

Where to Shelter Your Money

Are Safe Havens Really Safe Anymore

By Robert J. Mintz

All of the largest US financial institutions are on government life support. Smaller banks, those not too big to fail, are obliging daily collapsing under the weight of plunging real estate values and worthless loans. Other than US Treasury debt, with near zero interest rates, it seems like there aren't many safe places to park your savings to ride out the financial storm. Does it make sense to look to the traditional banking havens in Switzerland and the Caribbean?

The answer is that it depends what you are looking for. There are some notable advantages with the specialized private banking available in some offshore locations but there are certainly some disadvantages and risks to consider as well.

Asset Protection

The availability of asset protection benefits is the strongest argument on the plus side for offshore banking. In most cases, accounts can be held in the name of a trust or a limited liability company formed in a jurisdiction with laws most favorable to our purposes. For example, sometimes we use a Delaware LLC for tax reasons but establish the bank account in an overseas location. Or we might create the LLC or trust outside the US because of favorable rules which protect these structures from creditor attack and encourage their use as effective asset protection vehicles.

Although the asset protection benefits can be substantial, some of the other purported advantages should be viewed with a critical eye.

Safety

Are offshore banks safer than US banks? Both US and foreign banks now have government deposit guarantees which vary by country. Deposits in US banks are insured by the FDIC up to \$250,000 and can be combined within a family to increase those limits so it is only above the combined thresholds that concerns should arise. Switzerland has increased its guarantee to the equivalent of about \$85,000 and combining accounts is also possible. Beyond considering the guaranteed amounts, it is advisable to avoid any financial institutions with significant and unknown exposure to loans or other risky asset classes. The overseas private wealth management banks, as opposed to the commercial banks, generally make few if any loans and earn their fees solely from advisory and custodial services. So these types of institutions are generally the safest bets for offshore accounts.

Privacy

It is true that accounts in the countries with strict bank secrecy laws can provide enhanced privacy. In the US there are very few legal restrictions on a banks ability to use and sell your personal account information to third parties for a variety of marketing purposes. Your account records and the details of your financial life are widely available which is troublesome in light of the prevalence of litigation and business disputes.

The banks in the privacy jurisdictions are prohibited from these practices and revealing any customer information is a crime in most circumstances. That said, an employee of the largest bank in Lichtenstein sold information about thousands of customer records to the German Government which was investigating tax evasion by some of its wealthy residents. In another case, the giant Swiss bank UBS allegedly promoted a variety of tax schemes to some of its wealthy US clients involving the use of “secret” Swiss accounts. The US is now prosecuting the bank and it’s likely that the names and accounts of these clients will be turned over to the authorities. The privacy of the overseas accounts can be a valuable tool in limiting access to your bank records by those with no legitimate right to the information. Remember though that this protection has definite limits and all reporting and disclosure requirements should always be strictly followed.

Investment Opportunities

Is there a chance to make more money overseas? Are there higher interest rates or investments which earn more than current opportunities in the US? That’s a question we’re often asked and the answer is that, just like in the US, the rate will vary based on the level of risk. Overseas accounts can generally be held in the currency of your choice, US Dollars, Euros, Swiss Francs, British Pounds or Asian currencies. The interest the bank will pay you on your deposits in those currencies will be the market rate for that currency. Interest rates on dollar denominated investments will be very similar to US money market rates. In fact, if you’re offered a return greater than you can get in the US, chances are it’s a phony deal and you should stay clear. Many offshore banks, along with their US counterparts funneled investor money into the Madoff scheme with promises of unusually high and consistent returns. As I write this, Stanford Financial Group, a multi-billion dollar institution, is accused by the SEC of a massive fraud, offering bogus high yielding CD’s through its offshore bank. It’s likely that the investor losses will be substantial. In these times, since the amount of risk in any investment can’t be calculated and therefore can’t be accurately priced, the highest degree of skepticism should be applied to any investment opportunity.

For those seeking asset protection and privacy advantages, overseas banking may be worth investigating as a part of a strong financial plan. However, with a global financial crisis at hand, exercise extreme caution before opening an account with any bank and certainly avoid investments with promised returns that exceed rates that are generally available in the market.

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