

# THE 2<sup>ND</sup> SWISS TRUSTEES & PROTECTORS CONFERENCE



## Compliant Trusts, Foundations and Offshore Companies Today

NEDIM PETER VOGT, Bär & Karrer, Zurich - RUPERT TICEHURST, Herbert Smith, London - RICHARD BALDOCK, Rothschild Trust, Zurich - STEFAN LINIGER, Goldman Sachs, Zurich - NICHOLAS JACOB, Lawrence Graham, London - PIERRE-ALAIN GUILLAUME, GLM Avocats, Geneva - MONTY RAPHAEL, Peters & Peters, London - ROBERT J. DANON, University of Neuchatel - EDGAR H. PALTZER, Niederer Kraft & Frey, Zurich - TINA WÜSTEMANN, Bär & Karrer, Zurich



3<sup>RD</sup> DECEMBER 2008, GENEVA, GRAND HOTEL KEMPINSKI - 4<sup>TH</sup> DECEMBER 2008, ZURICH, MARRIOTT HOTEL

Co-organised by:

**ACADEMY & FINANCE**

SWISS TRUST FORUM

Media partner:

**L'AGEFI**  
La couleur de l'économie.



9.00 | NEDIM PETER VOGT, Partner and Head of Private Clients, Bär & Karrer AG, Zurich



**Introduction by the Chairman of the Morning Proceedings**

9.10 | EDGAR H. PALTZER, Private client lawyer, Niederer Kraft & Frey Ltd, Zurich

In Geneva this presentation will take place at 14.40.

**Foundations in the 21<sup>st</sup> Century**

A retrospective on the uses of foundations in the 20th Century leading to an outlook and recommendations for the uses in the 21<sup>st</sup> Century



9.50 | RICHARD BALDOCK, Vice Chairman, Rothschild Trust, Zurich  
STEFAN LINIGER, Executive Director, Goldman Sachs, Zurich

**Trusts and Banking - Trust Governance and Trust Asset Management in today's Environment**

- The relationship between trustees and banks
- Trust governance
- Responsibilities and liabilities with regard to trust asset management

10.30 |

**Coffee Break**

10.50 | PIERRE-ALAIN GUILLAUME, Partner, GLM Avocats, Geneva

**Trusts, Trustees and VAT in Switzerland: beware of the New Developments**

11.30 | MONTY RAPHAEL, Joint Head of Fraud and Regulatory, Peters & Peters, London



**Trustees - endangered Species (increasingly at Risk to Criminal Prosecution)?**

- "The distinguishing obligation of a fiduciary is the obligation of loyalty. The principal is entitled to the single-minded loyalty of his fiduciary" Lord Justice Millett
- The misuse of trusts
- Liechtenstein: a nail in the concept of trust
- No longer single minded loyalty: The trustee as gatekeeper
- Tax avoidance schemes – disclosure in the UK
- The Third EU Money Laundering Directive
- Comparative implementation of EU Directives concerning Money Laundering
- Politically Exposed Persons, corruption and trusts
- The US Patriot Act
- The Soulbury Case
- Conclusion

12.10 |

**End of Morning Session**

12.15 |

**Lunch**

13.50 | RUPERT TICEHURST, Partner and Head of Trusts Practice, Herbert Smith LLP, London

**Remarks by the Chairman of the Afternoon Proceedings**

14.00 | ROBERT J. DANON, Ordinary Professor of Tax Law, University of Neuchatel



**Taxation of Offshore Entities - Recent Developments in Swiss Law**

- Fiscal recognition of offshore entities (trusts, foundations and corporations): opacity, transparency, consolidation
- Jurisdiction to tax offshore entities (effective place of management, permanent establishment risk) and fiscal responsibility of management
- Recent developments in the area of indirect taxes (VAT, stamp taxes, etc.)

**SWISS TRUST FORUM**

The last decades have been characterized by a trend towards the internationalisation of trust and inheritance law practise. The ever increasing mobility of individuals in a shrinking world affects the planning and control of succession, constantly creating new cross-border and multi-jurisdictional issues. The Swiss Trust Forum organizes seminars and conferences where experts from England, the United States,

Switzerland and other jurisdictions give their insight into these topical issues and discuss new developments and recent cases in the context of estate planning, inheritance law and international trust practise. Together with the Europa Institut of the University of Zurich (EIZ) the Swiss Trust Forum has for some time been the organizer of The Zurich Bi-Annual Conference on International Trust and Inheritance Law Practise. [www.eiz.uzh.ch](http://www.eiz.uzh.ch)

**NEXT CONFERENCE**

**Trusts, International Succession and (Swiss and UK) Taxation**

Zurich 4<sup>th</sup> November 2008

14.40 | NICHOLAS JACOB, Partner, Tax and Private Capital, Lawrence Graham LLP, London

In Geneva this presentation will take place at 9.10.



### What is really happening in the UK - Trusts and Non-domiciliaries

- The overall tax position in the UK
- Individuals
- Remittances
- Offshore Companies
- Offshore Trusts
- Real Estate
- Planning points

15.20 |

### Coffee Break

15.40 | RUPERT TICEHURST, Partner and Head of Trusts Practice, Herbert Smith LLP, London

### The Beneficiaries' Quest for Information - How Trustees and Protectors have to deal with it

- The discretionary analysis
- *Schmidt v Rosewood*
- Settlor's desire for confidentiality
- Reasons for exercise of discretion
- *Re Londonderry*
- *Breakspear v Ackland*
- Letters of wishes
- Relevance of reason for disclosure
- Protectors' rights to information



15.40 | TINA WÜSTEMANN, LL.M., Partner, Bär & Karrer, Member of the ICC Task Force on Trust Arbitration, Zurich



### Anglo-Saxon Trusts and Swiss Arbitration - Alternatives to Trust Litigation?

#### Background

- Increase in trust litigation
- Mediation
- Arbitration as an alternative to court litigation?
- ICC Task Force on Trust Arbitration
- New legislation for trust arbitration (e.g. Guernsey)

#### Anglo-Saxon Trusts and Swiss Arbitration

- Switzerland - an arbitration and trust-friendly jurisdiction
- External vs internal trust disputes
- Trust arbitration - a good idea?

#### Trust arbitration in Switzerland - does it work?

- Enforceability of arbitration agreements in trust deeds

- The Arbitration agreement
- Forfeiture / non-contest clauses
- Representation of minors, unborn and unascertained beneficiaries
- Arbitrability: Really an issue?
- Some procedural remarks
- Enforcement of trust arbitration awards

#### Outlook

- The ICC Draft Arbitration Clause
- UK: Trust Law Committee
- Guernsey / Liechtenstein

#### Conclusions

17.00 |

### Discussion Panel

17.30 |

### End of Afternoon Session

17.40-19.00 |

### Cocktail Reception

## ACADEMY & FINANCE

Academy & Finance specialises in organising conferences and seminars for the top and middle management of banks, insurance companies, financial service providers, independent managers, lawyers, trustees, trust companies, tax advisers, notaries and consultants. Since it was established in March 2000, Academy & Finance has organised more than 300 events. Academy & Finance is also engaged in publishing and event organising activities for private companies and professional bodies. [www.academyfinance.ch](http://www.academyfinance.ch)

## NEXT CONFERENCES

### Réforme fiscale espagnole

18 November 2008 in Geneva

### Yachts & Super Yachts

26 November 2008 in Geneva

### Actualité fiscale française

27 November 2008 in Geneva

### Impôt sur la fortune et bouclier fiscal en France et en Suisse

27 November 2008 in Geneva

### New Fortunes in Russia

10 December 2008 in Geneva

11 December 2008 in Zurich

## VENUE DETAILS

GRAND HOTEL KEMPINSKI  
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## PRACTICAL INFORMATION

### How to register:

by phone : +41 (0) 22 849 01 11  
by fax: +41 (0) 22 849 01 10  
by e-mail: [info@academyfinance.ch](mailto:info@academyfinance.ch)  
by post: Academy & Finance SA,  
CP 6069, CH-1211 Geneva 6

**Conference fee** 1190 CHF or 770 €  
VAT not included (+ 7,6%)  
Discounts: 2<sup>nd</sup> delegate -10% 3<sup>rd</sup> delegate -15%

### Registration and payment

To confirm your booking, credit card details must be given as a guarantee of payment. Payment by cheque or bank transfer must be received by Academy & Finance BEFORE the conference date to guarantee admission.

### Transfer of registration

Registrations can be transferred within a firm or company.

### Hotel accommodation

Rooms have been blocked at preferential rates at different hotels in Geneva and in Zurich. Accommodation information will be sent on request.

### Cancellation dates

Cancellations received by 19 November 2008 will receive a full refund however an administrative fee of 200 CHF/ 130 € will be retained. Cancellations received by 26 November 2008 will receive a 50% refund less the administrative fee. No refund after 26 November..

## REGISTRATION FORM

**YES, I would like to register for « The 2<sup>nd</sup> Swiss Trustees & Protectors Conference » on the 3<sup>rd</sup> December 2008 in Geneva**

**YES, I would like to register for « The 2<sup>nd</sup> Swiss Trustees & Protectors Conference » on the 4<sup>th</sup> December 2008 in Zurich**

Full name.....

Position.....

Company.....

Address.....

Postcode.....City.....Country.....

Tel.....Fax.....

Mobile.....E-mail.....

I do not wish to appear on the list of attendees

Special dietary requirements (if any) .....

I wish to pay by: Credit card  Bank Transfer  Cheque

Credit card payments will be debited immediately upon receipt of card details. Credit card payments will be subject to a surcharge of 4 % (inc. VAT) to cover commission charge.

Mastercard  VISA  AMEX  Business card  Personal card

Card No: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ Expiry Date: \_\_\_\_/\_\_\_\_

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Date ..... Signature .....

The organisers reserve the right to change the programme if, despite their best efforts, circumstances oblige them to do so.