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DETECTING THE 'ENABLERS' OF ILLICIT FINANCE

A combination of approaches is needed to tackle the complex and multi-faceted problem of professional service providers enabling money laundering, corruption, sanctions evasion and other illicit finance related activities.

FROM 'MONEY LAUNDERING' TO 'ILLICIT FINANCE'

Since the 1990s, international bodies and national governments have raised concerns about the role that 'gatekeeper' professionals – such as lawyers, accountants, company formation agents, and real estate agents – can play in facilitating the entry of criminal proceeds into the legitimate financial system. This led to the expansion of global, regional and national anti-money laundering (AML) regimes, to include these sectors in the customer due diligence and suspicious activity reporting requirements that had previously only applied to financial institutions.

At the time, AML policy was primarily focused on the proceeds of drug trafficking and other organised crimes. However, a narrow focus on '(anti-)money laundering' does not address the range of crime and security threats of current concern and political prioritisation, which can be captured by the broader term 'illicit finance'. Illicit finance can refer both to funds generated from criminal or illicit activity, such as organised crime, corruption or tax evasion, and to funds used for illicit purposes, such as terrorism financing and proliferation financing.

Illicit finance is increasingly linked to the (inter)national security agenda, with, for example, the UK's Integrated Review of Security, Defence, Development and Foreign Policy explicitly recognising illicit finance as a national security threat in 2021, due to its role in 'financing malign actors' and the negative impact that the receipt of 'corrupt assets' has on the UK's global reputation. Russia's full-scale invasion of Ukraine in 2022 drew much-needed political attention to the global risks from kleptocracy and the role of the UK and others in providing a home to the wealth of corrupt elites. It also significantly increased the use of financial sanctions as a means of tackling illicit finance and achieving wider national security goals.

THE VARIED NATURE OF 'ENABLING'

Professional service providers can enable illicit finance in various ways. For example, accountants, lawyers and real estate agents can play a role, knowingly or unwittingly, in facilitating the laundering of organised crime or corruption proceeds through the purchase of property and other assets, managing front businesses, or moving funds through complex financial transactions and corporate structures. Trust and company service providers can establish and administer shell companies to facilitate tax evasion and help sanctioned individuals to hide their assets and thus limit the impact of financial sanctions. Lawyers, financial service providers, wealth managers, family offices and public relations agents are used by kleptocrats to both safeguard their assets and maintain or enhance their public profile and reputation.

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However, enabling illicit finance is not just about individual actors; structural and systemic factors also play an important role and should be considered in strategies for prevention. For example, shell companies and other corporate vehicles – widely used in business and financial arrangements – can be misused to provide distance between illicit assets and their beneficial owners, hinder financial investigation and circumvent sanctions. The UK's network of overseas jurisdictions provides financial secrecy, which can also be exploited for the purposes of managing illicit wealth. Systems that enable anonymity in real estate purchases can allow illicit wealth to be invested in property without transparent direct links to ownership.

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A MULTI-PRONGED STRATEGY

The complexity of the threat from illicit finance, and the various professional services and systemic factors that can enable it, mean that no single approach will be sufficient for preventing or reducing it.

- Regulatory frameworks must be comprehensive and up-to-date, covering identified loopholes and jurisdictional asymmetries. They must also take account of the professional contexts and challenges of those working under them.
- Compliance with regulatory obligations and criminal laws should be promoted through measures to enhance the means and motivation for professionals to comply, alongside meaningful and appropriate enforcement.
- Enforcement requires successful detection, investigation, criminal/regulatory prosecution, and appropriate sanctioning. The UK has recently launched its first 'Professional Enablers Strategy', which aims to improve compliance and develop measures to better prevent and detect enabling activity through collaboration between regulators and law enforcement.
- Further understanding is needed of how the systemic features of the global financial system and the structural aspects of various professional service sectors enable different forms of illicit finance related activity - and political will is required to address them.

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