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Helsinki Commission

"Combating Kleptocracy with Incorporation Transparency"

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Acknowledgement and Introduction

1. Chairman Wicker, Co-Chairman Smith, Ranking Members Cardin and Hastings, Commissioners, it is my privilege to have this opportunity to present to you today. I'm here to exchange views and to provide an overview of the European Union's response to money laundering – in particular, in terms of transparency of beneficial ownership information.
2. We live in a world where terrorist groups and organised crime organisations expand the scope and complexity of their illicit activities. Their corruption exploits the freedoms and benefits offered by globalisation and the huge number of financial transactions processed every day by a diverse number of financial actors.
3. Across the globe, open and serviced shell companies, trusts, private foundations, and other entities serve as vehicles through which money flows. These complex structures are composed of

companies with unknown owners and beneficiaries, serviced by multiple bank accounts housed in numerous banks situated in banks in jurisdictions with strong bank secrecy legislation that are unlikely to cooperate with foreign authorities.

4. The European Union is at the forefront of global efforts to make corporate transparency effective to combat global financial crime, including corruption. We are seeing success.
5. Europe's response is centred around three key elements:
 - I. the current EU rules in force;
 - II. proposals to reinforce these rules; and
 - III. international cooperation.

Current EU Rules in Force – the 4th Anti-money Laundering Directive

6. The EU has accomplished much in terms of the traceability of financial transactions through a series of money laundering Directives.
7. The landmark "Fourth Anti-Money Laundering Directive" entered into force in June this year, some 20 years after the first such directive.

8. Banks should, of course, possess information about a customer – Mr. or Mrs. Smith – before they open a bank account. However, this situation is much more difficult when the bank does not deal with the customer directly, rather with Company A or Trust B.
9. In these cases, if the bank is not able to identify who is behind a company or trust, the ability to collect relevant information such as the source of funds or the reason why the account is opened, is severely compromised. The bank needs to be sure that the company or the trust is not a shell for disguising illicit activities.
10. This is why the Fourth Directive foresees identifying the beneficial owners of a company or a trust mandatory at the start of every new business relationship.
11. But that is not all. The directive requires this information to be recorded centrally on a register or data retrieval system in the EU Member States.
12. The purpose is fundamental: to allow swift and efficient access to important information by banks – that also allows them to fulfil their legal obligations – but also access by all national competent

authorities that play a role in preventing money laundering and terrorist financing. This includes Financial Intelligence Units (equivalent to the US FinCEN), for instance. The EU Member States are currently setting up their registers.

Proposals to Reinforce these Rules

13. The EU has faced heinous terrorist attacks in recent years. While less dramatic, but equally telling, there was a strong public reaction to the "Panama papers" scandal.
14. In these circumstances, the European Commission took further steps in July 2016 with new proposal to present targeted measures to strengthen the Fourth directive. The European Commission proposed:
 - I. the interconnection of the central registers of beneficial ownership information: Given the increasing number of cross-border financial transactions, authorities would be able to consult registers and access information across the Member States much more easily; and
 - II. public access to beneficial ownership information for 'for-profit' companies and trusts: Corporate structures would be incentivised to prove that they run a clean business. We are not

talking about unfettered access to information, rather granted in full respect of the right to privacy. Sensitive information such as family trust structures would be excluded from public access.

The international context

15. The promotion of reforms – good governance, democracy, the rule of law and human rights, and public administration reform – is integral to the European Union's approach to both the Western Balkans and the Eastern Partnership countries. Countering corruption and organised crime are significant elements in our approach. Considerable direct assistance is provided at the national and the regional level.
16. We have seen major reforms in Georgia and Ukraine on the back of EU support. And in the Western Balkans – as potential members of the European Union – our policy is one of fundamentals first.
17. But the European Union is not alone. We share responsibility with the United States, complementing each other as key players in this joint fight. We recognise the commitment of the United States underpinned by its strong enforcement capabilities.

18. Furthermore, the European Commission, some EU Member States and the United States are vocal members of the Financial Action Task Force (FATF).

Conclusion

19. Honourable members, to conclude, I would like to reiterate that the success of a policy to fight against money laundering and terrorist financing is based on complementary policies, both preventative and enforcement.
20. Strong beneficial ownership requirements are not the panacea, but a key element if we want to address both money laundering and terrorist financing risks.
21. The United States and the European Union must continue to support the successes we have achieved together on the international stage, driving up standards. We must continue to speak with the same voice to convince our partners that there is still room of improvement.