

THE UNITED KINGDOM – COUNTRY WITHOUT A MORAL COMPASS

The appalling reality behind the attempted postponement of the Economic Crime bill

That the UK is in very deep trouble is obvious to every inhabitant of our country. However, the present shenanigans over the Prime Minister's integrity are simply a distraction from the far grimmer reality. Economic crime is estimated to account for one third of all crime in the UK but it is allocated just 1% of the police budget. The attempted postponement, which has now been reversed, would have maintained the prevailing message to fraudsters of every type and nationality that the UK does not care about economic crime. The failure to deal with economic crime has been a matter of conscious policy on the part of successive administrations and has brought our international reputation to a new low. Our rulers claim to observe high standards. Yet, the reality is that we have become a dirty little country¹ and no-one in authority cares.

The recent debate on economic crime

The backbench debate on 2nd December called on the Government to take urgent action in three critical areas:

- 1. Reform of corporate liability** and the introduction of a criminal offence, the failure to prevent economic crime: Corporate criminal liability is essential to control economic crime including the introduction of personal liability, which would result in an immediate improvement in standards. However, latest indications are that corporate criminal liability is "still under consideration" and if introduced, the offence of failure to prevent economic crime could be watered down from a criminal to a regulatory one. However, if corporate responsibility is right for tax, why should it not be right for fraud? One of those bodies most likely to be opposing this essential change are the banks, which have for many years similarly refused to introduce a duty of care for business customers.
- 2. Reform of Companies House:** A public register of beneficial ownership has been created but is often inaccurate or incomplete. 335,000 companies continue to have no beneficial owner and 9,000 are controlled by beneficial owners, who each control more than one hundred companies. Likewise, there are five beneficial owners, who control more than 6,000 companies and 4,000 beneficial owners, who are listed in the persons of significant control register, under the age of two. Meanwhile, the £12 fee to set up a company remains derisory. Companies House should be not merely a register, but a regulator with checks to verify the identity and bona fide of beneficial owners of companies.
- 3. Introduction of a property register:** Buying a property through a shell company registered in an offshore tax haven remains the easiest way to launder money into the UK. The introduction of a property register was promised as long ago as 2016 but nothing has been done.

Failure to deal with offshore tax havens

There has been an extreme reluctance on the part of the UK authorities for many years to clamp down on offshore tax havens and their use remains wide open to potential fraudsters of every type and nationality. It has only been the crisis over Ukraine and the presence of 100,000 Russian troops on that country's borders, which last week forced a "U" turn. The Government had recently indicated its improper intention to delay the Economic Crime bill yet again but was forced to change its mind to avoid another scandal regarding its conduct, this time an international one.

¹ US authorities have referred to the UK as "a high risk jurisdiction".

The record of successive administrations in failing to restrict the use of offshore tax havens has been deeply shameful. In 2013, PM Cameron's undertaking to do so was followed by years of inaction, which then witnessed the leaks of the Panama (2015) and two years later, the Paradise papers. As well known, the PM's father was implicated in the former's revelations.

In 2016, Cameron announced plans to introduce a register for owners of overseas companies and the following year, the British Virgin Islands (BVI) introduced a register of those who directly or indirectly own 25% or more of registered companies. However, this was not made publicly available and companies registered elsewhere, which own more than 25% of BVI-registered companies, did not have to be included. The UK Government itself has been reluctant to introduce legislation to make these registers publicly accessible and has only recently changed its stance.

The ongoing lack of political will was highlighted last year by the unedifying spectacle of a former Attorney General, the Government minister responsible for oversight of the Serious Fraud Office (SFO), advising the British Virgin Islands² about alleged corruption in a case brought by the Foreign Office. Little wonder in the absence of serious determination to confront economic crime, that the SFO has lost over three quarters of its departmental heads and senior leaders over the last three years. Closer to home, a number of corporate service providers in the Isle of Man have a large number of Russian clients, for whom they incorporate shell companies and offer their staff as dummy directors and shareholders, so the real ones can remain hidden.

The US and EU have been more robust in their actions against Russia, and introduced their first set of sanctions in Q2-Q3 2014, in response to Russian activity in eastern Ukraine. Further measures including the Countering America's Adversaries Through Sanctions Act (CAATSA) followed in August 2017 and in April of the following year, the US Treasury introduced more targeted individual and later, sectoral sanctions.

In the UK, the Sanctions and Anti-Money Laundering Bill was finally passed in May 2018 and included a Magnitsky clause, with sanctions for gross human rights abuse. The Government also introduced other measures including unexplained wealth orders (UWOs) which have been a conspicuous flop, while counter-productively since 2008, it has maintained the system of golden visas - £2mn to £10mn in assets to be demonstrated by an applicant in return for fast-tracked residency – and more than 700 of these have been awarded to Russian citizens. Under a register of beneficial ownership for UK companies introduced in 2016³, UK companies and limited liability partnerships are required to declare, in a public register, the names of any individuals controlling more than a 25% stake in them. However, this requirement currently does not apply to owners of overseas companies operating or purchasing property in the UK.

Meanwhile, Transparency International has, for example, identified 176 UK properties worth £4.4 billion which have been bought with suspicious wealth—over a fifth of which is wealth from Russian individuals – and this is likely to be only the tip of the iceberg.

² In Russia, the short-hand term used to describe a shell company is a BVI.

³ The Joint Money Laundering Intelligence Taskforce (JMLIT) and the FCA-based Office for Professional Body Anti-Money Laundering Supervision (OPBAS) were also established and the National Security Capability Review included a commitment to reform the Suspicious Activity Report system, which has represented a major black hole.

UK governed by the Rule of Law – no, it's not !

The failure to deal with money laundering, especially the use of offshore tax havens by Russian and other fraudsters, should be viewed against the background of the deliberate failure to deal with economic crime generally.

Politicians regularly claim that the UK's standards are somehow superior because our country is governed by the Rule of Law⁴ and that no-one is above the law. In our area of specialisation, serious banking fraud, this is absolutely not the case. Indeed, the ongoing cover up of economic crime, and the extreme reluctance of the authorities to address it, are indicative of a deliberate failure to ensure the equal application of the Rule of Law⁵.

The **National Crime Agency** (NCA), for example, has repeatedly shown itself willing to follow the official line and not investigate serious banking fraud. It did so last March, when it wound up its three-year investigation into further aspects of the Halifax Bank of Scotland (HBoS) Reading fraud, the only banking fraud ever to have been successfully prosecuted in the UK, claiming that there was insufficient evidence of criminal wrongdoing, when such evidence was everywhere to be found. The NCA has also refused, for over two and a half years, to investigate overwhelming evidence of signature forgery and the use of invalid legal documentation by major banks such as Royal Bank of Scotland (RBS) and Lloyds. In the US, economic crimes such as these triggered major investigations and witnessed large-scale compensation of its victims. In the UK, the authorities have merely tried to cover everything up by refusing to investigate. The suggestion that this failure is due to a lack of resources or capability is a smokescreen since these shortcomings should have been addressed long ago.

Like numerous other arms of state, the Police remain complicit from the highest level downwards with the ongoing cover up of and refusal to investigate serious banking fraud.

The HBoS Reading fraud also provides a window into the use of offshore shell companies, which remains flagrantly open to abuse. The fraudsters in question used countless shell companies and laundered their proceeds of crime, using a team of professionals at the Bristol-based solicitors, Burges Salmon. This firm continues to act for Crown Estates, which has for example sold 120 of its properties to companies registered in 14 different tax jurisdictions and bought a £67 million property from the Aliyev family, who are well-documented abusers of their rule in Azerbaijan.

The shortcomings of the **Serious Fraud Office**⁶ (SFO) have long been obvious and the agency has remained significantly under-staffed and under-funded for more than a decade. Yet, these weaknesses have deliberately not been addressed. The cover up of serious banking fraud by Andrew Bailey, the chief executive of the Financial Conduct Authority (FCA) and now, Governor of the Bank of England and successive Chancellors has likewise been anything but accidental. The conspicuous failures of our regulators, the FCA⁷, the audit regulator the Financial Reporting Council (FRC) and the Solicitors Regulation Authority (SRA) have also been entirely deliberate.

Taken together, these failings represent thoroughly bad and corrupt government and administration.

⁴ See "The Rule of Law – why it matters and how it is being corrupted", January 2021 on www.lloydsbankassetfrauds.com

⁵ Former Master of the Rolls, Lord Denning (1899-1999): "Be ye never so high, the law is above you" after Dr Thomas Fuller.

⁶ See "Serious Fraud Office – failing on fraud", November 2021 under Latest Releases on our website.

⁷ See "FCA's leadership must resign", May 2021 on the third row of the same website.

The Government's long-standing neglect of economic crime

Parliamentary debates have described such failures but never touch upon the real reasons behind the continued lack of political will. We advance here our suggestions for the wrongful thinking:

1. Accepting dirty money from whatever source benefits the UK economy. Its multiplier effects have been felt throughout our capital and beyond, across the UK property market and by our supposedly respected professions, a proportion of whom have sold out their integrity.
2. Global economic crime is now so sophisticated and extensive that it can no longer be properly controlled. Those who have resigned from the SFO might agree but can any government, which claims to observe acceptable standards of international conduct, ever accept this ?
3. The huge volume of skeletons in offshore tax havens are far better left buried. Transparency would reveal the widespread extent of securitisation fraud conducted by our major banks, as well as the extensive use of tax havens by known fraudsters, notably those from Russia.
4. Revelations about ongoing use of tax havens by current British politicians would spark renewed controversy and further undermine trust in authority and our democracy. Past relationships between former politicians, the Conservative party and Russia should also remain covered up.

The Government signalled its continued indifference towards addressing economic crime by fielding only an under-secretary at the Department of Business, Energy & Industrial Strategy (BEIS) to reply to the recent debate and advance conspicuously inadequate arguments:

- i. The need for "a targeted and proportionate level of enforcement." How can allocating 1% of police resources to economic crime, which accounts for one-third of all crime in the UK, possibly represent the correct "targeted and proportionate" response ?
- ii. The need "to protect the dynamism of the UK's business environment"; "we must not undermine the strengths of our current systems (sic) nor overburden the law-abiding majority". The reality has been a deliberately weak regulatory regime, which has resulted in unprecedentedly widespread injustice for the victims of economic crime. Yet post-Brexit, the Government is offering even more deregulation !
- iii. "The Government is working hard to bring forward appropriate measures as soon as we are able". Nine years on from PM Cameron's assurances about cleaning up the use of tax havens, no effective action has been taken and until last week's "U" turn, ministers were intent on doing the exact opposite and kicking the can down the road yet again.

Consequences of Government inaction

The international credit rating agency, Moodys has already lowered our rating as a country because of "a weakening of the UK's institutions and governance". Under current conditions, there remains the potential for a major sterling crisis and a sharp rise in the cost of servicing our national debt, which stands at record levels. Government, HM Treasury and the Bank of England must be well aware of this. Yet, there continues to be strong reluctance on the part of the authorities to act correctly because they are refusing to confront the underlying reality, which greater accountability and transparency would uncover.

Their stance is only storing up much greater trouble for the future