

hidden distribution of profits from Company A to its sole shareholder. He then makes an allowance to Company B.⁵⁵ This example shows that one single transaction can be in scope of both direct and indirect tax like the Swiss Withholding tax, stamp duty and income tax. While there is a *de minimis* threshold set in Art. 305^{bis} Criminal Code, there is no such threshold in Art. 14 para 4 VStrR, leading to the filing of a suspicious activity report (SAR) based on Art. 14 para 4 VStrR, and thus annihilating the threshold of CHF 300'000 according to Art. 305^{bis} Criminal Code. Point 2 of the interpretive note to FATF recommendation 3 seems to be implemented.

The conditions of the definition according to Art. 3 point (4) (f) of the 4th AMLD are irrelevant for Switzerland, since it is not a member to the EEA. As a result for Switzerland, points 2 and 5 of the interpretive note to FATF recommendation 3 seem to me implemented.

It will be interesting to see how the effectiveness of the Swiss implementation of FATF recommendation 3 will be assessed during the next FATF mutual evaluation. The next mutual evaluation will not take place soon due to the fact that the onsite visit of the 4th round of mutual evaluations has just taken place in February and March 2016.

⁵⁵ Example taken from Francesco Naef / Michele Clerici, Steuerstraftaten als Vortaten der Geldwäscherei: Der Weg in *la Terreur*, in: Jusletter of April 7, 2014.