

Cross-border financial crime: The UK's new weapons

*Unexplained
Wealth
Orders*

*Account
Freezing
Orders*

*European
Investigation
Orders*

Maria Cronin, Partner

 PETERS & PETERS

UWO

Introduced 2018

Cross-border use 2018

£4.4bn unexplained property
wealth in UK

(Source: Transparency International)



Cases

Issues

Reported Cases

Zamira Hajiyeva

Feb 2018

**Unnamed foreign
official**

May 2019

**Alleged drug/
firearm empire**

July 2019



International Issues

Reversal of burden of proof

"Fishing expeditions"

Largely untested cross-border provisions

Risk of politically motivated misuse

Potential for misuse in other/international proceedings

Statements cannot be used in criminal investigations (but there are exceptions)



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AFO

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Expedite freezing bank accounts

Applies >£1,000

Maximum 2-year freezing

Provision for living expenses/
legal costs possible

Used over 650 times in 2018/19
to freeze over £110m
(Source: Home Office)



Cases

Issues

*Challenging an
AFO*

Cases

Vlad Luca Filat **May 18**

**"Azerbaijani
laundromat"** **Dec 18**

Chinese students **Feb 18**

Chawkat **May 19**

**Unnamed £100m
case** **Aug 19**



Issues

Much lower burden of proof

Much lower £ threshold

Appropriate for magistrates' courts?

Potential for misuse overseas



Challenging an AFO

Higher threshold for forfeiture of frozen money: court must be **satisfied** money is recoverable/ for use in unlawful conduct

"Any person affected by the order" may apply to vary or set aside the order

Compensation possible but:

- Not possible where **any** money forfeited
- Must be able to show loss
- 'Exceptional' circumstances



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EIO

Introduced 2017

Speed up intra-EU
cooperation

Max 120 days for response



Issues

Issues



'Poor relation' to European
Arrest Warrant

Brexit = limited shelf life?

Conclusions

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Potential to be used in cross-border financial investigations

Could be used for improper purposes as a means of getting information/ freezing assets

How successful will challenges be?

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