Update: Creation of the National Economic Crime Centre

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On 11 December 2017 the Government announced the creation of the National Economic Crime Centre (NECC). The NECC will be based within the National Crime Agency (NCA) and will act as a multi-agency organisation, tasked with coordinating the UK's operational response to economic crime. The detailed plans for the NECC are currently being formulated by a team comprised of representatives across the UK's law enforcement agencies, including the City of London Police, Serious Fraud Office (SFO), Financial Conduct Authority, the Home Office, Crown Prosecution Service and HM Revenue & Customs.

The creation of the NECC reflects a wider Government effort to centralise its response to economic crime. The current Prime Minister Theresa May has consistently proposed folding the SFO into the NCA, most recently during the 2017 general election campaign. These plans were quietly dropped after the Conservative Party failed to win a majority in Parliament. Under this new proposal the NECC will have the power to direct the SFO to carry out investigations. So although the SFO will remain a separate agency, the creation of the NECC represents an erosion of the SFO's independence and a step towards a more centralised approach.

In a further move towards centralisation the Government announced the creation of a new Economic Crime Strategic Board tasked with ensuring that appropriate resources are allocated across the relevant agencies to meet the Government's objectives. The Board will be chaired by the Home Secretary and will convene the relevant ministers from across the Government. A Minister for Economic Crime within the Home Office will also be established.

These measures form part of the Home Office's published anti-corruption strategy for 2017-2022 ("Strategy Paper"). The Strategy Paper sets out the government's anti-corruption priorities, both domestic and international, and claims to establish a long-term framework for tackling corruption. Under the Strategy Paper the government has set out its six strategic priorities. These are:

1. reducing the insider threat in high risk domestic sectors such as borders and ports;
2. reducing corruption in public procurement and grants;
3. promoting integrity across the public and private sectors;
4. strengthening the integrity of the UK as an international financial centre;
5. improving the business environment globally; and

6. working with other countries to combat corruption.

The Strategy Paper sets out substantive policy proposals to advance these priorities. Much of the content is not new, but simply refers to existing proposals and legislative tools not yet in force, and provides a timeframe for their creation and commencement. Two aspects of the report are of particular interest:

1) Transparency of overseas legal entities

Since June 2016, companies have been required to maintain a register of “persons with significant control” (PSCs). A PSC is defined as an individual who ultimately owns or controls more than 25% of a company’s shares or voting rights or who otherwise exercises control over a company or its management. UK companies are required to file this information at Companies House.

The Strategy Paper proposes the extension of this regime to cover overseas legal entities where either an entity owns or purchases a UK property, or seeks to participate in central government contracts. This is clearly a direct response to reports that the London property sector is a haven for foreign proceeds of crime. Last year Transparency International published a paper on the scale of money laundering in the London property market. That paper found that 91% of overseas companies that owned London property did so through ‘secrecy jurisdictions’ and that over 75% of land titles identified as linked to politically exposed persons are owned by companies based in Panama or the British Virgin Islands.

The Strategy Paper sets out a policy of exporting transparency, by encouraging other countries to establish the creation of similar beneficial ownership registers. Relatedly, the governments of the Crown Dependencies (Jersey, Guernsey and the Isle of Man), have already agreed to create their own respective central registers beneficial ownership information for companies. Under their respective agreements with the UK, the Crown Dependencies will also give UK law enforcement and tax authorities near real-time access to beneficial ownership information on legal entities incorporated in their jurisdictions. The Strategy Paper reiterated the UK Government’s commitment to implement the terms of those agreements.

2) Strengthen and enhance the UK’s AML regime

The Strategy Paper specifies several proposals aimed to strengthen and enhance the UK’s AML regime. The Strategy Paper announces that the Office for Professional Body AML Supervision (OPBAS) will be fully operational by the beginning of 2018. OPBAS will oversee professional bodies that supervise sectors at risk of being used to facilitate money laundering and terrorist financing. OPBAS will be hosted by the FCA. It has been set up to strengthen the supervision of the UK’s AML regime.

The Strategy Paper proposes the expansion of the Joint Money Laundering Intelligence Taskforce (JMLIT). JMLIT was established in May 2016, and was developed with partners in government, the British Bankers Association, law enforcement and more than forty major UK and international banks. Essentially it acts as an interface between the public and private sectors, to exchange information around the methods used by money launderers and the current risks posed. Under the

Strategy Paper the membership of JMLIT will expand out to include more banks and other financial services firms.

To similar effect, the Strategy Paper proposes the delivery of money laundering prevention campaigns to professionals in the regulated sector, intended to raise awareness of present and future money laundering risks and the means by which they can be mitigated. Whilst this exchange of information may prove helpful to the regulated sector, it will act to increase the level of institutional awareness expected by regulatory agencies. As ever, firms will need to be particularly vigilant of public regulatory announcements lest their AML controls fail to adapt and react to the risks which those announcements identify.

The Strategy Paper further promises to reform the suspicious activity reports regime by “upgrading capabilities, (including IT) and making legislative, operational and technical changes”.

What next?

Whilst the Strategy Paper builds on many existing developments, it does arguably signal a refocus by the present Government to increase cooperation, centralisation and coordination across the UK’s economic crime framework. The implementation of that message is likely to take some time. Whether the establishment of the NECC will productively advance its underlying objective, or present greater bureaucracy at the frustration of other agencies remains to be seen.