COMMITTEE ON FINANCIAL CRIMES,

TAX EVASION AND TAX AVOIDANCE (TAX3)

THURSDAY 26 APRIL 2018

* * *

PUBLIC HEARING

COMBAT OF MONEY LAUNDERING IN THE EU BANKING SYSTEM

* * *

PANEL 1: Money laundering risks in the EU banking sectors through selected examples

Mr Peter Putnins, Chairman of the Financial and Capital Market Commission

Ms Marianne Scicluna, Director General of the Malta Financial Services Authority (MFSA) (accompanied by Mr Anton Bartolo, Director Enforcement MFSA)

Mr Kenneth Farrugia, Director of the Maltese Financial Intelligence Unit FIU (accompanied by Mr Alfred Zammit, Deputy Director, and by Mr Alexander Mangion, Senior Manager Legal and International Relations)

Mr Andre Nõmm, Member of the Management board of the Estonian Financial Supervision and Resolution Authority (EFSA) (accompanied by Mr Matis Mäeker, Anti Money-Laundering expert EFSA)

PANEL 2: Lessons learnt for the European Union: how to strengthen checks and controls to reduce money laundering risks

Mr Piers Haben, Director of Banking Markets Innovation and Consumers at the European Banking Authority

Mr Mauro Grande, Member of the Single Resolution Board

Mr Roberto Ugena, Deputy Director General of Legal Services from the Supervisory Board at the European Central Bank

1-002-0000

IN THE CHAIR: PETR JEŽEK

Chair of the Special Committee on Financial Crimes, Tax Evasion and Tax Avoidance

(The meeting opened at 9.08)

1-003-0000

Chair. – A very good morning. I would like to welcome the Members and the audience to this meeting of the Special Committee on Financial Crimes, Tax Evasion and Tax Avoidance (TAX3). At today's meeting, as you know, we will have a hearing under the title 'Combat of money laundering in the EU banking system', and the aim of this hearing is for us to acquire more complete and detailed information on the risk posed by money laundering in the EU banking sector, with a view to improving the supervisory system and reducing these risks.

According to Europol, 80% of money laundering is done inside the banking and financial system, with the assistance of professional gatekeepers, often using, of course, offshore and tax havens. Also, according to the latest Europol figures, up to 1.2% of EU annual GDP is detected as being involved in suspicious financial activity, and although banks are spending billions of euro a year on their compliance regime, the EU is seizing only one per cent of criminal assets every year in Europe.

The first panel of the two in which this hearing is structured will be devoted to examining the money-laundering risks in the EU banking sector through selected examples of financial institutions which have recently raised concerns of money laundering, such as the ABLV Bank in Latvia, the Pilatus Bank in Malta, and the Versobank and Danske Bank in Estonia. Some say organised crime groups are purposely targeting smaller countries which may lack the expertise and have become overwhelmed with the task of monitoring their local banks. We shall see today, perhaps, whether it is justified.

In order not to bring only negative news, I would recall the proposal presented by the Commission on 17 April, which would give law enforcement authorities direct access to bank account information. I think that this will be another tool which will help us in the fight against money laundering.

For this first panel, we have invited representatives from different supervisory and enforcement institutions, who will be able to provide us with first-hand information on those cases. I would like to express my gratitude for their presence here today. It would have been useful to count also on the presence of representatives from some of the banks involved, but unfortunately it has not been possible, either due to conflicting obligations of their representatives, or because their contribution at this stage could prove premature or incomplete due to litigation at court. Anyhow, on the basis of the findings of today's hearing, the committee coordinators may decide to hold a subsequent hearing with banks which have raised concerns of money laundering.

Also Mr Jamal El-Hindi, Deputy Director of the Financial Crimes Enforcement Network of the United States (FinCEN), has sent us FinCEN's note on proposed rule-making with regard to the ABLV Bank. This document has been distributed to all committee members and the committee mission will surely have an opportunity to meet with FinCEN officials during its mission to Washington DC this July.

The second panel will be devoted to evaluating the way in which checks and controls should be strengthened at EU and national level to reduce money-laundering risks.

All members of the committee have received the written answers by the panellists to the questions we had sent them ahead of this hearing. These answers are also available on our committee website.

The working method of both panels will be the following. Each speaker will have a maximum of seven minutes for their introductory remarks. After the presentation by the speakers, there will be an exchange of views with the members of the committee. Questions will be asked in slots of five minutes: a question of maximum one minute, with the remaining time devoted to the answer. If time allows, the committee member will have the possibility to ask a follow-up question without extending the overall five-minute slots.

Let me now introduce the speakers on the first panel. First, Mr Pēteris Putniņš, Chairman of the Financial and Capital Market Commission of Latvia, who will share with us information on the ABLV Bank case. Then Ms Marianne Scicluna, Director General of the Malta Financial Services Authority; Mr Kenneth Farrugia, Director of the Maltese Financial Intelligence Unit, who will provide us with first-hand information on the case relating to the Pilatus Bank; and Mr Andre Nõmm, Member of the Management Board of the Estonian Financial Supervision and Resolution Authority (EFSA), who will enlighten the committee on the case concerning the Danske Bank and the Versobank.

I now ask Mr Pēteris Putniņš to give his introduction.

1-004-0000

Pēteris Putniņš, *Chairman, Latvian Financial and Capital Market Commission***.** – First of all, let me thank you for the invitation and for the possibility to be here to take a stance on the anti-money laundering (AML) issues in Latvia at large and on ABLV Bank in particular. You will be able to see a short presentation on the screen and I will try to guide you through in the five minutes given to me through this presentation.

A little bit of background: the total number of commercial banks in Latvia is 16. If we exclude ABLV Bank then it is 15. Three of them are retail banks serving domestic customers and 12 are, as we call them, non-resident banks. Those non-resident banks serve foreign clients predominantly.

The presence of a considerable number of foreign customers, mainly from eastern parts of Europe, has always been an extra challenge and a risk factor for banking sector supervision in Latvia already since the 1990s. Therefore, the FCMC has requested the banks increase the level of requirements to ensure compliance with regulatory provisions such as capital liquidity ratios, etc. Now Latvian banks must undertake a thorough revision of further strategies and build other business models, since the existing business practices appear to be no longer viable.

As to the combating of money laundering, the level of foreign deposits reached its peak during 2015, with almost 55% from the total deposit base in Latvia. Following the tightening globally of AML standards and Latvia joining the OECD in 2016, the supervisory approach has changed, namely the new FCMC management is now calling on banks for essential revision of their customer base and the avoidance of money of questionable origin.

Currently, as a result of the efforts mentioned, there is a decrease in foreign deposits, so we have reached at the moment 31% already, and excluding the effect of ABLV Bank, we are at 25%. Analysing technically charts we see that we are approaching, I would say within a time period of three to four months, a 20% threshold. So that is where we stand at the moment.

This is the lowest level of foreign deposits in 20 years and this decline will continue because of the required self-cleaning work to relieve the Latvian banks and the state of reputational risk

burden. Moreover, today the global political situation has changed. It is apparent that the confrontation of ideas and values is becoming severe between the West, involving also Latvia and other Baltic States, and a different view of the world coming from the East – the key source of the risky financial resources in our case in Latvia. The government's position at the moment is that we should drive down the non-resident proportion to 5% from the total deposit base.

A little bit about the sanctions and corrective measures taken by the FCMC. The banks' risk appetite must align with their internal control system's ability to manage risks in accordance with the AML regulatory provisions. If there are radical changes in the national regulations then the regulator ensures their implementation and the banks react proactively by changing their approach to the servicing of risky customers. The Association of Latvian Commercial Banks strongly supports this approach.

It should be noted that supervision over ABLV has been very tight on the part of FCMC, in particular, over the last years. Therefore, we are not caught unawares, so one cannot deny that Latvia is still facing AML-related problems. However, significant remedial work has been done in the bank by the FCMC over the last two years. We all know that ABLV was fined during 2016. That fine was the highest fine ever applied to any Latvian bank.

The bank was also scrutinised over the North Korean issues last year. We took corrective measures. The bank was supposed to drive down its shell exposure dramatically and the total investment in remediation was foreseen, so about EUR 20 million.

All this is unprecedented for Latvia and in this regard I must say that the majority of allegations mentioned in the FinCEN paper issued in relation to ABLV were known to the FCMC. Moreover, I must say that the majority of issues mentioned there were scrutinised in our routine work. My judgment would be that this was simply the past that played this negative role in ABLV's fate this time.

I shall stop here since I think I have already exceeded my time and I welcome your questions.

1-005-0000
Chair. – We now move from north to south, which maybe also implies that the issues we are discussing are definitely not regional, but Europe-wide. I would like to ask Ms Marianne Scicluna, Director General of the Malta Financial Services Authority (MFSA) to give her introduction.

1-006-0000
Marianne Scicluna, *Director General, Malta Financial Services Authority***.** – Chair, members of the Committee, thank you for inviting us to speak to you here today. In the interests of time I shall merely deliver parts of the fuller statement presented to the Special Committee. However, we welcome the publication of our statement in full.

I would like to start off with some comments regarding the licensing and supervisory approach, and the challenges that we faced in the case of the Pilatus Bank. The MFSA (Malta Financial Services Authority) approach for granting a licence to a new applicant follows the conditions and procedures imposed and contained in local regulations that mirror EU requirements. As with any other entity applying for a licence, this process was followed also in the case of Pilatus Bank.

Our staff carried out a thorough review of the documents submitted, raising various questions, requiring the submission of additional information and asking numerous follow-up questions. We also commissioned an independent third-party intelligence report on the single shareholder, and after a period of more than 12 months we authorised the bank, and here I would stress that a normal length of time for authorisation was followed.

Since that moment, Pilatus Bank has been the subject of a high degree of ongoing supervision, including multiple on-site inspections in liaison with the FIAU (Financial Intelligence Analysis Unit), subject to various off-site reviews and the commissioning of updated due diligence. The full timeline is provided in the full statement.

The supervisory review of the various aspects intensified over the last year when the various allegations in relation to this bank started to come out in the media as well. There was also close liaison with other international regulators, including the FCA. All the information that we had gathered previously, and also in the last year, led to the launch of a comprehensive and in-depth examination of the bank jointly with the FIAU, including a review of all accounts and transactions, as well as the governance to obtain a holistic view of the bank, to obtain a robust assessment on whether the bank was involved in some kind of money-laundering activity.

This review is still ongoing and in this case, the main challenges in all of this have been that the prudential indicators and intelligence available to regulators provide pointers but have their own clear limitations. Moreover, due diligence, as comprehensive as we try to make it, also has its own limitations because regulators do not necessarily have access to information held within law enforcement entities.

Finally, as soon as we became aware of decisions by the US authorities to indict the shareholder of the bank, we felt we had a legal basis to act, and we acted quickly and decisively. We immediately removed the Chairman of the bank, put a third-party competent person in place and brought the institution's assets under control, preventing any withdrawals. At the moment we are closely monitoring the situation and analysing the results of our reviews to determine the next steps to be taken.

The role of the MFSA within the Maltese regulatory landscape is to regulate and supervise financial institutions with primary responsibility for prudential and conduct supervision. In parallel, there is the Maltese Financial Intelligence Analysis Unit (the FIAU), which is the competent authority and the lead supervisor for anti-money laundering supervision. However, the MFSA assists in that AML supervision.

AML issues have direct implications on prudential supervision, as clearly seen in the cases that have come to light in these past couple of years, including in the case of Pilatus. In this context, we have significantly strengthened and renewed our focus on AML issues in recent years, in line with our commitment to combating money laundering and strengthening the supervisory network.

In 2016, the MFSA established a centralised AML/CFT team to support better the work of the FIAU. The idea of a centralised team was to have a more centralised team of expertise. Together with the FIAU we have introduced a new risk-based methodology for AML/CFT supervision and we continue to invest in expanding the unit's resources and deepening our expertise. In particular, the main area we continue to focus on is strengthening the interplay between AML supervision and prudential supervision, in an effort to strengthen the holistic review of these cases.

We continue to benefit from additional resources and also from additional training. We are also in liaison with the US for training in this respect to ensure better coordination with the US authorities.

In this regard, you also welcomed the new national anti-money laundering and terrorist financing strategy launched in the last couple of weeks in Malta supported by a new

coordination mechanism to strengthen cooperation between different agencies involved in this area, including particularly in the area of sharing of information.

We strongly believe that our renewed national action would benefit from new guidelines and frameworks at European level. There are three main areas that we could suggest here.

The assessment of banks' business models: the EU framework does not currently provide precise criteria on how to assess business models. That could potentially present a high risk from an ML/FT perspective.

The treatment of ownership structures: clear criteria that provide grounds in certain circumstances for refusing to license institutions that feature either a sole shareholder or a holding structure comprised of entities posing potential ML and FT risk could also be of great value.

And the depth of ongoing due diligence and monitoring. The current framework is silent on how ongoing monitoring should be conducted and the tools and the analytic framework that national authorities should use. Further guidance here would help strengthen the framework.

I will conclude here by saying that we share the view that money laundering is a critical issue and a huge challenge not only for Member States, but for Europe as a whole. We reiterate our determination to take on money laundering to protect our shared financial system and look forward to working with the European institutions to build a stronger system.

1-007-0000

Kenneth Farrugia, *Director, Malta Financial Intelligence Analysis Unit***.** – Chair, please note that the original statement was redacted for timing purposes too. First of all, I would like to take this opportunity to thank you for inviting us to contribute towards the enhancement of our systems and combating money laundering and funding of terrorism within the EU.

The Maltese Financial Intelligence Analysis Unit (FIAU) has two main distinct and separate functions. These are the analytical and supervisory functions. The analytical section of the unit is tasked with the receipt of suspicious transaction reports and their analysis. The section of the FIAU is also responsible for the exchange of information with other FIUs, law enforcement authorities and supervisory authorities, both at national and international level. The supervisory function, on the other hand, is responsible for supervising subject persons, such as banks, to ensure that they are adhering to their AML/CFT obligations.

The Unit's remit is wide, given the wide array of sectors it regulates, and therefore it is challenging. To be effective, especially in a constantly changing environment within the financial and non-financial sectors, the Unit is continuously striving to develop and strengthen its resources. In fact, the FIAU staff complement has grown significantly over the past few years and so have the FIAU's technical and financial resources. Nevertheless, the fight against money laundering and funding of terrorism is a difficult one indeed. Having the required resources can only do so much unless the right mechanisms are in place across the globe to combat crime such as money laundering and funding of terrorism.

These crimes are global phenomena, cross-border and transnational. Criminals engaged in such illegal activities know that not all countries are effective in combating crime, and they take advantage of this. Hence, we should evaluate whether the EU regulations and directives, coupled with the FATF recommendations, mutual evaluations and other types of evaluations, are really yielding the desired results. They certainly help, but are they enough?
We hope that the current round of evaluations, which use the latest revised FATF methodology that focuses on effectiveness, will help us answer this question, but in the meantime the

evaluations that have been concluded under the revised methodology show that more than half of the EU Member States that have been evaluated achieved a moderate or a lower level of effectiveness on FATF Immediate Outcomes 6 and 7, that is, that financial intelligence is appropriately used by the competent authorities, and that money laundering offenses are investigated, prosecuted and convicted. This means that these countries need major or fundamental improvement.

We also have our own experiences and we are of the opinion that various initiatives should also be taken at European level and beyond. Our first proposal is to build stronger cooperation on AML/CFT supervision.

Throughout the past years the European Union embarked on various legislative initiatives to address and enhance FIU-to-FIU cooperation. We welcome this initiative. However, we wish to see similar initiatives which cover the supervisory laws, where limited progress has been made. This has led to a fragmented system whereby Member States are working in silos and sharing of information, best practices and concerns is very limited or embraced on an informal basis.

Our next remarks concern the lack of technical support and guidance. The EU has been very active in issuing directives and regulations, but we believe that the EU should also be proactive in providing technical support and guidance in the implementation of these rules. We acknowledge that the European supervisory authorities are active in this regard, but this covers only the financial sector and leaves out the non-financial services and professions. We feel that the non-financial sector should be better addressed to reduce potential loopholes.

Our third comment is on legislation. We do understand that the revision of laws is crucial to keep up with the fast-paced developments. However, more emphasis should be placed on the effective implementation of such laws. We need to find the right balance between making new rules and giving them time to work and have an effect.

Our final remark homes in on what we believe is the most crucial aspect: the use of financial intelligence. A lot of progress has been made in the field of STR reporting and FIU-to-FIU cooperation across the EU. However, limited results are being registered in terms of investigations, prosecutions, convictions and confiscations. This is a reality across the EU and worldwide, as evidenced by the latest FATF evaluation results. The EU needs to understand why financial intelligence is not being transformed into evidence that leads to convictions and confiscations. Ultimately, this is key.

1-008-0000

Andre Nõmm, *Member, Management Board, Estonian Financial Supervision Authority***.** – Good morning, and thank you for giving us the opportunity to explain the Estonian Supervision Authority's latest results, and also a few words about the risk outlook. I shall not stop there, and despite our having some confidentiality rules I believe I can answer you in sufficient detail.

Finantsinspektsioon is the financial supervisory authority in Estonia. We supervise whether credit and other financial institutions have the resources and other organisational processes and systems and controls in place to prevent criminals from accessing financial systems. We do not prosecute AML criminal cases, which is the responsibility of the police and public prosecution office in Estonia, as in many other countries.

The new management board at *Finantsinspektsioon* started in 2014. We immediately put AML as a high priority, and we changed our strategy to send a clear message to the public, to the bank managers, that Estonia is not a good place to launder money through financial intermediaries. We introduced new risk-based monitoring models for in-house use to

understand the risks, increased numbers of supervisory actions and on-site inspections. After we carried out our risk analysis in 2014, two banks were identified as very high AML-risk banks: the Danish bank Danske Bank, which acted in Estonia, and is acting still, on the basis of freedom of establishment; and a local bank, Versobank, owned by Ukraine citizens. Very briefly, we solved both these cases. Danske Bank moved its non-resident business from Estonia and the Versobank licence was restored with very good cooperation with the European Central Bank.

On this slide up here you can see some figures on the increase in supervisory actions and what we have done, but I shall not stop on this. Maybe more important is this slide showing that from 2014, where the non-resident part of deposits in our banking system was nearly 20% – 19% precisely – it has now decreased to 11.7% and, maybe more importantly, the offshore part of the bank's deposits was 8.5%, and now it is only 1.3%. So to summarise, I think the risks in the Estonian banking system are much lower than they were in 2014 when we started more aggressive AML supervision.

Here you can see some other figures – the statistics on outgoing payments in Estonia, which also reflects money-laundering risk. You can see there that dollar transactions, outgoing payments from Estonia, have decreased a lot, from EUR 31 billion to EUR eight billion. Usually these AML-risk companies use dollar transactions in Estonia and, I think, all over the world.

So to be very clear, AML supervision is ongoing, as the risks are always there. We continue with full commitment and the message is very clear in Estonia, that Estonia is not a place to launder money through financial intermediaries.

1-009-0000

Jeppe Kofod (S&D). – Thank you for the presentations. As we are dealing now with concrete cases, I would like to focus on one of those three cases, and namely the last one – the Danske Bank and Versobank AS cases. I would like to thank Andre Nõmm for his presentation.

I have a few questions for you, Mr Nõmm. When and how were the Danish authorities first notified of the fact that a major bank – Danske Bank was headquartered within their jurisdiction – was suspected of being involved in money laundering through its Estonian branch? I would like to know when and how they were informed. Also, what response was received and what actions were subsequently taken by you? In an article in the Danish newspaper *Berlingske*, the Estonian authorities are quoted as suspecting a representative from Danske Bank of providing them with misleading information – that is a quote in a Danish newspaper. Could you explain what the misleading information is that you received? I will come back to you on the answers, but will stop there for the first round.

1-010-0000

Andre Nõmm, *Member, Management Board, Estonian Financial Supervision Authority***.** – First, as I said, already in 2014 we went to the Danske Bank. We made an on-site inspection there and, of course, we informed the Danish supervisory authority of the results. We also covered the Danske Bank case under prudential supervision in the form of SREP analysis and said that the risk in terms of AML was too high for us. We had good cooperation with the Danish authorities, and as the NCA in Estonia we made our supervisory analysis. Our aim was very clear: they had to stop this business in Estonia because it was too risky for us as a supervisory authority. We looked to the goal, which for Estonia was very simple: to move out from our market with the portfolio and close the portfolio. That was our main target. So, to answer your question directly, yes we have of course communicated with the Danish authorities during this case.

You had a more specific question about misleading information. I think you referred to the fact that in the newspaper there was article about something already being known inside Danske Bank, that there was a huge amount of AML risk and some kind of connection with Russian money laundering companies. We made our on-site inspection already in 2014, and then Danske Bank was in the position that they knew all these clients and were dealing and they didn't inform us about the fact there were suspicions surrounding certain clients. But now we have got an answer and we are communicating in this process to the Danish supervisor authority. I can't say any more on this specific case because it is still an open case.

1-011-0000

Jeppe Kofod (S&D). – Thank you for the answer, but it is not clear to me whether the cooperation between the Danish authorities and the Estonian authorities was effective and whether any concrete action has been taken. I know it is an open investigation, but I think this probably shows us one of the weaknesses when there is cooperation between different authorities. I would like your assessment of this. Did the Estonian authorities take any action themselves or did they only inform the Danish authorities, and how was the cooperation between the authorities?

1-012-0000

Andre Nõmm, *Member, Management Board, Estonian Financial Supervision Authority***.** – Yes, we did everything. I said that in 2014 we had already made an on-site inspection. We were not satisfied with Danske Bank. We made precept to Danske Bank itself, as the Estonian supervisory authority, to change the business strategy or move from the non-resident business. Danske Bank reacted in this way: they stopped non-resident business in Estonia.

Let me explain to you the responsibilities between the supervisory authorities. Danske Bank was acting in Estonia using this freedom of establishment possibility to enter other markets. We, as the NCA, supervise the money laundering issue, but at the same time some governance issues, some fit and proper issues, are still with the home authority.

I believe our cooperation with the Danish authorities has been good. We have focused very directly on the AML issue. We solved the case for Estonia. It is the call for the Danish supervisors whether they should do something more, I mean at the governance level or not, at a fit and proper level, I do not know, but I think the information chain between the authorities has been very good.

1-013-0000

Krišjānis Kariņš (PPE). – Thank you, Chair, and on behalf of the EPP Group, I would like to thank the speakers. I shall focus my questions on one of the three cases, the case of the ABLV Bank in Latvia, in my own country, so my question would be pointed towards Mr Putniņš. Colleagues, please bear with me and put on your headphones. I think I will address him in Latvian because it is somewhat strange, even today, for two Latvians to speak to each other in another language.

Mr Putniņš, you will recall that we here are responsible for framing legislation. We have established a European banking supervision system under which the three largest banks are supervised by the European Central Bank, whereas anti-money laundering measures are not subject to central supervision but instead are supervised by each Member State; in Latvia's case, it is precisely your institution that is responsible for it.

I have read all of your written answers, and this morning I shall listen to your position, or your presentation. One might say that the impression is that everything necessary is being done: systems are in place, a structure has been established, supervision is being exercised, and looking from the outside it could be said that then everything is in order. This is the question I want to ask you: if everything is in order, as it currently appears to be, how could such a case as that of ABLV Bank be detected? You fined them in 2016. That was probably one of the

biggest fines you had imposed, and it was imposed precisely because of the lack of an internal monitoring system.

So, Question One: how was it possible for this case to arise if the supervision is effective? Question Two: why did the information about this case come not from you or from any other European country but from the US Department of the Treasury, from FinCEN? And Question Three: do you believe that this suggests that there is a certain lack of European internal supervision or coordination? In your opinion, for example, if we instruct the European Central Bank to supervise the three largest banks, ought they not at the same time to undertake supervision for anti-money laundering purposes?

1-015-0000

Pēteris Putniņš, *Chairman, Latvian Financial and Capital Market Commission***.** – First of all, as I indicated before, those facts were disclosed by FinCEN. They were made known to the Latvian supervisor and action was taken on our side. Why that happened I do not know. Perhaps if Mr Jamal El-Hindi had been here he could give an insight into the motives of the US Government, but it is my conviction that this was something about the past, that the burden that lay with ABLV was too heavy and there were probably certain unresolved issues between the ABLV Bank and the United States Government that resulted in this document.

As for us, there is very little that we got to know from this document and I must say there were no specific big surprises about the disclosures from the US side.

1-016-0000

Krišjānis Kariņš (PPE). – May I interrupt as I would like to put my question more precisely. I shall switch to English. If I understand you correctly, you are saying, well, there is nothing new coming from FinCEN that the Financial and Capital Market Commission (FKTK) didn't know, but because of the FinCEN report, this bank is now being shut down. So why did you not shut the bank down if you had the same information? It doesn't make any sense. Either you knew it, and you should have shut it down, or you didn't know, and therefore it is only now being shut down.

1-017-0000

Pēteris Putniņš, *Chairman, Latvian Financial and Capital Market Commission***.** – That is a good question and I will be happy to answer it. The US Government did not shut down the bank. This was the document issued – actually it was a draft which came into force two months after the issuance of this initial draft. The bank was dead within three to four days, despite the fact that the FinCEN paper contains allegations where they evaluate the bank's ability to survive the effects of this document. But the situation in the markets is as follows: once you get that kind of paper from the US Treasury side you simply cannot survive. You could probably have survived 10 years ago but not in these times.

The markets are simply isolating the bank, and knowing that ABLV still has the licence there is no reason to file for insolvency at the moment. The main problem is isolation of the bank, so all the operations of the bank are in a kind of standstill within a couple of days.

We here in Europe should be aware that if any bank in Europe is affected by that kind of document, or draft document, issued by the Treasury, there is almost no chance of surviving, and this so-called shutdown of the bank is really going that way, reflecting the reaction of the market, not that the US Government issued any kind of a note revoking the licence, especially when this is the sole competence of the European Central Bank.

1-018-0000

Chair. – I can see Mr Kariņš would like to comment but we do not have time. Perhaps some of our colleagues will come back to this issue.

1-019-0000

Ana Gomes (S&D). – My question is to the Maltese entities. When the rule of law mission of the European Parliament to Malta following the assassination of Daphne Caruana Galizia was there we pestered you with questions about Ali Sadr, the owner of Pilatus Bank. We were no experts but we could see that something was very fishy. You say something failed in the fit and proper test. What do you think really failed?

You mentioned that you had requested a third-party report. Was it KPMG that produced that third-party report? Why haven't you closed the bank yet, shut it down?

Now to the FIU. You point out rightly that the big questions are prosecution and confiscation to be effective in the anti-money laundering approach. But that is not happening in Malta because the police is controlled by the Prime Minister and is simply not doing what you are saying in your report. Concretely now, on company 17 Black that came out as a company based in Dubai whose money was moved through the ABLV, part of the money, for the accounts – offshore structures – of Minister Mizzi, who signed the LNG contract with Azerbaijan and to the Chief of Cabinet of the Prime Minister. They were the people whose offshore accounts were supposed to get money from this 17 Black. What are you indeed doing to identify and prosecute the owners and the beneficiaries and confiscate the proceeds, pointing out, as the MFSA has pointed out, that a big question is indeed the knowledge about the ownership of structures?

1-020-0000

Marianne Scicluna, *Director General, Malta Financial Services Authority***.** – Let me start with the first question, regarding due diligence. Here I must explain that, in the case, we follow a standard due diligence process and this was applied here in this case, on top of which we also commissioned an intelligence due diligence report. The report was not commissioned from KPMG. It was commissioned from an international intelligence company which is used by a number of other regulators, including by the UK FCA.

The name of the company? I would need to get their permission to disclose the name of the company.

The due diligence report: the remit that we gave to the company was to check out the background of Mr Sadr and this was done purposely because of the fact that Mr Sadr was coming from a jurisdiction that presented certain risks. The due diligence report at that time did not highlight any adverse information.

In terms of the closure of the bank, immediately we had the indictment that was issued by the US authorities – the indictment regarded Mr Sadr himself, it did not regard the bank. It is related to transactions that Mr Sadr carried out before, at a period before the bank was established – we immediately removed Mr Sadr as a shareholder of the bank. We immediately suspended his voting rights. We appointed an independent competent person to take control of the bank, to take control of the assets. We made sure that the assets do not leave the bank.

And as I explained as well, we had already started before the indictment a comprehensive review jointly with the FIAU, a transaction-by-transaction review which is quite extensive and which is still ongoing, the purpose of which was to get to the bottom of all the allegations and all the concerns as to whether money laundering has actually been carried out within this bank. As I said as well, this examination is still ongoing. We are currently awaiting the outcome of this review together with monitoring also other aspects. The situation is developing, and then we will take the necessary additional steps depending on the outcome.

1-021-0000

Kenneth Farrugia, *Director, Malta Financial Intelligence Analysis Unit***.** – I would like to make my comment. Thanks for the question. I'm going to be brief. With regard to prosecutions

and confiscations I highlighted that this is an issue. It's not a national issue, however we recognise that it is an issue, but it's a European and a world-wide issue.

Secondly, with regard to the analysis of 17 Black and other names mentioned, I hope you appreciate that I cannot divulge too much information. However, I do provide my assurance and I confirm that whenever the FIU has established reasonable suspicion of money laundering, it has passed a report on to the Malta police.

1-022-0000

Roberts Zīle (ECR). – Thank you to all the speakers coming here from supervisory bodies and national supervisory bodies. I would like to use this event from our point of view, from the MEPs' point of view, to get your expertise on more systematic issues, not so much case-by-case but whether on the situation in your supervisory areas you can suggest something more systematic. So that is why I have three questions, mainly for Mr Putniņš but I will be glad if somebody else will also take them.

First of all, do we need a malfunction to lever on a banking union level, either the ECB or the European Banking Authority? At least, if the big countries, some EU eurozone big countries, don't agree with that, is that a reason to create for those countries who voluntarily want to join, is it a good step or is it not a good step?

The second issue: do we need at eurozone level, at least, some warning signals on banking unions that say, look, you have too big a share of non-resident banking, there are a lot of risks for the particular countries? Is this a good 'traffic sign' or some kind of impulse to do it, because we have some other areas in the eurozone here which have a heavy position on non-resident banking?

The third issue is mainly for our electorate. How to explain to them too, because we know that from time to time Americans also penalise some big banks from Europe or particular situations. At the same time they are still working and still growing, and also some people are now saying, look, okay, ABLV Bank is closed, but some shareholders or the Luxembourgish part of the bank can now be sold, and those clients who are still there will all just be the other eurozone or euro banking union banks and because those clients are the same, they would like to continue to have dollar transactions mainly. I think there is some issue. Could you please give us some suggestions on which direction we could take on this issue as well?

1-023-0000

Pēteris Putniņš, *Chairman, Latvian Financial and Capital Market Commission* **.** – So on the unified approach to AML supervision for the European Union, I would say that this is an idea we would support. We had an internal discussion also on the supervisory board at SSM level. Ms Nouy has said also a couple of words to the press on this. I would say that my personal view is that I support this since, well at least for the eurozone area, because we have one common currency and first of all it would save a lot of money if we were to have one unified AML controlling body. The model could be probably the same as for the SSM, where the NCAs are unified under the umbrella of the ECB.

As for the eurozone and AML – the second question – I would say the problem is that we will have two kinds of non-residents, roughly speaking. One group are non-residents stemming from outside the OECD, outside the European Union. So those, especially those from the former Soviet Union, really pose quite a big threat to both our national security and also our financial system is endangered; but then we will have non-residents from other eurozone countries because for Latvia, a non-resident is both a Ukrainian and, for example, a German individual.

So, this line should be drawn, so that, knowing the principles of the European Union – free movement of capital and other issues like that – we should not build walls here combating those

AML situations and problems, and this distinction must be made because I think we should keep our European market unified and our regulations as regards non-residents of the eurozone countries should be treated completely differently than for those non-residents coming from countries outside the European Economic Zone.

Where are those clients from the bad banks closed moving to? I must say that those are countries of the European Union and countries outside the European Union, but very closely related to the European Union, including the UK for example. Therefore this is not the case where for example, in closing or liquidating ABLV that money will go I don't know where, to some third-world countries. Not at all. My guess would be that that money will go back to Russia and that money will find its way to the European Union as well.

This is again something that calls for a unified approach because it is not normal when the bank is closed in Latvia because of breaches of anti-money laundering regimes and simultaneously there are banks elsewhere in Europe operating those monies further as if nothing had happened.

The same relates also, I would like to mention here, in answering that part of Mr Kariņš' question that I haven't answered. We had certain situations with those North Korean monies. There was no direct breach of sanction regimes in Latvia, by none of the banks. Despite this, we took this matter seriously and we fined certain banks involved in indirect breaches of sanction regimes; but then my question is, as far as I know and to the best of my knowledge, Latvia was the only country that did that.

And my question is, did that money arrive from the moon in Latvia or did that money go elsewhere? I don't know. The money was processed through diverse European countries and it went out as well to different jurisdictions around the world and we haven't heard that any other jurisdiction anywhere has taken action, enforcement action, against the banks involved in this case.

So this is also something to think about – the so-called level playing field, that is – and this notion is very famous in the European Union, but we should give certain substance to those definitions in real life as well.

1-025-0000

Nils Torvalds (ALDE). – I listened very carefully to the Maltese reports here and I think I heard that they were lacking financial intelligence and my slightly ironic comment would be, would some sort of normal intelligence be enough? Because we have a lot of indications. Some of them are even more ironic than I am able to be. If a bank is named Pilatus, then you probably need to go to the Bible and read Matthew Chapter 27 verse 24: 'he took water and washed his hands'.

When Malta held the Presidency of the Council we had a very interesting debate about money laundering and Malta was all the time stonewalling when we tried to get down to the real beneficiaries of different banking systems. According to the Times of Malta, in 2015 40% of new citizenships in Malta were Russians, 8% came from the United Kingdom and 4% from Ukraine.

The organisation or the company that organised this visa regime, Henley & Partners, are known to have done this for – I give you the list – Antigua and Barbuda, Cyprus, Granada, Malta, St Kitts and Nevis, and St Lucia, so all known from different Panama papers and Paradise papers. So even if you don't have intelligence, financial intelligence, with normal intelligence you should actually know that something is cooking there.

And then you said: this is not our problem, it's a European and worldwide problem. Are golden visas a Maltese problem or is it a European problem?

1-026-0000
Anton Bartolo, *Director, Enforcement Unit, Malta Financial Services Authority***.** – Thank you for the question. Well, just to continue a bit on the lighter side, as far as I know the bank was named Pilatus not because of the Bible figure but because of Mount Pilatus in Switzerland.

Yes, the Member spoke about Malta stonewalling the discussion during the Presidency on beneficial ownership. I respectfully and forcefully disagree with that view. I think Malta was, as the Presidency, bringing forward the position within the Council and we were very clear on that. We had also a number of constructive suggestions as to how to tackle certain issues waiting which were closed, but during that period of time a number of issues still remained pending and it took many more months to come to a solution.

So I do not believe at all that we were in any way making it difficult. I think we wanted to achieve a directive that was legally sound and that was workable in practice, We had made this very clear and we were acting on the position of the Member States in Council.

With regard to the IIP, I am not in any way connected or, we, the Maltese Delegation here, is not in any way connected with the decision to set up the IIP or the way it works. In the context of money laundering within the European banking system what I can say is that any funds that persons who obtain the nationality which is granted through the IIP system, those funds need to go through the banking system, which implements and is bound by the rules.

If they purchase property on the island they need to deal with estate agents who are also bound to carry out their checks. If they need to deal with notaries these are also obliged persons, so there are a number of checks when it comes to accepting the investments that these people have to make apart from the due diligence process that the agency dealing with this carries out. But as I say, we are not, I think, the people who care or the authorities who can give a more detailed insight into the operation of that or as to decisions related to that.

1-027-0000
Chair. – Very briefly on the issue of the golden visa.

1-028-0000
Anton Bartolo, *Director, Enforcement Unit, Malta Financial Services Authority***.** – On the issue of the golden visa, this is it, this is the procedure: a person applies to obtain what is called a visa or a nationality. He has to meet certain conditions, but again, there are authorities which deal with this. We are in the context of a discussion on combating money laundering in the banking sector. We are the banking supervisors, we are the AML supervisors, but I am not the competent person to give a reply ...

(Interjection from Mr Torvalds: 'But I asked if this is a European problem or a Maltese problem.')

1-029-0000
Chair. – I understood that the delegation does not seem to be competent to speak for the Maltese Government on this, but we may come back to this if there is time for catch the eye. I would like to ask the speakers to watch the clock, please.

1-030-0000
Molly Scott Cato (Verts/ALE). – My questions are also about the Pilatus Bank and I would begin by noting the hilarity in the room when you refused to answer Ana Gomes' question about whether KPMG were authors of that report. It is supposed to be an independent report, therefore we are allowed to know who wrote it.

Then on the due diligence process you decided that Mr Ali Sadr was an appropriate person to be the CEO of a company that had a banking licence. You granted that licence on 3 January 2014, but US sources were already investigating him, beginning in 2013, and he was indicted on six counts, including breaking US anti-money laundering rules. Now something has gone very badly wrong there: a person who clearly had already been suspected of money laundering is granted a banking licence in Malta. How do you explain what went wrong there? Is it a failure of your due diligence? Is it a failure of communication of information? We do not need to hear more about how competent your processes are because clearly something went wrong.

Lastly, on the link between Maltese banks and politically exposed persons from Azerbaijan, we have had new information in the last few days that Pilatus Bank and other banks actually had links with members of the Azerbaijan ruling family, and that these have been used to make secret investments in the UK, Spain, France, Georgia and Montenegro. So what are you doing? What new steps are you taking to make sure that these politically exposed persons are not able to launder their money in future?

1-031-0000

Anton Bartolo, *Director, Enforcement Unit, Malta Financial Services Authority***.** – First of all, perhaps this was not made clear enough. The independent intelligence report that was commissioned during the licensing process, I repeat, was not commissioned from KPMG. It was commissioned from an international firm. Contractually we are bound not to disclose the name, at least at this point in time. We cannot disclose the name for confidentiality and contractual reasons, but it was not KPMG, it was not Maltese, and it is a firm that supplies intelligence to a number of European regulators, to a number of Member States, including, as I say, the UK Financial Conduct Authority. We are convinced that they were competent people to carry out independently that exercise.

With regard to the point as to why Mr Sadr was approved to set up a bank in Malta when he was being investigated in the United States, the answer is very simple. Nobody outside the United States knew that he was being investigated. And our due diligence work, which continued throughout the lifetime of the bank, with subsequent updating of due diligence, with subsequent reports being provided to us, did not immediately identify that there was an investigation in the United States. And when that was identified the information that was made available to us was extremely sketchy.

So we did not know in what context, we did not know about what, because clearly the FBI and the US authorities do not go around providing information to the international community that they are investigating a Mr X or a Mr Y. So throughout that due diligence process there was no way that we could have known that this person was under investigation in the US.

This is perhaps something that can be improved, it can be improved not only at European level, but globally. It is not an easy case, there is no easy way to improve this because, of course, law enforcement authorities, intelligence authorities, investigative authorities also have very valid reasons why they cannot simply disclose and provide certain information, but it is certainly a big challenge. And it is a challenge that we continued to face for a long time, knowing that there are certain investigations but not knowing anything about it, asking about it and not getting any information.

Regulators cannot simply act on intelligence which is not supported, or intelligence which is in no way confirmed. Regulatory actions need to be taken, not simply on suspicions, but you need some factual evidence which you can use.

I do not want to take too long, but had we gone to Mr Sadr and said, look, we are going to take away your licence because you are being investigated in the United States, then what would that have done to the US investigation? Many times regulators are in a very, very difficult situation, having some intelligence which is just a whisper in the ear, but you cannot use it because, first of all, you need a sound basis to act. And secondly, you might even disrupt and hinder and prejudice something that another country is doing.

1-032-0000
Chair. – At this point, I would like to welcome a group of trade union representatives from the Volvo factories in Olofström and Skövde in Sweden, who were invited by Olle Ludvigsson. I appreciate your interest in our work and at the same time I see it as encouragement. Welcome.

1-033-0000
Stelios Kouloglou (GUE/NGL). – This is another question for the Maltese representatives. It is a little surprising that in the written answers which you have already given us, you are omitting to tell us about the politically exposed persons in the Pilatus Bank – not only the names, but also the numbers. You are not telling us about the numbers. I will give you some names. According to Daphne Caruana Galizia, there were people involved such as the wife of the Prime Minister, the Minister for Tourism and the Chief of Staff of the Prime Minister. These revelations were given to Daphne Caruana Galizia by a whistle-blower, Maria Efimova. The Maltese authorities wanted to extradite Maria Efimova as she is now in Greece and Daphne Caruana Galizia was assassinated. So, after the revelations by Daphne and the assassination, the question is: did you increase supervisory activity over the Pilatus Bank or not? If you did increase investigative activities, we want the answers. If you did not, why not? Are you incompetent or are you accomplices?

1-034-0000
Marianne Scicluna, *Director General, Malta Financial Services Authority***.** – First of all, I would like to highlight that we are bound by confidentiality in terms of the law. I do not want that to come across as uncooperative, but yes, we are bound by confidentiality so we cannot disclose the names ourselves. But in terms of supervision, we obviously have full details regarding the bank, and in terms of supervision, as I said in my statement and even in our submitted written statement, we immediately intensified our supervisory review.

Let me go back a bit. This bank had been under close supervision from the beginning. An initial full on-site inspection was undertaken in September 2015 by the banking supervision unit. At the time, our review focused on monitoring whether the conditions for the licence were being maintained and at that time the incidence of PEPs was identified and referrals were made to the FIU in line with cooperation agreements. In fact, in March 2016, the FIU carried out an on-site inspection. MFSA participated in that. In August 2016 there was another follow-up inspection. In the meantime, updated intelligence ...

1-035-0000
Stelios Kouloglou (GUE/NGL). – Sorry, but after the articles by Ms Daphne Caruana Galizia did you increase your supervisory activity or not? If yes, what are the results? This is my question, and you are not answering it.

1-036-0000
Marianne Scicluna, *Director General, Malta Financial Services Authority***.** – Yes, definitely, we increased our supervisory scrutiny which had already been in place. At that point in time we carried out different initiatives.

(Interjection from Mr Kouloglou: 'And the results?')

We increased our independent intelligence checks, we liaised closely with the FIU, we liaised closely with other international regulators, we carried out closer desktop reviews, we carried out on-site inspection, and all this led to the gathering of the information leading to the launch

of this comprehensive and in-depth examination of the bank, including a review of all accounts and transactions, as I said, to obtain a more robust assessment as to whether the bank was actually involved in some kind of money laundering activity. That examination is still under way.

In order for these examinations to be sufficiently comprehensive ...

1-037-0000
Stelios Kouloglou (GUE/NGL). – So the results you are now getting are now touching on politically exposed persons?

1-038-0000
Marianne Scicluna, *Director General, Malta Financial Services Authority***.** – I did not understand the question.

1-039-0000
Chair. – Let me make a point. I appreciate that we are having a heated debate, but if you want to interrupt the speaker and ask a question, please do it through me. Signal to me and I will do what is necessary for everyone to be heard. Mr Kouloglou, would you repeat your last question?

1-040-0000
Stelios Kouloglou (GUE/NGL). – So, there was further supervisory activity after the allegations. Ms Scicluna says that they do have some answers. My question is: as a result of these answers is there any information touching on politically exposed persons?

1-041-0000
Marianne Scicluna, *Director General, Malta Financial Services Authority***.** – As I said, the review is ongoing and we are not at this point in time able to disclose the results of this review. We will eventually analyse the full results of this review and take it from there.

1-042-0000
Stelios Kouloglou (GUE/NGL). – When did this review start, and when will it finish?

1-043-0000
Anton Bartolo, *Director, Enforcement Unit, Malta Financial Services Authority***.** – I can give some more granular information within the constraints that I have. First of all, the decision to conduct a very detailed assessment and analysis of the complete operations of the bank was taken after last summer. It was also decided to engage a third party, a foreign independent specialist firm with forensic expertise, to assist the Maltese authorities. Of course there was the normal process of abiding by the necessary procurement rules.

The on-site work started last February. It consists of a comprehensive and very deep assessment of all aspects of the operations of the bank including, first of all, an analysis of all the processes and procedures, and their application in practice, and analysis and assessment of all the accounts that were opened by the bank, and also those that have been closed, and an analysis of all the transactions that have been carried out through every account, both inward and outward flows of monies, by whom, to whom, from where, and where they have gone.

The analysis included the complete and total copying of all the bank's data, all the bank's records, all the bank's documents, all the bank's email exchanges, all the bank's audio recordings, and all this is being analysed by means of expert and forensic teams in order to discover whether there are transactions or evidence of money laundering or other forms of crime that could have taken place through this bank.

It is a complex exercise. It cannot be finished in a few days. It has been ongoing for a number of weeks. We understand that we require some more time to start having results that are indicative of whether there is – or can generate – the evidence that we need, because as I explained before, we cannot act simply on allegations. We cannot act simply on what is written in the newspapers. We cannot act simply on intelligence that we cannot use: we need firm

evidence. This exercise is intended to obtain this firm evidence – if it exists – and then this firm evidence will allow us and help us to take the necessary definitive decisions.

Meanwhile, we have ascertained that the bank no longer operates. All the assets are frozen, all the money is frozen. Nobody can take money out of the bank, nobody can operate the bank in any way. The people who are running the bank have been removed. The control of the bank is under a person that we have appointed. This is public information – it is a retired US regulator with a lot of experience. As information comes out from this exercise, and as information comes out also from our other prudential analysis that is being carried out, we will take further decisions. The situation could evolve also in a short period of time. We are prepared to take all the necessary decisions in a short period of time, and we also acknowledge that the bank may have dirty money, and we are also ready to make sure that we protect that money as well – if it exists. So I do not think this is something we should rush because we need to do things properly, get the proper information, the proper evidence, and take care also to protect any funds that need to be protected also in the event that there is law enforcement action that results from our investigations.

1-044-0000

Roberta Metsola (PPE). – As the only Maltese Member of the European Parliament in this room, I want to make one thing very clear: at a time when my country is facing challenges like this, the type of which we have not seen in two generations, it is essential that the world – all of which is looking at us, at our tiny country – knows that the action of the criminal, the corrupt and the complicit at the highest level of government is not representative of the people of Malta and Gozo, who I represent. We are not a tax haven. Our taxation system predates EU accession. It is competitive, but it is fair. However, things have changed. Our ability to respond, as we have just heard, has diminished. And that is the price of corruption and lack of political action.

I have some concrete questions for the Financial Intelligence and Analysis Unit (FIAU). I will add to what has been asked already, but not yet answered by colleagues. Why do you think that the police – and you have to ask this question – have not launched any investigation or taken any action on government politicians in the last five years when we know that Ministers have lied about accounts that they hold in banks such as the ones that you regulate? When we know that at least USD 200 000 were transferred into a Dubai company called 17 Black, linked to Maltese Ministers, through the agent for our new power station? When we know that Azerbaijani politically exposed persons have such an interest and have a hold in banks like Pilatus? This is not hearsay: this is evidence. And we also know that the FIAU have sent reports to the Police Commissioner. Have you never asked why it is odd that these reports were not acted upon?

I would ask the Malta Financial Services Authority (MFSA) again, with regard to Pilatus Bank: we know beyond any reasonable doubt that this is a money laundering machine. Its chairman is now languishing in a US jail. Concretely, I have to say that it has been alleged by a number of persons that when on-site investigations took place the Pilatus Bank had been made aware of the fact that there would be an on-site investigation, when all the cameras of the world were on Ali Sadr, and I would like to remind everybody watching that our Prime Minister, Joseph Muscat and his wife, together with his Chief of Staff, went to Ali Sadr's wedding in Florence a couple of years ago. So the question that everybody is asking is: you say that you cannot act on allegations, on non-concrete information, on intelligence, on transactions that may be or may not be there, but when an FIAU report is sent to the police this is not a whisper. It is shouting through a loudspeaker. And we now know also from the Daphne Project and the allegations and evidence that was put forward in the public domain – on which, yes, we have a responsibility to act – by Daphne Caruana Galizia before she was assassinated, and have now been corroborated by news agencies across the world, that Ali Sadr is a person involved in money laundering, and yet you have done nothing yet.

The eyes of the world are on us and I would like us to show the world that we are serious and can actually regain the reputation that our government has thrown into the dustbin.

1-045-0000
Kenneth Farrugia, *Director, Malta Financial Intelligence Analysis Unit***.** – With regard to police action or inaction, I cannot comment on behalf of the Malta police as that is not my area. I can speak on behalf of the FIAU.

We have our annual report publicly available on our website. You can see the work being done at FIAU level, both in terms of compliance and financial analysis. We have statistics. We have statistics on cooperation with other FIUs, with spontaneous information being provided.

I think that as a unit I can confirm we are doing our best to do our work as provided for in our legislation. So I can speak on behalf of the FIAU but I cannot comment on behalf of the Malta police.

1-046-0000
Anton Bartolo, *Director, Enforcement Unit, Malta Financial Services Authority***.** – Ms Metsola, thank you for your intervention and your question. I think it is not correct to say that the MFSA has done nothing. We have already explained, and in some detail, what we are doing. We have already explained what measures we have taken concretely to make sure that the bank does not operate, at this point in time, and to protect any funds that may be dirty funds, so that they are not withdrawn.

We have also made it very clear that we cannot, as a regulator, take certain actions simply because of what is written in the papers, and I will refer to the FIU reports that Ms Metsola referred to. First of all, I must clarify that those FIU reports were not reports on the bank – and I can say this because they were leaked, and now they are published – they were reports on other persons that used an account in the bank. I must also say, concerning the amount of money those reports indicated as passing through the bank, that in one report it is indicated that two amounts of EUR 50 000 passed through the bank and in another report it is indicated that an amount of EUR 9 500 passed through the bank.

Yes, we have taken note. Yes, that information is of concern. Yes, it raises a red flag for us, but that information alone, individually, I can surely say there is no bank regulator in the world that would close a bank because they have information that two amounts of EUR 50 000 passed through the bank. So I think we need to see this in proportion and in perspective. Yes, there is information out there, we know about it. I said that we knew at a point in time after the licensing. We had a hint of intelligence that this person was being looked at because the information we got was that the US authorities had issued an alert about him. This is the amount of information we had. We have looked at the bank. We have gone to the bank a number of times, we have looked at the reports, we have asked the bank to report on a daily basis, with information on a daily basis. And now we have started and we are carrying out a forensic examination of its operations. So I must assure this committee, its members and Ms Metsola, that as the MFSA and as the FIAU, we have always done all that is within our power to try and get to the truth of what needs to be done.

We are not perfect. Certainly we are not perfect. With hindsight everybody can do better. I have no problem in saying that, but I can only speak, as Director Farrugia has said, on behalf of the MFSA, and to an extent on behalf of the FIAU as well. I cannot talk about what politicians have done or not done. I cannot talk about what the police have done or not done. We are here before you because we have accepted your invitation. We want to be open with you to the extent possible, but we can only express our views on what we have done, and on what we have not done.

1-047-0000
Mady Delvaux (S&D). – After the passionate intervention from our Maltese colleague, I want to express my sympathy to the Maltese population but, at the same time, express my consternation to Ms Scicluna and Mr Bartolo for not disclosing the name of the third party you asked to issue a report. I think by doing this you do not add to the credibility and reputation of the Maltese authorities. Maybe you could remedy this by giving a written answer ex post, at the same time as the result of the ongoing analyses.

My question on ABVL goes to Mr Putniņš. I would like to know if there has been cooperation with the Luxembourg authorities, and if so, what kind of cooperation? More generally, I am concerned that, again, as in many cases, the European citizens have the impression that Europe becomes active only after someone in the US takes a position. This is humiliating and I think we should focus on how to correct this. My question to the supervisors is this: is it because this cooperation is not good enough between NCAs and, if so, why is that so? Is it because of technical or legal reasons, or is it because of mistrust, or lack of trust, between NCAs? Coming back to Mr Zīle's question, do you think that a European FIU could be the answer and solution to this mismatch?

1-048-0000
Andre Nõmm, *Member, Management Board, Estonian Financial Supervision Authority***.** – I will be very brief here. AML is a global issue and I think we have to treat similar cases in the same way, given the global risk. We definitely support centralised supervision of AML.

Cooperation is vital because AML is a global issue, but you have to build it, and what we have done is to heavily invest in cooperation between different authorities since 2014 when things were different. In the banking sector, banks did not trust each other because of the AML risk, but then as a supervisor you have to cooperate. I believe that the centralised approach is the best way in AML cases also.

1-049-0000
Pēteris Putniņš, *Chairman, Latvian Financial and Capital Market Commission***.** – Chair, I would like to say a few words. Again, I think a unified approach and organised control over these AML issues is something we would strongly back from our side and from our country's, and we think that this is a very good idea and a good initiative. It should of course be discussed how technically and legally it is possible, but in principle I think that's the only solution if we want to have effective controls over the flow of illicit funds through the eurozone.

So, concerning the ABLV case again. The problem is that a document that puts a certain bank under the 3-11 paragraph is so powerful that you do not normally have room for remediation which in other situations would be possible. What kills the bank is not the administrative stance of the regulator or anything else, but the reaction of the markets. So that's the main problem, and in this case ABLV will be liquidated despite the fact that the bank was under remediation and under a remediation programme issued by the Financial and Capital Market Commission. That is simply a fact.

On cooperation with the Luxembourg, I think cooperation was good, especially because of the fact that myself and my colleague from Luxembourg share the same board within this assembly and also other colleagues of mine could always have the possibility to discuss issues. During those days when the issue was very problematic we also held several telephone conferences and so on, so there was no problem as far as the cooperation with Luxembourg was concerned.

1-050-0000
Marianne Scicluna, *Director General, Malta Financial Services Authority***.** – We appreciate the point made regarding the intelligence company which we use and will take up the suggestion made by the last speaker. We will provide a written response, and if the company gives us its consent we will have no problem in disclosing the name.

In terms of the last question, about cooperation, in our written statement we made one suggestion: we believe there is need for stronger cooperation between regulatory and law enforcement agencies across different jurisdictions. There is scope for more cooperation in this area that would give better visibility to regulatory authorities and afford regulatory authorities an opportunity to be more potentially proactive. And yes, we believe in the establishment of a centralised establishment at EU level in this respect.

1-051-0000
Chair. – I can see that everyone is in favour of a centralised system. For the catch-the-eye procedure three names have made it on to my list: Mr Krišjānis Kariņš, Ms Ana Gomes and Ms Eva Joly. I would like to ask each of them to raise a very brief question and then I will group their questions together and then we will hear the answers.

Catch-the-eye procedure

1-052-0000
Krišjānis Kariņš (PPE). – A comment and a question. It is a little bit like déjà vu – we had eight trilogues and the fifth AML directive with the Maltese Presidency. I remember Mr Bartolo very well from these. In eight trilogues we got absolutely nowhere. We only got somewhere with the next Presidency, with the Estonians. You decide yourselves how that could be.

My question actually turns back to the Latvian authority. Mr Putniņš, if I understand you correctly, you are saying that ABLV collapsed because of the reaction of the markets and that makes sense; a classic bank run, EUR 600 million in a very short time, I suppose few banks could handle that. But the reaction of the market was because of the FinCEN announcement. So are you saying actually that the FinCEN announcement was groundless, that everything was fine, anti-money laundering procedures were in place, your fine of 2016 took care of everything, or was FinCEN right?

Why the bank collapsed is secondary. The question is, was AML, anti-money laundering, being taken care of? Were you taking care of it, or was FinCEN right that actually it was not taken care of? Which is the case?

1-053-0000
Ana Gomes (S&D). – First, I would just like to say that I will be sending to the Maltese authorities, the MFSA and the FIU, questions on: clarify what you know, what you can tell us about Black 17 and Macbridge. These were the offshore structures that were supposed to be getting payments from Minister Mizzi and Mr Keith Schembri, and eventually other people. And Nexia BT, which is the company that opened these structures, which has lied apparently to the FIAU, what are you doing about that?

And also of course what we heard through the trial in the US, the connection with Portugal in the payments made by Venezuela to Mr Ali Sadr; apparently this was going through the Portuguese banks. I will be asking specific questions and I hope you will answer them in writing.

My question now is, after our reports sent to the ECB and sent to the European Banking Authority and the Commission, exactly what kind of interactions did you have with the ECB and the European Banking Authority on your competence and your capacities in anti-money laundering?

1-054-0000
Eva Joly (Verts/ALE). – I have a very short question for Mr Farrugia, as the Head of the FIU. I want to know, Mr Farrugia, what kind of action did you undertake when you saw the red flags of high-ranking politicians going to the marriage of the head of this bank? I think it was a very big red flag.

And when your transmission to the prosecution authorities or police had no follow-up, nothing happened, what did you do then with your reports?

1-055-0000
Pēteris Putniņš, *Chairman, Latvian Financial and Capital Market Commission***.** – My comment was merely to say that the bank was under remediation and for most of the facts mentioned in the FinCEN paper we would agree that those situations took place in the bank's life and therefore there was a need for remediation. Why the US Government decided to issue that document at that very moment or at that particular point in time we don't know. This is a question for the Treasury and for FinCEN representatives.

But the one thing I can tell you is that this document was never meant to kill the bank. If you read the FinCEN statement it is clear that FinCEN is trying to protect the US financial system and exclude the bank from the dollar area, so to say. But reading that FinCEN has evaluated situations to see whether the bank could have the opportunity to survive outside the US dollar area, that means that they evaluated the risks and that they did not want to kill the bank with this document – but the reaction of the markets did that.

So this was what I said. Whether FinCEN was right or not, again, we see that many facts, well, we had a similar attitude, I would say, and basically we do not have any argument with FinCEN about that, and therefore we tried to remediate the bank. That is it, and the bank was willing to comply.

And one last thing. We should understand that there are quite big differences between the legal systems in the United States and in Europe, and in Latvia in particular. FinCEN says that the bank was in breach of Korean sanctions regimes. We in Latvia, and I doubt that there are many countries in the eurozone where, under those circumstances, somebody would have said that this is true, because our legal system does not allow us to take it that under those concrete circumstances the bank was in breach.

The maximum we could say is that this was some kind of indirect involvement or something like that. So the system in the United States works, it might be said, a little bit differently than in Europe and in taking our decisions we should first of all go in line with our national law. That's it.

1-056-0000
Marianne Scicluna, *Director General, Malta Financial Services Authority***.** – I will answer the question regarding the ECB and the EBA. I must say that with the ECB we have had continuous contact over the last year regarding this case. We have had a number of exchanges, meetings, calls, discussions about this case. It is an ongoing relationship.

In terms of the EBA: as you are aware, the EBA opened up a preliminary inquiry. We have had discussions with them, we cooperated fully with the EBA. The process, as I understand, is still underway and I can assure you that we will take on any recommendations made by the EBA at the end of their inquiry.

1-057-0000
Kenneth Farrugia, *Director, Malta Financial Intelligence Analysis Unit***.** –With regard to the questions presented by Ms Gomes, feel free to send your requests, we will try to provide feedback. I don't want to be repetitive, however I need to highlight that even by accepting your invitation to come over here – I think we are the only FIU that accepted the invitation – we highlighted that in view of confidentiality obligations we cannot delve into specific cases. This is done in view of tipping off and in view of other confidential matters and not to distort any investigation that may be currently ongoing. But we will do our best to reply.

With regard to reports to the Malta police: we submit a number of reports on a yearly basis to the Malta police. Then the Malta police need to assess and then need to investigate further. They need to transmit intelligence into evidence, because intelligence cannot be presented in our courts. So they need to transmit intelligence into evidence and that takes quite a long time and this was one of the points mentioned in my initial statement. And then the police will take it from there. So that is my reply and I cannot comment any further with specific cases.

1-058-0000
Marianne Scicluna, *Director General, Malta Financial Services Authority***.** – There was one other question relating to the trilogues and we would like Mr Mangion to answer the question, please.

1-059-0000
Alexander Mangion, *Manager, Legal and International Relations, Malta Financial Intelligence Analysis Unit***.** – Thank you, Mr Chair, for giving me the floor. I want to react briefly to a comment made by Mr Kariņš in relation to the achievements of the Maltese Presidency and in relation to the money laundering file.

I think the Maltese Presidency was successful in putting forward proposals on going forward, for example, with the publication of beneficial owners of companies, and we were given advice also by the Council's Legal Services not to go forward with the same steps in regard to trusts. I would also like to remind the panel that the Maltese Presidency, at a technical level, I would say, finalised close to 60% of the text and we included provisions and enhancements for example on FIU-to-FIU cooperation, on enhanced measures with respect to high-risk jurisdictions, on provisions to achieve more in-depth cooperation between Supervisors.

So I would say it is an unfair comment to state that the Maltese Presidency with our limited resources achieved nothing on the 4th AMLD file.

1-060-5000
(End of catch-the-eye procedure)

1-060-0000
Chair. – I would like to thank all the speakers who came for being here, and as has been said, we may come up with additional issues in writing. I would just like to reiterate that the Latvian FIU accepted the invitation as well, but they are at a long planned meeting with Moneyval today, so they could not come for this reason. Thank you very much. We will have a five-minutes break and then we will start the second panel.

1-061-0000
(The hearing was suspended for a few moments)

1-062-0000
Chair. – We will now start the second panel of the Special Committee on Financial Crimes, Tax Evasion and Tax Avoidance (TAX3) on 'Lessons learnt for the European Union: how to strengthen checks and controls to reduce money laundering risks'.

Let me welcome and introduce the speakers on the second panel. Mr Piers Haben, Director of Banking Markets, Innovation and Consumers at the European Banking Authority; Mr Mauro Grande, Member of the Single Resolution Board; and Mr Roberto Ugena, Deputy Director General of Legal Services from the Supervisory Board at the European Central Bank.

The discussion will start after the introduction by the three speakers, who will each have seven minutes for their introduction. We will start with Mr Haben. Mr Haben, the floor is yours.

1-063-0000
Piers Haben, *Director of Banking Markets, Innovation and Consumers, European Banking Authority***.** – Thank you very much indeed for inviting me here to this important hearing on this

topic, which is taking up a lot of all our time at the moment, and rightly so. I think now is the right time to be talking about this.

I'd like to talk a little bit about what the EBA is doing now to address these issues and maybe end with some thoughts for the future. I think you're all familiar with the European Banking Authority and our role. We have many tasks, one of which is a legal duty to foster the consistent and effective application of the Anti-Money Laundering Directive. Let me talk a little bit about our powers, what we can do and what we cannot do.

I saw in the documents that were circulated a long list of powers that the ESA's have, and it's true we have a number of powers. Some of them have quite narrow usage such as our powers in emergency situations, but we do have the power to set the framework, building on the directives by issuing opinions, recommendations, guidelines and standards. And, of course, we can foster implementation with training, which is very important for us, peer reviews, staff assessments and facilitating best practices.

In terms of enforcing compliance with our standards and guidelines we do have a tool, a rather blunt tool, which is breach of Union law and which we are using and which I will tell you about in a second, but that is indeed a tool that looks at whether the law is actually being breached. When we see a breach of Union law we can make recommendations to address that breach. What that tool can't do is make up for weak or ineffective supervisory practices based on guidelines which are in turn based on minimum harmonisation directives. So we don't have a tool which simply addresses weaknesses in supervision and we are not a supervisor and we're not the supervisor of supervisors.

But we have done a lot. I think AMLD 4 and 5 are big steps forward. We work very closely with ESMA and EIOPA because obviously AML cuts across sectors as well as across geographies, and indeed AML goes beyond the financial sector. The work that we've done ESMA and EIOPA I think has been intensive in the last 18 months and I list it in my introductory statement. Let me draw your attention to a few things.

We've put out guidelines on risk factors. It might sound a bit dull, but I think it's incredibly important: 72 pages of details of the kind of things that financial institutions should look to when trying to make assessments of money laundering risk. It's also a tool for competent authorities to assess how well their own financial institutions are doing. I think it's a very rich source of information and should help all supervisors find common ground in terms of their assessments.

We've also produced risk-based supervision guidelines, a rather slimmer version at 17 pages, but which also tries to help competent authorities make informed assessments as to how they can assess the risks associated with financial institutions. Of course, a risk-based approach means that you prioritise on those big risks. A non risk-based approach means that you might cover everything, but cover everything not very well in a rather formulaic way. So we think that these risk factors and risk-based guidelines as they come into force during the course of this year will be very important in helping to foster a common understanding of the effective approach to anti-money laundering. It's a step in the right direction.

Another area of focus, which my colleague spoke about in this setting in 2016 was cooperation between supervisors, and again I think there are some important steps forward there. So AMLD5 I think brings legal certainty in this regard and we will be both producing an MOU to help our friends in the SSM, ensure that they have cooperation on information, and producing guidelines to improve information flows throughout the single market. These will be guidelines again based on a directive with comply or explain. I think it's a step in the right direction. That

doesn't mean that we can force everyone share information all the time and we should be cognisant of that.

So we're taking some important steps forward and now that we've done a lot of work on setting the framework, my colleagues and I will be looking to assist the relevant competent authorities with implementation. Again, I mentioned training earlier. We've done three training events covering 400 people – that's a big deal in our world – to help train on the new AML-CFT regime and we have more training planned.

We have used our rather blunt instrument of the breach of Union law – and thank you very much indeed to Members of the European Parliament for drawing our attention to certain issues. So we did indeed in the past look at Portugal and we've made a number of suggestions based on our findings, and we are currently conducting preliminary inquiries into two further possible breaches of Union law in Malta and in Latvia. As soon as we are able to say something to you, I can assure you that we will be writing to you to explain what we have found. My team were on site in Malta earlier this year, and we've had very intensive engagement there.

We are also working on a strategy that possibly goes beyond peer review and that allows us to do assessments of implementation in different countries. Again this is without a strong legal basis. This is much more in cooperation with competent authorities to look at what they are doing, give private feedback and work with them to improve their implementation of AML-CFT supervision. Of course when we're prioritising relevant countries for that we will take on board information from the Members of the European Parliament.

So with these steps forward, we're on the right track, but we are approaching the limits of the EBA's powers and resources. In your questions to us you asked how many people we have dedicated to AML, well that's grown from one to two. We are still very resource-constrained in the AML space, albeit working within a broader team and of course working with the competent authorities. But nonetheless we are approaching the limits of the EBA's powers and resources.

In my written statement I put out three areas that could be thought about within the current framework. I heard lots of talk this morning about a single AML supervisor, which does seem attractive and maybe just let me say a word on that at the end, but within the current setting I think there are things that can be done to make the AML-CFT regime more effective.

Firstly I've mentioned minimum harmonisation a number of times and that leaves national differences and I think we are aware that when there are national differences this limits convergence and it stands in the way I think of effective implementation across the piece of AML-CFT supervision, which is vital for the single market.

Secondly, the rules on authorisations and fitness and propriety rely heavily on national transpositions and interpretations. We give an example in the written comments that in some jurisdictions they are concerned that they cannot take action against an individual unless there is a clear and final evidence of criminal conviction, that person can then passport across the single market and I think there is more that we can do there. Finally, if you want an independent check in Europe of authorities' implementation, and we saw in the ESA's review a suggestion that we have these independent reviews of authorities, we can do that on AML if we are given the powers and the resources – and I repeat the resources.

To that end let me just finish with talking about a single supervisor for AML, which seems to make sense, it would be important of course that that is in the right legal setting. If you keep the current legal setting and just put in a single supervisor then you'll have many of the challenges. It is important that you also have the framework for effective cooperation. AML

covers more than the financial system, so there needs to be effective cooperation across the piece, and that supervisor would need resources.

1-064-0000
Mauro Grande, *Member, Single Resolution Board* **.** – Chair, first of all, many thanks for inviting the SRB to this important panel.

First of all, let me start by clarifying the perspective under which the SRB and the Resolution Authority looks at this money laundering issue. As you are well aware, the main mission of the Resolution Authority is to ensure an orderly resolution of a failing bank, trying to meet all the possible public objectives which had been set by EU legislation.

Against this background, detecting and tackling money-laundering issues is not really a primary task or responsibility of the Resolution Authority, but that's the key point. On our side, the Resolution Authority needs to be attentive and mindful of all implications that money-laundering issues might have on resolution activities and bank resolvabilities. So that is the main perspective under which we look at this issue, and it's fair to say that we learnt a lot from the ABLV case which you discussed in the previous panel.

Out of that, we have learned one major lesson, which is not really closely related to AML, which is the need for harmonising a national insolvency regime. That is a point more from a single market perspective, but it is a key point because what we realise is that there is no connection between the feeling that you are likely to fail and the actions which can be taken at the national level, in the sense that there is no automatic translation of the decision of feeling you are likely to fail into liquidation at national level. So I think this connection between feeling you are likely to fail and withdrawal of a banking licence is a key point.

Indeed, it is a bit awkward to think that there was a decision at EU level to liquidate this bank and the bank can still survive at the national level, so that is something I think the legislator at EU level has to look at; but again, this is not a point relating to money laundering, it is a more general point.

Coming to the money-laundering lesson, I think the main point which we learn from our experience is that when you have a situation where a bank is affected by reputational risks, which in this case, of course, was associated with money laundering, in this instance, clearly, liquidity problems due to market reaction, as you were discussing before, the point is that the situation of the bank deteriorates very quickly and the bank reaches the point of feeling that it is likely to fail very quickly and this compresses the time that the resolution authority has at its disposal in which to take an informed decision.

That is the key point for us: how to, let's say, cope in an effective way with a situation where, in a way, the bank very rapidly reaches the feeling that it is likely to fail. I recall that in the specific case of ABLV, there were only 10 days between the moment when we were made aware of the potential money-laundering risks and the declaration of feeling you are likely to fail; so 10 days to take a decision. This is really a point of effectiveness if you wish, of the resolution decision: how to make sure we can do that.

What are the ways forward in this respect? I would say two elements: one is about information sharing. Of course, what is essential for us as the Resolution Authority is to get information about money laundering allegations sooner rather than later, to allow us indeed to prepare in the best possible way. Of course, here the issue is complicated by the fact that the responsible authority for money laundering is at the national level. Our counterpart as a prudential supervisor is the ECB and so we are dependent on the information coming from the ECB. So everything which helps to make this flow of information smoother would help us.

In that sense, I think that what is now in this fifth review of the Anti-Money Laundering Directive, which reinforces in a way the basis for exchange of information among relevant authorities, is certainly a good development from a legislative point of view. Of course the challenge that remains once we have this in place is the enforcement and how this will be actually implemented and for us it would be important that is implemented in a way which is very effective. That is the first point.

As for the second point, I would say that while the first point relates more to the moment when the problem emerges, as you know, for us as a Resolution Authority, our main task is to prepare for resolution. So, in the context of resolution planning, I think it's also important that we strengthen the dialogue with the supervisor – in this case the ECB – on the business model aspect, because we know that there are certain business models which can be more prone to reputational risk or to money-laundering issues.

Although we don't really have any power ourselves as a Resolution Authority to affect the business model, we need to be aware of this. So in our dialogue with the supervisor we need maybe to intensify the focus on the implication of certain business models in terms of reputational risk because if we come to the conclusion that there is indeed a reputational risk, we can better prepare ex ante assuming that if this risk does indeed materialise, we know that we will be confronted with very compressed time and so we can ex ante prepare in a better way. So that is a main point.

Again, these are lessons which to my mind relate more to the operational side but there is also a somewhat legislative regulatory element. More broadly on the regulatory framework, although again we are not really the ones responsible for that, we would certainly support what Piers has said in terms of possible development of the regulatory framework in the direction of further harmonisation of current provisions in the field of money laundering, but also in terms of ensuring a very consistent enforcement of the EU provisions in this field. So the idea of moving towards a European authority in this field, from our point of view would certainly be supported.

I would say as a conclusion that if you are asking us what could be the contribution of resolution to countering the money-laundering issue, I think this is more in terms, as I tried to say, of being better prepared for a case where a money-laundering issue translates into reputational risk and leads to a situation where ending the resolution of the bank might get quite complicated. So for us it's more a question of being more aware and being helped in being effective when the moment comes, while when it comes to the issue of how to reduce the risk of materialisation of the reputational risk I think this is more of a field for regulation and supervision.

1-065-0000

Roberto Ugena, *Deputy Director General, Legal Services, European Central Bank***.** – Chair, honourable Members of Parliament, it is a pleasure to address you here today on behalf of the ECB. Before I go into the question of how to strengthen the EU anti-money laundering framework, allow me to lay out for you the role of the ECB in its supervisory capacity, so ECB banking supervision in relation to anti-money laundering efforts.

I do this also to clarify for which kind of questions I will be able to provide more meaningful answers during this hearing and how the ECB can contribute to the fight against money laundering. For those of you who followed the hearing of the Chair of the ECB Supervisory Board one month ago, some of these will certainly seem familiar to you.

First and foremost, it is important to note that when creating the Single Supervisory Mechanism, the legislator clearly chose not to confer the supervisory tasks in the area of combating money

laundering to the ECB. In this context, I think it is also worth noting that Article 127(6) of the Treaty on the Functioning of the European Union, which was the legal basis for the creation of the SSM, the Single Supervisory Mechanism, contains limits both as to the scope of the supervisory task that can be conferred on the ECB and on the type of entities that the ECB could actually supervise.

The implementation and enforcement of anti-money laundering, or AML, legislation is not a competence right now of the ECB. However, the ECB, in its supervisory capacity, cooperates with the national authorities which are competent for AML supervision, to the extent permitted by law.

This distribution of competences implies that for the ECB to be able to reflect the findings and concerns of AML authorities in the prudential supervision it carries out, the ECB needs to be informed by national AML authorities about such findings and concerns.

Let me explain a little bit further how this distribution works in practice. For instance, in the context of the ECB's annual Supervisory Review and Evaluation Process, the so-called SREP exercise that we conduct each and every year, and when assessing the need for supervisory measures under the so-called Pillar II framework, the ECB takes into account legal risks, which include the costs related to criminal prosecution, as well as reputational, operational, governance and other risks arising for banks from AML concerns where relevant information is, of course, available. Without information received from the national AML authorities, the capacity of the ECB to act is extremely limited.

In the case of withdrawals of banking licences, for which, as you know, the ECB is the competent authority within the SSM, serious breaches of national AML provisions can also justify the withdrawal of the authorisation by the ECB. However, the fact that the AML powers lie at national level means that one of the reasons for licence withdrawal remains essentially under the control of national authorities. In order to decide on a withdrawal authorisation due to AML-related breaches of national provisions, the ECB needs to be informed by the relevant national authority of all relevant facts and circumstances justifying the withdrawal.

Based on the outcome of assessments conducted by the AML authorities at national level, and within the boundaries of the applicable national law, the ECB also takes AML-related findings into account when, for instance, conducting the fit-and-proper assessments on banks' managers.

Let me stress that systematically identifying AML risks independently from the input of national AML authorities is not feasible for us, for the ECB. So against this background, and taking a forward-looking perspective, it is clear that much depends on proactive information-sharing by national AML authorities with the ECB.

The ongoing and almost completed legislative process for the AML5 directive will help a lot to enhance the exchange of confidential email-related information by providing a clear legal basis for this to happen. But of course a more European approach in combating money laundering could also be considered. The spectrum contributing to a more all-encompassing cooperation can go from having a formalised exchange forum between national competent authorities on money laundering, to which also the prudential supervisors which are not competent for anti-money laundering tasks, such as the ECB, can participate in as observers, or can even go up to a centralised authority, as some colleagues have already explained before me.

Let me just stress that for the ECB as prudential supervisor, in its capacity as prudential supervisor for the SSM area, for the eurozone, it is really important to have promptly information on AML findings and concerns due to the fact that we are not competent – we rely

on cooperation from AML authorities at national level – to be able to factor in these concerns in our supervisory daily work.

1-066-0000
Jeppe Kofod (S&D). – Thank you to our guests today. It is obvious from the written answers – thank you for these – that the diversity of cooperation between EU Member States and EU authorities is a big problem, it is a big challenge. You can even see that it is easier to work with the US on this issue than it is to work with some European Member States. That is a big deficit. My question is really how can we strengthen the EU coordination and harmonisation so that we can have efficient AMLD supervision? I listened very carefully to what the representative of the SSM was saying. I think it is a disgrace that we have a system in Europe where the central authority does not have the competence to go into anti-money laundering, knowing that the national authorities in several Member States have a huge problem in doing their job properly. So I would be curious to hear from Mr Haben. Can you give some examples of which Member States are the most problematic in this regard? Who find it difficult to be helpful?

1-067-0000
Chair. – I can see that Mr Haben is taking a list out of his briefcase.

(Laughter)

1-068-0000
Piers Haben, *Director of Banking Markets, Innovation and Consumers, European Banking Authority***.** – In the current framework, as I tried to set out, in terms of strengthening the cooperation and the information flows, I do think that AMLD5 will be a game changer. When I say a 'game changer', I do not think everything is going to be perfect, but it is a significant step forward. So the MOU to help our colleagues in the SSM, will be important. We have also, alongside the MOU, started work on own-initiative guidelines for information exchange between relevant authorities.

I think with those guidelines in play – and again if we had the power to go and really check those guidelines, which we have less of now – but with the best will in the world, then I think we can expect to see strengthened cooperation. We will be working hard on that this year, both in terms of getting the guidelines out and then trying to work with the competent authorities to understand any barriers to that implementation and how they can be fixed.

I note that in our written responses to the Panama Papers we said that we've done these rounds of asking people what they are doing, and the indication we got was that more than half of the supervisors were now taking extra steps to cooperate, both within the EU and also beyond.

As for a list of countries that aren't cooperating, this one of the challenges I have, for example, when I ask our board – and I can only ask our board – who are the prudential authorities, not the Financial Intelligence Units, for feedback. I think they give me that feedback on the basis that I can use it to then shape what we are saying general, but I don't think I can read out a list here of those that answered negatively.

1-069-0000
Jeppe Kofod (S&D). – Just briefly maybe, because mention was made of AMLD5 and legal certainty, and how some of the new things in there will actually improve cooperation when, as I see it, it is still a question of relying on the national authorities and EU Member States. I read your answers very carefully, and I do not trust that this is enough at all to deal effectively with the monitoring and supervision of this area, so I would also ask the SSM whether it would not be much better to have centralised AMLD supervision, and what role should the SSM play if that were set up?

1-070-0000
Roberto Ugena, *Deputy Director General, Legal Services, European Central Bank***.** – I would like to start by stressing one of the points made before by my peers, to the effect that we should perhaps not underestimate the added value of this review of the AML Directive. For us it has two major advantages compared to the previous situation.

The first one is offered clearly on a basis of the exchange of information. It may not be easy to believe, but before we didn't have this clear legal basis and in some cases we faced, I would say, some reluctance to exchange information because of the absence of a clear legal basis, so this is one very good thing in our view. The second one, also mentioned by Piers before, are the MOUs. With MOUs we would be in a better position than we are in now, because we would have the commitment from the AML authorities to promptly share information with us on matters that are of concern to us. Now we have to rely more or less on own-initiatives, while in the future we will have commitments written on MOUs to promptly share information with us. I would like to reinforce that these are major achievements in our view.

How to move forward? I think first of all I would recall what I said in the beginning. When it comes to the SSM, the SSM could play a bigger role in that regard. I would like to mention that we have some boundaries under the Treaty, because, as you know, Article 127(6) of the Treaty states that the supervisory task can be conferred for a limited scope, excluding part of the financial system, for instance insurance companies. This could be a difficulty to overcome if you think of a more centralised financial supervisor at European level in charge of anti-money laundering issues, because it could a question of not being tasked with the insurance sector, or a sub-sector in the financial system. This is one thing. The other, of course, is the debate on whether we can assume further tasks because the Treaty speaks only about specific tasks, but that is something different. So, first, we will have some boundaries under the Treaty to assume further tasks in that regard.

Apart from that, there is also the question of whether we would be able to do more in terms of capabilities as an institution. For this, you have already heard the Chair of the Supervisory Board. She was sceptical in that regard, thinking that perhaps we have already too much to take care of, but on this there is no formal position of the ECB, taken by its decision-making bodies yet, so I would prefer to be prudent and not express a final stance on that.

1-071-0000
Dariusz Rosati (PPE). – Firstly, let me also express my thanks to our three guests. Thank you for being with us this morning.

During the first session we had this morning, we discussed the three cases of three banks in three EU Member States where cases of breaches of EU law on anti-money laundering took place. In two of those three cases, the alarm was raised in the United States. Had it not been for the US Treasury, I'm not sure that the national responsible authorities would have flagged those cases and if they had, then probably with some delay.

So my question is probably to Mr Haben in the first place. What is the reason for this strange situation that the US Treasury serves as a financial intelligence unit for the European Union, or at least with some Member States. Why is this so? Is it because the US regulations are simply more effective or is it because the financial supervision or FIUs in those countries concerned are not effective enough or simply too lenient or not up to standard. This is question number one.

The second question also refers to the discussion this morning, when one of our Maltese guests actually claimed full innocence in the case of Pilatus Bank. He said that there was no responsibility on the national authorities and that this was because of a lack of cooperation at EU level, which is strange, because if we know that there is no EU system for monitoring anti-

money laundering activities, then it is up to the national authorities to take full responsibility, and they have all possible competencies. So my second question is: do you share this view, and do you share the view that there is a need for more cooperation and, in that case, if this cooperation existed, that cases such as the Pilatus Bank would not then have taken place? That would be both a question for you Mr Haben, and for Mr Ugena as well.

1-072-0000

Piers Haben, *Director of Banking Markets, Innovation and Consumers, European Banking Authority***.** – Thank you for these important questions. In terms of cases raised by the US authorities, I think there have also been questions asked in Europe, and I also think you're raising two questions within that question.

The first is whether better use could be made of intelligence and the second is whether things could be more joined up at a European level.

Now it's not within the EBA's remit to monitor and track individual institution's financial crime. We have neither the legal powers nor the resources to do that, so I am afraid I have to leave that as an open question, but also, as to whether there is more that can be done to make better use of information, intelligence and data and whether there is more that could be done at European level, well I have heard that view expressed.

In terms of Pilatus Bank, I think we've been clear that the responsibility rests at the national level. That's the nature of the AMLD; that's my understanding.

I do think that we have challenges with cooperation, which is why we are doing the work that we are doing now to improve cooperation. Also, I noted the previous question to the effect that this might be a game changer, but is it enough to make everything perfect? Well I think there will still be challenges. As long as we have minimum harmonisation, and territoriality at a national level, we will have some challenges with consistent application of AML law across the EU.

1-073-0000

Roberto Ugena, *Deputy Director General, Legal Services, European Central Bank***.** – I will be very brief, and just complement what was said. I do think that we are facing challenges in terms of cooperation. I come from a country where prior to the establishment of the SSM the competence for AML was not placed with the prudential supervisor, and this brought important challenges in terms of cooperation. I think that this is also the case now, precisely after the establishment of the SSM, because the SSM is the prudential supervisor for banks in the eurozone, but is not the AML authority and we do need information from the AML authorities to be able to do our work when it comes to coverage of the risks that banks are facing.

In the specific cases of the two countries that there were mentioned, and cooperation with us as prudential supervisor, I think that has worked properly within the system, I mean within the SSM. The fact of late discoveries at national level of AML issues about which the US authorities learned before us, well that is something different. There it is not a question of cooperation; I think it's a question of the way the tasks were discharged at national level. But regarding cooperation within the mechanism, within the SSM, I would say that in both cases cooperation worked properly.

1-074-0000

Ramón Jáuregui Atondo (S&D). – I have three questions for you. I understand that there is a dire need for the legislation to be changed in order to give supervisory authorities more powers and responsibilities to combat money laundering. That is very clear. My first question is this: given that the UK has been a major part of the problem with trying to establish banking supervision for the EU as a whole and not just the eurozone, do you think that Brexit could be an opportunity to extend the scope of supervision to the EU as a whole, so that it is consistent

with the scope of the internal market? What I mean is, can we use this opportunity to try to ensure that, by next year, banking supervision covers all 27 Member States?

Now to my second question. There is a link between tax havens and money laundering. With that in mind, what checks are the ECB, the Single Supervisory Mechanism and the European Banking Authority introducing for European banks with subsidiaries in jurisdictions which, for the EU, are on the black or grey lists? The EU already has a black list and a grey list of tax havens, or 'uncooperative jurisdictions'. Is there any specific supervision of the banks that operate in those places?

And my last question is this: with combating money laundering in mind, would it be a positive move to introduce, in the EU, a single threshold for the use of cash – in other words, a maximum limit for cash payments and transactions?

1-075-0000

Roberto Ugena, *Deputy Director General, Legal Services, European Central Bank***.** – I can start, and perhaps other colleagues from the EBA will complement me.

As to the first question on whether there is a possibility to widen the scope of the SSM to the whole European Union, I think this is more a political question, and depends on whether there is appetite at the political level. I think this requires, from the legal point of view, the amendment of the SSM Regulation, and as you know this is a regulation that is approved by a very special legislative process for which unanimity at the level of the Council is needed.

So I would say in answer to the first question that it is perhaps a matter of whether there might be an appetite at the political level for moving forward in that direction or not.

Regarding your second question, of subsidiaries in jurisdictions that perhaps are not – well – cooperative in terms of exchanging information for the purposes of combating money laundering, actually when we are the competent authority – meaning that we are the supervisor for the consolidated group, so we are in charge of the whole group supervision as well – we of course pay attention to these situations and follow them closely. The specific way we do it is, when we conduct our SREP, which I mentioned before is the supervisory annual review that we carry out for each and every bank for which we are responsible, we analyse a lot of elements. Among the elements we pay attention to are the business model. When we are aware of special characteristics of the business model – and I think Mauro also mentioned this in his introductory remarks –which could be, for instance, that of having subsidiaries in countries where there might be a greater likelihood of anti-money laundering issues, we pay closer attention. We follow a system of scores and score in terms of risk – the higher the risk, the higher the score. So the higher the risk we appreciate in this kind of business model, the higher the score the bank gets. This finally is translated into supervisory measures. These could either be capital add-ons, liquidity requirements, specific liquidity requirements or another type of qualitative measure. So this is actually the case.

As to the last question, perhaps the EBA is best placed to speak about whether limits on the operations that can be conducted in cash could be an effective measure. I think this has already been the case in some countries. Some countries have implemented it, so perhaps it could be good to look at the examples of those countries to see whether this has been effective in practice or not. I cannot be more specific on this.

1-076-0000

Piers Haben, *Director of Banking Markets, Innovation and Consumers, European Banking Authority***.** – Thank you for the questions. In terms of whether Brexit is an opportunity to resolve this, I certainly think that now is the time to resolve this, but I don't think that removing one country from the equation will leave us without the problem. I actually think now is the time to

address this for other reasons. We have seen that this is a widespread problem in the EU, so we shouldn't kid ourselves that it can be contained in one jurisdiction, but now is the time, yes.

In terms of branches within jurisdictions, I understood you to refer specifically to blacklist jurisdictions, so this is the FATF blacklist, which is held then by the EU. There are specific measures that must be in place, and if AML supervision is done effectively at a group level, then I think those specific measures that must be in place for specific branches should be effective. So it's more about effective implementation of AML. I am glad, though, that Roberto made reference to our technical standard, because that's something that we have finished and is now waiting to be published and that is the kind of measure you should take when there might be difficulties, for example in getting customer data. So these two things are linked, and I'm glad that this point was made because we are eagerly awaiting publication of that standard.

Finally, should there be a limit on notes and coins? Well, intuitively that sounds to me like something that you should do, and indeed large cash transactions are one of the risk factors that we ask banks to look at. I would caution, though, that there might be unintended consequences. For example, I hear aid agencies say that often they need to do large cash transactions to operate in particular jurisdictions. Would you really want to prevent those things happening ever? I don't know. It strikes me that more emphasis on cash transactions as a risk factor is probably the right way forward, but again it's not something that I have thought about too much.

1-077-0000

Mauro Grande, *Member, Single Resolution Board***.** – Just so I am not left completely out of the discussion...

(laughter)

... although I recognise, as I said, that most of the questions are on the regulatory and supervisory aspects. I just want to complement what Roberto said in relation to the second question, because indeed we also, as a resolution authority, look at banks as a group in their entirety. So if there are elements of the group which belong to countries which are on the blacklist this is something that we should be very mindful of in terms of how we can ensure the resolvability of this group as a whole, bearing in mind that there are these elements. So, depending on the strategy one has in mind, this is a very important question. Of course, if the strategy is NPE, then the resolution of the bit in the blacklist country would be the responsibility of the local authority, but if it is an SB strategy, then we are responsible for the resolvability of the group as a whole. This will be an important point to have on our radars.

1-078-0000

Roberts Zīle (ECR). – First of all, thank you all for participating. I fully understand that you have to speak from your positions in the legal framework as it exists, but we would be very glad to hear at least some of your wishes as to what could be changed if at all reasonable. That is one of the main aims for us.

I would like to thank Mr Grande, who mentioned the ABLV case, which shows that the insolvency national legal framework is already creating some uncertainties, and if we are looking forward, perhaps for those banks which are not supervised by Frankfurt, for smaller Member States, there are only three banks and those are fourth, fifth and sixth, and this can create even more difficulties because bankers who are working in this type of business are looking at mistakes and either the national supervisory body or a resolution mechanism could help them with license issues. So something should be done, in my opinion, on the legal framework in critical cases.

On anti-money laundering and also prudential supervision, if we look we have a nice table on ABLV and also Versobank, the CTT ratio is fine, the total capital ratio is fine, the leverage ratio

is fine for all those banks, the non-resident loan-to-deposit ratio is a bit worrying, so but in that case it's of no value to prudential supervision if you don't have reliable information about AML issues, because such banks can be killed in two days because the Patriot Act works like a nuclear weapon, as we have seen.

Something should be done, I think, and that's why you were asked whether you could name some Member States which have problems, in your opinion, in the EBA, with their non-resident banking sectors. I think something could be done, because if you see the relatively small Member States with a very well-developed share of the non-resident banking sector, with a situation where there are so few criminal cases, coming from FIAUs and control services which are supervising AML functions in Member States, and cannot make the right decisions, there's something wrong also in all the system. Do you see any kind of suggestions for us in this field?

1-079-0000

Piers Haben, *Director of Banking Markets, Innovation and Consumers, European Banking Authority***.** – I won't share a list of countries with you, but what I would say is – and I'm fine to try and respond in writing, by the way, later on, when I have talked to my lawyers! – that sometimes when we're talking about the information-sharing challenge we're not talking about people that just can't be bothered or don't want to, it can be because there are national laws which prohibit sharing of information. So it comes back to this point, and the concluding points that I made, that in a world where you have a minimum harmonisation directive and there are national laws that prohibit information sharing, then with the best will in the world when we produce, later this year – I hope – our guidelines on information sharing, if there is a national law that prohibits that then it's not going to help the people in the FIU share the information with the prudential supervisors. So whilst I'm sure there are things that we can do better today, and we're going to try and do that with the guidelines, so let's see how work with those guidelines and see how that comes out, I think there will still be barriers as long as we have the legal framework that we have. So that's the reality we have to face now, I think.

1-080-0000

Mauro Grande, *Member, Single Resolution Board* **.** – Just to echo the point from Mr Zīle about the need for pursuing convergence at a legislative level about the insolvency regime, it's fair to say that this is relevant not only for the Banking Union authorities but also for the universe of smaller banks which, as we know, for the time being remain under the responsibility of the national authority. So this point is well taken, because the issue of the connection between failure or 'likely to fail' and the consequent action in terms of liquidation clearly also applies to this other universe. It's even more important because we might think that a large part of the banks in the universe of smaller banks are more eligible for liquidation rather than resolution, so this point is certainly very important.

A broader question is whether we should be looking forward, moving towards a set-up where the responsibility for all banks might move to the centre. But that's a broader and more fundamental question. I think it's too early to say because they're still learning from experience. I think this is true certainly for us, but must be true also for the ECB, as to whether the system based on a split of responsibility really works or not in practice.

1-081-0000

Roberto Ugena, *Deputy Director General, Legal Services, European Central Bank***.** – I would just like to make reminder of one of the points made before by the EBA which I think it is good to also mention here in the context of a wish list, if I may. It was mentioned before that perhaps further harmonisation, when it comes to fit and proper assessment, would be welcome, and I cannot agree more. We face a lot of problems in that regard. Perhaps this is less directly linked to AML issues, but it is also connected to AML issues because AML concerns can also be grounds to consider someone not fit and proper to chair the management of a bank. In this area as well we have to live with minimal rules at European level that have been transposed in a very different way at national level. In some countries only final criminal judgements or convictions

can be used by the supervisor to consider someone not fit and proper. In other countries just ongoing investigations can be also considered. So these kind of differences entail also big challenges for us in our work. I would like to make reminder of this point because this is actually something that will be very helpful.

1-082-0000
Nils Torvalds (ALDE). – After listening to the usual suspects in the first panel I was actually very interested in the 72 pages and 17 pages Mr Haben mentioned because I got a very strong feeling that the bells are not ringing in the right way.

If we could sort of pinpoint where your instructions should have them ringing then we could probably also go further, because all the rest of the problems are in a way political. It's not your problem, it's our problem to solve them. So we would probably need a wish list of barriers, hindrances, where you are cut out of going further – and that actually goes for all the three participants in this panel – because we have to solve the political problems and that is the way forward.

1-083-0000
Piers Haben, *Director of Banking Markets, Innovation and Consumers, European Banking Authority***.** – Thank you for your support, then, for the guidelines that we have out there. They are worth flicking through, I must say, and they are quite approachable. If I understand your question correctly, it is: okay, we've got these guidelines but if no one is picking them up, using them, then what's the point?

In my concluding remarks I made a number of points about minimum harmonisation, which I still stick to. But if there was one thing right now, without changing those laws, you could do, then I think some of the independent reviews that we could do – and I wish to emphasise that this then is not a breach of Union law, these would be independent reviews – where we go on and cooperate with competent authorities but identify areas where we think, for example, on the guidelines on risk factors, they need to change their approach to properly use the guidelines on risk factors, then I think that is something that would add value and get the bells ringing a bit in the right direction.

Again, to be clear, this doesn't mean that everything will become perfect, but if you are asking: okay you've got the guidelines and we're not sure how people are using them; what could we do? Then if we had a few more people to go on site and work with colleagues in competent authorities, I think we could make some difference.

1-084-0000
Eva Joly (Verts/ALE). – I have a question for Mr Haben. After the Panama scandal I think you asked the national authorities what they had done, what they wanted to do, in order to prevent more Panama scandals from appearing, and you told us that three countries said that they did nothing. It is important for our committee to learn which were these three countries, and what were their reasons.

We heard the Maltese authorities saying that they wanted guidelines and I understand that you have made some. Do your guidelines also assess who is fit and proper to be the head of the bank? Do you think that Mr Ali Sadr would have fulfilled the requirements for being the head of the bank? Do you think that you can run a bank with 130 clients when nearly half of them are PEPs? How would you qualify the inaction of the national supervisory authorities in these circumstances when we even know that the Prime Minister went to the wedding of this man?

This Parliament has often asked for a centralised unit for financial intelligence, and I wonder whether you share this wish? Do you think that it would be a good thing to have a European FIU, or do you think that cooperation is a better way? If we had a European FIU, how do you think it should look?

1-085-0000

Piers Haben, *Director of Banking Markets, Innovation and Consumers, European Banking Authority***.** – I am happy to respond to this point about the three countries in question, but I need to take some advice. What I would say is that this was a survey amongst authorities. If they were already perfect then they could legitimately respond that they haven't changed. Just to note, to give you a flavour, but I will respond to that in writing. I am not sure we will be able to name names, but just to try and give you a flavour of what's going on.

You asked about our guidelines and fit and proper. The guidelines that I have been referencing are the risk factor guidelines and the risk-based approach. One of the points that I think we would make is that when you look at global standards on money laundering you have a very close link between fit-and-proper assessments and money laundering. We have a link, but perhaps a weaker link, in Europe and if there were some way of strengthening that link I think that might be helpful.

Again, I referred to fit and proper in my introductory statements. And again, if you have to wait until there is a final criminal conviction against someone, if that is a national law, it really constrains the ability. Again, I am not responsible for implementing national law but I note that when you have that framework, then that is the challenge.

The answer to this is, of course, two-fold. One is that maybe people should read the fit-and-proper guidelines differently, but that is what people do at national level. The other, that maybe we should have a European legal solution. I think you are raising the right question there and I think those are the two types of solutions. I hope that addresses the fit-and-proper question.

Should there be a central unit for financial intelligence? What would it look like? We are not the Financial Intelligence Unit in the EBA. I tend to believe that information-sharing, gathering information and then analysing it tends to work very well at a European level because we do analyse data at a European level for other stuff, completely other stuff; I have been in charge of stress testing and things with Mauro in the past. So my natural inclination would be to say, yes, that a centralised unit for financial intelligence would be good, but it's really not my place to say exactly what that should look like.

1-086-0000

Martin Schirdewan (GUE/NGL). – Chair, I should very much like to thank the guests for the very interesting and important contributions. The way the discussion has gone so far clearly shows how important this hearing is, or, rather, how important it is that the hearing is taking place here, since, as the first panel has shown, there are enormous problems with money laundering in the European Union – not only on a practical level, but also, as this second panel has very clearly shown too, at regulatory level. Rather than always pointing a finger at others – Malta has already been mentioned a number of times as being one of the usual suspects – I am very keen to turn the spotlight onto Germany again. There are still major shortcomings in my home country's money laundering prevention system. Since last summer, 78% of suspected money-laundering cases have gone uninvestigated because national authorities are simply not properly resourced in this respect. That leads me to the following questions that I should like to put to you.

The first is for Mr Haben. Last week, in Strasbourg, Parliament passed the fifth Anti-Money-Laundering Directive. My group very much welcomes the fact that Parliament did so. But I believe that we have not yet gone nearly far enough. What, in your opinion, are the biggest shortcomings of the Anti-Money-Laundering Directive, and, in your view, are the penalties tough enough?

The second question also concerns the relationship between the EBA and national regulatory authorities – I have mentioned Germany as a case in point. The fact is that, at present, not all

national authorities display particular keenness in carrying out their tasks. What scope do you see for ensuring that they are?

I should like to put the third question to the representative of the ECB. You have explained the legal constraints on your ability to combat money laundering effectively. In your view, how could the ECB's scope for action in the fight against money laundering be broadened accordingly?

1-087-0000

Piers Haben, *Director of Banking Markets, Innovation and Consumers, European Banking Authority***.** – Thank you for the questions, that makes a lot of sense. On AMLD5 and sanctions and whether the penalties are tough enough, I wonder whether it is less a question as to whether the toughest penalty that is allowable within AMLD5 is tough enough, as opposed to how they are enacted at national level, so I would be more concerned about a consistent and robust application at national level than I would be about trying to find some additional sanctions. That would be my personal view.

I'm sorry, I'm not sure I caught the question on the relationship between the EBA and national regulatory authorities.

1-088-0000

Martin Schirdewan (GUE/NGL). – I asked how you can ensure that national regulatory authorities carry out their tasks more effectively.

1-089-0000

Piers Haben, *Director of Banking Markets, Innovation and Consumers, European Banking Authority***.** – Put simply, in the current framework there are limitations as to how much we can do to ensure they do their job better. We are not a direct supervisor, nor do we tell them how to do their job in detail. If they are not following the law, we can do a breach of Union law investigation.

I hear talk about peer reviews, and peer reviews work nicely as a sort of sharing of good practice. You can imagine that when you have a large group of people sharing their practices and explaining peer reviews, it tends to flesh out what is good, and people then tend to aspire to that, and it can flesh out big abnormalities. However, it does not give detailed feedback to the competent authorities, which is why my point about independent assessments being a useful way of working – and this is, I really insist, a collaborative approach, working collaboratively with the competent authorities, independently from other factors – as they really can give useful and reasonably tough feedback which would lead to improvement. I see this as the only way in the current setting that you would get this, but even that requires some legal change, and indeed some resources if you want to see it done well.

1-090-0000

Roberto Ugena, *Deputy Director General, Legal Services, European Central Bank* **.** – Thank you very much for the question. As I said in my introductory remarks the ECB is not the competent authority for AML issues. So for us, we see our role when it comes to AML as follows.

What we do is to reflect the findings in the AML field that have been discovered by the competent authority in our supervisory assessment, because for us AML concerns and findings could entail for the bank either legal risks, reputational risks, and we have seen the importance of these kind of risks in the case of ABLV Bank, operational risks, for instance because of fines imposed by AML authorities for AML breaches, governance risk because, for instance, of the lack of proper arrangements to avoid that bank being used for money-laundering purposes. So this is the perspective we always take when it comes to money laundering, not being the authority in charge of this task.

The main restriction we have is that sometimes we do not have the information to reflect this situation in our assessment. Sometimes we can come across some deficiencies in that regard. For instance when we conduct on-site inspections on governance arrangements of the bank, we can discover things that are not properly functioning regarding AML controls in the bank, but we cannot conduct, as said, on-site inspections for AML controls because we are not the authority there. For those we do need the information coming from the AML authority.

So my reply would be that the main restriction we have is that sometimes we don't count on reliable information and timely information from the AML authorities.

1-091-0000
Tom Vandenkendelaere (PPE). – I shall put my question to Mr Ugena in Dutch. I appreciate your willingness to listen to the interpreted version.

I should like briefly to return to the issue of warning signals. Where can we introduce more, and better, warning signals? The recommendations of our Committee of Inquiry into the Panama Papers devoted a certain amount of attention to the licensing of banks, and that is the subject of my question, namely the possible withdrawal of banking licences. To us it was important to institute strict and effective penalties for banks that actively encourage aggressive tax planning and tax avoidance and that have been implicated in money laundering. Banking licences ought in fact to be withdrawn if it is demonstrated that banks have failed to comply with anti-money laundering requirements. Indeed, Mr Ugena, you have said that the ECB is not responsible for combating money laundering, but perhaps those banking licences do provide a way of doing so.

Since the time of the Committee of Inquiry into the Panama Papers, we have seen that one small Estonian bank, the Versobank, has had its licence withdrawn. All morning we have been hearing that, although in some cases only small banks and a single Member State are involved, there is always an impact on more than one Member State. One thing that I have also gathered this morning is that we shall need to adopt a good many more measures before we can achieve a uniform European system for dealing with this problem. So that suggests that it may be necessary to seek an interim solution.

I wondered, for example, whether in the short term the ECB could investigate these issues more effectively under the terms of its existing powers, for example in connection with the stress tests, and whether it could draw attention to them with a warning signal situation. So by means of the stress test, which focuses on the bank and on resilience, those financial abuses could be tackled, and then of course that assessment could be made as part of the stress tests, with a view to issuing a warning about the matter. That is my first question.

The second question I wanted to put to you was this: the ECB has the power to withdraw licences, or initiate their withdrawal, if it considers that necessary. My question is this: we have heard a number of examples concerning banks here. Why did the ECB at that point then fail to initiate that procedure?

1-092-0000
Roberto Ugena, *Deputy Director General, Legal Services, European Central Bank***.** – Firstly, when it comes to withdrawal of the banking licence I would like to clarify that with the current legal framework there are indeed grounds to withdraw the banking licence because of severe breaches of anti-money laundering provisions; so it is not that this is not foreseen, it is foreseen.

How this works in practice is as follows. We are in the SSM. The ECB is the competent authority to withdraw the bank – the only one to withdraw a banking licence in the SSM – but if the only grounds for withdrawing the licence are related to anti-money laundering, as we are

not competent for anti-money laundering, we need the information again coming from the AML authorities to establish the case for withdrawal of the licence decision.

We have done this in the past, we have some examples, so it is not that we do not do it. The thing is that for this, again we really need to rely on the information received by the competent authorities, and of course the breaches must be really severe. It is not that minimum breaches could bring along the withdrawal of a licence because this is an *ultima ratio* measure, so because of the proportionality principle we also have to apply it with some prudence.

How do we incorporate these AML risks in our task? I already explained a little bit how we do this for the SREP, for our annual review. You mentioned the possibility of thinking also about how to include it in our stress test. This is something that perhaps we should look further into.

Of course it is not that we have not done this before but perhaps in the broader context of the SREP rather than in the specificity of the stress test, but, for instance, just to mention that in the context of the SREP we analyse the business model, and if we discover that the business model is risky because of, for instance, the proportion of non-residential business, sometimes what we do is we impose additional liquidity requirements to ensure that the bank is more resilient in case something goes wrong in that field.

So we are already doing things but of course after the ABLV case and other cases that have been mentioned this morning, we are also reflecting upon our methodology to strengthen it, to better cater for this type of risk that perhaps needs further attention.

For withdrawal, as I said before, we can withdraw the licence but withdrawal is only based on anti-money laundering breaches. We need the cooperation and the information coming from the AML authorities. Specifically with regard to the cases that have been discussed this morning: the ECB has been involved, but in those cases where the licence has not been withdrawn yet, we are engaging with the national authorities to establish whether there are grounds for withdrawal or not. So it is still in process, I would say, in those specific cases and I cannot enter into the details.

1-093-0000

Neena Gill (S&D). – I am picking up on the issue we are discussing on anti-money laundering. What is quite clear to me is that there is need for more coordination, but I think there must be some other indirect approaches that we could have that would enable the ECB to tackle this. If you look at the UK, Transparency International has said that there is GBP 4.4 billion-worth of UK properties bought with kind of 'suspicious' wealth, and yet most of these are purchased by Russian individuals and this despite the fact that we have EU sanctions against Russian companies, so you can still have these transactions taking place.

There is an idea that one way that we could tackle this is through the City, because Russians can still borrow capital across the EU and the US and then they can in turn give that money and fund the banks that are actually being sanctioned. So surely there is a way that you can ban the sale of Russian bonds, and this could be an effective tool for tackling money laundering. So I put this question to the ECB as to whether you think this is a possible way forward.

I also wanted to raise some of the concerns that you raised in your written answers. You said that the ECB has no direct power over financial crime, but you did say that you can conduct your own assessments into such facts for 'fit and proper' purposes. I would like to understand how often you do these assessments of financial crime. Are you able to tell us which banks were involved? At what point do you decide whether a bank is fit or not proper anymore. What do they have to do?

You also have the tools to revoke the licenses of credit institutions. Again, I would like to understand how often you have this. Have you used this in terms of tackling money laundering? I understand the problem that you are reliant on getting the information from national authorities and, finally, as a supervisor of systemically important banks in the EU, you are obliged to look at the operational risks. Well, the case we discussed today I think demonstrates that the IT systems of banks are unable to keep up today. In the UK there have been various scandals involving the TSB and others. How do you address this? Will you sanction banks even if their IT systems fail?

1-094-0000

Roberto Ugena, *Deputy Director General, Legal Services, European Central Bank***.** – There are a lot of questions on the table. I don't think I can take a position on the first question. Of course there are merits in exploring further, but I cannot say right now whether these measures could have positive effects as there could also be the normal side-effects of something like this. So we should look at it carefully.

Regarding the questions more related to our daily practice, so to speak, you ask the question how often we conduct fit and proper assessments. The first thing to clarify is that the ECB is competent for fit and proper evaluation for significant banks only, and not for the less significant banks. We're talking about fit and proper evaluation of managers of banks, not qualifying holders. In that field what we do is, when the bank has the intention to appoint a new member, to conduct the evaluation. First and foremost, the obligation to conduct this fit and proper evaluation lies with the bank itself, which is the first one obliged to have fit and proper managers, but of course, as the prudential supervisor, we have to check and double check and even challenge the assessment conducted by the bank. So what we do is when the appointment is first decided we conduct a first evaluation, and after that appointment, whenever we are aware of new events that could hamper the fit and properness of the relevant manager, we conduct another assessment. So we don't do it with a specific frequency, what we do is when they are appointed we conduct a first assessment and whenever any of the circumstances that we consider in the first assessment change, then we conduct another assessment. So this is the usual way we conduct this task.

You asked also how many cases of withdrawal of license we have had regarding or based on anti-money laundering breaches. I think that they are not so many, but I have at least two clear cases in mind and there could be another one, though I'm not completely sure so I would prefer not to mention it. So at least two cases in recent years.

On operational risk and what we do with IT systems that are not working, we do of course look and see their operational risk in the process of our assessment and when we think that the bank's risk profile is damaged or is increased because of IT deficiencies, what we actually do is we take two types of measure.

The first thing is that we require qualitative measures, in the sense that we ask the bank to submit a plan to overcome these deficiencies and to bring the system back to something that we consider up to the minimal levels and, secondly, if we consider that the risks that the bank is exposed to because of these deficiencies are too high, we can also impose capital add-ons to tackle this risk, meaning that on top of the minimum capital requirements the bank is expected to meet they have to add something else in order to be more resilient in case something goes wrong with the IT system in these specific circumstances.

1-095-0000

Chair. – Ana Gomes wanted to take the floor during catch the eye, but I am afraid that we ran out of time, so please ask bilaterally and it can be dealt with in writing by our guest.

Before I thank our guests, I will try to draw very brief conclusions from this meeting. I think it is clear, as has been revealed, and I would say confirmed, that with some Member States' monitoring and law enforcement authorities, cooperation is difficult and insufficient. It is clear that this must be changed. There are calls for a centralised system at the level of the EU. Some would be in favour of an FIU at EU level, some would not. There is also the idea of creating an EU single supervisory authority for anti-money laundering.

The other issue is that the cases of the banks we discussed today revealed that the financial indicators used by supervisory authorities to assess banks' viability do not necessary allow identification of the risks of anti-money laundering, perhaps with the exception of the share of non-resident deposits, which was the case in the Latvian bank, so perhaps having a look at these indicators from the point of view of the AMLD would be useful.

All in all, I detect a demand for a centralised EU approach. Some think it is the right time, some think it is too late, but hopefully there will be some action at EU level and I hope that our final report from this committee will contribute to it as well.
Thank you very much to the distinguished speakers. Your presence and your answers are highly appreciated. I also thank everybody else. I declare this meeting closed.

(The meeting closed at 12.35)