

SATC navigates trust promotion

It is a year since the Swiss Association of Trust Companies (SATC) was founded. Xavier Isaac of the SATC and Investec Trust explains how the association promotes the trust industry in Switzerland and raises its quality and level of professionalism



Author: Xavier Isaac is vice-chairman of the SATC and managing director of Investec Trust (Switzerland)

On 5 July 2007, a group of like-minded trust practitioners gathered in the village of Zug to give birth to the Swiss Association of Trust Companies (SATC). This initiative was aimed at putting in place an association that could set an agenda for ethical and professional standards, sensible industry regulation and, last but not least, the furtherance of trustee activities in Switzerland.

Over the years, trusts have increasingly been part of the Swiss wealth management industry, as demonstrated by the constant growth of STEP Switzerland memberships and the number of established trust and fiduciary services companies. Last summer, the ratification of the Hague Convention on the Law applicable to Trusts, their recognition as well as the release by the Swiss Tax Conference of the Circular on the Taxation of Trusts, recently endorsed by the Swiss Federal Tax Authorities, were logical and welcome developments

in this growing industry. This new legal and tax framework significantly improves the attractiveness of Switzerland as a trust administration centre.

The regulation of trust companies is a quality hallmark in the international trust services business. Given the extraordinary powers and duties of trustees under trust law, it is easy to justify a licensing system directed at ensuring that trust services are provided by “fit and proper” professionals.

As Professor David Hayton has remarked: “The archetypal fiduciary is a trustee of whom the highest standards of probity are expected: you ought to be able to trust your trustees.”

The traditional offshore trust centres, such as the Channel Islands, Isle of Man, British Virgin Islands, the Bahamas, Bermuda, Cayman Islands and Gibraltar, have gone down the road of regulating trust companies, as have successful emerging centres such as Singapore, Mauritius and Cyprus. The



authorities in these jurisdictions have shown that a regulated environment reinforces client confidence in the integrity of a financial centre and improves the jurisdiction's reputation.

Although Swiss-based trust companies are subject to the Swiss anti-money laundering legislation as financial intermediaries, there is no specific trust regulation in place as yet. The state supervision of banks, insurance companies and other financial intermediaries, however, is to be merged in the Federal Financial Market Supervisory Authority (FINMA). Consequently, the Swiss Federal Banking Commission (SFBC), the Federal Office of Private Insurance (FOPI) and the Money Laundering Control Authority (MLCA) will be integrated into one single authority.

FINMA will be endowed with supervisory functions extending across these areas of specialisation and will endeavour to strengthen the reputation of Switzerland as a financial centre and the stability of the Swiss financial system. In this context, and bearing in mind the position taken by the Federal Council on the future regulation of trustees when they proposed the ratification of the Hague Trusts Convention, which was that a trustee should be treated in the same way as an independent asset manager for regulatory purposes, it is not so much a

question of if but when and how the Swiss authorities will deal with the regulation of trust activities.

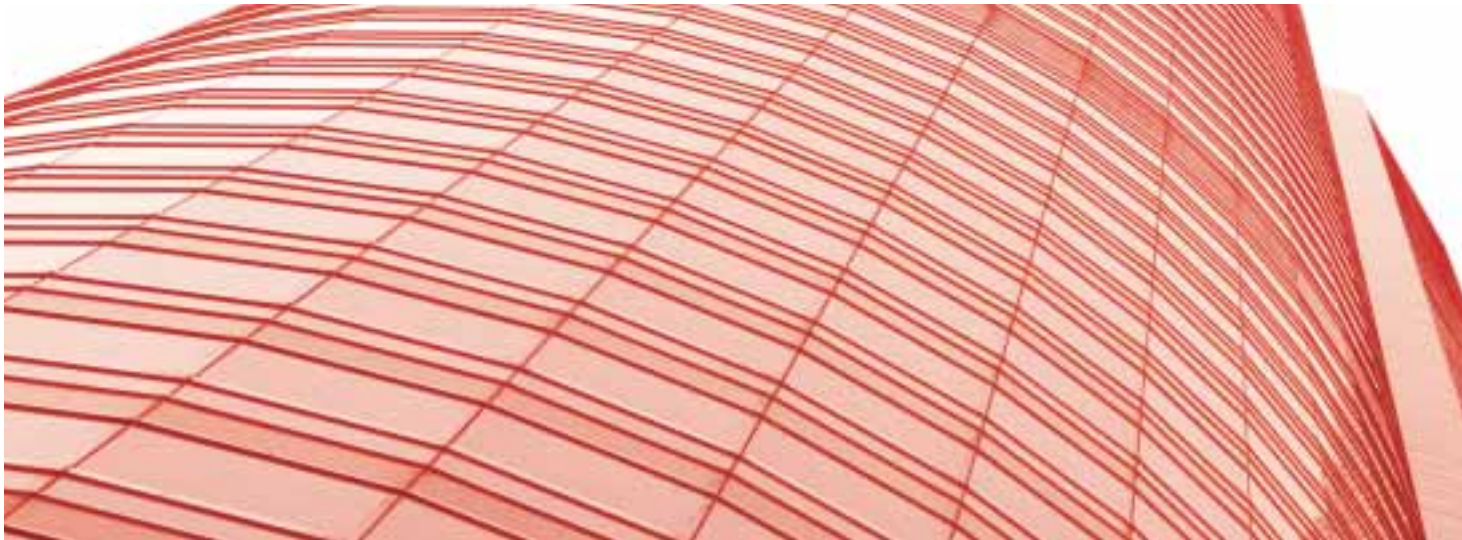
In such a fast-changing environment, the establishment of the SATC was considered by certain professionals to be the best way to organise and prepare themselves for further growth and inevitable regulatory developments. Twelve founding members, representing the diversity of the Swiss trust industry with a mix of large and small, bank-owned as well as independent trust companies from the French, German and Italian-speaking parts of the country, embarked on this project.

The founding members were Barclays, Bonhôte, Cantrade, Close, Experta, Investec, Kendris, Paicolex, Quiltrust, Rothschilds, Settlements SA and Valueworks. Since its founding, the association has welcomed five new members: ATC, HSBC Guyerzeller, Maitland, Schroder and Stonehage.

The main objectives of the association are:

- to be the leading organisation to engage in the furtherance and development of trustee activities in Switzerland;
- to ensure a high level of quality, professionalism and integrity in the trust business in Switzerland;
- to bring together entities with operative offices in Switzerland that are active in the trust industry for ►►

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the exchange of know-how, information and ideas on trust related matters;

- to strengthen the standing of the trust industry in Switzerland, to enhance the reputation of trustee activities and to increase the acceptance of the services of those engaged in the trust business; to advance technical knowledge and support high-level education in respect of managerial, legal, administrative and other relevant trust related subjects; and
- to be recognised and supported by the Swiss government and other influential bodies in Switzerland and internationally, to undertake and support studies and research and to make suggestions and representations of a technical, practical, but non-political nature to governments and other bodies, thereby improving the legal basis of trust activities in Switzerland.

This last point is important in light of the Guidelines for Financial Market Regulation produced by the Federal Finance Department and the Federal Banking Commission. Precept number 8 of these Guidelines states that the regulatory authorities will involve those parties affected in an appropriate manner in the planning and formulation of a regulation.

SATC's executive committee is

comprised of people who were instrumental in getting the association off the ground: Kecia Barkawi of Valueworks in Zurich is its first chairman, Xavier Isaac of Investec Trust in Geneva is vice-chairman and Adrian Escher of Kendris Private in Zurich is treasurer. Mark Barmes of Settlements and Daniel Martineau of Close Summit Trust Company, both in Geneva, complete the five-strong committee.

The executive committee is assisted by an advisory board comprising individuals who are private independent advisers to the trust industry or other influential professionals resident in Switzerland, that do not have a controlling interest or executive function in a member company of SATC or a company which may be eligible to become a member of SATC.

The advisory board currently has three members: Stephanie Jarrett of the law firm Baker & McKenzie in Geneva, Professor Luc Thevenoz of the University of Geneva's law faculty (who devised the concept of the Association) and David Zollinger of Bank Wegelin, a private bank in Zurich. During its first few months of activity, the executive committee has concentrated on assembling an impressive array of initial documentation including the association's by-laws, regulations, code of ethics and business conduct that



members undertake to observe.

Based on existing standards for trust companies in licensed jurisdictions, the documentation introduces substantial requirements for prospective members as well as disciplinary rules and audit procedures, positioning the Association as a credible partner in any future regulatory initiative in Switzerland.

Prospective members of the SATC need to have a minimum trust activity threshold (greater than 50 percent trust activity or a minimum of at least 20 trusts) and must be a registered entity with operational offices in Switzerland and at least three Swiss-based employees.

They must also have minimum educational and professional experience thresholds for senior managers (STEP or other professional qualifications) acting within Switzerland and adequate professional indemnity insurance cover.

A further requirement is that applicants must be members of a Swiss self-regulatory organisation or fall under the direct supervision of the Swiss Anti-Money Laundering Control Authority. They must also have adequate internal processes and controls such as the “four-eyes principle”.

The SATC aims to increase its membership to 25 by the end of 2008. It maintains close contacts with STEP and has also started developing relations

with other corporation-based organisations in the financial services industry such as the Swiss Bankers Association and the self-regulating organisation VQF in Zug to pursue common objectives and design programmes for technical working groups.

The credibility and reputation of Switzerland as a centre of excellence for trust administration depends first and foremost on the quality of its professionals. In this respect, the SATC objectives of ensuring a high level of quality and integrity and the adherence to certain professional and ethical standards in an as yet unregulated trust industry are timely and to be welcomed. 