

GOVERNMENT RESPONSE TO THE HOUSE OF COMMONS FOREIGN AFFAIRS COMMITTEE REPORT: RUSSIAN CORRUPTION AND THE UK

The Government notes the Foreign Affairs Committee's report on: Moscow's Gold: Russian Corruption in the UK, published on 21 May 2018.

This Report sets out the Government's response to each of the Committee's conclusions and recommendations. The Committee's text is in bold and the Government's response is in plain text. Paragraph numbers refer to the Committee's report.

London and the Oligarchs

1. The use of London as a base for the corrupt assets of Kremlin-connected individuals is now clearly linked to a wider Russian strategy and has implications for our national security. Combating it should be a major UK foreign policy priority. The assets stored and laundered in London both directly and indirectly support President Putin's campaign to subvert the international rules-based system, undermine our allies, and erode the mutually-reinforcing international networks that support UK foreign policy. The size of London's financial markets and their importance to Russian investors gives the UK considerable leverage over the Kremlin. But turning a blind eye to London's role in hiding the proceeds of Kremlin-connected corruption risks signalling that the UK is not serious about confronting the full spectrum of President Putin's offensive measures. (Paragraph 20)

The Government is committed to countering the Russian state's malign activity and protecting the UK and our interests from Russia-based threats. The Prime Minister has made clear that tackling illicit finance and driving dirty money and money launderers out of the UK is a priority. We have introduced a number of measures to tackle illicit funds and ensure the full weight of law enforcement will bear down on those who look to use, move or hide their proceeds of crime in the UK. These include Unexplained Wealth Orders and bringing together the many strands of economic crime under the Security and Economic Crime Minister.

2. We call on the Government to investigate the gaps in the sanctions regime that allowed a company such as En+ to float on the London Stock Exchange, and to work with the G7, whose markets dominate the financial world, and other international partners, to close those gaps as soon as possible. (Paragraph 21)

EN+ was listed on the LSE in November 2017. In reaching its decision on whether to grant the application for listing, the Financial Conduct Authority (FCA) was required to take a view on whether the listing would be permitted under the sanctions regime. It therefore discussed the listing with the Office of Financial Sanctions

Implementation (OFSI). The FCA subsequently concluded that there would be no breach of sanctions and that the company met the applicable conditions for listing. Sanctions are a tool used to prevent designated firms from accessing UK capital markets. EN+ was not subject to EU/UN sanctions when it listed on the London Stock Exchange.

The FCA retains independence from the Government in its regulatory and supervisory functions. This is an integral part of the ability of the FCA to perform its role and responsibilities. Its credibility, authority and value to consumers would be undermined if it were possible for the Government to intervene in its decision-making.

Where sanctions are imposed, the FCA would be able to prevent such a listing as its rules empower the FCA to reject listings which it believes would break UK law (including sanctions). Under the applicable legislation, the Treasury has no power to intervene to block a floatation on national security grounds.

In March 2014, the EU imposed restrictive measures against those responsible for actions, which undermine or threaten the territorial integrity, sovereignty and independence of Ukraine. The EU then imposed Council Regulation 833/2014 - sometimes referred to as "sectoral sanctions" - targeting certain sectors of the Russian economy, linked to Russia's destabilisation of Eastern Ukraine. Sectoral sanctions do not comprehensively freeze assets or ban investment in the relevant sector, but apply specifically to certain targeted transactions and entities in each sector. A proposed listing on the London Stock Exchange (LSE) could therefore only be prevented if it breached a relevant prohibition contained in these sanctions in relation to a targeted person, entity or body.

On 6 April, the US used the Countering America's Adversaries Through Sanctions Act (CAATSA) to impose sanctions on seven Russian oligarchs and their associated companies, and seventeen Russian officials. These include Oleg Deripaska and companies linked to him – including EN+. CAATSA is US domestic law to which the UK is not subject or party.

In April, the LSE made an independent decision to suspend trading in specific global depository receipts connected to EN+ listing.

Making sanctions more effective

3. At the time of publication of this report, the Sanctions and Anti-Money Laundering Bill (2018) is entering the final stages of its passage through Parliament. The passage of the Bill marks an important opportunity for Parliament and the Government to assess the strengths and weaknesses of our existing sanctions regime, and to ensure that sanctions remain an effective part of the UK's foreign policy toolkit. We welcome the Bill's broad definition of the purpose of sanctions regulations, which will give

the Government the power to introduce sanctions for a range of reasons including to further UK foreign policy objectives, to promote national and international peace and security, and to promote respect for human rights, democracy, the rule of law and good governance. (Paragraph 29)

4. The significant impact of the newest US sanctions on Russia demonstrates the potential value in targeting Kremlin-linked individuals as a way of putting pressure on the regime to change its aggressive and destabilising behaviour. At the same time, making sanctions relief conditional on specific actions enables the EU to send clearer signals than the US does about how that behaviour should change. Since sanctions are most effective when the US and EU act together, the UK should make it a priority to identify ways to encourage and adopt best practices from both types of sanctions regime. The Government should also use the G7 format to encourage unity of action among the world's largest economies, in order to exert maximum financial and economic leverage over the Kremlin. (Paragraph 30)

5. We call on the Government to broaden its approach to sanctions by including individuals closely connected to hostile regimes, where appropriate, while retaining the practice of linking sanctions relief to specific actions. The UK should work with EU partners, both before and after leaving the EU, to identify and sanction the individuals and entities on whom the Kremlin relies in carrying out its acts of aggression—including, but not limited to, destabilisation of its neighbours, disinformation campaigns, interference in democratic processes and assassination attempts on foreign soil. This should be done in close consultation with the US Treasury and intelligence agencies. Such sanctions should be linked to specific desired changes in the Russian state's behaviour, and should be reviewed annually against progress towards those outcomes. (Paragraph 31)

6. In determining whether to sanction specific individuals to provide accountability for or be a deterrent to gross violations of human rights, the Government should co-ordinate as closely as possible with the US, EU, G7 and other allies. Individual sanctions are most effective when a united front can be presented. (Paragraph 38)

The Sanctions and Anti-Money Laundering Act received Royal Assent on 23 May and, as the Committee rightly observes, will provide the legal framework for the UK to fully impose, amend and lift existing or new sanctions regimes, after we leave the European Union. This Act provides the Government with the powers to impose sanctions for a range of purposes, including placing restrictions on access to funds when there is sufficient evidence to do so.

Until we leave the EU, we remain fully committed to our obligations and commitments as an EU Member State. The Prime Minister has made it clear that we will look to carry over all existing EU sanctions at the time of our departure.

Sanctions are one of the mechanisms in our international toolbox to counter Russia's malign activity. The Government recognises the impact of US sanctions. We have established several multilateral working groups on specific sanctions regimes, including one on Russia. This met most recently in the UK on 25 May, when the group discussed specific sanctions issues and the wider international approach to sanctions, at both political and technical levels.

In these meetings, we have emphasised the importance of maintaining the link between the full implementation of Minsk agreements regarding the territorial integrity of Ukraine and sanctions relief. This is essential to effect a change in behaviour, and something to which the Government is fully committed.

In addition to sanctions, the Government has taken a range of measures to defend our security and enhance our capabilities against the escalation in Russia's malign activity. Many of these actions have been taken in concert with partners, and we agree that sanctions, and other measures, are most effective when a united front is presented.

7. Human rights abusers and their money are not welcome in the UK. We applaud the inclusion of a Magnitsky clause in the Sanctions and Anti-Money Laundering Bill, allowing sanctions regulations to be made for the purpose of preventing, or in response to, a gross human rights abuse or violation. This long-overdue measure sends a powerful signal of support to victims of human rights abuse around the world. (Paragraph 36)

8. We welcome the Government's promise to publish a list of individuals sanctioned specifically because of gross human rights violations, comparable to the US Magnitsky list. This list should be published and maintained by the FCO and should be distinct from the general list of individuals under financial sanction that is maintained by HM Treasury. (Paragraph 37)

Following amendments made to the Sanctions and Anti-Money Laundering Act during its passage through Parliament, the Act expressly provides that sanctions may be imposed where it is appropriate to do so, to provide accountability for or be a deterrent to gross violations of human rights, or otherwise promote compliance with human rights (this has been referred to as the 'Magnitsky' amendment).

As Sir Alan Duncan, Minister for Europe and the Americas, made clear on the introduction of the relevant clauses before Parliament, the names of those sanctioned under the Act because of gross human rights violations will be made public. We intend to publish names of individuals sanctioned by the UK because of gross human rights violations on the appropriate government website (gov.uk), unless there are specific reasons not to do so. We are giving further consideration to the format of this administrative list. This approach is already reflected in the current practice, where individuals subject to financial sanctions are made public via the OFSI's consolidated list.

9. We welcome the Government's recognition of the need for parliamentary scrutiny of the use of sanctions powers, and to respond to recommendations made by any committee undertaking such scrutiny. Sanctions are primarily an instrument of foreign policy, and only the FCO has the network and intelligence necessary to identify individuals and entities who should be subject to sanctions for the purposes set out in the Bill. The Foreign Affairs Committee is therefore the most appropriate committee to conduct reviews of the Government's use of sanctions and we stand ready to discuss how such reviews might most effectively be conducted. (Paragraph 39)

We agree with these observations and recommendations. It is for Parliament to determine its own processes and procedures and we believe that any review of sanctions must be conducted in the full context of wider foreign policy. We will review and respond appropriately to any representation made by a Parliamentary Committee. Section 32 of the Sanctions and Anti-Money Laundering Act obliges the Government to lay a report before Parliament each year on regulations created, amended or revoked on human rights' grounds. In this report, the Government will highlight any recommendations made by a Parliamentary Committee and include the Government's response to those recommendations.

10. Russia's ability to issue new sovereign debt on global markets with the assistance of sanctioned banks undermines the global sanctions regime and supports the aggressive behaviour of the Russian state. Any action taken to limit or prohibit the issuance of Russian debt on global markets, however, must be taken jointly by the EU, US and other international partners in order for it to be effective. (Paragraph 43)

11. The Government should work with the EU, and with the US, to prohibit the purchase of bonds in which a sanctioned entity has acted as book runner. It should also seek EU agreement to bar the European clearing houses from making available Russian sovereign debt. (Paragraph 44)

EU Council Regulation 833/2014 placed restrictions on five main Russian banks. Their subsidiaries established within the EU, of which VTB Capital is one example, were not designated.

VTB Capital plc. has previously played an important role in facilitating the sale of Russian sovereign debt on international markets. Earlier in the year, VTB Capital plc. was the sole bank involved in issuing Eurobonds worth \$4bn to finance Russian sovereign debt. However, VTB Capital plc. as a UK established bank is not designated under EU sanctions.

In most circumstances, Council Regulation 833/2014 does not prohibit the designated entity or their non-designated subsidiaries from providing book running

services. However, book running that results in a loan to a sanctioned entity, or money going to any designated person, would be prohibited.

The Committee's report refers to Clearstream and Euroclear. These organisations both operate central securities depositories rather than clearing houses. Currently, agreement would have to be reached with all EU Member States to expand the scope of the existing Russia sanctions to incorporate other services. There has not been a consensus on this point to date.

It is also important to preserve the wider international approach to Russia sanctions. We will continue to work closely with the G7, EU and other international partners, both bilaterally and multilaterally, to develop measures to respond to actions that undermine international law, including sanctions.

Closing the "laundromat"

12. We welcome the Government's commitment to establishing a register of ownership for overseas companies that own or wish to own property in the UK, or are involved in Government contracts. Such a measure will be essential in exposing individuals who purchase UK property through offshore shell companies, disguising their identities and the potentially corrupt sources of their funding. (Paragraph 52)

13. The delay in introducing legislation to establish a register of ownership for overseas companies that own property in the UK is regrettable. The legislation should be put in place as early as possible, ideally enabling the register to be established before the Government's target date of 2021. We call on the Government to review this timescale, with a view to expediting it or setting out in more detail why the process needs to take so long. (Paragraph 53)

The new public register of beneficial owners of overseas entities that own or buy property in the UK or participate in UK Government procurement will be first of its kind in the world. It builds upon the UK's global leadership in tackling corruption and complements the existing corporate transparency measures implemented through the People with Significant Control (PSC) register. As it develops this ground-breaking legislation, the Government is working to ensure that the new measures are effective in improving transparency in property ownership and that these are workable and proportionate, and do not create undue barriers to legitimate commercial activity.

On 24 January this year, the Government confirmed the timetable for the establishment of the register ([HCWS425](#)) and committed to publish the draft Bill before the summer recess this year with the intention to introduce the Bill to Parliament early in the second session. The Government has made significant progress in the preparation of the draft legislation and is on track to publish the draft

Bill shortly. Alongside the preparation of the draft Bill, work is underway to assess the potential impact of the legislation on the property market and legitimate inward investment. The draft Bill will include enforcement measures through land registration law, and the Government will look to consult on the proportionality and effectiveness of the measures. Following consideration of comments received post-publication, the Government intends to introduce the legislation early in the second session of this Parliament.

The Government has committed to produce periodic reports on the progress that has been made towards putting the register in place. This commitment is reinforced by the obligation on the Secretary of State set out in the Sanctions and Anti-Money Laundering Act 2018 c.13 Section 50 to lay a copy of the report before Parliament. The reports are due 12 months after each reporting period, starting with the date the Act was passed. The first and second reports will detail the steps that have been taken in the last reporting period and will make a statement setting out the steps to be taken in the next reporting period and an assessment of when the register will be put in place. The third, and final, report must include a statement setting out what further steps, if any, are to be taken towards putting the register in place.

14. The UK is governed by the rule of law, and Ministers are right to assert that they cannot order law enforcement agencies to investigate or prosecute individuals with no basis in evidence. But observing due process cannot be an excuse for inaction or lethargy. There is a clear need for stronger political leadership to show the Government's commitment to ending the flow of dirty money into the UK. This must be demonstrated by allocating sufficient resources and capacity to the relevant law enforcement agencies, and by ensuring that those running the agencies are able to draw on information from across Government departments. The Government also needs to consider more effective ways to share intelligence between Departments, including between the FCO and AML supervisors such as the FCA and HMRC, and with the banking sector. (Paragraph 61)

Law enforcement agencies will feed into the decision making process to determine human rights violations. Officials work closely across Government from a range of departments and agencies, including the Foreign and Commonwealth Office, HM Treasury, Department for International Trade, Department for Transport and HM Revenue and Customs (HMRC) as well as law enforcement agencies including the National Crime Agency (NCA). As set out in the Act, the ultimate decision to sanction individuals will be taken by the appropriate Minister.

We want to make the UK a hostile environment for criminals engaged in economic crime by ensuring they fear losing their liberty and their assets. In December, we announced a range of measures that will deliver a fundamental reform of our response to economic crime. These include: stronger and more coordinated tasking;

better aligned governance structures to allow for strategic prioritisation; and further development and expansion of existing public/private partnerships. Since 2015, we have introduced successful public-private partnerships such as the Joint Money Laundering Intelligence Taskforce and the Joint Fraud Taskforce.

The National Economic Crime Centre (NECC), hosted in the NCA, will be staffed by partners from across the law enforcement community (including the NCA, FCA, HMRC, City of London Police and the Serious Fraud Office) and from the Private Sector. It will build on the work already done by these organisations to ensure economic crime is tackled in a more coordinated way. It will have access to the full range of intelligence and tools. Ministers have also agreed significant new investment in economic crime capabilities from 2019. This includes, in addition to the NECC, increasing the number of investigators and intelligence staff focussing on economic crime.

15. While the Government should continue to respect the autonomy and constitutional integrity of the Overseas Territories and Crown Dependencies on devolved matters, money laundering is now a matter of national security, and therefore constitutionally under the jurisdiction of the UK. The Overseas Territories and Crown Dependencies are important routes through which dirty money enters the UK. This cannot continue. While we recognise the important innovations that Overseas Territories such as the British Virgin Islands have made in making registers of beneficial ownership available to UK law enforcement, the scale of the problem and the implications for the UK's security now demand a greater response. We welcome the Government's commitment, now included in the Sanctions and Anti-Money Laundering Bill, to assist the Overseas Territories in establishing publicly accessible registers of beneficial ownership. The Government should do everything in its power to enable the Overseas Territories to put these registers in place voluntarily, before the end of 2020. (Paragraph 68)

16. The Government should also recognise the potential impact that the creation of publicly accessible beneficial ownership registers could have on the economies of the Overseas Territories, particularly for those continuing to rebuild after the devastation of Hurricane Irma. The UK should share the burden of reconstruction, just as they are sharing the burden of keeping our financial systems clean. We look forward to receiving the Government's detailed strategy for widening the economic bases of the Overseas Territories, as promised in its response to our March 2018 Report on the UK's response to hurricanes, by 1 September 2018. (Paragraph 69)

17. In its response to this report, the Government should set out its plans for assisting the governments of the Overseas Territories to establish publicly

accessible beneficial ownership registers before 31 December 2020. We also call on the Government to provide the same level of assistance to the Crown Dependencies, and to encourage them to take steps to meet the same standard of transparency (Paragraph 70)

We recognise the need to tackle illicit finance across the globe, including in the Crown Dependencies and Overseas Territories. As the Foreign Affairs Committee notes, the Overseas Territories with financial centres and Crown Dependencies have already undertaken considerable steps on beneficial ownership transparency. They agreed in April 2016 to provide UK law enforcement and tax authorities with near real-time information on company beneficial ownership. The arrangements came into effect on 30 June 2017 and as of 9 February 2018, have been used over 70 times to enhance intelligence leads and investigations on illicit finance. In addition, Monserrat has already committed to introducing a public register of beneficial ownership; similarly, Gibraltar is committed to implementing the 5th Anti Money Laundering Directive, and therefore has already committed to making its register of beneficial ownership publicly accessible before 2020.

Soon after the Sanctions and Anti-Money Laundering Act was passed, the Prime Minister and Lord Ahmad, Minister of State for the Overseas Territories, hosted a teleconference with the leaders of the Overseas Territories with financial centres to discuss the requirement for public registers of beneficial ownership in their jurisdictions. The UK Government acknowledges the concerns expressed by the Overseas Territories that the economic impact of imposing public registers on them will be significant particularly in the absence of this being set as an international standard.

The UK Government has committed to work collaboratively with the Overseas Territories on this to secure the best outcome. We will be discussing next steps with the Overseas Territories. The UK Government also agrees with the Foreign Affairs Committee recommendation on providing assistance. As set out in the Written Ministerial Statement published on the 1 May on Beneficial Ownership, the UK Government will in parallel use its best endeavours, diplomatically and with international partners, including through multilateral fora (such as the G20, FATF and the OECD), to promote public registers of company beneficial ownership as the global standard by 2023. We would also expect the Crown Dependencies to adopt public registers in that event.

Conclusion: towards a coherent strategy on the Kremlin's loot

18. The Government is right to respond robustly to the aggressive actions of President Putin's regime. But reacting in an ad hoc way to the Kremlin's behaviour has led to a disjointed approach. Despite the Government's strong rhetoric, President Putin's allies have been able to exploit gaps in the sanctions and anti-money laundering regimes that allow them to hide and launder assets in London. This undermines the strength and unity of the

global diplomatic response to Russian state actions, threatens UK national security, and helps to enable corrupt kleptocrats to steal from the Russian people. (Paragraph 73)

19. As a nuclear-armed, permanent member of the United Nations Security Council, Russia remains a major player in global affairs with an important voice and a seat at the table. It has the potential to be a force for security and stability. But instead of participating in the international rules-based system, President Putin's regime uses asymmetric methods to achieve its goals, and others—so-called useful idiots—magnify that effect by supporting its propaganda. Russia's economy—which, it is worth recalling, is approximately the size of Spain's—is deeply interconnected to the Western financial system. This gives the US, EU and other G7 countries, acting together, significant leverage in seeking to counter the Kremlin's aggressive behaviour. (Paragraph 74)

20. The UK must set out a coherent and proactive strategy on Russia, led by the Foreign and Commonwealth Office and coordinated across the whole of Government, that clearly links together the diplomatic, military and financial tools that the UK can use to counter Russian state aggression. (Paragraph 75)

We agree with the Committee's assessment of Russia's global position and aims. To counter Russian state aggression, the UK Government's strategy brings cross Government resources together to develop, deliver and deploy our considerable national security capabilities to maximum collective effect.

The 2015 National Security Strategy set out the threats and challenges posed by Russia to the UK and our allies. The threat is underscored by Russia's public modernisation of its conventional and nuclear forces and its clear willingness to deploy other capabilities, such as malicious cyber-attacks. The attack in Salisbury was an especially egregious example of reckless Russian behaviour. It showed the risks that Russia is prepared to take in its provocation of the West. The international response since Salisbury has shown the strength of collective resolve to meet the challenges from Russia.

Building on the creation of the National Security Council (NSC) in 2011, the March 2018 National Security Capability Review highlighted the use of a new national security doctrine, the Fusion Doctrine, to improve our collective approach to national security. The Fusion Doctrine starts with a strategy, allowing the Government to identify the most effective and efficient combination of ways to achieve its objectives over the long term, including anticipating how adversaries and allies could react, in order to avoid unwanted second and third order effects. It ensures that in defending our national security we make better use of all of our capabilities: from economic levers, through cutting-edge military resources to our wider diplomatic and cultural influence on the world's stage.

As part of this approach, the Government has created cross-government senior responsible officials (SROs) who are directly answerable to the NSC. This increases accountability and delivery of NSC priorities. Since June 2017, HMG's Russia SRO and the cross government HMG Russia Unit, based in the FCO and including expertise from all relevant departments, has been working to implement HMG's Russia Strategy. They led HMG's response to the Salisbury attack. Our response showed that the UK is able to respond quickly and robustly when its national security is threatened. We were able to assess the situation, work across government, share intelligence with partners, and develop and implement a range of response measures in a matter of days. This was, in no small part, due to the enhanced measures, structures and capabilities that the Government put in place last year.

Rather than having a disjointed approach, the Government believes that few countries have a blend or balance of tools quite like the UK. We have an all-encompassing understanding of national security and we think expansively about how we deploy our capabilities. The NSC meets regularly to discuss the full spectrum of national security issues.

While the Government has a robust legal and regulatory framework which enables effective investigation and prosecution of money laundering, and the recovery of illicit assets, we recognise that this is not a problem that we can tackle alone. In an increasingly globalised world where financial centres are inextricably linked it is necessary to collaborate and find shared solutions to these shared problems and ensure we are sharing information effectively.

As outcomes from the G7 and NATO Summits and European Councils show, with our partners we are taking collective steps to protect our shared security. We are building an international coalition to support our efforts to reinforce the global rules-based system: attributing, challenging and, where necessary, punishing malign behaviour. We will continue to deploy the full range of our National Security capabilities to counter the threats of hostile activity.