



Media Release

Introduction of a duty of licensing for Trustees in Switzerland:

Swiss Association of Trust Companies passes a position paper containing proposals on regulation

Zug, June 19, 2012 - At the occasion of their general meeting end of May 2012, the Members of the Swiss Association of Trust Companies (SATC) passed an extensive position paper on regulating trust services.

Ever since the Hague agreement was ratified, trusts have been a reality in Switzerland. Despite this fact there has been a lack of rules regulating supervision and organization of trustees. This has proved to be a disadvantage in the international competitiveness and harbours risks for the Swiss financial market place, which led to the formation of the SATC in 2007. The aim of the association is to safeguard high quality service as well as organisational and ethic standards that apply to their members only. Since it was founded, SATC has been in regular contact with the authorities as well as with self-regulatory organisations and industry associations, such as the Society of Trust and Estate Practitioners (STEP).

Protection of the interests of trust beneficiaries

SATC's position paper contains concrete proposals for rules concerning the licensing and organisation of trustees that are to be applied parallel to the existing rules concerning the prevention of money laundering. The aim of the additional regulation is to protect the legitimate interests of trust beneficiaries in a similar way to the rules protecting investors in the banking and asset management sector. As the legitimate owner a trustee can dispose directly of the assets of a trust. "SATC considers that the introduction of protective mechanisms is of the utmost importance for the Swiss financial market place", explains Alexandre von Heeren, President of SATC.

A working team consisting of members of SATC analysed the most important rules concerning trustees applied abroad and then derived corresponding rules to be applied in Switzerland. The most challenging aspect was to separate the business of trusteeship from the administration of companies as commonly offered by Swiss fiduciary offices. In its present form, the position paper solely applies to Swiss companies in their function as trustees, i.e. common fiduciaries and natural persons are not included as trustees. Further, it was necessary to separate the proposed rules concerning trustees from the existing rules for the fight against money laundering.

Core elements of the regulation

SATC's position paper lists three main areas that the legislator ought to consider in future rules and regulations concerning trustees:

1. Duty of licensing for trustees: this contains the introduction of rules for an adequate minimal capital, appropriate insurance coverage and suitable organizational structures, including the availability of technical know-how.
 2. Duty of documentation: guaranteeing that a trustee's decisions can be reconstructed
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and understood and that one can check whether organizational standards have been maintained.

3. Control: SATC suggest delegating the monitoring function to an existing auditor to avoid any conflict with, for example the law on the fight against money laundering, and to make sure that trustees are not unduly burdened with additional tasks.

Any violation of SATC rules is to be sanctioned.

SATC's general assembly mandated a working team under the leadership of Mark Barmes, Lenz & Staehelin in Geneva, to work out concrete proposals concerning the implementation. Until the necessary rules have been introduced by the legislative body, the standards are to be implemented by means of self-regulation. Members of SATC willingly subject themselves to rules that are stricter than the current ones set up by the law. SATC intends to maintain close contact with all parties concerned and wishes to contribute to a secure financial market place.

Changes in the Executive Board

At the AGM Alexandre von Heeren of Mandaris AG in Basle replaced the outgoing (and founding) Chairman Kecia Barkawi-Hauser of VALUEworks AG in Zürich. The new Treasurer will be Rodney Hodges of Rawlinson & Hunter Trustees SA, Geneva, who replaces Adrian Escher of Kendris AG, Zürich. Patrick Renaud of Kendris SA in Geneva and Robert Darlington of Barclaytrust (Suisse) SA in Geneva have newly been elected to the SATC Board.

Additional information on SATC as well as the position paper governing the rules of trust services is available under www.satc.ch.

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