

# Due Diligence duties applicable to trusts

What is the scope for banks and trustees? What are the differences ?

- > AML due diligence, business relationships risks, KYT, FinSA obligations, FATCA/CRS documentation
- > Trustees, learn about the banks' due diligence framework; bankers, find out what verifications are made by trustees
- > Client, UBO, controlling person, contracting party: who are the counterparts, for the banker and for the trustee

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Holder of the Geneva bar, Olivia Selvi has worked as a foreign associate within a large New York law firm. In 2002, she obtained her Masters degree in international law (LL.M.) at the NYU Law school in New York, as well as a diploma in business and law from the NYU STERN school of business. She then returned to Switzerland, where she became a teaching assistant at the University of Geneva for a couple of years. In 2005, she joined Selvi & Cie SA, as Chief legal and compliance officer, a position she now currently holds as Director of the department. Simultaneously, she also obtained her TEP diploma and opened her own law firm.

## Opening the business relationship

### Who are the counterparts – The client vs UBO/ Controlling person

- For the Trustee (Settlor, Protector, Beneficiaries, EAM)
- For the Bank (the Trust/Trustee, the underlying company / company director / controlling persons, EAM)

### Due diligence at Onboarding

#### • AML Due diligence for the Trustee and AML Due diligence for the Bank

- Identification and verification of the counterparts
- Know Your Customer (KYC)
- Expected transactional behaviour (KYT)
- . Types of transactions usually expected from the point of view of the Trustee
- . Types of transactions expected by the Bank
- Risk classification of the business relationship
- . Country risk
- . Settlor's activity risk
- . Complex structure
- Additional documentation
- **FATCA/CRS Documentation**
- From the Trustee's perspective
- From the Bank's perspective
- **FinSA Obligations**
- From the Trustee's perspective
- From the Bank's perspective

### Monitoring the business relationship

- **Change of circumstances**
- For the Trustee
- For the Bank
- **Transactions monitoring**
- Which information is used to analyse the transactions, by the Trustee / by the Bank

- Plausibility and logic of a transaction for the Trustee vs for the Bank
- Communications to MROS

### End of the business relationship

- The termination of a Trust
- The Bank account closure

### Underlying companies

- **For the Trustee**
- Verifications and opportunity to resort to underlying companies
- General surveillance pertaining to underlying companies
- **For the Bank**
- The frequent issue of complex structures
- **Identification and monitoring documentation**
- For the Trustee : activities / accounts supervision
- For the bank : Form T and related documents
- **The question of the qualification of the underlying companies under FATCA / CRS**

### Relations with an External Asset Manager

- Trustee's obligations relating to an added party to the relationship
- Bank's obligations within a customary relationship

### Frequently encountered issues

- Definition of the contracting parties
- Knowledge of transactions
- Documentation
- Other issues

ZURICH, TUESDAY 19 MARCH 2024, 14.00-17.30, ZURICH SHERATON HOTEL / ONLINE

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