

Trusts in Switzerland: What's New and What You Should Be Aware Of

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By **Christine Breitler**, 12th December 2022

Background

Switzerland has a long established reputation for professional expertise when managing the affairs of wealthy private individuals. For many years Swiss Trustees have provided efficient tailored services for trusts, which are a flexible instrument, particularly useful for estate planning and asset protection.

The supervisory and legal landscape for trusts is changing in Switzerland, as reflected in the fact that the Federal Council implemented new Trustee regulations in 2020, and proposed the introduction of a Trust law into the Swiss Code of Obligations.

These two new regimes will reinforce the competitiveness of Switzerland as a financial centre, and boost the Swiss Trust industry's quality, integrity and accountability, while creating a uniform competitive landscape for Trustees.

What are the Regulations About?

Up to now, Trustees were only supervised in relation to compliance with Anti-Money Laundering obligations. Swiss professional Trustees will now have to comply with; structural, organisational, business-conduct and audit requirements.

Trustees operating in Switzerland must now; register with a Supervisory Organisation, comply with statutory requirements and apply for a licence from the Swiss Financial Market Supervisory Authority ([FINMA](#)), before December 31st 2022.

Licensing Exemptions

Private trust companies (PTCs) are exempt, as well as single family office structures ("family-ties exemption"). This exemption also applies if the beneficiary is a charity.

Regulatory Obligations

- Trustees must have a minimum paid up capital of CHF 100,000 with the added obligations to maintain adequate financial security and/or professional liability insurance.

- Management by the Trustees must be carried out by a minimum of two 'qualified directors' of good reputation.

- Trustees must have appropriate risk management and adequate internal control systems.

Where Are We Today?

As of December 2022, the majority of Swiss Professional Trustees still need to obtain a licence from FINMA. 22 professional trustee authorisations have to date, been granted. To put this in context currently 330 Trustees have submitted applications.

A New Swiss Law on Trusts

Currently, there is no Swiss law relating to trusts.

However, foreign trusts have been legally recognised since July 2007, with the implementation of "the Hague Trust Convention of 1 July 1985 on the Law Applicable to Trusts and their Recognition".

Since then, Swiss Trustees have administered trusts governed according to foreign laws. This implies that the Trustee needs to have good knowledge of the foreign law in order to comply with its fiduciary duties. It also means that Swiss administration and the

Courts have to apply a foreign law, within the internal Swiss system.

Swiss trust law would:

- Offer new applications and business opportunities in wealth structuring and, close the current gap in the legal system, with the use of a Swiss, rather than a foreign instrument.
- It would also provide greater certainty to Swiss based Trustees, who currently may well need to have knowledge of a number of different foreign trust laws.

A preliminary draft bill and an explanatory report on the introduction of a Swiss Trust Law, were published in January 2022 and sent out for consultation. The preliminary draft bill introduces explicit provisions on the taxation of trusts.

The debate in the Chambers of Parliament will commence in the spring session of 2023 at the earliest. Therefore, the bill is not expected to come into force before 2024.

The Dixcart office in Switzerland will keep you fully updated regarding the progress and status of Swiss trust law, during 2023.

Dixcart Trustees (Switzerland) SA

Dixcart Trustees (Switzerland) SA has been providing trustee services for over fifteen years. We are a member of the Swiss Association of Trust Companies (SATC), and are registered with the "Organisme de Surveillance des Instituts Financiers" (OSIF).

We are fully confident that Dixcart Trustees (Switzerland) SA meets the regulatory obligations required by the Swiss Federal Act on Financial Institutions, that came into effect at the start of 2020. Our application has been submitted to [FINMA](#) and is within the licence process.

Additional Information

If you would like additional information regarding trusts and Switzerland, please contact Christine Breitler at the Dixcart office in Switzerland: advice.switzerland@dixcart.com.

