

NJM ADVISORY

ENFORCEMENT CHALLENGES – STEMMING THE FLOW OF CORRUPT CAPITAL INTO HIGH-END REAL ESTATE

*GLOBAL CITIES II, COLUMBIA UNIVERSITY
ENFORCEMENT CHALLENGES AND VICTORIES PANEL*

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9 June 2017

London

Mega-rich homes tour puts spotlight on London's oligarchs

Campaigners connected to Russian opposition leader Alexei Navalny offer tour of billionaires' exclusive homes, including those of Vladimir Putin's friends



Witanhurst in Highgate, London, owned by Russian tycoon Andrei Gureiev. Photograph: Suzanne Plunkett/Bloomberg



GLOBAL CITIES - ATTRACTIVE TO CORRUPT CAPITAL

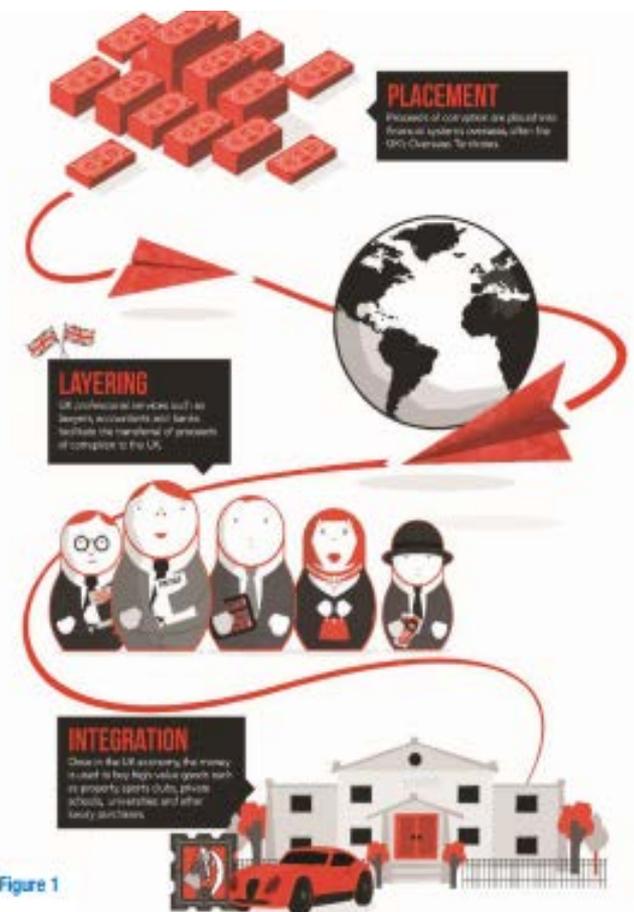
1. Global cities are appealing destinations for the money laundering of international corruption – '**corrupt capital**'.
2. Widespread risks of corrupt capital invested in real estate in global cities
3. Vulnerability from land titles being held through anonymous companies & trusts
4. Weaknesses in enforcement and a poor state of deterrence
5. Distortions in the property market



"apartments in Manhattan, apartments in Vancouver [and] in London, along with fine art, have now replaced gold as the primary store of wealth." - Laurence D. Fink, Chairman, BlackRock

ESTIMATES OF SCALE OF ILLICIT FLOWS

- Illicit cross-border flows are very difficult to measure and detect.
- The UN acknowledges this, estimating that less than 1 per cent of illicit wealth is ever detected, with recovery rates as low as 0.2 per cent of total flows.
- The UK National Crime Agency (NCA) believes that tens to hundreds of £billions laundered through the UK each year (“£bns of suspected proceeds of international corruption”).
- Global Financial Integrity estimates that developing countries lose US\$1.1 trillion per year through illicit outward flows.



CASE STUDIES

[BRAZIL] Nestor Cuñat Cerveró, Petrobras executive, jailed in May 2015 for his part in the Operation Car Wash bribery scandal. Laundered bribes through a shell company to buy a US\$2.4 million luxury apartment in Rio

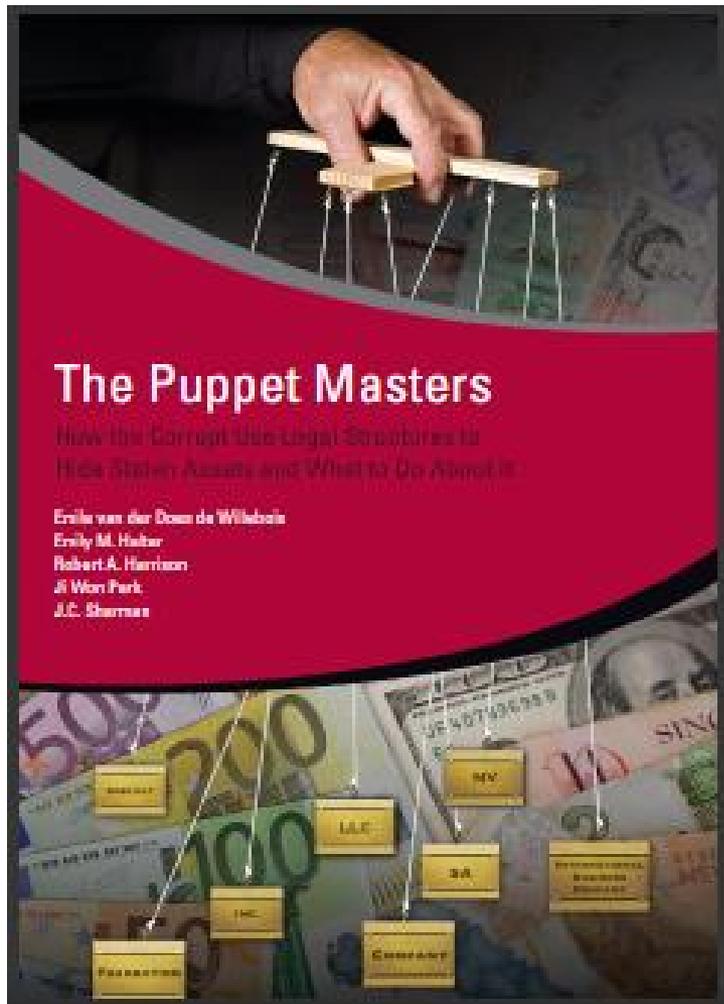
[AUSTRALIA] A 2016 report by the Sentry Group – identified the South Sudanese General James Hoth Mai Nguoth had purchased a US\$1.5 million property in Australia despite never earning a salary that exceeded about US\$45,000 per year.

[CANADA] FATF refer to identification of corrupt officials from China laundering the proceeds of crime through the real estate sector in Vancouver.

[USA] 19 foreign nationals in the PANAMA PAPERS purchased high-end property in Miami using offshore companies, 8 linked to corruption, embezzlement.

[FRANCE] Teodoro Obiang, son of the president of Equatorial Guinea subject to corruption charges and asset seizure including EUR180m apartment in Paris

CORPORATE SECRECY AS A KEY VULNERABILITY



[UK] Transparency International found that over £180m worth of property in the UK has been brought under criminal investigation as the suspected proceeds of corruption since 2004.

[UK] Over 75% of these properties make use of offshore corporate secrecy to hide their owner's identities, and this acts as a significant barrier to money laundering investigations.

[UK] British Crown Dependencies and Overseas Territories are the preferred option for concealment for those under UK criminal investigation for grand corruption.

[Global] World Bank Stolen Asset Recovery initiative identified the "Almost ubiquitous" role of shell companies in cases of grand corruption

HOW BIG IS THE VULNERABILITY IN OUR GLOBAL CITIES?

Transparency International research to identify the amount and location of property holdings by anonymous companies in global cities... using:

- Big data analytics from land title holdings
- Combined with national and state company registry databases
- Additional cross-referencing with data sources to identify existing and known corruption risk associated to corporate entities

CORPORATE SECRECY IN LONDON REAL ESTATE

- Initial research in 2014 found that 40,725 London property titles are held by foreign companies. 89% held by companies incorporated in secrecy jurisdictions
- More than one third of all foreign companies holding London property are incorporated in the British Virgin Islands
- Repeated research in 2016 found the problem is increasing. TI-UK and Thomson Reuters in December 2016 found that 44,022 land titles in London are owned by overseas companies, 91 per cent of which were registered in secrecy havens.

MAPPING CORPORATE SECRECY IN LONDON

THE BOROUGH OF WESTMINSTER AND KENSINGTON & CHELSEA ACCOUNT FOR 48% OF ALL LONDON PROPERTY THAT IS OWNED BY A SECRECY JURISDICTION COMPANY

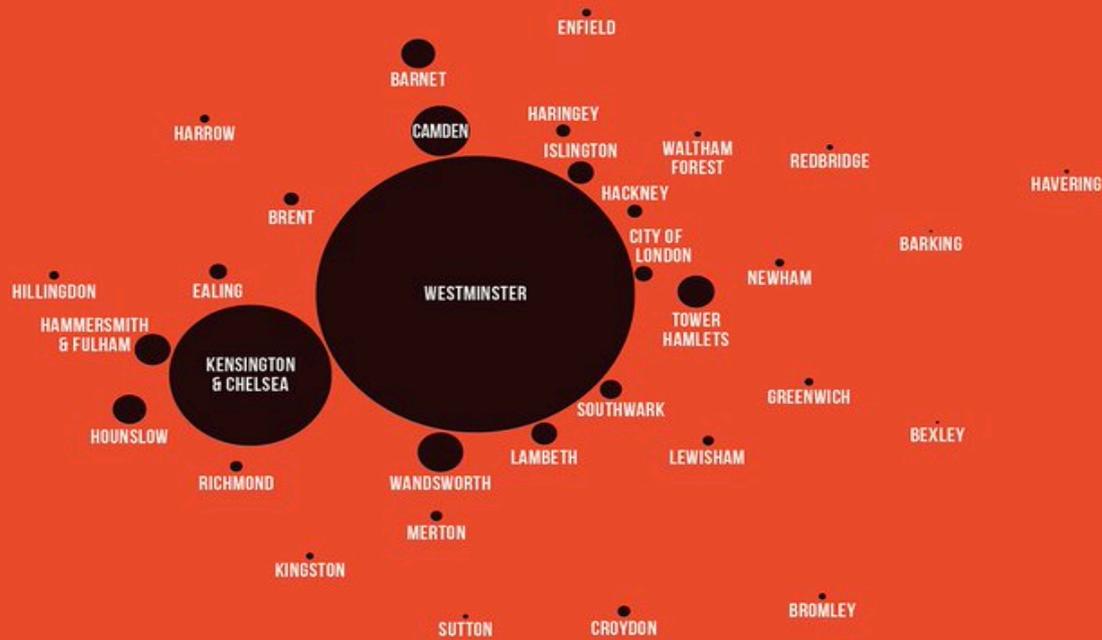


TOTAL NUMBER OF PROPERTY TITLES HELD BY SECRECY HAVEN COMPANIES BY LONDON BOROUGH



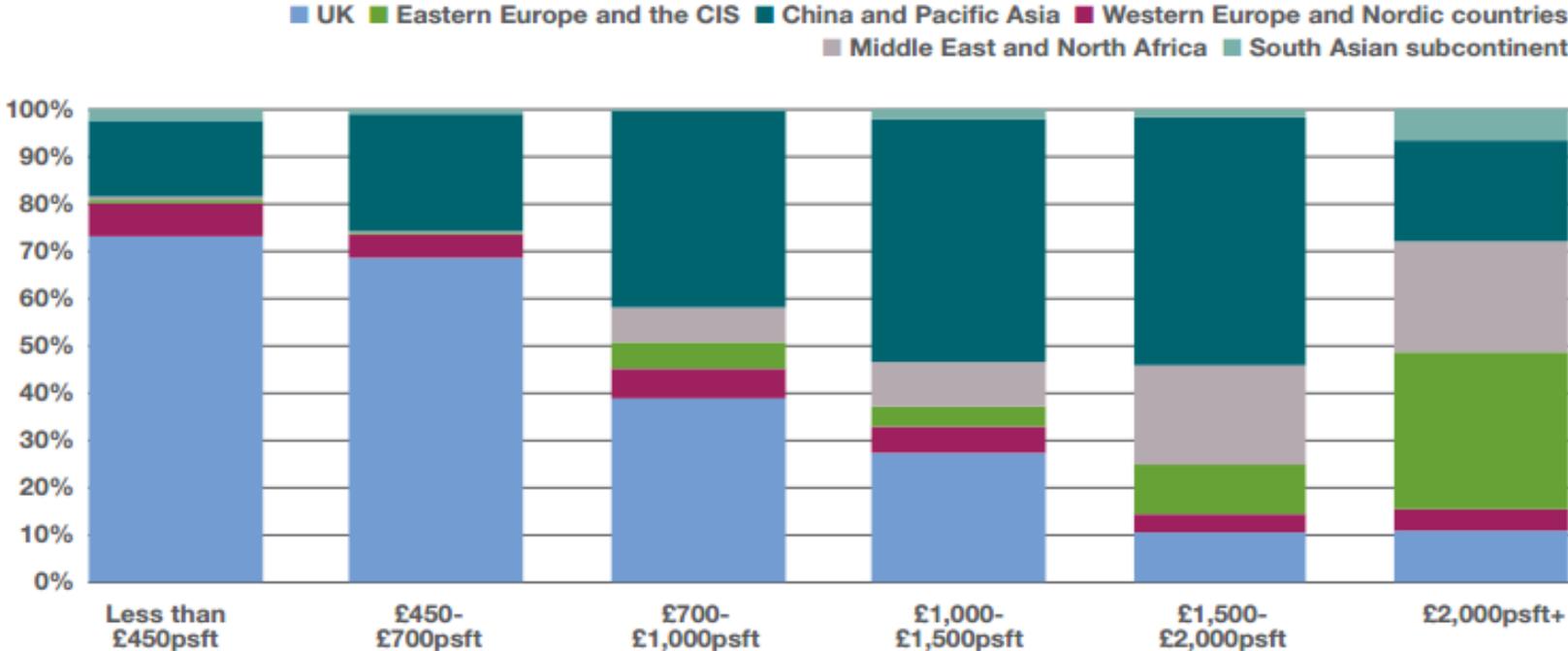
HIGH CONCENTRATION AND HIGH CORRELATION TO LUXURY PROPERTY

**2.25 SQUARE MILES OF LONDON PROPERTY IS HELD BY OFFSHORE HAVEN COMPANIES.
HOW BIG IS YOUR BOROUGH'S SECRECY BUBBLE?**



DOMINATION OF HIGH-END PROPERTY INVESTMENT FROM HIGH-RISK MONEY LAUNDERING JURISDICTIONS

New build sales in prime London



Source: Savills Research

LIMITED LAW ENFORCEMENT RESPONSE

Asset recovery cases involving international corrupt capital being laundered through property are very rare.

[UK] In the UK Two notable cases are the properties of James Ibori, a former State Governor in Nigeria, which include a property bought for £2.2m in Hampstead; and Saadi Gadaffi's £10m property, also in Hampstead, which was recovered by the transitional government in Libya through a civil court action.

No reports of any criminal penalties being issued against a complicit real estate agent in connection with an international corruption case. Where real estate supervision for money laundering exists, fines are not dissuasive.

[UK] Average fine from the AML supervisor for estate agents in the UK is £1,100 per fine

[Canada] Between 2010 and March 2015, only seven administrative monetary penalties were applied to real estate agents, totalling Can\$197,310, with two agents being publicly named.

WHY? ... AN INEFFECTIVE FRAMEWORK FOR STOPPING MONEY LAUNDERING IN THE REAL ESTATE SECTOR

In theory, anti-money laundering provisions should act as a safeguard to mitigate the risks in the sector. However:

- Corporate secrecy undermines anti-money laundering checks
- In many countries, including Australia and the US, very limited anti-money laundering obligations outside of banking, i.e. in the real estate sector.
- The EU obliges a wider range of professionals operating in the sector to conduct due diligence, identify the beneficial owner and identify high-risk customers, including estate agents. However:

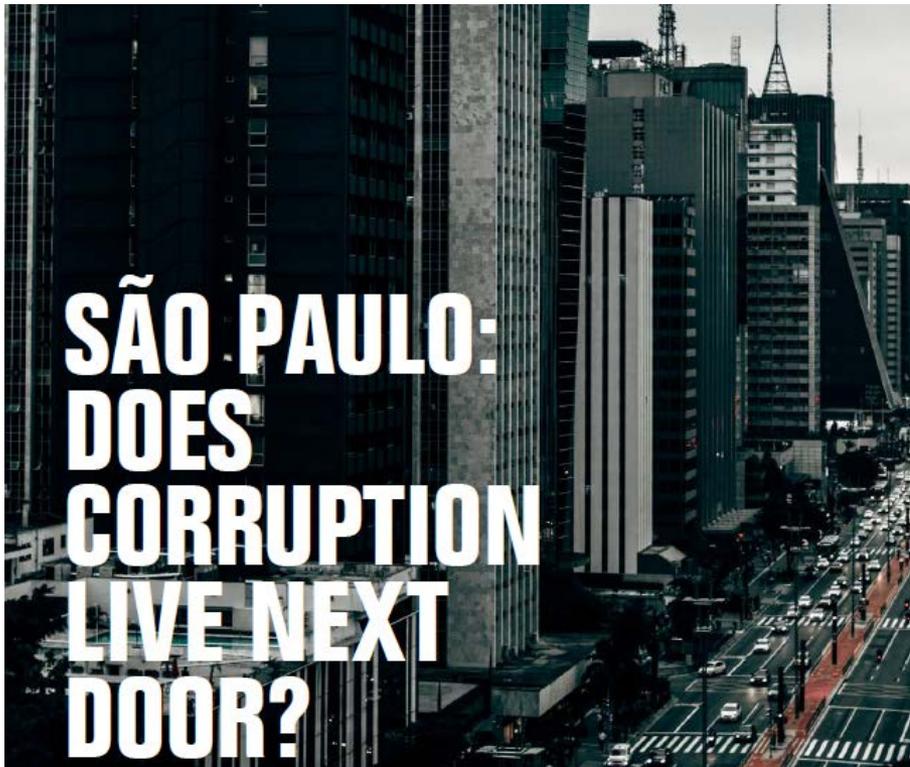
Widespread non-compliance with AML obligations in the real estate sector and weak supervision

Low levels of suspicious reporting

Low quality suspicious reporting

Low levels of awareness of obligations in the sector to identify money laundering risks

A TRANSPARENCY INTERNATIONAL METHODOLOGY REPEATED IN SAO PAULO



Research cross-referencing company data and land title holdings data.

The research shows that more than 3,450 real estate titles in Sao Paulo are owned through 236 companies that are registered in secrecy jurisdictions and tax havens, including in the **British Virgin Islands, the US state of Delaware and Uruguay.**

Amounting to more than US\$2.7 billion worth of property

WHAT TO WATCH

- Wider recognition of the problem (UK, Canada, US – all identified serious money laundering risks in real estate in their National Risk Assessment)
- Beneficial ownership transparency of corporate entities (EU 4th AML Directive)

New tools to enhance enforcement:

Wider international adoption of FinCEN Geographic Targeting Orders (GTO)

Intelligence sharing between public and private sectors to spot risks (UK, US, AUS, CAN)

Unexplained wealth orders to increase asset recovery rates (UK, AUS, Ireland)

Public discontent:

House prices increased through ripple effect

Opposition to the 'buy to leave' phenomenon, wasted housing stock

Housing crisis. The avg price of a new home in London is 26x avg London salary.

DATA TRANSPARENCY TO ADDRESS THE VULNERABILITIES

- Company beneficial ownership data
- Company registry data and obligations on foreign companies
- Land and Property Registration
- Existence of Land Registry
- Accessibility of Land Registry Records to Public
- Availability of Title Insurance
- Accuracy of Land Registry Records
- Completeness of Land Registry Records on Ownership
- Completeness of Public Records on Transaction Prices

THE HORIZON

An end to tolerating offshore corporate secrecy in our real estate markets?

Home Moments



✕ Tweet



Nick J Maxwell @NickJMaxwell - 12 May 2016

Transparency for offshore ownership of UK property ft.com/cms/s/0/c1a496... #AntiCorruption @clamp_k @r_borisovich pic.twitter.com/3xHptMIYKq



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QUESTIONS, COMMENTS & DISCUSSION

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