

Swiss Association of Trust Companies

Kecia Barkawi-Hauser, President of the Swiss Association of Trust Companies, SATC, and CEO of VALUEworks AG, Zurich

Knowing that the ratification of the Hague Convention on the law applicable to trusts and on their recognition was soon to be signed by the Swiss government, a group of like-minded trust practitioners joined forces, together with the internationally recognised Society of Trust and Estate Practitioners, STEP, to create a professional association for trust companies. The Swiss Association of Trust Companies, SATC, was established in July 2007 to ensure a high level of quality and integrity and the adherence to professional and ethical standards in the trust business in Switzerland. Since then, SATC's membership has more than doubled and today, SATC has 22 full members with approximately a further 10 firms preparing their applications or awaiting approval for membership. SATC requires companies to have a certain size of operation and is hence suitable for medium to larger size trust companies. In Switzerland, however, the majority are rather small trust companies with only one or two staff members which do not – under current rules – qualify for SATC membership.

In addition to ensuring a high level of quality, SATC promotes the furtherance and development of trustee activities in Switzerland and brings together entities that are active in the industry for the exchange of know-how, information and ideas on trust related matters. SATC strives to advance technical knowledge and supports high level education in respect of managerial, legal, administrative and other relevant trust related subjects. SATC organises about 5 events per year for example the presentation of studies or of timely issues such as asset monitoring or insurances for trust companies. SATC closely monitors developments in the financial industry and tries to help members and others in the trust industry prepare for the new, increasingly competitive and complex environment in which they work. Smaller trust companies are increasingly striving towards higher organisational and professional standards and we hope to receive more applications for membership in the near future.

SATC is led by a Committee of six experienced professionals employed by SATC members. It is guided by an Advisory Board which is

composed of influential professional advisors who are independent of SATC members and who give advice on qualification requirements, professional and ethical standards or bring forward motions and concepts for the future development of SATC and the trust industry in Switzerland. To support the executive Committee, technical committees deal with subjects such as regulation, compliance, ethics, taxation and promotion, consisting of highly specialised members of staff of SATC members.

SATC aims to become the quality benchmark for trustee activities within the Swiss financial market and it is more and more recognised as a credible body within the trust industry. SATC members report that their membership is leading to an increase in business opportunities as law firms, banks or tax advisers confronted with the need to select a trustee for a client are increasingly turning to SATC members they know meet certain organisational and quality criteria.

SATC intends to pave the way for a respectable and practical regulation of trustee services in Switzerland in the future. Hence, SATC sees itself as a bridge-builder between the trust industry, the Swiss government, the finance industry and other influential bodies. We intend to make suggestions and representations of a technical, practical but non-political nature in the future. SATC is in contact with the government, the Swiss Banker's Association and the leading SROs. The regulation & compliance technical committee worked closely with VQF in Zug assisting them on a new set of trust related rules. SATC intends to increase these contacts. Possible ideas for future cooperation include to support focussed studies and possibly to offer – together with STEP – customised training modules for judges, notaries, governmental staff, employees of SROs or insurance companies.

Since the Hague Convention was ratified and a circular on the taxation of trusts introduced, Switzerland offers an attractive framework for the administration of trusts despite not having its own substantive trust law. Trusts are at all times governed by the laws of another jurisdiction and Swiss trustees managing such trusts are bound to respect Swiss law and the laws of such other jurisdiction. Nevertheless, SATC would

like to see some form of regulation of trustee activities in Switzerland. Whereas, a number of jurisdictions have increased their level of regulation substantially, making it cumbersome to manage trusts, Switzerland's present system offers considerable flexibility. But, because there is no formal licensing process for trustees in Switzerland, some foreign trust companies avoid their local licensing and chose to set up trust companies here, and some of these trust companies are, unfortunately, not providing high quality service. Apart from self-regulation, there are basically two possibilities for governmental regulation SATC considers viable. One would be the possible licensing of trust companies, as practised in many countries with good trust regulation, the other would be some form of certification. Both are useful tools to control the trust industry but it does not seem to be top of the list in Berne as priorities lie on banking. In the meantime, SATC will continue to work on increasing professional standards, closely monitoring worldwide regulatory developments. SATC is currently working on a new Code of Ethics and Business Conduct which will include what could form the basis for future regulation in Switzerland. The SATC logo is today already seen as a label for professional quality and could pave the way for a certification process.

The outlook for Switzerland's trust industry is good. Despite the economic downturn and the worldwide challenges on banking in general, Switzerland remains the place of choice for the wealth management industry. Service levels are high and staff is well educated, multi-lingual and used to dealing with people from all around the world. Hence, Swiss trustees are equipped for legitimate cross-border wealth structuring. The future of bank-owned trust companies is likely to depend on the overall development of the private banking business model and internal bank policies. Independent trust companies are more optimistic as they may be better positioned to shape their future independently. Many trust funds do not consist of bankable assets and are not likely to be affected by the development of the financial markets.

But still, it is crucial to increase the standing of the trust industry and with it, the general understanding of what a trust can legitimately be used for. Trusts, for many centuries, have

played (and will continue to do so) an important role in international family succession planning. Trusts can furthermore be used to hold real estate, private companies or patents. They are private arrangements which can lay out, in detail, how a family's wealth is to be used by its members, in particular where they are not ready or able to manage them themselves. Also, families' trusts are often used for legitimate tax planning. Trusts are furthermore internationally recognised tools for pension planning and for corporate employee share ownership plans. Famous museums and renown collections are organised as trusts and so are many international charities. Trusts may be private, but they are not secret. They are subject to strict anti-money laundering rules and Swiss trustees – which must be full members of a recognised SRO, or under the supervision of FINMA - are required to verify the identity of the settlor, beneficiaries and protectors of a trust. Further, the origin and source of funds and the rationale behind a trust structure must be understood, accepted and documented. Under certain circumstances, such information must be given to governmental authorities upon request, in an international context under the terms of tax information exchange agreements.

SATC is optimistic and believes that the Swiss trust industry will continue to grow and Switzerland could become one of the leading providers of high quality, international trust services.

For further information on SATC please visit www.satc.ch.



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