

STEP LAUSANNE CONFERENCE 2013

*Switzerland and the new world from a fiduciary perspective:
Law, jurisprudence, regulation & asset management*

CONFERENCE PROGRAMME FOCUS

- Swiss substantive trust law – is it needed?
- Substantive trust law in civil law jurisdictions
- Enforcing foreign judgments against Swiss trustees
- Recent Swiss cases – the good and the bad
- SATC update on regulation of Swiss trustees
- Illusory trusts
- Recent Swiss and international tax developments
- Swiss banking: the year in retrospect and future prospects
- FATCA and Swiss fiduciaries

PLUS...

Round table debate – Pro's and con's of adopting a Swiss substantive trust law

Accredited for 6.5 hours CPD – STEP
Conference language: Principally in English

DELEGATE FEE

STEP Members:	CHF 375
Non-STEP Members:	CHF 425

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STEP LAUSANNE CONFERENCE 2013

*Switzerland and the new world from a fiduciary perspective:
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Why attend this conference?

STEP Lausanne is thrilled to be hosting its first full day conference, the focus of which is Switzerland. This past year we have seen many changes in domestic and international law which impact Switzerland, some positive and others less so. This one day conference will address such changes, including FATCA and recent Swiss case law. We will also explore the impact of such regulatory developments on Swiss fiduciaries and Switzerland as an International Financial Center and consider whether Switzerland, if it is to remain competitive, should adopt its own substantive law.

With an outstanding speaking panel, the STEP Lausanne conference promises to be an extraordinary day of knowledge-sharing and discussion. We hope you will be able to join us.

Bonnie Steiner Jur.Dr LLM TEP
For the Committee,
STEP Lausanne

Register today using the enclosed registration form

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About the organiser

STEP is the worldwide professional association for practitioners dealing with family inheritance and succession planning. The Society helps to improve public understanding of the issues families face in this area and promotes education and high professional standards among its members. STEP has 18,500 members across 80 jurisdictions from a broad range of professional backgrounds, including lawyers, accountants, trust specialists and other practitioners in this area. STEP members help families plan for their futures, specialising in a wide range of activities, from drafting a relatively simple will to more complex issues surrounding international families, protection of the vulnerable, family businesses and philanthropic giving.

Not a STEP Member?

STEP has six branches in Switzerland including STEP Lausanne, STEP Zürich Centre and STEP Geneva as well as 98 other branches and chapters worldwide. Find out how to join STEP in your jurisdiction by visiting www.step.org or email step@step.org

8.15–8.45

REGISTRATION – COFFEE

8.45 – 9.00

INTRODUCTION

Stéphane Lagonico TEP, Partner – Bonnard Lawson, Lausanne

9.00 – 9.45

SWISS SUBSTANTIVE TRUST LAW – IS IT NEEDED?

David Wallace Wilson TEP, Partner – Schellenberg Wittmer, SA, Geneva

*Does Switzerland need its own Substantive Trust Law? Among the top 10 International Financial Centers (IFC), Switzerland stands out as the only country that does not have its own internal trust law. Even the People's Republic of China introduced a substantive trust law, albeit 3 years before actually recognizing private property in its Constitution. This session will also discuss whether trusts are one of the "killer applications" for an IFC and whether Switzerland, given the increasingly fierce competition among IFCs and its judicial recognition of foreign trusts since 1874, should introduce a *lex helvetica* on trusts.*

9.45 – 10.30

SUBSTANTIVE TRUST LAW IN CIVIL LAW JURISDICTIONS

Professor Maurizio Lupoi – University of Genoa, Italy

- *Traces of Roman law and of Germanic customs in Continental Europe before the era of codification; the development of testamentary executors and the *fideicommissum confidentiale*; the *fiduziarische Geschäfte*.*
- *The European legacy in the English law of trusts.*
- *Traces of pre-codification law in contemporary civil law jurisdictions: the *heredero de confiança*, the Latin American *fideicomiso*.*
- *Aping the trusts: the *fiducie*.*

10.30 – 10.45

COFFEE BREAK

10.45 – 11.30

ENFORCING FOREIGN JUDGMENTS AGAINST SWISS TRUSTEES

Aude Peyrot – Python & Peter, Lecturer at the Faculty of Law, Geneva University, Geneva

An exploration on the subject of when parties seek to enforce foreign judgments against Swiss trustees. This matter raises several points such as:

- *The applicable rules (Lugano Convention 2007 or other provisions);*
- *The conditions for the recognition and enforcement;*
- *The defences available to trustees; and*
- *The liability for debts in case of a monetary judgment and the provisional measures.*

These issues are of importance for trustees located in Switzerland and for practitioners.

11.30 – 12.00

RECENT SWISS CASES – THE GOOD AND THE BAD

Professor Luc Thévenoz – Geneva University, Law Faculty, Geneva

Since the Hague Trust Convention became effective in Switzerland, cantonal and federal courts have decided a significant number of cases where trusts and trustees are concerned. These deal with a broad range of issues, from matrimonial property and succession to criminal proceedings and international exchange of information. Surprisingly, fundamental principles of trust have been thoroughly considered in a number of decisions and wholly disregarded in a few other highly publicized cases. This short review will highlight some prominent cases and discuss how far trusts are really recognized by Swiss courts.

12.00 – 13.30

LUNCH

Lunchtime Speaker
13.00 – 13.20

SWISS ASSOCIATION OF TRUST COMPANIES (SATC) UPDATE

Alexandre von Heeren TEP, President of SATC

Current matters relating to the Swiss Association of Trust Companies (SATC) and the regulation of trustees and financial intermediaries in Switzerland.

13.30 – 14.15

ILLUSORY TRUSTS

Patrick O'Hagan – UBS, Zürich

How settlor control, in form or in substance, will render a trust illusory because it is a sham or because it is testamentary. In particular, now that the doctrine of sham has been shown to have limited application to trusts, this talk will examine the circumstances in which extensive reserved rights and powers will cause a trust to be testamentary and the effect of offshore legislation on 'will substitute' trusts and the onshore recognition of such legislation. To conclude, a discussion on whether a trust can be testamentary in substance due to retention of control regardless of its terms.

14.15 – 15.00

RECENT SWISS AND INTERNATIONAL TAX DEVELOPMENTS

Professor Robert Danon – University Lausanne Law, Lausanne

Discussion of tax developments which may affect global families and mobile individuals, whether at the Swiss, EU or OECD level. Particular attention will also be paid to Switzerland's relations with its neighboring countries.

15.00 – 15.45

SWISS BANKING: THE YEAR IN RETROSPECT AND FUTURE PROSPECTS

Michel Dérobert, Secretary General – Association des Banquiers Prives Suisses, Geneva

- *The recent international and domestic developments affecting the Swiss financial centre in the areas of regulation and taxation.*
- *The strategy developed by the Swiss banks in order to meet the challenges they are currently facing in the fields of tax compliance and market access.*
- *A comparison of these proposals with the various ideas recently put forward by the Federal Council that may affect wealth and asset management in Switzerland.*
- *The necessary conditions for this financial centre to keep its competitiveness in the coming years.*

15.45 – 16.15

COFFEE BREAK

16.15 – 17.00

FATCA AND SWISS FIDUCIARIES

Milan Patel – Anaford, Zürich

Mr. Patel will discuss the impact of the Foreign Account Tax Compliance Act (FATCA) on trustees and other fiduciaries having a place of incorporation or management in Switzerland. The discussion will address the following issues, along with other issues:

- *Whether trustees and other fiduciaries are treated as foreign financial institutions;*
- *What constitutes a reportable "U.S. account"; and*
- *How the due diligence and reporting requirements operate.*

The discussion will compare the ramifications under the final US Treasury Regulations and those under the USA–Switzerland Intergovernmental Agreement.

17.00 – 17.45

ROUND TABLE DEBATE – PRO'S AND CON'S OF ADOPTING A SWISS SUBSTANTIVE TRUST LAW

Moderator – Stéphane Lagonico TEP, Partner – Bonnard Lawson, Lausanne

Panel:

David Wallace Wilson TEP

Patrick O'Hagan

Professor Luc Thévenoz

Professor Maurizio Lupoi

Michel Dérobert

17.45 – 18.30

COCKTAILS



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STEP Lausanne Conference 2013

Delegate registration form

REGISTRATION & PAYMENT

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EVENT INFORMATION

DATE:

Tuesday 19 November 2013

VENUE:

Lausanne Palace
Rue de Grand-Chêne 7,
1003 Lausanne,
Switzerland

CONFERENCE DELEGATE RATES – please tick corresponding box

STEP Members

CHF 375

STEP Membership No: _____

Non STEP Members

CHF 425

CANCELLATIONS/SUBSTITUTIONS

Cancellations must be received in writing to celine.boudry@swissinterim.ch at least ten days before the date of the conference and will be subject to an administration charge of CHF 75. Please ensure your notification includes all relevant information regarding the bank account to which a possible refund may be remitted. It is regretted that cancellations made after this time will not be accepted and the delegate will be liable for the full conference fee. Substitutions may be made at any time provided the organisers are notified prior to the conference. Please note that if a non-STEP member attends in lieu of a STEP member the difference in fees will be charged before entry will be permitted.

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PLEASE NOTE: We may not be able to cater for any access/dietary requirements that are not made known to us at least 10 working days prior to the event.

TERMS AND CONDITIONS

Conference documentation will be distributed at the event. STEP reserves the right to amend or cancel this conference where the occasion necessitates. In the event of cancellation a full refund of any registration fee will be made but STEP shall accept no further liability. Prices may be subject to change. This booking form constitutes a legally binding contract. The delegate and firm are jointly and severally liable for payment of the fees due.

The conference language is principally in English.

DATA PROTECTION

The Society of Trust & Estate Practitioners will use this information to update its databases, which will be used to provide details of STEP products and services. Please tick the box if you would prefer the Society not to use your information in this way. STEP may also contact you from time to time with details of programmes and events that may be of interest to you. Please tick the box if you would prefer the Society not to use your information in this way.

For general enquiries please contact Bonnie Steiner at bonnie.steiner@stonehage.com

For payment enquiries please contact Céline Boudry at celine.boudry@swissinterim.ch

Please email the completed registration form to celine.boudry@swissinterim.ch or fax to + 41 (0) 22 770 50 61

Speakers' Biographies



Michel Y. Dérobert

Michel Y. Dérobert holds a degree in business administration of the University of St Gallen. After an early career in banking in Geneva and London, he served for 10 years as a member of the management of the "Vorort" of the Swiss Federation of Commerce and Industry (now, *economiesuisse*). In 1990, he joined the Geneva Private Bankers Association and was appointed, two years later, Secretary General of the Swiss Private Bankers Association.



Robert Danon

Robert Danon LL.M is full professor of Swiss and international taxation at the University of Neuchatel, where he manages its Executive Master of Advanced Studies in International Taxation. Mr Danon regularly acts as an independent expert in practical matters. He is also a member of the Permanent Scientific Committee (PSC) supervising the scientific work of the International Fiscal Association (IFA).



Patrick O'Hagan

Patrick O'Hagan works with UBS Wealth Planning in Zürich where he specializes in trust and fiduciary matters. He is a member of the Bermuda Bar and the Inn of Court of Northern Ireland and has held a lectureship in property law at the Queen's University of Belfast. He has been of counsel to Baker & McKenzie in Zürich and, before joining UBS, he practiced as an attorney with Conyers Dill and Pearman in Bermuda.



Alexandre von Heeren TEP

Alexandre von Heeren is a co-owner of Mandaris and has been with the company since 1998. He serves as its Managing Partner. After several years in executive positions in the legal and trust departments of major banks, Alexandre joined Mandaris (formerly Experta) in 1998 where he also served as Chairman of its overseas trustee and on the board of its affiliated company in Luxembourg. Alexandre is a member of STEP, the International Bar Association and the International Fiscal Association. He is also the current Chairman of the Swiss Association of Trust Companies SATC, of which Mandaris is a founding member.

Stéphane Lagonico TEP

Stéphane Lagonico LL.M TEP is an attorney-at-law, admitted to the Bar of Vaud and member of the Swiss Federation of Lawyers. He is a partner with Bonnard Lawson, a Swiss based and international law firm present in five countries. Stéphane advises private clients, trustees and family officers on matters of estates, wills, trusts, capacity, matrimony, residence, nationality, tax compliance, art and patrimonial issues. He is the Founding Chairman of the Lausanne Branch of STEP.



Professor Maurizio Lupoi

Maurizio Lupoi has been a full Professor of Comparative Law from 1975 to 2012. He is now Professor Emeritus of the University of Genoa and presides over the association "Il trust in Italia". His writings cover general comparative law issues and the historical foundations of the European legal systems and trusts. His private practice in Rome and Milan is mainly focused on trusts in family or in commercial matters.



Milan K. Patel

Mr. Patel J.D., LL.M is a partner and co-head of the U.S. tax group at Anaford AG in Zürich. Admitted to practice in New Jersey, New York, and before the U.S. Tax Court and U.S. District Court of New Jersey, Mr. Patel's practice focuses on private client matters with a particular emphasis on international tax, trusts and estates planning, succession planning, and cross-border business structuring. Mr. Patel is a former U.S. Internal Revenue Service (IRS) senior trial attorney and now represents both U.S. and non-U.S. based clients in U.S. Federal tax controversy matters at the audit, appeals and trial levels.



Aude Peyrot

Aude Peyrot received a PhD from the University of Geneva for her dissertation on trusts and insolvency law. She is a lecturer at the Faculty of Law at the University of Geneva as well as an attorney-at-law with the law firm Python Peter. She is also a tutor in the Swiss Advanced Certificate in Trust Management (SACTM). She has written several articles on trusts.



Luc Thevenoz

Luc Thevenoz is professor at the Faculty of Law of the University of Geneva and the director of its centre for Banking and Finance Law. His research and teachings include the law of obligations, contracts, trusts, as well as the law of banking and securities transactions, markets and regulation. His 2001 report to the Swiss government laid the foundation for the ratification of the Hague Convention of Trusts. He is an honorary member of STEP.



David Wallace Wilson TEP

David Wallace Wilson MCJ (NYU) TEP is a partner at Schellenberg Wittmer. Admitted to the Swiss and New York bars, he serves on the SACTM's scientific committee. David advises private clients, trustees and family offices on Swiss and international estate planning, marital matters, trusts and other succession vehicles. His additional areas of expertise include anti-money laundering and art and antiques law.

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