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# UP TO THE TASK?

**The state of play in countries committed to freezing and seizing Russian dirty money**

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## Up to the task?

The state of play in countries committed to freezing and seizing Russian dirty money

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# ACRONYMS

AML	Anti-money laundering
AMLD	Anti-Money Laundering Directive (EU)
AUSTRAC	Australian Transaction Reports and Analysis Centre (Australia FIU)
CSF	Comitato di sicurezza finanziaria
EU	European Union
FCDO	Foreign, Commonwealth and Development Office (UK)
FIOD	Fiscal Information and Investigation Service (Netherlands)
FIU	Financial intelligence unit
FinCEN	Financial Crimes Enforcement Network (US FIU)
FINTRAC	Financial Transactions and Reports Analysis Centre (Canada FIU)
GTO	Geographic targeting order
NCA	National Crime Agency (UK)
NCBC	Non-conviction based confiscation
OFAC	Office of Foreign Assets Control (US)
OFSI	Office for Financial Sanctions Implementation (UK)
REPO Task Force	Russian Elites, Proxies, and Oligarchs Task Force
STR	Suspicious transaction report
TCSP	Trust and company service providers
TRACFIN	Traitement du renseignement et action contre les circuits financiers clandestins (France FIU)
UWO	Unexplained wealth order (UK)



Photo: Yoruk Isik/REUTERS

# EXECUTIVE SUMMARY

Despite strong early pledges to sanction and track the illicit wealth of Russian elites following the invasion of Ukraine, the G7 and other leading economies are not sufficiently equipped to bring kleptocrats to justice.

Russia's brutal invasion of Ukraine in February 2022 ignited a global reckoning over the dangers of kleptocracy and the international community's decades-long complicity. The initial response of the advanced Western economies was to unleash new waves of targeted sanctions against Kremlin-linked individuals. But denying safe haven to Russian kleptocrats calls for multilateral efforts, including tracking down the illicit wealth they have diligently hidden across the globe.

In a welcome step, several governments – primarily Western economies such as those making up the Group of 7 (G7) – are now joining efforts to share intelligence and cooperate across borders as part of a dedicated task force. To succeed, they must focus on two main objectives while respecting due process and the rule of law:

- + implementing sanctions effectively, including as a means of preventing the flight of assets that could be subject to criminal or civil investigation
- + securing meaningful action against those assets, individuals and entities where there is sufficient evidence of their involvement in corruption, sanctions evasion or other crimes

This study assesses how well countries leading multilateral efforts to freeze and seize kleptocrats' assets are equipped to deliver on these objectives. The comparative analysis covers eight countries: Australia, Canada, France, Germany, Italy, the Netherlands, the United Kingdom (UK) and the

United States (US). A majority of these have also set up national task forces to implement sanctions, but most are focused on coordination. Only the US's KleptoCapture task force has a distinct asset tracing mandate.

Transparency International found that insufficient transparency measures – that kleptocrats have abused for decades – allow the elites to keep their assets out of authorities' reach. What's more, patchy regulation of private sector intermediaries and under-resourcing compromise authorities' ability to act on available evidence and track down illicit assets. Unless reforms are passed, most countries will also face significant legal challenges when it comes to confiscating and eventually returning these assets to the victims of corruption.

**While high-profile yacht seizures have been making international headlines, these are only a small fraction of kleptocrats' illicit wealth stashed abroad. But even these early successes have at times been hampered by layers of secrecy and barriers to international cooperation. These cases illustrate the obstacles to effectively deliver on stated objectives facing even the most willing authorities.**

## I. NOWHERE TO HIDE

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Anonymous companies and trusts make it easier for kleptocrats to purchase real estate or other luxury goods and to launder their ill-gotten gains. We find that, despite commitments and pledges to improve transparency in beneficial ownership of companies and trusts, current rules and practices are far from satisfactory. Most countries' real estate sectors are particularly vulnerable to dirty money due to a significant loophole that allows for anonymous ownership of properties through foreign companies.

### Availability of information on companies' real owners

- + In **Germany, France, the Netherlands** and the **UK** registers of companies' beneficial owners are in place, but all four lack sufficient data verification.
- + **Australia, Canada, Italy** and the **US** still rely on the information collected by financial institutions to identify the beneficial owners of companies, which is known to be a deeply flawed approach. In the past year, all but **Australia** have progressed or fast-tracked commitments to establish registers.

### Availability of information on trusts' real owners

- + Only **Germany, France** and the **UK** have registers for trusts, but all restrict access by "legitimate interest" or registration requirements.
- + **Australia, Canada, Italy, the Netherlands** and the **US** have no registers for trusts at all. Italy and the Netherlands have not yet complied with the European Union (EU) requirements that mandated beneficial ownership registers of trusts by June 2017.

### Availability of information on real estate ownership

- + None of the countries systematically collect beneficial ownership information for real estate properties.
- + In **France, Germany, the Netherlands** and the **UK**, it is possible to cross-reference the real

owners of properties owned through companies using the beneficial ownership register. In France and the Netherlands, however, information is not available for foreign companies as they are not required to disclose their beneficial owners to any register when purchasing real estate, creating a loophole. Current plans for beneficial ownership registers in Italy and the US will also leave this gap.

- + Only **Germany** currently requires foreign companies to disclose their beneficial owners to the authorities in order to purchase properties. In the **UK**, parliament recently approved legislation to address this loophole.

### Availability of information on luxury goods ownership

None of the countries systematically collect beneficial ownership information for yachts or private planes.

## II. NO ONE TO HELP

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Lawyers, accountants, bankers, investment advisers and real estate agents are uniquely placed to identify and report on criminals and sanctioned individuals. Yet past scandals have shown them – wilfully or unwittingly – facilitating cross-border corruption, money laundering and sanctions evasion. We found that the national frameworks do not sufficiently extend regulation to non-financial gatekeepers. Even in the countries where key professions are under anti-money laundering obligations, compliance remains patchy – especially in the real estate sector.

- + Key gatekeeper professions have anti-money laundering requirements in **Germany, France, Italy, the Netherlands** and the **UK**, but not in **Australia, Canada** and the **US**. Most significantly, trust and corporate service providers and lawyers in those three countries are under no obligation to conduct customer due diligence, identify the beneficial owner of legal entity clients or establish their source of wealth.
- + In the **US**, investment advisers are not even obliged to conduct customer due diligence on their clients, while in **Australia** they are regularly exempted from these duties. However, no country covered in the study provides authorities

with direct and immediate access to information on end investors of investment funds such as hedge funds and private equity.

- + **Germany, France, Italy, the Netherlands** and the **UK** have reporting obligations for dealers in luxury goods. However, **Australia, Canada** and the **US** only include jewellers in anti-money laundering obligations.

### III. NO IMPUNITY

To break the cycle of impunity and money laundering, the ultimate objective of multilateral efforts should be to confiscate and return stolen assets to the victims. This is only possible, however, if countries can efficiently gather intelligence and investigate complex, cross-border cases.

Considering the likely challenges of prosecuting kleptocrats for their involvement in corruption and other crimes, the use of tools such as non-conviction based asset confiscation could play a pivotal role in ensuring some level of accountability. Yet we found that the powers, resources and tools available to the authorities tasked with freezing, seizing and confiscating illicit assets are inadequate.

#### Financial intelligence units

- + The financial intelligence units (FIUs) are under-resourced in the majority of countries covered, particularly in the **UK** and the **US**, where FIUs received 5,300 and 10,130 suspicious transaction reports – respectively – per staff member, according to most recent annual data. Even **Germany's** FIU, which is relatively better resourced after a series of reforms, continues to face serious challenges in effectiveness and implementation of a risk-based approach.
- + When compared to the size of their economies, FIUs are insufficiently funded across all countries. **Australia**, followed by **Canada**, have larger budgets for their FIUs relative to other countries, but their FIUs also have additional regulatory and supervisory responsibilities. **France**, the **Netherlands**, and particularly the **UK** and the **US** dedicate substantially fewer resources to their FIUs.

#### Law enforcement agencies

- + Governments do not consistently publish budget and staff data for specialised anti-corruption or

financial crime law enforcement units. Only **Italy** and the **Netherlands** consistently publish budget and staff figures for their specialist units, while the **UK** publishes this data for the Serious Fraud Office only.

- + Of the countries assessed, only **Germany** does not have a federal law enforcement unit dedicated to anti-corruption or to investigating financial crimes. While the federal police are part of the domestic task force, they do not have specialised anti-corruption or anti-money laundering teams.

#### Asset confiscation tools

- + **France** and the **Netherlands** do not allow for non-conviction based confiscation with a civil burden of proof, but others have some mechanisms available.
- + Only **Australia** and the **UK** have unexplained wealth order tools available to law enforcement. Unexplained wealth can be confiscated for organised crime offences in **Germany**. **France** also has an illicit enrichment tool available to prosecutors.
- + In addition, **Australia**, the **UK** and the **US** each have mechanisms that allow for civil forfeiture proceedings against assets that run independent of or in parallel to criminal procedures.

### RECOMMENDATIONS

Russia's invasion of Ukraine has shed new light on the systemic weaknesses that allowed kleptocrats to find safe haven for their illicit wealth abroad. Until the gaps identified across the assessed countries are addressed, multilateral efforts risk being undercut by the same deficiencies that created a problem of this scale in the first place. To ensure that kleptocrats – originating from Russia or elsewhere – can be effectively deterred, governments leading the efforts to freeze and seize illicit wealth should:

- 1. Pro-actively identify and freeze the assets of kleptocrats.** Governments should explicitly mandate that their task forces trace the assets of designated and corrupt individuals. They should also go beyond “freezing to seizing” and aim to confiscate the assets when they are linked to grand corruption and other crimes, following due process. To that end, governments should prioritise reforms that grant necessary powers to

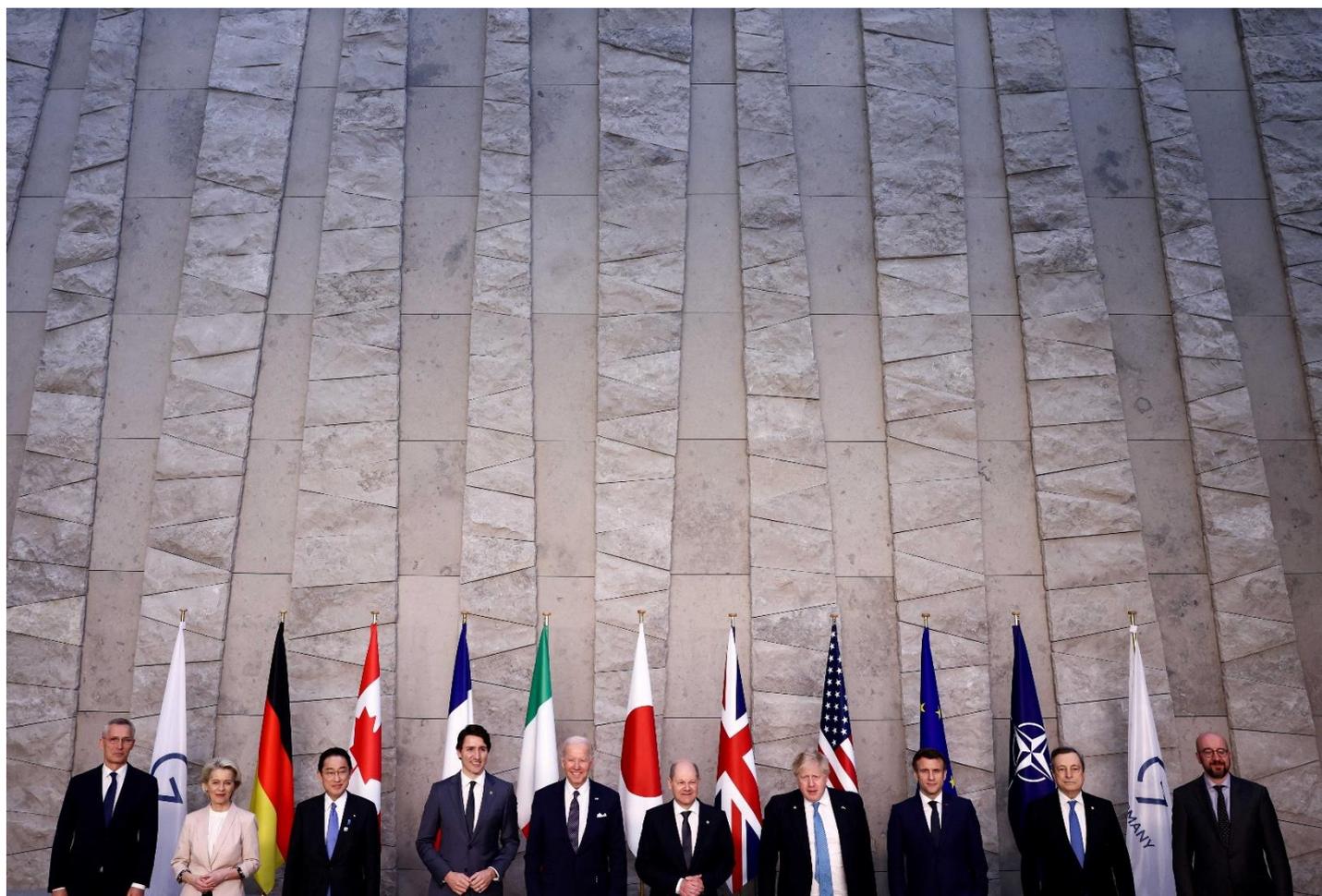
law enforcement to proactively trace and investigate assets linked to sanctioned individuals.

2. **Fast-track key transparency measures.** All remaining countries should establish and maintain central registers with verified information about the real owners of companies – including foreign-registered companies buying real estate – and trusts. All should ensure information is available publicly in open data formats so that foreign authorities, media and civil society can access the information and support accountability efforts. Authorities should record and publicly disclose information about the real owners of assets, including end investors of hedge funds and private equities, yachts and private jets.
3. **Regulate and hold to account all professional enablers of financial crime.** Banks, corporate service providers, lawyers, investment fund managers, accountants, real estate agents and luxury goods dealers should be obligated to identify the beneficial owners of customers, conduct enhanced due diligence on politically

exposed persons, and report suspicious transactions to authorities. Those found to be enabling Russian kleptocrats and other corrupt individuals should be held to account.

4. **Effectively resource financial intelligence units and law enforcement, as well as strengthen mechanisms for confiscating assets.** Countries should ensure that law enforcement and financial intelligence units are empowered and well-resourced. To move beyond sanctions, they should also ensure that they have civil and criminal mechanisms to seize and confiscate assets – including through unexplained wealth orders or non-conviction based forfeiture – and eventually return these assets to the victims of corruption.
5. **Strengthen multilateral efforts.** The REPO Task Force should expand its current coordination efforts beyond just Russian elites, making both the multilateral and domestic task forces permanent. These task forces should publicly report on their work, including on the assets frozen, investigations initiated and confiscation efforts.

Photo: Henry Nicholls/Pool via REUTERS



# INTRODUCTION

Russia's invasion of Ukraine has shone a renewed light on the mechanisms and networks that have allowed kleptocrats to hide and launder proceeds of corruption and other crimes.

In response to the Russian invasion of Ukraine, Western governments have scaled up targeted sanctions against the Russian political and economic elite. With over half of the elite's wealth estimated to be held offshore – among the highest shares in the world – effectively going after the assets of Russia's kleptocrats poses a particular challenge.<sup>1</sup>

Globally, kleptocrats favour countries with a strong rule of law, political and economic stability, and advanced financial services as destinations for their ill-gotten gains. To achieve impunity, they exploit weak defences against dirty money, the opacity of companies and a range of assets, and the limited capacity of the authorities tasked with investigating and prosecuting crimes. They also rely on an array of private sector intermediaries ready and willing to help launder and invest their stolen fortunes.

These weaknesses have also made the effective implementation of stringent sanctions on Russian elites extremely difficult. Ownership of assets is often not easy to prove for a variety of reasons, which include the secrecy provided by financial centres, under-resourced and under-powered law enforcement agencies, and the challenges of cross-border cooperation.<sup>2</sup>

The challenges of effectively tracing assets – be it to implement sanctions or in the context of civil and criminal investigations – are many. It is not surprising that back in 2004 asset tracing was already highlighted by the then Group of Eight (G8) as an area in need of improvement.<sup>3</sup> What is surprising is that almost 20 years afterwards many of the identified shortcomings remain problematic across today's Group of Seven (G7).

## The challenges of sanctions as an anti-corruption tool

At their core, sanctions issued by Western governments in response to Russia's invasion are an administrative tool aimed at changing political behaviour. They seek to restrict the ability of designated individuals to move, invest or dispose of their assets and to coerce them into ultimately halting or reversing political actions. Sanctions are implemented by requiring private sector actors to freeze the assets held by their sanctioned clients for as long as these individuals or legal entities remain so designated. Ownership of the assets, however, remains firmly in the hands of the designated individuals or entities.

In cases where the wealth of sanctioned individuals is thought to be the result of grand corruption, questions of justice and accountability become paramount.

As mere tools to freeze assets, administrative sanctions are insufficient to achieve justice when designated individuals could be also linked to illegal activities. Rather, the ill-gotten assets of kleptocrats need to be seized and confiscated with the ultimate goal of repatriation to the people they have been stolen from. To accomplish this, designated corrupt individuals and their assets need to be subjected to civil and/or criminal investigations that follow adequate due process. Justice can only be achieved if the rule of law is respected and the relevant evidentiary standard for confiscation is met.<sup>4</sup>

Effectively tracing assets requires active coordination between domestic authorities and their foreign counterparts. Success hinges on the authorities' ability to connect information held in different jurisdictions to link assets conclusively with their real owners.

To coordinate their efforts and address these challenges, the governments of Australia, Canada, France, Germany, Italy, Japan, the United Kingdom (UK) and the United States (US), together with the European Commission, have set up the Russian Elites, Proxies, and Oligarchs (REPO) Task Force.<sup>5</sup>

Transparency International welcomed the establishment of the REPO Task Force in March 2022<sup>6</sup> and called on countries in the West to adopt key policies and strengthen enforcement to crack down on the flow of dirty money.<sup>7</sup> The success of the task force will depend largely on the ability of its members to achieve two principal objectives while respecting due process and the rule of law:

- + implement sanctions effectively as a means of ending Russia's aggression on Ukraine and preventing the flight of assets that could be subject to criminal or civil investigation
- + secure meaningful action against those assets, individuals and entities where there is sufficient evidence of their involvement in corruption or sanctions evasion

## ABOUT THIS REPORT

This paper assesses the ability of the authorities in key countries to effectively implement sanctions, trace assets and address any weaknesses in their legal frameworks that have permitted the inflow of dirty money in the first place.

The analysis covers REPO Task Force members Australia, Canada, France, Germany, Italy, the UK and the US<sup>i</sup> as well as the Netherlands.<sup>ii</sup> We assessed the extent to which they have established policies, measures and practices towards ensuring that kleptocrats have:

1. **nowhere to hide:** transparency in financial transactions, investments and asset ownership
2. **no one to help:** efforts to regulate gatekeepers, including corporate service providers, real estate agents and investment fund managers
3. **no impunity:** tools and resources available to law enforcement and financial intelligence units to investigate, seize and confiscate assets

The comparative assessment encompassed the analysis of national legal frameworks in the covered countries as well as publicly available information to gain insight into fitness for purpose of existing systems. We also analysed available data to identify gaps in private sector compliance and law enforcement action. We sought to validate these findings through consultations with country experts.

To some extent, gaps in information – often due to poor-quality data provided by governments – have limited the comparative analysis, and we have noted where this is the case.

Essentially, this study examines the extent to which countries have the minimum conditions in place to achieve their stated objectives. We sought to identify, in particular, legal loopholes and enforcement deficiencies that could prevent the effective implementation of sanctions, and pursuit of corrupt actors and their illicit wealth. Going forward, task force members should also release detailed progress reports so an assessment of their efforts in practice can also become possible.

<sup>i</sup> The research excludes an assessment of Japan owing to constraints in publicly available information.

<sup>ii</sup> While the Netherlands is not a member of the REPO Task Force, the country's FIU is a member of the FIU working group that supports the intelligence-sharing efforts.

# JOINING FORCES

Governments of advanced Western economies are now coordinating their efforts to implement sanctions against Russian elites. Majority of countries examined in this report have also set up dedicated national task forces.

## MULTILATERAL TASK FORCES

Countries set up the REPO Task Force to cooperate more closely to “find, restrain, freeze, seize, and, where appropriate, confiscate or forfeit” assets of sanctioned individuals.<sup>8</sup> It is their stated ambition to track the assets of Russian elites, initiate criminal or civil forfeiture proceedings where appropriate, and bring kleptocrats’ facilitators to justice.<sup>9</sup> This has raised the need for the task force’s members to promote closer coordination between international counterparts<sup>10</sup> but also across their own ministries and investigative agencies.

Competent authorities – financial intelligence units (FIUs) in particular – have an important role to play in asset tracing. The members of the REPO Task Force – joined by the Netherlands and New Zealand – have also set up a dedicated working group of FIUs. The working group aims to boost cooperation between and with authorities in the task force’s member countries, including by expediting and increasing intelligence sharing.<sup>11</sup>

The European Union (EU) has established a dedicated Freeze and Seize Task Force whose objective is to ensure EU-wide cooperation to implement sanctions and confiscate assets where national law allows for it, also in coordination with the REPO Task Force.<sup>12</sup>

## NATIONAL TASK FORCES

Most countries assessed in the report have also set up domestic task forces to support coordination among ministries, anti-money laundering (AML) supervisory authorities, FIUs and law enforcement agencies. These task forces aim to address practical challenges in the implementation of sanctions, such as clearly defining responsibilities where no dedicated body exists to coordinate the efforts<sup>13</sup> and ensuring that information can be shared between ministries and agencies in compliance with privacy laws.<sup>14</sup> In France, the Ministry of Economy – which leads the national task force – and the Ministry of Justice are also tasked with finding a legal framework that would allow the confiscation of assets that are currently frozen.<sup>15</sup>

Some appear to be relying more on existing structures to ensure coordination among authorities. Of the analysed countries, three – Australia, Canada<sup>16</sup> and Italy – have not set up dedicated task forces to deal with Russia-related sanctions. In Italy, a pre-existing committee on financial security is responsible for ensuring sanctions compliance and coordinating between government agencies.<sup>17</sup>

**Table 1: Overview and mandates of country-level task forces for Russia sanctions**

Country	Task force	Mandate
Australia	✗	
Canada	✗	
France	✓	Coordinate implementation and strengthen EU sanctions enforcement
Germany	✓	Coordinate implementation and strengthen EU sanctions enforcement
Italy	✓	Pre-existing committee that now coordinates EU sanctions enforcement
Netherlands	✓	Coordinate implementation and strengthen EU sanctions enforcement
United Kingdom	✓	Task force with mandate to coordinate government efforts to identify individuals to sanction New dedicated law enforcement unit Combating Kleptocracy Cell tasked with investigating "corrupt elites"
	Dedicated sanctions implementation body and dedicated task force	Enhanced inter-agency efforts to coordinate sanctions implementation led by dedicated Office of Financial Sanctions Implementation (OFSI) OFSI granted statutory powers to request information from obliged entities on sanctioned entities
	✓	Task force mandated with asset tracing as well as coordinating implementation and strengthening sanctions enforcement
United States	Dedicated sanctions implementation body and dedicated task force	Office of Foreign Assets Control (OFAC) dedicated to administering and enforcing sanctions OFAC has enforcement authority against entities and individuals found to be evading sanctions

✓ – yes; ✗ – no

France,<sup>18</sup> Germany,<sup>19</sup> the Netherlands,<sup>20</sup> the UK<sup>21</sup> and the US<sup>22</sup> have each set up distinct domestic task forces with the mandate of implementing the Russia sanctions. While the REPO Task Force was established with a broader mandate of asset freezing and civil and criminal asset seizure,<sup>23</sup> the existing national-level task forces – except for the US task force – are less ambitious at least in their stated goals. Most of them mention only the implementation or enforcement of sanctions as their objective, but do not provide any details of how this can be achieved.

In the UK, the Foreign, Commonwealth and Development Office (FCDO) established a task force "to coordinate cross-government work to sanction oligarchs, helping to build cases against the list of oligarchs it has identified as targets".<sup>24</sup> However, the government did not specify how the task force was to work with existing structures such as Her Majesty's (HM) Treasury Office for Financial

Sanctions Implementation (OFSI). OFSI, which otherwise leads the compliance and enforcement of sanctions, has explicit statutory powers to compel obliged entities to produce evidence and documentation on the nature and amount of funds held or controlled by designated persons.<sup>25</sup> It can also demand documentation to detect or obtain evidence of the commission of a criminal offence. However, it does not have a mandate to take steps beyond sanctions, such as the confiscation of assets.

In the US, the domestic law enforcement task force KleptoCapture has a distinct mandate to conduct active asset tracing to support sanctions implementation.<sup>26</sup> One of its primary objectives is to identify and crack down on sanctions evasion. This approach has, in turn, enabled the confiscation of frozen assets by linking them to the crime of sanctions evasion.<sup>27</sup> In addition, the US has launched the Kleptocracy Asset Recovery Rewards Program, which offers rewards payments for

information leading to the seizure, restraint or forfeiture of assets linked to foreign government corruption more widely.<sup>28</sup> In April 2022, the White House further proposed a legislative package that would create a criminal offence “making it unlawful for any person to knowingly or intentionally possess proceeds directly obtained from corrupt dealings with the Russian government”.<sup>29</sup> The proposal aims to streamline the US government’s efforts to seize and forfeit Russian kleptocrats’ assets.

In the UK, the National Crime Agency (NCA) has set up a new Combating Kleptocracy Cell which is tasked with investigating corrupt elites through their assets, targeting key enablers and supporting sanctions enforcement.<sup>30</sup> This mandate appears to cover corrupt elites worldwide and is not focused on just Russian or Belarusian kleptocrats. The NCA states that the unit has a dedicated budget, but the exact budget has not been made public.<sup>31</sup> It also remains unclear how the responsibilities of the new unit are coordinated with existing anti-corruption coordination and investigation bodies such as the International Corruption Unit or the National Economic Crime Centre.

Other task forces are primarily tasked with coordinating implementation and ensuring compliance enforcement in the private sector and it is not clear to what extent they will or even can engage in proactive asset tracing. In fact, there are discussions on whether proactive asset tracing in the form of requesting information from obliged entities or other competent authorities, consulting existing government databases, requesting or sharing information with foreign counterparts and performing other types of investigative work can be initiated by law enforcement and FIUs in the context of sanctions (that is, whether the fact that someone has been designated is sufficient to trigger proactive asset tracing).

In Germany, for example, law enforcement can only initiate investigations into the ownership of assets owned by foreign legal entities if there is an initial suspicion that an asset is the proceeds of a crime.<sup>32</sup> As the sanctioning of individuals does not constitute such a suspicion, no investigations into complex ownership structures can be undertaken. Similarly,

the Netherlands task force has stated it is merely “re-examining” whether there are companies or individuals whose assets could be frozen.

This distinction in mandate is important as kleptocrats’ assets are usually hidden behind layers of secrecy provided by shell companies and trusts, often registered in the name of nominees, proxies and family members<sup>33</sup> across different countries.<sup>34</sup> The approach of only trying to match the name of designated individuals to assets or relying on obliged entities – such as financial institutions, lawyers, real estate agents and accountants – to freeze assets is unlikely to yield good results.

Active efforts to link high-value assets to their actual beneficial owners are therefore paramount to effective sanctions implementation. This will often require investigations and the exchange of information between the relevant authorities. With only the US giving this mandate to its domestic task force, large amounts of assets belonging to sanctioned individuals will remain untouched.

It is also unclear to what extent the recently created task forces and their members have been properly resourced. Only the US has published information on the budget available to KleptoCapture and publicised plans to turn it into a permanent task force.<sup>35</sup> The US has stated that it will establish a dedicated “kleptocracy team” focused solely on Russia with an annual budget of US\$3.5 million. The UK’s Combating Kleptocracy Cell is also intended to be a permanent unit, but the government has not detailed long-term funding plans.

**The success of the REPO Task Force and the national task forces, where they exist, depends to a great extent on the authorities’ ability to successfully link assets to Russians of interest and take additional steps to seize, confiscate and return those assets to the victims of corruption.**

# I. NOWHERE TO HIDE

Dragged-out reforms and insufficient implementation of key transparency measures – the very same deficiencies that kleptocrats have abused for decades – risk undermining accountability efforts.

For years, kleptocrats and the corrupt have been using anonymous companies and trusts to hide their identity and the source of their money when investing and laundering the proceeds of grand corruption. What's more, they have been able to leverage such assets to influence elections, sway decision-making and launder their reputation. This is particularly true of Russian kleptocrats.<sup>36</sup>

Transparency International's analysis of the Russian Asset Tracker<sup>37</sup> – an effort by investigative journalists coordinated by the Organized Crime and Corruption Reporting Project (OCCRP) – illustrates the pattern well. When launched, the tracker contained information on 11 sanctioned individuals and 149 assets connected to them, ranging from real estate and yachts to company shares. Only in two cases were the assets registered in the name of the individual. In all other cases, the assets were held through legal entities or trusts and often through complex ownership structures. The structures frequently made use of companies or trusts set up in secrecy jurisdictions like Cyprus, Bermuda, the British Virgin Islands and the Isle of Man.

**Anonymous companies and trusts have made it easier for kleptocrats to purchase real estate or other luxury goods throughout the countries covered by the research. Now, the lack of transparency is making it much more difficult for the authorities to trace assets connected to them, enabling the elites to remain unpunished.**

This section assesses the likelihood that the assessed countries will have at their disposal sufficient and actionable information on the ownership of companies, trusts and assets to support sanctions implementation as well as civil and criminal investigations. It also sheds light on how prepared countries are to prevent their companies, trusts and real estate sectors from being abused by kleptocrats in the future.

## BENEFICIAL OWNERSHIP TRANSPARENCY OF COMPANIES

The use of anonymous companies is one of the main methods used by kleptocrats to hide their wealth. The challenges faced by REPO Task Force countries to freeze assets held by sanctioned individuals are largely a result of the complex ownership structures of companies set up in secrecy jurisdictions with the help of a long list of professional enablers.<sup>38</sup> Corrupt individuals can register such companies in countries with limited ownership disclosure requirements and use nominee directors and shareholders to manage their companies for them.<sup>39</sup> Frequently, family members or close associates are also named as beneficiaries in order to obscure the true ownership of the company buying an asset.

Our research shows that despite the commitments and pledges to improve company ownership transparency made by REPO Task Force countries in different international fora – such as the G7, G20 and the Financial Action Task Force (FATF) – the current rules and practices are still far from satisfactory.

Australia,<sup>40</sup> Canada,<sup>41</sup> Italy,<sup>42</sup> and the US<sup>43</sup> still rely on information collected by financial institutions to be able to identify the beneficial owner of companies. The FATF has now agreed that this

approach is not satisfactory and that it hinders timely access to information by the competent authorities.<sup>44</sup> In this context, the absence of a centralised register of beneficial ownership information presents a major gap to address.

In Canada, the government has accelerated the timetable to implement a centralised, public register by 2023.<sup>45</sup> However, draft amendments to the Canada Business Corporations Act have not yet been published.

Italy lags significantly behind in the implementation of the EU's 5th Anti-Money Laundering Directive (AMLD), which required all EU Member States to establish public beneficial ownership registers by January 2020.

In the US, Corporate Transparency Act of 2020 authorises the creation of a centralised register containing beneficial ownership information of companies. The register, however, will not be open to the public.<sup>46</sup> The Financial Crimes Enforcement Network (FinCEN) has recently consulted stakeholders on the implementation of the register in the US<sup>47</sup> and, at this stage, the exact features of the register are still unclear.

Australia lags even further behind. No concrete steps have been taken to implement commitments under the G20 High Level Principles adopted at the 2014 Brisbane Summit and the country's own 2016-2018 Open Government Partnership Action Plan.<sup>48,49</sup>

**Table 2. Progress with the establishment and accessibility of beneficial ownership registers for companies**

Country	Central register in place	Public access	Free access	Registration requirement
Australia	✗			
Canada	▶	✔		
France	✔	✔	✔	✗
Germany	✔	✔	✗	✔
Italy	▶	✔	✗	
Netherlands	✔	✔	✗	✔
United Kingdom	✔	✔	✔	✗
United States	▶	✗		

✔ – yes; ✗ – no; ▶ – forthcoming; ✔ – will be; ✗ – will not be

Only France,<sup>50</sup> Germany,<sup>51</sup> the Netherlands<sup>52</sup> and the UK<sup>53</sup> have central beneficial ownership registers that are up and running. In all four countries, access to the register is open to the public. In France and the UK, access is free of charge. In the UK, moreover, information is also available in open data format and the government has recently announced its commitment to implement the Beneficial Ownership Open Data Standards.<sup>54</sup>

In Germany and the Netherlands, certain restrictions such as registration requirements, fees and limited search functions limit the usability and effectiveness of the register.<sup>55</sup>

In the Netherlands, delays in the implementation of the register have meant that companies are taking longer to populate it. Companies had until 27 March 2022 to submit information on their beneficial owners to the register. The government estimates that only around 52 per cent of Dutch companies complied with this deadline, with information on 700,000 to 800,000 companies still outstanding.<sup>56</sup> These low levels of compliance further restrict the ability of the register to be used as an effective transparency tool.

Another challenge relates to the accuracy of the information in existing registers. At present, none of the countries has put in place effective verification mechanisms, whose absence limits the reliability and therefore the usefulness of the registers. Register authorities do not have the mandate and consequently the resources to undertake any independent checks on the information provided by companies or beneficial owners.

In France, *greffiers* (court clerks) are responsible for verifying beneficial ownership data submitted to the register.<sup>57</sup> However, there is no information either on the types of verification mechanisms used or on the number of audits conducted. The stable employment figures at the National Council of Clerks of Commercial Courts since the introduction of the new obligation in 2016 also raise questions about whether they are adequately staffed and resourced to effectively undertake the task.<sup>58</sup>

## BENEFICIAL OWNERSHIP TRANSPARENCY OF TRUSTS

Trusts are another preferred vehicle of kleptocrats as they enable property or assets to be managed by one person on behalf of another. In a trust, the original owner (“settlor”) transfers assets into a trust, to be held and managed by the “trustee” for

the benefit of the “beneficiaries”. One of the challenges in tackling the misuse of trusts is that control and ownership are explicitly separate and multiple individuals with different roles (settlor, beneficiary, trustee) could qualify as beneficial owners. Such trust structures are often combined with complex ownership constructs using multiple anonymous companies to further obscure the ultimate beneficial owner.<sup>59</sup>

Our research shows that, as with the register of beneficial owners of companies, countries are lagging behind in their commitments to improve the transparency of legal arrangements.<sup>60</sup> Only three of the covered countries have a register with beneficial ownership information for trusts. As with the companies, the lack of a trusts register presents a substantial gap in Australia,<sup>61</sup> Canada,<sup>62</sup> Italy,<sup>63</sup> the Netherlands<sup>64</sup> and the US.<sup>65</sup>

In the US, even under the approved Corporate Transparency Act, newly imposed beneficial ownership reporting requirements will not apply to most types of trusts.

Italy and the Netherlands lag significantly behind their EU counterparts in implementing the register of trusts by June 2017 as stipulated by the EU’s 4th AMLD.<sup>66</sup> The EU 5th AMLD later requires member states to ensure individuals with legitimate interest gain access to the register, which Italy and the Netherlands have also not met.<sup>67</sup> The delay poses a substantial weakness in both countries’ defences against dirty money. The Netherlands is of particular concern owing to the importance of Dutch companies in providing trust services worldwide.<sup>68</sup>

The Netherlands is expected to implement the register in 2022, although the date will be confirmed via a separate Royal Decree that remains pending at the time of writing. Italy has approved the necessary legislation for the register of trusts but the relevant implementing decree is also pending. France<sup>69</sup> and the UK<sup>70</sup> have put in place beneficial ownership registers of trusts that are free to use. However, they require the demonstration of a “legitimate interest” to access the information. In practice, this requirement may restrict access to the information as requestors would need to provide evidence of how the information would help them further investigations into financial crime.

Germany<sup>71</sup> is the only analysed country with a register of trusts that is accessible without having to demonstrate a legitimate interest. However, as it is included in the joint transparency register (“*Transparenzregister*”), obtaining information requires the payment of a fee and prior registration.

**Table 3: Progress with the establishment and accessibility of beneficial ownership registers of trusts**

Country	Register in place	Public access	Free access
Australia	✗		
Canada	✗		
France	✓	🕒	✓
Germany	✓	✓	✗
Italy	🕒	🕒	✗
Netherlands	🕒	✓	✗
United Kingdom	✓	🕒	✓
United States	✗		

✓ – yes; ✗ – no; 🕒 – forthcoming; 🕒 – partial: access by legitimate interest; ✓ – will be; ✗ – will not be; 🕒 – will be partial

## TRANSPARENCY OF REAL ESTATE OWNERSHIP

The real estate sector has been an easy and convenient place for kleptocrats to secretly launder or invest stolen money and other illicitly gained funds. As scandals have shown, property is often purchased through anonymous shell companies or trusts without proper due diligence by the professionals involved in the deal. In 2017, Transparency International's research showed that the ease with which such anonymous companies or trusts can acquire property and launder money in the attractive real estate markets of Australia, Canada, the UK and the US is directly related to insufficient AML rules and enforcement practices.<sup>72</sup>

This analysis finds that the lack of transparency in the real estate sector remains a major issue. It also finds that additional gaps in existing frameworks challenge the efficacy of recently approved transparency measures.

### Real estate registers

To start with, access to relevant real estate data, including ownership, is limited across countries included in the research.

Australia,<sup>73</sup> Canada,<sup>74</sup> Germany<sup>75</sup> and the US<sup>76</sup> do not have centralised registers of land or real estate ownership. The information is maintained by subnational registers, with varying rules regarding the types of information that is collected, disclosed and how it can be accessed.<sup>77</sup> Public access to information is often restricted or made more difficult, for example by charging a fee,<sup>iii</sup> requiring the demonstration of a legitimate interest,<sup>iv</sup> or poor levels of digitalisation.<sup>v</sup>

With a few exceptions, none of the countries currently collects information on the beneficial owner of properties owned through legal entities and trusts. In countries that have beneficial ownership registers, such as France, Germany, the Netherlands and the UK, it is possible to cross-check the data with the relevant beneficial ownership of companies register, provided that the company is registered in the country.

<sup>iii</sup> Australia, British Columbia in Canada, France, Germany, Italy, the Netherlands and partially the UK

<sup>iv</sup> Germany

<sup>v</sup> Germany, France, Italy, Scotland and Northern Ireland in the UK, and the US

In Canada, British Columbia introduced a register that contains the names of beneficial owners of any company, trust or partnership owning real estate. The authority administering the register can issue fines for failing to declare or for providing false

information about beneficial owners. The register is a particularly welcome transparency measure in Canada, despite drawbacks like search fees and a lack of data verification, for being the first-of-its-kind in the country.

**Table 4. Overview and accessibility of real estate ownership registers**

Country	Type of register	Availability of data	Availability of data on the beneficial owners of properties	Availability of beneficial ownership data on foreign owners of properties
Australia	Subnational	Depending on the register, access is free or requires a fee. Digitalisation of documents is uneven.		
Canada	Subnational	British Columbia has a public land ownership transparency registry that is accessible online for a fee. Other provinces have registers containing legal ownership data available for a fee.	British Columbia: 	British Columbia: 
France	Centralised & subnational	Information on private real estate ownership only available on request or from authorities. Information about real estate owned by legal entities available online in open data format. Property extracts with historical data and detailed information available from sub-national registers for a fee.		
Germany	Subnational	Access to regional registers is restricted to people with a "legitimate interest". Information can be requested online but many documents are not digitised.		
Italy	Centralised	Access to the online portal requires the payment of a fee.		
Netherlands	Centralised	Publicly accessible for a fee and the large majority of documents are digitalised.		
United Kingdom	Subnational	Real estate data available in national registers (England and Wales, Northern Ireland, General Register of Sasines and a new land registry in Scotland). Access is available online for a fee with some information available for free.		
United States	Subnational	Real estate data available at county-level. This data is not recorded in a standardised way and information is hard to search, including for law enforcement. <sup>78</sup>		

\* – foreign companies can buy real estate without registering or otherwise declaring their beneficial owners

 – yes;  – no;  – partial: possible to cross-reference with the beneficial ownership register for properties owned by domestically incorporated companies;  – forthcoming

## Real estate ownership through foreign companies

Six of the eight countries covered by the research have a substantial loophole in their legal framework that makes their real estate sectors vulnerable to dirty money, despite the recent adoption of transparency measures.<sup>79</sup> In Australia,<sup>80</sup> Canada,<sup>81</sup> France,<sup>82</sup> Italy,<sup>83</sup> the Netherlands<sup>84</sup> and the US,<sup>85</sup> foreign companies are currently not required to disclose their beneficial owners to purchase a property. Furthermore, as they are allowed to purchase real estate property without having to register a branch or subsidiary in the country where the property is located, the disclosure rules followed by domestic companies, including those on beneficial ownership, also do not apply.

In France and the Netherlands,<sup>86</sup> the beneficial owner of properties owned through French or Dutch companies can be identified by cross-checking the data with the information in the beneficial ownership register of companies. Information on the beneficial owner of properties owned through foreign companies, however, is not available at all. In such cases, finding the real owner of a property will depend on whether the company's country of incorporation has a beneficial ownership register. Upcoming research by the Anti-Corruption Data Collective, Transparency International and Transparency International France estimates that about 25,000 properties owned by legal entities in France are owned through foreign companies directly, without their registration in French company register. No information on the real beneficial owners of these companies is available.

The same loophole will also affect Italy and the US after their planned beneficial ownership registers are put in place. So far, the Corporate Transparency Act does not include provisions to create a requirement for foreign companies buying real estate to submit information to the beneficial ownership register. In Italy, foreign companies can buy real estate without having to register locally.<sup>87</sup> Unless the new regulation on the establishment of a beneficial ownership register of companies includes disclosure requirements for foreign companies, there will be a gap.

In the UK, the loophole has been systematically highlighted by civil society organisations in recent years. Research by Transparency International UK

revealed there are still almost 90,000 properties in England and Wales that are owned by opaque offshore companies.<sup>88</sup> The government made commitments back in 2016 to address the issue.<sup>89</sup> Only now, with the invasion of Ukraine, has the government found parliamentary time to deliver on the commitment to introduce transparency over who really owns offshore companies holding UK property through the Economic Crime (Transparency and Enforcement) Act 2022.<sup>90</sup>

In Australia and Canada, there is no systematic capturing of beneficial ownership data on property owners at all, except for the Canadian province of British Columbia.

Only in Germany are foreign companies currently required to register with the country's beneficial ownership register in order to invest in real estate.<sup>91</sup> Notaries are required to verify the registration with the transparency register before notarising the purchase.

The EU Anti-Money Laundering Package proposed by the European Commission in July 2021 also aims to close the loophole.<sup>92</sup> Specifically, it would require foreign companies purchasing real estate or engaging with obliged entities across Member States to declare their beneficial owners to the company beneficial ownership registers. At the time of writing, the package is still being debated in the European Parliament.

## TRANSPARENCY OF LUXURY GOODS OWNERSHIP

None of the countries covered in the analysis collects and publishes the beneficial ownership of registered yachts or private planes systematically. More often than not, yachts and planes are owned by legal entities, often incorporated in secrecy jurisdictions. As with real estate purchases by foreign companies, this allows kleptocrats to circumvent transparency rules in countries that do not require foreign companies to register their beneficial owners. They can avoid scrutiny altogether in countries that do not have beneficial ownership registers at all. No country collects beneficial ownership information in their registers of vessels or aircraft.

**Table 5. Availability of beneficial ownership information for luxury goods**

Country	Yachts	Private planes
Australia	✘	✘
Canada	✘	✘
France	✘	✘
Germany	✘	✘
Italy	✘	✘
Netherlands	✘	✘
United Kingdom	✘	✘
United States	✘	✘

✘ - no

Photo: Juan Poyates Oliver/Handout via REUTERS



## II. NO ONE TO HELP

National frameworks have significant gaps when it comes to regulating gatekeepers of the financial system. But even in countries where anti-money laundering obligations extend to key professions, compliance remains patchy.

As various cases have shown, any business transaction done by Russian kleptocrats in Western economies will have been undertaken with the help of a wide array of lawyers, accountants, bankers, investment advisers or real estate agents. These gatekeepers are as crucial for the functioning of the legitimate financial system as they are for the integration of dirty money. As such, they are uniquely placed to identify and report on criminals or sanctioned individuals seeking to evade scrutiny.

This section assesses the comprehensiveness of national frameworks to regulate the priority gatekeeper sectors of real estate agents, lawyers, trust and corporate service providers, and investment fund managers. It also investigates whether there is evidence of at least minimal compliance by the private sector and identifies where there are clear and obvious gaps that need to be addressed.

### ANTI-MONEY LAUNDERING REQUIREMENTS FOR GATEKEEPERS

In contravention of global AML standards, Australia, Canada and the US have not regulated all key non-

financial gatekeepers. In the three countries, some of these professionals are under no regulatory obligation to undertake customer due diligence, identify the beneficial owner of legal entity clients or identify their source of wealth. They also do not need to report suspicious transactions to authorities.

Even more significantly, in Australia,<sup>93</sup> Canada<sup>94</sup> and the US,<sup>95</sup> neither trust and corporate service providers nor the legal profession have any regulatory AML obligations.<sup>vi</sup> Among the array of services that lawyers can provide to corrupt individuals is the important service of setting up and administering companies and trusts. In addition, lawyers often act as nominees or trustees, acting in accordance with the fiduciary requirements set up by the settlor.

Real estate professionals do not fall under AML regulation in Australia or the US. This is a serious vulnerability, especially given the lack of transparency in property ownership.

In line with the EU rules, France,<sup>96</sup> Germany,<sup>97</sup> Italy<sup>98</sup> and the Netherlands<sup>99</sup> impose AML requirements on gatekeeper professions. So does the UK.<sup>100</sup>

<sup>vi</sup> In Australia, current loopholes in the system allow non-licensed third-party providers to sell nominee director or shareholder services, ensuring that the real identities and

ultimate beneficiaries are kept hidden, allowing opaque business structures to flourish.

**Table 6. Overview of anti-money laundering requirements for key gatekeeper professions**

Country	Real estate agents	Lawyers	Trust and corporate service providers	Investment fund managers	Luxury goods dealers
Australia	✗	✗	🟡*	🟡†	🟡****
Canada	✔	✗	🟡**	✔	🟡****
France	✔	✔	✔	✔	✔
Germany	✔	✔	✔	✔	✔
Italy	✔	✔	✔	✔	✔
Netherlands	✔	✔	✔	✔	✔
United Kingdom	✔	✔	✔	✔	✔
United States	✗	✗	🟡***	✗	✗

✔ – yes

✗ – no

🟡\* – partial: only trust service providers who are considered to be financial institutions are covered

🟡\*\* – trust service providers have AML obligations but lawyers, who can set up trusts, are excluded

🟡\*\*\* – only trust companies that are considered to be providing the services of financial institutions are covered; many trust service providers are excluded from AML obligations

🟡\*\*\*\* – only jewellers and dealers in precious metals and stones have AML obligations.

🟡† – AUSTRAC regularly issues exemptions for investment managers

## Investment fund managers

De facto anonymity granted to end investors in private investment funds,<sup>101</sup> such as hedge funds and private equity, poses a key vulnerability to the effective implementation of sanctions, and allows criminals and the corrupt to integrate funds in the financial system. Reporting by *The New York Times* in March 2022 uncovered how sanctioned Russian oligarch Roman Abramovich used shell companies to invest billions of US dollars anonymously in hedge funds in the US.<sup>102</sup> The reporting highlighted how kleptocrats, with the help of a vast array of professional enablers, can abuse the lightly regulated investment fund sector to remain anonymous while investing billions of potentially ill-gotten gains.

Our research shows that current regulations in the investment funds industry remain widely open to abuse by kleptocrats and criminals. Fund managers are not universally required to have customer due diligence programmes or submit suspicious

transaction reports. In countries where anti-money laundering obligations are in place, the information held by investment fund managers is often the only source of information available to authorities to identify the end investors of funds.

In most countries, the managers are required to hand over this information only as part of an ongoing investigation. This significantly hampers the authorities' ability to proactively trace assets linked to sanctioned individuals or investigate assets that may be the proceeds of corruption. In addition, the reliance on private sector-led compliance data results in vulnerabilities related to beneficial ownership threshold definitions and poor compliance.<sup>103</sup>

## AML obligations

Seven of the eight covered jurisdictions impose AML obligations on investment fund managers.<sup>104</sup> Only in the US are investment advisers not required to conduct customer due diligence on their clients, nor

are they required to identify the end investors.<sup>105</sup> While securities brokers have AML obligations, in cases where investments are made outside of listed exchanges (meaning private equity, hedge funds, venture capital, etc.), corrupt individuals can invest their ill-gotten gains without any required checks by their counterparts.

In Australia and Canada, where lawyers are not included as obliged entities, customer due diligence is made substantially more difficult for fund managers seeking to identify their end investors if their funds are managed by legal professionals.

In Australia, the dedicated supervisor AUSTRAC seems to regularly give exceptions to imposed AML obligations to investment funds.<sup>106</sup> These exemptions are given on a case-by-case basis, considering the risk level associated with the business. The latest FATF mutual evaluation of Australia, however, concluded that exemptions given to investment funds did not seem to be “sufficiently justified as low risk”.<sup>107</sup>

### **Authorities’ access to information on the end investors of funds**

Significantly, in no country covered in the research do authorities have direct and immediate access to information on the end investors of funds, for example via a register or similar database. In all jurisdictions, authorities can only request information held by obliged entities as part of their “Know Your Customer” obligations.

Most investment funds are registered as legal entities and must therefore comply with beneficial ownership disclosure rules, where applicable (e.g., France, Germany, the Netherlands, and the UK). However, experience from Luxembourg – one of the most important investment fund hubs in the world – shows that even in these cases, the information on the actual end investors of funds is unlikely to be available.<sup>108</sup> Investment funds have often declared only those investors holding more than 25 per cent of shares (which is unlikely to happen due to the nature of pooled funds) or the name of the asset manager who manages the fund. From an AML perspective, understanding the source of funds being pooled and the real beneficiaries of an investment fund is crucial.<sup>109</sup> As a result, authorities are wholly reliant on the strength of fund managers’ due diligence programmes. Reliability is an obvious issue as data held by obliged entities are not validated, supervision is weak, and there is a risk of complicity or negligence. In addition, information on

end investors may not be fully collected as the thresholds included in the legal definition of beneficial owners may allow investors to hide behind companies of which they are not a 25 per cent shareholder or which do not meet the requirement for control.

In addition, FIUs in Canada,<sup>110</sup> Germany,<sup>111</sup> and the UK<sup>112</sup> do not have unrestricted access to “Know Your Customer” data. Such data can only be requested as part of an ongoing criminal investigation by law enforcement or in response to a court order. In the UK, the FIU can issue a Section 7 gateway request for voluntary disclosure of this information by reporting entities.<sup>113</sup> This can also be issued in the context of a civil investigation. There is no publicly available data on the level of compliance with these requests.

In Australia,<sup>114</sup> Italy,<sup>115</sup> the Netherlands,<sup>116</sup> and the US,<sup>117</sup> both law enforcement and the FIU have the authority to request additional “Know Your Customer” information from obliged entities as part of their analysis. Owing to the lack of AML obligations on financial advisers, the US’s FIU can only request the information from fund managers who voluntarily hold the required information.

## **REPORTING SUSPICIONS TO AUTHORITIES**

Suspicious transaction reports are an important pillar of AML frameworks. Using their privileged position as gatekeepers of the financial sector, real estate professionals, lawyers, and trust and corporate service providers must, according to international standards, flag and report suspicious transactions to the authorities for further investigation.

However, this approach poses many challenges. Under-reporting, over-reporting, late submissions, poor-quality reports and the lack of feedback have all been highlighted by the public and private sectors. Media investigations such as the FinCEN Files have further highlighted these issues as hindering the effective use of the tool to detect and investigate corruption and financial crime.<sup>118</sup>

Investigating the number of reports submitted by obliged entities in a sector can provide an indication of the types of challenges faced regarding private sector compliance. It is important to note that the absolute number of reports does not conclusively indicate the effectiveness of reporting in a sector. Nor is it an indication of the quality of the submitted reports. However, it can indicate whether *any*

reporting is taking place or whether the level of reporting is clearly and obviously low for the size of the reporting sector (either by number of institutions, size of market or number of transactions) or in relation to the inherent risk of money laundering in the sector.

## Real estate agents

In the real estate sector, reporting by real estate agents can be a powerful tool to identify any potential laundering of ill-gotten gains. However, in the countries where real estate professionals have reporting obligations, reporting remains patchy. In some cases, the frequency of reporting is clearly deficient in relation to the population of real estate agents and the size of the real estate market.

For example, in France, back in 2016, the country's FIU TRACFIN expressed concern over the low level of suspicious transaction reporting from the real estate sector, particularly in relation to transactions involving politically exposed persons and high-value cash transactions.<sup>119</sup> In a more recent report, in 2020, TRACFIN criticised that the reporting of high-value transactions remained low.<sup>120</sup> Further, the FATF highlighted low reporting activity by real estate agents relative to the size of the sector in the 2022 Mutual Evaluation Report.<sup>121</sup>

## US geographic targeting orders

Since 2016, the Financial Crimes Enforcement Network (FinCEN) in the US has issued geographic targeting orders (GTOs) that require title insurance companies in selected metropolitan areas deemed as high risk for money laundering to report beneficial ownership information for higher-value residential real estate purchases above a defined threshold.<sup>122</sup> The GTOs are aimed at “cash-only” transactions, which can take place without the involvement of obliged entities such as banks.

The GTOs remain an incomplete tool and should be replaced by a permanent rule that covers the real estate sector in the US. Firstly, the GTOs do not cover the entire real estate market but only designated metropolitan areas and transactions over a certain threshold. Outside of these areas and below these thresholds, dirty money can flow into real estate anonymously. Secondly, the GTOs only require the reporting of beneficial owner data. They do not require customer due diligence checks or suspicious transaction reporting associated with comprehensive AML obligations for gateway professions. Thirdly, they are not consistent and FinCEN has regularly updated the reporting thresholds and requirements when reissuing GTOs.

Photo: bloodua/Shutterstock



## Trust and corporate service providers

Significant issues with compliance and with the quality and quantity of reporting of suspicious transactions also seem to persist among trust and corporate service providers. For example:

- + In the UK, some 1,629 registered standalone trust or company service providers (TCSPs),<sup>123</sup> reported only 31 STRs in April 2019 - March 2020.<sup>124</sup> This would mean that only a maximum of 1.9 per cent of registered TCSPs reported even one STR in the stated period, which is obviously and suspiciously low given the risks in the sector. This is in line with an observation made by the FATF during the 2018 Mutual Evaluation of the UK, which highlighted the under-reporting of suspicious transactions in the high-risk TSCP sector.<sup>125</sup>
- + In Germany, the FIU received only 13 STRs in 2020 from a total of four TCSPs. While the total number of registered TCSPs in Germany is not publicly known, the 2020 sectoral risk assessment for legal persons and legal arrangements stated that there are 20,379 registered *Treuhand* legal arrangements with legal capacity (deemed medium risk) and 1,997 *Treuhand* legal arrangements without legal capacity (deemed high risk) in Germany.<sup>126</sup> While some of these will be administered by lawyers or notaries, the high number of such trust arrangements stands in stark contrast to the limited reporting in the sector.
- + In France, TRACFIN specifically highlighted the poor reporting by lawyers, with 16 STRs reported in 2020, as a key gap in the effectiveness of its AML system. Lawyers, who can set up and administer trusts in France, are among the professional groups reporting the fewest STRs per year.<sup>127</sup>

## Luxury goods providers

Challenges in freezing the yachts, private planes and other luxury goods owned or controlled by Russian kleptocrats have highlighted the need for more transparency in luxury goods ownership.<sup>128</sup> While the freezes of several yachts linked to kleptocrats have made international headlines, the reality shows that kleptocrats are able to hide the majority of their high-value assets behind layers of secrecy. This illustrates the need for transparency registers of high-value assets and the need for luxury goods dealers to conduct checks and report to authorities.

In Australia,<sup>129</sup> Canada<sup>130</sup> and the US,<sup>131</sup> there are no AML obligations for luxury goods providers outside of jewellers. Nor are there any for luxury businesses that handle large amounts of cash. This allows corrupt individuals to transfer their ill-gotten gains into high-value luxury goods that they can either use or resell to further hide the origins of their wealth. France,<sup>132</sup> Germany,<sup>133</sup> Italy,<sup>134</sup> the Netherlands<sup>135</sup> and the UK<sup>136</sup> have put reporting obligations on dealers in luxury goods, including some with universal reporting requirements for large cash transactions.

### Poor compliance with AML obligations by the private sector

In other cases, authorities report challenges related to the quality of AML measures applied by the private sector. In Germany, the judge tasked with overseeing AML compliance by notaries in Berlin expressed significant concerns with the quality of compliance.<sup>137</sup> The judge noted that in many cases no natural person was being identified as beneficial owner, checks of politically exposed persons were not being taken seriously and even a new prohibition against documenting sales without reporting the beneficial owners was being violated in cases that involved complex ownership structures.

In France, the FATF highlighted poor compliance by TCSPs with AML obligations.<sup>138</sup> In a 2019 audit by the French authorities, only 31 per cent of registered TCSPs had risk management and reporting systems in place. Further the sector only reported 25 STRs in 2020, most of which came from a single operator.

# III. NO IMPUNITY

The powers, resources and tools available to the authorities tasked with freezing, seizing and confiscating illicit assets are currently inadequate. Financial intelligence units, in particular, are under-resourced across most countries.

Breaking the cycle of impunity for corruption and money laundering requires robust action against those profiting from corruption – from perpetrators to enablers. To fully achieve justice, the ultimate objective should be to recover and return stolen assets to the victims of corruption. This is only possible, however, if authorities efficiently gather intelligence and investigate complex, cross-border cases. In addition, achievement of the stated ambition of moving from freezing to eventually seizing and confiscating kleptocrats' assets – in accordance with human rights principles and the rule of law – depends on the availability of adequate legal avenues.

This section provides an analysis of the resourcing of the financial intelligence units in the covered countries as well as any dedicated anti-corruption or AML units in law enforcement. It also provides an overview of the available tools for asset confiscation in the context of investigations into suspected corrupt individuals or their illicit wealth.

## FINANCIAL INTELLIGENCE UNITS

Financial intelligence units (FIUs) are one of the most important government agencies tasked with combatting financial crime. Their core function is to receive and analyse suspicious transaction reports (STRs) and produce financial intelligence for further investigation by law enforcement and other authorities, where relevant. They also support and coordinate the exchange of information with foreign FIU counterparts. In some countries, FIUs have additional responsibilities as they function as the

primary regulators and/or anti-money laundering supervisory bodies (see Table 7).

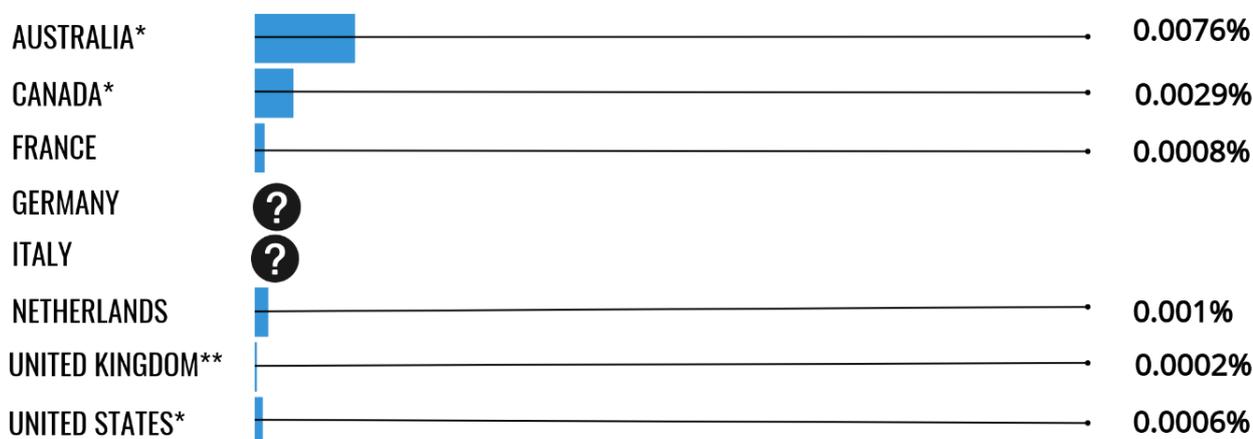
Owing to their close connection to obliged entities as the principal recipients of STRs, they also play a pivotal role in sanctions implementation. The capacity of an FIU to process incoming STRs and produce actionable intelligence is crucial to the authorities' ability to investigate and prosecute financial crimes. In addition to having adequate powers and tools to undertake their tasks, the adequate human and financial resourcing of FIUs is also paramount for their effective tackling of financial crimes.

## Budgetary resources

An FIU's resources should be adequate for the size of the reporting sectors, the size of the economy and financial sector, and the identified money laundering risks in supervised sectors.<sup>139</sup> Sufficient resources should also be allocated to allow FIUs to perform all their functions effectively. Our research shows that when viewed in relation to GDP, the budgets of the FIUs vary substantially.<sup>140</sup> Particularly, the UK and the US stand out as dedicating fewer resources than their counterparts in France and the Netherlands. Australia and Canada dedicate the largest budgets in relation to GDP to their FIUs, but the figures need to be viewed in the context of AUSTRAC's and FINTRAC's additional supervisory responsibilities.

Regularly publishing the budget and operational data of FIUs is paramount to enable public scrutiny and ensure government agencies can be held to account.

## FIU ANNUAL BUDGET AS SHARE OF GDP (2020, US\$)



Source for GDP figures: World Bank

\* The FIUs of Australia, Canada and the US have additional responsibilities and consequently expected to have larger budgets.

\*\* Data for UK FIU budget is from 2017/2018.

In the 2022 fiscal appropriation, FinCEN received a roughly US\$30 million (25 per cent) increase to its core budget.<sup>141</sup> However, even with this increase, the annual budget as share of GDP at 0.001 per cent would still be insufficient considering the size and significance of the US financial market, along with the known money laundering risks and FinCEN’s broader responsibilities. Also, FinCEN is responsible for implementing, administering, and enforcing compliance with the Banking Secrecy Act and associated regulations. Possibly because it lacks the adequate human and financial resources, FinCEN currently delegates some of these responsibilities – particularly around supervision and examination – to other federal regulators. Nonetheless, FinCEN supports, coordinates and analyses data regarding compliance examination functions that are currently delegated.<sup>142</sup> FinCEN is also responsible for the regulation and implementation of the beneficial ownership register and has been tasked to lead rulemaking to strengthen anti-money laundering provisions for the real estate sector. The allocation of resources should consider these additional responsibilities.

Germany and Italy notably do not publish the annual budgets of their FIUs.<sup>143</sup> In France and the UK, FIU budget data are not published regularly. Some historic data were available publicly through a response to a question in Parliament (UK) for the fiscal year 2017/2018 and data provided to the OECD (France) for 2020.

### Germany’s FIU

At first glance, Germany’s FIU appears to be an exception to the resourcing issues observed in the case of other FIUs. However, the anti-money laundering architecture in Germany has changed significantly in recent years. This makes interpreting the data particularly difficult.

In 2017, the German FIU was transferred from the police to customs and transformed into an administrative body. Both staff and the number of STRs have since increased quickly. STRs have increased from 46,000 in 2016 to 300,000 in 2021. At the same time, staff grew from 100 in 2017 to 580 at the beginning of 2022.<sup>144</sup>

At the same time the political debate around the German FIU illustrates that issues go beyond just numbers. Missing IT infrastructure and lacking access to data led to a big backlog of cases and limited added value during the inception period. These initial issues have largely been settled but complaints of poor quality of reports and delays persist. But most importantly, the basic questions around whether the FIU has to, should, or is not allowed to apply a risk-based approach are not yet conclusively settled. In 2021, this even led to a raid of the FIU as well as the ministries of finance and justice by prosecutors alleging obstruction of justice.<sup>145</sup>

## Human resources

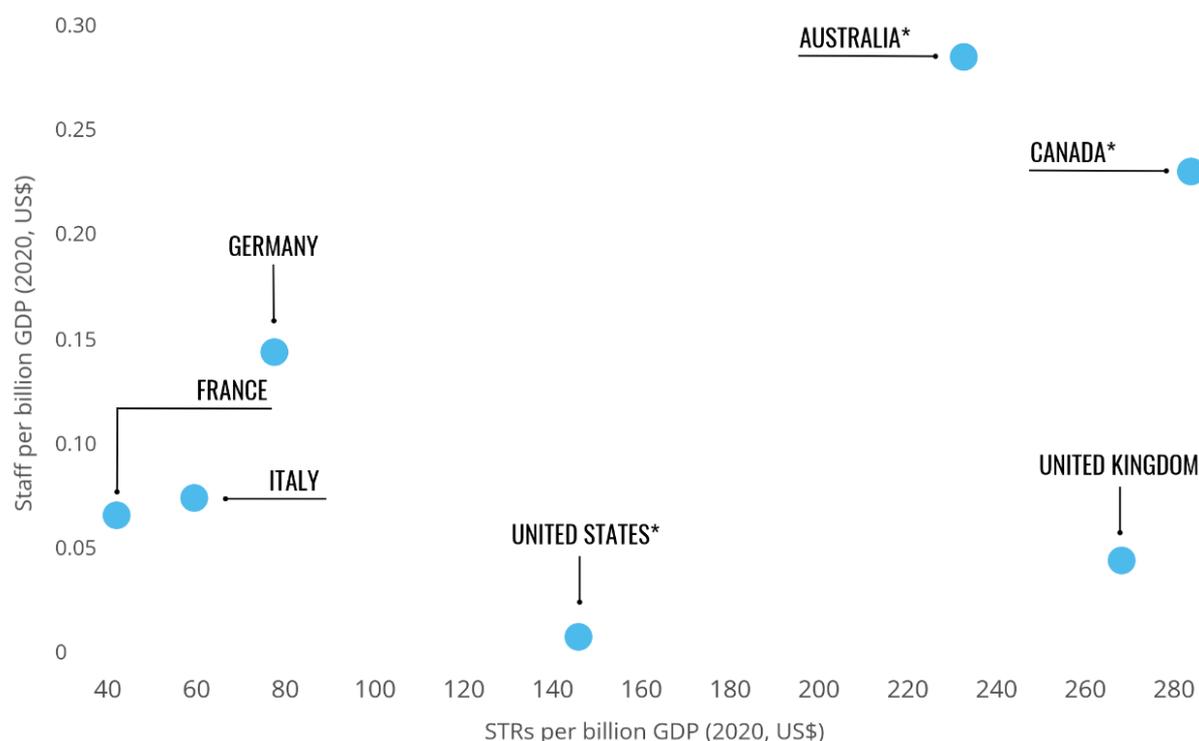
The majority of FIUs across the covered countries are clearly too under-resourced to reasonably perform their tasks.<sup>146,147</sup> For instance, considering the FIU's core task of processing and disseminating financial intelligence, publicly available information shows staff numbers are insufficient to allow for the FIUs to effectively assess information being reported through STRs.

The graph below maps the FIUs by the number of STR received in relation to the size of the economy and their staff levels in relation to the economy.<sup>vii</sup> Higher value along the x-axis indicates higher number of STRs received, which could be linked to the size of the financial sector, lower reporting

thresholds, higher awareness of risks or possible overreporting. Higher value along the y-axis indicates higher dedication of resources to the FIU in relation to the size of the economy, possibly due to additional responsibilities of the FIU or priority given to the fight against financial crime.<sup>viii</sup>

A few patterns can be observed. The FIUs of the UK and the US stand out as having too few staff in relation to the size of the economy and the levels of reporting. In the case of US, the staff levels seem particularly low considering FinCEN's additional regulatory and enforcement obligations, even if some of them are currently delegated to other authorities. A similar reporting behaviour can be observed in France, Germany and Italy, but with varying staff levels.

## FIUS BY STAFFING AND REPORTING IN RELATION TO THE SIZE OF THE ECONOMY



<sup>vii</sup> In Germany and the UK, the government does not consistently publish employment figures for the FIU. The available data come from a parliament press release (Germany) and stated hiring plans (the UK). The other countries covered in the research publish annual employment figures in their FIU annual reports or budget documents.

<sup>viii</sup> The Netherlands FIU is excluded from the analysis as the low threshold for the submission of reports distorts reporting indicators.

However, accurate data on the share of staff working directly on STR analysis and financial intelligence were not available across most countries. In Canada,<sup>148</sup> 111 of the total 390 full-time staff members are tasked with the production and dissemination of financial intelligence. In Italy,<sup>149</sup> 90 of the total 153 staff members are analysts.

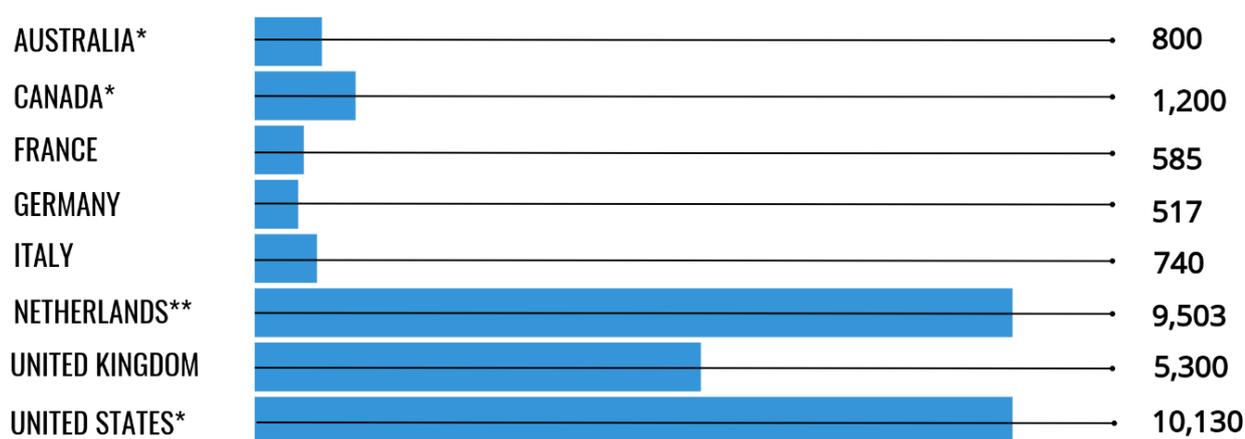
In Australia and Canada, the figure is also skewed as the FIU holds significant regulatory and supervisory responsibilities, with staff further stretched between FIU analysis and supervisory functions, including inspections (see Table 7). In Australia, for example, AUSTRAC oversees the compliance of more than 16,000 reporting entities with their anti-money laundering obligations. The exact number of staff working on the FIU’s core receipt, analysis and intelligence function is likely to result in a significantly higher ratio of STRs per analysis staff member.

Also noteworthy is that differing reporting thresholds in the countries covered in the research impact the total number of incoming STRs. For example, in the Netherlands, all unusual transactions are reported to the FIU without the prerequisite of “suspicion of a crime”. The Dutch FIU is the one analysing the “unusual transactions

reports” (UTCs) and declaring them as suspicious transaction reports.<sup>150</sup> In Canada, the law requires the reporting of suspicious transactions where there are “reasonable grounds” to suspect crime as opposed to simple suspicion – as is the case in the UK,<sup>151</sup> for example. The total number of STRs also depend on the number of reporting entities required to submit reports to the FIU. In the countries assessed, this figure varies as not all sectors have anti-money laundering obligations across countries (see Table 6).

In the Netherlands, the UK and the US, the caseload arising from incoming reports is particularly stark. With well above 5,000 reports per FIU staff member in a given year, it can be assumed that, even with rigorous risk-based prioritisation, many high-risk reports may not be adequately processed and analysed for the commission of potential crimes. In the UK, the FATF has criticised this lack of resourcing in its mutual evaluation report, expressing a “serious concern” over the FIU’s limited analytical capability.<sup>152</sup> In Canada, if the number of incoming reports is divided by the number of analysis staff working at the FIU, the resulting figure of 4,217 reports per staff member in 2020 is also indicative of a substantial caseload.

## RATIO OF STRS RECEIVED BY FIUS PER STAFF MEMBER (2020/2021)



\* The FIUs of Australia and Canada have supervisory responsibilities and FinCEN in the US has regulatory and enforcement responsibilities.

\*\* In the Netherlands, the data corresponds to the number of unusual transactions reports (UTRs), which have a lower reporting threshold than the suspicious transaction reporting model that is in place in other countries.

Prioritisation and technology play a key factor in FIU effectiveness. The leveraging of machine learning and other technologies can substantially decrease the amount of time spent by staff to filter STRs without compromising their ability to investigate cases that have a high probability of financial crime. However, even with advanced technology, the caseload observed in the UK, the Netherlands and the US raises questions about their ability to properly analyse reports and produce useful intelligence for other competent authorities. The caseload in Australia, France, Italy and Canada is also clearly high on a per staff basis. The figures are of particular concern when compared to those of France. Even at the comparatively lower figure of 585 reports per staff member, the FATF highlighted

that at least half of all reports were put on hold based solely on automated processes.

An effective FIU and an adequate STR processing system, however, do not depend solely on staff levels. The timely processing of reports and sharing of intelligence can also be strengthened by ensuring an effective risk-based system, working to improve the quality of submitted reports and addressing issues related to over-reporting. Defensive over-reporting by financial institutions, for example, as highlighted by the Law Commission for England and Wales,<sup>153</sup> can result in a large number of STRs being filed that may not meet the grounds of suspicion but may nevertheless strain the capacity of the FIU.

**Table 7. Comparison of FIU responsibilities and total number of staff (2020/2021)**

Country	Additional regulatory or supervisory responsibilities	Total number of staff
Australia	AUSTRAC is the primary regulator and AML supervisor for all obliged entities.	387
Canada	FINTRAC is the primary regulator and AML supervisor for all obliged entities.	390
France	None	191
Germany	The FIU coordinates the supervisory authorities of non-financial businesses and professionals at the state level.	580
Italy	The FIU participates in the Financial Security Committee (CSF) and carries out some anti-money laundering inspections.	153
Netherlands	None	76
United Kingdom	None	140
United States	FinCEN is the primary regulator under the Bank Secrecy Act and is responsible for enforcing compliance with the Bank Secrecy Act and associated regulations. It currently delegates examination functions to other federal regulators but should still coordinate and analyse discoveries. FinCEN is also responsible for implementing the new beneficial ownership register	303

## SPECIALISED LAW ENFORCEMENT AGENCIES

Dedicated financial crime and corruption investigators are crucial to effectively investigating and prosecuting corrupt individuals or tracing dirty money. Law enforcement agents with the necessary training and experience, for example in forensic accounting or collecting evidence for a prosecution on money laundering, are essential for deterring crime. In the context of sanctions implementation, experienced investigators are also crucial in tracing assets linked to targeted kleptocrats and detecting potential sanctions breaches.

All of the analysed countries have dedicated anti-corruption or financial crime units within their federal or state law enforcement agencies. In the Netherlands, the financial crime unit Fiscal Information and Investigation Service (FIOD) appears to be involved in the task force as a “relevant implementing body”.<sup>154</sup> In the US, KleptoCapture is comprised of specialist financial crime investigation and prosecution units. In

Germany, the federal police are part of the task force but do not have specialised anti-corruption or AML teams.<sup>155</sup>

Most countries do not publish budget figures or staffing numbers for police at unit level. Only Italy and the Netherlands have published budget figures for the Guardia di Finanza (Financial Police)<sup>156</sup> and the FIOD,<sup>157</sup> respectively. However, the Guardia di Finanza also has substantial additional investigative responsibilities outside of anti-corruption and anti-money laundering. Budget information at unit level within the Guardia di Finanza is also not available. In the UK, the Serious Fraud Office is a specialist investigatory and prosecutorial body for which annual budget figures are also available.<sup>158</sup> However, figures for other specialist units such as the NCA’s International Corruption Unit are not available.

Data and statistics on the work of these agencies is also lacking across countries analysed. Very little information is available about investigation efforts, resulting convictions, and international cooperation on financial crimes.

**Table 8. Key federal law enforcement agencies and their budgets**

Country	Agency	Annual budget (US\$)
Australia	Fraud and Anti-Corruption business area of the Australian Federal Police	Data not available at business area-level
Canada	Royal Canadian Mounted Police Anti-Corruption Unit	Data not available at unit level
France	Central Office for Combating Serious Financial Crimes & the Central Office for the Fight against Corruption and Financial and Tax Crimes of the Central directorate of the Judicial Police, Specialised investigators within the Directorate General of the National Gendarmerie	Data not available at unit level
Germany	No unit at federal level. Some specialised units exist at <i>Laender</i> level.	
Italy	Financial crime section of the Anti-Mafia Investigative Directorate, Financial Police ( <i>Guardia di Finanza</i> )	Data not available at unit level
Netherlands	Fiscal Information and Investigation Service	US\$41,973,800
United Kingdom	Serious Fraud Office	US\$66,080,490
	International Corruption Unit, Combating Kleptocracy Cell	Data not available at unit level
United States	FBI International Corruption Unit, Department of Justice Public Integrity Section, Department of Justice’s Foreign Corrupt Practices Act Unit in the Fraud Section, Department of Justice’s Money Laundering and Asset Recovery Section	Data not available at unit level

Germany is the only analysed country that does not have a federal law enforcement unit dedicated to anti-corruption or the investigation of financial crimes. Some police forces and prosecutors' offices at the state level have dedicated units but resourcing across Laender varies.<sup>159</sup> In 2022, the media reported that an internal government report criticised the poor coordination and under-resourcing of law enforcement tasked with money laundering at state level.<sup>160</sup>

## **NON-CONVICTION BASED ASSET CONFISCATION TOOLS**

The recovery of assets is important to ensure redress in corruption cases and break the impunity cycle. Successful asset recovery depends on countries effectively tracing, freezing and confiscating assets thought to be linked to criminal activities. Typically, the confiscation of assets takes place after a formal conviction under civil, criminal, or administrative law is obtained. Individuals should be able to fully defend themselves, ensuring their rights to due process and to a fair trial are upheld. Therefore, assets frozen under sanctions cannot be subject to confiscation and recovery without further investigation into potential linkages with criminal activities or unexplained wealth in the context of a formal process.

The confiscation of assets, particularly those connected to corruption, can be a lengthy and complex task. The complex, multi-jurisdictional nature of corruption cases – combined with undue influence that may be exercised by public officials to prevent investigation – makes criminal convictions, which have a higher burden of proof, and subsequent confiscation of assets very challenging.<sup>161</sup>

To overcome these barriers, many countries have adopted alternative methods that allow assets to be pursued without the need for a prior criminal conviction for an underlying crime. Tools like illicit enrichment regulations or unexplained wealth

orders also facilitate the later confiscation of assets if the owner cannot justify the origin of the wealth, regardless of their proven involvement in a criminal activity. In these cases, the orders introduce a rebuttable presumption that property is recoverable unless the respondent can prove its legitimate sources. The respondents must prove the lawful origin and use of a given asset.

Other tools like non-conviction based confiscation (NCBC) allow the confiscation of assets without requiring a criminal conviction of a potential underlying crime. Existing international conventions and standards – such as the United Nations Convention against Corruption (UNCAC) and the FATF Recommendations – encourage countries to consider adopting such measures under certain circumstances, including when there is substantial evidence to establish that the proceeds were generated from criminal activity, but there is insufficient evidence to meet the criminal burden of proof or when a criminal investigation or prosecution is unrealistic or impossible.

In the context of the REPO Task Force and the likely challenges of prosecuting kleptocrats for their involvement in corruption and other crimes, the use of NCBC or similar tools to pursue the confiscation and ultimately the recovery of assets could play a pivotal role to ensure at least some level of accountability. In applying such tools, however, certain safeguards should be in place to ensure that the rights, including property rights, of the defendant are not violated.<sup>162</sup>

The analysed countries have distinct approaches to pursue confiscation of assets without requiring a prior criminal conviction (see Annex). Some approaches are nested within criminal proceedings, some are purely civil law in nature and some are a hybrid model.<sup>163</sup> The analysis aims to illustrate what tools are available to each country that could be of relevance in the context of a corruption or money laundering investigation into kleptocrats or their assets.

Six of the studied countries have some mechanisms available for NCBC, which could be put forward in a corruption or money laundering investigation into kleptocrats' assets. Australia and the UK also have unexplained wealth tools that could be brought forward. Australia, the UK and the US each have mechanisms for civil forfeiture proceedings against assets that run in parallel to criminal investigations.

Among EU jurisdictions,<sup>164</sup> France and the Netherlands lag behind in the implementation of NCBCs. They are the only studied countries that do not allow some type of confiscation based on a civil law burden of proof. That said, France has developed several criminal proceedings tools to facilitate in the confiscation of the proceeds and instruments of crime in the context of money laundering as well as illicit enrichment tools.<sup>165</sup>

The EU is still in the process of developing a unified standard for NCBC rules.<sup>166</sup> In 2013, the European Parliament urged Member States to consider implementing civil law asset forfeiture for cases of organised crime, corruption and money laundering.

### **The UK experience with unexplained wealth orders**

The UK has had mixed success with the application of unexplained wealth orders (UWOs) since their introduction in 2018. By February 2022, authorities had sought at least nine orders with prominent successes<sup>167</sup> and failures in their application.<sup>168</sup>

Upon meeting the requirements set out in the law, UWOs allow authorities to place an obligation on respondents to explain the origins of their wealth.<sup>169</sup> Failure to respond or provide an adequate response can be used to pursue forfeiture of assets. A UWO does not provide powers for asset confiscation in and of itself, but it can be used in subsequent civil recovery proceedings.

Key challenges faced by UK law enforcement in the use of UWOs, as evidenced by the limited uptake and prominent court defeats, have included:

1. the inability to serve UWOs on professional trustees and corporate entities<sup>170,171</sup>
2. the extremely high cost of legal damages for law enforcement if UWOs are successfully challenged<sup>172</sup>
3. the challenges for law enforcement to show that an asset is "probably" the result of illicit wealth.<sup>173</sup> This has been particularly relevant in cases where the targeted politically exposed person is an incumbent and has influence over how laws are implemented in the countries from which the wealth originates.<sup>174</sup>

# RECOMMENDATIONS

Unless governments address the gaps in their systems and practices, they will continue enabling kleptocrats to hide their assets and evade scrutiny, undercutting multilateral efforts to hold them accountable.

Transparency International calls on countries leading multilateral efforts to freeze and seize kleptocrats' wealth – in particular Australia, Canada, France, Germany, Italy, the Netherlands, the UK and the US – to:

## 1. Pro-actively identify and freeze the assets of kleptocrats

Governments should explicitly mandate their task forces with tracing the assets of designated and corrupt individuals. They should also go beyond “freezing to seizing” and aim to confiscate the assets when these are linked to grand corruption and other crimes, following due process. To that end, governments should prioritise reforms that grant necessary powers to law enforcement to proactively trace and investigate assets linked to sanctioned individuals, particularly in cases where there is evidence of grand corruption, while ensuring safeguards are in place to avoid overreach. Task forces should provide tailored guidance to obliged entities on red flags and patterns related to cross-border corruption and sanctions evasion as well as map and share information on companies, nominees and proxies used by designated individuals to hide assets.

Moreover, they should leverage authorities' powers to request gatekeepers to provide intelligence on sanctioned individuals and share this intelligence with REPO Task Force partners where legally possible.

Governments should also regularly publish updates on their progress. This should include work to date on prosecuting individuals and companies,

investigating, freezing, seizing and repatriating corrupt wealth, and coordinating with key partners, such as the REPO Task Force.

## 2. Strengthen multilateral efforts

The REPO Task Force should expand its current coordination efforts to the tracing of assets of kleptocrats and individuals involved in grand corruption beyond Russian elites. Countries should make both the multilateral and domestic task forces permanent. The REPO Task Force should also broaden its membership to include countries playing a key role in managing or harbouring kleptocrats' assets such as Switzerland. Multilateral and domestic task forces should publicly report on their work, including on the assets frozen, investigations initiated, the outcome of confiscation efforts and lessons learned. Any pre-existing law enforcement units or coordination mechanisms should also follow these reporting requirements.

## 3. End anonymous companies

Countries should establish central, public registers with verified information about the real owners of companies, including foreign companies. They should ensure information is available in open data formats. Beneficial ownership registers should be mandated to undertake independent checks on the information provided by companies or beneficial owners. Verification mechanisms should allow for cross-checking beneficial ownership data with other relevant databases (e.g., registers of national IDs and addresses). In particular:

- + **Germany** and the **Netherlands** should open their beneficial ownership registers, removing access barrier such as fees and registration requirements.
- + **Italy** and the **US** should fast-track efforts to implement beneficial ownership registers.
- + **Canada** should ensure that all provinces and territories integrate into the proposed federal beneficial ownership register.
- + **Australia** should immediately follow through on previous commitments and put forward a legislative proposal to establish a beneficial ownership register.
- + The **UK** should encourage the Overseas Territories and Crown Dependencies to swiftly implement public beneficial ownership registers.

#### 4. Increase transparency of trusts

Governments should make it mandatory for trusts to be registered and disclose details of all connected parties in an accessible register.

- + The **Netherlands** and **Italy** should fulfil obligations under the EU AMLD and establish a beneficial ownership register of trusts.
- + **Australia, Canada** and the **US** should put forward rules that require the registration and disclosure of beneficial owners of domestic and foreign trusts.

#### 5. Improve transparency in the real estate sector

Companies and trusts that invest in the real estate sector should be required to disclose their beneficial owners and this information should be available in a publicly accessible register. Real estate registers should be digitised and contain key data such as historical ownership, property value and purchase date. They should be interoperable, easily accessible and – where the data may be of importance to investigations – in an open data format.

- + **Australia, Canada, France, Italy, the Netherlands** and the **US** should prioritise legal reforms to require foreign companies and trusts that purchase or own real estate to disclose their beneficial owner.
- + **The UK** should effectively implement recently adopted legislation that requires offshore

companies holding property in the UK to disclose who controls them.

#### 6. Open the black box of hedge funds, private equity and other investment funds

All beneficiaries of investment funds, meaning the real natural persons who are the end-investors, should be accurately identified, disclosed and recorded in registers.

#### 7. Increase transparency in luxury goods ownership

Information about the real owners of yachts and private jets should be recorded by governments and publicly disclosed.

#### 8. Regulate and hold all professional enablers to account

Banks, trust and corporate service providers, investment fund managers, lawyers, accountants, real estate professionals and luxury good dealers should be subjected to AML obligations. They should be required to identify the beneficial owners of customers, conduct enhanced due diligence on politically exposed persons and report suspicious transactions to authorities. Governments should provide additional guidance to gatekeepers to better identify suspicious transactions linked to kleptocrats. Those found to have been enabling Russian kleptocrats and other corrupt individuals through setting up companies, moving suspicious funds, purchasing assets and facilitating sanctions evasion should be held to account.

- + **Australia** and the **US** should fast-track legislative proposals to regulate gatekeeper professions, including lawyers, accountants, real estate professionals and luxury good dealers (e.g., the Transparency and Accountability in Service Providers Act in the US<sup>175</sup>).
- + The **US** should require investment fund managers to undertake checks on customers and report suspicious transaction to authorities.
- + **Canada** should resolve finding a constitutionally compliant method for requiring legal professionals to follow AML regulations.

## 9. Effectively resource FIUs and law enforcement

Countries should substantially increase the resourcing of dedicated financial crime investigative units in national law enforcement with a strategic focus on investigating complex, large scale corruption and money laundering cases. They should ensure that law enforcement and FIUs have direct and unfiltered access to key information, including beneficial ownership and real estate data. Transparency around budget and staffing figures should be improved and figures published regularly.

## 10. Strengthen mechanisms for tracing, seizing, confiscating and returning assets

Going beyond sanctions, countries should ensure they have civil and criminal mechanisms to seize and confiscate assets – including, for example, unexplained wealth orders or non-conviction-based forfeiture – and eventually return these assets to the victims of corruption. Countries should substantially increase the resourcing of financial intelligence units to adequately perform their analytical and intelligence-sharing functions. They should prioritise investment in technological platforms and advanced analytics in order to assist in the analysis of incoming STRs. They should also prioritise reforms that ensure that FIUs have the necessary powers to request additional information from obliged entities as part of sanctions implementation and asset tracing.

Photo: Ian Langsdon/Pool via REUTERS



## ANNEX

Table 9. Availability of non-conviction based asset confiscation tools

Country <sup>176</sup>	Classification of available tools	Description of available tools
Australia	<i>In rem</i> proceedings, civil confiscation model (balance of probabilities burden of proof), Unexplained wealth order	Australia's framework allows for civil forfeiture proceedings, which vary across Australia's states. However, in all of Australia's jurisdictions, the law allows for <i>in rem</i> proceedings against the assets, with confiscation following a court order issued on a balance of probabilities decision regarding whether the assets are the proceeds of crime.  Authorities can also issue an unexplained wealth order, where the burden of proof is reversed and assets with no proof of legitimate origin can be confiscated.
Canada	<i>In rem</i> proceedings, civil confiscation model (balance of probabilities burden of proof)	Canada's legal framework generally has two NCBC mechanisms that vary slightly across provinces: a court-based forfeiture request and administrative forfeiture.  In the former, the state authority sues property via <i>in rem</i> proceedings. Subsequent confiscation relies on a court order. The burden of proof lies with the authorities.  In the latter, authorities notify the owner of a potential forfeiture owing to proceeds or instruments claims and the owner can challenge the claim. If the claim is challenged, confiscation relies on a court order.
France	Criminal illicit enrichment provisions for certain crimes	There is no unexplained wealth type of legislation nor a classical non-conviction based confiscation tool. However, the French Criminal Code defines as a crime the "habitual relationship" with a person who can be proven to commit serious offences and the inability of a person to justify the resources corresponding to their standard of living or the property they hold. <sup>177</sup>
Germany	<i>In rem</i> proceedings, criminal confiscation model with balance of probabilities burden of proof	Non-conviction based confiscation takes place within criminal procedure. For serious crimes, an asset can be confiscated if secured as part a criminal proceeding against a person and if there is sufficient evidence to link the asset to a crime, even if the accused cannot be convicted. The law also allows for confiscation of assets in cases of unexplained wealth when connected to organised crime offenses.
Italy	Hybrid confiscation model	The NCBC regime allows for confiscation of assets proven to be acquired through, or the result of income of, criminal activity. <sup>178</sup> While precautionary seizures are possible across all types of crime and even while still pending a judicial decision, subsequent non-conviction based confiscation is restricted to certain types of crime. It requires the establishing of the asset's owner as a "societal danger", defined by their habitual involvement in criminal activity or "unlawful association" with an organised crime group. As such, the applicability of these mechanisms to assets gained from non-organised crime related crimes (for example, corruption in a foreign jurisdiction) remains unproven.
Netherlands	None	There is currently no non-conviction based confiscation mechanism available. A draft law to enable NCBC is currently under consultation.

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United Kingdom	<p><i>In rem</i> proceedings, civil confiscation model (balance of probabilities burden of proof), Unexplained wealth order</p>	<p>Under the UK's Proceeds of Crime Act (POCA), authorities can seize the assets of private actors, including a business, deemed to be "connected with" severe human rights abuses. Such actors are considered "connected with" if they act as an agent for a perpetrator of the abuse, or if they direct or sponsors, profits, or materially assists in such activities.</p> <p>Authorities can also bring forward civil forfeiture proceedings against assets. Confiscation follows a court order issued on a balance of probabilities decision regarding whether the assets are the proceeds of or instruments to a crime.</p> <p>A number of legal tools support civil investigations, including UWOs and Account Forfeiture Orders, which introduce a rebuttable presumption that property is recoverable unless the respondent can prove it derives from legitimate wealth. Investigators can only apply for these under specific circumstances and must apply to a court for them.</p>
United States	<p><i>In rem</i> proceedings, civil confiscation model (balance of probabilities burden of proof)</p>	<p>Authorities can pursue civil forfeiture procedures via either a judicial forfeiture process against the assets themselves or administrative forfeiture. In the former, authorities need to prove that the activities were linked to criminal activity but no conviction for the criminal activity is needed.</p> <p>In the latter, authorities issue the administrative forfeiture claim against an asset based on probable cause. The owner of the asset can then contest the seizure in court with a reversed burden of proof.</p>

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<sup>24</sup> HM Government, March 2022

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- <sup>51</sup> Transparency Register Germany, *About the Transparency Register*. Available at: <https://www.transparenzregister.de/treg/en/ueberuns?0>; *Geldwäschegesetz Abschnitt 4 – Transparenzregister (§§ 18-26a)* [Anti-Money Laundering Law, Section 4 – Transparency Register (§§ 18-26a)]. Available at: <https://dejure.org/gesetze/GwG/21.html>.
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- <sup>57</sup> Code monétaire et financier, Articles L561-1 à L564-2. Available at: [https://www.legifrance.gouv.fr/codes/article\\_lc/LEGIARTI000041578265/](https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000041578265/).
- <sup>58</sup> The commercial court registries recruited 400 employees to deal with the influx of cases when the beneficial ownership register was first created in 2017. However, it is impossible to know how many of the additional recruits have been made permanent and the figure of 2,000 employees working at the commercial courts has remained stable for the past five years. See: National Council of Clerks of the Commercial Courts, *Annual Reports 2018-2020*. Available at: <https://www.cngtc.fr/fr/telechargement.php?cat=21>.
- <sup>59</sup> For example, it is reported that the luxury home Sutton Place in the UK is ultimately beneficially owned by Russian oligarch Alisher Usmanov. However, using ownership structures involving holding companies that are themselves owned by trust services firms administered by a lawyer in Cyprus, the property cannot be directly linked to Usmanov. See: Miranda Patrucic and Ilya Lozovsky, "Sanctioning an Oligarch Is Not So Easy: Why the Money Trail of Alisher Usmanov, One of Russia's Wealthiest Men, Is Difficult to Follow", *OCCRP (web)*, 22 March 2022. Available at: <https://www.occrp.org/en/asset-tracker/sanctioning-an-oligarch-is-not-so-easy-why-the-money-trail-of-alisher-usmanov-one-of-russias-wealthiest-men-is-difficult-to-follow>. See also: George Hammond, "Does Alisher Usmanov really own Sutton Place?", *Financial Times (web)*, 12 March 2022. Available at: <https://www.ft.com/content/69bfee5f-277b-4e81-b1f7-b5031d112169>.
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<sup>65</sup> FinCEN (7 December 2021)

<sup>66</sup> Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC. (4AMLD) Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32015L0849&from=EN>

<sup>67</sup> Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU. (5AMLD). Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32018L0843&from=EN>.

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- + **UK:** Economic Crime (Transparency and Enforcement) Act 2022. Available at: <https://www.legislation.gov.uk/ukpga/2022/10/contents/enacted>. See also: University of Portsmouth (23 March 2022), *A new UK government act designed to target the assets of Russian oligarchs and other money launderers comes with loopholes*. Available at: <https://www.port.ac.uk/news-events-and-blogs/news/economic-crime-act-has-loopholes-says-leading-economic-crime-expert>.

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- <sup>81</sup> Government of Canada (2022)
- <sup>82</sup> Ashurst (25 April 2018), *Beneficial owner(s) disclosure requirement in France*, *Corporate Update France*. Available at: <https://www.ashurst.com/en/news-and-insights/legal-updates/beneficial-owners-disclosure-requirement-in-france/>.
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- <sup>85</sup> Kumar and de Bel (2021)
- <sup>86</sup> Netherlands Chamber of Commerce (KVK)
- <sup>87</sup> Chiomenti Studio Legale (2022)
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- <sup>92</sup> European Commission (20 July 2021), *Anti-money laundering and countering the financing of terrorism legislative package*. Available at: [https://ec.europa.eu/info/publications/210720-anti-money-laundering-countering-financing-terrorism\\_en](https://ec.europa.eu/info/publications/210720-anti-money-laundering-countering-financing-terrorism_en).
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- <sup>95</sup> The US also fails to impose stringent AML obligations on all types of trust and company service providers (who can also set up trusts). Only trust companies that fall under the definition of a financial institution as per the Bank Secrecy Act are included. See: Office of the Comptroller of the Currency, Government of the United States, *Bank Secrecy Act (BSA)*. Available at: <https://www.occ.treas.gov/topics/supervision-and-examination/bsa/index-bsa.html>.
- <sup>96</sup> Code monétaire et financier, Partie législative (Articles L111-1 à L736-7), Livre V: Les prestataires de services (Articles L500-1 à L574-6) [Monetary and Financial Code, Legislative Part (Articles L111-1 to L736-7), Book V: Service providers (Articles L500-1 to L574-6)]. Available at: [https://www.legifrance.gouv.fr/codes/article\\_lc/LEGIARTI000042648575](https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000042648575);
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- <sup>97</sup> Geldwäschegesetz Abschnitt 1 – Begriffsbestimmungen, Verpflichtete und risikobasierter Ansatz (§§ 1-3a) [Anti-Money Laundering Law, Section 1 – Definitions, obliged entities and risk-based approach (§§ 1-3a)]. Available at: <https://dejure.org/gesetze/GwG/2.html>.
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<sup>100</sup> Financial Action Task Force, *United Kingdom: Mutual Evaluation Report* (Paris: FATF, 2018). Available at: <https://www.fatf-gafi.org/publications/mutualevaluations/documents/mer-united-kingdom-2018.html>.

<sup>101</sup> For the purposes of this analysis, Transparency International is using the FATF's definition of investment funds from the FATF 2018 guidance on Risk-Based Supervision in the Securities Sector: "Investment funds, including undertakings for collective investment ('UCIs') and pooled investment vehicles, are undertakings established as limited companies, limited partnerships or by contract that generally pool money from a number of third party investors and invest it in assets such as securities (e.g., stocks, bonds and other mutual funds) or other assets (e.g., real estate, private equity and commodities)" (p. 11). Available at: <https://www.fatf-gafi.org/publications/fatfrecommendations/documents/rba-securities-sector.html>.

<sup>102</sup> Matthew Goldstein and David Enrich, "How One Oligarch Used Shell Companies and Wall Street Ties to Invest in the U.S.", *The New York Times (web)*, (21 March 2022). Available at: <https://www.nytimes.com/2022/03/21/business/russia-roman-abramovich-concord.html>.

<sup>103</sup> See also: David Szakonyi and Maïra Martini, *In the dark: Who is behind Luxembourg's 4.5 trillion-euro investment funds industry?* (Berlin: Transparency International/Anti-Corruption Data Collective, 2021). Available at: <https://www.transparency.org/en/publications/in-the-dark-who-is-behind-luxembourgs-4-5-trillion-euro-investment-fund-industry>.

<sup>104</sup> Overview of AML obligations:

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- + **Germany:** Geldwäschegesetz Abschnitt 1 – Begriffsbestimmungen, Verpflichtete und risikobasierter Ansatz (§§ 1-3a) [Anti-Money Laundering Law, Section 1 – Definitions, obliged entities and risk-based approach (§§ 1-3a)]. Available at: <https://dejure.org/gesetze/GwG/2.html>.
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- + **UK:** The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017. Available at: <https://www.legislation.gov.uk/uksi/2017/692/made>.
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<sup>105</sup> See: Erica Hanichak, Lakshmi Kumar and Gary Kalman, *Private Investments, Public Harm: How the Opacity of the Massive U.S. Private Investment Industry Fuels Corruption and Threatens National Security* (Global Financial Integrity/Transparency International/FACT Coalition, December 2021). Available at: <https://us.transparency.org/resource/private-investments-public-harm-report/>. See also: Neil Weinberg, "Hedge Funds Risk Biden-Era End to Money-Laundering Loophole", *Bloomberg (web)*, (5 February 2021). Available at: <https://www.bloomberg.com/news/articles/2021-02-05/hedge-funds-risk-biden-era-closing-of-money-laundering-loophole>.

<sup>106</sup> AUSTRAC, *List of exemptions and modifications granted*. Available at: <https://www.austrac.gov.au/lists-exemptions-and-modifications-granted>

<sup>107</sup> Financial Action Task Force and Asia Pacific Group, *Australia: Mutual Evaluation Report*. (FATF/APG, 2015). p.85. Available at: <https://www.fatf-gafi.org/publications/mutualevaluations/documents/mer-australia-2015.html>

- <sup>108</sup> Transparency International (2021)
- <sup>109</sup> Transparency International (2021)
- <sup>110</sup> Financial Action Task Force, *Canada: Mutual Evaluation Report* (Paris: FATF, 2016a), Criterion 29.3.
- <sup>111</sup> Geldwäschegesetz Abschnitt 5 – Zentralstelle für Finanztransaktionsuntersuchungen (§§ 27-42) [Anti-Money Laundering Law, Section 5 – Financial Intelligence Unit §§ (27-42)]. Available at: <https://dejure.org/gesetze/GwG>.
- <sup>112</sup> FATF (2018), Criterion 29.3
- <sup>113</sup> Crime and courts Act 2013. Section 7. Available at: <https://www.legislation.gov.uk/ukpga/2013/22/notes/division/5/1/10>.
- <sup>114</sup> FATF (2015), Criterion 29.3; Anti-Money Laundering and Counter-Terrorism Financing Act 2006, Section 49 (1). Available at: <https://www.legislation.gov.au/Details/C2021C00243>.
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- <sup>117</sup> FATF, *United States: Mutual Evaluation Report* (Paris: FATF, 2016b), Criterion 29.3. Available at: <https://www.fatf-gafi.org/publications/mutualevaluations/documents/mer-united-states-2016.html>.
- <sup>118</sup> International Consortium of Investigative Journalists (ICIJ), *FinCEN Files*. Available at: <https://www.icij.org/investigations/fincen-files/>.
- <sup>119</sup> TRACFIN, *TRACFIN Annual Report 2016* (Paris: TRACFIN, 2016a), p. 25. Available at: <https://www.economie.gouv.fr/tracfin/rapports-tracfin-publies-entre-2000-et-2017>. See also: TRACFIN, *Lettre d'information de TRACFIN N.13 Juin 2016* [TRACFIN Newsletter No. 13 June 2016], (Paris: TRACFIN, 2016b). Available at: [https://www.economie.gouv.fr/files/files/directions\\_services/tracfin/Publications/lettres/Lettre\\_Tracfin\\_13.pdf?v=1647340768](https://www.economie.gouv.fr/files/files/directions_services/tracfin/Publications/lettres/Lettre_Tracfin_13.pdf?v=1647340768).
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- <sup>123</sup> HM Revenue and Customs (17 March 2021), *HMRC Anti-Money Laundering Supervision annual assessment*. Available at: <https://www.gov.uk/government/publications/hmrc-anti-money-laundering-supervision-performance-assessment/hmrc-anti-money-laundering-supervision-annual-assessment>.
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- <sup>126</sup> The sectoral risk assessment describes these legal arrangements as being close to express trusts in common law jurisdictions. See: Federal Ministry of Finance of Germany, *Sector-specific risk assessment* (Berlin: BFM, December 2020), p. 43. Available at: [https://www.bundesfinanzministerium.de/Content/EN/Standardartikel/Press\\_Room/Publications/Brochures/sector-specific-risk-assessment-2020.pdf?\\_\\_blob=publicationFile&v=8](https://www.bundesfinanzministerium.de/Content/EN/Standardartikel/Press_Room/Publications/Brochures/sector-specific-risk-assessment-2020.pdf?__blob=publicationFile&v=8).
- <sup>127</sup> TRACFIN (2021)
- <sup>128</sup> Duncan, Blood, MacIntyre, and Davies (2022); Smith, O'Murchu, Massoudi and Seddon (2022)
- <sup>129</sup> AUSTRAC, *Services and businesses AUSTRAC regulates*; Andrew Taylor, "Experts warn 'inconsistent' laws make luxury goods an easy target for money laundering", *The Sydney Morning Herald (web)*, (29 December 2019). Available at: <https://www.smh.com.au/national/experts-warn-inconsistent-laws-make-luxury-goods-an-easy-target-for-moneylaunders-20191218-p53l7q.html>.

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<sup>131</sup> Office of the Comptroller of the Currency, Government of the United States, *Bank Secrecy Act (BSA)*

<sup>132</sup> Article L561-10-2 du Code monétaire et financier [Article L561-10-2 of the Monetary and Finance Code]

<sup>133</sup> Geldwäschegesetz Abschnitt 1 – Begriffsbestimmungen, Verpflichtete und risikobasierter Ansatz (§§ 1-3a) [Anti-Money Laundering Law, Section 1 – Definitions, obliged entities and risk-based approach (§§ 1-3a)]. Available at: <https://dejure.org/gesetze/GwG/2.html>.

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<sup>135</sup> Netherlands Financial Intelligence Unit (14 March 2019), *Changes to the Money Laundering and Terrorist Financing (Prevention) Act for buyers/sellers of goods*. Available at: <https://www.fiu-nederland.nl/en/changes-to-the-money-laundering-and-terrorist-financing-prevention-act-for-buyers-sellers-of-goods>;

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<sup>136</sup> The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, HM Revenue and Customs, *High value dealer guidance for money laundering supervision* (London: HMRC, 2020). Available at: <https://www.gov.uk/government/publications/anti-money-laundering-guidance-for-high-value-dealers>.

<sup>137</sup> Sabine Bünning, "Geldwäschaufsicht über Notarinnen und Notare – die 'Taskforce Geldwäsche' in Berlin" [Money Laundering Supervision of Notaries – the "Money Laundering Task Force" in Berlin], *Geldwäsche und Recht* (print), (January 2022) pp. 16-19. Also available at: <https://online.ruw.de/suche/gwur/Geldwaescheaufs-uebe-Notari-und-Nota--die-Taskf-Ge-6588fa6ac30bbc343c0927db5db2f41d>.

<sup>138</sup> FATF (2022), p. 153, 165

<sup>139</sup> International Monetary Fund, *Financial Intelligence Units* (Washington DC: IMF, June 2004). DOI: <https://doi.org/10.5089/9781589063495.069>.

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<sup>141</sup> In March 2022, FinCEN received an additional US\$ 19 million in initial emergency funding for the response to the Russian invasion of Ukraine. In May 2022, the FinCEN received a second emergency allocation of roughly US\$ 27 million. Neither of these will be included in future annual budget appropriations. See also: Transparency International U.S. (11 March 2022), *Government Funding Bill Boosts Resources to Find Illicit Cash*. Available at: <https://us.transparency.org/news/government-funding-bill-boosts-resources-to-find-illicit-cash/>

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<sup>144</sup> Deutscher Bundestag (16 February 2022), *Keine Bearbeitungsrückstände bei Geldwäschebekämpfung* [No more processing backlogs in anti-money laundering]. Available at: <https://www.bundestag.de/presse/hib/kurzmeldungen-881252>

<sup>145</sup> Reuters, "CORRECTED-FACTBOX-The embattled agency at the heart of the German ministry raids", *Reuters (web)*, (9 September 2021). Available at: <https://www.reuters.com/article/germany-finance-probe-fiu-idCNL8N2QB3FI>

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<sup>148</sup> Government of Canada (March 2021)

<sup>149</sup> UIF (2021), p. 127

<sup>150</sup> Europol, *From Suspicion to Action: Converting financial intelligence into greater operational impact* (The Hague: Europol, 2017). Available at: <https://www.europol.europa.eu/publications-events/publications/suspicion-to-action-converting-financial-intelligence-greater-operational-impact>.

<sup>151</sup> The Law Commission, *Anti-Money Laundering: the SARs Regime Consultation Paper* (London: Law Commission: London, June 2018). Available at: <https://www.lawcom.gov.uk/document/anti-money-laundering-the-sars-regime>.

<sup>152</sup> FATF (2018), p. 55

<sup>153</sup> Law Commission for England and Wales, *Anti-money laundering: the SARs regime* (London: Law Commission, June 2019). Available at: <https://www.lawcom.gov.uk/project/anti-money-laundering/>.

<sup>154</sup> Ministry of Finance of the Netherlands (26 April 2022), *Beantwoording vragen van de leden Van Nispen en Van Dijk (beiden SP) over het toezicht op de naleving van de sancties tegen Rusland op de Zuidas* [Answering questions by members Van Nispen and Van Dijk (both SP) on monitoring compliance with the sanctions against Russia. Available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2022/04/26/beantwoording-vragen-over-het-toezicht-op-de-naleving-sancties-tegen-rusland-op-de-zuidas/beantwoording-vragen-over-het-toezicht-op-de-naleving-sancties-tegen-rusland-op-de-zuidas.pdf>.

<sup>155</sup> Federal Ministry of Finance of Germany (24 March 2022); Bundeskriminalamt (1 January 2022), *Organigramm des Bundeskriminalamtes* [Organisational chart of the federal criminal police force]. Accessible at: [https://www.bka.de/DE/DasBKA/OrganisationAufbau/Organigramm/organigramm\\_node.html](https://www.bka.de/DE/DasBKA/OrganisationAufbau/Organigramm/organigramm_node.html).

<sup>156</sup> Guardia di Finanza, *Bilancio preventivo e consuntivo* [Budget and final balance]. Available at: <https://www.gdf.gov.it/amministrazione-trasparente/bilanci/bilancio-preventivo-e-consuntivo>

<sup>157</sup> Government of the Netherlands (4 October 2021), *Letter to the Parliament about additional investments in the comprehensive offensive against subversive crime*. Available at: <https://www.government.nl/ministries/ministry-of-justice-and-security/documents/kamerstukken/2021/10/04/letter-to-the-parliament-about-additional-investments-in-the-comprehensive-offensive-against-subversive-crime>.

<sup>158</sup> Note: more funding can be made available under flexible funding arrangements. Serious Fraud Office, *About us: our funding and budget*. Available at: <https://www.sfo.gov.uk/about-us/> (last accessed on 5 May 2022).

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<sup>160</sup> Martin Greive and Jan Hildebrand, "Geheimes Gutachten: Deutschland ist ein Paradies für Geldwäscher" [Secret report: Germany is a paradise for money launderers], *Handelsblatt (web)*, 24 January 2021. Available at: <https://www.handelsblatt.com/politik/deutschland/steuerkriminalitaet-geheimes-gutachten-deutschland-ist-ein-paradies-fuer-geldwaescher/26846022.html>.

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<sup>162</sup> Mat Tromme (Bingham Centre for the Rule of Law), *Waging war against corruption in developing countries: how asset recovery can be compliant with the rule of law*, (BIICL, February 2019). Available at: <https://binghamcentre.biicl.org/publications/waging-war-against-corruption-in-developing-countries-how-asset-recovery-can-be-compliant-with-the-rule-of-law?cookieset=1&ts=1652707754>

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<sup>167</sup> National Crime Agency (18 July 2019), *NCA secures first serious organised crime Unexplained Wealth Order for property worth £10 million*. Available at: <https://www.nationalcrimeagency.gov.uk/news/nca-secures-first-serious-organised-crime-unexplained-wealth-order-for-property-worth-10-million>.

<sup>168</sup> Ali Shalchi (2022)

<sup>169</sup> HM Government (4 March 2022), *Fact sheet: unexplained wealth order reforms (web accessible)*. Accessible at: <https://www.gov.uk/government/publications/economic-crime-transparency-and-enforcement-bill-2022-overarching-documents/factsheet-unexplained-wealth-order-reforms-web-accessible#key-reforms>.

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<sup>172</sup> This weakness in UWOs has been addressed in the Economic Crime Act 2022. Available at: <https://commonslibrary.parliament.uk/research-briefings/cbp-9486/>.

<sup>173</sup> John Heathershaw, Alexander Cooley, Tom Mayne, Casey Michel, Tena Prelec, Jason Sharman and Ricardo Soares de Oliveira, *The UK's kleptocracy problem: How servicing post-Soviet elites weakens the rule of law* (London: Chatham House, December 2021). Available at: <https://www.chathamhouse.org/2021/12/uks-kleptocracy-problem>.

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