

Information rights of beneficiaries against trustees and Swiss banks

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Many disputes about trusts begin with a simple question: what does the trust actually hold, and how has it been managed? For beneficiaries in Asia, the Middle East or Africa whose trust assets are booked with a Swiss bank, the answer depends on the trust deed, the law governing the trust and the way Swiss banks treat confidentiality.

1 The trust deed comes first

The starting point is always the trust instrument. Many deeds set out what beneficiaries may see, such as annual accounts, investment reports or letters of wishes, and some deliberately limit disclosure or route it through a protector. A beneficiary who wants information should therefore obtain the deed and any supplemental deeds before taking any other step, since these documents frame both the request and any later court application.

2 The governing law decides the scope

Switzerland has no domestic trust law of its own. It recognises foreign trusts under the Hague Trust Convention and the trust provisions of the Federal Act on Private International Law (Art. 149a et seq. PILA), which means that the rights of a beneficiary are determined by the law chosen in the deed, often English law or the law of an offshore jurisdiction. Under many common law systems, courts treat disclosure as part of their supervisory jurisdiction over trustees and weigh the beneficiary's interest against confidentiality and the interests of other beneficiaries. Discretionary beneficiaries may have weaker claims than those with fixed entitlements, although the details vary considerably from one jurisdiction to another.

3 Why Swiss banks usually say no

A Swiss bank's contractual relationship is with its client, which in a trust structure is normally the trustee or an underlying company. The bank owes information to that account holder and is bound by banking secrecy under the Banking Act towards everyone else. A beneficiary who writes directly to the bank will therefore usually receive a polite refusal, even where the beneficiary is clearly entitled to the assets in economic terms. Data protection access requests may yield limited personal data, although they are rarely a substitute for full account statements.

4 Routes to disclosure

The more effective route generally runs through the trustee, who can instruct the bank to release statements, or through the court that supervises the trust under its governing law. Where proceedings are pending abroad, Swiss evidence-gathering through judicial assistance may be available, and in Swiss proceedings courts can order the production of documents subject to secrecy considerations. Each route has its own timing and cost, and the choice should be made with the later dispute in mind.

5 What pays off in practice

- **Collect the documents early** by requesting the trust deed, amendments and recent accounts from the trustee in writing before relations deteriorate.
- **Check the governing law** because it determines how far a court will order disclosure and which forum is competent.
- **Address the trustee rather than the bank** since a Swiss bank will in most cases only act on the instructions of its account holder.

6 How Ressos Legal helps

I advise beneficiaries and trustees on information requests concerning trusts with Swiss bank accounts and coordinate with counsel in the governing jurisdiction. [Contact me](#) for a first conversation.

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Online version: helveticaregister.com/beneficiary-information-rights-trustees-swiss-banks