STEP Response - Economic Crime Inquiry

About us

STEP is the worldwide professional association for those advising families across generations. We help people understand the issues families face in this area and promote best practice, professional integrity and education to our members.

Today we have over 20,000 members across 95 countries, with over 7,000 members in the UK. Our membership is drawn from a range of professions, including lawyers, accountants and other specialists. Our members help families plan for their futures: from drafting a will or advising family businesses, to helping international families and protecting vulnerable family members.

We take a leading role in explaining our members’ views and expertise to governments, tax authorities, regulators and the public. We work with governments and regulatory authorities to examine the likely impact of any proposed changes, providing technical advice and support and responding to consultations.

STEP welcomes the opportunity to take part in the consultation. The response will consider the first strand of the Committee’s inquiry: The anti-money laundering, counter-terrorist financing and sanctions regimes with a focus on anti-money laundering provisions.

Response

1. The scale of money laundering, terrorist financing and sanctions violations in the UK, and the means by which this activity is enabled

1.1. A number of factors, for example the high prevalence of cash involved, make the scale of money laundering very difficult to determine accurately.

1.2. Although it has been the focus of some attention the use of UK trusts to launder money is uncommon. The joint HM Treasury and Home Office National Risk Assessment of Money Laundering and Terrorist Financing 2017 (NRA) noted that law enforcement bodies rarely encounter UK trusts in cases of money laundering and assessed the risk of this type of crime occurring as low. The NRA does however draw attention to the fact that some trusts are potentially vulnerable to abuse; highlighting that several cases involving the abuse of overseas trusts have been identified.

1.3. Trusts play an important role in the global economy, whilst many trustees are trained, licensed and regulated professionals who act entirely within the law. There is of course no requirement for a settlor (the individual wishing to set up a trust) to use a professional trustee. The use of lay trustees who may fall outside the regulated profession is something

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2 Ibid, Page 59.
that may lead to suspicions that a trust is being abused. But it is by no means accurate to claim that the scale of money laundering done through trusts is large; UK trusts in particular are only a small part of the wider picture with other means of money laundering being far more popular.

2. The current legislative and regulatory landscape, including any weaknesses in the rules and their enforcement

2.1. The most important recent development in this area is the 5th Anti-Money Laundering Directive (5AMLD). The Directive has been agreed by all relevant EU institutions and is expected to formally enter into force in May 2018.

2.2. Under the legislation Member States are obliged to establish registers showing the beneficial owners of trusts. Aside from where a trust has ownership of a non-EU incorporated company, where the information will be granted following a written request, access to the register will be governed by the term legitimate interest. Only those individuals and organisations deemed to have a legitimate interest will be granted access.

2.3. Member States will define the term legitimate interest in their own jurisdictions. The UK’s final definition will become an important part of its regulatory landscape in this area and close attention should be given to how it is formulated.

2.4. If the definition is drafted too widely there is a very real risk that a large number of individuals who have set up a trust with legitimate intentions may have their details made publically accessible; something which would damage their right to privacy. This consideration is particularly important given that a popular reason for setting up a trust is to help safeguard vulnerable people, often family members. Were their details to become widely accessible they would be at risk of being shared with malicious actors or of being passed on for illegal purposes.

2.5. It is vital that the consultation process which precedes the definition is a wide as possible and gives the opportunity for a varied range of views to be collated. This is something that is equally important for the implementation of the Directive as a whole; which will also require a wide ranging consultation process.

3. The effectiveness of the Treasury and its associated bodies in supporting and supervising the regimes

3.1. A crucial indication of how effective the UK’s anti-money laundering regime is will be the result of the Financial Action Task Force’s (the FATF’s) mutual evaluation of the UK, a process which is currently ongoing. The outcome of the review will be particularly important as it will be the first of its kind since the FATF strengthened its recommendations in 2012.
3.2. STEP has assisted HM Treasury in its preparation for the mutual evaluation, providing both expert witnesses for meetings which have fed into the process and advice.

4. The role of financial institutions and/or professional bodies in these regimes

4.1. STEP, a global professional body, has an important role to play in the UK’s anti-money laundering regime. The organisation keeps members up to date with any changes to legislation as well as producing guidance and best practice examples on how to effectively comply with them. Although STEP has no regulatory powers it is widely acknowledged as setting high professional standards.

4.2. Using the work of STEP as an example, the organisation’s website informs members about its stance on money laundering as well as providing relevant news updates when developments occur. It also utilises its blog to give members more detailed information about how changes may affect them and their work.

4.3. As part of its education function STEP offers a certificate in Anti-Money Laundering which consists of a 5 to 6 month course covering elements such as:
   - The international anti-money laundering standards set by the IMF, UN and World Bank.
   - The vulnerabilities of some financial services and products to money laundering.
   - How to identify potentially suspicious transactions.
   - How and when to report suspicious transactions.³

4.4. STEP has produced guidance on new developments such as how trusts will be affected by the UK’s Money Laundering Regulations 2017.⁴

4.5. An important aspect of STEP’s work is its Standards and Disciplinary function. Although not a regulator any action taken by STEP against a member will impact on their reputation within the field. STEP also undertakes robust background checks when assessing suitability for membership. This work helps ensure STEP members hold themselves to the highest standards of professionalism and encourage good practice across the industry.

4.6. STEP engages constructively with both UK based organisations such as HM Treasury and HMRC as well as international bodies such as the EU and the FATF. This involves submitting responses to consultations as well as facilitating face-to-face meetings between officials and members to give more in depth feedback on proposals or draft legislation. Through these avenues STEP helps ensure new legislation and systems are achieving their stated goals and are as workable as possible.

³ STEP, STEP Certificate in Anti-Money Laundering: https://www.step.org/cert-aml