STATEMENT BY FRANCE

1. The attacks suffered in January 2015 demonstrate the need to take decisive actions against terrorist financing. The adoption of the 4th Directive on the fight against money laundering and terrorism financing and the Regulation on the information accompanying transfers of funds which are strategic texts for the European Union is one of those actions.
2. To enhance the efficiency of the new rules brought by this package, we need to mobilise further energy towards:

i) Speeding up the process of national implementation of those rules;

ii) Giving appropriate powers and resources to the financial intelligence units of Member States for a full, whole and effective cooperation for the fight against terrorism;

iii) Endorsing and giving concrete effect to the Commission recommendations on terrorist financing identified in EU's supranational risk assessment, which should notably assess the risks posed by virtual currencies;

iv) Adopting a strict stance on anonymous electronic money.

3. As regards terrorist financing, actions need to be taken at European level, including through amendments on existing legal texts, where necessary, such as:

i) Further strengthening financial intelligence units' powers, and the cooperation between them, which must be effective, harmonised and sufficiently secure to allow exchange of sensitive information on terrorist financing;

ii) Further coordination between Member States of enhanced due diligences on international flows to high risk areas for the fight against terrorism;
iii) Work on the setting up of an EU Terrorist Finance Tracking System (TFTS), in order to use the data on international fund transfers (the SWIFT system) in combating terrorism, in accordance with the agreement reached with the European Parliament to ensure long-term cooperation with the United States;

iv) Improve the effectiveness of the European system for the detection and freezing of terrorist assets, allowing the effective administrative freezing of such assets across the European Union;

v) Bank account registries, that would facilitate the work of financial intelligence units and their cooperation;

vi) Further strengthening control of anonymous payment instruments, both through reinforcement of reporting requirements on movement of gold, freight transfers and other types of physical capital transfers, and through stronger regulation of electronic money and virtual currencies.

**STATEMENT BY FRANCE**

France, concerned about the intelligibility of the Directive of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, states that the concept of beneficial interest held, used in Article 30 of the French version of that Directive, must be interpreted as referring to interest held, in accordance with the preparatory work, the scope of that provision and with usage in the French language.
STATEMENT BY THE CZECH REPUBLIC

While the Czech Republic welcomes compromise on the proposal for an AML Directive and Regulation, it nevertheless regrets that these acts set additional rules which do not duly correspond to the spirit of the relevant FATF recommendation (No 11). This recommendation stipulates only a minimum limit for keeping all necessary records for prosecution of criminal activity. Article 40 of the AMLD proposal (and similarly Article 16 of the AMLR proposal) however counteracts the meaning and purpose of the measures against money laundering and terrorist financing by setting the maximum time period for record keeping (10 years). This limitation on record keeping contradicts the needs of the criminal proceeding.

The records on transactions may be important for criminal investigation of serious crimes for which the prescription period is stipulated up to 20 years in the Czech Republic or the prescription is fully excluded in case of terrorist criminal offences including terrorist financing. Investigation of these crimes would be thus in many cases hampered by disposing of evidence.

The Czech Republic assumes that only the minimum limit for record keeping should be stipulated to fulfil the meaning and purpose of these acts. The determination of the maximum time period for record keeping should be left on consideration and decision of Member States to ensure compliance with their national prescription period for criminal offences and the needs of the criminal proceeding.
STATEMENT BY AUSTRIA

Austria is strongly concerned that the current text does not enhance transparency on beneficial ownership information necessary to avoid the abuse of trusts for the purpose of money laundering and terrorist financing. There is a clear need to establish central and public beneficial owner registries in the very country by whose laws a legal person or a trust is governed. As far as legal persons are concerned, the current text (Article 30) states that the location of the beneficial owner registry shall be the country by whose laws the legal person is governed. Unfortunately, the same does not hold true for trusts (Article 31).

The current wording does not clearly state the location of trust registries. In our view, meaningful trust registries need to be located in the countries by whose laws the trust is governed. Any other location would not serve the purpose of creating greater transparency, particularly because trusts are not recognised in the majority of Member States.

Above all, the current wording leaves room for extensive interpretation when it comes to national implementation of Article 31. There is a clear danger that Member States will interpret the provision of Article 31 differently, which eventually will result in some Member States establishing beneficial owner registries for trusts while others will not. That being said, the current wording of Article 31 opens the floodgates to abuse, in particular with respect to the usage of trusts in cross-border circumstances. Furthermore, Article 31 paragraph 4 determines the registration of beneficial owners of trusts only when a trust “generates tax consequences”. In our view, this wording is too broad and highly prone to circumvention and evasion. For example, a tax exemption for certain types of trusts introduced by a Member State would consequently result in the abolition of the obligation to register the beneficial owner of such trusts. Such intended or unintended consequences may undermine the purpose of the provision. Austria remains highly critical of the current wording of Article 31 and does not support it. However, in order not to jeopardise an otherwise reasonable compromise text, Austria can accept the political compromise. Nevertheless, given the current wording of Article 31, Austria sees no need for implementing a beneficial owner registry for trusts in Austria.