

# TOWARDS ASSET PROTECTION



## How to protect assets and wealth transfer to the next generation with life assurance?

Swedish banking crisis of 1992, Asian financial crisis of 1997, Dot-Com crash of 2001 or the world financial crisis of 2008... With those past years' crises, the unprecedented times we are experiencing under the Covid-19 pandemic and other turmoil that may come in the future, protection has never been as important: health protection for ourselves and our family, of course, but also protection of capital for us and the next generation. This is where life assurance fits perfectly. Protection is part of its DNA, and here we explain to you why.

### What is a life assurance contract?

It's an agreement whereby one party, the **life assurance company**, commits itself, against payment of a premium, to another party, the **policyholder** to provide a benefit (payment to the **beneficiary**) on the happening of an uncertain event (the death of the **life assured**).

### How are clients' assets protected?

By subscribing a policy, the policyholder pays a premium, which is invested in underlying assets linked to the life assurance policy. These underlying assets (the "technical provisions") must be held at an **independent custodian bank** on a separate account from the assets of the life assurance company and of the bank itself.

The custodian bank must be **approved and monitored by the Luxembourg insurance regulatory authority**, the Commissariat aux Assurances (CAA). The CAA also thoroughly monitors each life assurance company's solvency ratio rules.

This whole protection framework is called the **Triangle of Security**, a Luxembourg specificity in terms of protection that does not exist anywhere else.

### What would happen in case of policyholder's personal financial difficulties?

The assets of the policyholder are protected at any time against the claim of potential creditors. Indeed, further to article 114 of the Luxembourg Law on Insurance Contracts, the **rights to surrender or pledge the policy will lie exclusively with the policyholder**. Therefore, these rights cannot be seized or exercised by the creditors of the policyholder, nor can the former force the policyholder to exercise them to their benefit.

By the same reasoning, **the policy as such cannot be seized or blocked by any third party or creditor** as the policy and its underlying assets are duly booked in the name of the insurer. On this point, it is worth mentioning that whenever a policyholder subscribes to a Luxembourg life assurance policy, the legal ownership is transferred to the insurer.

In the light of the above, we may conclude that the policyholder is granted full protection unless, and obviously, he/she would make partial or full surrenders of his/her policy and the proceeds / cash were paid out to the personal account of the policyholder. From that moment onwards, the cash/financial assets would not be held anymore under the policy and the protection of the Luxembourg insurance regime would cease to apply.

Finally yet importantly, it should be mentioned that the considerations above will apply unless the premiums contributed to the policy are clearly excessive with relation to the overall wealth situation of the policyholder or have been done with fraudulent purposes, especially to hide/divert assets from legitimate claims from third creditors.

## Case study – Insolvency issues in times of crisis

### A real estate developer in times of economic crisis

Mr. Rasmussen is a real estate developer living in Copenhagen (Denmark) for more than 20 years. Mr. Rasmussen has been extremely successful in this business venture throughout the years but in recent times and in a context of credit restrictions for housing mortgages, his company has suffered liquidity issues. If the situation deteriorates even further in the following months, the company could become insolvent and initiate bankruptcy proceedings.

Mr. Rasmussen is deeply concerned about this possible scenario and is looking for a wealth protection vehicle in order to avoid that all his personal wealth is seized in order to satisfy the claims of the company creditors. Mr. Rasmussen entrusts his personal legal/tax matters to a well-reputed Danish lawyer who is well versed in domestic and international estate and tax structures. Amongst all the available options, the lawyer has advised the client to seriously consider **the subscription of a Luxembourg unit-linked product compliant with Danish regulations and contribute as premium the vast majority of his personal wealth.**

The reasons behind the advice are the following:

- The Luxembourg regulatory regime applicable to life assurance products ensures **full confidentiality** to the policyholders, i.e. the contract is not publicised in a public/official register (differently to corporate entities, which may be subject to public information requirements). Besides, the insurer and its employees are strictly subject to **professional secrecy obligations** in Luxembourg, which ensures that the terms of the policy are not disclosed to third parties unless mandated by a judicial authority or applicable regulatory obligation in Luxembourg.
- The Luxembourg investment regime allows sophisticated investors to access a **wide range of financial assets** through an extended list of investment managers and partner banking institutions.
- The nature of the life assurance policy is strictly linked to the **principle of unseizability**. Indeed, further to Luxembourg Law on Insurance Contracts, the rights to surrender are exclusively tied to the policyholder and cannot be exercised by third parties, including possible creditors.

### About OneLife

OneLife exists to overturn conventional attitudes to life assurance. As a specialist in this area with close to 30 years' experience, we develop cross-border financial planning solutions for wealthy clients across Europe and beyond. OneLife is a member of APICIL Group, the fourth largest social protection group in France, engaged in health and life insurance, pensions, savings products and related financial services.

More information on [onelifeu.com](http://onelifeu.com)

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