

Misuse and enforcement

*Dr Alexander Ressos, TEP
Attorney-at-Law (Switzerland), Solicitor (Hong Kong),
Solicitor (England & Wales)*

The most prominent case of enforcement concerned the Swiss Life group. In May 2021, Swiss Life Holding and its subsidiaries in Liechtenstein, Luxembourg and Singapore entered into a deferred prosecution agreement with the United States Department of Justice. They admitted having assisted American taxpayers in concealing assets and income through insurance policies, and agreed to pay about 77 million US dollars. The case showed that the Department of Justice was prepared to apply to insurers the approach it had developed in the programme for Swiss banks launched in 2013.¹

In Germany, tax criminal proceedings concerning undeclared income from Liechtenstein and Luxembourg policies have followed the purchase of data on foreign accounts and the introduction of the automatic exchange of information. The decisive question in these proceedings is usually whether the policy was a genuine insurance contract or a transparent asset-managing contract, since only in the second case was annual income to be declared. The answer depends on the documents of the policy, on the investment instructions given in practice and on the role of the policyholder in the choice of investments. In the cases that German fiscal courts have examined, the outcome has turned on the facts of the individual policy.²

Misuse is not confined to tax evasion. Insurance policies have been used to conceal the origin of assets, to place proceeds of corruption beyond the reach of investigators and to frustrate creditors. The anti-money laundering rules treat life insurance accordingly as a sector requiring due diligence. The Financial Action Task Force has addressed the identification of beneficiaries of life insurance in its recommendations.³

1 Notes

1. United States Department of Justice, press release of May 2021 on the deferred prosecution agreement with Swiss Life Holding AG and its subsidiaries in Liechtenstein, Luxembourg and Singapore (about USD 77.3 million). Amount and details to be verified. ↩
2. On German tax criminal proceedings concerning foreign life insurance policies and the case law of the fiscal courts on the characterisation of asset-managing policies, see the German literature on tax criminal law. Case references to be verified. ↩
3. FATF Recommendation 10 and its interpretative note on the identification and verification of the beneficiary of life insurance policies. To be verified. ↩

For general information only. This article does not constitute legal or tax advice, does not replace advice on an individual case and creates no lawyer-client relationship. It reflects the legal position as of September 2026.

Online version: helveticaregister.com/basel-misuse-and-enforcement