



## Statement Regarding Recent Media Coverage

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Recent media reports have portrayed an inaccurate view of the services that we provide and, despite our efforts to correct the record, misrepresented the nature of our work and its role in global financial markets.

These reports rely on supposition and stereotypes, and play on the public's lack of familiarity with the work of firms like ours. The unfortunate irony is that the materials on which these reports are based actually show the high standards we operate under, specifically that:

- we conduct due diligence on clients at the outset of a potential engagement and on an ongoing basis;
- we routinely deny services to individuals who are compromised or who fail to provide information we need in order to comply with "know your client" obligations or when we identify other red flags through our due diligence;
- we routinely resign from client engagements when ongoing due diligence and/or updates to sanctions lists reveals that a party to a company for which we provide services been either convicted or listed by a sanctioning body;
- we routinely comply with requests from authorities investigating companies or individuals for whom we are providing services; and
- we work with established intermediaries, such as investment banks, accountancies and law firms, as part of the regulated global financial system.

We would like to take this opportunity to address some specific misconceptions about our work and clarify the inaccuracies that are rife in the recent media reports.

### **We provide company incorporation and related administrative services that are widely available and commonly used worldwide.**

Incorporating companies is the normal activity of lawyers and agents around the world. Services such as company formations, registered agent, and others are frequently used and provided in many worldwide jurisdictions, including the United States and the United Kingdom.

Moreover, it is legal and common for companies to establish commercial entities in different jurisdictions for a variety of legitimate reasons, including conducting cross-border mergers and acquisitions, estate planning, personal safety, and restructurings and pooling of investment capital from investors residing in different jurisdictions who want a neutral legal and tax regime that does not benefit or disadvantage any one investor.

### **Our registered agent and corporate secretarial services are limited to a narrow set of administrative services.**

These services are related to facilitating document filings before the authorities and registry of a company's jurisdiction, and helping a company register for taxes and file for licenses, manage patents and trademarks, file tax returns and other documentation.

The resident agent is not involved in managing the business in any way. We do not open or manage accounts, take custody of money or assets (aside from fees paid to us for our services), monitor transactions, perform audits, advise on transactions or have discretionary authority to make decisions on behalf of the companies for which we serve as registered agents or for which we perform corporate secretarial services.



**Our services are regulated on multiple levels, often by overlapping agencies, and we have a strong compliance record.**

Our business is regulated by several different oversight and enforcement agencies, including the Banking Superintendence of Panama and the Intendancy of Non-financial Regulated Services Providers. We are also subject to regulatory oversight and enforcement in all of the other jurisdictions where we incorporate companies. In addition, we have always complied with international protocols such as the Financial Action Task Force (FATF) and, more recently, the U.S. Foreign Account Tax Compliance Act (FATCA) to assure as is reasonably possible, that the companies we incorporate are not being used for tax evasion, money-laundering, terrorist finance or other illicit purposes.

The FATF, in particular, praised Panama in its February 2016 plenary session, saying specifically that Panama has made “significant progress in improving its AML/CFT (anti-money laundering and combating the financing of terrorism) regime.” The FATF, subsequent to the plenary session, removed Panama from its “gray list” of uncooperative jurisdictions.

**We are responsible members of the global financial and business community.**

We conduct thorough due diligence on all new and prospective clients that often exceeds in stringency the existing rules and standards to which we and others are bound. Many of our clients come through established and reputable law firms and financial institutions across the world, including the major correspondent banks, which are also bound by international “know your client” (KYC) protocols and their own domestic regulations and laws.

If a new client/entity is not willing and/or able to provide to us the appropriate documentation indicating who they are, and (when applicable) from where their funds are derived, we will not work with that client/entity. Indeed, the documents cited in the media reports show that we routinely deny services to individuals who are compromised or who fail to provide information we need in order to comply with our KYC and other obligations.

Our due diligence procedures require us to update the information that we have on clients and to periodically verify that no negative results exist in regards to the companies we incorporate and the individuals behind them. Again, the documents cited in the media reports show that we routinely resign from client engagements when ongoing due diligence and updates to sanctions lists reveal that a beneficial owner of a company for which we provide services is compromised.

**For 40 years Mossack Fonseca has operated beyond reproach in our home country and other jurisdictions where we have operations.**

Our firm has never been accused or charged in connection with criminal wrongdoing.

However, we are legally and practically limited in our ability to regulate the use of companies we incorporate or to which we provide other services. We are not involved in managing our clients’ companies. Excluding the professional fees we earn, we do not take possession or custody of clients’ money, or have anything to do with any of the direct financial aspects related to operating their businesses.

**We operate in jurisdictions with increasingly stringent financial and legal controls.**

All of the jurisdictions where we have operations have made significant strides in their efforts to comply with global protocols to prevent abuse of their financial and corporate systems. This includes preventing money laundering, combatting terrorist financing and preventing tax evasion.

Most of the jurisdictions have formal tax information exchange agreements with several countries that are approved by the Organization for Economic Cooperation and Development (OECD). Panama has nine



formal OECD-approved tax information exchange agreements, including with the United States and Canada, and 16 double taxation agreements (which include provisions for information sharing between authorities). The OECD has recognized Panama for improving the government's access to information about beneficial ownership of entities incorporated in its jurisdiction as well as for improving the sharing of such information with authorities in other jurisdictions.

To quote from the OECD's most recent peer review of Panama: "The 2014 Supplementary Agreement noted the significant progress made by Panama in expanding its exchange of information network since the 2010 Phase 1 Report, which bought the number of signed EOI (exchange of information agreements) agreements from one to 25."

In addition, Panama, the British Virgin Islands (BVI), and the United States have agreed to terms for financial institutions in their jurisdictions to comply with the U.S. Treasury's Foreign Account Tax Compliance Act (FATCA). This act ensures that American citizens with accounts in these territories declare and pay any taxes on income or investments earned in them that are due to the U.S. Internal Revenue Service. To date, over 1,000 financial institutions in Panama, including local banks, foreign bank branches and investment funds, have complied with FATCA.

**We regret any misuse of our services and actively take steps to prevent it.**

We regret any misuse of companies that we incorporate or the services we provide and take steps wherever possible to uncover and stop such use. If we detect suspicious activity or misconduct, we are quick to report it to the authorities. Similarly, when authorities approach us with evidence of possible misconduct, we always cooperate fully with them.

With regards to specific allegations in the media reports, we would like to comment as follows:

(a) **Tax Evasion and Avoidance:** Our company does not advise clients on the structuring of corporate vehicles and the use they may make of them. We likewise do not offer solutions whose purpose is to hide unlawful acts such as tax evasion. Our clients request our services after being duly advised by qualified professionals in their places of business. Moreover, it should be made clear that tax avoidance and evasion are not the same thing. For example, a client can use the structures provided by us for tax optimization of his/her estate, such as taking advantage of provisions in treaties for avoiding international double taxation. Such behavior is perfectly legal.

(b) **Due Diligence on Clients:** To begin with, approximately 90% of our clientele is comprised of professional clients, such as international financial institutions as well as trust companies and prominent law and accounting firms, who act as intermediaries and are regulated in the jurisdiction of their business. These clients are obliged to perform due diligence on their clients in accordance with the KYC and AML regulations to which they are subject.

(c) **Politically Exposed Persons (PEPs):** We have duly established policies and procedures to identify and handle cases where individuals either qualify as PEPs or are related to them. As per our Risk Based Approach, PEPs are considered to be high risk individuals. Hence, enhanced due diligence procedures apply in these cases. Also, periodic follow-up is conducted to assure that no negative results are found. Lastly, according to international KYC policies, PEPs do not have to be rejected just for being so; it is just a matter of proper risk analysis and administration to perform enhanced due diligence on them.

(d) **Sanctions Lists and Convicted Criminals:** The Service Provision Agreements signed with our clients impose on them the obligation to notify us as soon as they have knowledge of a client of theirs having been either convicted or listed by a sanctioning body. Likewise, we have our own procedures in place to identify such individuals, to the extent it is reasonably possible. Indeed, the documents cited in the media reports show specific instances demonstrating that once these types of situations are identified, we routinely discontinue the provision of our services. We have an obligation to follow an orderly administrative process when resigning from client engagements, which can vary depending on the regulations of the



respective jurisdiction. Also, authorities sometime require the registered agent not to file any resignation in order to prevent obstructing their investigation.

(e) **Provision of Company Secretarial Services:** Company Secretarial Services are legal services that allow a professional company provider to act on behalf of a company that is owned by third parties. Company Secretarial Services are not used to hide the identity of the real owners of the company as for instance, a director is not in its nature the owner of the company. These services often include directorships and facilitate document filings before the authorities and registry of a company's jurisdiction. For example, a secretary might help a company register for taxes and file for licenses, manage patents and trademarks, tax returns and other documentation to be handled and filed. Company Secretarial Services are provided by many firms to professional clients and investors all over the world. The same director or company secretary can act on behalf of many different companies in different jurisdictions. That is widely accepted and perfectly legal, especially in cases where the purpose of a company is to be a holding company or own immovable or movable property. The fact that many companies have the same directors and/or address does not mean that such companies are connected in any way, as is commonly assumed. Usually a director or company/corporate secretary has no economic interest or commercial link to the company's activity and he/she does not endorse, participate or assist in the commercial or passive roles of a company in any way. Following pre-established guidelines, the secretary appoints agents and attorneys that carry out the administration of the company.

(f) **Shareholders and Beneficial Owners:** Closely related to the point above, as part of the services our trust company provides, we often constitute trusts for shares. As a result, allegations that we provide shareholders with structures supposedly designed to hide the identity of the real owners, are completely unsupported and false. These types of services are always supported by the existence of legally recognized vehicles utilized for such purposes by all service providers in this industry. Even though we do provide shareholdership services through the legal structures already explained, we do not provide beneficiary services to deceive banks. Banks currently carry out their due diligence procedures just as we do. It is difficult, not to say impossible, not to provide banks with the identity of final beneficiaries and the origin of funds.

(h) **Backdated Documents:** The issuance of documents with a retroactive date is a well-founded and accepted practice when the decisions made with regard to the particular document are recorded in resolutions approved before or when the transaction in particular has taken place and the formalization is still pending. Such practice is common in our industry and its aim is not to cover up or hide unlawful acts.