

## A New Direction in the United Kingdom's Fight Against Economic Crime?

### IN SHORT

**The Situation:** High-profile money laundering incidents have caught the attention of lawmakers and enforcement authorities in the United Kingdom.

**The Result:** A new director at the Serious Fraud Office ("SFO"), the formation of the National Economic Crime Centre ("NECC"), and the introduction of Unexplained Wealth Order ("UWOs") are indicative of the seriousness of the United Kingdom's efforts against money laundering.

**Looking Ahead:** Enforcement agencies are expected to collaborate more closely to fight money laundering activities, and certain parts of the economy, including the property sector, should expect closer scrutiny.

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Money laundering is front-page news. A UK Parliamentary Committee report titled "Moscow's Gold" warned that UK national security was endangered as a result of turning a blind eye to Russia's "dirty money". As perceptions of the threat level posed by economic crime change, so do the response and priorities of those tasked with tackling the issue.

This *Commentary* looks at the changing landscape in the United Kingdom's fight against economic crime and, in particular, the increasing focus on the fight against money laundering.

#### Changes at the SFO

David Green QC stepped down as the Director of the SFO in April 2018. During his six years in charge of the SFO, he was widely regarded as having moved in a positive direction from an enforcement perspective. Green's permanent replacement, Lisa Osofsky, was announced in June 2018.



The National Economic Crime Centre's function is to bring together the knowledge and skills of the United Kingdom's law enforcement agencies in order to coordinate attempts to fight economic crime.



Osofsky has previously worked at the FBI and Goldman Sachs. She joins the SFO from Exiger, who are the court-appointed monitor for HSBC. She inherits an organisation that has faced more than its fair share of uncertainty about its future in recent years. The Conservatives' 2017 Election Manifesto pledged to abolish the SFO and transfer its remit to the National Crime Agency ("NCA"). However, Osofsky has been very clear in asserting her support for an independent SFO.

#### Introduction of the National Economic Crime Centre

In December 2017, the UK Government announced plans to form the NECC. Its function is to bring together the knowledge and skills of the United Kingdom's law enforcement agencies in order to coordinate attempts to fight economic crime, with a particular focus on prosecuting money laundering and corruption offences.

The NECC will sit within the NCA and will work to combat economic crime in conjunction with a number of agencies, including the SFO, the Crown Prosecution Service, the City of London Police, the Financial Conduct Authority and Her Majesty's Revenue and Customs. This is a significant step toward centralisation and, according to the UK Government, brings together expertise from different agencies.

Under the current proposals, the NECC will have the power to "direct" the SFO to conduct investigations, meaning that while the SFO remains a stand-alone agency, it may now have to commence investigations at the behest of another organisation, raising questions over its ongoing independence.

#### Unexplained Wealth Orders

The UK Government's commitment to clamp down on money laundering offences is further underlined by the introduction of the UWO, which confers upon law enforcement authorities powers to require individuals or companies to explain the source of funds used to acquire defined property.

UWOs focus on assets held in the United Kingdom. As such, businesses, particularly those operating in the property sector and the financial and professional advisers who support them, will need to exercise

even greater care when entering into transactions.

### What This Could Mean for Enforcement Activity in the United Kingdom

Under David Green QC, the SFO focused on prosecuting the most "serious and complex" fraud cases, while the NCA took the lead responsibility for tackling money laundering. There are signs that may now change.

In a world where the SFO takes direction from the NECC, the SFO may have to play a greater role in the investigation and prosecution of money laundering offences. Indeed, before Green stepped down, he had already suggested that the SFO was "combing" through its case load to detect examples of unexplained wealth.

In 2017, the incoming SFO Director, commenting on the Conservative Party's manifesto plans for tackling economic crime, said that the Conservative Party had opted to pursue a framework designed to show the world that post-Brexit Britain was focused on tackling risks to national security, such as money laundering and terrorist financing. She noted that the classic SFO prosecution was about individual or high-profile scalps. In contrast, the scale of money laundering, while largely unknown, is much bigger and therefore presents a better opportunity for the Government to get the "biggest bang for its buck".

### Looking Ahead

It seems certain that the fight against money laundering will assume greater importance in the future and that the agencies tasked with the job of tackling economic crime will work more closely together. In practical terms, this is likely to result in greater intelligence-sharing both domestically and internationally.

A greater emphasis on combatting money laundering is likely to bring sectors that have, to date, largely avoided the close scrutiny of law enforcement into the cross hairs. In particular, the property sector must expect closer attention going forward.

*Jones Day successfully acted in connection with the first Deferred Prosecution Agreement entered into with the SFO and will continue to monitor developments in this area.*

### FOUR KEY TAKEAWAYS

1. In the fight against economic crime, the UK Government will place greater emphasis on tackling money laundering.
2. The incoming SFO Director has publically endorsed the Government's focus on an anti-money laundering agenda.
3. Sectors, particularly the property sector, must expect closer scrutiny going forward.
4. The SFO can now be "directed" to investigate crimes by the NECC and as a result might lose a degree of its independence.

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