



Lord Rosser  
House of Lords  
London  
SW1A 0PW

11 April 2017

Dear Richard,

## CRIMINAL FINANCES BILL: COMMITTEE STAGE DAY 2

During the second day of Committee Stage on 3 April, there were a number of issues on which I committed to write to you and other Peers.

You tabled an amendment in relation to a UK **public register of beneficial owners of overseas companies**. In response, I confirmed that a call for evidence on the detail of this existing Government commitment would be forthcoming. As you may have seen, this was published on 5 April. I attach a copy and it is available at: <https://www.gov.uk/government/consultations/property-ownership-and-public-contracting-by-overseas-companies-and-legal-entities-beneficial-ownership-register>. The call for evidence is open until 15 May and responses can be provided at: [www.gov.uk/beis](http://www.gov.uk/beis).

This would be the first register of its kind in the world, allowing information about beneficial owners of overseas companies and other legal entities which own UK property to be publically available. It would also list the beneficial owners of overseas-registered firms involved in central government procurement exercises. This call for evidence will ask overseas investors, property and transparency experts for their opinions on how this register could be best delivered. This is a very positive step in tackling illicit foreign investment and will strengthen the UK's position as a world leader in corporate transparency and anti-corruption.

As you know, the Call for Evidence on **corporate criminal liability for wider forms of economic crime** closed on 31 March. There were a number of complex responses received and the Ministry of Justice has begun to analyse them. A Government response will issue in due course, but it is as yet too early to set out the timetable for any potential next steps.

During the debate on the HMRC offences of corporate failure to prevent tax evasion, Baroness Bowles asked whether there was a difference between the processes enabling the **disqualification of directors** for corruption offences under competition law, and the corporate offences in Part 3 of the Bill and Section 7 of the Bribery Act 2010.

If a company is convicted of a breach of competition law, the criminal court passing sentence upon that company could not impose a disqualification upon a director not party to those proceedings, nor make an order under section 9A of the Company Directors Disqualification Act 1986. Instead, the Competition and Markets Authority – or other specified regulators – would need to make an application to the High Court for a disqualification.

For the tax evasion offences in Part 3, a further application of this type also has to be made – it is again not possible for the criminal court to impose a disqualification order upon a director not party to the proceedings. However, it would be for the Secretary of State (who would have received a referral from the prosecuting authority) to apply to the High Court under the 1986 Act in order for any director of that company to be disqualified. This approach mirrors that currently taken in respect of the corporate offence in the Bribery Act.

Lord Faulks asked about the ability of the UK Parliament to legislate for the **Crown Dependencies** (CDs). As I have said, it remains within our power to legislate in this way, but to do so here would be inconsistent with our long-standing constitutional relationship with the CDs to legislate on an area for which they have responsibility only where they have consented.

I recognise, of course, that we will be returning at Report Stage to the issue of **company ownership transparency in the British Overseas Territories (OTs) with financial centres and Crown Dependencies (CDs)**. We had a helpful debate on these issues and I trust colleagues recognise the significant progress that we are making with the OTs and CDs. As I have made clear, they have all committed to dramatically enhanced transparency, including central registers (or similarly effective systems) of beneficial ownership information, which will be available to UK law enforcement agencies. We must maintain a level playing field across all of these jurisdictions, to avoid creating weaknesses in certain jurisdictions that could be exploited, and damaging the spirit of cooperation we have been able to create between them. The OTs and CDs remain committed to ensuring they deliver on their commitments by the deadline of June 2017. We will then review the implementation of those commitments to ensure they are delivering UK law enforcement agencies with the material they need to investigate corruption and other criminal behaviour. We will, of course, keep Parliament updated on progress in this area. Our long-term ambition is that public registers will become the gold standard and should be implemented globally. Rather than focusing on the OTs and CDs, it is right to aim our efforts on persuading all jurisdictions to up their game and international organisations like the Organisation for Economic Co-operation and Development (OECD) and the Financial Action Task Force (FATF) are key to making this happen.

Finally, Baroness Hamwee asked Baroness Vere about the Government amendment to the **commencement provisions** of the Bill. I reiterate that the Bill – and other pieces of legislation – already make it possible for different provisions to be commenced at different times in each of the constituent areas of the UK i.e. England, Scotland, Wales and Northern Ireland. Legislation does not allow for commencement to be staged differently for further sub-divisions of these four areas.

I trust that this letter provides helpful context to our exchanges on Monday, and would like to once again express my thanks to you and all Peers that took part in the debate. I look forward to continuing that debate at Report Stage.

I am copying this letter to all Peers that spoke on Day 2 of Committee Stage and will place a copy of it in the Library.

A handwritten signature in black ink, appearing to read 'Susan', is centered on the page. The signature is fluid and cursive, with a large initial 'S'.

**Baroness Williams of Trafford**