic Crime Plan should commit to reviewing the sanctions contained within the MLRs, including reviewing the scope of the MLR 2017 criminal offence and considering extension of the Directors Disqualification Act to MLR failures. The review should commit to issuing a report with recommendations for reform by September 2023.			✘
<p>Work with the Law Commission (LC) to bring forward legislative proposals for consultation by Spring 2023 to implement proposals on corporate liability reform with a particular focus on:</p> <p>a) Developing legislative options for amending the identification doctrine as outlined by the LC to ensure conduct can be attributed to a corporation where a senior manager, the CEO and CFO engaged in, consented to or connived in the offence, and to ensure negligence by a corporation can be attributed on the basis of collective negligence.</p>	Review into Corporate Criminal Liability and introduce any accepted changes, including legislation on the identification doctrine		
b) Developing guidelines for all government departments on ensuring new legislation includes attribution on this basis.			✘
c) Introducing a failure to prevent fraud by an associated person offence.	Introduce a new failure to prevent fraud offence in the ECCT Bill		
d) Commit to ensuring that criminal sanctions under the Money Laundering Regulations are applied evenly across the regulated sector for egregious breaches, including establishing clear lines of responsibility for criminal enforcement of the regulations for the legal and accountancy sectors.			✘

Expedite consultation on AML supervisory reforms in order to ensure that recommendations for reform and legislative proposals to support this are brought forward by Spring 2023.	Consultation on proposed amendments to the supervisory regime (HMT), Q2 2023		
Develop metrics on best practice for AML supervision, including percentage of population to be subject to on-site visits annually, full publication of enforcement notices to be kept online for a minimum of 10 years, and best practice on imposition of supervisory fines to raise standards across the board.		Implement enhanced oversight strategy of existing supervision regime to ensure effectiveness against performance framework and OPBAS sourcebook (HMT, OBPAS)	
Commit to take appropriate action within 12 months to ensure PBSs are fully compliant with their obligations under the MLRs, especially addressing conflicts of interests between advocacy and regulatory functions. In parallel, produce a clear strategy for reallocating responsibilities where PBSs still fall short of their obligations after this deadline, which should prioritise minimising disruption and maximising effectiveness during any reorganisation.			✘
Ensure supervisors have personnel and powers to identify and bring into scope unregulated actors offering high-risk professional services in the UK.			✘
Conduct an international comparison on best practices for functioning of FIU, use of SARs data to understand money laundering threats, and dissemination of SARs data to law enforcement.			✘

Ensure that the next iteration of the UK's National Risk Assessment (NRA) is data-driven and provides a solid evidence base for a common understanding of risks across regulators and the private sector.			✘
Provide an annual report to Parliament to inform on the progress of Companies House reform.			✘
Relevant departments and regulators, assisted by an independent panel of economic crime experts, should conduct "economic crime impact assessments" on major deregulatory measures undertaken during the three-year timespan of the ECP2.			✘
Establish a new tactical intelligence group, overseen by OPBAS to drive joint operational targeting by LE and PBS.			✘
OPBAS to lead on joint HMRC-PBS plan to increase compliance by supervised populations delivering TCSP work.		Report released by OPBAS on TCSPs risk in PBSs in March 2023.	
Develop KPIs for effective supervision in consultation with OPBAS, statutory supervisors, and external stakeholders.	<p>Development of Money Laundering Regulations performance framework</p> <p>Implement enhanced oversight strategy of existing supervision regime to ensure effectiveness against performance framework and OPBAS sourcebook (HMT, OBPAS)</p>		
Engage with industry, including technology firms, to understand better how the risk assessment process can become more dynamic and data-driven (both at an enterprise level and at a supervisory level)			✘
Ensure JMLIT generated intelligence/alerts reach wider audiences and there is a rapid exchange of threat intelligence.			✘
<b>Enforcement and criminal justice</b>			



<p>Establish the NECC as the strategic system lead, embedding data analytics as its core function with a role in setting national operational priorities and driving a strategic approach to prevention.</p>	<p>Strengthen the role of the NECC as the system leader responsible in collaboration with regulators and wider public sector for informing priorities for the economic crime system and defining a single view of economic crime threats, and in tandem identify and agree activity which can be de-prioritised to enable an increased focus on high-utility activity</p>		
<p>Establish multi-year, ring-fenced funding for core economic crime enforcement, including establishing a single policing budget, the NCA's International Corruption Unit, the CPS's Serious Economic and Organised Crime Directorate, and the SFO. This should include building the civil recovery capacity within CPS.</p>		<p>Explore long-term fund to enable multi-year investment (subject to levels of ARIS receipts) (HO)</p>	
<p>Commit to a national economic crime enforcement workforce strategy including an independent review of whether the salary structures and incentives, and caps on fees paid to counsel, at the NCA, CPS SEOCD and the SFO are commensurate with elite crime fighting bodies, including a comparison with other elite crime fighting bodies in similar jurisdictions, and develop a retention plan for key economic crime fighting skills within two years.</p>	<p>Develop an economic crime people and skills strategy which will consider the pipeline, skills and capabilities required for law enforcement to combat Economic Crime, and consider partnerships with industry (including exploring secondments)</p>		
<p>Cross-authority transparency over corruption cases and asset recovery including an annual report to Parliament about the progress of these cases and repatriation efforts.</p>			<p>✘</p>
<p>Secure longer-term funding for the International Anti-Corruption Coordination Centre.</p>			<p>n/a</p>

<p>Work with the judiciary to develop a 'ticket' for specialist judges in economic crime and confiscation.</p>			<p>✘</p>
<p>Enhance the role of the City of London Police as the clear operational delivery lead of the system and create a ring-fenced single command structure akin to the CT policing model. Alongside this, investment should be made in the regional tier of policing (regional PECTs linked to the ROCUs).</p>			<p>✘</p>
<p><b>International illicit finance and kleptocracy</b></p>			
<p>Work with the CDOTs to deliver public registers of beneficial ownership before the end of 2023, with full and free access to company data and not limited to individual entries, as recommended by the Foreign Affairs Committee.</p>	<p>CDs and OTs have publicly accessible beneficial ownership registers that are operational and high quality, recognising human rights and data protection considerations (CDs and OTs) by 2023</p>		
<p>Better understand the international dimension of the illicit finance threat through recalibrating and investing in the NECC International Team, the international elements of JMLIT+ and ICE. Review the NCA's International Liaison Officer network to ensure illicit finance hotspots are covered by the network.</p>		<p>Strengthen processes for international cooperation to improve cross-border asset recovery outcomes</p>	
<p>More clearly defined role for the UK on the international stage, including a clearer vision of the FCDO's articulation of the UK's role and priorities for G7, G20, Summit for Democracy and OECD. This should be captured within a FCDO Illicit Finance Strategy. The role of the FCDO is vitally important given the cross-border nature of illicit financial flows and threats from kleptocracy and should be considered as part of the cross-government aspects of ECP2.</p>		<p>Strengthen international coalitions to tackle long-term enablers of kleptocracy and enhance operational co-operation, including through HMG's overseas network of illicit finance experts.</p>	
<p><b>Strategic Response to Crypto Assets</b></p>			

Expand capacity and training to regulators and supervisors of the DNFBP sector.			✘
Secure longer-term funding for training Financial Intelligence Units in British Overseas Territories.			✘
Ensure that the next iteration of the UK's NRA expands on the risks of how crypto assets extend into the designated non-financial businesses and professions (DNFBP) sector.			n/a
Establish a permanent working group in JMLIT for virtual asset service providers (VASPs) to share cryptocurrency financial crime typologies.			✘
Develop a cryptocurrency enforcement team within the City of London Police focused on tackling complex cryptocurrency investigations and prosecution of associated crimes.			✘
<b>Enablers (including information sharing, research, funding, technology, and analytics)</b>			
Take advantage of the new data protection regime to introduce more permissive language into guidance and regulation around proactive data sharing (including sharing of 'signals' and other types of pre-event information).	Production and phased implementation of a Public Private Economic Crime Data Strategy that enhances the exploitation of available data across the ecosystem to better prevent, detect and pursue economic crime		
Enhance cooperation between public, private and civil society by creating pathways to exchange intelligence and information to increase understanding of, and tackle kleptocracy.		Review and improve how information flows and is exploited across the economic crime system, to inform better risk-based decisions	
The Economic Crime Plan should commit to implementing a framework of legislation, regulation and public communications with the express purpose of increasing an		Develop public-private data sharing initiatives, building on the work of the NECC-led Fusion Pilot (NECC)	

environment conducive for data- sharing going beyond individual peer-to-peer exchanges of tactical information.			
Commission further work to understand the cultural barriers within industry preventing effective data sharing.		Production and phased implementation of a Public Private Economic Crime Data Strategy that enhances the exploitation of available data across the ecosystem to better prevent, detect and pursue economic crime	
<b>Whistleblowing</b>			
Commit to delivering a public assessment of the efficacy of the UK's current whistleblowing regime for economic crime, including exploring the relative merits of financial compensation for whistleblowers, leniency regimes and greater accountability for those handling whistleblower intelligence by September 2023.			✘
Ensuring that whistleblowers can be recognised as 'victims' in criminal cases and thus apply for compensation, as well as make 'victim' impact statements in trials.			✘
Establishing a 'Commission for the Protection of Economic Crime Whistleblowers' to enhance the transparency of different organisations treatment of whistleblowers. The Commission could also undertake a review of whether PIDA offers sufficient protections for whistleblowers in relation to economic crime whistleblowing.			✘