

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

First Delegated Legislation Committee

DRAFT MONEY LAUNDERING AND TERRORIST
FINANCING (AMENDMENT) REGULATIONS 2022

Monday 7 February 2022

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The Committee consisted of the following Members:

Chair: † MR LAURENCE ROBERTSON

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| † Abrahams, Debbie (<i>Oldham East and Saddleworth</i>)
(Lab) | † Mak, Alan (<i>Lord Commissioner of Her Majesty's
Treasury</i>) |
| Ali, Rushanara (<i>Bethnal Green and Bow</i>) (Lab) | † Morrissey, Joy (<i>Beaconsfield</i>) (Con) |
| † Bacon, Gareth (<i>Orpington</i>) (Con) | † Siddiq, Tulip (<i>Hampstead and Kilburn</i>) (Lab) |
| † Baker, Mr Steve (<i>Wycombe</i>) (Con) | † Smith, Henry (<i>Crawley</i>) (Con) |
| † Baron, Mr John (<i>Basildon and Billericay</i>) (Con) | † Sturdy, Julian (<i>York Outer</i>) (Con) |
| † Baynes, Simon (<i>Chwyd South</i>) (Con) | † Twist, Liz (<i>Blaydon</i>) (Lab) |
| † Eagle, Dame Angela (<i>Wallasey</i>) (Lab) | † Williams, Craig (<i>Montgomeryshire</i>) (Con) |
| † Glen, John (<i>Economic Secretary to the Treasury</i>) | Liam Laurence Smyth, Ailish McAllister-Fisher,
<i>Committee Clerks</i> |
| † Grant, Peter (<i>Glenrothes</i>) (SNP) | |
| Hodge, Dame Margaret (<i>Barking</i>) (Lab) | † attended the Committee |

First Delegated Legislation Committee

Monday 7 February 2022

[MR LAURENCE ROBERTSON *in the Chair*]

Draft Money Laundering and Terrorist Financing (Amendment) Regulations 2022

4.30 pm

The Chair: Members are encouraged to observe social distancing and to wear masks when not speaking.

The Economic Secretary to the Treasury (John Glen): I beg to move,

That the Committee has considered the draft Money Laundering and Terrorist Financing (Amendment) Regulations 2022.

It is a pleasure to serve under your chairship, Mr Robertson. The Government recognise the threat that economic crime poses to the UK, and are committed to combating money laundering and terrorist financing. Illicit finance not only risks damaging our reputation as a fair and open economy, but poses a threat to our national security by undermining the integrity and stability of our financial markets and institutions. Illicit finance also has significant social and economic costs through its links to serious and organised crime, and can reduce opportunities for legitimate business in the United Kingdom. That is why the Government are focused on making the UK a hostile environment for illicit finance.

We have taken significant action to tackle money laundering and terrorist financing and to strengthen the response of the whole financial system to economic crime. Front and centre to those efforts are the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017—the money laundering regulations—which are a key part of our legislative framework, and set out a number of measures with which businesses and trusts must comply to make the UK an inhospitable place for money laundering and terrorist financing. Those measures include the requirement for trusts to register with Her Majesty's Revenue and Customs' trust registration service. Trusts are an integral feature of the UK's legal system and are used for a wide range of legitimate purposes. However, they can also be used to conceal the true beneficial ownership of assets, and therefore to impede law enforcement as it investigates money laundering and terrorist financing.

The trust registration service addresses that risk by providing law enforcement with a key source of up-to-date information on the beneficial ownership of assets held in trusts. As a result of changes introduced in 2020, the trust registration service has been expanded so that most types of UK express trusts are now required to register. In addition, overseas trusts with certain connections to the UK, including the acquisition of land or property in the UK, are now for the first time required to register. Today's statutory instrument amends the money laundering regulations to ensure that the trust registration service operates as effectively as possible as an anti-money laundering tool, striking the right balance between the

public interest of tackling money laundering and the right to privacy of those who use trusts for legitimate purposes.

First, to ensure that trustees have sufficient time to gather the necessary information and complete the registration process, the instrument extends the registration deadline for those types of trusts newly required to register until 1 September 2022. Secondly, the instrument extends the time limits for reporting changes to the information held on the register. Trustees are required to update the register within certain time limits, if the information held on the register relating to the individuals involved in the trust changes. In recognition of the fact that such changes are often triggered by traumatic life events—for example, bereavements—the instrument extends the time limit so that trustees will have 90 days to report such changes to HMRC. Lastly, the instrument makes changes to the categories of trusts that are excluded from registration. Certain types of trusts that pose an inherently low risk of money laundering are excluded from registration.

Mr John Baron (Basildon and Billericay) (Con): The Government are right to clamp down on money laundering and to ensure, courtesy of the draft regulations, that the rules are not too onerous, but will the Minister, when he has two minutes, look at some of the questionnaires being sent out by banks seeking additional financial information, and apparently citing the Government's introduction of onerous regulations as the source of the problem? Constituents have reported to me that some of the questionnaires ask for quite a lot of detail regarding their financial affairs.

John Glen: I thank my hon. Friend for that intervention. I am aware of the tension regarding the application of rules designed to keep our banking system both clean and accessible. It has come to my attention in a number of ways over recent weeks and months, and in particular the issue of accounts being difficult to set up for charities and small community organisations. I intend to convene a roundtable with the banks to examine the issue and ensure that the interpretation of these legitimate restraints against abuse does not impede access to banking for our constituents.

This instrument just makes some small changes to the existing categories of excluded trusts to ensure that the burden of registration is proportionate to the money laundering risk that certain types of trust pose. I thank Committee members for their examination of this important piece of legislation. In summary, the instrument will amend the money laundering regulations as they relate to trust registration to ensure that the regulations strike an appropriate balance between providing an effective anti-money laundering tool for law enforcement and minimising the administrative burden on those who use trusts for legitimate purposes. This amendment will enable the money laundering regulations to continue to work as effectively as possible to protect the UK financial system and allow the UK to continue to play a leading role in the fight against economic crime. I hope colleagues will join me in supporting this legislation.

4.36 pm

Tulip Siddiq (Hampstead and Kilburn) (Lab): It is a pleasure to serve with you in the Chair, Mr Robertson.

A trust can be an entirely legitimate way of managing assets. However, because trusts separate legal and beneficial ownership, they can be exploited to disguise foreign or illicit ownership of assets. That is why it is so important that the information on the beneficial ownership of trusts is made publicly available. As the Minister will be aware, both the OECD and the Financial Action Task Force have identified trusts as a serious money laundering risk in the UK. They have warned that trusts provide hostile foreign actors, including Russia, with an ideal route for hiding their dirty money in the City of London. In 2021 alone, Transparency International UK identified more than £5 billion-worth of property bought in the UK with suspicious wealth, one fifth of which originated from Russia. Ending the flow of unexplained wealth through UK trusts must form a key part of the crackdown on illicit finance from overseas.

The Opposition are therefore broadly supportive of the draft regulations. In particular, we welcome the introduction of a register of beneficial ownership for trusts and the principle that it should be open to some members of the public. This is a long overdue and necessary step in the fight against money laundering and terrorist financing in the UK. We support the addition of trusts such as those created for a minor or a vulnerable person to the list of exclusions from the regulations. We recognise that these trusts are highly unlikely to be used to conceal illicit finance.

I understand that the Government's 2020 consultation found that people should have at least a year to register their trusts with HMRC. The Government's inability to develop the TRS—the trust registration service—on schedule has made it necessary to extend the deadline to September 2022. Has the Minister considered whether this extension could allow money laundering to continue undetected for an additional six months? Although I recognise the need for the extension in the light of the Government's failure, will he please explain why this failure happened and what steps he is taking to prevent future IT failures from undermining the UK's efforts to crack down on illicit finance?

Although Labour broadly supports this secondary legislation, we have two serious concerns with the draft regulations as they stand. The first is the Government's proposal to extend the deadline for updating changes to trusts on the register to 90 days. I listened to what the Minister said about special life circumstances such as bereavement, but this change would result in information on the register being three months out of date. Transparency International UK has warned that this would seriously hinder efforts to crack down on dirty money being laundered through UK trusts. The proposed extension contradicts the Government's own 2020 consultation findings that any updates or changes to trusts must be registered within 30 days. The Government's justification for this U-turn—that trustees should be provided with adequate time to make changes to the register after major life events, which the Minister reiterated—simply does not stand up to scrutiny. As the Government's 2020 consultation found, in the majority of cases, 30 days would provide ample opportunity for trustees to make changes to the register.

Transparency International UK has sensibly called for the retention of the 30-day deadline, but with an option for trustees to apply for an extension in limited circumstances, such as those relating to major life events

when there are legitimate reasons for needing more time. That is the sort of fair and balanced method that should inform the UK's approach to money laundering. Instead, we find ourselves in the extraordinary situation where even US Department of State officials are warning the British press that London has become a safe haven for illicit Russian finance under this Government. Has the Minister considered what signal his Government would be giving to money launderers across the globe by U-turning on proposals for a tough 30-day deadline?

My second major concern with the draft regulations is the complete failure to address the warnings raised by civil society organisations, such as Transparency International UK, the Finance Innovation Lab and Spotlight on Corruption, about the public's inability to access the register. Labour supports the principle established by the draft regulations that the register should be open to some members of the public. However, the Government have set an evidence threshold that in practice could deny access to the register to NGOs, journalists and private sector actors investigating dirty money.

The current regulations allow access to non-state investigators only if they can provide sufficient evidence to HMRC that the trust they are investigating is involved in money laundering or terrorist financing. That produces a Catch-22 situation: investigators' ability to establish a trust's link to criminality will often depend on access to information held in the register. That means our nation's leading independent experts on corrupt wealth flowing into the UK from Russia and elsewhere could effectively have no access to the register, and puts the UK out of step with the regulations being developed in the EU, which allow for much higher access to trust registers. Will the Minister explain why the Treasury has not used the draft regulations to remove these Kafkaesque and bureaucratic barriers that prevent NGOs, journalists and others from investigating dirty money in the UK?

My main concern is that the gaps in this SI are part of a worrying trend of inaction from this Government. They have delayed the economic crime Bill, did not fully implement the Intelligence and Security Committee's Russia report, and are now U-turning on trust regulation. Labour will support the draft regulations today to ensure that the register can get up and running, but I would like more reassurance from the Minister that he plans to bring forward further legislation to strengthen the UK's zero tolerance of dirty money.

4.42 pm

Peter Grant (Glenrothes) (SNP): It is a pleasure to see you in the Chair this afternoon, Mr Robertson. I commend the hon. Member for Hampstead and Kilburn on a powerful speech. I will not repeat many of her points, but I must pick up on the Minister's use of the phrase "hostile environment"—it is still an untasteful phrase for many people on both sides of the House, given its connotations about being hostile to people rather than to crime.

In all good faith, the Minister says that that the Government are making the United Kingdom a hostile environment for dirty money and money laundering, but that is not what independent commentators, either in the UK or elsewhere, are saying. Will he explain the Government's evidence that they are correct and that everyone else has got it wrong? It certainly seems to me

[Peter Grant]

that a lot of people are eyeing up London in particular, and other parts of the UK to some extent, as an attractive place to hide their money. Remember: money does not have to be hidden forever; it can just be kept for a limited time within the confines of a legitimate organisation. Where it goes after that can always be explained away.

I agree that any legislation around public disclosure must strike a balance between an individual's right to privacy and the need for public authorities to protect all of us against serious and organised crime. Consider the seriousness of the crimes we are talking about here. We are not just talking about somebody pilfering a couple of hundred quid from the cash box; we are talking about people who are stealing literally billions of pounds and then using that to fund acts of mass murder either in the United Kingdom or elsewhere. This is a genuine, serious threat to us all, and that means, sadly, that the balance of rights may come down a bit further on an authoritarian "requirement to disclose" regime than we would all ideally like.

I regularly get stuck at the airport going through security checks; I have missed flights because I turned up with an hour to get through security and did not make it. I do not like it, but when we think about the alternatives, perhaps missing a flight sometimes is not such a bad idea. Perhaps not getting the right to the degree of privacy that we might like is something that needs to be considered sometimes, if it means that the real thugs cannot hide behind that right to privacy.

My biggest concern with the Government's approach to money laundering and terrorist financing is that they are going far too slowly. They are not doing enough. A lot of what should be getting done just does not seem to be getting done at all. The hon. Member for Hampstead and Kilburn has already mentioned some of the compelling evidence that has been presented to the Government in the past that does not seem to have gone anywhere.

On a couple of occasions in the Chamber recently—once during a debate on the Finance Bill and once, I think, during an urgent question—the Government have attempted to explain why their economic crime Bill has not been seen yet. At one point, they claimed that there was not enough parliamentary time. Two hours after they said that, the business of the House collapsed more than half a day short of its allotted time; there was not enough business to keep Members talking for the full day. That was the second time that that had happened in the space of three weeks, and it suggests to me that there is not a lack of parliamentary time but a significant lack of political will.

I am going to get the Minister in trouble by keeping on saying this, but I think he is genuine; I think he genuinely and sincerely wants that legislation brought forward, but it is clear that there are powerful forces at work behind the scenes in this Government to prevent that. We can only speculate about why that might be, but when we look, for example, at the comments from the Centre for American Progress, which said that uprooting

"Kremlin-linked oligarchs will be a challenge given the close ties between Russian money and the United Kingdom's ruling conservative party,"

we really have to wonder what kinds of forces are at work behind the scenes preventing these reforms from coming into place.

While the Minister correctly points out the registration process that is required for a lot of kinds of trusts, the registration requirements for companies are non-existent. There does not need to be a blind trust for someone to be able to set up a network of legitimate-looking companies in the United Kingdom and use them to launder money to their heart's content. As my hon. Friend the Member for Glasgow Central (Alison Thewliss) pointed out recently, there are cases where people have been able to be registered as directors or as people with significant controlling interests in companies in the United Kingdom when they have not been born yet. That is the degree of examination that goes into checking who is setting up businesses in the United Kingdom.

We have to remember that although a lot of well-informed commentators understand that having a company registration number in the United Kingdom means nothing, a lot of innocent victims do not. They think that if a company is registered at Companies House, it means something—it is a guarantee of integrity—in exactly the same way as a lot of innocent victims thought that the Financial Conduct Authority logo on somebody's literature meant that they could be trusted, when all too often it proved that they could not be trusted at all.

Finally, let me pick up on something else that the hon. Member for Hampstead and Kilburn said. I have a concern that if someone—especially one of the organisations with an excellent track record in identifying fraud and corruption in our financial services sector—has to prove that they have evidence of misconduct before they are allowed to look at anything, it is a bit like the police saying, "We're not going to investigate that reported crime because there's no evidence that a crime was ever committed."

I have raised a number of individual cases directly with the Minister, and he has been very supportive of my attempts to get to the bottom of them. No offence to him, but I have had a lot more information, and often a lot more direct help, provided to me and my constituents by non-governmental organisations such as Transparency Task Force. That is not because the Minister does not want to do it; it is probably not his job. However, determined, well-informed private individuals—especially those who have worked in the industry before, and sometimes those who helped to bury the bodies and know where they are likely to be—can be very effective at weeding out the information that criminals have tried to keep hidden. We need to be very careful about preventing those people from being able to go about the work that they have been doing for so long.

Clearly, there must be protections for people's right of privacy. The right of privacy in a trust is fair enough as long as people do the things that they do not bother to do when setting up a company—for example, proving that the child for whose benefit the trust has been set up actually exists. There are people who are registered as company directors at Companies House who do not exist. As long as that continues, regulations such as these, welcome though they might be, are a drop in the ocean of fraud that threatens to engulf the City of London.

4.50 pm

Dame Angela Eagle (Wallasey) (Lab): It is a pleasure to serve under your chairmanship, Mr Robertson.

I know that the Minister is at the centre of the Government's efforts to deal with economic fraud and money laundering. I hope that, if he has not read it yet, he will take a close look at the report on economic crime that the Treasury Committee issued last week. It includes many recommendations, which I will not go into now because that would be out of order.

Economic crime, money laundering and the kind of activity that this statutory instrument has been designed to bear down on are complex and require a lot of determined action from many different angles, and I hope the regulations are just a small part of that. Perhaps the Minister could reaffirm that the statutory instrument is just a small part of the Government's efforts to tackle the sad fact that we, with a very large financial centre in the UK, are now regarded as a centre of money laundering. The "London laundromat" is a phrase that came out of the Intelligence and Security Committee's report. It is not one that I have made up and it has not been conjured out of thin air. It is used because of the real threats that our open financial system has been put under by those who, as the Minister said in his opening remarks, wish to cause problems for our open and fair economy. If those threats are allowed to progress and fester, they will have bad effects on social and economic wellbeing in this country. We are all on the same side in that we want to minimise the chances of that happening.

Does the statutory instrument go far enough? There are some doubts about it, although it is good to see it here. I hope that the Minister will say in his response to the debate whether we will get an economic crime Bill to deal with some of the rest of the problem. When Lord Agnew resigned so dramatically from the Dispatch Box in the Lords a couple of weeks ago, he appeared to do so, at least in part, because he had learned that there was not going to be an economic crime Bill. The Minister and all Opposition Members know very well that we need some major changes in the law to accompany such statutory instruments if we are to begin to close some of the loopholes that are used by those who wish our society ill, those who aggrandise themselves, terrorists, organised criminals and those who wish to hide the sources of money that they have stolen from elsewhere in the world and launder it through companies, trusts and property in this country.

Is the Minister worried that the fact that we will have a regime that is more lax than that being developed in the European Union might paradoxically make us more of a target for more of this sort of money? The fact that the statutory instrument has been changed in certain ways might make us more attractive when it is compared with similar instruments that are being promulgated in the European Union. I am worried about that.

Will the Minister say a little bit about transparency? As both Opposition Front Benchers mentioned, organisations have said that the statutory instrument as drafted does not leave sufficient scope for private sector and civil society actors to investigate suspected money laundering. They effectively have to prove it before they are given sight of the trusts. That is a much tougher area than we are expecting to be the case as the European

Union moves to put its own directives into being. Of course, the European law is the law from which these regulations have sprung, albeit we are now outside the European Union.

Can the Minister say something about the trust registration service? There have been delays, which he mentioned were something to do with IT problems. Is he convinced and confident that the IT problems in the trust registration service have been properly dealt with, so that when this system comes into being it will be robust in future? Can he say a few words about law enforcement, because the Treasury Committee's report last week commented particularly on the fragmented nature of the fight against organised crime and money laundering? The way it goes across so many different Departments, is very fragmented and is not the main source of action for many of the enforcement authorities. It seems to fall between the stools of many different Departments with very few enforcement authorities being primarily responsible for doing that work. Can the Minister reassure me that he has sorted that issue out and he is convinced that the enforcement of the new regulation will be robust enough to ensure that we can crack down on some of these nefarious money laundering activities?

4.57 pm

John Glen: I will endeavour to cover the points raised by the hon. Members for Hampstead and Kilburn, for Glenrothes, and for Wallasey. I acknowledge that a number of those points refer to the broader canvas of economic crime and I shall try to deal succinctly with those, respecting the fact that the Treasury Committee published a report last week, on which the Government will reflect and respond in due course. There is an obligation and, indeed, a determination on my part to bring forward a broader money laundering SI later this year.

It is the Government's view that this amendment will assist in ensuring that the money laundering regulations operate as effectively as possible and continue to protect the financial system from the threat posed by money laundering and terrorist financing, and that will allow the UK to continue to play its part in the fight against economic crime.

The hon. Member for Hampstead and Kilburn mentioned several points made by Transparency International and other organisations about access to trust information. The SI will extend the existing exclusion for insurance trusts to exclude all healthcare policies in trust and will clarify how the exclusion applies to certain retirement policies and life policies with temporary disablement cover. The SI also adds a new exclusion for trusts created in the course of opening child bank accounts. Indeed, the regulations set out 23 different exclusions: this is not an exhaustive list, but it includes pension trusts, insurance trusts, registrable charitable trusts and trusts meeting certain legislative requirements.

When the trust service was set up, the register of beneficial ownership of trusts—the trust registration service—was established five years ago. We have now seen 200,000 taxable trusts registered. It is the case that it is perfectly legitimate for some of those trusts to be excluded. There is a matter of the legitimate privacy for

[John Glen]

some of the trustees, but that does not prevent law enforcement or regulated entities from being able to access them.

I think that there is a question here about the IT service. The hon. Members for Wallasey and for Hampstead and Kilburn mentioned that. It is clear that HMRC has had an enormous task over the last two years to deliver some pretty complex interventions. The regulations simply give an extension on those registration deadlines. I am not convinced that there is an enduring IT problem in HMRC; there is an administrative necessity consequential to a particular failure.

The hon. Member for Glenrothes picked me up on the use of certain language. It was not my intention to be provocative, but it is my sincere wish to convey the absolute frustration that we feel and our desire to shut down loopholes that allow bad actors to enter our financial system.

Peter Grant: I do not have an issue with the Minister's use of the phrase "hostile environment". I was making the point that, as the phrase has been previously used in respect of people whom we should have made welcome, it loses a lot of its impact when used in its correct context.

John Glen: That is a reasonable observation. I think, however, that the hon. Gentleman's frustration echoes mine; I have been in this job over four years, and I was before the Treasury Committee on 29 November referring to some of these imperatives, which had been thrown into focus by the FATF report in December 2018. We need to make further interventions. I cannot prejudge the outcome or the business managers, as I think the hon. Member for Wallasey knows, but the point is that this is an absolute imperative from where I stand in the Treasury. We do need this legislation to deal with the broader issues that are outstanding.

Dame Angela Eagle: I thank the hon. Gentleman for giving way on that point. It was absolutely remarkable that when we took evidence from the Minister, and from his Home Office colleague who was responsible for trying to crack on money laundering, how dissatisfied both of them were with the current state of affairs. I wish him well in attempting to get his business managers to realise what everybody else realises, which is that this should be an absolute priority.

John Glen: I welcome the hon. Lady's intervention on this subject. I am happy to recognise her characterisation of the diffused responsibilities in the report. There are observations and questions about many interactions. That is something for the Government to reflect on, as we will do in our response.

The hon. Member for Glenrothes referred to parliamentary time. Fixing some of these things will take a bit more than a few hours, but the point he is making is that there is a will to do this, and I recognise that.

This is a modest set of changes to deal with an administrative problem with one part of this Government's response to a challenge. We are one of the most open jurisdictions for financial services. We employ 2.3 million people in financial services and 7.4% of jobs in the UK are in financial services. We have got to get that balance right, but I recognise the challenges outstanding. On a broader canvas, at a later point, I will address those points. I hope that the Committee has found this debate informative and will support the regulations. I commend the regulations to the Committee.

Question put and agreed to.

Resolved,

That the Committee has considered the draft Money Laundering and Terrorist Financing (Amendment) Regulations 2022.

5.3 pm

Committee rose.