

Most importantly, the person concerned and other persons as specified in Article 48 of the Federal Act on Administrative Procedure (Federal Administrative Procedure Act, APA) are entitled to appeal¹⁰⁶ and the appeal has suspensive effect.¹⁰⁷

On the other hand, under the terms of the simplified procedure according to Art. 16 TAAA, the persons entitled to appeal consenting to transmission of the information to the requesting authority shall notify the FTA of this in writing. This consent is irrevocable.¹⁰⁸

The FTA then concludes the procedure by transmitting the information to the requesting authority, making reference to the consent of the persons entitled to appeal.¹⁰⁹ This means that there is no right to appeal any more. And if the consent covers only some of the information, the ordinary procedure is conducted for the remaining part.¹¹⁰

This is how far the effects of tax crimes as predicate offences to ML have reached the contractual relationship between client and service provider. What was once a contractual relationship of mutual good faith has turned into a preliminary investigation, turning financial institutions and DNFBPs into a somewhat strange mixture of confessional, foster home and limbo.

Finally, some reporting obligations are furthering this negative evolution affecting the client relationships. Taking the example of Switzerland, where ML can be committed by act of omission, e.g. when a financial institution refrains from inquiring into a case and consequently doesn't file an SAR.¹¹¹ This increases the inclination of every reporting entity to conduct in-depth clarifications on their clients, in order to counter any accusation, thus reducing the level of good faith and increasing the level of mutual suspicion.¹¹²

¹⁰⁶ Art. 19 para 2 TAAA.

¹⁰⁷ Art. 19 para 3 TAAA.

¹⁰⁸ Art. 16 para 1 TAAA.

¹⁰⁹ Art. 16 para 2 TAAA.

¹¹⁰ Art. 16 para 3 TAAA.

¹¹¹ See the Decision by the Federal Supreme Court (Bundesgerichtsentscheid, BGE) 136 IV 188, available in French from

http://relevancy.bger.ch/php/clir/http/index.php?lang=de&zoom=&type=show_document&highlight_docid=atf%3A%2F%2F136-IV-188%3Ade, accessed on April 10, 2016.

¹¹² This finding is shared by Francesco Naef / Michele Clerici, *Steuerstraftaten als Vortaten der Geldwäscherei: Der Weg in la Terreur*, in: Jusletter of April 7, 2014.