



Criminal Finances Bill

Company Ownership Transparency in the Overseas Territories and Crown Dependencies (OTs and CDs)

- The UK has been working in cooperation with the Overseas Territories with recognised financial centres (OTs) and Crown Dependencies (CDs) since the G20 summit in 2013. The OTs and CDs are committed to supporting international efforts on tax transparency and to meeting international standards.
- All the CDs and the majority of OTs have received a rating of ‘largely compliant’ or higher under the OECD Global Forum for Tax Transparency. They were early adopters of the common reporting standard (CRS) for the automatic exchange of taxpayer financial account information.
- In the run-up to the London Anti-Corruption Summit in 2016, the OTs and CDs signed agreements with the UK to establish central registers, or similarly effective systems, of beneficial ownership information and to provide UK law enforcement authorities with near real-time access to this information
- All the CDs and OTs with a financial centre have also signed up to the new OECD initiative for development of a standard for systematic exchange of beneficial ownership information.
- These commitments, which should come fully into effect by June 2017, put the OTs and CDs ahead of many other financial centres in terms of transparency and integrity. This is an ongoing programme of work.

Background

- The vast majority of companies incorporated around the world are legitimate. However, the lack of transparency about who ultimately controls companies (the ‘beneficial owners’) means there are a small number of entities that facilitate criminal activity, enabling the corrupt to hide their ill-gotten gains.
- Increasing beneficial ownership transparency is a simple yet transformative solution to this problem, helping law enforcement authorities to unravel the complex cross-border chains used by criminals to hide wealth.
- The agreements reached with the OTs and CDs on beneficial ownership mean that information on all entities incorporated in their jurisdictions will be centrally held and directly accessible by law enforcement. The effectiveness of the arrangements will be reviewed 6 months after implementation and annually thereafter.
- The spirit of enhanced cooperation set out in the agreements took effect from their signature and we are already seeing benefits of cooperation enabling UK law enforcement to better tackle financial crime.

Key facts

- It is estimated that the annual amount of money laundered globally amounts to \$1.6 trillion.
- Global cost of corruption is estimated to be more than 2% of global GDP (US\$ 1.5-2 trillion). Over US\$ 1 trillion is paid in bribes each year.
- The UK returned £28m to the government of Macao, having identified these funds as the proceeds of corruption.
- The London Anti-Corruption Summit led to over 600 specific commitments made by more than 40 countries and six major international organisations, alongside a Global Declaration Against Corruption.

The UK response

- The UK plays a leading role in exposing corruption, tackling white collar crime, and stopping tax avoidance.
- We have a world-leading Bribery Act; are the first G20 country to establish a public register of beneficial ownership information; the first G7 country to undergo an IMF fiscal transparency evaluation; and in May 2016 hosted the London Anti-Corruption Summit to galvanise the global response.
- The UK will publish its first cross-government Anti-Corruption Strategy in spring 2017, continuing the drive to end abuse of company structures for illicit means.

“Along with the 2010 Bribery Act, this [Criminal Finances Bill] is the most important anti-corruption legislation to be passed in the UK in the past 30 years, and is critical in bringing the UK’s laws up to date so they can keep pace with modern criminals.”

Robert Barrington, Executive Director, Transparency International UK – from TI UK briefing on UWOs



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Have all the CDs and OTs agreed to registers of company beneficial ownership information?

- The CDs and relevant OTs have agreed to hold beneficial ownership information in central electronic registers or similarly effective systems.
- They agreed that access for UK law enforcement should be timely (within 24 hours or within one hour in urgent cases), automatic and that the information may be used in criminal or civil legal proceedings.
- These arrangements will deter criminals from hiding behind anonymous “shell” companies and mark a significant step forward.

When will these arrangements come into force in the CDs and OTs?

- The deadline for implementation is June 2017. Enhanced cooperation began to take effect from the date of signature and this commitment is already beginning to bear fruit.
- The UK will monitor the effectiveness of the arrangements. If they are not effectively implemented, we will consider the need for additional steps.

Is there systematic exchange of beneficial ownership information internationally?

- The “systematic exchange” initiative - launched by the UK, Germany, France, Italy and Spain – now has over 50 jurisdictions committed to its development – including the CDs and relevant OTs.
- This means countries would exchange, on a periodic basis, all the information on the beneficial ownership of companies, trusts and other entities and arrangements set up in their countries.
- This will be a ground-breaking change in unravelling the complex cross-border chains used to hide wealth by criminals.

What is the Common Reporting Standard?

- More than 100 jurisdictions – including the CDs and relevant OTs – have agreed to the OECD’s common reporting standard for the automatic exchange of taxpayer financial account information.
- The CDs and OTs are at the forefront of this initiative and are exchanging information with the UK earlier than with the rest of the world. As such, HMRC have already begun to receive data.

What progress has been made since the summit?

- We hold monthly meetings with the OTs and CDs collectively to facilitate progress on implementation.
- The OT Joint Ministerial Council (JMC) in November 2016 reiterated the UK’s and the OTs’ joint commitment to implement the bilateral arrangements signed in April 2016 by the deadline of June 2017.

How do the CDs and OTs compare with other countries?

- These steps put them ahead of most jurisdictions, including many G20 nations, and major corporate and financial centres, such as Delaware, US.
- These arrangements also bring them in line with the vast majority of our neighbours in Europe, based on the requirements of the EU’s 4th Money Laundering Directive (4MLD).

Why aren’t you demanding the CD and OT registers be made public?

- The UK is the only G20 country to have a public register. It has been operating for less than a year.
- It is the UK Government’s ambition that public registers of beneficial ownership should in time become the global standard. If they do, we would expect the OTs and CDs to follow suit.
- The CDs’ and OTs’ commitments on beneficial ownership are significant and should bring real law enforcement benefits. Implementing them involves significant work, including primary legislation (in OTs/CDs) and technological improvements. It is right to focus on implementing these measures before concluding that more is required.
- For now, we are focusing on persuading others to up their game, while ensuring that the OTs and CDs deliver on what they have promised.

Why doesn’t the UK legislate to make CD & OT registers of Beneficial Ownership publicly accessible?

- Financial services is a domestic responsibility of OT and CD governments. We respect the constitutional relationship with the OTs and CDs and believe that progress is best achieved by working with them.
- The UK’s practise has been only to exercise its powers to legislate for the OTs as a matter of last resort and on matters that relate to areas for which UK retains responsibility, such as human rights compliance (e.g. decriminalisation of homosexuality, abolition of the death penalty).