GOLD RUSH

Investment visas and corrupt capital flows into the UK

Transparency International (TI) is the world's leading non-governmental anti-corruption organisation. With more than 100 chapters worldwide, TI has extensive global expertise and understanding of corruption.

Transparency International UK (TI-UK) is the UK chapter of TI. We raise awareness about corruption; advocate legal and regulatory reform at national and international levels; design practical tools for institutions, individuals and companies wishing to combat corruption; and act as a leading centre of anti-corruption expertise in the UK.

Every effort has been made to verify the accuracy of the information contained in this report. All information was believed to be correct as of 15 October 2015. Nevertheless, Transparency International UK cannot accept responsibility for the consequences of its use for other purposes or in other contexts. Policy recommendations reflect Transparency International UK's opinion. They should not be taken to represent the views of those quoted or interviewed, or the members of the advisory committee, unless specifically stated.

Printed on 100 per cent recycled paper.

Transparency International UK's registered charity number is 1112842.

Gold Rush

Investment visas and corrupt capital flows into the UK

Key statistics

3.6 million

estimated deaths that could be prevented each year in developing countries if action were taken to tackle the corruption and criminality behind global flows of illicit funds, and the recovered revenues were invested in health systems

£2m

can provide a foreign investor with a 'golden visa' and, after five years, permanent residency in the UK

£10m

investment can provide a golden visa investor with the right to secure UK permanent residency status in just two years

1,173

golden investor approvals in 2014, up from 153 in 2009

At least £3.15bn

has entered the UK through the golden visa scheme since 2008

97%

of golden visa investors came to the UK during the 'blind faith' period of checks by the visa authorities, when the scheme was highly vulnerable to abuse by the corrupt

60%

of all golden visas granted by the UK have been awarded to Chinese[1] and Russian nationals since the scheme began in 2008

51%

of golden visas were awarded to Chinese nationals in 2014

£1.15bn

invested by Chinese golden visa recipients since the scheme began

£82bn

of suspected corrupt wealth laundered out of China and placed under criminal investigation by Chinese authorities since April 2015

£729m

invested by Russian golden visa investors since the scheme began

£31bn

of illegal outflows estimated by the Central Bank of Russia to have left Russia in 2012

0

active investigations led by UK law enforcement authorities focused on money laundering into the UK of the proceeds of corruption stolen from China or Russia

1 Our data includes Mainland China applicants and applicants from Hong Kong Special Administrative Region

Acronyms

Anti-Money Laundering (AML)

UK Department for International Development (DFID)

Financial Conduct Authority (FCA)

Financial Services Authority (FSA)

Her Majesty's Revenue and Customs (HMRC)

High Net Worth Individual (HNWI)

Money Laundering (ML)

National Crime Agency (NCA)

Politically Exposed Person (PEP)

UN Office for Drugs and Crime (UNODC)

Contents

Executive summary

There are strong grounds for concern that the UK's 'golden visa' scheme is being used as a tool to launder the proceeds of corruption from around the world. In particular, it is highly likely that substantial amounts of corrupt wealth stolen from China and Russia have been laundered into the UK through the UK's Tier 1 Investor visa programme.

In return for £2m of qualifying investments, a foreign investor can receive a UK golden visa and, after five years, permanent residency in the UK. Our analysis shows that, out of 3,048 golden visas granted by the UK since the scheme began in 2008, 60 per cent have been awarded to Chinese and Russian nationals. At a minimum, a total of £1.15bn of investment flows into the UK can be attributed to Chinese golden visa investors and £729m to Russian nationals. Chinese investors accounted for over half of all golden visas awarded by the UK in 2014.

There are arguments that golden visas damage public trust in the institution of citizenship, however this paper focuses on their potential role in facilitating international corruption. Chinese and Russian official estimates of the massive scale of criminal and corrupt money laundered out of their jurisdictions, and the relatively open opportunities to launder wealth through the UK Tier 1 Investor scheme during the period from June 2008 to April 2015 in particular, is a reasonable basis for concern that the UK's Tier 1 Investor programme has attracted corrupt Russian and Chinese high net worth individuals. According to the Chinese Central Bank, £82bn of suspected corrupt wealth has been laundered out of China and placed under criminal investigation by Chinese authorities since April 2015.[2] The Russian Central Bank has estimated that annual outflows of illicit money from Russia could be as high as £31bn.[3]

The risk of money laundering continues as a result of the absence of effective, up-front and transparent checks on Tier 1 Investor visa applicants by the UK authorities. When and if illicit money has entered the UK economy through the golden visa scheme, there are also widespread doubts as to whether the UK's system of anti-money laundering checks can be relied on to ensure that suspicions of money laundering of corrupt wealth are reported and acted upon in an effective manner by law enforcement authorities. According to the Government's own assessment, the UK's anti-money laundering system has significant weaknesses in its supervisory structure and in terms of the level of compliance and reporting standards across relevant private sectors.

Ultimately, these doubts are confirmed by the absence of any investigations led by UK law enforcement authorities against money laundering in the UK related to acts of corruption by individuals in Russia or China.

We conclude that **UK residency status is being offered through the Tier 1 investor programme where, overall, there are substantial grounds for concern that scheme is being used to launder corrupt wealth and that the system for identifying such money laundering is not generally effective**. In order to address specific policy weaknesses identified in this research, we put forward 10 recommendations to mitigate the vulnerabilities that have been identified.

---

[2] http://economictimes.indiatimes.com/news/international/world-news/china-tracks-126-billion-embezzled-by-corrupt-officials-abroad/articleshow/49302836.cms [accessed 15 October 2015]

[3] http://www.reuters.com/article/2013/02/20/us-russia-cbank-idUSBRE91J0J020130220 [accessed 29 June 2015]

To help recover corrupt assets that have already entered the UK, we propose that the UK Government should work with cooperative countries to develop intelligence sharing and 'accountable asset recovery' frameworks that target corrupt fugitives in the UK.

Given the dominance of Chinese investors in the UK's Tier 1 scheme and the anti-corruption context in China, the UK should look to establish a model 'accountable asset recovery' agreement with China. This should enshrine protection against capital punishment, effective intelligence sharing, civil recovery, and accountable and transparent asset repatriation at the heart of a joint commitment to tackle corrupt Chinese fugitives residing in the UK.

In countries where there is no genuine prospect of a domestic conviction against the acts of corruption, nor cooperation with UK law enforcement agencies, powers should be developed to enable the UK to take proactive and unilateral action against the relevant corrupt assets in the UK. To achieve this, the UK Government should explore legal mechanisms that can require suspects of grand corruption to explain legitimate and legal sources of their wealth, when UK law enforcement authorities suspect that they are laundering the proceeds of corruption through the UK.

To help prevent corrupt wealth from entering the UK in the first place through the golden visa scheme, we recommend that the UK Home Office should require up-front and public declarations of legitimate income and legal sources of wealth by golden visa investors. We also propose that the UK Government should establish a preventative and intelligence-led 'visa denial' list for individuals that the security services have identified are highly likely to be involved in systemic corruption, and against whom there is little immediate prospect of a conviction in their own country.

To improve the effectiveness of the UK's supervision of money laundering risks more broadly, we recommend the following steps:

- Adequately resource the UK law enforcement effort against international corruption and improve the capacity to share intelligence with supervisors and private sector due diligence professionals
- Consolidate the number of anti-money laundering regulatory supervisors in the UK and provide adequate resources for supervision
- Require relevant anti-money laundering senior managers in the private sector to have personal responsibility for money laundering failings in their firm

We support the UK Government's recent recognition of the risks posed by money laundering in the UK and the damage it could do to the security, integrity, reputation and success of the City of London and the wider UK economy. This recognition puts the UK in a leadership position internationally in terms of tackling the issues of grand corruption and corrupt capital flows.

Laundering the proceeds of grand corruption is not unique to the UK, nor is the UK alone in hosting a 'golden visa' scheme. A number of other major global financial and real estate investment centres are also both vulnerable and attractive to the corrupt. However, the UK is well-placed to lead international efforts to recover the proceeds of grand corruption, using its position as a leading global financial, real estate and luxury goods centre, the quality and expertise of its law enforcement agencies and the potential reach of its civil jurisdiction.

However, to achieve this ambition, urgent action is required to address the vulnerabilities in the UK's Tier 1 Investor visa scheme, to improve the mechanisms for asset recovery of corrupt wealth in the UK, and to strengthen the UK's anti-money laundering system of supervision so that corrupt wealth is prevented from entering the UK in the first place.

1. Money laundering of the proceeds of corruption and the UK

What is money laundering?

Money laundering is the process of concealing the origin, ownership or destination of illegally or dishonestly-obtained money by hiding it within legitimate economic activities in order to make it appear legal.[4] All manner of financial transactions and investments can be used to launder the proceeds of crime and corruption, including the sale of property and the purchase of luxury goods. Money laundering can mask corruptly acquired wealth – such as bribes, kick-backs, illicit political contributions, embezzled funds and loans – as well as the proceeds of other crimes. Money laundering helps the corrupt to escape justice and, after the funds have been successfully laundered, the corrupt can enjoy their ill-gotten gains or move the funds on for other purposes.

Why does money laundering matter?

Corruption and the impunity achieved by the corrupt through money laundering are major contributors to global poverty. The theft of state funds for private gain depletes resources that would have otherwise gone towards public goods, such as social services, investment in infrastructure and economic development. This makes it harder for citizens to lift themselves out of poverty and move their country towards greater prosperity. Estimates suggest that at least US$1 trillion is taken out of developing countries each year through a web of corrupt activity that involves the use of anonymous shell companies, money laundering and illegal tax evasion.[5] It has been suggested that as many as 3.6 million deaths could be prevented each year in developing countries if action is taken to tackle the corruption and criminality behind these illicit flows and the recovered revenues were invested in health systems.[6]

> "Corruption has a deplorable effect on our societies – corroding justice, good governance and prosperity. The UK is a global financial centre, open for business with the world. It is one of our country's great strengths, but it brings with it responsibilities: to ensure that we take the appropriate steps to prevent money laundering; and that we act to stop the proceeds of overseas corruption from being hidden here" - Home Secretary The Rt Hon Theresa May MP[7]

[4] http://www.transparency.org/glossary/term/money_laundering [accessed 17 September 2015]
[5] https://s3.amazonaws.com/one.org/pdfs/Trillion_Dollar_Scandal_report_EN.pdf [accessed 16 February 2015]
[6] https://s3.amazonaws.com/one.org/pdfs/Trillion_Dollar_Scandal_report_EN.pdf [accessed 16 February 2015]
[7] https://www.gov.uk/government/speeches/home-secretary-speech-at-ukraine-forum-on-asset-recovery [accessed 24 June 2015]

How does it affect the UK?

The UK Government's National Risk Assessment on Money Laundering and Terrorist Financing, published in October 2015, sought to establish the impact and scale of risk to the UK posed by money laundering. It identified that "billions of pounds of suspected proceeds of corruption are laundered through the UK each year."[8]

> "The UK is an international financial centre, processing trillions of pounds of transactions every year. Together with the presence of a highly developed professional services industry, this increases the attractiveness and vulnerability of the UK's financial system to exploitation by those engaged in money laundering." – National Crime Agency[9]

The National Risk Assessment described how the UK's status as a global financial centre makes it vulnerable to money laundering threats from other countries. Recognising that the UK is the world's leading exporter of financial services, the National Risk Assessment stated, "the same factors that make the UK an attractive place for legitimate financial activity – its political stability, advanced professional services sector, and widely understood language and legal system – also make it an attractive place through which to launder the proceeds of crime."[10]

There is a clear recognition now by UK law enforcement agencies and the UK Government that funds linked to cases of international corruption flow through UK major professional sectors, in very large sums. The risk posed by these money laundering weaknesses threaten the security, integrity, reputation and success of the City of London and the wider UK economy. Money laundering and corruption have both been identified as high priority threats in the National Crime Agency (NCA) National Control Strategy, which prioritises the threats of serious and organised crime in the UK.[11]

Money laundering of the proceeds of grand corruption is not unique to the UK, and a number of other major global financial and real estate investment centres are both vulnerable and attractive to the corrupt.[12] However, the UK is well-placed to lead international efforts to recover the proceeds of grand corruption, using its position as a leading global financial and luxury goods centre, the quality and expertise of its law enforcement agencies and the potential reach of its civil jurisdiction.

> "The laundering of proceeds of overseas corruption into or through the UK fuels political instability in key partner countries." - UK Government's National Risk Assessment on Money Laundering and Terrorist Financing

---

[8] HM Government, National Risk Assessment on Money Laundering and Terrorist Financing (October 2015) p.3
[9] http://www.nationalcrimeagency.gov.uk/publications/560-national-strategic-assessment-of-serious-and-organised-crime-2015/file p.21 [Accessed 10 July 2015]
[10] HM Government, National Risk Assessment on Money Laundering and Terrorist Financing (October 2015) p.4
[11] HM Government, National Risk Assessment on Money Laundering and Terrorist Financing (October 2015) p.24
[12] The UN defines grand corruption as corruption that pervades the highest levels of a national government, leading to a broad erosion of confidence in good governance, the rule of law and economic stability. See : http://www.unep.org/training/programmes/Instructor%20Version/Part_2/Activities/Interest_Groups/Decision-Making/Supplemental/UN_Anti_Corruption_Toolkit_pages_10to16.pdf [Accessed: 16 September 2015]

2. What are Tier 1 Investor visas?

This report focuses on the so-called 'golden visa' scheme – the UK's system for issuing of residency visas in exchange for commitments to invest in the economy. Our overall assessment is that this visa scheme, as it currently operates, presents a major money laundering risk for the proceeds of corruption entering the UK.

High net worth individuals (HNWIs) can use the UK's Tier 1 Investor visa system to secure a grant of leave to remain in the UK. Applicants must invest a minimum of £2m in UK Government bonds, share capital or loan capital in active and trading UK registered companies. The minimum amount required for investment to qualify was raised from £1m to £2m in November 2014, following a recommendation from the Migration Advisory Committee.[13] After five years investors can apply for permanent residency in the UK. By investing £5m, the qualifying period under which the main applicant can apply for 'Indefinite Leave to Remain' is reduced to three years, and those investing £10m can apply after just two years.[14]

Tier 1 Investor visas were introduced on 30 June 2008.[15] Home Office data shows that annual approvals for Tier 1 Investor visas have increased from 153 in 2009 to 1,173 in 2014, an increase of more than 666 per cent in five years.

Analysing Home Office data, we have calculated that at least £3.15bn has entered the UK through the Tier 1 (Investor) visa scheme since 2008.[16]

The Home Office does not publish the value of investments through the scheme, so we have calculated this amount by assuming all applicants invested the relevant minimum amount required. The real figure is, therefore, likely to be higher.

---

[13] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/285220/Tier1investmentRoute.pdf [accessed 12 October 2015]

[14] https://www.gov.uk/tier-1-investor/overview [accessed 24 June 2015]

[15] http://www.workpermit.com/news/2008-06-20/uk/tier-1-goes-into-effect-30-june-2008.htm [accessed 12 October 2015]

[16] TI-UK analysis of Home Office data available at https://www.gov.uk/government/statistics/immigration-statistics-january-to-march-2015-data-tables assuming all investments were the minimum £1m up to Q4 2014, and subsequently £2m [accessed 24 Sept 2015]

Countries of origin

Of the 3,048 Tier 1 Investor visas recorded between Q3 2008 to Q2 2015 in total, 1,126 (37 per cent) have been awarded to Chinese (and Hong Kong) nationals and 706 (23 per cent) have been awarded to Russian nationals. Those two nationalities of origin dominate the UK's Tier 1 investment visa scheme.

Table 1 - Top 10 nationalities awarded UK Tier 1 Investor visas from Q3 2008 to Q2 2015

Original nationality	Successful applicants	Percent of total
China (and Hong Kong)	1126	37%
Russia	706	23.2%
United States	150	4.9%
Pakistan	62	2.0%
India	60	2.0%
Kazakhstan	59	1.9%
Egypt	58	1.9%
Canada	54	1.8%
Australia	52	1.7%
Iran	50	1.6%
Total (top 10 nationalities)	**2377**	

Chart 1 - UK Tier 1 Investor Visas, by nationality of applicant (top 10), issued between Q3 2008 to Q2 2015
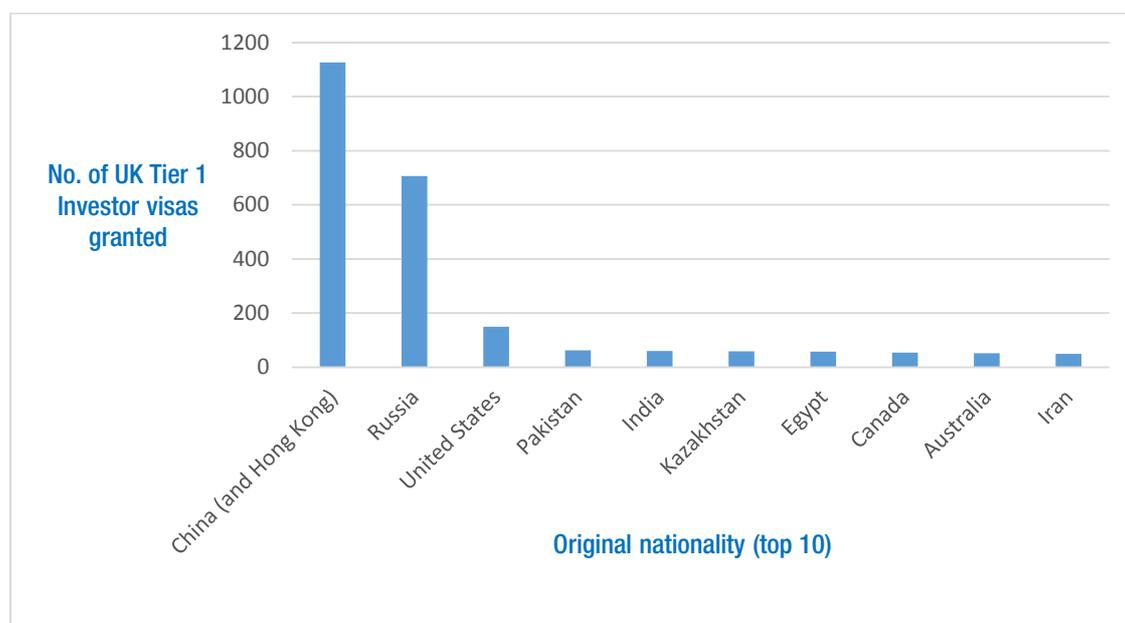
Chinese investors have come to account for the majority of successful golden visa applications, rising from making up 12 per cent of all visas granted via the scheme in 2009 to over half (51 per cent) in 2014. By contrast, the relative share of Russians investors has reduced from just under 35 per cent of successful applicants in 2009 to account for approximately 20 per of total Tier 1 Investor visas in 2014. However, the absolute number of Russian investors being granted a visa increased 248 per cent, from 66 in 2009 to 230 in 2014.[17]

The Home Office's public data does not include the total sums invested, or whether investors have committed £5m or £10m to secure fast-track residency options. Using the minimum possible investment amounts required under the scheme, we can calculate that Chinese investors have committed to at least £1.15bn and Russian investors to £729m in qualifying UK investments since the scheme began, which is £1.88bn in total that has been invested across both Chinese and Russian investors. The true figure is likely to be higher in view of the probability that some individual investors are opting for the accelerated residency options.

There is no data on the number of 'politically exposed persons' (PEPs) who have enrolled in the scheme, as the Home Office does not collate this information. PEPs are the primary category of persons that represent a grand corruption risk, and financial institutions must, by law, attempt to identify PEP customers. The lack of up-front identification of PEPs in the Tier 1 Investor visa programme is a barrier for effective due diligence and macro understanding of the risks posed by the scheme.

Who is a PEP?

The 2007 Money Laundering Regulations, in accordance with internationally-agreed rules, define a PEP as an individual who is or has, at any time in the preceding year, been entrusted with a prominent public function by:

- a state other than the United Kingdom;
- a Community [EU] institution; or
- an international body.

Close associates or family members are also considered PEPs

The Fourth EU Anti-Money Laundering directive, which is due to be implemented across all member states by 2017, eliminates the exclusion of domestic PEPs from the definition.[i]

[i] http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013PC0045&from=EN Art.19 [Accessed 12 August 2015]

---

[17] TI-UK analysis of Home Office data available at https://www.gov.uk/government/statistics/immigration-statistics-january-to-march-2015-data-tables [accessed 24 Sept 2015]

3. The scale of money laundering risk

Chinese and Russian HNWIs dominate the UK's golden visa scheme. Both jurisdictions have higher than average corruption risks associated to them and it is reasonable to infer that a proportion of money invested into the UK by Russian and Chinese Tier 1 investors is linked to crimes of corruption.

Estimates of illicit flows out of China and Russia

There are various estimates and calculations as to the extent of illicit outflows from China and Russia. Global Financial Integrity (GFI), a research authority on illicit flows, publishes an annual estimate of illicit flows exiting developing countries. Using macroeconomic data, GFI provides a conservative estimate that during 2012 around £54bn of illicit wealth was moved out of China and around £6.2bn from Russia.[18]

Official institutions in both Russia and China have also acknowledged the scale of illicit outflows, and indeed their own estimates of outward illicit flows are higher than the GFI macroeconomic estimates. In 2013, the governor of the Central Bank of Russia claimed that nearly £31bn, or 2.4 per cent of the national income, had been sent abroad illegally in the previous year.[19] In China, the central bank has confirmed that, since April 2015, it has launched investigations into 92 suspected cases of embezzled money being transferred through underground banks and offshore companies. The total amount of illicit outflows under investigation is around £82bn[20], or 1.2 per cent of China's national income.[21]

Indices and jurisdictional risk

In the table below, we compare Russia and China on the leading corruption and money laundering indices.

Table 2 – Comparison of corruption and money laundering indices

	Transparency International - Corruption Perceptions 2014 Index[22]		World Bank - (WGI) - Control Of Corruption[23]	Basel AML Index[24]
	(Score out of 100, 0 being most corrupt, 44 as the average)	(Rank, highest rank is cleanest)	(2014, percentile rank, 0 lowest)	(Score out of 10, 10 as high risk)
China	36	100 out of 175	47	6.06
Russia	27	136 out of 175	20	6.29

[18] http://www.gfintegrity.org/report/2014-global-report-illicit-financial-flows-from-developing-countries-2003-2012/ and USD:GBP conversion rate of 0.62 [accessed 29 June 2015]

[19] http://www.reuters.com/article/2013/02/20/us-russia-cbank-idUSBRE91J0J020130220 [accessed 29 June 2015] and based on US$2trn GNI in 2013 (US$ Current) (using 2013 World Bank GNI http://data.worldbank.org/indicator/NY.GNP.MKTP.CD/countries/CN-RU?display=graph) [accessed 15 Oct 2015]

[20] http://economictimes.indiatimes.com/news/international/world-news/china-tracks-126-billion-embezzled-by-corrupt-officials-abroad/articleshow/49302836.cms [accessed 12 October 2015]

[21] Based on US$10.3trn GNI in 2014 (US$ Current) (using 2014 World Bank GNI

http://data.worldbank.org/indicator/NY.GNP.MKTP.CD/countries/CN-RU?display=graph and USD:GBP exchange rate 15 Oct 2015 of 0.65)

[22] https://www.transparency.org/cpi2014 [accessed 12 October 2015]

[23] http://info.worldbank.org/governance/wgi/index.aspx#reports [accessed 12 October 2015]

[24] http://index.baselgovernance.org/sites/default/files/documents/overall-score-ranking-2014.pdf [accessed 12 October 2015]

There are a number of disagreements in the indices, on account of their measurement of different factors. In particular, the World Bank 'Control of Corruption' report score for China is much stronger, relatively, than the score under the Transparency International Corruption Perceptions Index (CPI). The Basel Index on AML approximately corresponds to the CPI ranking. This paper is not intended to provide a review of different indices.[25]

It is not possible, from current public information, to assess what value of the Tier 1 investments can be attributed to the proceeds of crime and corruption. However, jurisdictional risk indices, GFI's macroeconomic analysis, and Russian and Chinese official estimates of the scale of money laundering flowing out of those two countries, all indicate that the large sums of money entering the UK by way of Russian and Chinese investors represent a significant prima facie money laundering risk of the proceeds of corruption.

For a review of golden visa risks across non-UK jurisdictions and an assessment current corruption vulnerabilities at an EU and international level, please see TI briefings "Leaving the corrupt at the door: From denial of entry to passport sales" (2014)[26], and the TI G20 Position Paper "Denial of entry to corrupt officials" (May 2014).[27]

---

[25] TI-UK advocates for context-specific information to be used by anti-money laundering professionals to form a professional judgement of risk, rather than blanket decisions based of limited indices

[26] http://www.transparency.org/whatwedo/publication/policy_brief_03_2014_leaving_the_corrupt_at_the_door [accessed 12 October 2015]

[27] http://www.transparency.org/files/content/activity/2014_TI_G20PositionPaper_DenialOfEntry_EN.pdf [accessed 12 October 2015]

4. Inadequate protection against the risks

Despite the risk of money laundering through the Tier 1 Investor visa process, there have been serious failings in the scheme's system of due diligence checks, which have created loopholes for the vast majority of investors, and there is still no adequate and transparent system of up-front money laundering checks for golden visa applicants.

4.1 A weak system of up-front checks on Tier 1 visa applicants

As a protection against the risk of facilitating money laundering, since 6 April 2015, the Home Office requires Tier 1 investors to establish UK bank accounts before making a Tier 1 visa application.[28] The Home Office also require that applicants continuously maintain their investment if and when their application is successful, for the entire period of their visa.[29] In addition, Home Office guidance states that applicants who have not held the investment funds for three consecutive months before the date of the application must also provide evidence of the source of the funds.[30]

In this way, the Home Office primarily relies on the effective operation of anti-money laundering (AML) checks being carried out by banks or asset management firms in the UK to identify whether there are grounds for suspicion of corruption. If the bank accepts the client's account, the Home Office assume that this means that effective AML checks have been carried out and any risks have been identified. There may be further intelligence agency or Embassy checks carried out, but these assessments are not made public, so it is impossible to assess their adequacy, and are not made available to support private sector due diligence on clients.

Since September 2015, the Home Office has strengthened the regime and now requires applicants to prove they have no criminal records before being granted a visa.[31] While this is a welcome development for mitigating against some types of criminals, it will have no effect on individuals involved in grand corruption, where the highest levels of government are complicit and where no prior conviction may exist.

An acute concern with the Tier 1 Investor visa scheme is that, for the period from the scheme's inception to 6 April 2015, there was no necessity for individual to obtain a UK bank account before applying and being awarded a Tier 1 Investor visa.[32] During this period, which we describe as the 'blind faith' period, the Home Office relied on the commitment of the applicant to transfer his funds to a UK bank account **after** they were awarded the Tier 1 Investor visa. During this period, it was the **expectation** that AML checks would be carried out by a UK bank in the

---

[28] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/407476/HC_1025_Immigration_Rules.pdf p.58 [accessed 15 October 2015]

[29] http://www.mishcon.com/news/briefings/changes_to_tier_1_investor_route_10_2014 [accessed 29 September 2015]

[30] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/456009/T1__I__Guidance_09_2015.pdf p.11 [accessed 29 September 2015]

[31] http://www.telegraph.co.uk/news/uknews/immigration/11748959/Foreign-criminals-face-new-crackdown-as-new-visa-rules-demand-police-checks.html [accessed 15 October 2015]

[32] http://www.paynehicksbeach.com/media-events/publications/163/overview-of-recent-uk-investor-and-entrepreneur-visa-changes [accessed 15 October 2015]

future that was the basis to provide the UK authorities with assurance against money laundering risk.

However, we understand through the course of interviews conducted during this research that it is highly likely that UK banks used the fact that an individual had been awarded a Tier 1 Investor visa as qualifying evidence to overcome due diligence concerns when assessing the applicant's legitimacy. As a result, not only would the corrupt have been attracted to a Tier 1 Investor visa in order to achieve UK residency status, but it would have also been attractive to help circumvent a bank's due diligence checks. Another gap in the authorities system of checks during this period was that Tier 1 investors were, generally, only assessed about their compliance with the rules of their visa three years after entering the UK.

Table 3 – Amount of Tier 1 investment that passed into the UK during the 'blind faith' period of checks June 2008 – April 2015, relative to total investment under the scheme

Nationality of origin	Minimum investment flows during the 'blind faith' period	The % of investment flows during the 'blind faith' period out of total investment
China	£1.13bn	98%
Russia	£707m	97%
All nationalities	£3.06bn	97%

In total, 3,048 individuals took advantage of the Tier 1 Investor visa scheme during the blind faith period, when the system was most vulnerable to being used to launder the proceeds of corruption.

It is worth noting that initial data for 2015 indicates that applications to the scheme have dropped sharply, with only 102 visas granted in the first two quarters of 2015, potentially indicating that the more stringent checks brought in late 2014 and early 2015 – alongside the raising of the investment threshold – have significantly reduced the rate of application numbers.

A bribery risk?

An additional but distinct risk associated with the Tier 1 Investor visa system is that of bribery and complicity between applicants and those involved in awarding or in a position to influence visa awards. A recent case of potential complicity in Portugal, which has a comparable 'golden visa' system to the UK, led to the resignation of the Interior Minister.[33]

> "It's the sale of citizenship by instalment… Golden visas are an insane program, because obviously they are conduits for importing organized crime into the European Union" - Ana Gomes, Portuguese politician[34]

Whilst there is no evidence of complicity with UK investment visas, given the level of money involved there is a potential bribery risk which needs to be managed. There are cases where UK politicians have reportedly written to the director-general of UK visas and immigration, in an

---

[33] http://www.bbc.co.uk/news/world-europe-30077266 [accessed 24 June 2015]

[34] http://www.nytimes.com/2015/02/10/business/europes-having-a-distress-sale-on-visas.html?_r=0 [accessed 15 October 2015]

effort to expedite the visa papers for foreign HNWIs.[35] Although those cases may have a legitimate explanation, it is easy to see how such a system could be abused.

Notwithstanding the concern about the blind faith period, the current Home Office Tier 1 Investor visa scheme begs the question as to how effective private sector due diligence is. In the following section we outline general weaknesses in both the UK AML supervisory system and the identification and reporting of money laundering suspicions that, collectively, cast significant doubt on the system's effectiveness.

4.2 General weaknesses in the UK's AML system

The Home Office Tier 1 Investor scheme and, at a wider level, UK law enforcement operations against international corruption – in theory – rely on a system of AML checks in the private sector to lead to reports of money laundering suspicions.

Around the world, the detection and recovery of illicit wealth remains an enormous challenge. The UN Office for Drugs and Crime (UNODC) estimated in 2011 that law enforcement typically only identify 1 per cent of the money laundering of illicit financial flows.[36] Within the UK, there are persistent problems that have been recognised with the performance and supervision of the UK's AML system. These include:

Evidence of poor AML compliance in the financial sector. The Financial Conduct Authority (FCA), and its predecessor the Financial Services Authority (FSA), have conducted in-depth surveys of risks associated with money laundering of the proceeds of corruption. The FSA's 2011 thematic review of banks' management of high money laundering risk situations revealed systemic failings in AML compliance by financial institutions with high-risk customers and PEPs. Three quarters of the banks reviewed were not managing AML risk effectively. Over half the banks failed to apply meaningful 'enhanced due diligence' measures in higher risk situations and more than a third of banks failed to put in place effective measures to identify customers as PEPs. Around a third of banks dismissed serious allegations about their customers without adequate review.[37] The FCA's 2014 Anti-Money Laundering Report into small banks found that similar major failings remained in compliance systems that should prevent the proceeds of corruption from being laundered into the UK.[38]

Low quantity and poor quality reporting of money laundering. Reporting of money laundering suspicions and awareness of reporting responsibilities is inadequate in almost all sectors. Apart from financial services and money service bureaus, the number of suspicious activity reporting of money laundering is low to negligible.[39] This is particularly concerning for professional gatekeeper sectors, such as accountancy and law that have been rated by the Home Office and HM Treasury as 'high risk' in term of vulnerability to money laundering.[40] The National Crime Agency have repeatedly highlighted a concern with poor quality reporting of money laundering suspicions from across the private sector, particularly from the legal sector.[41]

[35] http://www.thesundaytimes.co.uk/sto/news/Politics/article1565870.ece [accessed 15 August 2015] and http://news.bbc.co.uk/1/hi/uk_politics/1134392.stm [Accessed 24 June 2015]

[36] http://www.unodc.org/documents/data-and-analysis/Studies/Illicit_financial_flows_2011_web.pdf [Accessed 23 June 2015]

[37] http://www.fsa.gov.uk/pubs/other/aml_final_report.pdf [accessed 24 June 2015]

[38] https://www.fca.org.uk/news/tr14-16-how-small-banks-manage-money-laundering-and-sanctions-risk [accessed 24 June 2015]

[39] http://www.nationalcrimeagency.gov.uk/publications/464-2014-sars-annual-report/file p.9 [accessed 24 June 2015]

[40] http://www.nationalcrimeagency.gov.uk/publications/560-national-strategic-assessment-of-serious-and-organised-crime-2015/file p.3 [accessed 15 October 2015]

[41] http://www.ft.com/cms/s/0/8f0a2dee-7039-11e5-ad6d-f4ed76f0900a.html#axzz3oNt0hO9K [accessed 13 October 2013]

Ineffective supervisors responsible for overseeing money laundering risks. The UK National Risk Assessment states that "the effectiveness of the supervisory regime in the UK is inconsistent. Some supervisors are highly effective in certain areas, but there is room for improvement across the board, including in understanding and applying a risk-based approach to supervision and in providing a credible deterrent."[42] The current system of having 27 overlapping AML supervisors, far more than any country in the world, leads to inconsistency and a poor overall understanding of risk.[43] Many of the private sector supervisors responsible for AML are not transparent about their activity and, from what we do know, the enforcement record is generally weak.

A large number of private sector AML supervisors hold conflicts of interest. In a conflict of interest that was also identified in the National Risk Assessment, almost all of the private sector supervisors are actually lobby groups for the sectors that they supervise, and are funded by the firms that they are obliged to investigate. This leads to problematic situations in practice where regulatory improvements that were developed by public sector supervisors, such as the Financial Conduct Authority, can be subject to oppositional lobbying from private sector AML supervisors.[44]

A limited environment for personal liability for money laundering failings. The UK's Parliamentary Commission into Banking Standards concluded that a lack of personal consequences for individuals was a principal cause of repeated misconduct by financial institutions.[45] Until recently, it was expected that the FCA would adopt a new 'Senior Managers Regime' with a presumption of responsibility on relevant senior managers. Under the proposals, senior managers allocated with AML responsibilities would have been required to prove that they had taken reasonable steps to prevent money laundering from taking place, if such activity was found to have taken place within their firm.[46] However, reportedly due to heavy lobbying by the banking sector, the proposal has been removed from current draft legislation due to be put forward by HM Treasury.[47]

These risks, identified both by independent research[48] and by the government's National Risk Assessment, provide for a context where it can reasonably assumed that there are significant opportunities for the corrupt to launder money through the UK with a significant degree of impunity and poor quality reporting of suspicions to law enforcement may be expected.

---

[42] HM Government, National Risk Assessment on Money Laundering and Terrorist Financing (Oct 2015) p.5

[43] The complete list of supervisors is as follows: Association of Accounting Technicians (AAT); Association of Chartered Certified Accountants (ACCA); Association of International Accountants (AIA); Association of Taxation Technicians (ATT); Chartered Institute of Management Accountants (CIMA); Chartered Institute of Legal Executives (CILEX); Chartered Institute of Taxation (CIOT); Council for Licensed Conveyancers (CLC); Department of Enterprise, Trade, and Investment Northern Ireland (DETNI); Faculty of Advocates (Scottish bar association) (FoA); Faculty Office of the Archbishop of Canterbury (AoC); Financial Conduct Authority (FCA); Gambling Commission (GC); General Council of the Bar (England and Wales) (GCBEW); General Council of the Bar of Northern Ireland (GCBNI); HM Revenue & Customs (HMRC); Insolvency Practitioners Association (IPA); Insolvency Service (SoS); Institute of Certified Bookkeepers (ICB); Institute of Chartered Accountants in England and Wales (ICAEW); Institute of Chartered Accountants in Ireland (ICAI); Institute of Chartered Accountants of Scotland (ICAS); Institute of Financial Accountants (IFA); International Association of Book-keepers (IAB); Law Society of England and Wales (LSEW); Law Society of Northern Ireland (LSNI); and the Law Society of Scotland (LSS)

[44] http://economia.icaew.com/news/october-2015/business-welcomes-changes-to-smr [accessed 15 October 2015]

[45] http://www.parliament.uk/business/committees/committees-a-z/joint-select/professional-standards-in-the-banking-industry/news/changing-banking-for-good-report/ [accessed 5 March 2015]

[46] https://www.globalwitness.org/blog/uks-new-regime-hold-senior-bankers-accountable-helping-corrupt-could-be-game-changer/ [accessed 15 October 2015]

[47] http://uk.reuters.com/article/2015/10/15/uk-britain-banks-idUKKCN0S82V320151015 [accessed 15 October 2015]

[48] See TI-UK's submission to the National Risk Assessment for an overview of relevant research and analysis http://www.transparency.org.uk/publications/15-publications/1092-ti-uk-submission-to-hm-treasury-national-risk-assessment-on-terrorist-financing-money-laundering/1092-ti-uk-submission-to-hm-treasury-national-risk-assessment-on-terrorist-financing-money-laundering [accessed 10 June 2015]

4.3 A lack of relevant UK law enforcement investigations covering China and Russia

The UK's National Risk Assessment on Money Laundering and Terrorist Financing states that "international corruption cases involving millions of pounds of assets in the UK are currently under investigation, with alleged predicate offending in Africa, the Middle East and Eastern Europe, and involving financial flows that span the globe".[49] It is our understanding that there are currently no active cases led by UK law enforcement authorities that relate to money laundering of corrupt acts by individuals in China or Russia.

The reasons for the lack of law enforcement investigations focused on such key countries have several strands. They include:

A general reliance on cooperation from the jurisdiction of the original corruption. The UK has typically not pursued cases where the origin state is hostile to the corruption allegation. The UK's modus operandi for tackling the proceeds of corruption is largely one of being unable to act against the proceeds of corruption until there is a cooperative jurisdiction in the country of original corruption, or, absent that, waiting until there is a revolution. At point of revolution, for example in the case of the Arab Spring and Ukraine, a large amount of UK law enforcement and government activity is to put towards supporting corruption investigations in those counties.

Geographic limitations of policing investigations of international corruption. The UK international corruption unit within the National Crime Agency is predominantly funded by the UK Department for International Development (DFID), as was its predecessor law enforcement units in the Metropolitan Police Service and the City of London Police. Investigations, therefore, have been focused on DFID priority countries, which has not included Russia and China.

Capital punishment sentencing for corruption offences in China. A major barrier for effective cooperative investigations between China and the UK is Chinese capital punishment for corruption offences. In accordance with EU law, UK law enforcement authorities should not support investigations without explicit guarantees that the investigation will not result in capital punishment.

Lack of confidence in the integrity and accountability of systems in the origin country to receive recovered assets. There is also a risk that asset recovery from the UK may in some way be compromised by corruption once the assets are recovered and repatriated, which could undermine political support for the recovery of corrupt assets to high-risk jurisdictions more generally.

A very short timeframe for responding to reports of money laundering. The UK's present system for reporting money laundering gives investigators seven days within which to refuse consent to a suspicious financial transaction. If law enforcement agencies refuse consent, they have a period of 31 days to obtain a court order to freeze the account by meeting a legal threshold of establishing that there is 'a reasonable cause to suspect' that the account contains the proceeds of crime. This timeframe is insufficient time in which to investigate complex corruption cases, with international requests for information and potentially requiring law enforcement agencies to prove a corrupt criminal act in the origin country. Unless there is compelling evidence for a case already contained within a report, or it relates directly to a case being

---

[49] http://www.nationalcrimeagency.gov.uk/publications/560-national-strategic-assessment-of-serious-and-organised-crime-2015/file p.3 [accessed 15 October 2015]

brought to prosecution, then it is highly likely that no objection will be raised to the suspicious transaction.

Law enforcement are affected by poor compliance rates and supervision standards for private sector AML in the UK, as they are reliant on the private sector reporting money laundering suspicions. However, in addition, the above policy and legislative issues reduce the effectiveness of the UK's policing of international corruption.

Whilst it is positive that, according to the National Risk Assessment, UK law enforcement is currently investigating cases involving millions of pounds of corrupt money, this is very small in comparison to the "billions of pounds" of corrupt money that the NCA assesses as coming into the UK each year.[50]

Most relevant to the Tier 1 Investor visa money laundering risks, the absence of any investigations against UK money laundering of embezzlement originally carried out in China or Russia, confirms that the system is not providing a credible deterrent. Corrupt individuals from Russia and China who may have used the Tier 1 Investor scheme as a money laundering tool have yet to face any serious threat of enforcement against them or justice for their crimes.

---

[50] HM Government, National Risk Assessment on Money Laundering and Terrorist Financing (Oct 2015) p.85

5. Conclusions

There are strong prima facie grounds for concern that the UK's Tier 1 Investor visa programme has been used as a tool to launder the proceeds of corruption, specifically large amount of wealth stolen from China and Russia.

This risk is amplified by the absence of effective, up-front and transparent checks for Tier 1 Investor visa applicants by the UK authorities.

The Home Office largely places the burden on the UK private sector AML procedures to identify any money laundering risks associated to Tier 1 Investors, and, from the start of the scheme to April 2015 relied on a 'blind faith' approach to assurance that effective money laundering checks were being carried out.

For Tier 1 investors that have invested into the UK, there are significant doubts as to whether the UK's AML regime is fit for purpose, either in its supervisory structure or in performance and compliance standards, to adequately detect and report suspicions of money laundering associated to the proceeds of corruption.

Ultimately, the lack of UK law enforcement investigations against money laundering in the UK related to embezzlement offences in China or Russia provides evidence that the inherent risks in the UK's Tier 1 Investor visa scheme are not being effectively mitigated.

UK residency is being offered to high net worth individuals where, overall, there are reasonable grounds for concern that the scheme has been used to launder corrupt wealth and the system for identifying such money laundering is not generally effective.

6. Recommendations

In order to address the weaknesses identified in this research, we put forward 10 recommendations, across three categories, to mitigate the risks identified. These are:

- Establish greater integrity and transparency in the Tier 1 Investor visa scheme
- Improve mechanisms for cooperation to identify and recover corrupt assets
- Improve law enforcement capacity and the effectiveness of AML supervision in the UK

Establish greater integrity and transparency in the Tier 1 Investor visa scheme

Recommendation 1. Require up front and public declarations of legitimate income by Tier 1 investors. The Home Office Tier 1 Investor visa scheme should support and contribute to a more effective AML system, instead of relying on the AML checks in the private sector to identify risks. Prior to issuing a Tier 1 Investor visa, applicants should be required to file a public declaration of their interests and assets and provide assurance in the legitimacy of their income. Home Office should maintain a public register of legitimate sources of wealth for Tier 1 Investor visas. At the very least, up front declarations should apply to PEPs and public officials who should expect to meet a high level of transparency, even after they have left office.

Recommendation 2. Establish a preventative visa denial list for high corruption risk individuals. The UK Government should maintain an anti-corruption visa denial list, in an intelligence-led and preventative framework. This list should be based on information provided by UK law enforcement and security services about identifying individuals who are highly likely to be involved in systemic grand corruption, and against whom there is little immediate prospect of justice in their own country. Visa denial decisions should be subject to appeal and the process should comply with international humanitarian law. Within this framework, the UK Government should work with international partners to establish whether such a preventative visa denial list could be shared with other countries.

Recommendation 3. Retrospectively examine what transparency declarations can be required of existing Tier 1 investors. The Government should examine how best to react to the risk that over 3,000 individuals have taken up the UK's golden visa during the period when it was most vulnerable to being abused as a money laundering tool. This process should include reviewing how to oblige Tier 1 investors to declare legitimate and legal sources of wealth, before they receive full residency status in the UK.

Recommendation 4. Publish jurisdictional risk reports. The UK government should consider publishing jurisdictional risk reports to enhance the quality of due diligence professionals' assessments of risk in their own businesses. The UK government has access to intelligence and information through the Embassy network that can inform a nuanced and sophisticated judgement on money laundering and corruption jurisdictional risk. The lack of effective meaningful jurisdictional risk indicators can undermine private sector assessments of risk and therefore undermine identification of money laundering.

Improving mechanisms for cooperation to identify and recover corrupt assets

Recommendation 5. Develop an accountable asset recovery agreement with cooperative jurisdictions. The UK Government should work with countries to achieve 'accountable' and transparent asset recovery against corrupt fugitives in the UK. For example, given the dominance of Chinese investors in the UK's Tier 1 scheme and the anti-corruption context in China, the UK should look to develop a 'model' asset recovery agreement with China. This should enshrine protection against capital punishment, effective intelligence sharing, civil recovery, and accountable and transparent asset repatriation at the heart of a joint commitment to tackle corrupt Chinese fugitives residing in the UK.

Recommendation 6. Establish UK legislation to enable the recovery of corrupt assets, without a conviction in the origin country. In environments where the jurisdiction of original corruption is not cooperative with the UK, special powers should be developed to enable the UK to take proactive and unilateral action against the relevant corrupt assets in the UK. To achieve this, the Government should explore the Unexplained Wealth Order and Illicit Enrichment Offence proposals described in detail in the June 2015 Transparency International UK report "Empowering the UK to Recover Corrupt Assets". Such proposals would require suspects of grand corruption to explain legitimate and legal sources of wealth for suspicious transactions.

Improving law enforcement capacity and the effectiveness of AML supervision in the UK

Recommendation 7. Adequately resource the UK law enforcement effort against international corruption. Whilst it is positive that UK law enforcement authorities are investigating cases involving millions of pounds of corrupt money, this is very small in comparison to the "billions of pounds" of corrupt money that the government assesses to be coming into the UK each year. The DFID funding model for the UK's policing against international corruption affecting the UK steers resources away from key countries, including China and Russia, towards DFID priority countries. This presents obvious gaps for the policing and prevention of corrupt capital flowing into the UK. The UK Government has identified the national security implications of failing to act decisively on corruption and the money laundering of the proceeds of corruption, and this should be recognised in the Strategic Defence and Security Review. The UK is well-placed to lead international efforts to recover the proceeds of grand corruption, using its position as a leading global financial and luxury goods centre, the quality and expertise of its law enforcement agencies and the reach of its civil jurisdiction. However, this will require appropriate resources and the extension of UK law enforcement investigations beyond countries where the UK has a DFID aid donor relationship.

Recommendation 8. Consolidate the number of AML supervisors in the UK. Improving the UK's AML performance in tackling the proceeds of corruption will require effective and well-resourced supervision to ensure high standards of compliance with the law. The Government should review the arrangements for AML supervision in the UK to consider whether it is effective and consistent, and examine options for consolidating the current system of 27 AML supervisors. At the very least, AML supervisory responsibilities should not be provided to private sector institutions that are also conflicted with lobbying responsibilities for the sectors that they are meant to supervise.

Recommendation 9. Provide adequate resources to AML supervision. In any supervisory structure, proportionate and adequate resources should be available to supervisors in order to achieve effective enforcement of AML standards. It is a false economy to continue to support a low-cost private sector supervision model that is failing to deliver effective supervision.

Recommendation 10. Establish an effective personal liability regime for AML failings. The government should re-introduce proposals for relevant senior managers in the financial sector to have a presumption of responsibility for money laundering failings. The proposals should include requiring senior managers with AML responsibilities to justify that they had taken reasonable steps to prevent money laundering from taking place, if such activity is found to have taken place within their firm, and that they should face personal penalties if they cannot.

24

Annex 1: Associated recent publications from TI

Corruption on Your Doorstep: How Corrupt Capital is Used to Buy Property in the UK (2015)

Empowering the UK to Recover Corrupt Assets: Unexplained Wealth Orders and other new approaches to illicit enrichment and asset recovery (2015)

TI-UK Response to the UK National Risk Assessment of Money Laundering And Terrorist Financing (2015)

TI-UK Submission to HM Treasury National Risk Assessment on Terrorist Financing & Money Laundering (2014)

TI Policy Brief # 03 / 2014 Leaving the Corrupt at the Door: From Denial of Entry to Passport Sales (2014)

TI G20 Position Paper Denial of Entry to Corrupt Officials (2014)

Corruption Perceptions Index (2014)

Closing Down the Safe Havens: Ending Impunity for Corrupt Individuals by Seizing and Recovering their Assets in the UK (2013)

Global Corruption Barometer (2013)

Available from: www.transaprency.org and www.transparency.org.uk

www.transparency.org.uk