Combating the laundering of proceeds of crime in the United Kingdom: an analysis of the Criminal Finances Act 2017

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INTRODUCTION

The Criminal Finances Act (CFA) 2017 is the most important piece of anti-money laundering (AML) legislation that the United Kingdom has ever had. The 2017 Act seeks to tackle money laundering and unexplained wealth; tax evasion; corruption; and the financing of terrorism. Also, CFA 2017 strengthens the law relating to the recovery of the proceeds of crime. One of the most significant innovation the CFA 2017 brought into the UK's AML landscape is the codification of unexplained wealth orders (UWOs) into the Proceeds of Crime Act (POCA) 2002. POCA 2002 is the main AML legislation in the UK.

The main issues this article analyses are the amendments the CFA 2017 made to the POCA 2002. However, this article does not attempt to discuss all the amendments CFA 2017 had made to POCA 2002, and thus limits its analysis in the following areas: suspicious activity reports, sharing of information among bodies in the regulated sector, and the newly introduced law on UWOs.

This article is divided into four parts. Part I analyses the amendment CFA 2017 made to POCA 2002 provisions on suspicious activity reporting (SAR). CFA 2017 reforms the way SAR is being handled; law enforcement can now apply to the court for the extension of the 31 days moratorium period for up to six times consecutively. Part II discusses the new provision that allows regulated entities to share a suspicion of money laundering with one another. This provision is significant in many respects. For example, sharing of information on suspicion of money laundering among the regulated persons will help in exposing and preventing money laundering, and will also help in tracing the money. Part III analyses the newly introduced UWOs, seen as a noble approach to combating the laundering of the proceeds of crime into or in the UK. Finally, Part IV draws an analogy from the offences of corporate failure to prevent corruption and corporate failure to prevent the facilitation of tax evasion, and suggests that an "offence of corporate failure to prevent money laundering" should be enacted.

PART I: THE SUSPICIOUS ACTIVITY REPORT

CFA 2017 changed the way SAR is handled. CFA 2017, section 10 amended Part 7 of POCA 2002 to allow for the 31-day moratorium period to be extended successively up to six times (186 days in total) beginning from the day after the end of the initial 31 days. During the moratorium period, the reporting person is prohibited from dealing with the asset. Thus, the asset is effectively frozen albeit temporarily. The essence is to allow investigators more time to collect evidence for further action such as applying to the court for a restraining order. Before this amendment, the moratorium period could not be extended beyond 31 days. This period, as provided by the old law, does not give enough time for law enforcement to conduct a proper investigation, especially where evidence is located abroad.

However, for the moratorium period to be extended an application must be made to the relevant court before the end of an existing moratorium period. The relevant court in England and Wales is the Crown Court, while in Scotland is the Sheriff (Criminal Finances Act 2017 Circular 008/2018). The court may only grant an extension where it is satisfied that: an investigation is being conducted diligently and expeditiously, further time is required, and the extension is reasonable (CFA 2017, s10 inserts s 336A into POCA 2002).

It is interesting to note that, following complaints from the banks, the government promised to reform the consent regime to allow the reporting person to carry on with a suspicious transaction after filing an SAR if discontinuing the transaction would alert the client to an impending investigation (Home Office and HM Treasury, UK Action Plan on Anti-Money Laundering and Counter-Terrorist Financing 2016 (Action

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Plan 2016) Annex B). However, to the contrary, the law extends the moratorium period by six months during which the reporting person is prohibited from dealing with the asset.

During the debate, the minister for security, Ben Wallace, explained that 31 days was not enough to conduct money laundering investigation properly to the end, especially where evidence was located abroad or where the case involved grand foreign corruption or other serious crime (HC Debates, 17 November 2016, vol 617, cols 98-99). The minister also explained that extending the moratorium period would protect the proceeds of crime from being dissipated when there was a suspicion that ML activity had taken place, and when the law enforcement agency had not had the opportunity to complete its inquiries.

The Home Office has issued a circular (Criminal Finances Act 2017, circular 008/2018) to serve as a guide to the law enforcement agencies and reporting agencies on how to handle the application, information-sharing relating to the application for extension of moratorium period, and the role of courts in determining the application. Where law enforcement agencies or investigating agencies consider an extension of the moratorium period, the agency must liaise with the United Kingdom Financial Intelligence Unit (UKFIU). UKFIU is the national repository for all authorised disclosures and is also responsible for decisions concerning the granting or refusal of defence against money laundering (DAML). As soon as an applicant (any of the designated law enforcement agencies) decides to seek an extension of the moratorium period, the applicant must immediately engage with the UKFIU which is domiciled at the National Crime Agency (NCA). The rationale is to help the UKFIU in its decision-making process regarding the matter, and allow the UKFIU to raise with the law enforcement agency any concerns it may have about the application for extension.

While extending the moratorium period will allow ample time to law enforcement to conduct a proper investigation, regard must be had to the tipping off offence (Proceeds of Crime Act 2002, ss 333A – 333E). A tipping off offence occurs where a person (typically a bank employee) knows or suspects that a disclosure falling within section 337 or 338 of POCA 2002 has been made, and he/she informs the affected client of the disclosure, which action is likely to prejudice any investigation which might be conducted following the disclosure. Even under the old consent regime, where a bank could not conclude a client's transaction due to a disclosure which had been made, the affected client was likely to contact their bank to find out why the transaction was delayed (*Shah v HSBC* [2010] EWCA Civ 31). The law requires the bank to decline to inform the client that the transaction has been reported, otherwise a tipping up offence is committed.

However, the person who made the disclosure may find it difficult to keep the client uninformed throughout the moratorium period in order to avoid tipping off (*Bank of Scotland v A Ltd* [2001] 1 WLR 751; C v S [1999] 1 WLR 1551; and *Shah v HSBC* [2010] EWCA Civ 31) especially now that the period can be extended by up to 186 days. On the other hand, keeping clients uninformed would also indirectly tip them off, as it is likely that they would suspect that they were under investigation because of the common knowledge that ordinarily a bank would explain to them the events leading to the delay if the events were such that either the bank or the client could resolve the issue. To address this, the tipping off offence under section 333A of POCA is disapplied when an application to extend is made (Criminal Finances Act 2017, circular 008/2018). CFA 2017 inserted a new provision after section 333D(1) of the Proceeds of Crime Act 2002, and the new section 333D(1A) states:

> *Where an application is made to extend a moratorium period under section 336A, a person does not commit an offence under section 333A if:*
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> *(a) the disclosure is made to a customer or client of the person, (b) the customer or client appears to the person making the disclosure to have an interest in the relevant property, and (c) the disclosure contains only such information as is necessary for the purposes of notifying the customer or client that the application under section 336A has been made.*

PART II: VOLUNTARY SHARING OF INFORMATION

Another important feature in the Criminal Finance Act (CFA) 2017 is the new provision that allows voluntary sharing of information between bodies in the regulated sector and between those bodies and the police or the NCS in connection with suspicions of money laundering (CFA 2017, s 11 inserts ss 339ZB-339ZG into POCA 2002). Also, TACT 2000 is amended in a similar way for countering terrorism and terrorist financing (CFA 2017, s 36 inserts s 21CA-21CF into TACT 2002). It should be noted that under this provision sharing of information is entirely voluntary (circular 007/2018, Criminal Finances Act 2017 – Sharing of Information within the Regulated Sector). Also, this provision is different from the legal obligation to file SARs. While sharing information under this provision is entirely voluntary, filing SARs is mandatory. It should also be noted that sharing of information can be instigated by the NCA (CFA section 339ZB(3)).

Part 2 of CFA 2017 brings the fight against terrorist financing in line with the fight against money laundering, reflecting existing provisions relating to a financial crime (HC Debates, November 2016, vol 617 cols 122-23). It does so by making the tools available for terrorist finance investigations and the powers available to seize terrorist cash and property as comprehensive as those available for dealing with other financial crime or, in some cases, even more robust (HL Deb October 2016 volume 616, columns 198-99).

The CFA 2017 also expands the investigative power of the law enforcement such as the Serious Fraud Office in relation to money laundering. The Act extends the disclosure order in confiscation proceedings involving cases, such as money laundering and fraud (Criminal Finances Act 2017, s 7).

Disclosure orders empower law enforcement to require anyone that they believe has relevant information to an investigation, to answer questions, provide information or to produce documents (Edmund Smyth and Jonathan Blunden, "Criminal Finances Act 2017" (Kingsley Napley) 2 May 2017).

Money laundering is usually detected at the placement stage. Where transactions in criminal assets evade detection at the placement stage the reporting entities would neither have any suspicious activity to report nor would they engage in voluntary sharing of information. Consequently, a money laundering scheme would progress to the layering stage and finally through the integration stage. Thus, allowing for voluntary sharing of information between bodies in the regulated sector and between those bodies and the police or the National Crime Agency in connection with suspicions of money laundering is a right step in the right direction. This provision is significant in many respects. For example, sharing of information on suspicion of money laundering among the regulated persons will help in exposing and preventing money laundering, and will also help in tracing where the money goes to if the laundering scheme has been completed. However, whether this provision would be an effective tool against money laundering would depend on some factors.

One of such factors is the willingness of the regulated persons to share the suspicion of money laundering. Where employees of the regulated person are part of the money laundering scheme, a SAR will not be filed and therefore obviously the question of voluntary sharing of information may not even arise. There are many instances where top management of banks facilitated the laundering of proceeds of crime for highly placed individuals. For example, in the United States, the case of Lucy Edwards – a very senior official of the Bank of New York – reveals the extent employees can go to in undermining the effectiveness of AML laws to their own personal gain (*US v Peter Berlin and Others* 99 Cr. 914 (SWK)). In the UK, HSBC, RBS, Lloyds and Barclays are among the 17 banks suspected of laundering about US$ 740 million belonging to a Russian oligarch (*The Guardian*, 20 March 2017). The banks were accused of failing to turn away suspicious money transfers.

There may also be the fear of betrayal among the bodies in the regulated sector. Thus, bank A may not share information with bank B if bank A fears that due to competition bank B is likely to secretly reveal to the client that it has received such information from his/her bankers – bank A. In extreme cases, a bank will decline to share such information with any bank if it fears that its client would directly or indirectly get to know about it. For example, where bank A passes information to B, it is likely that bank B would pass such information to bank C, and C pass it to D, E and F. Even if the client of bank A did not get that information directly from bank B, getting that information from C or D or E cannot be ruled out. Thus, to avoid reputational damage, a regulated person may decline to pass information about its client's suspicious transactions.

When a criminal asset is finally integrated into the economy, a piece of unexplained wealth resurfaces. Although the provenance of the resurfaced wealth may be suspicious, law enforcement agencies would not be able to confiscate the laundered criminal assets due to lack of evidence. Money laundering is the lifeblood of crime and criminals, and the availability of money to criminals makes money laundering flourish because with money criminals can easily hire the best services of professional launderers and bribe their way through the financial sector and gatekeepers. To augment the money laundering provisions as well as the civil recovery process, CFA 2017 introduced into POCA 2002 unexplained wealth orders regime, which targets resurfaced laundered criminal assets.

PART III: UNEXPLAINED WEALTH ORDERS

Among its range of powers, Part 1 of the CFA 2017 introduced for the first time in the UK the power to compel a suspect to explain the source of his/her wealth. The UWO is an investigatory power given to law enforcement to compel persons suspected of criminal activity to explain the provenance of the wealth they have acquired overnight and which is disproportionate to their known income. Failure to respond to the order triggers the presumption that the property represents the proceeds of crime.

Under POCA 2002, law enforcement officers are unable to confiscate the proceeds of crime due to the difficulty in obtaining evidence, especially where the evidence is located abroad. CFA 2017 (s 1) inserts into POCA 2002, section 362A-362I to aid the recovery process under POCA 2002. During the House of Commons debate on the Criminal Finances bill, the minister for security, Mr Wallace, stated that:

> *Unexplained wealth orders will flush out evidence to enable enforcement agencies to take forward recovery action under POCA. Such an order will require a person to provide information that shows that they obtained identified property legitimately. If they do so, agencies can then decide whether to investigate further, take civil recovery action or take no further action. If the person does not comply with the order, the property identified in the order is presumed to be recoverable under any subsequent civil recovery proceedings* (HC Debates, 17 November 2016, vol 617, col 87).

Section 1 is aimed at tackling foreign Kleptocrats, and corruption and other crimes inside the UK (CFA 2017, s 1). Although this article does not discuss corruption in greater detail due to lack of space, it is worth mentioning that corruption is a real issue in the UK for several reasons. First, it is the failure to have an anti-corruption law (to tackle corrupt practices) that led the Financial Action Task Force (FATF) and the Organisation for Economic Corporation and Development (OECD) to be critical of the UK's commitment to prevent corruption (F Joseph Warin and others, "The British are coming: Britain changes its law on foreign bribery and joins the international fight against corruption" [2010] 46(1) *Texas International Law Journal* 1, 4-5).

Second, corruption is a stumbling block in enforcing AML law because evidence tends to suggest that organised crime groups corrupt and penetrate institutions (European Commission Report, "Examining the links between organised crime and corruption" (2010); NCA, "Strategic assessment of serious and organised crime", (2014) pp 7, 10, 13, 20; Fletcher N Baldwin and Theresa A DiPerna, "The rule of law: an essential component of the financial war against organized crime and terrorism in the Americas" [2007] 14(4) *Journal of Financial Crime* 405-37). While there is a nexus between corruption and terrorist financing, there is a symbiotic relationship between corruption and money laundering (David Chaikin and Jason C Sharman, *Corruption and Money Laundering: A Symbiotic Relationship* (Springer, 2009)).

Following the BAE-Al Yamamah defence contract scandal and the resultant international pressure, especially from outside the UK, the government presented a bill, which culminated in the enactment of the Bribery Act 2010. Section 7 created an offence of corporate failure to prevent corruption. Under section 7(1), a relevant commercial organisation is guilty of an offence if a person associated with it bribes another person intending to obtain or retain business for the commercial organisation or to obtain or retain an advantage in the conduct of business for the commercial organisation. Thus, to avoid criminal liability a company must establish and maintain adequate measures to prevent its officers and agents from breaching section 7(1). In 2016 the SFO secured a conviction against a UK company, Sweett Group Plc, for failure to prevent corruption offence (*Serious Fraud Office v Sweett Group Plc*, unreported, 19 February 2016 (Southwark Crown Court).

Section 7 of the Bribery Act 2010 is aimed at preventing corruption. However, what has happened to the proceeds obtained in breach of section 7, or stolen assets associated with foreign PEPs, or the proceeds of drug trafficking? Since corruption and other crimes cannot be eradicated completely, another mechanism is needed to attack the criminal proceeds whenever they resurfaced. In *Serious Fraud Office v Sweett Group Plc*, although Sweett was ordered to pay £2.35 million, this amount is not the actual bribe paid. The bribe money remained in the hands of the persons to whom it was paid. If the person to whom the bribe was paid, laundered the money into the UK, for example, by buying a property, and there is no sufficient evidence to link the person to the bribe money, the law enforcement may find it difficult to recover that money. A research conducted by Transparency International identified a total of £4.2 billion properties in London bought by individuals with suspected wealth ("Unexplained wealth orders: how to catch the corrupt and corrupted in the UK" (Transparency International, 28 April 2017). Thus, UWOs provide a mechanism to investigate the source of assets suspected of being proceeds of crime, especially because illicit proceeds are normally laundered before finally resurfacing as clean assets.

The first UWOs the National Crime Agency has secured in the UK were against two separate properties (one in London and the other in South East England worth over £22 million) belonging to a yet unnamed politically exposed person (PEP) (National Crime Agency, News, 28 February 2018). Once the court grants a UWO, an interim freezing order (IFO) needs to be obtained to protect the asset subject of the order, otherwise the asset could be sold, transferred or dissipated. Commenting on the first UWOs secured, Donald Toon, Director for Economic Crime at the NCA, said:

> *Unexplained wealth orders have the potential to significantly reduce the appeal of the UK as a destination for illicit income. They enable the UK to more effectively target the problem of money laundering through prime real estate in London and elsewhere. We are determined to use all of the powers available to us to combat the flow of illicit monies into, or through, the UK* (National Crime Agency, News, 28 February 2018).

In addition to UWOs, Chapter 3 of the CFA strengthens the POCA civil recovery regime, giving new powers to law enforcement to tackle money laundering, terrorist financing and organised crime through asset forfeiture. First, gaming vouchers, fixed-value casino tokens, and betting receipts are now included in the list of items that are regarded as cash (CFA 2017, s 14 inserts these provisions into POCA 2002, s 289). This is because they store value and can easily be transferred, which make them attractive to money launderers. Second, law enforcement authorities are now empowered to forfeit certain personal (or moveable) properties (CFA 2017, s 15 inserts s 303B – 303Z into POCA 2002), and money held in bank and building society accounts worth £1,000 and above – there is no upper limit (CFA 2017, s 16 inserts s 303Z1 – 303Z19 into POCA 2002).

Most importantly, the law ushered in administrative forfeiture into the UK anti-money laundering regime, albeit it being applicable only to money in the account of a bank or building society (HC Debates, 17 November 2016, vol 617, col 110). However, despite the decision of the court in *Merida Oil Traders Ltd, R (On the Application of) v Central Criminal Court* [2017] EWHC 747 (Admin), that possession of a substantial quantity of cash inherently gives rise to suspicion, making the processes of forfeiting such cash easier and less rigorous, potential difficulties remain especially regarding the forfeiture of money held in a bank account (Jasvinder Nakhwal and Nicholas Querée, "The Criminal Finances Act 2017: Account Freezing and Forfeiture Provisions", (2017) 181 *Criminal Law & Justice Weekly* 303, 304).

Although unexplained wealth orders would enhance AML law by aiding civil recovery process, the regime appears to be less successful than its promoters thought it will be. To date, there were only two UWOs and one arrest made as a fall out of an unsatisfactory response to unexplained wealth order (Irene Madongo, "Money Laundering: UK Arrests Former PEP with £8 million property portfolio", KYC 360, 21 September 2018)). As the targets of the UWOs are mainly foreign PEPs, the question is whether the UK PEPs are immune from corruption or at least less corrupt than foreign PEPs (Emma Smith, "Culture of impunity' among MPs over hospitality from corrupt regimes: Transparency International UK finds that thousands was spent for MPs to visit Azerbaijan", *The Guardian*, 30 July 2018).

In applying for a UWO, having a background knowledge of a PEP and the prevailing situation in the PEP's country is important. It would not be enough for law enforcement to apply for a UWO against PEPs just because they are or were foreign PEPs and they individually own a property worth £50,000 or more, otherwise applying for a UWO would amount to waste of time and tax payer's money. CFA 2017, section 1 inserts section 362B into the Proceeds of Crime Act 2002, which specifies the requirements for making an application for a UWO.

One of the requirements is that there must be a reasonable ground for suspecting that the known sources of the respondent's lawfully obtained income would have been insufficient for the purposes of enabling the respondent to obtain the property. Whether a suspicion may arise as to the provenance of the funds with which a foreign PEP acquired a property will depend on many factors, which include but are not limited to the following: whether the investigator knows how much a PEP earns in his country; the access a PEP has to a loan facility; whether the investigator knows what type of businesses PEPs are by the law of their own countries allowed to engage in; and the time at which the property was acquired.

Knowledge of how much a PEP earns in his country is critical to any investigation preceding a UWO application. For example, Nigerian senators receive about 13 million naira (equivalent to £27,500) per month as monthly expenses in addition to a salary of about £2,000, (*Premium Times* (Abuja) 7 March 2018). Thus, it is within a Nigerian senator's lawful means to own a property worth £50,000. The £27,500 monthly expenses alone translate to £1.32 million in a tenure of four years, and these earnings do not include the severance package they receive when leaving office after four years. As the cost of living in Nigeria is cheap, politicians can make savings from their lawful earnings even if they completely shun corruption. Despite this, however, suspicion may arise where a PEP acquires a property in the UK worth £500,000 or more because it is expected that a PEP has other responsibilities which obviously require money to discharge. Furthermore, because of the ingrained fraud and corruption factors in Nigeria, properties bought by a Nigerian PEP in the UK and other countries are likely raise suspicion. Therefore, lack of a good knowledge of countries of foreign PEPs will be an obstacle to a successful UWO.

There are many other obstacles to a successful UWO. A major one is that explanation can be made to justify the sources of the resurfaced wealth. Where a lawyer in the country where the suspected assets emanate provides evidence that the subject of the order got the money with which he acquired the properties for example from an oil block, copper mine or rubber plantation belonging to his family, the UWO is likely to be defeated. It is worthy to note that in countries that are notorious for corruption such as Nigeria, public servants including politicians are allowed to engage in agricultural business while serving in office. Thus, in response to UWO, it is easy for Nigerian PEPs to provide a clear evidence that they obtained the property through their legal means even if the property is bought with stolen money.

Evidence of inheritance can also serve as a defence to a UWO. For example, in Nigeria the Wills Act 1837 and the wills laws of the various States of Federation allow a testator to dispose of his property freely. Thus, if a PEP can show that someone bequeathed properties to him in a will, a UWO can easily be defeated. Other obstacles to a successful unexplained wealth orders include human rights issues that may arise from making the order.

On the part of the respondents, UWOs could be detrimental to business. A UWO against a respondent may lead to bad publicity and loss of opportunity and profit even where the money is at the end found to be clean. This problem can be better be explained by reference to *Shah v HSBC* [2010] EWCA Civ 31. In *Shah*, following a SAR his bankers, HSBC UK Ltd filed to a law enforcement agency (probably the Serious Organised Crime Agency) rumours spread in Zimbabwe that the first claimant was suspected of money laundering, which allegedly caused the Zimbabwean authorities to freeze and then seize his assets, causing him loses of over US$300m. However, the court failed to order compensation to be paid to *Shah* on the basis that the banks did not breach any duty. While *Shah* sued HSBC for breach of contract or duty of care, as regards to UWOs the respondent may not sue the regulated person that made the report but the law enforcement that applied for the UWO. Whether the courts will order the relevant law enforcement agency to pay compensation to the respondent remains to be seen.

PART IV: CONCLUSION – THE NEED FOR A CORPORATE OFFENCE OF FAILURE TO PREVENT MONEY LAUNDERING

While corporate entities are the building blocks of economic development, criminals use some of them as vehicles for money laundering. In view of this, creating a new offence of failure to prevent money laundering is necessary to protect corporate entities from abuse and the economy from pollution. Similar offences of failure to prevent exist in the UK statute books – corporate failure to prevent corruption and corporate failure to prevent the facilitation of tax evasion.

CFA 2017, Part 3 created the offence of corporate failure to prevent the criminal facilitation of tax evasion. During the debate on the Criminal Finances Bill in the House of Lords, the Minister for Security explained:

> *It [the Bill] also goes some way to dealing with people who evade tax overseas. Just because they are not evading our tax but are robbing another country, it does not mean that we would not still like to take action against those individuals* (HL Debates, October 2016, vol 616, col 194).

A corporate body will be vicariously liable for failure to prevent the criminal facilitation of the UK and foreign tax evasion where that body has not put in place necessary measures to prevent its employees or agents from facilitating tax evasion (CFA 2017, ss 45 and 46). Criminal facilitation is defined by the Accessories and Abettors Act 1861, section 8. This section has been examined in *Jogee and Ruddock v The Queen (Jamaica)* [2016] UKSC 8.

However, these offences are not offences of corporate failure to prevent itself from evading tax and do not create a legal obligation for corporations to prevent their client's tax evasion (HC Debates, November 2016, vol 617, cols 136). Having reasonable prevention procedures in place serves as a defence to a charge of failure to facilitate (CFA, ss 45(2) and 46(3)).

This offence mirrors section 7 of the Bribery Act 2010, which criminalised the failure of corporate bodies to prevent corruption. Like section 7, it appears that Parliament intended section 45 to have extraterritorial effect, to allow law enforcement to go after those who encourage people to evade UK tax wherever they are domiciled in the world (HC Debates, November 2016, vol 617, col 139).

However, the new tax offences have gone one step further. Unlike a section 7 offence, sections 45 and 46 offences are not premised on the associated person himself evading tax. (Anita Clifford, "Failure to prevent: corporate liability at the cost of individual due process?" (Bright Line Law) 6 June 2017). Nevertheless, this could lead to due process deficit because in its present form, the tax model appears to permit a court finding that an individual has committed a tax evasion facilitation offence, even if he has never had the opportunity to defend himself against the accusation of criminal conduct (see Anita Clifford, above). While this could help in fighting tax evasion, it remains to be seen whether HM Revenue and Customs will optimally utilise the new powers, as powers previously given were under-utilised (HL Debates, October 2016, vol 616, cols 209-10).

The Act, however, fell short of creating the offence of corporate failure to prevent money laundering. The designers of the CFA 2017 are very ambitious, as the Act expands the powers of the law enforcement in relation to combating financial crimes and terrorist financing. Whether the Act will in practice operate optimally to achieve the purpose it was designed for remains to be seen (see Nicola Padfield, "The Criminal Finances Act" [2017] *Criminal Law Review* 505).

As CFA 2017 failed to create the offence of "corporate failure to prevent money laundering", it is submitted that relevant UK authorities should monitor the performance of the two models of failure to prevent offences – failure to prevent corruption and failure to prevent the facilitation of tax evasion – with a view to considering enacting the offence of "corporate failure to prevent money laundering". Creating the offence of failure to prevent money laundering coupled with the requirement of corporate transparency (see Sirajo Yakubu, "Flaky AML? Saving the 'World Class' UK Public Register from Shambles, KYC 360, 21 May 2018) would strengthen the fight against money laundering in the UK.

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