



FLASHES on point of view

RUBIK Guidelines 2 / Trusts - striking success thanks to SATC

After an intervention of the Swiss Association of Trust Companies (SATC), the professional association of the Swiss trust industry, the Swiss federal authorities contacted the UK authorities to discuss the issue of the applicability of the new tax co-operation Agreement to discretionary and irrevocable trusts. The authorities of both countries agreed that the Agreement does not apply to trusts where no natural person can be ascertained as the beneficial owner (i.e. true irrevocable discretionary trusts). These trusts do not fall under the Agreement and Swiss trustees/trust companies are not deemed to be paying agents upon distributions being made out of such irrevocable discretionary trusts. The Guidelines of the Swiss federal authorities will be amended to reflect this.

This is a striking success for the Swiss trust industry. Without this amendment, a number of trustees/trust companies, particularly those with a significant UK-based clientele, might have left Switzerland and with them probably substantial sums of assets. The risks and insecurities of a potential qualification as a paying agent in cases involving irrevocable discretionary trusts would have been considerable.
