PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

CRIMINAL FINANCES BILL

Second Sitting

Tuesday 15 November 2016

(Afternoon)

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Saturday 19 November 2016

The Committee consisted of the following Members:

Chairs: Mrs Anne Main, †Sir Alan Meale

† Arkless, Richard *(Dumfries and Galloway)* (SNP)
† Atkins, Victoria *(Louth and Horncastle)* (Con)
† Dakin, Nic *(Scunthorpe)* (Lab)
† Davies, Byron *(Gower)* (Con)
† Dowd, Peter *(Bootle)* (Lab)
† Drummond, Mrs Flick *(Portsmouth South)* (Con)
Elphicke, Charlie *(Dover)* (Con)
† Ghani, Nusrat *(Wealden)* (Con)
† Griffiths, Andrew *(Lord Commissioner of Her Majesty's Treasury)*
† Harris, Carolyn *(Swansea East)* (Lab)
† Hunt, Tristram *(Stoke-on-Trent Central)* (Lab)
† Huq, Dr Rupa *(Ealing Central and Acton)* (Lab)
† Mann, Scott *(North Cornwall)* (Con)
† Mullin, Roger *(Kirkcaldy and Cowdenbeath)* (SNP)
† Sandbach, Antoinette *(Eddisbury)* (Con)
Vaz, Keith *(Leicester East)* (Lab)
† Wallace, Mr Ben *(Minister for Security)*
† Wood, Mike *(Dudley South)* (Con)

Colin Lee, Ben Williams, *Committee Clerks*

† attended the Committee

Witnesses

Anthony Browne, Chief Executive, British Banking Association, Nausicaa Delfas, Director of Specialist Supervision, Financial Conduct Authority, Amy Bell, Chair, Law Society Money Laundering Taskforce, and Head of Compliance and Training at Quality Solicitors Jackson Canter

David Leaske, Chief Reporter, The Herald, Toby Quantrill, Principal Economic Justice Adviser, Christian Aid

Right hon. Dame Margaret Hodge MP, Chair of All-party Parliamentary Group on Responsible Tax

Tom Keatinge, Director, Centre for Financial Crime and Security Studies, Royal United Services Institute, Dr Susan Hawley, Policy Director, Corruption Watch, Chido Dunn, Senior Campaigner, Global Witness, Duncan Hames, Director of Policy, Transparency International UK

Public Bill Committee

Tuesday 15 November 2016

(Afternoon)

[Sir Alan Meale *in the Chair*]

Criminal Finances Bill

Examination of Witnesses

Anthony Browne, Nausicaa Delfas and Amy Bell gave evidence.

2.30 pm

The Chair: We will continue with oral evidence from the British Bankers Association, the Financial Conduct Authority and the Law Society. We have until 3.15. I had better warn you before we start that there were lots of questions in the session earlier today, so please try to be succinct in your answers. I must also warn you that there is likely to be a vote at 3.15, coinciding with the end of your session. We will have to adjourn, go to vote and then come back. Hopefully you will be able to escape before then. Can you please introduce yourselves and tell us about your role?

Amy Bell: I am the chair of the money laundering taskforce at the Law Society. I am a solicitor. The taskforce comprises a number of solicitors and professionals dealing with money laundering, and we provide support for the Law Society on matters of policy and interpretation of the legislation.

Nausicaa Delfas: I am Nausicaa Delfas. Until last week, I was director of specialist supervision at the FCA, responsible for financial crime supervision. I am now executive director at the FCA and acting chief operating officer.

Anthony Browne: I am Anthony Browne, chief executive of the British Bankers Association. Despite our name, we represent banks operating in Britain, rather than just British banks. That includes all the foreign banks. I am not a financial crime specialist, and I should say that if there are questions needing follow-up, we will provide written evidence afterwards.

The Chair: Before I call Dr Huq, I want to apologise to you; the Minister is involved in the debate in the Chamber at the present, as is the Whip, who is also on the Committee. Hopefully they will be able to attend, but perhaps not during your session.

Q70 Dr Rupa Huq (Ealing Central and Acton) (Lab): Thank you for coming to give evidence. To continue the thread, although I guess you were not here this morning, I will compare some of your answers to what we heard from the panels then. Part 3 of the Bill would create a new criminal offence to prevent the facilitation of tax evasion. Quite a few of the stakeholders who provided evidence to the HMRC consultation do not think that that is necessary. Why do you think that might be, and do you think that it is needed or not?

Nausicaa Delfas: If I can answer from the FCA's perspective, we would be looking at systems and controls in banks in any event. Tax evasion is a predicate offence to money laundering, so that is something we would look at in any event, but we do not have a view on the provision in the Bill; it is just our perspective.

Anthony Browne: We are not convinced that it is necessary, but we are not opposed to it, and we accept it. We think it is probably better to lead as a regulatory approach with the co-operation of the regulators and the banks in a partnership way, but we accept the Government's wishes to do it.

Q71 Dr Huq: So it is a good step up, but it was not absolutely necessary?

Anthony Browne: We think that it would be better to use regulation to enforce this, rather than creating a criminal offence for banks as such, although there are also already criminal offences for individuals.

Amy Bell: Our view is that there is already a predicate offence in relation to this, but our tax law committee has been involved, and they are generally happy with the drafting.

Q72 Dr Huq: There is also evidence that since 2009, a lot of specialist trained investigators of financial crime who were trained on the public purse have jumped ship and gone over to the commercial sector, some of them even to gambling. An amendment that we are tabling would keep people within—I cannot remember the exact wording, but they would have to repay the cost of training. Do the three of you have any thoughts on that and potential poaching?

Nausicaa Delfas: I do not have a view on poaching, but we have accredited investigators at the FCA.

Anthony Browne: I do not have any views on this, but I can ask my members about it. There is clearly circulation between law enforcement authorities generally and banks on a two-way basis, in the sense that people at banks go to work for law enforcement authorities and vice versa. If you ask the law enforcement authorities and certainly the banks, it is actually very valuable to get that exchange of information, insight and expertise across the two. This is partly a development of the fact that the battle against financial crime, to which the banks are very committed, is a lot more of a partnership now.

Law enforcement authorities see that the banks are fully committed to this and working to the same ends. We have the same goal in mind: banks do not want to handle illicit money. Bringing the expertise of law enforcement experts within the banks helps the battle against financial crime. I do not have a view on the costs of training.

Amy Bell: We do not have a view on that either. It is not something that we see very often, people coming from law enforcement into solicitors' firms. It happens occasionally but not on a widespread basis. We prefer investigators.

Q73 Roger Mullin (Kirkcaldy and Cowdenbeath) (SNP): A lot of research indicates that about 70% of major organisational crises are caused by culture. Why has the FCA scrapped the proposed review of the culture of banks? How is that going to assist in an attack on criminality?

Nausicaa Delfas: You are aware that the FCA is looking at culture with each individual institution. Although we would not be conducting that particular piece of work, we are doing other work. In terms of the Bill, I do not have anything further to add.

Anthony Browne: It was an investigation into the culture of retail banking and it was a decision for the FCA what it did with it. We did not ask for them not to do it at any time and would have been very happy for them to do it. As Nausicaa said, the FCA does a lot of work on culture already. The banks are doing a lot of work on culture through a lot of different means. We completely agree with your assessment of the importance of culture and of getting a better culture in banking. That is why from the chairmen and chief executives down they are spending so much time, effort and money trying to improve the culture in banks.

Q74 Roger Mullin: I will try another familiar area. There has also been removal of a proposal regarding the reverse burden of proof. How is the removal of that proposal going to assist in an attack on holding people responsible for criminal behaviour?

Nausicaa Delfas: That was a matter for the Government and legislation. There are still protections within the regulations to address senior management responsibility.

Q75 Roger Mullin: Are you content with what exists?

Nausicaa Delfas: Yes.

Q76 Richard Arkless (Dumfries and Galloway) (SNP): I would like to push Ms Delfas on the point about banking culture. Do you see a link between banking culture and criminality? Do you think that a bad banking culture—to put it in layman's terms—could be a conduit for criminality, or could exacerbate the potential for criminality in the financial sector?

Nausicaa Delfas: Obviously, we regard banking culture as incredibly important. We believe that it should be driven from the top down. We have not seen connections with criminality. We actually see that a lot of the sector operates well. Where there would be any issues around crime, they would obviously need to be detected and rooted out.

Q77 Richard Arkless: Do you agree with the Government's decision to row back from the oversight committee and the reverse burden of proof? You rightly mentioned that it was a decision by Government. Do you agree with that decision?

Nausicaa Delfas: The regulations operate well as they are. Obviously, cases need to be made but I question what this has to do with the Bill.

Q78 Richard Arkless: The inference is clear. There is a link between banking culture and a financial system with banks being susceptible to criminality. I think it would be remiss for us to ignore that dynamic.

Nausicaa Delfas: What is really important here and what the Bill really promotes is how best to detect and prevent the financial system being used for financial crime. I think that should be our focus, so that many of the Bill's provisions such as information sharing actually help to make the system more effective, so that crime and money laundering can better be detected and better information be given to law enforcement agencies to be able to deal with the issue. I think that is the focus here and that is absolutely right.

Q79 Richard Arkless: We heard evidence earlier that the new provisions for corporate economic crime may disproportionately impact smaller organisations, the theory being that larger organisations would find it easier to demonstrate protocols and processes that they could use to rebut the allegations that employers and their systems have failed to flag it up. Is that something that your members have discussed and that you have a view on? This may well be obvious, but as a former consumer lawyer, I can tell you the amount of times that big banks used to roll out their processes and protocols in defence of various actions, which smaller companies found it hard to do. Is that something that concerns you that might impact widely and disproportionately on your membership?

Anthony Browne: I agree with the general principle of your question. I have not had discussions with my members regarding this Bill. In terms of regulation more generally, there is no doubt that it can often benefit large organisations at the expense of smaller ones for exactly the reasons that you claim. It can act as a barrier to entry for smaller banks or as a barrier to growth for exactly the reasons you say: they do not have the resources, scale or internal expertise to deal with some very complex issues. The more complex a regulation is, the more that issue will be realised, as it were.

It is important to distinguish between proportionality —we support proportionality of regulation—on the prudential side and proportionality on the conduct side. Proportionality on the prudential side, in terms of the capital that banks have, is a more straightforward issue. On the conduct side, it is quite difficult to argue that there should be lower standards for smaller banks because then the criminals or the misconduct would all be focused at smaller banks and you would create an unintended consequence. We massively support competition in the banking sector. We have done a lot of work to try to ensure that there is a level playing field and to remove any barriers to growth or entry.

Q80 Richard Arkless: Do you think that your members are in favour of the Bill's corporate claim provisions? How do you think your members would react to those provisions being extended beyond tax evasion?

Anthony Browne: As I said in response to the question from Dr Huq, we do not think it is necessary, but we accept it and we have worked very closely with the Government on it. We are doing tax guidance—60 pages of guidance for banks to help them comply. In terms of extending it to a general criminal offence in respect of facilitating economic crime more widely, I just make this observation. There are lots of different bits of regulation and legislation on different elements of financial crime. There is tax evasion, counter-terrorism finance, money laundering and bribery. They all operate in a different way, and we would like to see a more coherent view of financial crime more generally. This is a longer term aim and this Bill is part of it. They are all different aspects of financial crime, so we are not opposed to the broad principle of extending it but we would say that it would need very careful consultation. You would

need to think through very carefully how it might operate in order to make sure that there are no unintended consequences because there are a lot of very detailed complexities. You need to make sure that it would work effectively in the way that you, Parliament and the Government intend.

Q81 Antoinette Sandbach (Eddisbury) (Con): Back in 2012, Coutts was fined £8.75 million by the FCA for systemic failings that had resulted in an unacceptable risk that it had handled the proceeds of crime. Do you think part 3 of the Bill will effectively address those risks at a banking level? In the not so distant past, we had HSBC Switzerland accounts being used to evade UK tax. Are you confident that the measures in part 3 will address those systemic failings in the banking sector?

Nausicaa Delfas: The Bill's provisions will certainly help law enforcement to address these issues and, by virtue of that, will also have an impact on the banks themselves.

Q82 Antoinette Sandbach: Will they help you as a regulator?

Nausicaa Delfas: From our perspective, the areas that will particularly help us are information sharing, which I mentioned—so greater effectiveness in the anti-money laundering regime to detect and prevent instances of money laundering—and the civil recovery powers being extended to the FCA in line with those of other law enforcement agencies, so that when we undertake investigations we are able to move forward and take the civil recovery as well. That will help the FCA.

Q83 Antoinette Sandbach: The corporate responsibility obligations are only on tax evasion. They would not pick up issues around the LIBOR scandal, for example. Do you think any other measures are needed in the Bill or are you satisfied that it provides the appropriate tools?

Nausicaa Delfas: From our perspective, it is not so much a matter of powers. To go back to information sharing, the one proposal we would make is for the threshold for sharing information to be lowered, so that institutions can share information when they see unusual activity and not just when they actually have enough information to have a suspicion, because then they have to file a SAR. I know that there would need to be safeguards and that we would need to look into the matter in more detail, but the biggest benefit from our perspective would be to enhance that and therefore get better quality, rather than quantity, of information going to law enforcement.

Q84 Antoinette Sandbach: Mr Browne, you spoke about other pieces of legislation. Those have clearly not stopped the kind of matters that I referred to, in terms of the way the law has been interpreted or applied by your members. You said that you felt your members would be willing to have the scope of the Act extended to a broader economic crime.

Anthony Browne: You raised the question of LIBOR. Legislation was brought in after LIBOR to deal specifically with that. I should say more generally that we support almost everything in the Bill to different degrees. As banks, we are totally committed to combating all forms of financial crime. We spend in excess of £5 billion a year doing it and we want to make sure that that is as effective as possible. We have thousands and thousands of staff who deal with it. We support provisions such as information sharing, undisclosed wealth orders, disclosure orders and so on—we can talk about those in more detail later, perhaps.

In terms of widening the criminal offence to prevent wider economic crime, my point was that it is very complicated when you get into the details. We would caution against introducing it suddenly without detailed consultation about how it might operate or not operate. There is a very complex constellation or jigsaw, with lots of different interlocking bits of legislation and regulation on financial crime. Putting a blanket thing on top could make it less effective and lead to unintended consequences.

Q85 Antoinette Sandbach: Ms Bell, do you think part 3 of the Bill will affect your members more, particularly the high street firms that may be caught by its provisions?

Amy Bell: I echo what the BBA said in relation to the smaller firms and their resources to implement these things. We in the Law Society provide quite a lot of support for the smaller firms—the high street firms. In relation to these kinds of offences in particular, we published a toolkit when the Bribery Act 2010 was being implemented to help our members to implement the Act.

Q86 Antoinette Sandbach: But should not your members be aware of what constitutes tax evasion?

Amy Bell: Yes, sorry—the reasonable provisions. Sorry, I am talking about the procedures that they need to put in place. That is the part that would be difficult for smaller firms that do not necessarily have compliance departments to help them with that. We are talking about practitioners on a day-to-day basis. They will absolutely understand the law but it is about what reasonable preventive provisions they need to put in place.

Q87 Antoinette Sandbach: And you are providing guidance on that, or you will do.

Amy Bell: Yes, absolutely.

Q88 Victoria Atkins (Louth and Horncastle) (Con): Just to pick up on that point, tax evasion is tax evasion, whether it is committed by small companies or large companies.

Amy Bell: Yes, of course.

Victoria Atkins: It involves an element of dishonesty. So any member of your profession or any other business who is conducting tax evasion is liable to be prosecuted in the criminal courts. I am slightly concerned about that distinction, that tax evasion conducted by small companies is not quite as bad as tax evasion conducted by large companies.

Amy Bell: No, I do not mean that. I am talking about the implementation of the provisions and the requirement to have reasonable procedures in place. Absolutely, tax evasion already is a crime. Picking up on what you were saying about the implementation of measures, I am talking about whether preventing corporate tax evasion is prohibitive for smaller businesses. But that is about guidance, and it is our role at the Law Society to help our members understand what is necessary.

Anthony Browne: I would like to make it clear, lest there is any question about my response, that although we want to ensure that there is as much competition in the banking industry as possible, the point I made about proportionality in terms of conduct being problematic is exactly that. Tax evasion is tax evasion; it does not matter how large the firm is that is doing it. Mis-selling to customers is mis-selling; it does not matter how big the firm is. The sort of protections you need against misconduct apply to all sizes of firm.

Q89 Peter Dowd (Bootle) (Lab): This question is not specifically directed at you, Ms Bell, but I notice that you are the head of compliance and training at the Jackson Canter Group. One of the new clauses we have before us relates to the National Crime Agency making a report to Parliament about the training it provides to its staff on financial investigation and the operation of the Proceeds of Crime Act 2002. In a more general sense, what is your view about the whole question of training within, let us say, the finance sector, in relation to the issues before us? Do you think there is enough training? Too much? Give me a view about that.

Amy Bell: In relation to anti-money laundering?

Peter Dowd: Yes, take that for a start.

Amy Bell: We are fortunate to have the Solicitors Regulation Authority recent thematic review, which looked at that in some detail in relation to the legal profession. The authority visited 250 firms of varying sizes that it considered to be high on its risk rating, either because they were very large or because they already had some identified issues. In those firms it saw good levels of training and that people understood their obligations under the regulations—that systems were in place to enable people to do that—and about suspicious activity. So we have some qualitative data from the Solicitors Regulation Authority that show that in the legal profession training is taken very seriously and is effective.

Q90 Peter Dowd: May I ask the other two witnesses their view about training in general? By training I might mean awareness and the extent of trying to prod that awareness within the industry.

Nausicaa Delfas: My observation, from our work through supervision, is that firms take the matter very seriously and devote a lot of resource to anti-money laundering controls and related training.

Anthony Browne: I have not had a direct conversation with my members about the amount of training in terms of financial crime, but they put a huge amount of time and effort into it. There is absolutely no point in having regulations on anti-money laundering or anything else unless staff are properly trained to be aware of it and know what to do and when. The banks expend a lot of effort in ensuring that their staff are competent in carrying out those roles.

Q91 Peter Dowd: Do you think that the amount of training within the system fits the Bill, so to speak? Is there enough there?

Anthony Browne: There are certainly a lot of training providers. I should declare an interest here in that the BBA provides training, although we are a tiny part of the whole. Larger banks tend to do in-house training. There are a lot of third companies, external to banks, that provide training. There could be an almost unlimited supply of training, so I do not think that that is a constraint.

Nausicaa Delfas: We have talked about training in firms but there also is training for investigators exercising the powers in the Bill and other legislation. There is accreditation and monitoring of them, so the system is robust.

Q92 The Minister for Security (Mr Ben Wallace): Thank you very much for your input into the formation of the Bill. It helps the Government, and hopefully the Bill reflects some of that. I am keen to find out from the regulated sectors and the professions what you envisage could or would happen to any one of your members should they be convicted of the offence of corporate tax evasion or money laundering. What penalties are available to you to deal with either law firms or the individuals who could be convicted?

Amy Bell: In relation to law firms, while the Law Society is the named supervisor, we delegate enforcement responsibilities to the Solicitors Regulation Authority. Its powers are incredibly wide and include restricting or stopping a firm from practising, intervening in a firm, closing the firm down, stopping the individual solicitors involved from being able to practise and ultimately referring them to the solicitors disciplinary tribunal, where they can lose their right to practise and be removed from the role. Quite serious options are open to the SRA.

Q93 Mr Wallace: And for the banking and financial sector?

Nausicaa Delfas: From our perspective, obviously, individuals could be prohibited from the industry. In terms of firms, there are significant fines and reputational damage.

Q94 Mr Wallace: And they could potentially lose their banker's licence, if they are a bank.

Nausicaa Delfas: Removal of permissions, yes.

Q95 Mr Wallace: Ultimately, if an international bank loses its British banker's licence, what does it mean for that bank in the global world? Is it usually the case that if they lose their banker's licence in a developed market, it is pretty much curtains for them in the rest of the world?

Nausicaa Delfas: It would have a significant impact, yes.

Anthony Browne: If you lost your licence to operate in London, it would clearly have a dramatic effect on an international bank.

Q96 Mr Wallace: Do you think some of the overseas offences here will have a change of behaviour effect on foreign-owned banks that operate here as well? Ones that may previously have been able to exploit their jurisdiction elsewhere will find that the stakes are higher for them.

Nausicaa Delfas: Undoubtedly so. Obviously, where controls are exercised from the UK, those powers already exist, but this certainly goes further.

Anthony Browne: One aspect of the criminal offence of failing to prevent tax evasion about which we do have concerns is its extraterritorial impact and the degree of extraterritoriality. For example, if a US citizen who is a customer of a US bank operating in the US evades tax in the US and that US bank has a branch in the UK, the entire US bank could become criminally liable for an action that has no nexus in the UK whatsoever—it is a US citizen, US tax and a bank operating in the US under US law. The same goes for Japan, and so on. Effectively, that would place us as regulators for jurisdictions overseas. The US Department of Justice, for example, does not have such authority over UK banks operating in the US. It could have a dramatic impact on the UK's competitiveness as an international financial centre.

Q97 Mr Wallace: But the US regulator does have a say in things like foreign and corrupt practices over examples such as the one you used. You do not have to have an entity with their extraterritorial reach in their other legislation.

Anthony Browne: It has to be a nexus in the US, I think. That is my understanding of that, but we can get back to you on the detail of it. Our understanding is that there no legislation which has this impact, in the sense that it is entirely extraterritorial without any nexus. It does not involve UK taxes, UK citizens, UK banks or UK laws.

Q98 Mr Wallace: But we do not really want tax evaders anywhere, do we? We do not want to allow tax evaders to rob other countries of their wealth either. We do not want to be a permissive society.

Anthony Browne: No, but obviously, the US, Japan and other countries have very sophisticated tax evasion laws already. Getting them to comply with two different laws simultaneously on a global basis, for both the UK and other jurisdictions, would have quite big implications. I do not know whether you have spoken to other Governments about the impact of this.

Mr Wallace: We have not had any representations from the United States objecting to this.

Q99 Roger Mullin: I would like the panel's views on whether there is a case for strengthening protection for whistleblowers in the financial sector.

Anthony Browne: The protection for whistleblowers has just been strengthened in the financial sector. Ms Delfas might know more about it. We have been working with the regulators to ensure that each bank has a proper independent whistleblowing regime that does exactly that: protect whistleblowers. There is a senior manager or a board director who is a champion of the whole whistleblowing regime within the bank. That is a process that we have been going through over the past 18 months or so, to strengthen it.

Q100 Roger Mullin: Are you satisfied it is working satisfactorily?

Anthony Browne: I know that, as the banking sector, we think that it is a lot stronger. It is very important to have a strong whistleblowing regime. It is an important part of improving the culture of banks and preventing wrongdoing. We have been working with the regulator on this, so you should ask the regulator.

Nausicaa Delfas: I agree that the regime has been strengthened. We regard it as very important. It feeds into work on culture in banks as well. I would be interested if you thought it should be further improved.

Amy Bell: I cannot comment, unfortunately, in relation to the financial sector. In relation to the solicitors' profession, we do have in our regulations the obligation for people to report serious misconduct. We do not have any specific whistleblowing provisions but that is not something we have encountered an issue with.

Q101 Nic Dakin (Scunthorpe) (Lab): From the evidence we had this morning I formed the opinion that there is a view that banks are pretty good at spotting irregularities and bringing them forward to the authorities but other parts of the regulated sector are less proactive in that way. That seemed to be what was coming through the evidence this morning. Does that ring true to you? Are the measures in this legislation likely to improve the performance of other parts of the regulated sector?

Anthony Browne: We think it is important that the Government and law enforcement authorities use all the tools that they can to combat financial crime and not just rely on banks. I would agree with the assessment that banks do an awful lot; we certainly do an awful lot. It is important that you do not underplay or pay too little attention to other sectors—not just lawyers but accountants and estate agents. There are lots of different groups that get involved with this. They can all play their part against financial crime. We should all play our full part in that way.

Nausicaa Delfas: I agree with that. I obviously cannot speak for the other professions but we are aware that there are about 400,000 suspicious activity reports filed with the NCA each year. The vast majority of those, I understand, come from the financial sector. Obviously, perhaps more could be done. I go back to the point that that is a huge number. It is a quantity issue and we would urge any changes that could be made to improve the quality of those so that there are better leads for law enforcement.

Amy Bell: We have to be careful in judging the numbers of suspicious activity reports. The Financial Action Task Force and the NCA's predecessor, SOCA, were both clear that there is no right number of reports. It is fair to say that the vast majority of reports do come from the financial sector. They see patterns of financial activity that we do not see. I do understand that there is criticism levelled at the professions in relation to reports about clients that banks report but maybe the professions are not reporting, but that is because we see different parts of the transaction. That should not be underestimated.

Although I think we should continue to be vigilant, we need to be very careful about drawing any conclusions from the disparity in the numbers. I think the information sharing will help because that means that the bank can communicate with the regulated sector where they see things that will give data to the professions to be able identify suspicious activity.

Q102 Peter Dowd: This morning we had evidence from the National Crime Agency, the National Police Chiefs Council, the Met police SO15 counter-terrorism policing, Her Majesty's Revenue and Customs, the Serious Fraud Office and the Crown Prosecution Service. To a

man—they were all men, by the way—I would say that they looked at the Minister, gulped and said that they had enough resource to do their job. Will you give me a view from outside, so to speak, as to whether you get the sense that those agencies have sufficient resource to do their job, given that you presumably have pretty close relationships at points in the investigatory process?

Nausicaa Delfas: Every organisation has constraints around resources. The question is how best to deploy them. The more precise the information, powers and so on that can be given, the better, but there are constraints in all cases.

Anthony Browne: Clearly it is important that they are properly resourced. We submit about 80% or 90% of the SARs that are submitted—360,000 last year. One of our concerns as an industry is that they are not all followed through, and we get very little feedback about what follow-through there is. A huge amount of SARs are put in, but we have concerns about whether there is sufficient resource to follow up that suspicious activity.

As you know, there is a whole Home Office programme to reform the SARs regime to make it more intelligence-led and less of a tick-box exercise, and to improve the quality of the SARs rather than just the numbers. We totally support that but it will only work if there are enough resources to follow through. That is why one thing that we have proposed in a submission to the Government is a forfeiture for the proceeds of crime in bank accounts such that the money raised is used to add resource to the SARs regime.

Amy Bell: The well known difficulty with the SARs regime—the reporting system—is one of resource. I echo what my colleagues say in relation to the numbers of SARs that go in and the feedback we get, and I believe that is a resourcing issue.

Q103 Tristram Hunt (Stoke-on-Trent Central) (Lab): This question might not quite fall within your competencies but I will ask it anyway, given your knowledge of law, finance and the City. It seems that one of the challenges in the current legal set-up is a kind of fear among statutory and investigative authorities about the cost of pursuing certain lines of inquiry, with all the legal ramifications if those who are pursued for unexplained wealth orders and so on are found innocent. How does it affect the culture of investigation within the City when there is a fear about reputational and financial impact on those pursuing those lines of inquiry? Do you have any thoughts on that either from a legal or financial stance? There is a chance to think about an amendment regarding capping the reimbursement of costs or not allowing for the costs.

Nausicaa Delfas: We are aware of the costs but I suppose we regard it as part of the discipline of litigation, so it is not exceptional. The capping idea is certainly interesting.

Amy Bell: I do not think we have a view on it, but we are happy to take it back and get in touch with the Committee if we have any views.

Q104 Tristram Hunt: I will pursue this slightly differently. Do you have any sense of the international comparisons? Is the UK behind the curve on these investigations or is it out in front?

Anthony Browne: I do not know.

Q105 Dr Huq: Can you think of anything that is not in the Bill that you would have liked to have seen in it? I was kind of thinking sideways—maybe enhanced supervision of the property market or something. I know that is not one for you three directly, but if there is anything you would like to see in the Bill, we are told that the Minister is in listening mode.

Mr Wallace: Always.

Anthony Browne: We broadly support this Bill and almost all the provisions in it. The one thing we would like to see changed in the Bill is the threshold for intelligence sharing, which is a point that Ms Delfas made earlier. It would be beneficial and make the regime more effective if you lowered the threshold for intelligence sharing. If there was activity that was just below the formal level of suspicion, so that banks do not deal with it as a suspicious activity report, if they could at that stage share intelligence with other banks like two pieces of a jigsaw, they could find out that something happening in bank A is also happening in bank B.

That could raise it to a suspicious activity and so enhance the intelligence sharing and make it far more useful and effective. We are worried that the way it is prescribed at the moment would actually be a lot less effective than either the Government or the banks want.

Q106 Dr Huq: Do you think that the £100,000 for an unexplained wealth order is about right as the threshold where that kicks in? Would you like to see it higher or lower?

Anthony Browne: I do not have a view on that, but I can get back to you.

Nausicaa Delfas: I do not particularly have a view but, certainly from our experience, the cases of money laundering tend to be of higher value. I do not have a view on the figure as such.

Q107 Dr Huq: Is there anything you would like to see?

Nausicaa Delfas: Yes, there are other points. I have mentioned the lower threshold on information sharing. There are other ideas that we have in terms of how the SARs regime could be improved so that it is better quality rather than quantity. One is information sharing. Other ideas would probably not be in the Bill but are for future thought. What are the incentives for people who are submitting the SARs? For example, there is criminal liability on an MLRO. Is that right? Obviously, it is a difficult question but there are certainly incentives to report defensively.

We have heard from banks other ideas in which we can see the merit, such as having a sort of centralised transaction monitoring system to be able to see how transactions are flowing through banks. That is another very big issue that would need to be looked at. Again, it would improve the effectiveness of the system.

There are other provisions such as reliance. A bank cannot rely on another bank's due diligence of a customer, so the customer has to go through due diligence again with the second bank. There would be a question about whether legal liability on the second bank could be removed, so that it could rely on the due diligence of the first bank, provided it had done some checks.

All those things are ideas that we are happy to share, or have shared, with the Government for the future, in terms of improving the regime overall, its effectiveness and efficiency. Mr Browne mentioned that his members estimate that the current regime costs them about £5 billion. Things that can reduce the cost and relate to effectiveness are welcome.

Q108 Richard Arkless: You have made it clear that you are broadly supportive of the measures in the Bill and you have given the reasons why. I think most people in the Committee are broadly supportive. The point of contention comes when some of us do not think that the Bill goes far enough.

I am quite perturbed by some of the answers you have given in relation to what could be done to make it easier for the people you regulate or your members. I am not getting the impression that those are things that you think would make it easier to catch the criminals. Am I confused by this? It smacks of self-preservation. What I want to hear are things that we could put in the Bill to make it easier to catch the criminals, not to make your lives easier.

Nausicaa Delfas: I am not suggesting how we can make our lives, or anyone else's, easier. I am suggesting exactly what you said: to improve effectiveness in terms of being able to produce useful intelligence that helps to prevent money laundering in the financial system. That is certainly our aim; it is not to make anything easier. I think the Bill contains good provisions that will go towards that aim. We can always think about these issues and what we can do in future. We are certainly supportive of the Bill.

The Chair: That brings to an end the time allotted for questions. I want to thank all the witnesses who have come forward to give evidence. At some point, copies of your evidence will be available. Thank you very much for attending.

Examination of Witnesses

David Leask and Toby Quantrill gave evidence.

3.16 pm

The Chair: Thank you very much for attending. We expect a vote on the Floor of the House quite soon, so your evidence may have to be interrupted. Before we start, could I ask you to tell us about your background and some of the roles that you have in your industry?

David Leask: My name is David Leask. I am a newspaper reporter with *The Herald* in Scotland. I am here because I am very interested in the use of Scottish shell companies by tax avoiders and other unpleasant people in other parts of the world, particularly the former Soviet Union.

Toby Quantrill: My name is Toby Quantrill. I am the principal economic justice adviser with Christian Aid. We are here because we have been working in the area of financial transparency, especially with regard to tax, for over 10 years. We are members of a number of global coalitions of civil society—the Global Alliance for Tax Justice and the Financial Transparency Coalition—which include members from both the north and the south. Our concern is with the management of British overseas territories specifically and the problems that they cause with regard to financial secrecy and criminal activity, especially in developing countries.

The Chair: You informed me, Mr Leask, that you were defended earlier by one of our Scottish Members, who explained that you were the chief reporter of *The Herald*, not "The Glasgow Herald". We were put right on that.

Q109 Dr Huq: Thank you for coming in, gentlemen. Part 3 of the Bill introduces a new criminal offence to prevent the facilitation of tax evasion.

3.17 pm

Sitting suspended for a Division in the House.

3.32 pm

On resuming—

Dr Huq: Before we were so rudely interrupted, Toby, because of the stuff you have published, I was going to ask you—this may also be relevant to David—about the new corporate offence, which will apply to tax evasion offences both in the UK and overseas. Will the foreign tax offence have a significant impact on developing countries?

Toby Quantrill: Potentially, yes. We very much welcome the extraterritorial nature of this. We would like to see this extended beyond tax evasion to all financial criminal activities—we are slightly puzzled as to why it is restricted in that respect.

The question will be implementation. As long as sufficient resources are put into implementation, we think this has the potential to have quite a significant impact around the world and in developing countries. So, yes, we welcome it.

Q110 Dr Huq: The same question about other jurisdictions—which Scotland might be if certain things continue going in one direction.

David Leask: The thing that we have been interested in at *The Herald* is the way in which some of these Scottish companies are directly marketed as a means of not paying tax. In that respect, when you have UK entities explicitly sold off the peg as a way of not paying tax, perhaps that is something that you will want to think about.

Q111 Dr Huq: How do you rate the risk posed to the Exchequer by illegal tax evasion? We heard different figures this morning: the witness from HMRC told us the tax gap was £5 billion and the professor said it was £70 billion. Do you have estimates on that?

Toby Quantrill: No, we do not take a particular view on the tax gap. It is clearly significant. There are many different ways of calculating it, but our main view is it is significant. It goes beyond pure resources and finance; this is about fairness and justice as well. It is about people everywhere in the world understanding that if they pay their taxes, so should everybody else.

Q112 Dr Huq: Christian Aid's evidence keeps going on about the need for the beneficial registers of ownership to be made public. Will you stress again why you think it is important that it can be consulted when needed, and why it is not enough just to have it?

Toby Quantrill: As I said, we welcome the Bill overall. We very much welcome the leadership that has been shown by successive Governments. David Cameron especially at the G7 at Lough Erne put the issue of financial transparency and tax on to the global agenda, and the UK is the first of the G20 countries to create a public register of beneficial ownership, so that UK companies registered in the UK have to put on the public record who really owns them and who sits behind them.

Our concern is that this is a criminal finance Bill that does not address the question of our overseas territories and the role that they play in the global system of corruption and financial crime. That is strange and rather odd. We do not really understand why that has not been included. For us, what is really critical is that the company secrecy that is enabled in our overseas territories in places such as the BVI and Cayman Islands needs to be dealt with by doing exactly what we have done in the UK. We need to ensure that the registers of beneficial owners that are being created are put on to the public record and made public. We would like to see that done through this Bill or through some other process, but done with a clear timeline so that we know when it will happen, because that is not something that can wait. As I say, I represent civil society from across the world in many respects and there is a clear concern about the role the UK plays.

Q113 Dr Huq: Do you have a list of your investigations?

David Leask: No. Sorry.

Q114 Dr Huq: The Public Accounts Committee has raised concerns that there is not a sufficient number of successful prosecutions of offshore tax evasion for it to deter people effectively. Do you agree and do you think that the new corporate offence in part 3 will make a difference?

Toby Quantrill: I think it has the potential to make a difference. The critical thing is to avoid these things happening in the first place. It is important to have some sort of measure that creates the requirement to put in place the measures to stop this from happening. As I said, it is a measure that we welcome. We especially welcome the fact that it applies to the way that UK companies act anywhere in the world.

Q115 Antoinette Sandbach: I am not as familiar with the Scottish devolution settlement as you are, but I had always understood that Scotland had a separate legal jurisdiction.

David Leask: That is correct.

Q116 Antoinette Sandbach: Can that legal jurisdiction not regulate the Scottish companies that you refer to? Where does the ultimate responsibility for that regulation lie? Is it with the Scottish Parliament or with Westminster?

David Leask: You probably need to speak to somebody more qualified in the law than I am. I can tell you about what these companies do and why people want to own them. Obviously, the companies were created by this place more than 100 years ago and not by the Scottish Parliament. In terms of law enforcement rather than regulation, if you were to ask the police what they would do about this, I honestly think they would tell you that they would do very little, because the criminality, or sometimes the unethical behaviour, is being carried out outside the legal jurisdiction of Scotland.

Q117 Antoinette Sandbach: I accept that, but what I am asking—it may well be that you do not know the answer and we need to get that from elsewhere—is whether company law is devolved in Scotland.

Hon. Members: No.

Antoinette Sandbach: My suggestion was that, given that there is a separate legal jurisdiction, there is the power already in Scotland to deal with these matters, but I see my colleagues are shaking their heads. To that extent, would the changes, particularly in part 3 of the Bill in terms of corporate responsibility for tax evasion, largely address the concerns that you have?

David Leask: I do not think it is my job to come here and have concerns. It is my job to come and tell you what these companies are doing, why people are using them and just how many of them there are.

Q118 Antoinette Sandbach: Have you looked at the Bill and read the provisions that are in it?

David Leask: I do not feel qualified to tell you as a legislator how to legislate, I am afraid. Sorry.

Q119 Antoinette Sandbach: You cannot give us an opinion on whether you think it will tackle the abuses that you are trying to describe to us?

David Leask: There is a reasonable case for the United Kingdom authorities to take a detailed look at Scottish limited partnerships and what it is that they do. I think there is a reasonable case for you to look at what similar English companies are doing and ask yourself whether you want Britain and Scotland to be associated with that kind of activity, and whether you think that is good for your national brands.

Q120 Antoinette Sandbach: We heard the evidence of the various law enforcement authorities in earlier sessions. I do not know whether you were here for that, but they were quite clear about the additional protections the legislation will afford them in tackling illegal tax evasion.

David Leask: They would be better placed to tell you about that than I would be. However, the issue really is that right now, tens of thousands of companies and firms are operating around the world and we do not know who owns them. They are involved in things that are quite questionable, from simple matters of peddling diet pills that do not work and combs that they tell you will grow your hair back—I am sure they do not—to very serious criminality, including, for example, being used as legal intermediaries by corrupt officials in countries such as Ukraine. Prosecutions are now under way of individuals in Ukraine who are accused of using Scottish and English companies as intermediaries in arms deals. These are serious matters, and they are outwith the jurisdiction of the law enforcement officials that you saw this morning. It is within the power of Westminster to change the law in respect of Scottish limited partnerships, but you probably need to take a closer look at what they are doing.

Q121 Roger Mullin: I will direct my questions to Mr Leask, but I would be very happy if Toby decided to join in as well. If it had not been for Mr Leask's groundbreaking research over the past year or more, I would not have been aware of the seriousness of the situation, so I would like to put that on the record. Could you give us a sense of your perception of the scale and type of criminality that is associated with Scottish limited partnerships?

David Leask: There are some 25,000 of these firms on the register at Companies House. A colleague of mine, Richard Smith, has scraped data from these and we think some 17,000 of them have entirely opaque ownership, meaning that they are owned by members—partners in partnerships—who are in some of the places that Toby has talked about, such as the British Virgin Islands, Panama and Belize. There is no way of knowing who stands behind those companies.

How do we know what they are doing? We cannot gauge the scale of criminality, tax evasion or anything else because we do not know who these companies belong to or who controls them, but some of them have started cropping up in criminal matters elsewhere. For example, we have seen a company called Fuerteventura Inter, which is registered on the high street in a small mining village in Lanarkshire, named in a prosecution in Ukraine for corruption involving the export of shells from Ukraine to the middle east. We have seen minor cases as well: for example, in what you might think are tuppenny-ha'penny corruption cases—they involve tens of thousands of pounds—officials have used them as fake intermediaries for exports of alcohol. They then take a cut, allegedly.

We have also started seeing these companies being used substantially in the world of e-commerce, both for what you might think of as being criminal, unregulated and unethical behaviours. Only yesterday, we reported that Scottish limited partnerships were being used as fronts for the kind of unregulated cash-transfer firms—sort of PayPals, only not regulated by anyone—where an anonymous sender can send an anonymous amount of money to an anonymous recipient by email. They actually guarantee that they can provide identity-masking. That may not be an illegal activity but it is unregulated, and again, we do not know who stands behind those companies.

Q122 Roger Mullin: To follow up on that, I read the article yesterday and I was taken aback, to say the least, when it alleged that there could be contacts with what used to be known as the KGB.

David Leask: There have been stories in Ukraine that have accused some of these companies of having connections—albeit tenuous ones, to some extent—with people who are connected to the security service in Russia. However, the companies concerned deny that.

Q123 Roger Mullin: You have already started to give us a sense of the type of criminality that is involved. To confirm, we are talking about financial criminality, but not just financial criminality—I think one of your investigations was into things that involved, for example, paedophile websites. Is that correct? Could you say a bit more about that?

David Leask: One of the types of companies that Scottish limited partnerships have become quite popular as fronts for are businesses that you might call cyber-lockers. They are essentially subscription services where you can access material and peer-to-peer sharing. That might include, for example, bootlegged Hollywood blockbusters. It can also be things that are quite unpleasant. People post such things to those sites and you pay a subscription to access that material. There is a lot of concern about the use of those peer-to-peer file sharing systems. Sometimes it is quite innocent—people sharing pictures of their families—and sometimes it is not. That is subject to an investigation by police in Scotland.

There is a similar issue involving the alleged theft of copyrighted material by a well-known torrent site. That is another site where people can access copyrighted material such as TV programmes and films in the United States, where the estimated value of the copyrighted material stolen is $1 billion. That involves a Scottish company as part of the payment mechanism for those services.

Q124 Roger Mullin: I will allow other Members to speak, but I want to ask one more follow-up question. I can understand why you are reticent to suggest what legislators should do but, as far as I am aware, you have been one of the leading researchers in the field. However talented you may be, Mr Leask, you are limited in your resources to research further. Would you welcome the UK Government putting their shoulder to the wheel, as it were, and conducting a detailed review of the use of SLPs for criminal purposes?

David Leask: That is a reasonable ask. As I said earlier, we are talking about companies that are trading on the brand of Scotland and the brand of Britain. When they are offering these services, they are stressing that the addresses that they are using are British. The United Kingdom's status is part of the reason that these companies are popular. That is part of the reason that you may want to look at the matter.

One of the reasons that people in countries such as Ukraine or Russia may wish to use a Scottish or British company as a shell company is that it lends the enterprises respectability. I am not sure that our authorities will want to lend the respectability of countries such as Scotland, which have an image in the world of being stand-up places where there is the rule of law, to some of the enterprises we are talking about.

One thing I urge you to do if you are remotely interested in the issue is simply to go online and google "Scotland" and "offshore". If you can do so in Russian, all the better. You will see the most extraordinarily explicit explanations of how these companies do not need to pay tax, report any financial findings or reveal who their owners are, because those owners will be in entirely opaque jurisdictions.

Q125 ***Toby Quantrill:*** So much of what Mr Leask has talked about in terms of how anonymous companies are used applies equally to our overseas territories, including the issue of respectability by connection to the UK.

I want to say a couple of things on volume, especially with respect to developing countries and the impact there. A high-level panel was put together by the United Nations economic and financial committee. It was run by Thabo Mbeki, so it is known as the Mbeki panel. That panel estimated that illicit financial flows out of Africa run at somewhere in the region of at least $15 billion a year. That is money being lost from Africa at a far greater rate than aid is going in. That money is either illegally obtained, illegally transferred or illegally utilised,

so it covers a range of activities including transfer pricing—the illegal movement and transfer of finances—and criminal activities and many of the kind of things that have been described. It is worth noting that the sort of picture being painted there would apply equally and, in many respects, more so.

One little pertinent fact that I have written down is that 11% of foreign-owned companies operating in Russia are apparently registered in the British Virgin Islands, but we do not know who sits behind them.

Q126 Mrs Flick Drummond (Portsmouth South) (Con): This question is really a supplementary to some of Dr Huq's comments on the overseas territories. I asked a previous panel including the Serious Fraud Office, HMRC and the Crown Prosecution Service whether they thought they had the resources to go in there. They have automatic access to all the records, although I know that it is not public document. I want to know a bit more about that, Mr Quantrill, because obviously you are a great expert on it. To add to that, are you confident that the enforcement agencies have enough resources and the capability to do what is in the Bill and prosecute people in the overseas territories and Crown dependencies?

Toby Quantrill: It would be an awful lot easier if we had transparency in regard to beneficial ownership. It is true that all of the overseas territories have now agreed to share information with the UK Government and a number of other Governments on a Government-to-Government basis. However, from the perspective of a citizen in a developing country who may well not trust their Government and wants to know what is going on, they will not be happy. First, they cannot hold their Government to account to use that data even if they get it—most developing country Governments will not. As long as it is shared only between Governments, there is a limit to who will see it and who can act on the information. That is critical.

We cannot put this an awful lot better than David Cameron did when he was talking about the UK's beneficial ownership register. He was asked, "Is it not enough for it to be available to Government officials?" and he said:

"we in government will use this data to pursue those who break the rules, and we're going to do that relentlessly, but there are also many wider benefits to making this information available to everyone. It's better for businesses here, who'll be better able to identify who really owns the companies they're trading with. It's better for developing countries, who'll have easy access to all this data without having to submit endless requests for each line of inquiry. And it's better for us all to have an open system which everyone has access to, because the more eyes that look at this information the more accurate it will be."

Yes, there is a question of resources and availability to use the information once it is provided, but the more people who have access to it, the more likely it is first to be accurate and secondly to be utilised.

I was talking to a colleague from Global Witness just before last weekend. They spent the whole weekend with a group of data analysts sitting and looking at the information now available through the UK's beneficial ownership register, making connections and linking that with other databases they have. This information does get utilised, and the more people utilising it, the more likely it is to be helpful. Our sense is that it is not enough just for the authorities to have access.

Q127 Mrs Drummond: As far as the Bill goes on transparency, obviously it is only for the UK. You have also been talking about other countries and it is up to them to follow our lead and have more transparency.

Toby Quantrill: The UK has legislative authority over the overseas territories.

Mrs Drummond: Yes, but I think Mr Leask was talking about other countries and corrupt Governments. We cannot cover that in the Bill. We can cover the overseas territories. Were you not talking about other countries outside the overseas territories when responding to Mr Mullin?

David Leask: We were talking about the use of both English limited liability partnerships and Scottish limited partnerships as shell companies. Those shell companies often provide cover and a way for people in Russia, for example, to buy a company in the British Virgin Islands. Often the shell on the outside will be British, but, when you crack it open, on the inside you get the British Virgin Islands or another Commonwealth or British overseas territory. Sometimes it is a country such as Belize or Panama.

One of the things said to me by a colleague—a lot of work is being done on these stories by colleagues in countries like Ukraine and Latvia—was, "We keep coming up with that British Commonwealth problem." That really struck me, once you start unwrapping these shells. One final point I will make is that, in many countries, there are blacklists of offshore fiscal paradises and tax havens, and the British and Scottish companies enable you to bypass those blacklists.

Toby Quantrill: In the recent Panama papers data that were revealed, just under half of companies in the documents in Mossack Fonseca in Panama were registered in the British Virgin Islands. It was by far and away the most utilised location. It is at the heart of the system. With the ability to deal with that comes a responsibility to do so.

Q128 Mr Wallace: I thank *The Herald* for what you have done. I have read some of your stuff and it has been quite an eye-opener. The SNP obviously raised it in the debate and that prompted me to have a meeting with one of my business Minister counterparts to see where we can go forward with it. Some of the stuff that you have identified—well done for it—is the truest form of good investigative journalism that can be produced. It was the Glasgow *Herald* when my grandmother wrote for it way back 40 or 50 years ago. It is clearly a structure that has been abused, and I think we want to ensure that that does not happen.

I want to ask Mr Quantrill about a bigger issue: the Crown dependencies and overseas territories. If we stack it up, going back to the anti-corruption summit chaired by David Cameron back in May, we have got to a position now where all of them will have a central register of beneficial ownership, except the Caymans, which will have a linked register of ownership. Our law enforcement agencies will have access to them. We are the only country in the G20 to have a public one. Never mind the dependencies or anywhere else; our neighbours in Europe do not have them yet, so the trajectory is in the right direction. It seems to boil down to a call to make the Crown dependencies make them public—that we, the UK Government, impose our will on the Crown dependencies and territories, in primary legislation.

Do you recognise what that actually means? I have many constituents who, for example, have very strong feelings on abortion. Does that give this sovereign Parliament the right—technically, we are sovereign over Scotland and the Crown dependencies—to impose that very strong will on those Crown dependencies? That is the next step. The step you are suggesting is for us to ignore their own Parliaments and impose our will on them, because it is a subject that you and many other people feel passionately about. I respect that, but it is what you are proposing. Is that something that you are happy to do?

Toby Quantrill: Not happy—

Mr Wallace: By working with them, we have got to a position rather quickly of having central registers and getting our law enforcement automatic access to those data without long, drawn-out court cases. We have done that in the space of a year. Is Christian Aid proposing that we override the democratic expression of those countries, whether they like it or not, because it is a subject that you have decided is more important than other issues?

Toby Quantrill: I certainly recognise the difficulties. I would also very much prefer that we did not have to go down the path of legislation. I do not necessarily think that we would need to, but it ought to be available, and it ought to be made clear that it is available. There have been precedents in the past.

That is one thing, but what we are looking for is a timeline and to be really clear by when this will happen, so that we know what is happening and can see the UK using all its powers to persuade and support these places to go in that direction, primarily. However, we do not think it is acceptable for this not to happen within a timeline. The reason for that is that the impact globally is so great. The Panama papers are a game-changer in this respect. It puts these places right at the heart of the system. The damage being done globally, to our mind, overrides the very real discomfort of taking this action, but it is not an action without any precedent. The UK has gone down that route in the past, as I am sure you are aware, on a number of different issues.

Also, interestingly, I had sight of a paper recently, the Foreign Office annual report on the Cayman Islands Government from 2003; it goes back some time. In it, there was a single paragraph relating to the EU savings directive. At that time, the Caymans Government clearly did not want to implement it; it was a similar issue of making certain information available. The paragraph stated that voluntary action by the Caymans Government meant, effectively, that we did not have to legislate. It was clear that the threat of legislation had been used, and had been effective in that case. It has been done in the past, in a similar incident.

Yes, I recognise the difficulty—I honestly do—but there are potential implications of maintaining secrecy in these places. It is not just one particular place; it was, as I said, one of the most important centres of financial secrecy in the world. I think the potential impact of that staying in place is too great to ignore, but what we are looking for is a timeline, persuasion and all means possible first.

Q129 Mr Wallace: You quote the Panama papers, which was a significant leak, and there have been previous ones—Liechtenstein and others. The access that our law enforcement agencies will now get will be greater than the Panama papers. The Panama papers are not complete, and they are effectively within the control of the journalists in the sense that they were selectively leaked to them and then published. No one is able to get the full picture because we do not have open access to Panama, which is not a Crown dependency or an overseas territory; it is a place that Scotland had a bad relationship with a few hundred years ago.

What we are proposing, and what the Crown dependencies are giving our law enforcement access to, is the complete picture. In one sense, we will have a greater advantage than the Panama papers because our law enforcement agencies will be able to have full access to the full range automatically. Therefore, in one sense we are 90% there. As you said, we do not have the transparency bit, but the Government's intention is to do that. We are doing it, first, by leadership. We are the first in the G20 to say it is our aspiration. The step that seems to be mooted is to impose the sovereign will of Parliament on them, but in 12 months we have gone 90% of the way.

Toby Quantrill: We are looking for a timeline. We must give time and support to moving in that direction and be clear about when we are going to reach it. The Panama papers demonstrated the power of making this information public, because the impact has been global. In countries all around the world, citizens have gained information about people often within their Government and judiciary, and they have been able to investigate, follow those leads and hold their Governments to account. That is the power of transparency. It should be full transparency, not just the bits and bobs. We should not have to rely on leaks to hold our Governments to account. That is the point we are making.

Q130 Carolyn Harris (Swansea East) (Lab): Have you ever heard of the Magnitsky clause?

Toby Quantrill: No.

Carolyn Harris: Okay. It is not relevant, then.

Toby Quantrill: Sorry.

Q131 Carolyn Harris: This is a blank piece of paper. If you had the opportunity to write what is in the Bill, what would be on it?

Toby Quantrill: There is already an amendment—new clause 4—that we support. The critical thing is to see action, whether within the Bill or through other means, to get the outcome we are looking for. All I would write on that paper is simply a public register of beneficial owners in overseas territories by whatever means. As I said at the start, this is a Criminal Finances Bill, and it seems odd not to include that issue in it.

David Leask: I have nothing to say on that, I am afraid.

Q132 Richard Arkless: First, David, thank you for your groundbreaking work. I was very heartened to hear what Ben, the Minister, said about reading your work and taking note of it. I was encouraged to hear that. Let me be the matchmaker in the middle here. Would you be willing to work with the Government and provide them with all the evidence you have uncovered in the past few months, based on what Ben has said?

David Leask: It is entirely published in the pages of what Mr Wallace would like to call the Glasgow *Herald*. It is therefore up to date. I can offer you a subscription, if you like.

Q133 Richard Arkless: Perhaps that is something that the Minister could consider. He very helpfully expressed a willingness in the Chamber to have a look at the issue, and he clearly demonstrated that he is doing so, so hopefully there can be communication from here on. For lay people watching this who find it difficult to conceptualise how transparent companies can be conduits within a system that can lend itself to criminality, is there a way that you can explain very simply what it is about SLPs that makes them susceptible to criminality?

David Leask: In some ways, the way to look at that is to ask how they are being sold and marketed off the peg, and what people find attractive about them. I am sure you could find lawyers who can identify some of the weaknesses in the Scottish limited partnership, but what fascinates me is the way in which they are sold. They are companies that have legal personalities, which means that, for example, you can open up a bank account with such a company—or a firm, strictly speaking.

Q134 Richard Arkless: How do they differ from normal companies, then?

David Leask: That is normal for a company with a legal personality. I will start again. Imagine that you are sitting somewhere like Kiev, and you open up the internet to look at agencies that are offering offshore companies. You will see a menu drop down and you will be offered a limited partnership in Canada or a limited company in the Czech Republic. You will have to choose the one that best fits your bill.

In this case, the Scottish limited partnership has legal personality, like many other types of company, which means you can open a bank account. These agencies will then offer, right there on the same internet page, to open a bank account for you. That bank account is often going to be in Switzerland, or even more often in Latvia. It is almost as if you are able to pick and choose the areas of the world where they have the weakest regulation. For Britain, that is going to be corporate law. For Latvia, it is going to be banking. You had bankers in here earlier talking about what they can do in Britain against money laundering; perhaps there are other jurisdictions where it is weaker.

You have to see a Scottish limited partnership or an English limited liability partnership as part of a kit that you can buy online. It is essentially a do-it-yourself kit for tax avoidance at best and money laundering at worst. That will include all the things that certain people like about SLPs: the fact that they have legal personality, that you do not have to say who the ultimate owner of the company is, and that there are no tough reporting restrictions. As I said, we have 25,000 SLPs in Scotland; I have never seen a single one of them file accounts, and I do not think that any ever have. I am happy to be proven wrong on that, because I have not read the paperwork for all 25,000. Some of them are perfectly legitimate businesses.

The next thing is that because there is no taxation on a Scottish limited partnership that does not operate in the United Kingdom, the agencies are quite entitled to tell people who want to invest in an overseas offshore company that they can have a zero-tax company, and they are bluntly marketed in that way. There is no taxation, so there is no need to say who you are and no need to file any accounts. There is then, of course, the extra element of these companies, which is that they do not fall under the blacklists that some Governments have imposed on their citizens.

Lastly, there is the simple prestige of owning a company or a firm in the European Union, in the United Kingdom, and in Scotland. It is about that particular cocktail being of particular interest to certain types of people. Some of those people might then look around those menus and find another type of company. That might be a British company or an English company, or it might be one elsewhere, but they will pick on the weakest regulatory regime they can for any part of their kit to launder money. In the case of companies, I am sorry to say that I think that is Britain.

Q135 Richard Arkless: That is very useful, Mr Leask. Thank you very much indeed.

Mr Quantrill, it seems from the discussion today that most people around this table would agree with most of the Bill's content. As you have rightly said, the point of contention comes with what is not in the Bill. You have mentioned overseas territories and Crown dependencies, but those aside, could you quickly run us through perhaps two or three aspects that you think ought to be included in the Bill but are not?

Toby Quantrill: There are a couple of other areas I would highlight. I think my colleagues from Transparency International and Corruption Watch UK will give evidence; we support them and work with them closely. In part 1, could the unexplained wealth orders be extended so that they also apply to assets held in, for instance, the overseas territories? That would be helpful. We welcome the fact that the "failure to prevent" legislation is extraterritorial in nature, but perhaps that could be extended to other financial crime, beyond tax evasion.

Q136 Richard Arkless: Do you have any idea of which crimes you would extend it to?

Toby Quantrill: Just broadly.

Richard Arkless: How about market manipulation?

Toby Quantrill: Yes, those sorts of things. I do not have a particular list in front of me, but it seems strange to limit it to just one specific type. Beyond that, our main focus has been on the one issue, as I have probably made very clear.

Q137 Tristram Hunt: I was struck by what you said about the debate in Africa about the amount of money flowing out of that continent. We obviously give a huge amount of money to different countries in Africa through development aid. Will you give us a sense of the nature of people's frustration about some of the money leaving the continent of Africa and their analysis of where they see London and its role in all this? What kind of reforms are being urged in many of those countries on the continent that, on the one hand, we are supporting through development aid, but from which on the other hand, it seems to me, we are allowing too much wealth to leave?

Toby Quantrill: As I say, this issue has been picked up by a number of civil society coalitions—our networks of partners and organisations across Africa—as being critical. They highlight the fact that on the one hand we are providing aid and on the other, we are facilitating these losses, which may massively extend, in terms of volume, way beyond—I think this goes beyond more than money, though. The other frustration is the fact that we are talking a lot about corruption, but, through our overseas territories and other forums—property ownership and so on is being dealt with appropriately—we are perhaps helping to facilitate or not doing enough to clamp down on some of the kind of flows of corrupt money, supporting corruption and so on. It is very hard to get into a lot of detail, because a lot of this activity, by its very nature, is secret and hard to pin down.

The best example is a very real one, which has been used before. A very good investigation was run by Global Witness into a particular case in the Democratic Republic of Congo. There was the massive underselling of mining rights—as low as 5% of market value—out of the country to a company registered in the British Virgin Islands and a number of others. Today, a new press release from Global Witness also links this to companies in the Cayman Islands, at extra money. Those rights are then sold on to other companies including, for instance, Glencore, at massively inflated prices. Somewhere in the middle somebody is making a lot of money and we do not know who. It is estimated that the losses from that particular transaction could be worth as much as $1.3 billion to the DRC, so the people of the DRC are being ripped off and they do not know who to blame for that. They do not know who to point the figure at, because they cannot find out.

The Chair: I will now bring this session to a close. It has been very good of you to come here and we are all very grateful for your evidence, but we must finish this session. Thank you for your attendance; we will start the next session at 4.30 pm.

4.12 pm

Sitting suspended for Divisions in the House.

Examination of Witness

Right hon. Dame Margaret Hodge MP gave evidence.

4.37 pm

Q138 The Chair: We will now hear oral evidence from the right hon. Dame Margaret Hodge. I have known Margaret for a very long time, and I am pleased that I know her. There are new Members of Parliament who are not up to date on your background and work on the Public Accounts Committee and so on, so before we begin, could you just give us a brief summary?

Dame Margaret Hodge: First, thank you for asking me to give evidence. I was really pleased to be given the opportunity. My interest arises out of the work that we did on the Public Accounts Committee, which I chaired for five years from 2010 to 2015, and particularly our work on tax avoidance and evasion, and the links to corrupt practices. I warmly welcome the Bill, as I am sure everyone has said to you. I hope that in the brief time I have, I can say where I think there are a few gaps and where we could strengthen the Bill—there are a few omissions that the Committee could rectify as it considers the Bill.

We tend not to think about this, but we have to remember that, along with our overseas territories and Crown dependencies, the UK is probably the biggest secret jurisdiction in the world. That is why so much money gets laundered through the UK and why the Bill is so important in tackling corruption around the world. David Cameron was really strong in saying that he would lead on anti-corruption. He said quite clearly that we have to lead by example. There are certain omissions and issues in the Bill, but if we strengthen it, we could make a reality out of his statements and commitments.

The Chair: Thank you very much for that. We are time limited. We have until 4.52 pm, which does not leave us much time at all, so will Members please be concise with their questions?

Q139 Dr Huq: It is great to have you here, Dame Margaret. You were the Chair of the Public Accounts Committee when a landmark report came out in 2014. How much of the stuff that you recommended is reflected in this legislation? You hinted that there are some omissions that need addressing. Could you tell us about those?

Dame Margaret Hodge: Again, in the context of general welcome for the Bill, let me talk about three issues, including the overseas territories and Crown dependencies. What is missing is a clause in the Bill—I know an amendment has been tabled already and I hope the Committee will consider it carefully—that provides for registers of beneficial ownership that are open to the public. Let me just quote from somebody who made a statement about this because it is really important:

"Now some people will question whether it is right to make this register public. Surely we can get the same effect just by compiling the information and using it within government and sharing it between governments? Now of course, we in government"—

that gives it away a bit—

"will use this data to pursue those who break the rules, and we're going to do that relentlessly, but there are also many wider benefits to making this information available to everyone. It's better for businesses here, who'll be better able to identify who really owns the companies they're trading with. It's better for developing countries, who'll have easy access to all this data without having to submit endless requests for each line of inquiry. And it's better for us all to have an open system which everyone has access to, because the more eyes that look at this information the more accurate it will be."

That was actually David Cameron when his Government launched the UK public register of beneficial ownership.

We have given the overseas territories and the Crown dependencies three years to come on board with this. It was first raised by David Cameron in 2013. I think that is long enough. I know there is a reluctance by the Government and that they feel that we have come some way, but that commitment to openness and transparency is vital. It is at the heart of ensuring that we really tackle corruption and money coming into the UK. If we cannot get the commitment in the Bill, which is what I would love, we are seeking a timeline that says that,

within a certain time if the overseas territories and Crown dependencies have not come on board with public registers, we will instruct them through Order in Council to do so. We have the powers to do that.

Q140 Dr Huq: Are there examples of where that has been done before? You probably know more than me but I think there is precedent.

Dame Margaret Hodge: There are plenty of examples where we have used those powers. May I quote again from a Government White Paper? This is particularly about the overseas territories, which is a slightly different position from the Crown dependencies. This is a Government White Paper—I understand that there have been some questions about that during your consideration today. The paper says:

"As a matter of constitutional law the UK Parliament has unlimited power to legislate for the Territories."

We do have that power. I am sure you heard examples this morning. A Conservative Government used it to outlaw capital punishment. A Labour Government used it to outlaw discrimination on the grounds of sexuality. We used it in the Turks and Caicos when there was systemic corruption and maladministration, and we should use it again. This is so much at the heart of the whole agenda. It would be a terrible missed opportunity if we did not, during the course of the Bill, go for public registers of beneficial ownership. I just cannot see an argument against it.

Q141 Dr Huq: A last question from me: the new corporate offence relates to cases of tax evasion, so is there a case for extending it to come down on companies for facilitating tax avoidance?

Dame Margaret Hodge: Or economic crimes. Can I just say again that I really welcome the Bill? This is the first time that we have tried to get at those companies and organisations that are actually responsible for devising many of the schemes that lead to aggressive tax avoidance or evasion. It is a really important toe in the water and a first step forward. The real experts on this are Edward Garnier, Nigel Mills and Catherine McKinnell—all lawyers who have been arguing strongly that the provisions ought to cover all economic crime.

Another amendment could be really helpful. If we could at least have a report to Parliament showing how the failure to prevent tax evasion power is actually being used by the enforcement authorities, I think that would really improve the Bill. I would like to see how much it is used. We could then see how effective it is, as with the unexplained wealth orders—it is important to report to Parliament once a year on the progress made on the use of unexplained wealth orders. I cannot see anything particularly controversial about that sort of amendment, so I would do it for both. Of course, I think you will find that the lawyers think we should do this for all economic crimes. I am with the lawyers on this.

Q142 Antoinette Sandbach: Dame Margaret, I am very interested by your proposal that that should apply effectively to every company's beneficial ownership, because it was, of course, the Government that you were part of in 1998 that passed the Data Protection Act, which recognised that there should be privacy around individuals and disclosure of their data. Why, at that time, did you not—

Dame Margaret Hodge: Sorry, I am trying to think what you are getting at here. I do not quite understand what aspect of the Bill you are referring to. I am really sorry.

Antoinette Sandbach: You are talking about disclosure of beneficial ownership—

Dame Margaret Hodge: By companies.

Antoinette Sandbach: By companies, which would presumably relate to named individuals. The register looks at controlling interests—

Dame Margaret Hodge: The register of beneficial ownerships?

Antoinette Sandbach: Yes, of named individuals or other companies. I can see why, if it is another company, there would not be an issue, but if it is a named individual, this Parliament decided to protect data around individuals. Does your premise not assume that every company is therefore acting in a way that is, in effect, criminal, and should not the burden be the other way? In other words, having private registers allows the Government to interrogate the data where there are serious allegations of crime, but still to protect the privacy of individuals.

Dame Margaret Hodge: I am slightly muddled, so I apologise if I am answering this wrongly—if so, do come back at me. The register of beneficial ownership of companies in the UK is actually public. It is not private. In fact, I think another weakness of the Bill, and of the unexplained wealth orders, is that until we bring into legislation the George Osborne commitment that there would be a register of beneficial ownership of properties in the UK, it will be very difficult to administer the unexplained wealth order power. I hope the Committee will look at that.

Do I think it will create difficulties for individuals? I do not. Should we have done it? Yes. It is ironic, the whole issue. It gained momentum. It was not a big issue at the time. That is my only explanation. Transparency is at the heart of it. Whenever I look at any of these problems, I always find that if you have transparency, you are well on the route to tackling some of the bad behaviour, be it tax evasion, avoidance or whatever. Have I not answered properly?

Q143 Antoinette Sandbach: Clearly there is a distinction between evasion and avoidance. One is legal, and the other is illegal.

Dame Margaret Hodge: Can I come back on that?

Antoinette Sandbach: Certainly.

Dame Margaret Hodge: There is a distinction. I call it a spectrum, which is why I think this power is limited and why we need to think further. There is a spectrum from sensible tax planning through avoidance and into evasion. The honest truth is that people often say to me, "But we're only acting within the law." There is a story in *The Guardian* today about people being employed by companies set up to avoid national insurance and other taxes.

The reality is that when we as parliamentarians write far too complex, far too long tax law, we have an intention. If we could write it in a way that was really copper-bottomed, covered every eventuality and had no

ambiguity, we would do so. I do not think this is a particularly partisan thing. We cannot do it. Therefore, you find that a lot of aggressive avoidance is unlawful when HMRC finally, if it has the resources, catches up with it, but it is difficult to call it evasion.

Q144 Antoinette Sandbach: I understand that there are now changes. We are awaiting tribunal assessments where there is doubt about whether it is legal avoidance or illegal evasion, but the law has now been changed to require individuals to pay up front.

Dame Margaret Hodge: That is an improvement.

Antoinette Sandbach: The burden has been reversed.

Dame Margaret Hodge: But it still assumes that HMRC catches up with them, and it does not always do so.

Q145 Antoinette Sandbach: Given that this is a really important first step, and that the Government are working with the overseas territories to get co-operation, would it not be useful, rather than going to a broader system that is more difficult to manage, to focus on the more serious cases and allow that co-operation initially? If it is then seen to be inadequate, we can perhaps broaden it out.

The Chair: Order. Before you answer that, Margaret, we have two Members still to ask questions and you have got two minutes. I am going to ask them to ask their questions, and then we can hopefully get some correspondence from you to answer the questions more fully.

Dame Margaret Hodge: There are lots of answers. One is that they have had three years to get on with it, and they have not done it. David Cameron said they should be public at this point. I am sure people have talked to you about the Panama papers, but so much of that went through the BVI, for example—nearly half of the corporations were established through the BVI. If we do not tackle that, it particularly impacts on the poorest countries because they do not have the resources we have for enforcement. We are bad at it, and they are even more poorly equipped. If they do not have the resources, they lose three times as much in tax avoidance and evasion as they gain through the international aid that we give. They have had their time, and this is the moment when we should get tougher. We are saying that there should be a timeline.

The Chair: Can the two Members—Mr Hunt and Mr Mullin—ask their brief questions? Then we will conclude.

Q146 Tristram Hunt: Our previous witness from Christian Aid proposed the idea of looking into unexplained wealth orders for overseas territories. I just want to know your views on that.

Dame Margaret Hodge: Looking at them for overseas territories—

The Chair: I think we will have a written reply.

Dame Margaret Hodge: Okay. I am going to think about that one. Thank you. That will save me, Sir Alan.

Q147 Roger Mullin: Is there a case for extending public registers to cover trusts?

Dame Margaret Hodge: Yes.

The Chair: Order. I am afraid that brings us to the end, Dame Margaret. Our allotted time has run out again. Thank you very much for coming. It was a delight to see you.

Examination of witnesses

Tom Keatinge, Dr Susan Hawley, Chido Dunn and Duncan Hames gave evidence.

4.54 pm

The Chair: We are now going to hear oral evidence from the Royal United Services Institute, Corruption Watch, Global Witness and Transparency International UK. I have got to warn you before we start that we have had votes and they have put everything back. We are also restricted on time because there are Members who have got other things to go to, as do two of the panel, so we are going to conclude by 5.30 pm at the very latest. Can you briefly introduce yourself and be very concise, because Members want to ask questions?

Duncan Hames: Good afternoon. I am the director of policy at Transparency International in the UK.

Tom Keatinge: I am director of the Centre for Financial Crime and Security Studies at RUSI.

Chido Dunn: I am from Global Witness, and I work on governance and corruption issues.

Dr Hawley: I am from Corruption Watch.

Q148 Dr Huq: I have an easy question first of all. What difficulties in recovering assets from individuals suspected of involvement in criminal activities overseas have you encountered? Can we start with Susan Hawley?

Dr Hawley: I think Chido and Tom might be better placed to start off with that one.

Chido Dunn: Based on our investigation in Global Witness, the use of anonymous companies incorporated in places such as the overseas territories and Crown dependencies—*[Interruption.]*

The Chair: Order. I am afraid we have some bad news for you. We are suspended for 15 minutes for a vote.

4.55 pm

Sitting suspended for a Division in the House.

5.6 pm

On resuming—

Q149 The Chair: Order. I apologise to the witnesses. Members engaged in the vote will come back, but we have not got much time left and, to be fair to you, we should try to give you the time to make a statement about what you think of the Bill and where any problems may be. The time is yours and we have only until 5.30 pm. If there is time left for questions, we will use that, but if not we will receive in correspondence any more ideas you have left out or we may write to you with questions that may arise from today. Mr Hames, would you like to start?

Duncan Hames: Thank you, Sir Alan. We at Transparency International warmly welcome this piece of legislation, which we believe could be the most significant in the fight against corruption since the Bribery Act 2010. We are particularly interested in part 1 of the Bill, which introduces the new investigatory order: the unexplained wealth order.

We think that is important for two particular reasons. First, if we want to prevent corruption, we need to restrict the opportunity that corrupt individuals have to enjoy the benefits of their illicit wealth. Secondly, it is often the case that where corruption occurs it is so endemic in that society that those corrupt individuals are untouchable by the law there and they have not received a criminal conviction for their actions. To answer the question posed before the Division, at the moment it is incredibly difficult to start along the road to recovering corrupt assets without a conviction in the country of origin. So we very much hope that the unexplained wealth order will be a tool available to UK law enforcement as a result of the legislation.

We have been asked, and we have heard you ask other witnesses, about what is missing from the Bill and about other matters. The Government have a raft of commitments in the anti-money laundering action plan, which is clearly relevant to a piece of legislation on criminal finances. The Government recognise the need to reform the supervision of anti-money laundering activity and it would be welcome if they were to bring forward measures to do that. We have made a number of recommendations, which I will be happy to provide to the Committee in writing. But, principally, the No. 1 change we would like to see is the word "Bill" replaced with "Act".

Tom Keatinge: Thank you for the opportunity, Sir Alan. As mentioned, I am from RUSI. Our research focuses on the partnership and information sharing efforts to tackle financial crime. We are particularly interested in the provision for information sharing in the private sector; what is or is not happening with regard to the SARs regime and reform thereof; and importantly, how this architecture will improve the UK's ability to tackle financial crime. Like many others, we welcome the Bill, but it is important that we do not view it purely as a piece of legislation and that it is used and implemented by law enforcement. As Donald Toon said very honestly at the Financial Conduct Authority financial crime conference last week, we need to improve our understanding of financial crime in the UK. As I say, we need implementation and understanding.

We welcome the opportunity for private sector organisations to share information with one another. They often work in trenches and silos, and by being able to build a complete picture, they can support law enforcement in its attempts to prosecute criminals. We question the mechanism by which information can be shared. At the moment, as I understand it, it needs to be shared on the basis of suspicion; we think it should be shared on the basis of assisting to form suspicion. We also welcome the unexplained wealth orders. There are one or two other nuances about which I can perhaps write to the Committee in the interests of time.

The important point to remember is that we are on a journey. We would like to see urgent reform of the SARs regime, which the Home Affairs Committee highlighted in its inquiry earlier this year. We will be judged on our effectiveness by the Financial Action Task Force next year. Implementation of this legislation will be important to demonstrate that we are effective.

The last thing I would say is that we would like to see early and strong use of these new powers. It is no good having them if we do not see things like unexplained wealth orders used, because that will quickly add a deterrent factor. As Dame Margaret said, it is important that there is regular reporting to Parliament on the way in which the Act is being used.

Chido Dunn: I am Chido Dunn from Global Witness. We are also very supportive of the Bill. We think the UK has shown real leadership in recent years in recognising its own role in facilitating corruption overseas and providing a safe haven for corrupt people and their assets. We have conducted more than two decades of investigations, and we see some common features arising. Usually, state money is stolen by a foreign official and funnelled into places like the UK via an anonymous company, which is almost always incorporated somewhere like the UK's tax havens. There is almost always a UK facilitator involved—a bank, an accountant or a solicitor—who, while perhaps not violating their obligation under the anti-money laundering rules, has allowed that deal to happen.

That is why we welcome the Bill: it addresses a lot of those issues. We welcome in particular the extension of the suspicious activity report period and the unexplained wealth orders, as my colleagues have mentioned. There are some practical issues that will have to be fleshed out in later versions of the Bill, and we are happy to make submissions on those later, but I would echo the points that have already been raised in terms of the biggest gaps. Given the role of the British overseas territories and Crown dependencies in all the deals and behaviour we have seen so far, it is a striking absence that they are not addressed in the Bill and that some other commitment has not been made to address the problem of there being no public registers in those overseas territories and Crown dependencies. Also, given the role of facilitators so far, we welcome my colleagues' calls for the "failure to prevent" offence to be extended to other financial crimes, like money laundering. It is a very useful and welcome move, but it could have a real impact if it was extended.

Dr Hawley: Corruption Watch welcomes and applauds the Bill's ambition and courage and the fantastic cross-party support for it. We think the Bill is a unique opportunity, and we are concerned that it may be the last legislative opportunity to put all financial crime on an equal footing, given the impact that Brexit will have on the legislative calendar.

The Home Secretary spoke last Friday about how the Government are committed to developing world-leading legislation to combat financial crime. We think an amendment to part 3 to include other financial offences could be a significant step towards achieving that, and we would like to see the Government give such an amendment serious attention.

One of the key issues is that business has not yet been consulted on extending part 3 to other financial crimes. I would like to quote a leading QC I was discussing this with yesterday, who said, "Well, you don't consult burglars on burglary legislation." The idea behind this legislation is to capture those bad actors who are not fulfilling

their regulatory requirements under the Financial Conduct Authority handbook to have procedures in place to ensure that they are not used to further financial crime.

The second point that we would like to make is that this would be a very good first step, but it would only be a first step. There is urgent need for broader corporate liability reform. As I am sure some of you are aware, the current liability laws in the UK penalise small and medium-sized enterprises, which bear the brunt of prosecution; give effective impunity to large companies; and create a perverse incentive for bad corporate governance. On Second Reading, Sir Edward Garnier made an important point that we need broader corporate law reform to be on the agenda, whether that be vicarious liability or a change to the identification principle that governs substantive offences. We would like the Government to show some commitment to producing, as a priority, something on broader corporate liability reform.

Thirdly, we think that the Bill could be an important opportunity to consider something that was raised by the Select Committee on Home Affairs—the creation of specialised confiscation courts. The Serious Fraud Office has been calling for specialised economic courts for some time because it takes 18 months on average to get a court slot for some of its cases. Perhaps this would be a legislative opportunity to find some way of ring-fencing Southwark crown court for financial crimes, and to create a cadre of specialised judges who have the expertise and experience really to tackle financial crime across the board, including confiscation orders.

From our monitoring of how the Bribery Act is being implemented, we think that three key things have to happen to instil confidence that a failure-to-prevent model can work. These are all covered by various amendments that have been tabled by Members. One is to ensure that senior executives can be held to account for those failures. That is where we think an amendment to the Company Directors Disqualification Act 1986 would be important. Another is to ensure that companies that fail to prevent these offences are excluded in some form or manner from public procurement. We welcome and support the amendment to put the offence in part 3 into the Public Contracts Regulations 2015.

Finally, companies that are convicted and companies that are offered settlements need the equivalent level of scrutiny of their compliance procedures, so we welcome and support the amendment to introduce corporate probation orders. This is a unique opportunity for the Bill to set world-leading legislation on financial crime.

The Chair: We have around about 12 minutes left, so would all Members and witnesses be concise in their questions and replies?

Q150 Dr Huq: Are you confident that enforcement agencies will have sufficient resources to make full use of the new powers in the Bill? I am thinking of the creaking IT system, ELMER, which was designed to cope with 20,000 SARs a year, and the figure at the moment, before this legislation, is more than 300,000.

Tom Keatinge: Resourcing is clearly a major issue. Cynically, one of the reasons for involving the private sector is to harness it to do some of the work. The point that I was trying to make in my remarks was that implementation will be critical. I do not believe we have the resources that we need. For the structure as it currently exists, the question is whether we are tackling financial crime the right way or whether we can make more efficient uses of the resources we have. Do we really need to have 381,000 SARs a year, and everything that that means for resourcing? We do not have them for the structure that we have now. Is the structure we have the right one? That is the question that we need to answer.

Duncan Hames: I would not go as far as to say that we were confident, although I am sure that people make special pleading cases with every area of Government spending. Reform of the use of the consent SAR would help to give more time for law enforcement bodies to collect the information they need to know how best to respond to it. That is a welcome measure in the Bill.

Chido Dunn: One argument made for public registers in places such as the overseas territories is that there can be more eyes than just law enforcement and Government actors. People such as journalists and civil society actors like us can help the process by identifying potential crimes and alerting the authorities to them.

Dr Hawley: We would like to ensure that the National Crime Agency's international corruption unit, which will bear the brunt of enforcing unexplained wealth orders, is adequately resourced. We have concerns that at the moment there is not enough transparency in the funding model of that unit. It is partly funded by the Department for International Development, which leaves a whole series of countries that are not DFID priority countries to be funded. We need transparency that the Home Office is putting up the matching funding to cover those countries, because UWOs are going to be global—they will not be just for DFID priority countries.

Q151 Antoinette Sandbach: Mr Keatinge, may I pick up on the point about reporting to Parliament? It is very easy to get data in the public domain about the number of requests or prosecutions under a particular Act: you can use the Freedom of Information Act, or parliamentarians can table written questions to get those data in the public domain. Why do you feel that that requires a report? Dr Hawley, in relation to the cadre of specialised financial crime judges, why do you say that judges are not capable of adequately dealing with financial cases when effectively you have juries sitting on them? If you cannot explain them to the jury, you will certainly not be able to explain them to the judge.

Tom Keatinge: Let me take your first question. The way in which we seek to tackle financial crime in the UK cuts across a number of different Departments. There are many cooks in this particular kitchen, for various reasons. As an outsider, my question is: who is ultimately accountable for ensuring that the Bill is used effectively when it is enacted? Should there be a commissioner? Ultimately, what I would like to see is someone who has to report to Parliament what has happened as a result of the new legislation. As for where that information comes from, I accept that it can be brought to light by Freedom of Information Act requests or other means, but I would like to see someone made accountable for explaining how the Act has been used.

Dr Hawley: Judges play a key role in instructing the jury how to interpret some parts of the law. These are incredibly complex cases. In a way, we are reflecting

what has been expressed to us by some in the law enforcement community who are trying to put these complex cases to judges who are not specialists and so do not have the level of knowledge about the crimes that they would like.

Q152 Antoinette Sandbach: That could apply to any crime, whether it was murder or child pornography.

Dr Hawley: The difference is that these are much longer trials than for those kind of crimes. Another key issue is that cases of economic crime are often at the back of the queue for court slots, essentially because defendants are often given bail, which in murder cases they would not be. That is why it takes so long for the Serious Fraud Office to get court slots.

Q153 Tristram Hunt: Could the Committee have some examples from Global Witness of case studies of that three-way process—the extraction of wealth, often from developing nations, the facilitation via London and the hiding of that wealth in overseas territories or Crown dependencies? It would be good to have some narrative examples. Secondly, one issue that has been put to the Committee and on which I will pursue a probing amendment is the fear among enforcement agencies that, if they use unexplained wealth orders or go after those who have allegedly hidden wealth and committed crimes, they will be liable for the costs involved. That has serious ramifications for the culture of risk within an organisation. I am interested in whether you think either that those costs should not be borne by the state or that they should be capped.

Chido Dunn: I will speak briefly to the narrative examples point, but I am happy to provide more. One of the case studies we worked on, which was covered on the BBC last week in anticipation of the Bill, was a case that arose in Kyrgyzstan. The former President was overthrown in a coup and he and his family were accused of widespread corruption and violence. His son fled and arrived in the UK on a private jet and claimed asylum. At Global Witness, we identified him living—we have no proof of who owns the property—in a mansion in Surrey. It was purchased for £3.5 million six or seven years ago, so it is worth a lot more than that now. The home is owned offshore and no one can prove exactly who owns it or where the money came from.

At the time when the Bakiyevs were in power, Kyrgyzstan was ranked by Transparency International as one of the 20 most corrupt countries in the world. Since then, we have seen the Kyrgyz authorities trying to rebuild their courts and their systems and not receiving the assistance they would like from foreign powers. They are finding themselves coming up against a lot of legal hurdles around issues of mutual legal assistance, extraditions and things of that nature. That is just an illustration of the extent of plundering that can happen overseas, the fact that London in particular is seen as a safe haven by corrupt officials and their families, and some of the practical difficulties in trying to seize those assets or identify the people involved. In that case, we identified UK estate agents and lawyers involved in the deal.

That is one of the best case studies that shows how a Bill such as this could help. It would allow the police to have more time to conduct their investigations. It would lessen the burden on them in identifying who owns a property and whether the money came from legal sources. There are many, many other examples that we could give, but generally it is the same pattern of behaviour that we see time and time again.

Duncan Hames: It is not initially clear from the Bill what the degree of exposure in relation to costs for law enforcement would be. It may be that the investigatory order of the UWO is less exposed to action to recover costs than other asset recovery actions and the interim freezing order, for example. Perhaps in the course of the Committee's consideration, you will be able to get some clarity on that. We would like you to bear in mind that there will be a great backlog of established illicit wealth already in this country for law enforcement to address when awarded this power, should the Bill become law. We would not want them to be impeded from making full use of this law because of potentially intimidatingly large costs being incurred by those against whom they are using either the unexplained wealth order or the interim freezing order.

Q154 Peter Dowd: The Home Office set out the intentions of the Bill, which are about giving

"law enforcement agencies, and partners, the capabilities and powers to recover the proceeds of crime, tackle money laundering and corruption and counter terrorist financing."

The Bill also aims to make the UK a more hostile place for those seeking to move and hide proceeds and so on. Do you think the Bill is a game-changer in terms of that aim?

Witnesses: Yes.

Tom Keatinge: Yes, if it is implemented and if we have the resources to use the powers to make this a hostile environment.

Q155 Peter Dowd: The second thing is this: you mentioned the key element of resources, and you almost intimated earlier that you were not convinced about the capacity and resources of the enforcement agencies. Is that a fair assessment? What would you say to that? Do you think the capacity and the resources are available to the agencies to make the Bill a game-changer?

Tom Keatinge: It remains to be seen. There are resourcing issues. In theory, some of the powers—the UWOs—could be used relatively swiftly. If we use them swiftly and roll out the deterrents quickly, we have the resources.

Duncan Hames: You make the case for having strong accountability on whether the powers are being used. That may contribute to being able to understand the case in relation to your question after the powers are brought into law.

The Chair: Order. I am afraid that that brings us to the end of the session. We are very grateful to the witnesses for coming here. We assure you that if you want to provide any further advice, the Committee would welcome receiving it. There are no further questions, so I invite the Whip to move the Adjournment.

Ordered, That further consideration be now adjourned. *—(Andrew Griffiths.)*

5.30 pm

Adjourned till Thursday 17 November at half-past 11 o'clock.

Written evidence reported to the House

CFB01 KPMG LLP

CFB02 BOND Anti-Corruption Group and the Business Integrity Network

CFB03 Transparency International