

A positive step in the UK's fight against fraud

Tom Russell looks at the 2023 Economic Crime and Corporate Transparency Act (ECCT Act) and the potential missed opportunities around the legislation



Over the last four years, a series of national, international, and geopolitical issues has created a need for further legislation to combat the fight against fraud in the UK.

The potential misuse of Government support funds during the pandemic, the war in Ukraine, and a need to strengthen the UK's economy to combat national and international crime has seen the Government pass two specific pieces of legislation to strengthen the UK's anti-fraud efforts and help the work of those who support them.

The first of these pieces of legislation was the Economic Crime (Transparency and Enforcement) Act (ECTE Act) 2022, which focused mainly on strengthening the UK's sanctions regime, creating a register of overseas entities to target foreign criminals using UK property to launder money and making the UK's unexplained wealth regime more effective.

The second, the Economic Crime and Corporate Transparency Act (ECCT Act) 2023, was a follow-up to this, and was introduced to give the Government greater tools to tackle economic crime and improve transparency over corporate entities in the UK itself.

Its wide range of reforms covered limited partnerships, crypto-assets, information sharing and created a new 'failure to prevent fraud' offence. To the insolvency profession, the most interesting of these are the reforms it proposes to Companies House and the opportunities these provide to those investigating fraud

and the abuse of the limited company regime.

These reforms improve the transparency of UK companies, making the companies register more reliable and introducing new powers for Companies House to enhance its role in combatting illicit wealth. Companies House has confirmed that provisions which will come into force in March 2024 include information sharing powers to for the proactive sharing of data with law enforcement, regulators and other public authorities.

Further provisions will see increased obligations to verify the identities of people with significant control (PSCs) and other individuals or entities filing on behalf a company on the register, and strengthening the existing offence under s112 Companies Act 2006 for companies that deliver false or misleading statements, with secondary legislation being necessary in order to come into force.

While all these provisions are welcome, and will strengthen Companies House from an operational and reputational perspective, one key element of the legislation which would have benefitted the profession appears to have been missed from the Act itself.

In the White Paper on the then Economic Crime and Corporate Transparency Bill, insolvency practitioners were named among the group of people with whom Companies House could share data with about companies on the Register, but this does not appear to have been included in the legislation.

Given the key role members of the profession play in investigating activities, which are potentially fraudulent and submitting reports into the conduct of company directors, and the fact there will be times when an insolvency practitioner will need access to information about companies over which they have not been appointed, we believe this information sharing process needs to be established as soon as possible.

Doing so would be a crucial step towards improving the efficiency of, and trust in, the UK's company register – as well as the insolvency and restructuring profession's own anti-fraud work, and could result in more effective investigations, more fraud being disrupted and prevented, and more money returned to creditors and into the economy.

Given the Government has already taken a hugely positive step towards helping the profession further support the UK's fight against fraud with these reforms to Companies House, ensuring this additional information Companies House collects is shared with insolvency practitioners and putting a process in place for this information sharing to happen should not be too much of a further step.

The profession and the UK's anti-fraud efforts will be in a better – stronger – place if it is taken – and, with the clock counting down towards a General Election, it would seem critical for the Government to resolve this before purdah starts, and progress on this, and other initiatives, is paused. ■



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