



INNER CIRCLE INTERVIEW:

Mark Nestmann with Anne Liebgott

Mark: Hello. This is Mark Nestmann, and welcome to this month's Inner Circle interview. Anne Liebgott was born and raised in Canada and the US, and as a Swiss national she's been living in Switzerland for over 30 years.

In 1991 Anne co-authored the book *Go Global Go Switzerland* with Jurg M. Lattmann, which highlighted asset protection and currency diversification opportunities in Swiss insurance products. When deferred variable annuities were introduced to the Swiss market, Anne became an expert in deferred variable annuities and private placement life insurance investment solutions.

With a background in marketing, communication, and business development, Anne has worked with many Swiss banks, wealth advisors, insurance companies and brokers, and has helped establish several investment boutiques in Switzerland and Lichtenstein.

Anne's latest project is Where Americans Are Welcome, www.americanswelcome.ch. This is a web-based information platform providing information on Swiss wealth management professionals eager to provide services to American clients in the United States and abroad.

Anne, welcome to the Inner Circle.

Anne: Thank you, and thank you for the invitation.

Mark: Anne, tell us a little bit about how you came to live in Switzerland.

Anne: Like you mentioned, I was born in Canada and grew up in Canada and the United States. After we were living in the United States my father actually was working for an American insurance company. At that time the American insurance company was purchasing

other insurance companies abroad, in Europe, for example, in Great Britain, in the Netherlands, in Germany, and in Switzerland, so we ended up moving to Switzerland. He was relocated to Switzerland and I've been here ever since. Basically I fell in love with and in Switzerland.

Mark: Was one of your parents a Swiss national as well or not?

Anne: No, my parents both are originally from Denmark, but we spent a lot of time in Europe during our summer vacations when we were living in Canada and the United States, and spent quite a few of those summer vacations also in Switzerland. Like I said, growing up we always had this European flair in our family, and I always knew that when the time was right I would end up coming to Switzerland.

Mark: That's great. Now, where in the world did you get the idea to come up with a website that would literally tell people where Americans are welcome in Switzerland? This is such a unique concept because of all the FATCA rules and so on that make Americans unwelcome in so many other countries.

Anne: Well, that's true. We've seen enough... let's call it "negativity"... in the past couple of years regarding American clients, for the obvious reasons that basically the whole world knows about and so on, so I wanted to get something more positive put back into the wealth management business for American clients.

Where Americans Are Welcome is a unique platform. Something like this doesn't exist anywhere else. It's the first platform that actually creates an easily accessible bridge between US clients and business partners and the Swiss wealth managers and other providers such as lawyers, tax advisors, and trust specialists that are eager to serve American clients, which I think is a positive development indeed.

Mark: It certainly is, and how has the response been? Have you had very many visitors?

Anne: The response has been great, like I said, from both sides of the coin. One side is the American client who wants to internationally diversify their investment portfolios out of the US dollar and out of the US jurisdiction for whatever reason. We're not talking about tax evasion reasons here, just for other prudent international diversification reasons.

To get a Swiss bank account they need to work with an SEC-registered investment advisor. Beyond the big players there are many smaller boutique-style investment managers and family offices, but how are they going to find them and how are they going to be able to take a real close look at them before they make a decision? They need to have a place they can go to do their research.

Where Americans Are Welcome enables them to find and analyze and choose the wealth manager that suits their needs. Easy access is provided to their web pages, the contact details, the SEC registration, and their descriptive ADVs Part 2.

Then on the other hand we have the entrepreneurial-spirited Swiss wealth managers who want to approach the American clients and introduce their wealth management services, but how do they go about doing that? The US market as a whole is huge, and where do they start? Again, the platform Where Americans Are Welcome enables the Swiss wealth managers

to introduce themselves to potential clients.

The Swiss wealth managers were actually quite taken by surprise. It was a secret project and they were able to have a preview peek at it before it was publicly launched, and they were very, very interested, eager, surprised, and pleased at this development because, like I mentioned, it's not been there before.

From the client side, it was launched just about four weeks ago and there's been quite a few visitors. I'm in the process right now of doing promotional activities for the website, but the reaction from the people who have viewed it has been great.

Mark: That's terrific. I'm very glad to hear that. One of the things that you were just talking about a moment ago was the SEC (Securities & Exchange Commission). What in the world does the SEC have to do with Swiss banking, and why is it important for an American to be dealing with an SEC-registered advisor?

Anne: An SEC-registered advisor is able to communicate with American clients without any restrictions. They're able to travel to the United States and meet up with their American clients without any problem. They're able to promote their activities. They're able to make road shows. They're able to advertise. Actually they can freely work with American clients. That's why the wealth manager himself is SEC-registered.

The Swiss banks are not SEC-registered, but a Swiss bank will only work with an SEC-registered investment advisor for compliance reasons. On the other hand, they provide the custodian services and also make sure that the transactions for the accounts are conducted by an SEC-registered broker dealer, which is also a requirement when working with American clients.

Mark: So this has nothing to do with the IRS. These are SEC regulations that you're talking about.

Anne: Exactly. These are SEC regulations.

Mark: And when did these come into effect, Anne?

Anne: They've actually always been in effect.

Mark: Oh really? They just haven't been that vigorously enforced until fairly recently, then?

Anne: Yes, exactly. That's one thing. There's also another rule which is called the Dodd-Frank rule, meaning that an investment advisor in Switzerland, if you have less than 15 clients and less than a total of \$25 million assets under management, does not need to be registered with the SEC as an investment advisor.

There are a handful of let's say smaller investment advisors, independent investment advisors, who continue to function under that Dodd-Frank rule. The only thing is, it's looking forward to wanting to have more clients and wanting to have more assets under management, for example. There's no reason not to register with the SEC.

Mark: Right, so your growth as an advisor is strictly limited, I suppose, if you decide not to register.

Anne: Yes.

Mark: Very good. Is it possible for US citizens to open an account in Switzerland with just a regular bank that's not a money manager, and simply purchase currencies, not dealing with securities or money management or anything like that?

Anne: Actually, for example, if you were a resident in Switzerland and you're working here, and you of course needed a bank account where your salary is paid in and you can make your payments and so on, that is a possibility, but it's not very easy to find a bank that even will take that kind of a client.

As a non-resident of Switzerland, no, you would not be able to open up a simple current account – not that you wouldn't be able to legally, but you won't find a Swiss bank that is willing to do so. That's very, very difficult these days.

Mark: That's certainly been my experience as well, Anne.

There's been a lot of publicity in recent years over efforts by the US and other countries to penetrate Swiss bank secrecy. Even as we speak today, dozens of Swiss banks are dealing with US investigations and investigations from other countries, including some that are under criminal investigation. Given this fact, what is the status of Swiss bank secrecy today?

Anne: Swiss bank secrecy like we know from, let's say, the Hollywood movies and things like that, FATCA basically put an end to that, meaning that assets are not hidden from the tax authorities. Nevertheless, the Swiss have a high regard for personal privacy and they keep the details of their clients confidential – criminal activities excluded, of course.

Then again, banking secrecy is not the primary reason for the success of the Swiss financial industry. Long-term political and economic stability, the Swiss neutrality in force since 1515, continuous AA ratings from the rating institutions, wealth management know-how, outstanding infrastructure, and strict regulations, which always have an extra Swiss finish, that's actually what makes Switzerland attract approximately 25% of the world's private wealth.



Mark: I think it's still certainly the biggest jurisdiction out there for private wealth. It's gone down a bit in recent years, but all these things that you point out are certainly in my experience 100% accurate.

You make a very good point on your website, www.americanswelcome.ch, that Switzerland is a civil law jurisdiction and thus does not recognize the concept of commonwealth trusts that we use in the United States and other common law countries until fairly recently. Is it safe for a US citizen to use a trust-based solution, either one formed in the US or offshore, to hold investments in Switzerland?

Anne: Yes. Like you mentioned, it was recently that the laws changed and the courts decided to acknowledge trust structures according to offshore or other jurisdictional trust law and so on. What I think is important here is that if you're going to be working with a trust – let's say you already have an existing trust, be it in the United States or be it offshore, or if you want to establish a new trust in the United States or offshore with a Swiss-based trustee, for example – what's important is that you really work together with an experienced professional Swiss-based trust advisor in order to get it right.

Mark: I can certainly imagine that because, otherwise, given the differences in the legal system, there could be some real issues I suppose.

Anne: You don't want to be caught by surprise, that's the point. You want to get things set up now so you're not surprised by whatever happens in five years' time, for example, and have to deal with the consequences then. You want to get it right, right from the very beginning.

Mark: Right. Switzerland has foundations, I assume, the *Stiftung*. Is that something that you have in Switzerland?

Anne: There are foundations. There are also foundations in Lichtenstein, for example, that can also be used and so on, but then again like I said this is where it gets intricate and where you really need the help of an expert.

Mark: Right, very good. Anne, much of your career was in the Swiss insurance industry. In fact, that's where we first met when you were working with our old friend Jurg Lattmann, who I understand recently passed away. It's my understanding that there are no longer any insurance companies in Switzerland that will deal with US clients. If this is true, how can a US citizen still benefit from a Swiss insurance or variable annuity policy?

Anne: It's true. The last Swiss insurance company to provide the traditional Swiss deferred or immediate fixed annuity, which had a guaranteed interest rate and potential profit-sharing dividends, they ceased to do so about a year ago due to the ongoing low interest rate environment and mostly compliance reasons.

Swiss insurance companies never actually offered the deferred variable annuity, or DVAs as we call them. Their subsidiaries in Lichtenstein provided the DVAs due to the fact that Lichtenstein insurance law, basically a copy/paste of Swiss insurance law, added provisions for more flexibility with regard to the policies underlying investment portfolio, which allows basically any bankable assets to be held.

Mark: I see, so these things tended to be written in Lichtenstein and not in Switzerland.

Anne: That's right.

Mark: Are there still Lichtenstein companies that will offer these policies to Americans?

Anne: Yes, there are still Lichtenstein companies that do. Some of the advantages of the DVA are, first of all you have strictly regulated insurance companies. Lichtenstein insurance companies and Swiss insurance companies are considered the safest in the world. Of course, you can implement with Swiss wealth management expertise. You can designate one of the SEC-registered investment advisors in Switzerland as the asset manager of the underlying investment policy, for example.

There are no investment restrictions, so there's a whole universe of international investments available. You're not only limited to any SEC-registered investment, for example. And one point, of course, which everyone talks about is the tax deferral on earnings until withdrawals are made. These policies are not tax-free; they're just tax-deferred. That allows you to compound your earnings over the years, which can make a significant difference in the overall return on the policy.

Mark: What are the differences between a deferred variable annuity and a PPLI policy, Anne?

Anne: Basically it's the same expression for the same thing. A DVA is a PPLI. There are other versions of the PPLI, universal life for example, or frozen cash value and so on. They involve, though, a high level of risk life insurance in order to provide a large payout at time of death of the policy holder in order, for example, to pay for estate taxes and things like that that pop up.

We're getting now into very complex family business involved, family policies and estate planning and inheritance issues and so on. The regular DVA policy, which the majority of people actually invest in just for the point of international diversification and for tax deferral and asset protection, does not involve risk life insurance.

Mark: OK. What are generally the starting investments that the insurance brokers offer, or for that matter even the asset managers offer? If someone from our Inner Circle wanted to either have Swiss wealth management or a Swiss DVA or something like that, what can they expect to spend at a very minimum for an initial investment?

Anne: There are companies in the DVA sector that have a rather low minimum amount of investment of \$100,000 USD.

Mark: That's lower than I would have anticipated.

Anne: Yes, that is quite low. The next level actually begins at \$250,000 USD. As far as the SEC-registered investment advisors are concerned, the majority of them start at \$1 million, but there are some that do \$250,000, there's some that do \$500,000, there's some that have a minimum of \$30 million, and so on. They come in all shapes and sizes.

That's what the website actually allows you to do. It allows you to go and review the various

investment advisors and pick and choose the ones that you feel actually suit your needs.

Mark: That's a terrific tool to have as well. Getting back to insurance, when we had corresponded prior to this interview I was fascinated to hear that some of the Swiss-based brokers are actually now branching out beyond Switzerland or even Lichtenstein to create insurance policies and annuities and so on based in other jurisdictions. Could you talk a little bit about that – what jurisdictions are used and what the advantages of that might be?

Anne: There are several countries that actually offer what we would call US tax compliant policies. One of them, for example, is Bermuda. There's a company there. There's a company in the Bahamas. There's a company in the Isle of Man. These companies also offer US tax compliant products as far as the insurance policy itself is concerned.

Just to mention what makes it tax compliant, meaning how can you establish and maintain the tax deferral feature, for that it has to be not self-directed, meaning you have to designate an outside asset manager to manage the portfolio according to the strategy that you choose. You can choose a strategy, but you cannot actually call up the bank and say, "Buy this, buy that, buy this share, buy that" and so on. That's what the asset manager has to do.

Another point is that it has to adhere to the IRS diversification rule. The IRS diversification rule means that you have to have at least five different investments in the policy for diversification reasons, but they are weighted according to different percentages. That's what these companies also do.

What could be a positive point? A positive point could be if you think, "Bermuda's a great destination for me, I don't have a problem with that, I don't necessarily need to go to Lichtenstein, I'm very comfortable with Bermuda," there are what they call 953D-registered companies, meaning they pay taxes in the US and therefore the 1% excise tax, which is required to be paid when you purchase a foreign insurance policy, that is no longer due. Basically you're saving 1% upfront excise tax.



Mark: Interesting. Anne, when we first started talking probably 15 or 18 years ago, one of the real draws for Switzerland in terms of a destination for an American to buy insurance, and then later Lichtenstein as well, were these tremendous asset protection advantages of a Swiss insurance policy, then subsequently or maybe even simultaneously a Lichtenstein insurance policy.

Could you walk us through how asset protection works in the Switzerland or Lichtenstein insurance or annuity policy, and how this fits in with the whole idea of Swiss wealth transfer between generations?

Anne: It's important to point out that the policy needs to be established at least one year before any troubles arise and proceedings begin. It might be perceived as what we'd call fraudulent conveyance with the intent to damage rightful creditors, so it's important to get a policy established as soon as possible versus waiting until something is on the horizon and then trying to establish a policy and hope that the asset protection feature will actually kick in.

What happens is, if the policy holder – let's say, for example, a commercial real estate owner is the policy holder – he's concerned that maybe somewhere down the line somebody might trip over his own feet in his stairwell and have injuries and that this person might then sue him, which in America is not that outrageous. It is outrageous, but it can be imaginable that something like that will happen.

So what does he do? He establishes a policy today, putting some funds in there, however much it is – let's just say \$1 million for argument's sake. He puts \$1 million into that policy and he designates his spouse and/or children as a revocable beneficiary.

What does that mean? That means somewhere down the road something happens and he ends up being sued and so on, at that point in time when he gets into trouble, the ownership of the policy is transferred automatically and directly to the spouse and/or children because they're the designated beneficiaries, and the policy holder himself no longer has any authority or any power over that policy.

So even if the policy holder would come and say, "Oh, I've been ordered by a court to take this policy into my estate," the insurance company would not comply because he's no longer the owner of the policy.

Mark: Is this part of the law of both Switzerland and Lichtenstein?

Anne: Yes.

Mark: OK, very good. I remember reading there are some other advantages of Lichtenstein specifically in terms of some of the flexibility. I recall, for instance, that Lichtenstein is one of the very few jurisdictions outside the United States that recognizes a same-sex relationship, for instance, in terms of this type of planning. Is that still correct?

Anne: Yes, that's absolutely correct. Lichtenstein also has a bit of a more flexible law than the Swiss laws as to what kinds of assets can be held within the portfolio. Basically any bankable asset can be held within the portfolio.

Mark: Excellent. In terms of estate planning, a lot of our Inner Circle members are a bit older and are very concerned with estate planning. What are some of the ways a US client can hold assets in Switzerland without their heirs having to deal with a Swiss probate proceeding?

For instance, if I open a Swiss bank account tomorrow or had a Swiss money manager and

I had the account in my own name, at my death would the money be divided according to my will back in the US? How would I ensure that it gets divided to the people that I want to receive the money?

Anne: Like you mentioned, when you have a bank account – we’re not talking about the insurance policy now – when you have a bank account and you pass away, then yes indeed, the account is blocked until the probate proceedings in the United States have been finished and the appropriate paperwork has been submitted to the Swiss bank. The Swiss bank will then accordingly distribute the funds to the heirs. This can take ages, as we know. Probate can be contested and it can go on and on forever.

With an insurance policy, the difference is that when the beneficiary submits the appropriate paperwork – basically the death certificate and so on – and the payment instructions to where the policy should be sent to, that will happen immediately. There is no probate at all.

Mark: That would be a terrific advantage. What about securities accounts or managed securities accounts held through some type of corporate entity – a US corporation or a Nevis LLC or something like that. How would that be dealt with from the Swiss?

Anne: You mean one of these companies as a policy holder?

Mark: No. I’m going back and forth between insurance and banking. We’re back in banking now. The US client has a Swiss bank account or a Swiss money manager, an SEC-registered money manager, and the account is held through, let’s say, a Delaware LLC or a Wyoming corporation or a Nevis LLC. How would that be dealt with from a Swiss probate perspective?

Anne: There again the Swiss banks are, by their laws, forced to hold onto the money until they have received the appropriate paperwork from the authorities, whatever the case may be. That’s what they will do. They will simply sit on it until it’s all taken care of. When the appropriate paperwork has been submitted to the Swiss bank, they will react immediately. But basically they just sit on it until all the paperwork which is required, which is attested and stamped and sealed and so on – they wait until that happens.

Mark: It certainly sounds like the easy way to avoid all of this is to work with the DVA and PPLI policies as opposed to a managed account, if you’re interested in minimizing these formalities.

Anne: Not just that. We talk about P6 taxes. For example, if you invest in a foreign hedge fund, then you become subject to what they call the P6 taxes, which are quite onerous. They’re above and beyond your usual income taxes and so on. Also these kinds of hedge funds – this is an example – they can be held within the policy and are not subject to the P6 taxes.

Mark: That’s a terrific advantage. We’ve written about this P6 problem before and it is a big problem, and one of the very few ways to deal with it is this sort of insurance policy, where the insurance rules sort of supersede the P6 rules. About the only other way to do it is through a retirement plan, but this is quite recent. The established solution for years has been deferred variable annuities and PPLI insurance.

Anne, that's all the questions I have. Thank you very much for your time. You've been very informative. Why don't you go ahead and repeat once again the URL for the Where Americans Are Welcome website.

Anne: Where Americans Are Welcome can be viewed at www.americanswelcome.ch. There you will find information on the Swiss SEC-registered investment advisors, and also on lawyers, tax advisors, and trust advisors that will help you put together your whole estate planning package, if you want to call it that.

There's also some legal compliance information so that you're aware of various points when you're getting into diversifying your assets abroad into Switzerland – for example, bank/client confidentiality, depositor protection, some information on taxes, some information on reporting requirements and so on.

Plus the website has a Swiss lifestyle section, just to lighten it up a little bit, with unique Swiss products and so on to take a look at.

Also what I personally think is very important and something to recommend is that an American should travel to Switzerland to really get the touch and feel of the unique Swiss environment for their assets and so on. Where Americans Are Welcome will also assist you with your travel arrangements and setting up your itinerary during your time here in Switzerland, so that your trip is efficient and enjoyable as well.

Mark: Very well. Anne, thank you again for your time. This has been most informative. I think our Inner Circle members will find this quite interesting. Have a great day.

Anne: Thank you very much, Mark.



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