

# Riches Out Of Reach

Offshore asset protection solutions can help the affluent shield their fortunes from random opportunists and baseless lawsuits.

**W**hen it comes to the wealth preservation and investment planning work that advisors do for high-end clients, it's often as much about what you help them keep as is it about what you help them earn. But what many advisors don't think about is the ever-present threat that is even more dangerous than a free-falling stock market. The stock market will bounce back, but a client may never recover from the costs of a successful lawsuit.

Nearly 50% of affluent investors are very concerned about being sued, according to recent statistics. In fact, the wealthier the investor, the more concerned he or she is. A whopping 69% of investors with between \$5 million and \$25 million said they are very fearful that they'll become the target of an unfounded lawsuit, according to Prince & Associates Inc. And they should be concerned.

More than 40 million lawsuits were filed last year, with nearly 94% of them in the United States. More than 1.8 million Americans were sued in 2004 and experts suggest that number will continue to rise—a new lawsuit is filed every 30 seconds.

Herein lies the opportunity for advisors: Less than 13% of wealthy investors have any type of asset protection. Where can you turn for the best all-around protection? A Swiss private insurance portfolio. It's the most underutilized and misunderstood protection tool you can offer clients to protect their assets from being wiped out by litigation, but also is the most sound.

A Swiss private insurance portfolio delivers failsafe protection and is especially valuable to lawsuit-prone professionals such as doctors, lawyers and small business owners. Already savvy Americans are buying approximately \$2 billion in Swiss insurance instruments designed with asset protection in mind. The draw? Switzerland's impeccable banking reputation, its ironclad asset protection for investors and its advantageous and extremely stable currency.

Currently nearly 40% of all private assets invested internationally—more than \$3.2 trillion—are managed by Swiss banks, according to *The London Times*.



Switzerland's highly developed laws protect investors against debt collection procedures or creditors, even if a creditor were to get a foreign judgment or court order expressly decreeing the seizure of their Swiss private insurance portfolio, if properly structured. In fact, Swiss law would prohibit seizure of investors' protected assets, even in the case of divorce and bankruptcy.

How important is that for a client who daily faces the risk of a lawsuit? I realized how critical it is to affluent investors when, after I wrote my book *Strategies for Protecting Wealth*, (McGraw-Hill, November 2006), physicians, wealthy business owners, and other investors started contacting me on their own for assistance in protecting assets.

It's not surprising why. A few years back an emergency room doctor in Texas called me to see if a Swiss-based private insurance portfolio would work for him. He told me that while he did his very best to save critically wounded and ill patients every working hour of his life, he lived in constant fear that just one mistake or attack of bad luck could make him a pauper. It was that fear that motivated him to contact me and to begin using Swiss instruments to protect and diversify his assets.

Of course, the ER doctor knew, as we do, that the best strategy for protecting assets is to safeguard them before the need for protection arises. If he tried to create a Swiss private insurance portfolio after being sued, it could easily be declared a fraudulent conveyance. We recommend to clients that they disclose immediately when a lawsuit is filed that they have a Swiss private insurance portfolio as part of their estate, investment and financial planning programs. It's a true deterrent. Lawyers realize that even if a lawsuit does go to trial and they win, they will still have to litigate the case in Switzerland, where there is no case history indicating that creditors or legal judgments have ever prevailed. The Swiss will not even recognize tax liens from the U.S. Internal Revenue Service or state entities unless tax fraud is proven.

By Darrell Avis

In short, disclosing Swiss investments as part of a well-thought-out estate plan is a credible way to deter lawsuits or bring them to a speedy and equitable settlement.

Although U.S. residents have notably foregone foreign investments in favor of options closer to home, when it comes to asset protection it pays to look to other countries for proven solutions. I've thought for years, as I do now, that it's truly a missed opportunity for wealth advisors not to offer Swiss private insurance portfolios. They are a competitive advantage more advisors could use to win and retain wealthy clients, especially medical professionals and others prone to lawsuits. We believe in the Swiss system of asset protection laws—it's stood the test of time for hundreds of years—so it is unnecessary to hide assets that will be protected anyway.

How does a Swiss private insurance portfolio work? It combines a bank account, a brokerage account and an insurance policy under one asset-protected umbrella. The portfolio allows you to protect client assets from both litigation and taxes, while retaining control. In fact, the beauty of Swiss private insurance portfolios is that they offer global investment flexibility coupled with tremendous tax benefits. In fact, this combination establishes a unique platform upon which to build the investor's wealth-protected portfolio.

Why are these instruments so tax efficient? A properly structured Swiss private insurance portfolio allows all assets, even tax-inefficient ones, to grow tax-deferred. Investments can be made free of all income tax and taxes are eliminated on reinvestments. As meaningful, the client's estate receives an income-tax-free death benefit and there is the potential to exclude the portfolio from estate taxes altogether.

The life insurance protection is a key element to a client's estate plan. The client's wealth and estate is preserved through the insurance policy's death benefit. Another benefit worth noting: Until the policy's cash value reaches the death benefit, the insurance company bears the entire downside risk of the portfolio's performance.

As enticing, the portfolio may be backed by one of the world's steadiest currencies, the Swiss franc. That's an added boon in an environment where the dollar has fallen dramatically over the last three years.

Why diversify away from the U.S. dollar now? If it's good enough for legendary investor Warren Buffett, we might all want to take notice. *Forbes* has reported that Buffett has a \$20 billion bet on the euro and other foreign currencies. It's a sad but true fact that the U.S. dollar has lost nearly 70% of its

value against the Swiss franc since 1971.

If you need more incentive to consider the importance of currency diversification, consider the following. In the last five years, the U.S. dollar has lost:

- 33.3% against the Swiss franc
- 38.9% against the British pound
- 56.6% against the Euro
- 62.5% against the Australian dollar

As important, Swiss insurance companies are considered the safest in the world. There hasn't been a failure or default on a policy issued by a Swiss insurance company in the past 150 years. And unlike offshore trusts, the IRS usually views Swiss insurance portfolios as legitimate estate planning tools.

At the same time, a Swiss private insurance portfolio is a holding structure advisors can use to select from the universe of available investments. So the portfolio can contain an array of high-return, wealth-creating assets, such as hedge funds, private equity, real estate or venture capital—assets simply unavailable in traditional insurance policies—without facing restrictions regarding the investment's country of origin or registration.

And a private insurance portfolio doesn't have to replace an offshore trust; rather it can be used to complement a trust and to strengthen its protection. For example, assigning investments to an offshore trust is much cheaper and easier if they are grouped together under one private insurance portfolio.

Whether your clients are concerned with confiscatory taxes, the threat of litigation or are looking to diversify assets globally, a Swiss private insurance portfolio will allow you to offer unique protections as well as global investment opportunities otherwise not available to the public. The typical investor has at least US\$5 million to invest, but Swiss private insurance portfolios can be customized for portfolios with as little as US\$1 million in assets.

The only caveat to using Swiss private insurance portfolios? You have to use a Swiss broker outside the U.S. to purchase them, so conducting due diligence and establishing professional alliances in advance will facilitate a smoother process once your client is involved. *RW*

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