

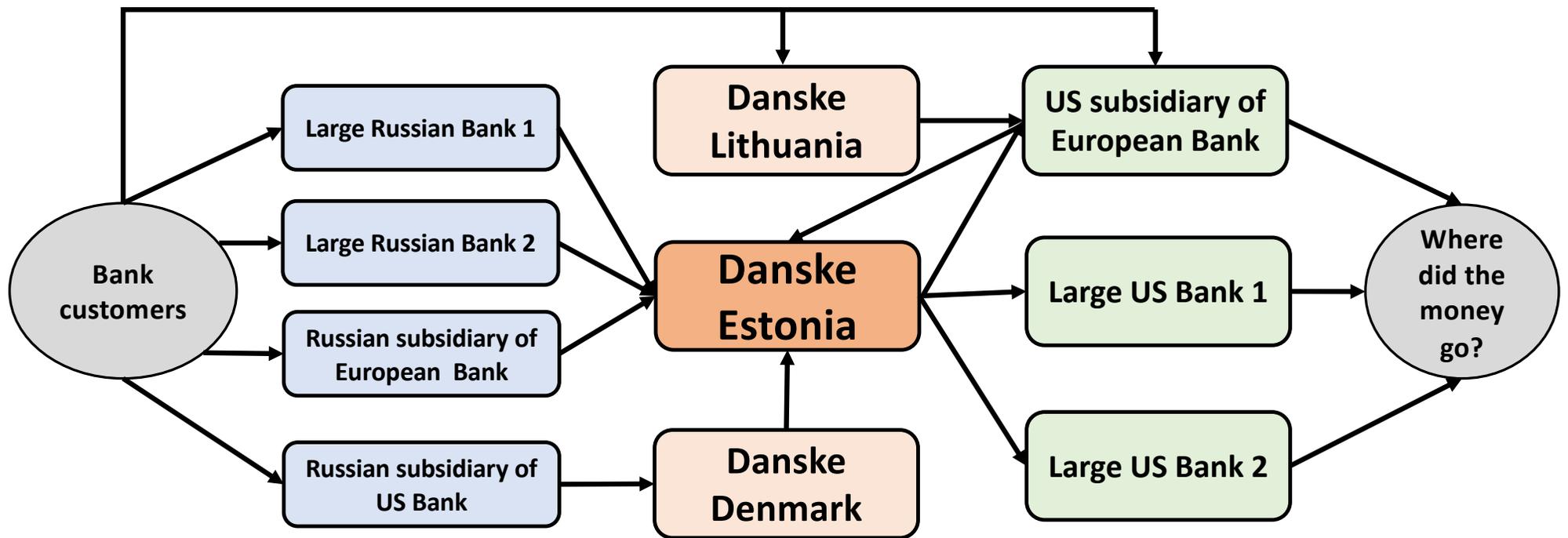
Money Laundering in the EU Banking Sector: what is failing?

Initial statement by Mr Howard Wilkinson

European Parliament Special Committee on Financial Crimes, Tax
Evasion and Tax Avoidance

21 November 2018

At least 10 banks were involved in the flow of EUR 200 billion of suspicious money through Danske Estonia...



...but we know very little about what these banks actually did about it

<i>Bank</i>	<i>What we know</i>
Danske Denmark	<ul style="list-style-type: none"> • Danish FSA report says that payments were only ‘technical’ - Is this actually true?
Danske Lithuania	<ul style="list-style-type: none"> • Danske Bank commented in December 2017 • Since then deathly silence – what happened?
Russian subsidiary of European bank	<ul style="list-style-type: none"> • No evidence that anyone has done anything
Russian subsidiary of US bank	<ul style="list-style-type: none"> • No evidence that anyone has done anything
US subsidiary of European bank	<ul style="list-style-type: none"> • Closed Danske Estonia’s correspondent account in 2015 • How many billions went through it up to 2015? What reports were made?
Large US bank 1	<ul style="list-style-type: none"> • Asked Danske Bank kindly to close Estonia’s correspondent account in 2013 • How many billions went through it up to 2013? What reports were made?
Large US bank 2	<ul style="list-style-type: none"> • Closed Danske Estonia’s correspondent account in 2015 • How many billions went through it up to 2015? What reports were made?

The Danske Bank scandal touches 8 EU countries and the US

Countries whose banks were involved	Countries with implicated shell companies	Countries in which parallel schemes operated
<ul style="list-style-type: none">• Estonia• Denmark• Lithuania• European country A (Russian subsidiary of European bank)• European country B (US subsidiary of European bank)• US	<ul style="list-style-type: none">• UK (LLPs, SLPs)• Denmark (K/Ss)	<ul style="list-style-type: none">• Latvia• Czech Republic

Case study 1 – Danish FSA

The FSA has **helped the Bank in a critical situation**. They are now very worried [...]

Email from [name deleted] to [names deleted], 7 April 2013

I don't care in the slightest what happens in Estonia.

My job is to protect Danske Bank.

Comments from [name deleted-1] to [name deleted-2], which [name deleted-2] told me about in January 2015

Case study 2 – Estonian FSA before its total change of approach starting in 2014

We have been contacted by the Danish FSA who have been contacted by the Estonian FSA **again**. They express concern about our **blacklisted Russian customers** [...]
[...] they have contacted the bank **twice** lately but they have the impression that **we do not take the issue very seriously**

Email from [name deleted] to [names deleted], 7 April 2013

(Estonian FSA) confirmed that cooperation with the bank had been **effective and constructive** [...]
[...] there are **no reproaches** according to the level of regulations in the bank

Agreed minutes of meeting between [names deleted] and [names deleted], 25 April 2013

Case study 3 – Estonian FIU

6 June 2012	Account opened for company A in Danske Estonia
28 Feb 2013	Company A reported by Danske Estonia to Estonian FIU
2 July 2013	Company A investigated by Estonian FIU
18 July 2013	Company A investigated by Estonian FIU
25 Sep 2013	Company A closes accounts in Danske Estonia but the beneficial owner still has other companies with accounts open in Danske Estonia
April 2014	4 related companies of company A still have accounts open

On 19 July 2013, Company A filed false accounts with UK Companies House



Case study 4: Abusive use of a Non-Disclosure Agreement

2014	8 April	My warning that I would make my own report to the Estonian FIU
	28 April	NDA signed - disclosing information to anyone not allowed unless “required by law”
2018	28 June	Limited waiver to talk to Danish FSA
	25 July	Limited waiver to talk to Danish FSA and Estonian FSA
	29 October	Limited waiver to talk to the US DoJ and SEC
	29 October	Limited waiver to talk to Danish Parliament and European Parliament committees
	29 October	Limited waiver to talk to SOIK “possibly in the presence of foreign police or prosecution authorities cooperating with SOIK”
		No waiver to talk to the Estonian prosecutor

What needs to change?

- **Ban NDA clauses** that prevent disclosure of wrongdoing to the authorities
- **Prevent use of shell companies** established in EU countries
- **New model for regulation** that removes home country bias
- **Protect whistleblowers**

Appendix

My April 2014 email to senior management – why was nothing happening?

While there have been investigations, letters and reports, I note that, more than three months after my initial report:

- **No related client account has been closed by management.** [Name deleted], which I flagged in January, continues to turn over significant payment volumes [...]
- **There appears to have been no attempt by management** to identify the full scope of the problem of UK LLPs submitting false accounts [...]
- **Only in the last two weeks has there apparently been the realisation** that UK LLPs file accounts at all.

On the advice of legal counsel, I [...] ask you to confirm that the bank will undertake a full investigation to identify all current and past clients structured through UK LLPs that appear to have filed false accounts in the past or who are identified as doing so in the future will be reported to the FIU.

If I do not receive satisfactory confirmation from you by 15 April 2014, **it seems to me that the correct course of action on my part is to make a full report directly to FIU.**

Extracts from my email to [names deleted 1-5], 8 April 2014

The reply was that it was merely “shortcomings in customer documentation”

[...] You have stated that the bank should have realised that some customers were filing incorrect annual report to UK Companies House and should have taken action to report this.

We have taken proper legal advice and where we have found an obligation to make such reporting – and the customer has not already been investigated – filing has been made. [...]

We are closing accounts with related entities (of customers you have mentioned). [...]

A review has been undertaken of the Estonian customer onboarding process and related KYC and AML processes. **This review indicated a need to consider increased scrutiny of some offshore customers. [...]**

It is important to state that no breaches of Estonian law have been indicated. [...]

Danske Bank [...] will undertake a full review of the relevant existing customer base in order to correct any outstanding shortcomings in **customer documentation.**

Extracts from email from [name deleted 1 and 2] to me, 15 April 2014

My (Estonian law) Non-Disclosure Agreement

5. The Employee indefinitely undertakes to keep the Employer's banking, business and production secrets in confidentiality in the extent necessary for the protection of the Employer's reasonable and legal interests (hereinafter "confidentiality obligation"). Employer's business and production secrets means the business related information belonging to the Employer, the disclosure of which to third persons might significantly harm the Employer's justifiable business interests, as well as information that is not publicly available or readily obtainable from outside sources, that is not subject to disclosure in accordance with the valid laws and that is disclosed to third persons only in confidentiality.

This includes but is not limited to "Business Secrets" and "Banking Secrecy" as defined in the Employment Contract, as well as any information pertaining to the ways Danske Bank is conducting its business in the Baltics. The confidentiality obligation also applies with regard to such information related to any company belonging to the same group with the Employer or any of their clients or business partners.

...

9. ...the Employee and Employer agree not to reveal to any third party this agreement, the contents thereof or any matter relating to the termination of the Employee's employment, save as required by applicable law...

Extract from the Agreement of Termination of Employment Contract between me and the bank, dated 28 April 2014