Harriet Baldwin MP
Chair
Treasury Select Committee
House of Commons
Westminster
London
SW1A 0AA

16th January 2024

Dear Harriett and Treasury Select Committee Members,

HMRC and Treasury deceit regarding convictions unrelated to loan schemes

We are writing to you, following the Treasury Select Committee oral evidence session with HMRC on 18th October 2023 to address the ongoing and deliberate attempts by HMRC (and Treasury Ministers) to mislead and deceive MPs and the Committee, regarding action against promoters of schemes now subject to the Loan Charge.

The Loan Charge and Taxpayer Fairness APPG has also since written to Mr Harra on this on the 5th December 2023 on the same subject, seeking clarification. To date it appears that no response has been given.

We are writing to you and the Committee to give you the evidence to show that HMRC have indeed been misleading the Committee (and Parliament) with the references to convictions, when asked about the Loan Charge.

At the evidence session, Treasury Select Committee member Danny Kruger MP, challenged Jim Harra, First Permanent Secretary and Chief Executive of HMRC, over whether HMRC had pursued the promoters for promoting the schemes now subject to the Loan Charge.

As usual, HMRC failed to give clear answers and in one case sought to mislead the Committee, which has been a feature of the whole Loan Charge Scandal (and something that the Loan Charge and Taxpayer Fairness APPG has said should be properly investigated).

In response to Danny Kruger's line of questioning, about whether HMRC have pursued those who promoted the schemes that are now subject to the Loan Charge, Jim Harra responded by mentioning convictions of promoters of tax avoidance schemes. This is something that HMRC and the Treasury have done repeatedly when questioned on what action has or has not been taken with regard to those who promoted the schemes now subject to the Loan Charge.

Mr. Harra told the Committee:

> *"I believe that in recent years we have successfully prosecuted or convicted about 20 promoters of tax avoidance schemes, which will cover the full range of marketed schemes. But nowadays, about 90% of all marketed avoidance is in employment taxes such as disguised remuneration".*

This is a deliberately misleading answer. Mr. Harra will know that none of the convictions he refers to are related at all to the promotion of schemes now subject to the Loan Charge or what HMRC calls "disguised remuneration".

The same misleading information has been given out in both letters and in answers to Parliamentary questions on the Loan Charge, stating:

> *"Since 2016, more than 20 individuals have been convicted for offences relating to tax evasion or fraud where arrangements have been promoted and marketed as tax avoidance. These have resulted in over 100 years of custodial sentences being ordered and 9 years of suspended sentences".*

HMRC have been asked, including via Freedom of Information requests, to give information about these oft-quoted convictions and whether any are for promoting the schemes subject to the Loan Charge.

We have now undertaken research and have found 22 convictions, with over 125 years of custodial sentences:

Convictions or offences relating to tax evasion or fraud where arrangements have been promoted and marketed as tax avoidance

Custodial Sentences

1.	Jan 2016	Denis Christopher Lunn	Accountancy fraud/tax evasion	5 years
2.	Jun 2016	Keith Hayley	Film scheme fraud	9 years
3.	Jun 2016	Robert Bevan	Film scheme fraud	9 years
4.	Jun 2016	Anthony Charles Savill	Film scheme fraud	9 years
5.	Jul 2016	Christopher Walsh Atkins	Film scheme fraud	5 years
6.	Jul 2016	Christina Slater	Film scheme fraud	4 years
7.	Mar 2017	Antony Blakey	HIV research/conservation scheme fraud	9 years *(originally 7 1/2 years, Court of Appeal increased)*
8.	Mar 2017	John Banyard	HIV research/conservation scheme fraud	5 1/2 years (originally 4 1/2 years, Court of Appeal increased)
9.	Jan 2017	Malcolm Gold	Eco-investment scheme fraud	20 months

10.	Nov 2017	Michael Richards	Eco investment scheme fraud	21 years *(originally 11 years, 10 added for failing to repay)*
11.	Nov 2017	Robert Gold	Eco-investment scheme fraud	11 years
12.	Nov 2017`	Rodney Whiston-Dew	Eco investment scheme fraud	10 years
13.	Nov 2017	Jonathan Anwyl	Eco investment scheme fraud	5 ½ years
14.				
15.	Nov 2017	Evdoros Demetriou	Eco investment scheme fraud	15 years *(originally 6, 9 years added for failing to repay)*
16.	Jun 2018	Simon Osborne	Film scheme fraud	2 years 8 mths
17.	Jun 2018	Roderick Bond	Film scheme fraud	2 years 8 mths
18.	Jun 2018	Lee Palmer	Film scheme fraud	2 years 8 mths
TOTAL				**125 years 8 months**

Suspended Sentences

1.	March 2017	Professor Ian Swingland	HIV research/conservation scheme fraud	2 years suspended
2.	June 2018	Norman Leighton	Film scheme fraud	2 years suspended
3.	June 2018	Simon Hill	Film scheme fraud	20 mths suspended
4.	Feb 2019	Martin Adrian King	Tax evasion linked to above HIV scheme	18 mths suspended
TOTAL				**7 years 2 months**

The reality is that <u>none</u> of these convictions has anything <u>at all</u> to do with the Loan Charge, with the promotion of schemes now subject to the Loan Charge (or what HMRC calls 'disguised remuneration').

All these criminal convictions are for either fraud or tax evasion, none of them are to do with schemes subject to the Loan Charge or anything remotely similar. To refer to them when asked *directly* about what action has been taken against those who promoted the schemes subject to the Loan Charge is therefore deliberately deceitful, and is dishonest.

This information shows that Jim Harra misled the Committee on 18th October 2023 by giving the false impression that somehow these convictions were linked to promoters of the schemes subject to the Loan Charge and Danny Kruger's line of questioning (which was clear and explicit).

It is also notable that HMRC refused to supply any information about the convictions that are regularly mentioned in letters and answers to Parliamentary Questions. In a response to an enquiry via an MP an individual was also refused this information citing 'client confidentiality', This is absurd, because like all criminal convictions, the information is public and not protected in any way. These cases have all been reported in the media, yet HMRC have claimed that they cannot divulge them which is another example of them refusing to supply information and answer questions, to mask the deliberate deceit by the regular mentioning of convictions they *know* are not related to the Loan Charge or 'disguised remuneration'. It is cynical and completely unacceptable.

The deliberate attempt to present these convictions as related to the Loan Charge and to the promotion of the schemes subject to the Loan Charge has been cynical and constant for the last few years. The Loan Charge APPG raised this on page 72 in the Loan Charge Inquiry report in April 2023. As the APPG concluded in the report,

> "*Letters, documents, and answers to written Parliamentary questions by HMRC and the Treasury lay out facts in a deliberately misrepresentative way, so as to mislead and give a false impression. This has become endemic with regard to the Loan Charge and where such misrepresentation is done deliberately, is as dishonest as lying".*

This has continued ever since, particularly with the regular repetition of the convictions answer being put forward whenever questions are asked about promoters of the schemes subject to the Loan Charge. It has been deliberate and cynical and, as the APPFG concluded, breaches the Civil Service and Ministerial Code and it must stop and the Treasury Select Committee, as the body responsible for scrutinising both HMRC and the Treasury must play a role in this.

The reality is, that Jim Harra and other senior HMRC officials (and Treasury Ministers) know that there has been <u>no</u> action against promoters for promoting the schemes now subject to the Loan Charge and that these promoters have not been pursued for a penny of the tax HMRC claims is due, despite their fees and profits.

As Danny Kruger concluded his line of questioning:

> *"To be clear then, you have not, and are not, pursuing any of the promoters of the schemes that were used by people whom you are pursuing for using them. So the users of the schemes are still being pursued for their debt, but you are not pursuing the people who profited from those schemes—who promoted them and built a business around advising people who took them out in all good faith".*

That is absolutely correct – and it is completely unacceptable to mislead the Committee into believing that there have been convictions related to loan arrangements.

What makes HMRC's attempts to mislead MPs over this even worse, is that **internally they admitted they would not take any action against promoters for promoting schemes now subject to the Loan Charge.**

In an email dated 15th August 2019 that Penny Ciniewicz, Director General of the Customer Compliance Group sent to other senior officers, including Jim Harra, she said (page 27 of the FOI response):

> *"In terms of promoters, as the note we shared yesterday with FST indicates, we can't commit to going after promoters of previous schemes for the reasons set out there".*

Mr. Harra is therefore well aware that this is the reality, yet continues to try to confuse and mislead to give the false impression that HMRC has pursued promoters of the schemes subject to the Loan Charge, for promoting and operating these schemes.

It is also notable that at the Treasury Select Committee session Mr. Harra once again did not say that he and HMRC would like more powers to be able to go after promoters. Danny Kruger asked:

> *"Are there further powers that you could be given that would enable you to go after those historic promoters, or do we have to just chalk that up to experience and let them off?*

Mr. Harra replied:

> *"I think we are really focused now on tackling the current promotion of market avoidance and preventing people from getting into it, so all of the powers that we really focus on promoters are about the current promoters".*

In other words, no, he does not even want HMRC to be given powers to pursue the promoters of the schemes subject to the Loan Charge. This is the second time he has been asked this – and once again he declined to say that he and HMRC would like more powers. HMRC is clear, therefore, that they do not want to pursue promoters for promoting the schemes now subject to the Loan Charge and will instead continue to only pursue those who were mis-sold and badly advised to use them. This makes it even more galling for all those facing the Loan Charge – still some 40,000 people according to Mr. Harra (as he told the Committee).

Worse still, as the Loan Charge and Taxpayer Fairness APPG raised in a letter, **senior HMRC officers discussed whether or not to review the role of promoters and decided not do so, so they could focus only on individuals.**

Carol Bristow, HMRC Individuals Policy Director in Customer Strategy and Tax Design Group said this in an email to others senior officers, including Mr. Harra, on 23rd 8 August 2019, (page 43 of the FOI response):

> *"I too wondered whether a review into the role of promoters in avoidance would actually provide us with some helpful interest and support for our work on promoters. **In the end I concluded any review on promoters would be used to claim that individuals were not accountable and so the loan charge was wrongly directed at them**".*

Yet Mr. Harra has failed to mention this, when asked by Parliamentarians if HMRC has pursued promoters of the schemes subject to the Loan Charge and whilst trying to give the impression that HMRC have pursued promoters.

We trust that this is helpful information for the Committee and that it will stop HMRC (and Treasury Ministers) from continuing to get away with giving the false impression that HMRC has pursued the promoters of loan schemes, either criminally or to recover any of the tax HMRC believes was avoided. We were very pleased that Danny picked up Jim Harra for his usual evasive attitude towards questions on the Loan Charge and had to interrupt him to make clear he wouldn't tolerate this. It is high time that other MPs did the same and stopped HMRC and the Treasury from getting away with evasive, partial and misleading responses, to cover up the disastrous failure of the Loan Charge and its profoundly unfair and dangerous nature.

The shameless campaign of disinformation/misinformation over the Loan Charge is something that the Treasury Select Committee should ignore no longer. This document, on the website of the Loan Charge and Taxpayer Fairness APPG, lists the numerous times they have raised this and challenged HMRC and the Treasury.

As the Committee is aware, tens of thousands of contract and freelance workers and company directors have faced life-ruining bills causing mental and familial breakdowns, a mental health crisis for thousands of people and tragically, suicides, attempted suicides and cases of serious self-harm. As you know from the letter to the Committee from Mr. Harra in January this year, HMRC have confirmed ten suicides of people facing the Loan Charge. Recently he also publicly admitted that HMRC have also referred twenty-four cases of serious self-harm to the Independent Office of Police Conduct of which thirteen were suicide attempts. At the same time as this, HMRC have failed to pursue those who promoted and operated the schemes and made huge profits from doing so.

The role of the Treasury Select Committee is to hold the Treasury and HMRC to account and to scrutinise all policy in this area including the conduct of officials and Ministers, yet when it comes to the Loan Charge, the Committee has not yet done this. We know that Committee members have sometimes raised the Loan Charge and related issues in general sessions with HMRC, however this is very different from a proper Inquiry, that should also call on the evidence of other witnesses, including those affected by the Loan Charge and others, including tax professionals who strongly oppose both HMRC and the Government's approach. In any case, answers to questions have been routinely partial and misleading and officials need further challenge and proper scrutiny.

We do realise that there are many important areas of policy for the Committee to look at, however with ten suicides and so much concern in Parliament, surely now is the time to look both properly and fully into the Loan Charge Scandal. If the Government continues not to listen and agree to find a resolution, there will almost certainly be more suicides. We hope the Treasury Select Committee will look at this issue and conduct a much-needed Inquiry before then.

Yours sincerely,

Steve Packham	Andrew Earnshaw
Spokesman & Executive Director	Executive Director

On behalf of the Loan Charge Action Group

cc Danny Kruger MP
Loan Charge and Taxpayer Fairness APPG