BLACK SWAN CAPITAL
BETTER FINANCIAL FUTURES – BY DESIGN

The Black Swan Capital essential guide for Americans and their families in Europe

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Whether you have just arrived in Europe, or have been here several years, this guide is designed to help you with the complexities of managing your money, and particularly your investments, both here and at home.

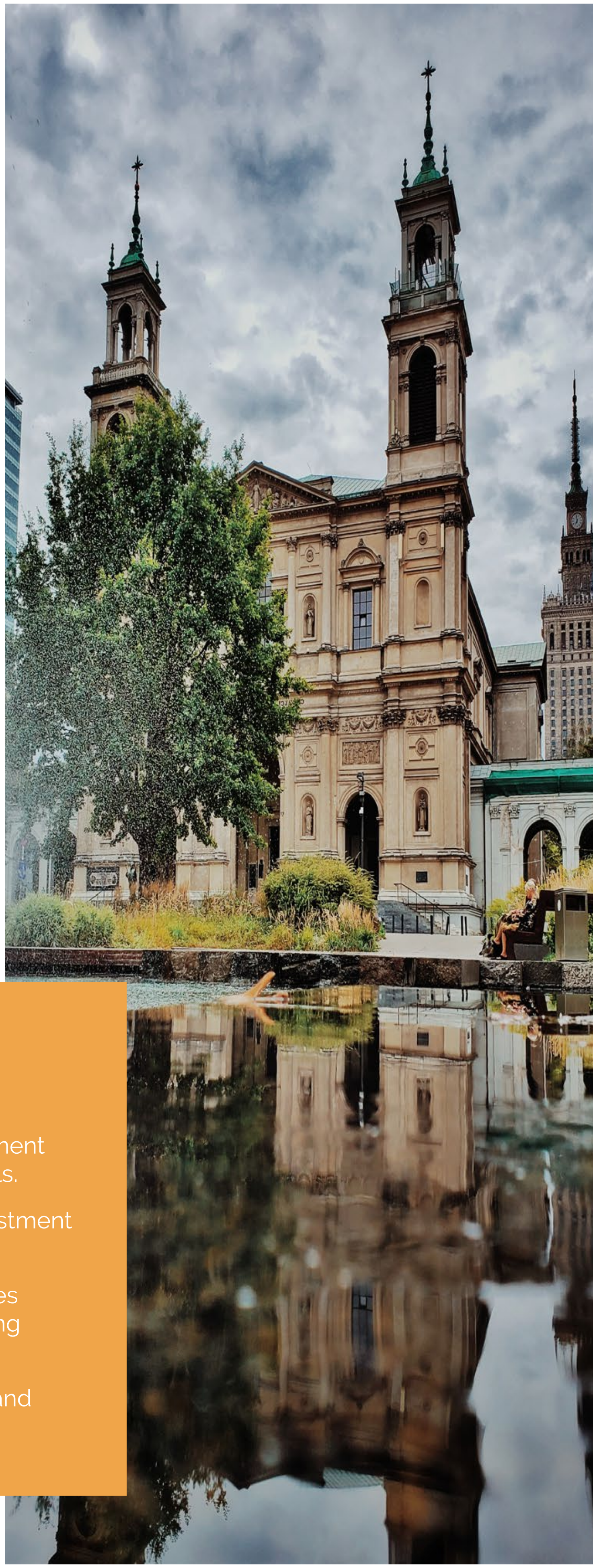
If you're a US citizen, are considered a US person, or an "accidental American", you will understand that many things that expats take for granted in the financial world are that much harder. And getting it wrong can be very expensive.

Because it is so difficult, we've created this guide, to help you navigate the financial waters of being US-connected and living in Europe. We will cover the hurdles you face and how you can overcome them.

This guide is divided into four sections:

1. Understand the difficulties
2. Understand what you should do
3. Understand our solutions
4. Understand your investments.

We hope you find this useful. If you would like to find out more information or receive personal advice and assistance, please email **info@blackswancapital.eu.**



Who we are

Black Swan Capital is an award-winning independent investment advisory firm dedicated to delivering investment advice for the specific and unique needs of internationals.

We are independently owned, allowing us to make investment decisions based on the best outcomes for our clients.

Our management have extensive global financial services experience, as well as an excellent track record of looking after clients and guiding their financial lives.

We are driven by our client service ethic above all else and build long term, ongoing partnerships with our clients.

1. Understand The Difficulties

Why is it so difficult for Americans? Why does no one want my money?

In a word (or an acronym): FATCA.

What is FATCA?

FATCA stands for the Foreign Accounts Tax Compliance Act. Introduced by the US government back in 2010, the aim was to help and ensure the enforcement of several US tax laws.

It has two targets: financial institutions and national tax authorities, and one clear objective: to decrease evasion of tax by US persons holding assets outside of the country.

This effects all US expats around the world, including across Europe.

Financial institutions all over the world are required to comply with FATCA.

The first question people ask is: "why?"

They have to comply because, if they don't, they risk suffering a 30% withholding tax on all US-reliant transactions. As most institutions hold stocks and other investments in the US or in US dollars, this was already a strong incentive to comply.

Furthermore, later clarifications confirmed that this would include any transaction made in US dollars, which no country or company with international trade links can avoid.

So, what do financial institutions have to do?

To be compliant, all EU banks and financial or investment institutions are required to report every single client and transaction that could be subject to American legislation to the local tax authorities.

This is so they can inform the US authorities every year. This includes:

- name
- address
- account number
- highest daily account value over the last year
- all inflows and outflows of money.

As mentioned above, if they get this wrong there are big penalties. That is why it is easier for many of them to simply refuse to take on American clients.

FATCA is the reason why many institutions in Europe will no longer take US-connected individuals as clients

It's easier (and often less expensive) for them to refuse to accept US-connected clients and avoid the risk of the punitive penalties from their tax authority or the IRS.

FATCA did not impose any significant extra burdens on individuals, but instead closed a lot of loopholes and workarounds that could allow US taxpayers to hide or mask their assets from the IRS.

Case Study

RK is an American citizen who has been living in the Netherlands for several years and previously lived and worked in the UK.

While living in the UK, he established a UK-based investment platform that he's used for investing his surplus income and savings since 2009.

This account was flagged and noted in 2018 and retrospective short-term Capital Gains Tax (CGT) applied for the previous six years.

The total cost of accountancy services, fines, and taxes exceeded the growth of the investments over that period, creating a net loss of more than 10%.

2. Understand What You Should Do

What do you need to do?

There are a few principles that are important to follow:

Seek tax advice

If you're not sure whether you are US-connected or if you need to submit a tax return to the US tax department (the IRS) on your worldwide assets and income, seek advice. You should speak with an accountant that has expertise and experience in filing US returns for expats.

Update your information

Always keep your home address up to date with banks and investments. Those companies have a responsibility to tell you when regulations might affect your situation. If you're living in Europe, this means your address here, not the address of a friend or family member in the US.

Giving a false address to a financial institution or purposefully declaring the wrong tax residency could be considered fraud.

Declare

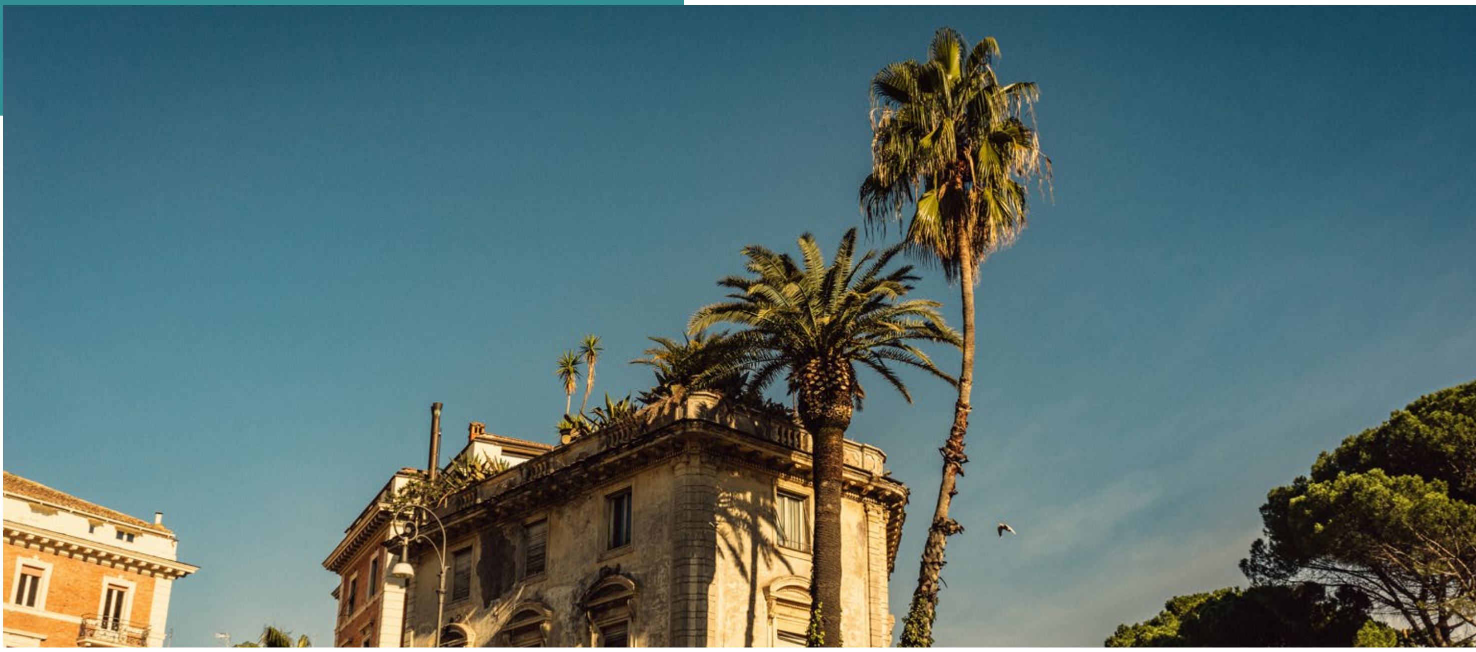
Always declare all your investments on your tax return. Penalties can be retrospective!

Invest smart

Below we discuss different types of investments for Americans in Europe. For now, if you could be in a Passive Foreign Investment Company (PFIC) or are considering an investment that might be a PFIC, seek professional, independent investment advice from a firm like Black Swan Capital. The right type of investment can mean a substantial difference in tax bills.

What is a PFIC?

A PFIC – or Passive Foreign Investment Company – is any investment outside the US where the decisions or transactions are made on your behalf, and details of all clients and transactions have not been submitted to the IRS since the company's first year of trading.



Are you a US-connected individual? It's not just US citizens

Let's start with who may be caught in the net.

It's important to understand this and clarify your position because the consequences can be expensive.

Estimates suggest that up to 50% of people might not know they are US-connected. Even more concerning is that, for those that have worked out that they are US-connected, a vast number are unaware that their connection to the IRS could be exposing them or their family to unnecessarily high tax rates or even potential prosecution for tax evasion.

How do you know if you are US-connected?

The first difficulty stems from the fact that "US-connected" has a different definition in the Department of State (immigration law) from that defined by the IRS (tax law).

Someone can be ineligible to work or live in the US but still have some form of reporting duty for US taxes. When it comes to your investments and tax status, the definition is quite broad.

To simplify, it includes any person or company whose assets "could" directly benefit a US taxpayer. This could also have a knock-on effect on the kinds of investments and accounts you can own or control.

Main examples of groups that are considered "US persons" include:

1. US citizens

This should be fairly clear. You hold a US passport or have the right to hold a US passport because you were born in the country.

2. By birth

The US is different from many countries as it practices juris solis.

This means if you are born in the US, you're automatically granted US citizenship. This can often be a trap for expats that spend a few years in the US.

If you are working in America for a few years and you happen to have a child that is born there at that time, then that child becomes a US citizen. As a result, when they are adults, they may be liable for all the US tax reporting obligations.

Regardless of where you are resident after your birth or other nationalities that you might hold, you are obliged to report to the IRS every year for the rest of your life unless you officially renounce your citizenship.

Even if you choose to do this, you will normally need to pay a fee and continue to pay US taxes for the following seven years. There have been some high-profile cases of people being caught out in this manner.

3. Green card holder (even if expired)

Here's where it starts to be a bit tricky. If you currently have a green card, whether working in the US or not, it stands to reason that you should be reporting for US taxes.

However, the responsibility to file your taxes with the IRS each year continues until such time as your green card is either revoked or "properly surrendered".

Many non-citizens are unaware that they should still be filing (and paying) taxes because their green card has expired or was returned, and they failed to notify the Department of Homeland Security.

If this is you, it's worth looking into this to make sure the deregistration was followed properly.

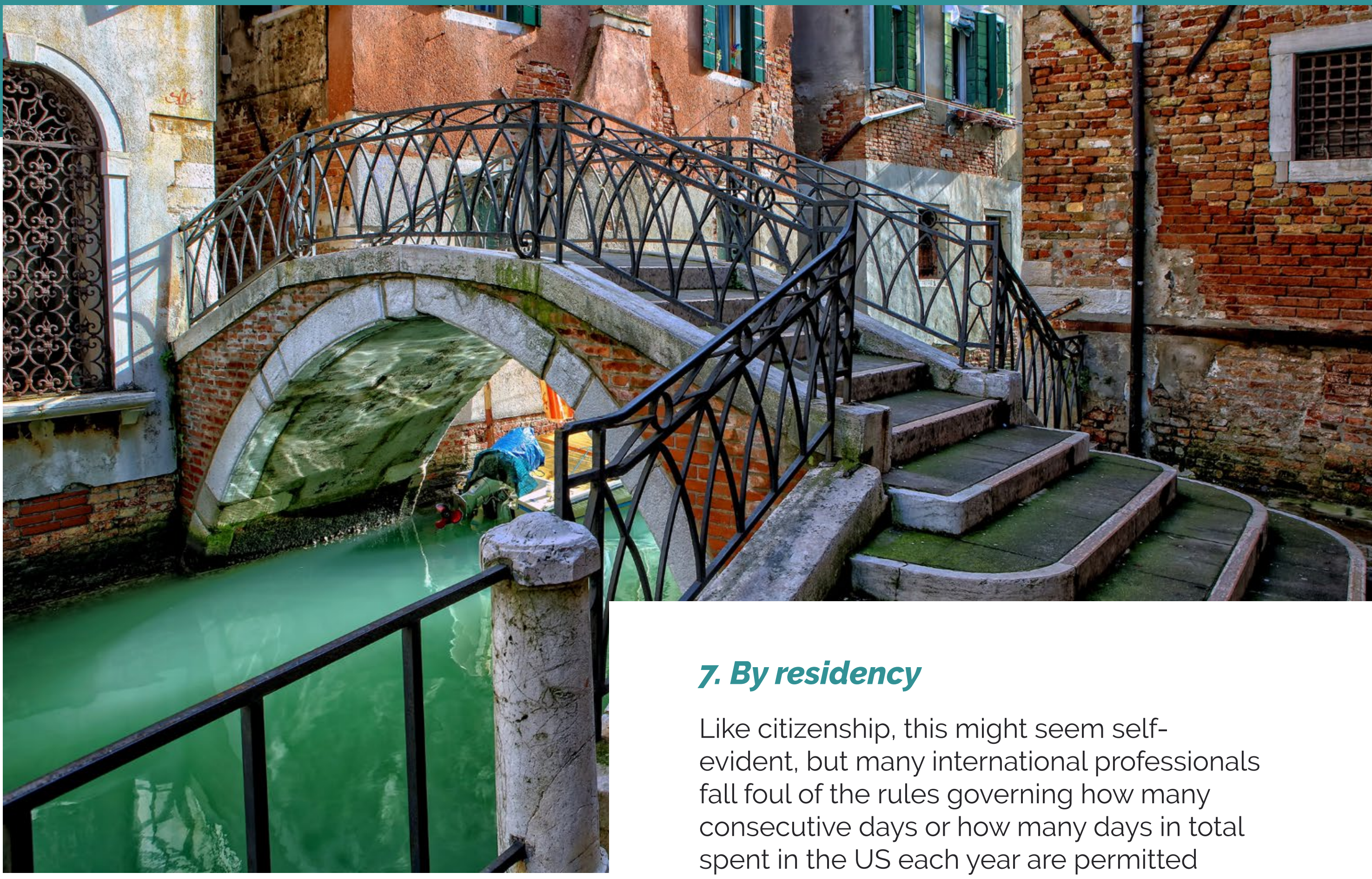
4. US parents

If at least one of your parents was a US citizen, you may be considered a US person – even if you were born outside the US and have never lived there.

This doesn't necessarily mean that you will have to pay additional taxes, but you'll almost certainly need to file with the IRS.

A note here: if you are the parent of a US citizen, as in the example above, where your child is born in the US when you are on assignment there, you might also be considered a US person in the future.

This may also apply to a green card holder in your immediate family with whom you have a financial relationship.



5. US spouse

Have you married or are you in a long-term relationship with a US citizen? If so, you may also be caught in the net. It will depend on your legal and tax statuses in your country of residence, how you hold or divide your assets and how you report.

Clarification will be vital to determine not only your obligations but the impact of your status in how you manage other aspects of finance and investments.

6. Business partners

In some cases, you may be considered a US person and required to file with the IRS if your business partner or co-owner is an American citizen or resident.

As with the family relationship test, it will come down to whether a US taxpayer could conceivably benefit from your assets and investments.

7. By residency

Like citizenship, this might seem self-evident, but many international professionals fall foul of the rules governing how many consecutive days or how many days in total spent in the US each year are permitted before it is necessary to file taxes as a resident.

It can get quite complex and technical.

The "substantial presence test" determines whether you are liable for taxes in the US.

If you spend 31 days in the current year and 183 days in the US over a three-year period up to and including this year, you could be required to file with the IRS. If you become a resident under these criteria, it may affect your direct family as well.

The above list may appear extensive, but it's not exhaustive; there are potentially other definitions within the complex US tax laws that could broaden their reach even further.

If you have a connection to the US, or if you think you might have one – no matter how tenuous it may seem – it's a good idea to discuss this with your accountant and consult a professional financial planner to prevent any unwelcome surprises and unnecessary expenses.

Case Study

JC is a British national who married an American citizen and was not aware that his assets should be declared to the IRS or that this may affect his investments.

When adding his partner as a beneficiary of his accounts, he was informed that the investments must be liquidated, and accounts closed immediately.

Many assets had to be sold at a loss due to market conditions at the time. No additional tax was payable but the accounting fees to revise reports and file accurately exceeded $6,000 more than their partner's regular annual accountancy costs.

Can I still invest?

Yes.

If you are a US person living in Europe, you need to make all the usual considerations when considering investments.

We advocate starting with your objectives and be clear on why you are investing. Understand your goals and you will be clear on whether you are on track and will know when you have reached that target.

Our dedicated advisers are here to help you

Talk to one of our expert advisers to discuss your situation in detail. They will help you understand your situation and advise you on all your options.

Taking a holistic view of your finance and life circumstances, they will help establish the steps you should take to meet your long term financial goals.

3. Understand Our Solutions

The Black Swan Capital core investment principles

Note that we don't start with the return. We consider other core principles that can have a more substantial impact on your investment before we get to the details of the potential return on your investment.

Ultimately, your objectives are the most important factor in any strategy – so that's where we start.

Compliance

It may seem obvious that a potential investment is compliant, and from an investment committee perspective it is. However, what is compliant and appropriate between one client and another can be variable.

This is especially true for Americans.

For example, an investment structure that may be appropriate for a British person living in a Benelux country might be inappropriate or non-compliant from a tax perspective for a US person living in the same place with similar needs. We expand on this below where we discuss PFICs, QEFs, and other matters.

If a potential investment cannot pass the compliance test, there's no point in considering the other factors – it is rejected.

Liquidity

Wherever possible we recommend you always have liquidity in your investments. This means, in the event of an emergency, you can access your funds, without penalty, without exit fees, and without undue delay.

In the past, many investment structures would lock people in for up to 20 years. If they tried to access their money, they would be heavily penalized. For the majority of modern-day expats, we don't believe these structures are appropriate and so we always ensure that you have the security of liquidity.

There are also some investment solutions specifically for Americans in Europe that require you to have your investments locked up until retirement age to be compliant.

A personal pension structure can be a good option and the right decision for some people, but it's not the only option – you don't have to lock your investments away until retirement.

Flexibility

We believe this is one of the most important factors for all international and expatriate clients.

After decades of looking after clients, one thing we've observed repeatedly is that life changes! This is particularly true for expats.

If you are living in Europe, there's a chance you will move on to another location, or back home to the US. The timing of this can sometimes be sprung upon you.

With this in mind, we make sure there is a high level of portability, so you do not have to liquidate your investments if you move, depending on where you move to.

For the most part, you should be able to continue your investment plans or, if relevant, take your investments with you.

Volatility

We follow the philosophy of taking on the lowest level of volatility or market risk required to achieve a client's objectives.

Volatility is not bad per se, indeed, it's essential to generate returns on investment. However, our objective is that the investment does not adopt more volatility than is required to achieve your goals.

Consider these questions:

- How does a particular investment correlate with your personal risk profile?
- Does it pass the "sleep at night" test?
- How does that investment compare with its peers?

We consider all these factors when assessing investments for each of our clients.

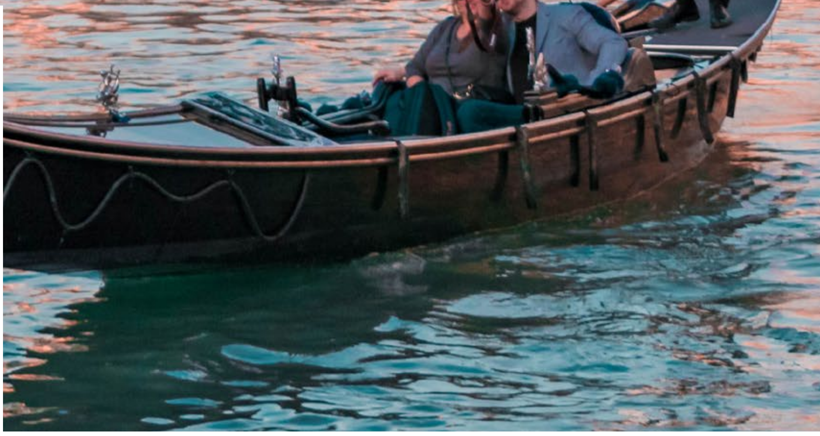
Value

While the cost of an investment is obviously important, many of the costs can be hard to understand.

You should always look for the OCF or TER (the OCF is the Ongoing Charge Figure, which is the replacement term for TER, which meant Total Expense Ratio). This is the total cost of an investment.

It is not as simple as “cheaper is better”. We differentiate very clearly between cost and value. In undertaking our analysis, cost comparisons of otherwise very similar investment structures can result in significant savings, which translate as higher net returns for our clients.

As an investor, look out for less obvious costs such as currency costs, commissions built into investment structures, potential exit fees, the magnitude of management fees and so on.



We prefer investment structures that can take advantage of wholesale pricing and cost-efficient underlying investment structures.

This can result in lower costs of management which are passed on to you, the investor. Lower costs translate in higher returns and you achieving your goals.

Return

Performance is not just about top-line return – it's about how you achieve that return.

Ultimately, it is a net return that you generate: your investment performance returns less the costs of creating those returns.

Similarly, when considering returns, it is important to see how the returns were generated, relative to risk adoption.

We need to ensure the potential investment performs well in absolute terms and in relative terms both in a performance ranking and also performance for a given volatility level.

Of course, you also have to consider the restrictions.

For example, an investment that may generate strong returns but which requires money to be locked away for extended periods, is likely to compromise your liquidity so may not be appropriate.

Considered together, the Black Swan Capital investment principles are a useful guide to make informed and smart investment decisions that can meet your needs and allow for contingencies – providing good net returns and peace of mind.

In addition to these core principles that apply to all investors, there are specific considerations that US people living in Europe also need to consider.

The first is to make sure the investment is a recognized one according to US tax law. For this, we need to go into more acronyms.

Case Study

KVC is an American citizen married to a non-American in Germany.

A friend suggested that she continue filing as an individual instead of updating her relationship status with the IRS to prevent her husband needing to file taxes and only use investments in her husband's name.

When actual status was discovered several years later, KVC was prosecuted and, although not given a custodial sentence, was fined more than $80,000 plus back-payment of applicable taxes.

4. Understand Your Investments

PFICs

As mentioned above, most investments that are otherwise approved, compliant and appropriate for internationals living in Europe may well result in Americans suffering aggressive taxation. This is because they are classified as Passive Foreign Investment Companies or PFICs.

Considering that a US-connected individual could suffer unnecessarily high tax rates for PFICs that are declared and could be prosecuted for PFICs that are not declared, this is a subject that needs to be understood.

The best way to identify a PFIC is to break the acronym down into its three component parts – yes, three, not four!

Passive

Does the investment do some or all the work for you, or do you actively make the decisions and transactions that generate returns?

Buying stocks directly through a stockbroker or starting your own business is active investing. Putting funds in a portfolio that invests on your behalf is not.

Foreign

Firstly, is the investment based or regulated outside the US? Secondly, has there ever been a time when that investment did not report all details to the IRS? If the answer to either of these questions is "yes", then the investment is considered foreign.

If you are American or US-connected, you should not invest in a PFIC.

The rules regarding taxation of PFICs by the US tax authorities are punitive, to say the least, for those investors who fall foul of the regulations.

Investment Company

Have you invested your money in a company that makes its money by investing for or on behalf of others?

This is the part that is most often mistaken. This term automatically includes almost every managed or mutual fund, and even many investment platforms, pension plans, and insurances.

So, if part of your portfolio ticks those three boxes, what does that mean? Should you sell everything and start from scratch?

Not necessarily.

Because of the "foreign" bit, the IRS deems that most PFICs must be hiding something. For that reason, they can be taxed aggressively. A PFIC will normally be taxed annually at short-term capital gains rates (similar to Income Tax), whether the asset realizes a profit or not.

The temptation might be to conceal or "forget to mention" any foreign investments or hold it in someone else's name, in the hope that the IRS will overlook your holdings or not bother to investigate you or your small nest egg.

This is tax evasion, pure and simple.

When you are caught, you can look forward to ruthless prosecution, hefty fines, and even federal prison. You don't need to risk it and you absolutely should not even try.

So, PFICs are bad, right? Well, they can be a pain, but not all PFICs are created equal.

An approved and authorized investment in Europe may be considered a PFIC by the US government, meaning they are aggressively taxed. Since you'll pay tax in your country of residence and the US at punitive rates, this can make them very expensive investments.

The tax implications of not getting it right can be severe.

If you are American or US-connected, it is very important once you have arrived and settled that you sit down with an independent investment and financial planner like Black Swan Capital to make sure everything is done right.

QEF Explained

A Qualified Election Fund (QEF) meets all the criteria of a PFIC (passive for the client, based outside the USA and investing on behalf of its clients or members) but elects to disclose all information about clients and transactions to US tax authorities from year one of trading.

QEFs, good PFICs?

If an investment company, fund, or portfolio is outside the US and generates passive returns for its investors, but has volunteered all information to the IRS since it was first established, it may qualify for a QEF election.

A Qualified Election Fund can be declared on your tax return and will be taxed in a very similar way to a US mutual fund held by a US-resident investor.

Not all QEF investments will say that on the tin.

If you are trying to go it alone with your portfolio, stick to platforms and investments designed and marketed specifically for Americans outside the US. Chances are, you won't be allowed to open an account that is non-compliant even if you try – but take care anyway.

Above all, understand that the QEF election makes it easier for US-connected investors to invest their money without unexpectedly losing all their gains to higher rates of tax.

By knowing in advance what will be heavily taxed and what will not, you can make sure your portfolio grows in line with your targets.

Finally, the universe of QEFs is quite small and there isn't much choice. For some investors, the appropriate QEF investment simply doesn't exist.

Discretionary US-compliant portfolios, direct assets, real estate, and cash?

It isn't just a choice between non-compliant PFICs, and the rare QEF or locking your funds in a complying pension structure.

Other options exist for US professionals living in Europe.

A well-received advancement in recent years has been the increased range and lower thresholds in US-compliant discretionary portfolios.

Although it can be difficult, time consuming, and deceptively costly, it is possible to manage a portfolio of direct shares, bonds and commodities.

And, with interest rates back in positive territory, some cash solutions may be available, though these must always comply with FBAR regulations for values over $10,000.

Professional advisers, like Black Swan Capital consider the range of solutions to construct portfolios for US-connected clients that are aligned to your specific objectives, that are US compliant, and that meet our core investment principles above.

Of course, any investment still has to pass the fundamental assessments of compliance, liquidity, flexibility, volatility, cost and returns, but for Americans, it also has to be specially designated and reported.

Case Study

AM and HM are Americans who moved to Spain with various existing investments.

Shortly after arrival, when updating their details with providers, they were told that they were no longer eligible for those services and the assets would be frozen until suitable alternatives were made available.

US-compliant equivalent accounts were established locally at a similar cost to the original policies and most of the assets transferred directly in-specie, with the remainder encashed and taxed for long-term capital gains and reinvested through the new platform within three months.

No additional tax or penalties were payable.

How to get started

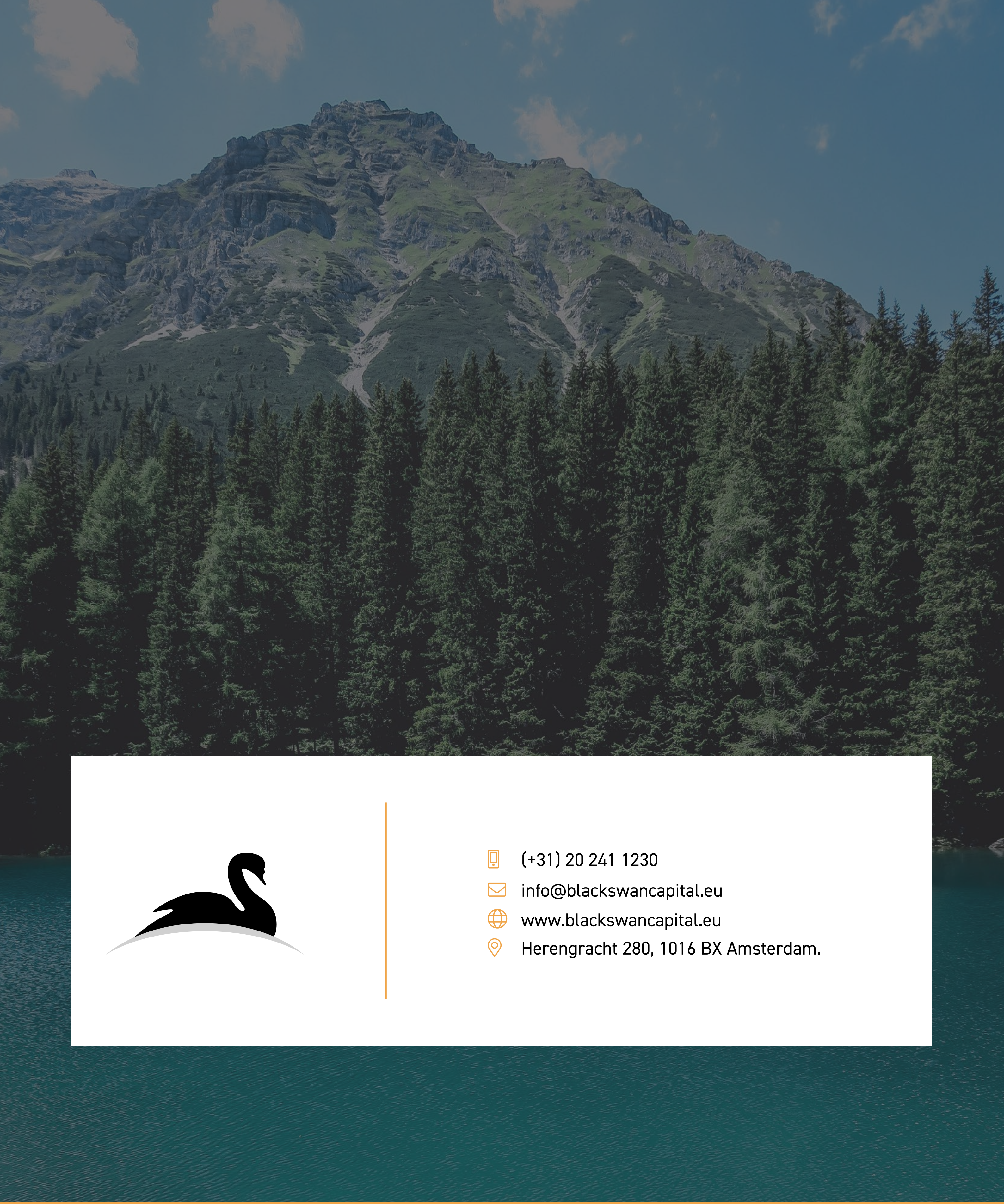
In this guide, we have:

- Covered what FATCA is and how it may affect you if you are a US person
- Described the broad net of US-connected people, so you know if you might fall into that category
- Explained what you need to do if you think you might be: get tax advice and make sure you report
- Presented our core principles and the US-specific obstacles, including the penalties for being in the wrong type of investments.

With all this done, you are ready to invest.

To ensure you receive independent guidance and advice, we recommend you speak with us. We can make sure that you are in the right type of investment to help you to achieve your goals, and that the investment is compliant with all the US reporting requirements and complicated definitions for acceptability.

Get in touch and we will arrange an initial complimentary discussion and answer any of your questions about your situation and the information in this guide.



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