Thank you for giving the FATF Secretariat an opportunity to contribute today. I regret that I or a member of my team could not be with you on this occasion. In these remarks I will explain what FATF is, what we do and how we work. In doing so I hope to answer some of the questions you have.

The FATF is an intergovernmental body that sets the global standards for anti-money laundering, counter terrorist and proliferation financing. Tax evasion is a predicate offence for money laundering under these standards. That means that implementing the FATF standards supports efforts to stop tax evasion. The FATF does not set the global standards for tax crimes or other crimes.

Put simply, the FATF does three things

1. It exploits the skills and experience of member governments and their agencies to research how criminals launder the proceeds of crime, how terrorist organisations raise and access funds, and how the proliferation of weapons of mass destruction is financed.

2. Based on the evidence gathered, the FATF sets global standards for mitigating the risks identified.

3. Implementation of these standards is assessed and monitored through peer reviews. These are in-depth assessments conducted by a team of assessors drawn from member Governments.

The FATF is a forum of its member countries that are represented by senior officials who are normally from ministries of finance, justice or home affairs. It meets three times a year and is supported by a small secretariat based in the OECD in Paris. The global standards and other products of FATF, such as typology reports, guidance, best practice and peer reviews, are the result of technical discussions and consensus between 37 FATF members, which includes the European Commission and 15 EU Member States. In practice that means the answer to the question ‘Who sets the rules?’ is that you do.

The FATF oversees a global network of 9 FATF-Style Regional Bodies that are associate members. This includes MONEYVAL for the Council of Europe, who I understand will be represented directly in this inquiry. In order to be a member of the FATF or one of these regional bodies, Governments must commit at the highest level to fully implementing the FATF standards and to being assessed by
their peers for this. The FATF has agreed a common methodology for these assessments, which are also conducted by the IMF and World Bank, as well as universal procedures for ensuring the quality and consistency of these assessments. 198 jurisdictions are currently part of the FATF Global Network.

In implementing the FATF standards, the high-level objective of FATF members is that “financial systems and the broader economy are protected from the threats of money laundering and the financing of terrorism and proliferation, thereby strengthening financial sector integrity and contributing to safety and security”.

As a result, and through FATF peer reviews, we know that most countries have the legal, regulatory and operational tools to make life harder for criminals. Money laundering and terrorist financing investigations are now commonplace in many countries and lead to successful prosecutions on a daily basis. Organised crime groups are being disrupted, terrorist networks identified through financial intelligence and terrorist organisations increasingly cut off from the financial system.

In addition, the FATF identifies those countries with strategic deficiencies which present a risk to the global financial system. These countries are subject to special scrutiny which can lead to public identification. The FATF has identified many such countries, most of which have since made the necessary reforms.

This includes Panama, who having been identified by the FATF as a jurisdiction with serious deficiencies, agreed an action plan with the FATF two years before the Panama papers were leaked. In the following two years, Panama took quick and robust action to address these deficiencies which led to members concluding that they had achieved their action plan and could be removed from our public list.

This shows that the FATF does not rely on leaks through the media to identify deficiencies or to take action, and that countries are responsive to this. The actions taken by Panama include, among others, introducing beneficial ownership requirements and regulation of lawyers and accountants. They, like all other countries, now need to show they are making effective use of these measures to prevent the kind of abuse highlighted by the Panama papers. In the case of Panama, they are a member of one of the 9 FATF-Style Regional Bodies, GAFILAT, who will next assess them in 2017.

Having built a solid foundation of legal and regulatory frameworks, FATF was the first global standard-setter to turn its attention to assessing whether countries are using these measures effectively. Since 2013, FATF has put the burden of proof on countries to demonstrate through peer reviews, that they are using these measures effectively, including enforcing laws and regulations, and to what extent they are achieving our common objectives.

Through the work of the FATF, we have a comprehensive and up-to-date set of global standards that almost all countries globally are agreed are necessary and have committed to implementing. We have raised understanding and awareness of the risks and are successfully holding countries to account for failing to take appropriate action to mitigate these risks. While there are many examples of success, there is a lot of work to do by many countries to implement the standards both technically and effectively.

The work of the EU should help ensure that EU Member States play their role in protecting the financial system from these risks and in contributing to safety and security.
WRITTEN ANSWERS TO QUESTIONS

1. Can you explain the mechanism how FATF set AML standards, and how the ‘peer review’ works with regard to AML standards’ implementation and enforcement?

The FATF published its first set of Recommendations in 1990, a year after its creation. These Recommendations set out the legal and regulatory measures that countries should take to enable them to detect, prevent and punish the misuse of their financial system for money laundering. These measures were the turning point in the fight against money laundering. Up until then, most countries had no legal or regulatory provisions that were specifically targeted at detecting and punishing money laundering. For the first time, countries had powerful and effective tools at their disposal and an international consensus on how to fight money laundering on a global scale. Since then, as a result of its proven success as a global standard-setter on measures to combat money laundering, the FATF saw its mandate expand to include the financing of terrorism and proliferation of weapons of mass destruction.

The methods used to move illicit funds or to move funds in support of terrorist activities constantly evolve. As countries put in place measures to protect the financial system, criminals look for different and new ways to avoid detection. In order for the FATF to develop an effective policy response, it must understand these methods and techniques.

Since its creation, the FATF has carried out research on the money laundering and terrorist financing vulnerabilities of many sectors and activities, as well as on more important criminal threats.

Based on this research, as well as the results of FATF’s country assessments, the FATF reviews whether its standards continue to provide an effective response to current threats to the financial system. FATF will determine whether additional policy guidance is needed or whether the FATF Recommendations themselves need to be further refined and strengthened.

In 2012, the FATF completed a full revision of the FATF Recommendations, with input from many relevant stakeholders, including private sector. These Recommendations incorporated many new provisions, for example on measures to combat the financing of the proliferation of weapons of mass destructions; to improve transparency; stronger requirements when dealing with politically exposed persons and expanded the scope of predicate offences for money laundering to include tax crimes.

Since then, the FATF has continued to review the FATF Standards to ensure that they provide countries with the strongest possible tools to protect the financial system and has further strengthened them. For example in October 2015 to address the foreign terrorist fighters threat or in June 2016 to clarify the application of anti-money laundering (AML) countering the financing of terrorism (CFT) measures to the non-profit sector.

The FATF not only sets the standards, it also assesses how well countries have implemented them. The FATF is currently in its fourth cycle of country assessments. The assessment process grew from a modest self-reporting method on existing AML measures to a robust assessment process that looks at whether the necessary legal, regulatory and operational
framework is in place and whether the actions that the assessed country is taking, are delivering the effective results.

The cornerstone of the current FATF standards is the identification, understanding and assessment of national money laundering and terrorist financing risks. The extent to which a country has properly understood and mitigated these risks plays an important role in how effectively it can protect its financial system from abuse. The assessment provides each country with targeted recommendations on how to strengthen its AML/CFT framework.

A rigorous follow-up process will ensure that countries take the necessary action to address the weaknesses identified during their assessments. Failure to make meaningful progress could ultimately result in public warnings and the threat of inclusion in FATF’s lists of high-risk and non-cooperative countries. This process has proven very successful, putting pressure on countries to implement the necessary reforms or face the risk of seeing a negative impact on their international reputation and economy.

2. Can you explain, by means of illustration, how FATF could decide in the case of Panama to take the country of its ‘grey list’, i.e. to consider Panama compliant with its FATF standards, just a few weeks before the ‘Panama Papers’ revelations become public?

The FATF removed Panama from its special monitoring process in February 2016. Following the 2014 assessment by the IMF of Panama’s implementation of the FATF Recommendations, the FATF publicly identified the country as a result of the strategic weaknesses in its legal, operational, and regulatory framework to combat money laundering and terrorist financing.

As a result of the special scrutiny from FATF, Panama took substantial action to address these weaknesses. The Panama government introduced a range of measures, as recently as January this year, to implement the FATF standards on beneficial ownership and regulation of non-financial professions and businesses, among other measures. At the February 2016 Plenary meeting, the FATF concluded that the country had met the commitments from its June 2014 action plan by establishing the required legal and regulatory framework. The FATF did not conclude that Panama was fully compliant with the full range of the FATF standards – this will be the purview of the mutual evaluation progress described below – the FATF special monitoring process focused on the strategic deficiencies identified during the 2014 assessment of Panama.

The documents from the Panama Papers stretch back over many years from before Panama implemented the most important FATF standards as a result of FATF scrutiny. It will naturally take time and additional efforts from Panama to start making effective use of these measures.

As all other countries in the Global Network, Panama must demonstrate that the measures it has implemented deliver the right results. FATF assessments look at the effectiveness of a country AML/CFT framework, as well as its technical compliance with the FATF Recommendations.

Panama is expected to work with the FATF-Style Regional Body GAFILAT, of which it is a member, to further strengthen its AML/CFT regime. The assessment next year by GAFILAT will test whether the country has properly implemented and enforced these new measures.
3. Can you explain, how the (non-)compliance of subnational entities with FATF standards (such as US states of Delaware or Nevada) affect the overall assessment/ peer review of a FATF member?

All assessments consider the relevant legal and institutional frameworks in place (regardless of whether they are at the national, supranational, state or provincial level). The extent to which deficiencies in one area impact the overall assessment will depend on the particular risks, materiality, structural or contextual factors facing the country.

4. In the specific cases of the US states of Delaware and Nevada, with well-known obvious deficiencies with regard to transparency requirements of the ultimate beneficial owner, how does this affect the overall rating/ assessment of the US at federal level?

The mutual evaluation of the United States is ongoing, and we are therefore not able to comment on possible outcomes at this time. The final report is expected to be published at the end of 2016.

5. Does the FATF consider that its current ‘black’ and ‘grey’ lists of high-risk countries with deficiencies of their AML standards truly reflect the real risk countries of money-laundering?

Between 2007 and 2016, the FATF has reviewed over 80 potentially high-risk and non-cooperative jurisdictions and publicly identified 59 of them. Of these 59, 48 have since made the necessary reforms to address their AML/CFT weaknesses, safeguarding the integrity of the global financial system, which is only as strong as the country with the weakest measures.

The current list of high-risk and non-cooperative countries reflects the countries with the most serious deficiencies that pose a real threat to the integrity of the international financial system. Currently, the Democratic People’s Republic of Korea (DPRK) and Iran are at the top of the list.

The financial system evolves, as do methods used to launder illicit funds or move assets in support of terrorism. Now, more than ever, sound AML/CFT measures need to be in place and they need to deliver results. The current process of peer reviews places a greater emphasis on the effectiveness of measures to protect the financial system. Countries that have paid lip service to implementing the FATF Recommendations without ensuring that these measures are truly effective, create weaknesses in the financial system. As the fourth round of mutual evaluations progresses, the FATF will refer countries to this special scrutiny for the most serious failures to achieve effective outcomes, as well as for failures to achieve technical compliance. This could ultimately lead to a country’s inclusion in these public lists if it fails to take sufficient action and ensure these lists reflect the countries with the most work to do and that present real risks.

6. Can FATF provide empirical evidence that the AML counter-measures taken by FATF members have led to a significant decrease of the ML risks?

When FATF was created in 1989, few countries understood or were even aware of the risks and did not have measures that allowed them to directly target the laundering of illicit assets.
Today, 198 countries have committed at the highest political level to take effective action to combat money laundering and terrorist financing.

FATF has published over 50 typologies reports that identify money laundering and terrorist financing methods and trends. This research has raised awareness about the methods that criminals and terrorist use to abuse the financial system and has allowed the FATF to further strengthen its standards to combat money laundering and terrorist financing.

151 countries have set up financial intelligence units that are responsible for analysing suspicious financial transactions.

Failure to detect and help prevent money laundering and implement financial sanctions, through the implementation of the FATF Standards, has led to significant fines of financial institutions for egregious wrong doing as well as the successful investigation, prosecution and disruption of criminals in countries all over the world.

7. Does FATF take into consideration the revelations of the Panama Papers for the (re-)assessment of compliance in particular of those countries featuring prominently in the Panama Papers?

The Panama papers highlighted what the first assessments in the fourth round mutual evaluations also started to reveal: that many countries have not yet fully and effectively implemented measures to prevent the abuse of companies, trusts and other corporate vehicles. The FATF is currently considering how it can help and accelerate implementation of the FATF standards by countries in this area, working in close collaboration with the Global Forum on Transparency and Exchange of Information for Tax Purposes. ¹

Additional questions

1. Based on the studies that FATF has performed, can you provide examples of structures that could be thought of having been used for money laundering or other illicit purposes in the cases revealed in the Panama Papers? If applicable, please quote relevant FATF studies that should be incorporated to the Panama Papers Committee of Inquiry’s documentation package for analysis.

The FATF itself is not an investigative body. It researches risks, sets standards and evaluates countries against those standards. Investigations of individual cases are a matter for the countries involved. However all information, public and confidential, may inform the assessments FATF conducts.

FATF has published a number of relevant studies in this area, that include case studies. This includes a report on the money laundering and terrorist financing vulnerabilities of legal professionals², and on trust and company service providers³. The FATF has also issued guidance to countries in areas including beneficial ownership⁴.

2. What EU AML regulations do you consider to have been potentially breached? What FATF standards have been allegedly breached?

FATF is not a regulator or investigative body. FATF does identify vulnerabilities in countries’ AML regimes through its peer reviews. The EU is not evaluated separately to its Member States or other FATF members.

FATF recommends that countries take measures to prevent the misuse of companies and trusts (legal persons and arrangements) for money laundering and terrorist financing.

In particular, countries should ensure that there is adequate, accurate and up to date information on beneficial ownership and control of these entities available in a timely way to law enforcement and other relevant authorities.

They require that additional steps should be taken where countries allow bearer shares, nominee shareholders and nominee directors.

The Panama papers demonstrate that many countries have not fully and effectively implemented the FATF standards, in particular in relation to beneficial ownership. The Panama papers show that countries must deliver on their political commitments and effectively implement and enforce these measures.

3. Does the FATF consider that its current ‘black’ and ‘grey’ lists of high-risk countries with deficiencies of their AML standards truly reflect the real risk countries of money-laundering?

See above.

4. What additional indicators have been discussed at FATF level, but not eventually been retained, with a view to covering more secrecy jurisdictions on those lists?

FATF publishes a statement a Chairman’s statement by the President following each plenary meeting. Details of internal FATF discussions are confidential between members. All countries are assessed on the same basis.5

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5 For further information on the lists see http://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/more/more-on-high-risk-and-non-cooperative-jurisdictions.html?hf=10&b=0&s=desc(fatf_releasedate)