



Defending Your Offshore Trusts from Onshore Attacks

An ultra-high-net-worth individual's offshore trust is often a favorite target for counterparties in an onshore government, commercial or family dispute, many of whom pursue aggressive action to crack open the trust. Fortunately, by linking both onshore and offshore strategies, there are steps an at-risk UHNWI and their advisors can take to mitigate their risk and respond to the attacks.

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When ultra-high-net-worth individuals (UHNWIs) become embroiled in onshore government, commercial or family disputes, their counterparties will often pursue aggressive action against trusts settled offshore, setting up a clash between two complicated areas of law.

These attacks on wealth can come from many corners, so UHNWIs whose trust assets are at risk need to consider pre-emptive, creative, and comprehensive strategies that seamlessly link both onshore and offshore law to mount the strongest possible defense.

Your Trust is a Sitting Duck

Given the potential rewards within, a UHNWI's trust is often a favorite target for counterparties in a dispute. Family members may want to establish a right to the assets or challenge transfers into trusts or bequests in wills. Under the guise of enforcing their tax, regulatory, sanctions and criminal regimes, onshore governments may lean on the weight of their state power and the pressure of political influence to seek to unlock the trust, including using intrastate treaty requests. Commercial counterparties, such as creditors and shareholders, may try to make individuals liable and target their offshore assets accordingly.

Protecting Your Trust

Steps that can help UHNWIs reduce their risk exposure and respond to attacks include:

- Documenting thoroughly all management and decision-making structures, transactions, and other decisions;
- Bringing proceedings in offshore courts to confirm the integrity of trustee decisions and trust governance;
- Making changes to the trust deed to correct deficiencies or alter beneficiaries, as well as considering assisting risk-averse trustees to retire to allow the appointment of trustees experienced with litigation or whose independence is easier to establish; and
- Engaging with the counterparty, particularly onshore government authorities, in offshore proceedings to demonstrate good faith while binding them to resulting litigation and judgments.

UHNWIs with offshore trusts are especially vulnerable amid onshore disputes. By taking a multi-pronged approach and seamlessly linking both onshore and offshore law, they can pre-empt attacks and protect their legitimate wealth from attack.

About Kobre & Kim

Kobre & Kim is a global law firm that focuses on cross-border disputes and investigations, often involving fraud and misconduct.

To preserve the assets, liberty and reputation of ultra-high-net-worth individuals with global business interests, our firm:

- Provides offensive and defensive cross-border litigation and crisis management strategies in court and out-of-court;
- Brings together roughly two dozen former U.S. and UK government lawyers across offshore jurisdictions in the BVI and Cayman Islands, Asia, EMEA, Latin America and the U.S., including former prosecutors from the U.S. Department of Justice (DOJ) and UK Serious Fraud Office (SFO);
- Takes a multidimensional approach to UHNWI-focused disputes investigations to resolve business disputes and regulatory investigations, trace and recover misappropriated funds, defend against asset attacks, as well as acquire and strategically deploy information to provide UHNWIs with a commercial advantage in their disputes and investigations.