

## SUMMARY BRIEFING: Achieving transparency in the UK's offshore financial centres

October 2024

### What is the issue?

1. The Foreign Secretary has committed to developing 'a clear time-bound action plan' to bring all UK Overseas Territories into 'full compliance with all transparency requirements.' Experience suggests that this will not be a straightforward ambition to realise. Similar commitments have been made before: there are a range of reasons why they have not been achieved.
2. Meaningful progress in line with government's stated intent will require political resolve, agreement across government and, ideally, the development of a longer-term direction for mutually beneficial relationships between the UK, the CDs, and the OTs.
3. Although internal government processes are working to develop policy options, demands on the new government are manifold, Whitehall is stretched, and there is a risk that long-standing assumptions could constrain full consideration of some options. This summary briefing note presents the central issues and options. It is supported by evidence in the accompanying detailed analysis note, which brings together the full range of options identified by experts in the field.

### What is the problem to be solved?

4. Evidence shows that the OTs and CDs, along with the UK itself, continue to play a disproportionately large role in global illicit finance. The impact they have on the UK's reputation and interests is high.
5. There is little evidence that action to date has had adequate impact on the problem. Progress towards meaningfully increasing transparency in the OTs and CDs is limited and slow. Reform efforts by the UK have typically been met with opposition including legal challenge, predictions of economic doom, accusations of neocolonialism, and intense lobbying.

### Decisions to be made

6. Three decisions need to be made in order to deliver the Foreign Secretary's ambition:
  - A. **What** are the objectives to be achieved?
    - What kind of relationship should the UK seek with the Crown Dependencies (CDs) and Overseas Territories (OTs)?
    - Is it right to focus only on transparency, or what other reforms (such as strengthening law enforcement) could support the wider goal of tackling illicit finance?
    - In relation to transparency:
      - Which requirements need to be met? Is the goal for public or legitimate interest access to beneficial ownership registers?
      - Should beneficial ownership transparency apply only to companies, or also to the ownership of trusts and other legal entities?
      - Or is the goal wider financial transparency beyond beneficial ownership?
  - B. **Where** should the objectives be achieved?
    - Should an equal approach continue to be applied to all OTs and/or CDs, or all those with significant financial services sectors?
    - Or should attention focus on those that show the greatest risk and least progress: specifically the British Virgin Islands (BVI)?
  - C. **How** should HMG seek to achieve the objectives?
    - Should the UK continue to approach the issue from a largely technical perspective, or adopt a wider political perspective? What is feasible politically and financially?
    - How can this agenda be progressed across government, and how can external stakeholders help?

## What are the most important issues to understand?

7. This is not a new agenda for UK government. Some progress has been made since the passing of the Sanctions and Anti-Money Laundering Act (SAMLA) in 2018: a number of CDs and OTs have increased anti-money laundering compliance through strengthened laws and regulations. But six years on, the impact of this, and progress on financial transparency, has been limited.
8. An EU legal ruling in 2022 cooled progress on the beneficial ownership agenda, but international norms continue to evolve, and new ways forward are taking shape. Although the EU's recently-adopted Sixth Anti-Money Laundering Directive (AMLD6) limits access to those with 'legitimate interest', 37 jurisdictions (including the UK, Gibraltar, and many EU countries) continue to provide full public access to registers of beneficial ownership. AMLD6 will not be the last word. On-going alignment will be an issue. Earlier this year, HMG re-iterated the expectation that OTs would implement 'legitimate interest' registers soon, as a step towards 'full public accessibility'.
9. The BVI is a unique case and global problem. The latest evidence suggests that it handles the most illicit finance of all OTs. It may also have most to gain from implementing the highest levels of transparency, after a 2022 Commission found that its government was systemically corrupt, and this year's conviction of its previous premier for drug trafficking and money laundering. This risk of state capture has also been faced in other small island states.
10. Numerous reasons have been suggested for why illicit finance in the CDs and OTs has persisted so intractably. Each of these reasons should be tested: some are more valid than others.
  - The necessity of avoiding perception or reality of neocolonialism or racism,
  - The important principle of self-determination and ideological opposition to UK dictate,
  - Constitutional, historical and moral complexities, involving different relationships,
  - Risk of loss of competitive edge and limited economic alternatives in CDs and OTs,
  - Desire to continue to limit UK financial obligations,
  - The argument that if successful, 'illicit finance will just move elsewhere',
  - Technical capacity constraints limiting ability to implement reforms,
  - The CDs and OTs' influential friends in Parliament and the City,
  - The influence of vested interests in CD/OT governments, shading into corruption.
11. The status quo is advantageous to some interests within the CDs/OTs and in the UK. The costs of the status quo, to national and international security, to legitimate business, and to the UK's global reputation, are not immediately visible – and so the problem persists. To date there has not been sufficient political will to unpick and address its root causes. But a change in outcome is likely to require a change in approach. A longer term, cross-government strategic direction for the UK's relationships with the CDs and OTs, currently lacking, would help all departments better navigate these complexities.

## What are the opportunities?

12. The UK could use a range of levers to drive progress. These are outlined in the accompanying detailed analysis paper as options on a scale from incremental technical reform to strategic political relationship reset. The former focus on ensuring that full benefit is realised from the processes currently underway. The latter consider broader dimensions of the problem, and present more of a new approach. Changes can be made to the way in which the UK engages with the CDs and OTs: the UK has the potential to develop a new shared narrative with them, and the power to insist they do more. It has, to date, been a political choice not to.

## What are the risks?

13. Unclear policy direction or limited consideration of the full range of options both represent significant risk of failing to achieve meaningful change. Risks of legal challenge are significant, although could be defended. Reputational risks are significant, but could be managed. Risks of CD or OT secession and/or economic collapse appear to be overstated. Continuing inaction represents UK national security and international credibility risk. The most significant risk is of diminishing political will, without which meaningful reform will remain elusive.