**GFAR PROGRESS REPORT ON THE UNITED KINGDOM – DECEMBER 2019**

DEVELOPMENTS IN GFAR COUNTRIES SINCE DECEMBER 2017

**KEY FINDINGS**

Since our last report in December 2017,[[1]](#footnote-1) the National Crime Agency (NCA) have used two new civil recovery powers – Unexplained Wealth Orders (UWO) and Account Freezing Orders (AFO)[[2]](#footnote-2) – which have led to the restraint of over £290 million in suspected corrupt wealth. This is a welcome and significant improvement on past performance, which we hope will continue as these new powers bed-in. However, overall recovery rates remain small compared to the estimated overall amount of corrupt money in the UK economy, and questions remain about law enforcement agencies’ and prosecutors’ capacity to take on higher-risk cases.

*Institutional Strengths and Weaknesses*

In October 2018, the NCA launched the National Economic Crime Centre (NECC) – involving law enforcement and justice agencies, government departments, regulatory bodies and the private sector – to coordinate the UK’s response to economic crime and asset recovery. We are awaiting a report of how this initiative is progressing.

The International Anti-Corruption Coordination Centre (IACCC) – a multi-jurisdiction intelligence sharing initiative focussed on corruption cases and based in the NCA – published its first annual report, which included support to progress nine grand corruption cases and identifying and disseminating intelligence on 227 suspicious bank accounts across 15 different jurisdictions.[[3]](#footnote-3) We are monitoring how this performance changes over time.

*Case: NCA v Mrs A*

In February 2018, the UK’s National Crime Agency (NCA) announced it had successfully applied for Unexplained Wealth Orders to be issued against two properties worth over £22 million bought with the suspected proceeds of corruption. In subsequent court hearings, the suspected owners of these properties were revealed to be Jahangir Hajiyev, the former Chair of the International Bank of Azerbaijan, and his wife Zamira Hajiyeva. As part of its investigation, the NCA has also seized a ring with a retail value of £1.9 million and 49 items of jewellery with a value of more than £400k. As of April 2019, the case is still ongoing.

In early 2018, two key civil recovery measures commenced, which are intended to make it easier to freeze, seize and repatriate corrupt assets. In the past, the system has relied too much on the capability of other countries to convict individuals and cooperate with UK law enforcement agencies, which has inhibited the successful recovery of corrupt assets. The introduction of UWOs in early 2018 – an investigatory power which requires the respondent to a UWO to demonstrate the legitimate source of their wealth – alongside new powers to help seek forfeiture of suspected corrupt wealth from bank accounts (AFOs) should help improve rates of successful asset recovery.[[4]](#footnote-4)

So far, law enforcement agencies have reported using:

* AFOs against accounts totalling over £140 million
* At least five UWOs against assets worth over £102 million

The Home Office reports that law enforcement agencies have used more than 650 AFOs during 2018-19 against £110 million in suspect accounts; however, it does not disaggregate these figures to show whether this is the proceeds of corruption or domestic serious and organised crime.[[5]](#footnote-5)

There is less to report regarding criminal prosecutions and confiscation of corrupt wealth. The main criminal case still relates to the former Nigerian Governor, James Ibori, who has now expended all legal avenues for appeal against his conviction in the UK.[[6]](#footnote-6) As of 6 September 2019, confiscation proceedings against his assets were still ongoing.[[7]](#footnote-7)

UK law enforcement officers arrested former Nigerian oil minister, Diezani Alison-Madueke, in London back in 2015 on corruption charges. UK law enforcement agencies are yet to announce formal charges against her and her associates.

Despite increased political will to improve asset recovery in the UK, there are four key deficiencies in its institutional framework for retrieving the proceeds of corruption:

* Law enforcement agencies undertaking asset recovery face significant capability and resource challenges, whilst being exposed to potentially debilitating costs as part of any litigation by defendant.
* The system for reporting suspicious activity (SARs) submitted by the private sector needs reforming, including the IT infrastructure receiving and analysing SARs and the quality of information submitted by the private sector.
* The system for overseeing private sector compliance with money laundering rules is not fit-for-purpose and needs a complete overhaul.
* The opacity of companies incorporated in the UK’s Overseas Territories (OTs) and Crown Dependencies (CDs), and overseas companies owning UK property, prevents businesses and civil society from identifying suspect money entering the UK economy.

*Political Will*

The Government’s Economic Crime and Asset Recovery Action plans set out wide-ranging work programmes to help improve the UK’s response to corrupt wealth entering the economy, including:

* continued funding for the IACCC[[8]](#footnote-8)
* additional funding for the NCA’s International Corruption Unit (ICU) and prosecutors[[9]](#footnote-9)
* continued support for action through the Global Forum on Asset Recovery (GFAR)[[10]](#footnote-10)
* commitments to introduce improvements to the SARs regime
* establishing the Office for Professional Body AML Supervision (OPBAS) to increase the coordination and effectiveness of the UK’s 22 different non-public-sector AML supervisors[[11]](#footnote-11)
* commitments to strengthen and enhance the AML supervisory system[[12]](#footnote-12)

It also explicitly states a desire to see ‘year-on-year increases’ to the level of asset recovery.[[13]](#footnote-13)

Commitments from the CDs and some OTs to open-up their corporate registers should help improve the identification of illicit funds for recovery. However, some key jurisdictions are resisting reform, such as the British Virgin Islands, and we are concerned about the potential impact Brexit may have on law enforcement agencies’ cooperation with counterparts in EU Member States. We are maintaining a watching brief on this situation.

*Transparency and Participation*

*Case: Dmitry Firtash*

*Ukrainian businessman Dmitry Firtash is wanted in the US on corruption and money laundering charges, but there is no public record that he has faced investigation in the UK where he holds considerable assets.*

*Firtash and his Lada own property in London, including a house in Knightsbridge bought in his wife’s name in 2013. Firtash is also the registered owner of a disused tube station in West London, which he bought from the UK Ministry of Defence for £53 million in 2014. In February 2019, this property was frozen by order of a UK High Court as part of a disputed with VTB Bank.*

[*https://www.justice.gov/sites/default/files/criminal-fraud/legacy/2014/04/03/df\_indictment\_final\_stamped\_6-20-13.pdf*](https://www.justice.gov/sites/default/files/criminal-fraud/legacy/2014/04/03/df_indictment_final_stamped_6-20-13.pdf)

Law enforcement agencies and policy officials meet with civil society on a regular basis and there are many examples of constructive engagement. There are on-going discussions between civil society and both the NCA and SFO about how best to communicate the progress of cases where information has been provided by civil society.

The asset recovery and repatriation process in the UK remains opaque. Although the Home Office has released annual asset recovery statistics which give a high level picture of the UK’s performance, this does not provide disaggregated information about specific offences or jurisdictions. In addition, accessing court documents related to asset freezing and seizure is particularly difficult in the UK.

**RECOMMENDATIONS**

***Recommendation 1: Enable the identification illicit assets***

The UK Government should fulfil its commitment to introduce a public register of beneficial ownership for overseas companies that own UK property, and support delivery of public central beneficial ownership registers in its Overseas Territories and Crown Dependencies.

***Recommendation 2: Resource the use of enforcement powers***

Ensure that measures set out in the Criminal Finances Act are implemented effectively, with proper coordination and resourcing.

***Recommendation 3: Speedup reform of private sector oversight***

Reform of the UK’s AML supervisory system to date has been too slow. This process should be sped-up to help strengthen oversight of the private sector’s role in detecting and reporting suspicious activity.

***Recommendation 4: Improve transparency and accountability in the asset recovery process***

There should be the highest standards of transparency in the asset recovery process including:

* publishing annual updates on corruption related asset recovery cases, subject to operational constraints
* publishing key court documents in civil and criminal asset recovery proceedings
* keeping authorities in the country of origin informed on a regular basis of relevant stages of an investigation and any court proceedings
* outlining clear roadmaps for asset return, including opportunities for civil society input, especially in cases where returning funds directly to governments in the jurisdiction of origin would likely result in the money being lost to corruption again
1. Accountable Asset Return (December 2017): <https://www.transparency.org.uk/publications/accountable-asset-return-uk-country-level-civil-society-report-by-corruption-watch-and-transparency-international-uk/> [↑](#footnote-ref-1)
2. These powers commenced in January 2018. [↑](#footnote-ref-2)
3. <https://www.nationalcrimeagency.gov.uk/what-we-do/crime-threats/bribery-corruption-and-sanctions-evasion/international-anti-corruption-centre> [↑](#footnote-ref-3)
4. Account Freezing Orders (AFO) empower law enforcement agencies to apply for bank accounts to be frozen via court order if they have reasonable grounds to suspect the accounts contain the proceeds of crime or funds intended for criminal conduct. [↑](#footnote-ref-4)
5. Home Office, *Asset recovery action plan* (July 2019) p.5 <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/815900/20190709_Asset_Recovery_Action_Plan_FINAL_Clean.pdf> [↑](#footnote-ref-5)
6. [2018] EWCA 2291 (Crim) <https://www.matrixlaw.co.uk/wp-content/uploads/2018/10/R-v-Ibori-Ors-2018-EWCA-2291-Crim-.pdf> [↑](#footnote-ref-6)
7. <https://nationalcrimeagency.gov.uk/news/ex-goldman-sachs-investment-banker-ordered-to-pay-back-7-3-million> [Accessed 12 September 2019] [↑](#footnote-ref-7)
8. Home Office and UK Finance, *Economic crime plan* (July 2019) p.63 <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/816215/2019-22_Economic_Crime_Plan.pdf> [↑](#footnote-ref-8)
9. Home Office and UK Finance, *Economic crime plan* p.63 [↑](#footnote-ref-9)
10. Home Office, *Asset recovery action plan* p.19 [↑](#footnote-ref-10)
11. <https://www.fca.org.uk/opbas> [Accessed 12 September 2019] [↑](#footnote-ref-11)
12. Home Office and UK Finance, *Economic crime plan* p.20 [↑](#footnote-ref-12)
13. Home Office and UK Finance, Economic crime plan p.9 [↑](#footnote-ref-13)