

# Working together

Xavier Isaac explains the recent work of the Swiss Association of Trust Companies (SATC), and highlights its main objectives



**ABOUT THE AUTHOR**  
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## The international context

When a group of likeminded trust practitioners gathered to inaugurate the Swiss Association of Trust Companies (SATC) in July 2007, they never anticipated how relevant this initiative would be two years later in the context of a critical transition from international financial crisis to economic recovery. SATC was conceived as a credible body that could set an agenda for ethical and professional standards and sensible industry regulation. These are common themes to the ones espoused in the G20 leaders' statement at the recent Pittsburgh summit.

The global economic downturn turned the international spotlight on 'offshore', with demands for radical change led by the G20 nations. The subsequent publication by the Organisation for Economic Co-operation and Development (OECD) of a list of territories which had met its benchmark of compliance with international tax standards, and those which had not, marked another step in the evolution taking place offshore. One has to acknowledge that the fight against the so-called 'non-cooperative jurisdictions' has so far produced impressive results. Since the London G20 meeting in April this year, over 50 new tax information exchange agreements (TIEA) have been signed, doubling the previous total number signed since 2000. Over forty double taxation conventions have been signed as well. This new landscape frames a decisive moment for a mature and

highly competitive international trust industry. A Swiss trust association that closely monitors these developments and assists its members in understanding and preparing for the 'new world' is a welcome participant in an increasingly complex environment.

## Switzerland as a jurisdiction

The choice of jurisdiction is a very important decision for clients and their advisors. The neutral tax platforms offered by traditional international finance centres have always attracted wealthy families but equally reputation, the ability to adapt to changing conditions and other factors also come into play. How does Switzerland compare? It can always rely on its historical strengths, namely its monetary, social and political stability. The latter is all the more meaningful when one looks at the colossal public deficits of the 'old economies' and their desperate need to find fresh money. Multi-lingual and highly qualified professionals, an excellent infrastructure and protective legislation regarding clients' rights to privacy in relation to financial and other affairs also differentiate Switzerland from many international financial centres.

With the ratification of the Trust Hague Convention in July 2007, followed by the introduction of the Circular on the Taxation of Trusts, Switzerland offers an attractive legal and tax framework for carrying out offshore trust management and administration by Swiss-based trustees. More recently Switzerland demonstrated its capacity to take bold but necessary moves with the Swiss government's adoption of the OECD standard on administrative assistance in tax matters according to article 26 of the OECD's Model Tax Convention. Following the signing of a 12th double taxation treaty with Qatar

on 24 September 2009, Switzerland joined the OECD 'white list' countries, considerably enhancing its international reputation.

## SATC – a useful industry body

The attractiveness of a jurisdiction is also a function of its trust regulatory framework. One of the main objectives of SATC is 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. On this front the association has been active in raising the profile of the trust industry in Switzerland, through position papers on trust related matters given to the Swiss Financial Market Supervisory Authority (FINMA), the Federal Tax Authorities and other relevant bodies, such as self-regulating organisations. The scope of work covered by the association has expanded considerably since the creation of four strategic working groups, in November last year. These groups deal with: taxation and legal, ethics, regulatory and compliance and promotion respectively. Each working group consists of specialist representatives of SATC members contributing in their areas of expertise. They are charged by the SATC committee with providing technical assistance to the committee on an ongoing basis. Typically the taxation and legal working group would brainstorm around current tax topics, such as: Swiss VAT for trusts, the implication for the Swiss trust industry of the proposed amendments to the EU Savings Directives and the issues around the application of the trust tax circular. Such discussion would result in a position paper addressed to the Federal Tax Administration, as happened in February this year on the subject of VAT. It is pleasing to note that

SATC recommendations were taken into account at the time of issuing the new VAT brochure applicable to trust. We will continue our bridge-building activities with important organisations, such as: FINMA, self-regulating organisations (SROs), STEP Switzerland and the Swiss Banking Association (SBA).

Another objective of the association is to advance technical knowledge and to further and support high quality education in respect of managerial, legal, administrative and other relevant trust-related subjects through the organisation of training sessions, conferences or forum events for members. A member event was organised in December 2008 bringing together a panel of three specialists on the subject of asset monitoring services and how they are helping trustees in extremely challenging market conditions. We have also organised a speech by Nils Johnson for our next General Meeting on 8 October 2009. Mr Johnson will present the content of his report: 'Offshore Evolution: transparency and innovation in cross-border wealth structuring', written in collaboration with STEP. This study is of great relevance to any head of trust business in charge of strategic planning.

## Going from strength to strength

Since SATC's establishment, its membership has grown from the initial twelve founding members to 22 full members. Several applications are pending at various stages. The fact that our membership develops slowly but surely is largely due to the thoroughness of the application process, as well the fact that such development is taking place in an environment which can focus potential members on other priorities.

In February 2009, Thomas Meier of Paicolex Trust Management A.G. joined the SATC



Committee. In accordance with the bylaws stating that in the first year, at least one half of the committee members are elected for a period of three years and the other half for a period of two years, Mark Barmes of L & S Trust Services S.A. and Daniel Martineau of Close Summit Trust Company S.A. stepped down from the committee at the Annual General Meeting of 12 May 2009 and were replaced by Aris Tatos of Stonehage S.A. and Konrad Haeuptli of HSBC Guyerzeller Trust Company A.G.

The SATC also strengthened the composition of its advisory board in February 2009, with the appointment of Richard Pease, former Worldwide Chairman of STEP and Counsel at Lenz & Staehelin, as well as Dr Nedim Peter Vogt, Head of Private Clients of Bär & Karrer. In addition, Verena Kubitz, former head of audit of VQF, the oldest and largest Swiss SRO on the quality assurance of financial markets, was appointed to the Advisory Board at the AGM on May 12 2009.

## Conclusion

The presence of a sensible trust regulatory framework might give an additional level of comfort for the prospective client and her advisors in the current political and economic climate, but conversely too much bureaucracy could well be a deterrent to doing business. Since its inception, the SATC has aimed at opening the path towards self-regulation of the Swiss trust industry by developing a credible system, based on the quality and integrity of its members, at the same time respecting the specifics of the Swiss market. Excellent progress has been made in a relatively short period of time but this trend must accelerate. With that in mind, we believe that there is a tremendous opportunity for Switzerland to position itself as the trust centre of choice for cross-border legitimate wealth structuring, despite the many challenges that our members and the rest of the industry will have to face. ■