

**A bold step – but not quite where no man has gone before!**

Given the significance of the UK Government's proposals to combat economic crime in its new Action Plan, the Editorial Board has decided to publish the General Editor's comments in both *the Journal of Financial Crime* and the *Journal of Money Laundering Control*.

Even Theresa May's political detractors have recognised that in many areas of the Home Office's responsibility, she has been prepared to accept that strategies that have been developed and cherished for many years are in need of both re-assessment and often quite fundamental changes. She has been especially focussed on the threats presented by organised crime and terrorism. For example, she has been prepared to accept that organised crime has established a serious and relatively "comfortable grip" in the UK. She has been critical of both the failure of politicians to recognise, let alone accept this threat. She has been prepared to legislate – creating a new crime of being associated with organised crime – and she has also been focussed on the need to give confiscation orders more bite. She has challenged those who remain suspicious of any additional powers given to the police and intelligence services in regards to communications and data surveillance. She has also been willing to stand up against some of the seemingly cosy relationships and structures in policing. Her announcement in April 2016 of a fundamental re-appraisal of the way in which the law deals with criminal property and terrorist finance is both timely and well conceived.

There has been concern, not least expressed in the pages of this journal over many years, as to the apparent lack of effectiveness of the anti-money laundering and proceeds of crime regime. The amounts of money that are actually permanently taken out of the criminal pipeline are minuscule, and there have been few successful prosecutions against professional money launderers. Although the situation is not different in most other jurisdictions, there is a perception – which is probably near the truth – that the UK has remained a key international centre for money laundering and the investment of suspected wealth. Indeed, the Prime Minister on a number of occasions has expressed his personal concerns, and this was in large measure confirmed by the government's first national risk assessment for money laundering and terrorist finance published in October 2015. In the case of terrorist-related finance, although the amounts interdicted have been relatively derisory, the argument that the legal and regulatory regime is facilitating the effective disruption of terrorist plans is plausible, perhaps, more so than when a similar claim is made in regards to enterprise crime.

The government's recently published Action Plan for anti-money laundering and counter-terrorist finance (Home Office and HM treasury, April 2016) represents a very significant step in seeking to address at least some of the criticisms that have been made of the present regime. Of course, it is a consultative document, but there are strong indications that the government is committed to most, if not all, of its many proposals. It is recognised that both legally and institutionally, there must be a more robust response to these threats by law enforcement. The government accepts that this requires "creating aggressive new legal powers and building new capabilities in our law enforcement agencies to enable the relentless disruption of criminals and terrorists". Second, the government wants to see that our traditional risk-based approach to

discouraging those who are prepared to launder such wealth are more effectively taken out! Although there have been gigantic “fines” imposed on financial institutions for failing in specific aspects of compliance, there is a widespread concern that these might be both disproportionate and may “punish” more the institution’s stakeholders rather than those who really have some degree of culpability. Third, the government recognises the need to greatly improve the reach and effectiveness of international action through improved co-operation and collaboration. “Underpinning these priorities and central to the success of the Action Plan” is a wish to see a far more “joined up” relationship with the private sector.

The significance of the government’s proposals is not perhaps so evident in these stated priorities, which can be traced back to the very first documents that recognised the desirability of going after criminal property. Indeed, the Labour government said much the same when launching its various new “initiatives” against economic crime. The same can be said about the importance in the high-level recognition that the present setup is not working at all adequately, as this has long been accepted by the Cabinet Office. What might make a real difference is the emphasis that the government is placing on identifying better competence within law enforcement and improving the availability of high quality financial analysis. There is also a willingness to create new law, particularly in regards to unexplained wealth. Organisations such as Transparency International and Global Witness have been calling for new measures to identify beneficial ownership of property for a number of years. Mr Cameron has also recognised the need for greater transparency – at least in tax matters – and has played a significant role in encouraging the OECD and others to move on this. The Fourth Money Laundering Directive also provides for the recording of corporate and to some extent trust beneficial ownership, and post the so-called Panama Papers saga, we may see that what the metropolitan police called for as a prerequisite to effective investigation of fraud and money laundering back in 1992 is actually being delivered. The government is also, it seems, committed to legislating for “unexplained wealth orders” supported by a civil forfeiture power and a new criminal offence for unjust enrichment. Although all this looks radical enough, of course, Britain imposed very similar laws on its colonies well over 100 years ago, and robust enforcement of existing law could achieve much the same. It should not also be forgotten that a lot of this is already in the United Nations Convention against Corruption, which we signed up to 12 years ago!

The efficacy of the suspicion-based reporting system is also a matter for debate, as we have also seen on many occasions in the pages of this journal. The government proposed a raft of good measures, which would make it far more focussed, useable and perhaps more “honest”. Courting the private sector is again not new and smacks of simply shifting cost and responsibility. However, it does appear that the Action Plan contemplates a rather more meaningful exchange of information between officialdom and those it trusts in compliance. Whether this is feasible in practice, given the diversity of institutions, interests and objectives that exists in a place as unique as London, remains to be seen, particularly given the fact that in all honesty, the compliance profession has itself a long way yet to go in being a predictable, committed and secure partner. As in the case of grander and more global initiatives to “encourage” the offshore centres into line, the system is only as good as its weakest link!

There is much in the government’s Action Plan which is to be welcomed, and the government’s willingness to put its plans on the table is to be applauded. By the same

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token, the government's apparent concern to be seen as spear-heading the international initiatives against corruption, as manifested by Mr Cameron's conference on 12 May, for at least some world leaders, is obviously to be commended. However, the real issue is whether anything is really going to be any different by the end of the year – or, perhaps, to be fair, in 10 year's time. The fundamental issue in all this is simply one of resources, and this is where so many good ideas have withered on the vine in the past! Indeed, it will be interesting to see whether the invitation for comments, what I for one consider to be a commendable set of proposals, is met with the level of informed thought that such deserves!

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