

Insights

THE ECONOMIC CRIME BILL: WHAT IS IT AND HOW MUCH MIGHT CHANGE?

Feb 21, 2022

SUMMARY

The House of Commons Treasury Committee recently published their Eleventh Report of Session 2021–22 (the “**Report**”). In addition to identifying key gaps in the Government’s response to economic crime, the Report makes a number of recommendations and includes an assessment of the measures that might be required to be brought in through an Economic Crime Bill.

In this article, we provide an overview of what the Economic Crime Bill (due to be tabled by Parliament in their third session later this year) might look like and what you can be doing now to prepare. We also set out why we have reservations as to the effectiveness of what may be proposed.

On 2 February 2022, the House of Commons Treasury Committee published their [Eleventh Report of Session 2021–22](#) (the “**Report**”) which analyses steps taken by the Government to tackle economic crime since 2019. It did not make for particularly comfortable reading for those involved in the fight against economic crime.

“Since 2019, it appears that economic crime has not reduced but has instead continued on an upward trend.”

Shortly thereafter, on 10 February 2022, the House of Commons published a [research briefing](#) that identified economic crime in the UK as a multi-billion pound problem. Research from the National Crime Agency (“**NCA**”) in [2019](#) estimated that money laundering costs the UK more than £100bn pounds per year. Lord Agnew, former Joint Treasury and Cabinet Office Minister for Efficiency and Transformation, caused a maelstrom on 24 January when he resigned from his post, telling the media:

“Fraud in government is rampant. Public estimates sit at just under £30bn a year. There is a complete lack of focus on the cost to society, or indeed the taxpayer.”

Despite the codification of the Government's [Economic Crime Plan](#) in 2019, which has led to, for example, bringing parts of the crypto-asset sector into the anti-money laundering (“**AML**”) regime, creating stronger asset recovery powers and introducing the Economic Crime Levy, the tone of the Report is that progress has been too slow.

The Report identifies several key gaps in the Government's response to economic crime and makes a number of recommendations. Of significant interest to those involved in horizon scanning for new legislation, is the recommendation that the Government:

“[S]ets out the legislation which is being worked upon across Government and that is relevant to addressing economic crime, and provides an assessment of the measures that might be required to be brought in through an Economic Crime Bill, the timescales for this, and why it has chosen not to bring forward such a bill at this time”.

WHAT IS THE ECONOMIC CRIME BILL?

The Economic Crime Bill has been on the cards for several years. A draft text was apparently put before the Parliamentary Business and Legislation Committee to be included in the Queen's Speech last May. When he resigned, Lord Agnew claimed that the bill was ‘foolishly rejected’ as a candidate bill for the next parliamentary session. This, in turn, led MP Kevin Hollinrake on [26 January 2022](#) to ask the Secretary of State for BEIS about the Government's plans to bring the bill forward. On [2 February](#), the Prime Minister confirmed that the bill would be tabled in the third session of Parliament later this year.

There is scant information available at this stage as to what such a bill will look like. It is assumed that the bill will be a ‘regulatory gap filler’ (by way of piecemeal provisions, amending existing legislation), designed to address some of the concerns raised by the Treasury Committee in the Report. It is thought that the following three broad topics are likely candidates for inclusion in the Bill.

Companies House Reform

Companies House reform has been on the Government's agenda for a long time. It was included as action point 42 in the Economic Crime Plan, amid concerns that a relatively cheap incorporation fee (£12), coupled with a lack of verification on the identity of beneficial owners of companies set up in the UK, has allowed the UK's registrar of companies to become a hotbed for anonymous shell companies involved in suspicious transactions linked to criminal activity.

The Government published its response to a corporate transparency and register reform consultation on 18 September 2020, including proposals to improve the accuracy and veracity of the information on Companies House such as:

1. Introducing compulsory identity verification for all Directors, People with Significant Control, and those filing information on behalf of a company.
2. Providing the registrar of companies with stronger powers to query, seek evidence for, amend or remove information and share it with law enforcement partners (subject to certain conditions being met).
3. Improving the processes for removing personal information from the register.
4. Introducing full digital tagging of company accounts.

This was followed in quick succession on 9 December 2020 by three further consultations on improving the quality and value of financial information on the UK companies register; powers of the registrar; and implementing the ban on corporate Directors, which all closed on 3 February 2021. The Government is yet to take further action, although there has been significant parliamentary debate on legislating for Companies House reform within the Economic Crime Bill.

Reform of corporate criminal liability laws

Among the recommendations in the Report is that the Government acts quickly in bringing forward any legislation flowing from the Law Commission's review of corporate criminal liability (and the scope for reform). The outcome of the Law Commission's work is eagerly anticipated and is likely to be known this spring. The Economic Crime Bill provides the Government with an opportunity to include provisions creating, for example, a corporate offence of failing to prevent economic crime or to amend existing legislation to make it easier for companies and their senior management to be held to account for crimes committed for their benefit.

A register of overseas entities that own UK property

The Treasury Committee expressed its disappointment that a Government-led Registration of Overseas Entities Bill remains off the statute books more than five years after it was promised. A Private Member's bill was introduced on 19 January 2022. The Economic Crime Bill would provide the opportunity for the Government to put its money where its mouth is and take the steps necessary to legislate for transparency of UK property ownership.

So what does the bill mean for me?

In short, you need to get ready. Although the precise content of the Economic Crime Bill is yet unknown, it is likely that it will cover the majority (if not all) of the regulatory shortcomings identified by the Treasury in the Report. Reforming Companies House, the registration of beneficial ownership of UK property, corporate criminal liability reform and consolidating the UK's AML regime are all hot topics for a Government which is expected to "*push harder and act faster to reduce fraud and economic crime*".

We think the scope is there for it to use the Economic Crime Bill to drive forward the changes it needs to make. Our reservation is that the Government has consistently sent very mixed messages on the significance of economic crime.

On 1 February 2022, the Prime Minister told the House of Commons that crime had reduced by 14% for the year ending September 2021. However, in making this claim, the Prime Minister neglected to mention the fact that he had omitted to include the figures for fraud and computer misuse which, had they been included, show that the overall crime in fact increased by 14% for that period, an increase which included a 47% rise in fraud and computer misuse. Despite correction by the Chair of the UK Statistics Authority, Sir David Norgrove, that the figure provided to the Commons was misleading, the Business Secretary, Kwasi Kwarteng, on 6 February 2022, told the BBC that the Prime Minister's figure was not misleading essentially because fraud "was not a crime that people experience in their day to day lives."

The bill is definitely one to watch out for and we shall be monitoring developments in this area carefully. If you want to discuss how this might impact your business, contact me at Sian.Cowan@bclplaw.com.

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