



Lord Rosser
House of Lords
London
SW1A 0PW

17 March 2017

Dear Richard,

CRIMINAL FINANCES BILL

I am pleased that you supported the aims and objectives of the Criminal Finances Bill at Second Reading on 9 March and welcome the consensus for the legislation that was clear across the House. The debate covered a substantial amount of ground and I responded to the vast majority of the points raised – I would encourage any Peers with an interest in these issues to review the Hansard. There were, however, some matters that I was unable to reach during my closing remarks and on which I committed to write.

At the outset, I am again keen to recognise the strength of feeling of many Peers in relation to **company ownership transparency**, particularly in the British Crown Dependencies (CDs) and Overseas Territories (OTs) with a financial interest. As I set out in my letter of 6 March and during the debate, it remains the Government's ambition that public registers of beneficial ownership information become the global standard. The UK is leading the way with our own public register. However, as a number of colleagues, including Lord Patten and Lord Faulks, pointed out during the debate, we must recognise the considerable progress that the CDs and OTs have already made, working consensually with the UK. We are intent on supporting them to deliver on their existing commitments, which will provide real benefits to UK and international law enforcement in tackling complex and international crime. Baroness Anelay (the FCO Minister responsible for the OTs) and I hope to have more detail on their recent progress to share with colleagues as the Bill passes through the House.

We also debated the nature of **Unexplained Wealth Orders (UWOs)**, which have been widely regarded as a useful investigative tool. Baroness Whitaker asked when UWOs will take effect and when the Code of Practice, which will be one of the robust safeguards that accompany this power, will become available. The Government is keen to ensure that the powers in the Bill can be used by law enforcement agencies at the earliest opportunity, but there are a number of steps that must be completed before this can happen, including the approval of statutory guidance, court rules, frontline training and so on. The Code of Practice for UWOs will require approval by Parliament following Royal Assent and I will

undertake to ensure that a draft of this guidance is made available to Peers as soon as possible.

Baroness Hamwee asked about the new power in the Bill to **seize and bring the forfeiture of moveable stores of value** that are involved in money laundering or terrorist finance, and specifically why this power is limited to items listed in the legislation. This provision is an addition to existing measures in the Proceeds of Crime Act 2002 (POCA) and seeks to address a specific operational gap. The content of this list has been informed by law enforcement agencies and it will be updated by regulations should evidence emerge that other items are being used to launder the proceeds of crime. We are, as ever, taking a balanced approach to the creation of new police powers and it is the Government's view that a provision that allowed the seizure of any type of property would not be proportionate.

In your opening remarks, you asked about **corporate liability for UK-linked companies involved in cases of severe harm to individuals overseas**. All businesses are expected to comply with legislation that comes under the jurisdiction of the UK, including those related to human rights. And while the Government has no ability to regulate UK businesses operating in overseas jurisdictions, we do encourage them to honour the principles of internationally recognised human rights wherever they operate. More broadly, in 2013, we were the first country in the world to produce a national action plan in response to the United Nations Guiding Principles on Business and Human Rights. Large UK-domiciled businesses must also comply with laws that require them to report on certain human rights issues, including the Companies Act (as amended in 2013) and our world-leading Modern Slavery Act which requires them to produce annual statements on what they have done to ensure that slavery and human trafficking do not occur in their businesses and supply chains.

A number of Peers asked about the Treasury review of the **anti-money laundering (AML) supervisory regime**. You will be aware that this has now been published, and it included the announcement of a new supervisory body, the Office for Professional Body Anti-Money Laundering Supervision which will sit within the existing Financial Conduct Authority. This new body will help and ensure professional body AML supervisors meet the high standards required by the new Money Laundering Regulations. It will also strengthen the overall supervisory regime by improving coordination between AML supervisors and with law enforcement agencies.

Baroness Hamwee also asked about the **sharing of financial intelligence with other EU countries**. The UK Financial Intelligence Unit (FIU), housed in the NCA, shares information on money laundering with other FIUs in the EU and elsewhere to support investigations in those countries and in the UK. The powers in the Bill help the NCA develop an improved intelligence picture that can be shared with overseas law enforcement partners, and we expect this cooperation to continue with these countries following the UK's exit from the European Union.

Lord Hodgson of Astley Abbotts raised the issue of **confiscation orders**, asking what was being done to ensure more assets are recovered. The Government recognises that there is more to do in the area and Asset Confiscation Enforcement teams have been working with defendants to encourage compliance earlier in the process. Where defendants are not cooperative, they should proactively enforce the order. A number of the provisions in Chapter 4 of Part 1 of the Bill will also assist this work, for example, by allowing investigators to use the investigation powers in POCA to revisit a case so that any money made by a defendant in the future may be confiscated to satisfy an order.

Although not an issue covered by the Bill, Lord Flight and Baroness Hamwee also asked about enhanced due diligence on **domestic Politically Exposed Persons (PEPs)**. As colleagues may be aware, EU law requires all politically exposed persons to be subjected to some sort of enhanced due diligence, in recognition of their influence, authority and prominence in public life.

The Government's view is that banks should take a proportionate and sensible approach to know-your-customer measures for MPs, Peers and other UK PEPs. The Treasury published draft Money Laundering Regulations 2017 on 15 March, addressing matters including how firms should treat PEPs. The FCA has also published a consultation on how banks should assess whether PEPs are low or high-risk, and on the proportionate approach that banks should take to EDD. Together, these measures will provide clarity on how firms should treat PEPs, and address concerns about the disproportionate withdrawal or potential restriction of financial services from domestic PEPs, their families and close associates.

I was pleased that there was considerable support for Clause 12 of the Bill on gross human rights abuse and violations, which the Government introduced in the Commons in response to the **Magnitsky amendment**. Lord Anderson of Swansea asked for reassurance that allegations about money connected to the Magnitsky case being laundered in the UK have been properly investigated. Donald Toon, the NCA's Director of Prosperity, addressed this point when he gave evidence to the Public Bill Committee in November. He confirmed that the NCA has carried out inquiries into this matter and concluded that no assets of value connected to this case have been identified in the UK.

Lord James of Blackheath raised a number of concerning cases, on which I know he has already corresponded with the Security Minister. This Government's focus on building a true public-private partnership is critical to ensuring that regulated companies, like banks, provide the best possible intelligence to law enforcement agencies on transactions that may be related to money laundering or terrorist finance. The powers in the Bill will also strengthen law enforcement powers to ensure they can get the information they need from companies involved in the type of situations to which he referred.

Finally, may I thank you for the continued constructive approach that you and Opposition colleagues have taken with regards to this piece of legislation and I look forward to continuing the debate at Committee. If you or any other Peer would like to discuss the Bill in the meantime, please contact my office on 020 7035 8798.

I am copying this letter to all Peers that spoke at Second Reading and will place a copy of it in the Library.



Baroness Williams of Trafford