

# Sanctions and Anti-Money Laundering Bill [HL]

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THIRD  
MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
IN COMMITTEE OF THE WHOLE HOUSE

*The amendments have been marshalled in accordance with the Instruction of 15th November 2017, as follows –*

Clauses 1 to 4	Clauses 42 to 47
Schedule 1	Schedule 3
Clauses 5 to 41	Clauses 48 to 53
Schedule 2	Title.

*[Amendments marked ★ are new or have been altered]*

**Amendment  
No.**

**Clause 41**

LORD COLLINS OF HIGHBURY  
LORD DAVIDSON OF GLEN CLOVA

**68ZA** Page 28, line 34, at beginning insert “improving”

**68ZB** Page 28, line 35, at beginning insert “improving”

**68ZC** Page 28, line 36, at beginning insert “improving”

BARONESS BOWLES OF BERKHAMSTED  
BARONESS KRAMER

**68A** Leave out Clause 41 and insert –

**“Money laundering**

Henceforth the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692) may only be amended or revoked by an Act of Parliament.”

BARONESS KRAMER  
BARONESS BOWLES OF BERKHAMSTED

*The above-named Lords give notice of their intention to oppose the Question that Clause 41 stand part of the Bill.*

**After Clause 41**

LORD FAULKS  
 BARONESS BOWLES OF BERKHAMSTED  
 LORD ROOKER  
 LORD COLLINS OF HIGHBURY

69 Insert the following new Clause—

**“Public register of beneficial ownership of UK property by companies and other legal entities registered outside the UK**

- (1) In addition to the provisions made under paragraph 6 of Schedule 2, for the purpose of preventing money laundering in the UK property market and public procurement, the Secretary of State must create a public register of beneficial ownership information for companies and other legal entities registered outside of the UK that own or buy UK property, or bid for UK government contracts.
- (2) The register must be implemented within 12 months of the day on which this Act is passed.”

BARONESS BOWLES OF BERKHAMSTED  
 BARONESS KRAMER

69A Insert the following new Clause—

**“Money laundering exemptions**

The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692) are exempted from amendment or revocation under the Legislative and Regulatory Reform Act 2006 and under the European Union (Withdrawal) Act 2017.”

BARONESS BOWLES OF BERKHAMSTED  
 BARONESS KRAMER  
 LORD COLLINS OF HIGHBURY  
 LORD HAIN

69B Insert the following new Clause—

**“Failure to prevent money laundering**

- (1) A relevant body (B) is guilty of an offence if a person commits a money laundering facilitation offence when acting in the capacity of a person associated with B.
- (2) For the purposes of this section “money laundering facilitation offence” means—
  - (a) concealing, disguising, converting, transferring or removing criminal property under section 327 of the Proceeds of Crime Act 2002 (concealing etc);
  - (b) entering into an arrangement which the person knows, or suspects, facilitates (by whatever means) the acquisition, retention, use, or control of criminal property under section 328 of the Proceeds of Crime Act 2002 (arrangements); or
  - (c) the acquisition, use or possession of criminal property, under section 329 of the Proceeds of Crime Act 2002 (acquisition, use and possession).

**After Clause 41 - continued**

- (3) It is a defence for B to prove that, when the money laundering facilitation offence was committed, B had in place adequate procedures designed to prevent persons acting in the capacity of a person associated with B from committing such an offence.
- (4) A relevant body guilty of an offence under this section is liable—
  - (a) on conviction on indictment, to a fine,
  - (b) on summary conviction in England and Wales, to a fine, or
  - (c) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum.
- (5) It is immaterial for the purposes of this section whether—
  - (a) any relevant conduct of a relevant body, or
  - (b) any conduct which constitutes part of a relevant criminal offence,takes place in the United Kingdom or elsewhere.
- (6) In this section, “relevant body” and “acting in the capacity of a person associated with B” have the same meaning as in section 44 of the Criminal Finances Act 2017 (meaning of relevant body and acting in the capacity of an associated person).”

BARONESS BOWLES OF BERKHAMSTED

BARONESS KRAMER

**69C** Insert the following new Clause—**“Disqualification**

In the event that adequate procedures under subsection (2)(a) of section (*Failure to prevent money laundering*) are found not to be in place, the Secretary of State must refer to the court a disqualification order under section 8 of the Company Directors Disqualification Act 1986 (disqualification of director on finding of unfitness).”

**69D** Insert the following new Clause—**“Money laundering: technical amendment**

- (1) Until two years after exit day, as defined by section 14 of the European Union (Withdrawal) Act 2017, an appropriate Minister may by regulations made by statutory instrument amend the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692) in order to—
  - (a) replace references to EU directives and regulations with corresponding references to UK legislation;
  - (b) transpose references to European Supervisory Authorities and any review, report, guideline or Regulatory Technical Standards requirements of the European Supervisory Authorities into corresponding requirements of UK supervisory bodies with any obligations to take account of international developments and to consult also being carried over;

**After Clause 41 - continued**

- (c) transpose requirements for European Commission reports into report requirements from the Treasury and Home Office, including any obligation to take account of international developments;
  - (d) transpose references to delegated acts into provisions for regulations made by the affirmative procedure;
  - (e) update references relating to EEA passport rights or replace them with any corresponding or negotiated right;
  - (f) amend definitions of credit institutions and financial institutions or any other definition lists to eliminate EU cross-references and establish corresponding entity lists;
  - (g) convert any amount in euros to sterling;
  - (h) modify or delete provisions relating to the EEA to retain reference as appropriate or combine with third country provisions;
  - (j) replace reference to the identifying of high risk third countries by the Commission with corresponding UK procedure that takes account of international provisions.
- (2) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

69E Insert the following new Clause—

**“Money laundering: standards and designations**

- (1) An appropriate Minister may by regulations made by statutory instrument amend the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692) in order to—
- (a) implement standards published by the Financial Action Task Force from time to time relating to combating money laundering, terrorist financing and threats to the integrity of the international financial system;
  - (b) identify or revoke a designation of a high risk country taking account of best international practice including EU sanctions regimes.
- (2) Regulations under this section may not create new types of criminal offences, or reduce defences or evidence.
- (3) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

**After Clause 41 - continued**

LORD DAVIDSON OF GLEN CLOVA  
LORD COLLINS OF HIGHBURY

69F Insert the following new Clause –

**“Consultation on reform of the law on corporate liability for money laundering and terrorist financing etc**

No later than six months from the date on which this Act is passed, the Secretary of State must arrange for the undertaking of a public consultation on the merits of reforming the law on corporate liability for money laundering, terrorist financing offences and those offences which pose a threat to the integrity of the international financial system.”

BARONESS STERN  
BARONESS KRAMER  
LORD COLLINS OF HIGHBURY  
LORD KIRKHOPE OF HARROGATE

69G Insert the following new Clause –

**“Public registers of beneficial ownership of companies in the British overseas territories**

- (1) For the purpose of preventing money-laundering, the Secretary of State must provide all reasonable assistance to the governments of –
  - (a) Anguilla;
  - (b) Bermuda;
  - (c) the British Virgin Islands;
  - (d) the Cayman Islands;
  - (e) Montserrat; and
  - (f) the Turks and Caicos Islands,to enable each of those governments to establish a publicly accessible register of the beneficial ownership of companies registered in that government’s jurisdiction.
- (2) No later than 1 January 2019 the Secretary of State must prepare an Order in Council, and take all reasonable steps to ensure its implementation, in respect of any British overseas territories listed in subsection (1) that have not by that date introduced a publicly accessible register of the beneficial ownership of companies within their jurisdiction, requiring them to adopt such a register.
- (3) In this section a “publicly accessible register of beneficial ownership of companies” means a register which, in the opinion of the Secretary of State, provides information broadly equivalent to that available in accordance with the provisions of Part 21A of the Companies Act 2006 (information about people with significant control).”

**After Clause 41 - continued**

BARONESS KRAMER  
BARONESS BOWLES OF BERKHAMSTED

**69H** Insert the following new Clause –

**“Trust or company service providers**

- (1) A trust or company service provider that does not carry on business in the UK may not incorporate UK companies without oversight from an anti-money laundering supervisor.
- (2) In this section –
  - “anti-money laundering supervisor” has the same meaning as “supervisory authority” in Schedule 2;
  - “trust or company service provider” has the same meaning as in regulation 3 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 692/2017);
  - “carry on business in the UK” has the same meaning as in regulation 9 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 692/2017).”

**69J** Insert the following new Clause –

**“UK bank accounts**

- (1) For the purposes of tackling money laundering, the Companies Act 2006 is amended as follows.
- (2) In section 853A (duty to deliver confirmation statements), after subsection (1) insert –
  - “(1A) In subsection (1) “information” includes such information as is able to demonstrate that the company has a UK bank account.
  - (1B) Any company that is unable to provide the information required in subsection (1A) is liable to a fee which may be prescribed by regulations.””

LORD NASEBY

**69K★** Insert the following new Clause –

**“Due diligence**

- (1) When a company is formed, any company formation agent providing formation services must ensure that the identity and business risk profile of all beneficial owners of the company are established in accordance with –
  - (a) the customer due diligence measures under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692),
  - (b) regulations made under section 41 of this Act, or
  - (c) the Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on anti-money laundering measures.
- (2) For the purposes of subsection (1), Companies House is to be treated as a “company formation agent”.

**After Clause 41 - continued**

BARONESS KRAMER  
BARONESS BOWLES OF BERKHAMSTED

69L★ Insert the following new Clause –

**“Companies House: due diligence and resources**

- (1) The Companies Act 2006 is amended as follows.
- (2) In section 1061 (the registrar’s functions) after subsection (1) insert –
  - “(1A) Functions directed by the Secretary of State under subsection (1)(b) must include due diligence on a person wishing to register a company.
  - (1B) In this section “due diligence” has the same meaning as “customer due diligence measures” in regulation 3 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 692/2017).”
- (3) In section 1063 (Fees payable to the registrar), in subsection (2)(a) after “Secretary of State” insert “including the duty of due diligence under section 1061(1A).”

**Schedule 2**

LORD JUDGE  
LORD PANNICK  
LORD DAVIDSON OF GLEN CLOVA  
BARONESS KRAMER

70 Page 47, line 14, leave out paragraph 15

71 Page 47, line 23, leave out paragraph 18

BARONESS KRAMER  
BARONESS BOWLES OF BERKHAMSTED

*The above-named Lords give notice of their intention to oppose the Question that Schedule 2 be the Second Schedule to the Bill.*

**Clause 44**

BARONESS BOWLES OF BERKHAMSTED  
BARONESS KRAMER

71A Page 29, line 27, leave out paragraph (b)

LORD JUDGE  
LORD PANNICK  
BARONESS NORTHOVER  
LORD COLLINS OF Highbury

72 Page 29, line 29, leave out subsection (2)

**Clause 44** - *continued*

BARONESS BOWLES OF BERKHAMSTED  
BARONESS KRAMER

**72A** Page 29, line 36, leave out subsection (3)

**Clause 45**

LORD COLLINS OF Highbury  
LORD LENNIE  
BARONESS NORTHOVER

**73** Page 30, line 21, leave out paragraph (a)

**74** Page 30, line 36, at end insert –

“( ) non-UN regulations under section 1 (see subsection (7)),”

LORD COLLINS OF Highbury  
LORD LENNIE

**75** Page 30, line 38, at end insert –

“( ) regulations under section 35,  
( ) regulations under section 38,”

BARONESS NORTHOVER  
BARONESS SHEEHAN

**75A** Page 30, line 38, at end insert –

“( ) regulations under section 16,”

LORD COLLINS OF Highbury  
LORD DAVIDSON OF GLEN CLOVA

**75B** Page 30, line 41, leave out paragraph (d)

BARONESS NORTHOVER  
BARONESS SHEEHAN

**76** Page 30, line 45, at end insert –

“( ) A statutory instrument containing regulations under section 1 that repeals, revokes or amends –

- (a) an Act of the Scottish Parliament,
- (b) a Measure or Act of the National Assembly for Wales, or
- (c) Northern Ireland legislation,

must receive the consent of the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly, respectively.”



**Clause 45 - continued**

LORD COLLINS OF Highbury  
LORD DAVIDSON OF GLEN CLOVA

**76A** Page 30, line 45, at end insert –

- “( ) A statutory instrument containing regulations under section 41 may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament, in accordance with the super-affirmative procedure as set out in section (*Super-affirmative procedure for regulations under section 41*).”

**After Clause 45**

LORD COLLINS OF Highbury  
LORD DAVIDSON OF GLEN CLOVA

**76B** Insert the following new Clause –

**“Super-affirmative procedure for regulations under section 41**

- (1) Before a statutory instrument containing regulations under section 41 may be made, the Secretary of State must undertake a consultation with –
  - (a) relevant persons whom the Secretary of State deems appropriate;
  - (b) any persons or bodies recommended to the Secretary of State by the House of Commons Treasury Select Committee or any other relevant Parliamentary committee;
  - (c) such persons or organisations as appear to him or her to be representative of interests substantially affected by the proposals.
- (2) If, after such a consultation, the Secretary of State considers it appropriate to proceed with the making of the regulations, the Secretary of State must lay before Parliament –
  - (a) a draft statutory instrument, and
  - (b) a document which explains the instrument.
- (3) The Secretary of State may not act under subsection (2) before the end of the period of twelve weeks beginning with the day on which the consultation began.
- (4) The Secretary of State may make regulations in the terms of the draft laid under subsection (2) if, after the expiry of the 40-day period, the draft instrument is approved by a resolution of each House of Parliament.
- (5) But the procedure in subsections (6) to (9) is to apply to the draft instrument instead of the procedure in subsection (4) if –
  - (a) either House of Parliament so resolves within a 30-day period, or
  - (b) a committee of either House charged with reporting on the draft instrument so recommends within a 30-day period and the House to which the recommendation is made does not by resolution reject the recommendation within that period.
- (6) The Secretary of State must have regard to –
  - (a) any representations,
  - (b) any resolution of either House of Parliament, and

**After Clause 45 - continued**

- (c) the recommendations of the relevant Parliamentary committees, and any other recommendations of a committee of either House of Parliament charged with reporting on the draft regulations, made during the 60-day period.
- (7) If, after the expiry of the 60-day period, the draft is approved by a resolution of each House of Parliament, the Secretary of State may make regulations in the terms of the draft instrument.
- (8) If, after the expiry of the 60-day period, the Secretary of State wishes to proceed but with material changes, the Secretary of State may lay before Parliament—
- (a) a revised draft instrument, and
  - (b) a statement giving a summary of the changes proposed; and any representations made to the Secretary of State under subsection (6).
- (9) If the revised draft is approved by a resolution of each House of Parliament as under subsection (4), the Secretary of State may make regulations in the terms of the revised draft.
- (10) However, a committee of either House charged with reporting on the revised draft regulations may, at any time after the revised draft instrument is laid under subsection (8) and before it is approved by that House under subsection (4), recommend under this section that no further proceedings be taken in relation to the revised draft instrument.
- (11) For the purposes of this section, an instrument is made in the terms of a revised draft instrument if it contains material changes to its provisions.
- (12) In this section, references to “30-day”, “40-day” and “60-day” periods in relation to any draft instrument are to the periods of 30, 40 and 60 days beginning with the day on which the draft instrument was laid before Parliament; in calculating those periods no account is to be taken of any time during which Parliament is dissolved or prorogued or during which either House is adjourned.”

**Clause 47**

BARONESS KRAMER  
BARONESS BOWLES OF BERKHAMSTED

77 Page 32, line 13, leave out subsections (1) to (3)

**Schedule 3**

BARONESS NORTHOVER  
BARONESS SHEEHAN

78 Page 49, line 22, at end insert—

“*Insolvency Act 1986 (c. 45)*

In section 124A (petition for winding up on grounds of public interest), after subsection (1)(d) insert—

**Schedule 3 - continued**

“(e) any information notified to the Secretary of State pursuant to regulations made under section 1 of the Sanctions and Anti-Money Laundering Act 2017.”

**Clause 50**

BARONESS NORTHOVER  
BARONESS SHEEHAN

79 Page 34, line 29, at end insert –

““company” means means a company registered under the Companies Act 2006 in the United Kingdom or a company that may be wound up under Part 5 of the Insolvency Act 1986 (unregistered companies);”

80 Page 34, line 38, at end insert –

““overseas company” means a company incorporated or formed outside the United Kingdom;”

LORD JUDGE  
LORD PANNICK  
LORD MCNALLY

81 Page 35, line 15, leave out subsection (4)

**Clause 51**

LORD COLLINS OF HIGHBURY  
LORD DAVIDSON OF GLEN CLOVA

82 Page 35, line 24, at end insert “, the Channel Islands, the Isle of Man and the British overseas territories”

83 Page 35, line 30, leave out from “for” to end of line 33 and insert “any regulations under any Part of this Act to extend to –”

84 Page 36, line 8, at end insert –

“(8) The Secretary of State must, no later than 12 months from the date on which this Act comes into force, lay before Parliament a report on the implementation and enforcement of the relevant legislation, to the extent that it applies to sanctions and money laundering, in each Crown Dependency and British overseas territory and the scope of such a report must include –

- (a) whether the applicable legal frameworks are sufficiently robust to achieve the objectives of the relevant legislation across the United Kingdom, the Crown Dependencies and the British overseas territories,
- (b) whether the existing enforcement mechanisms are sufficiently robust to ensure that the relevant legislation is enforced to the same standard across the United Kingdom, the Crown Dependencies and the British overseas territories, and

**Clause 51 - continued**

- (c) whether the existing mechanisms by which the government of the United Kingdom exercises oversight of Crown Dependencies and British overseas territories are sufficient to enable continuous monitoring of the implementation and enforcement of the relevant legislation in each territory on an ongoing basis.
- (9) Following the publication of a report under subsection (8), the Secretary of State must consult on whether further legislation or enforcement powers are necessary to ensure adequate implementation and enforcement of the relevant legislation across the Crown Dependencies and British overseas territories, and such a consultation must include representatives of—
  - (a) each Crown Dependency and British overseas territory,
  - (b) governments of European Union Member States and the European External Action Service,
  - (c) the Financial Action Task Force, and
  - (d) such other persons as the Secretary of State considers appropriate.
- (10) For the purposes of subsections (8) and (9), “the relevant legislation” includes, in addition to any provision of this Act—
  - (a) the Customs and Excise Management Act 1979,
  - (b) the Export Control Act 2002,
  - (c) the Terrorism Act 2000,
  - (d) the Anti-Terrorism, Crime and Security Act 2001,
  - (e) the Proceeds of Crime Act 2002,
  - (f) the Terrorist Asset-Freezing etc Act 2010,
  - (g) the Policing and Crime Act 2017,
  - (h) the ISIL (Da’esh) and Al-Qaida (Asset-Freezing) Regulations 2011 (S.I. 2472/2011),
  - (i) the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 692/2017), and
  - (j) such other legislation as the Secretary of State considers appropriate.”

**After Clause 52**

LORD COLLINS OF Highbury  
LORD DAVIDSON OF GLEN CLOVA

85

Insert the following new Clause—

**“Expiry of Act**

This Act expires at the end of five years beginning with the date on which this Act is passed.”

# Sanctions and Anti-Money Laundering Bill [HL]

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THIRD  
MARSHALLED  
LIST OF AMENDMENTS  
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*4 December 2017*

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