

Insights



Wealth Talk: Carrie Tendler on Looking at Litigation Risks as a Necessary Part of Asset Structure Evaluation

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For high-net-worth individuals (HNWIs), evaluating asset structures from a transactional perspective is not enough. As Kobre & Kim's Carrie Tendler explained in the ninth episode of Kobre & Kim's ten-part Wealth Talk series with *Family Wealth Report* on global challenges facing HNWIs, looking at litigation risks should be a key part of the assessment as well.

Engaging with litigation counsel when considering establishing or restructuring asset structures can complement the work of transactional counsel, Tendler said: The latter looks at business and tax implications whereas the former can help protect the assets from potential creditor enforcement, enabling a proper balancing of a HNWI's interests. Tendler advises that it is better to do so earlier, as options can diminish – but not disappear, depending on the risks in each case – once litigation commences.

In particular, there are three specific areas litigation counsel can add value to the establishment or restructuring of asset structures, Tendler explains. First is the ability to stress test, where counsel can look at structures from the shoes of a creditor to try to find vulnerabilities. Second, counsel with broad global experience can help handle the common HNWI litigation scenarios where disputes are spread across multiple jurisdictions. Finally, litigation counsel can prepare clean funds analyses to prove assets are clean if banks or trustees pre-emptively freeze accounts.

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